

2021 Kansas Statutes

59-3074. **Standby guardian; standby conservator; petition; appointment; oath; bond; authority; reports.**

(a) Any person may file at any time after the filing of the petition provided for in K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and amendments thereto, in addition to that original petition, or as a part thereof, or at any time after the appointment of a guardian or a conservator as provided for in K.S.A. 59-3067, and amendments thereto, a verified petition requesting the appointment of a standby guardian or a standby conservator, or both. The petition shall include:

- (1) The petitioner's name and address, and if the petitioner is the ward's or conservatee's court appointed guardian or conservator, that fact;
- (2) the proposed ward's, ward's, proposed conservatee's or conservatee's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the proposed ward's, ward's, proposed conservatee's or conservatee's permanent residence;
- (3) the name and address of the ward's or conservatee's court appointed guardian or conservator, if different from the petitioner;
- (4) the factual basis upon which the petitioner alleges the need for a standby guardian or standby conservator, or both, or that it would be in the best interests of the proposed ward, ward, proposed conservatee or conservatee to have the court appoint a standby guardian or standby conservator, or both;
- (5) the names and addresses of witnesses by whom the truth of this petition may be proved;
- (6) the name, address and relationship to the proposed ward, ward, proposed conservatee or conservatee, if any, of the individual or corporation whom the petitioner suggests that the court appoint as the standby guardian or standby conservator, and if the suggested standby guardian or conservator is under contract with the Kansas guardianship program, that fact; and
- (7) a request that the court make a determination that there is a need for the court to appoint a standby guardian or a standby conservator, or both, or that it would be in the best interests of the proposed ward, ward, proposed conservatee or conservatee for the court to appoint a standby guardian or standby conservator, or both, and that the court make such appointment.

(b) When the court appoints either an individual or a corporation as a guardian or a conservator, or both, the court may appoint an additional individual or corporation as the standby guardian or standby conservator, or both. Such standby guardian or conservator shall be selected in accordance with the provisions of K.S.A. 59-3068, and amendments thereto.

(c) If the court appoints a standby guardian, the court shall require that the individual or a representative on behalf of the corporation file with the court an oath or affirmation as required by K.S.A. 59-1702, and amendments thereto, and upon the filing of such oath or affirmation, the court may issue letters of authority to the standby guardian.

(d) If the court appoints a standby conservator, the court shall require that the individual or a representative on behalf of the corporation file with the court a bond in such amount and with such surety as the court shall specify, and upon the filing of such bond, if required, the court may issue letters of authority to the standby conservator.

(e) A standby guardian shall have the authority and responsibility to assume the duties, responsibilities, powers and authorities assigned to the guardian upon the temporary absence or impairment of the guardian, or the resignation or death of the guardian. Within

10 days of such assumption, the standby guardian shall file with the court a written notice of that fact and a written report of the circumstances which caused the standby guardian to have assumed those duties, responsibilities, powers and authorities. The report shall specify whether such assumption is intended to be only temporary and the date by which it is expected that the guardian shall be able to reassume such duties, responsibilities, powers and authorities, or that the guardian is thought to be permanently unable to reassume such duties, responsibilities, powers and authorities. This notice and report may be accompanied by or include a petition pursuant to K.S.A. 59-3088, and amendments thereto, requesting the appointment of a successor guardian.

(f) A standby conservator shall have the authority and responsibility to assume the duties, responsibilities, powers and authorities assigned to the conservator upon the temporary absence or impairment of the conservator, or the resignation or death of the conservator, only if the standby conservator shall file with the court a written notice of temporary absence, impairment, resignation or death of the conservator. The notice shall specify if the absence or impairment of the conservator is expected to be only temporary, the date by which it is expected that the conservator shall be able to reassume such duties, responsibilities, powers and authorities, and the reasons why the standby conservator believes it is necessary for the standby conservator to assume the duties, responsibilities, powers and authorities of the conservator. Otherwise, the notice shall advise the court that proceedings pursuant to K.S.A. 59-3088, and amendments thereto, to appoint a successor conservator are required, or the notice may be accompanied by or include a petition requesting the appointment of a successor conservator. Upon receipt of such notice, the court may specify a bond that the standby conservator shall file with the court before assuming such duties, responsibilities, powers and authorities, or may authorize the standby conservator to assume such of the conservator's duties, responsibilities, powers and authorities as the court shall specify.

(g) Upon receipt of a notice as provided for in subsection (e) or (f), the court may set a hearing to review the circumstances of the ward or conservatee as provided for in K.S.A. 59-3084 or 59-3085, and amendments thereto, or may otherwise proceed pursuant to K.S.A. 59-3088, and amendments thereto, to remove the guardian or conservator, or both, and to appoint a successor guardian or conservator, or both.

(h) If before proceedings pursuant to K.S.A. 59-3088, and amendments thereto, to remove the guardian or conservator, or both, or to appoint a successor guardian or conservator, or both, have been commenced, the guardian or conservator is able to reassume the duties, responsibilities, powers and authorities of such appointment, the guardian or conservator, or both, shall so notify the court, in writing, of that reassumption and appropriately shall report to the court within the next scheduled report or accounting as required pursuant to K.S.A. 59-3083, and amendments thereto. Such report or accounting may include or attach a report or accounting of the standby guardian or standby conservator.

History: L. 2002, ch. 114, § 25; July 1.