

**REPORT OF THE JUDICIAL COUNCIL
GUARDIANSHIP AND CONSERVATORSHIP ADVISORY COMMITTEE
ON 2009 SB 235**

INTRODUCTION

In February 2009, the Judicial Council's Guardianship and Conservatorship Advisory Committee learned that the Alzheimer's Association had requested a bill to enact the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) in Kansas. Because the Committee believed the UAGPPJA merited an in-depth review, the Committee contacted Senator Tim Owens and requested that he refer the bill to the Judicial Council for further study.

On April 8, 2009, Senator Owens requested that the Judicial Council review 2009 SB 235 and recommend whether the Act should be adopted in whole or in part. At its June 2009 meeting, the Council agreed to undertake the study and assigned the study to the Guardianship and Conservatorship Advisory Committee.

COMMITTEE MEMBERSHIP

The members of the Judicial Council Guardianship and Conservatorship Advisory Committee taking part in this study were:

Hon. Sam K. Bruner, Chairman, retired District Court Judge, Overland Park;

Hon. Richard T. Ballinger, District Court Judge in 18th Judicial District, Derby;

Hon. Thomas H. Graber, retired District Court Judge in 30th Judicial District,

Wellington;

John H. House, Attorney, Kansas Department of Social & Rehabilitative Services,

Topeka;

Jean Krahn, Executive Director of the Kansas Guardianship Program, Manhattan;

Hon. Philip T. Kyle, retired Magistrate Judge in 24th Judicial District, Jetmore;

H. Philip Martin, practicing attorney, Larned;

Hon. David P. Mikesic, retired District Court Judge in 29th Judicial District, Kansas

City;

Robert I. Nicholson, Jr., practicing attorney, Paola; and

Dr. Jane Rhys, Executive Director of the Kansas Council on Developmental Disabilities, Topeka.

SCOPE AND METHOD OF STUDY

The Advisory Committee held several meetings to conduct its study of 2009 SB 235.

During those meetings, the Committee reviewed the following materials:

- 2009 SB 235 enacting the UAGPPJA in Kansas. A copy of the bill is attached as Appendix A.
- The UAGPPJA with prefatory note and comments by the Uniform Law Commissioners. A copy is available at the Uniform Law Commission's website: www.nccusl.org/Update/ActSearchResults.aspx
- Various supporting materials from the Uniform Law Commissioners including letters

in support of the Act from a number of organizations. These materials are also available at the Uniform Law Commission's website:

www.nccusl.org/Update/ActSearchResults.aspx

In addition, the Committee invited Professor David English, the reporter for the Uniform Law Commissioners during the drafting of the UAGPPJA, to make a presentation to the Committee about the Act. The Committee also met with two representatives of the Alzheimer's Association, Debbie Holroyd and Kelly Jones.

BACKGROUND ON THE UAGPPJA

2009 SB 235 would enact the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) in Kansas. The UAGPPJA is intended to address three main problems: multiple state jurisdiction, transfer of cases between states, and recognition and enforcement of guardianship and conservatorship orders between states.

To address the problem of multiple state jurisdiction, the UAGPPJA creates a three-level priority system for determining which state has jurisdiction to appoint a guardian or conservator. An individual's "home state" has primary jurisdiction, followed by a state with which the individual has "significant connections." This priority system is patterned after the Uniform Child Custody Jurisdiction and Enforcement Act; however, the UAGPPJA applies only to adults, not minors.

The UAGPPJA also contains procedures for transferring a guardianship or conservatorship case from one state to another and for accepting such a transfer. Other provisions encourage communication between courts in such cases. Finally, the UAGPPJA facilitates enforcement of guardianship and conservatorship orders in other states by allowing a guardian or conservator to register those orders in other states.

According to a legislative factsheet provided by the Uniform Law Commission, the UAGPPJA had been adopted in 13 states, and legislation to enact the UAGPPJA has been introduced in at least 10 additional states.

COMMITTEE'S REVIEW OF UAGPPJA AND CURRENT KANSAS LAW

I. Kansas law already addresses the issues covered by the UAGPPJA

After reviewing the provisions of the UAGPPJA, the Committee compared the UAGPPJA to existing Kansas law. The Committee believes that the Kansas Act for Obtaining a Guardian or a Conservator, or Both, K.S.A. 59-3050 *et seq.*, (Kansas Guardianship Act), which was recodified in 2002, addresses the issues covered by the UAGPPJA. For example, Kansas already has provisions addressing such issues as jurisdiction, comity, transferring an out-of-state guardianship into Kansas, and creating an ancillary conservatorship to deal with real estate located in Kansas. While these provisions are different from the ones contained in the UAGPPJA, the Committee did not believe the UAGPPJA provisions were an improvement.

The Kansas Guardianship Act was enacted in 2002 after extensive study by the Guardianship and Conservatorship Advisory Committee. The Kansas Guardianship Act addresses the issues covered by the UAGPPJA in the following manner:

A. Jurisdiction

The UAGPPJA creates a three-level priority for determining which state has jurisdiction to appoint a guardian or conservator for an individual: (1) the home state has primary jurisdiction, a priority which continues for 6 months after a move to another state; (2) a state which has significant connections with the individual may exercise jurisdiction if there is no home state, the home state has declined jurisdiction, or there is no dispute as to jurisdiction; and (3) another state may exercise jurisdiction if there is no home state or significant connection state or if both such states have declined jurisdiction. UAGPPJA, Section 203; SB 235, New Section 9.

Under current Kansas law, a court has subject matter jurisdiction if the individual in need of a guardian or conservator is a resident of Kansas, is physically present in Kansas, or has property located in Kansas. K.S.A. 59-3058(a). Kansas has no time requirement for how long an individual must have been present in the state before a district court would have jurisdiction.

Kansas law also includes a comity provision. If the court finds it is not in the best interests of the individual in need of a guardian or conservator or in the interests of justice

that the proceedings take place in the county where the petition is filed and the individual is not a resident of Kansas, the court may dismiss the matter immediately or may continue the matter for up to 60 days to allow for the filing of proceedings in the state of residence. K.S.A. 59-3058(a)(3). The Committee believes that the Kansas Court of Appeals correctly applied the comity provision of K.S.A. 59-3058(a)(3) in a recent decision, *In re Sokol*, 40 Kan. App. 2d 57, 189 P.3d 526 (2008).

B. Transfer

The UAGPPJA contains procedures for transferring a guardianship or conservatorship to another state and for accepting such a transfer. UAGPPJA, Sections 301 and 302; SB 235, New Sections 16 and 17. To transfer a case, court orders are needed from both the transferring state and the receiving state. To ensure continuity, the transferring court cannot dismiss its proceeding until it receives an order from the receiving court accepting the case. To expedite the transfer, the court in the accepting state must accept the transferring court's finding of incapacity and selection of the guardian or conservator.

Current Kansas law addresses transfer in K.S.A. 59-3061. That statute allows a guardian or conservator appointed in another state to file a petition in Kansas requesting that the Kansas court give full faith and credit to the prior adjudication in the other state and appoint a guardian or conservator in Kansas. Upon such appointment, the proceeding in the other state must be terminated.

C. Recognition and Enforcement of Out-of-State Orders

The UAGPPJA allows a guardian or conservator to register a guardianship or conservatorship order in another state by filing it as a foreign judgment. UAGPPJA, Sections 401 and 402; SB 235, New Sections 18 and 19. Once the order has been registered, the guardian or conservator may exercise all powers authorized under the order except as prohibited by Kansas law. UAGPPJA, Section 403; SB 235, New Section 20.

Current Kansas law addresses recognition and enforcement of out-of-state orders in two ways. First, K.S.A. 59-3061 allows a guardian or conservator appointed in another state to request that Kansas give full faith and credit to an incapacity determination made in another state as part of transferring the guardianship or conservatorship to Kansas. In addition, K.S.A. 59-3062 provides for the creation of an ancillary conservatorship in Kansas. In an ancillary conservatorship, a conservator for a person in another state may be appointed as ancillary conservator in Kansas to deal with property located in Kansas.

The Committee believes that the provisions of Kansas law described above adequately address the problems covered by the UAGPPJA.

II. Kansas is not experiencing the problems addressed by the UAGPPJA

Not only does current Kansas law already address the problems covered by the UAGPPJA, but Committee members were not aware of any cases in Kansas where problems had arisen relating to multiple jurisdiction, transfer or recognition of out-of-state orders in guardianship or conservatorship cases. The judges on the Committee have not experienced problems relating to multiple state jurisdiction. In their experience, when there has been a question about which state or county should exercise jurisdiction, the two courts have communicated with one another and resolved the issue. In addition, Committee Chair Hon. Sam Bruner spoke with Johnson County judges whose jurisdiction is adjacent to the Missouri state line, and those judges also indicated that they are not experiencing problems relating to multiple state jurisdiction.

Based on positive feedback from both bench and bar, the Committee believes that the current Kansas Guardianship Act is working well. Kansas is not experiencing the problems addressed by the UAGPPJA, possibly in part because Kansas law already addresses those problems. Accordingly, the consensus of the Committee is that the UAGPPJA is not needed in Kansas.

III. Adoption of the UAGPPJA in Kansas would create unnecessary problems

The Committee believes that adopting the UAGPPJA on top of existing Kansas law would require significant revisions to a code which is already working well. Because

Kansas law already contains provisions addressing the same issues covered by the UAGPPJA, adoption of the UAGPPJA would require that many Kansas provisions be repealed or amended so that they apply only to minors.

2009 SB 235 provides a good example of how difficult it is to mesh the provisions of UAGPPJA with current Kansas law. While the bill attempts to accomplish this by amending K.S.A. 59-3058, K.S.A. 59-3061 and 59-3062 so that those sections would apply only to minors, this approach is not workable at least as to K.S.A. 59-3058. K.S.A. 59-3058 is the core provision allowing a person to petition for the appointment of a guardian or conservator for an impaired adult. If it were amended to apply only to minors, there would be no provision in Kansas law for the appointment of a guardian or conservator for an impaired adult.

IV. The Committee recommends several minor amendments to Kansas law as an alternative to the UAGPPJA

After studying the UAGPPJA and comparing it to current Kansas law, the Committee believes there are two areas where the Kansas Guardianship Act might be improved by a few minor amendments.

The Committee recognizes that some institutions may be reluctant to recognize out-of-state guardianship and conservatorship orders. For this reason, the Committee recommends a new provision be added to the Kansas Guardianship Act to ensure that out-

of-state guardianship and conservatorship orders are given full faith and credit in Kansas. Although this should already be happening, in practice, that may not always be the case. The new section is intended as an alternative procedure to the transfer provisions of K.S.A. 59-3061.

In addition, the Committee recommends amending the petition sections of the Kansas Guardianship Act to require that a petitioner plead where and with whom a proposed ward has resided for the last five years. This would give judges more information enabling them to ascertain when a case might involve “granny snatching” (the unauthorized removal or retention of an elderly person in order to pursue a guardianship in another state or avoid a guardianship in the elderly person’s home state). The language of the proposed amendments to the petition sections is patterned after K.S.A. 38-1356(a) of the Uniform Child Custody Jurisdiction and Enforcement Act.

CONCLUSION

The Committee believes that the UAGPPJA is not needed in Kansas because Kansas law already addresses the issues covered by the UAGPPJA and Kansas is not experiencing the kinds of problems intended to be corrected by the UAGPPJA. In addition, the adoption of the UAGPPJA in Kansas would create unnecessary problems. Instead, the Committee recommends improving Kansas law by adopting the following amendments.

RECOMMENDED AMENDMENTS

New Section. Orders establishing and governing a guardianship or conservatorship, or both, issued by a court of competent jurisdiction of any other state, regardless of the specific terminology used in that state's laws, shall be given full faith and credit within this state, except when doing so would be in specific violation of any law of this state.

Comment

The Committee suggests that this section be designated as K.S.A. 50-3050a.

K.S.A. 59-3058. (a)(1) Any person may file in the district court of the county of residence of the proposed ward or proposed conservatee or of any county wherein the proposed ward or proposed conservatee may be found, a verified petition requesting the appointment of a guardian or a conservator, or both, for an adult with an impairment in need of a guardian or conservator, or both. If the proposed conservatee is not a resident of or present within the state of Kansas, such petition may be filed in the district court of any county in which any property of the proposed conservatee is situated.

(2) If a petition is filed in the district court of a county other than the county of residence of the proposed ward or proposed conservatee, the court may consider whether it is in the best interests of the proposed ward or proposed conservatee or in the interests of justice for the proceedings to take place in that county.

(3) If the court finds it is not in the best interests of the proposed ward or proposed conservatee or in the interests of justice that the proceedings take place in that county and the proposed ward or proposed conservatee is a nonresident of the state of Kansas, the court may dismiss the matter immediately, or may continue the matter for a specific period of time not to exceed 60 days to allow for the filing of proceedings in the state of residence. After the expiration of that period of time, or upon the filing of proceedings in the state of residence, the court shall dismiss the petition without prejudice.

(4) If the court finds it is not in the best interests of the proposed ward or proposed conservatee or in the interests of justice that the proceedings take place in that county and the proposed ward or proposed conservatee is a resident of a different county in Kansas, the court may dismiss the matter immediately, or may transfer venue to the county of residence, or may continue the matter for a specific period of time not to exceed 60 days to allow for the filing of proceedings in the county of residence. After the expiration of that period of time, or upon the filing of proceedings in the county of residence, the court shall dismiss the petition without prejudice.

(b) The petition shall include:

(1) The petitioner's name and address;

(2) the proposed ward's or proposed conservatee's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the proposed

ward's or proposed conservatee's permanent residence;

(3) the places where the proposed ward or proposed conservatee has lived during the last five years, and the names and present addresses of the persons with whom the proposed ward or proposed conservatee has lived during that period.

(4) the name and address of any person or agency having custody of the proposed ward or proposed conservatee, or any other person or agency who has assumed responsibility for the proposed ward or proposed conservatee, and the circumstances under which the proposed ward or proposed conservatee came into such person's or agency's care or control;

(3 5) if the proposed ward or proposed conservatee is a nonresident of the county in which the petition is filed, a statement of why it is in the best interests of the proposed ward or proposed conservatee or in the interests of justice for the proceedings to take place in that county;

(4 6) if the proposed ward or proposed conservatee is under the age of 18 years, the factual circumstances under which the petitioner alleges that the minor should be considered to be of the age of majority pursuant to the provisions of K.S.A. 38-101, and amendments thereto, or concerning when and where the rights of majority were conferred upon the minor pursuant to the provisions of K.S.A. 38-108, and amendments thereto;

(5 7) a statement that it is the petitioner's belief that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or a conservator, or both;

(6 8) the factual basis upon which the petitioner makes that allegation;

(7 9) the names and addresses of any spouse, adult children and adult grandchildren of the proposed ward or proposed conservatee, and those of any parent and adult siblings of the proposed ward or proposed conservatee, or if no such names or addresses are known to the petitioner, the name and address of at least one adult who is nearest in kinship to the proposed ward or proposed conservatee, or if none, that fact. If no such names or addresses are known to the petitioner, but the petitioner has reason to believe such persons exist, then the petition shall state that fact and that the petitioner has made diligent inquiry to learn those names and addresses;

(8) the name and address of any person or agency having custody of the proposed ward

~~or proposed conservatee, or any other person or agency who has assumed responsibility for the proposed ward or proposed conservatee, and the circumstances under which the proposed ward or proposed conservatee came into such person's or agency's care or control;~~

(9 10) the name and address of any person or corporation acting for or nominated to act on behalf of the proposed ward or proposed conservatee pursuant to any power of attorney, trust or other fiduciary relationship established by any court order, and a description of that authority or relationship. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

~~(10 11)~~ a list and description of all court proceedings in which the proposed ward or proposed conservatee is a party, or is the subject of, or may be a beneficiary of, or in which any rights of the proposed ward or proposed conservatee may be determined or affected, and the name and address of any attorney who represents the proposed ward or proposed conservatee in such matter. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

~~(11 12)~~ in general terms, the location, type, and value of any real or personal property of the proposed ward or proposed conservatee, including the amount and sources of any income of the proposed ward or proposed conservatee. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

~~(12 13)~~ the names and addresses of witnesses by whom the truth of the petition may be proved;

~~(13 14)~~ the name, age, date of birth, gender, address, place of employment, relationship to the proposed ward or proposed conservatee, if any, of the individual or corporation whom the petitioner suggests that the court appoint as guardian or conservator, or both, and any personal or agency interest of the proposed guardian or proposed conservator that may be perceived as self-serving or adverse to the position or best interest of the proposed ward or proposed conservatee, and if the suggested guardian or conservator is under contract with the Kansas guardianship program, that fact;

~~(14 15)~~ if the petitioner suggests the appointment of co-guardians or co-conservators, or both, a statement of the reasons why such appointment is sought and whether the

petitioner suggests that the co-guardians or co-conservators, if appointed, should be able to act independently or whether they should be required to act only in concert or only in concert with regard to specified matters; and

(15 16) a request that the court make a determination that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or a conservator, or both, that the court enter one or more of the orders provided for in K.S.A. 59-3063, 59-3064 and 59-3065, and amendments thereto, and that the court appoint a guardian or a conservator, or both, for the proposed ward or proposed conservatee.

(c) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a report of an examination and evaluation which meets the requirements of K.S.A. 59-3064, and amendments thereto. In such case, the petition may include a request that the court accept this report in lieu of ordering any additional examination and evaluation pursuant to K.S.A. 59-3064, and amendments thereto.

(d) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a proposed guardianship plan as provided for in K.S.A. 59-3076, and amendments thereto, or a proposed conservatorship plan as provided for in K.S.A. 59-3079, and amendments thereto, or both.

K.S.A. 59-3059. (a)(1) Any person may file in the district court of the county of residence of the proposed ward or proposed conservatee or of any county wherein the proposed ward or proposed conservatee may be found, a verified petition requesting the appointment of a guardian or a conservator, or both, for a minor in need of a guardian or conservator, or both. If the proposed conservatee is not a resident of or present within the state of Kansas, such petition may be filed in the district court of any county in which any property of the proposed conservatee is situated.

(2) If a petition is filed in the district court of a county other than the county of residence of the minor, the court may consider whether it is in the best interests of the minor or in the interests of justice for the proceedings to take place in that county.

(3) If the court finds it is not in the best interests of the minor or in the interests of justice that the proceedings take place in that county and the minor is a nonresident of the state of Kansas, the court may dismiss the matter immediately, or may continue the matter for a specific period of time not to exceed 60 days to allow for the filing of proceedings in the state of residence. After the expiration of that period of time, or upon the filing of proceedings in the state of residence, the court shall dismiss the petition without prejudice.

(4) If the court finds it is not in the best interests of the minor or in the interests of justice that the proceedings take place in that county and the minor is a resident of a different county in Kansas, the court may dismiss the matter immediately, or may transfer venue to the county of residence, or may continue the matter for a specific period of time not to exceed 60 days to allow for the filing of proceedings in the county of residence. After the expiration of that period of time, or upon the filing of proceedings in the county of residence, the court shall dismiss the petition without prejudice.

(b) The petition shall include:

(1) The petitioner's name and address;

(2) the minor's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the minor's permanent residence;

(3) the places where the minor has lived during the last five years, and the names and present addresses of the persons with whom the minor has lived during that period.

(3 4) if the minor is a nonresident of the county in which the petition is filed, a statement of

why it is in the best interests of the minor or in the interests of justice for the proceedings to take place in that county;

(4 5) a statement that it is the petitioner's belief that the proposed ward or proposed conservatee is a minor in need of a guardian or conservator, or both;

(5 6) the factual basis upon which the petitioner makes that allegation;

(6 7) the names and addresses of any spouse of the minor, any natural guardian, any grandparent, any person nominated by a natural guardian to be the guardian or conservator, or both, any child or children of the minor, any permanent custodian appointed for the minor pursuant to K.S.A. 38-2269, and amendments thereto, any fiduciary appointed for the minor by any court order, and any other person or agency having or claiming a right to legal or physical custody of or visitation with the minor or who has assumed responsibility for or care of the minor, and the circumstances under which the minor came into such person's or agency's care or control. If no such names or addresses are known to the petitioner, but the petitioner has reason to believe such persons exist, then the petition shall state that fact and that the petitioner has made diligent inquiry to learn those names and addresses;

(7 8) a list and description of all court proceedings in which the minor is or has recently been a party, or is or has recently been the subject of, or was or may be a beneficiary of, or in which any rights of the minor were or may be determined or affected, including any proceedings concerning the custody of or visitation with the minor, any domestic relations matters, juvenile proceedings or adoptions, and the name and address of any attorney who represents or has represented the minor in any such matter. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(8 9) in general terms, the location, type, and value of any real or personal property of the minor, including the amount and sources of any income of the minor. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(9 10) the names and addresses of witnesses by whom the truth of the petition may be proved;

(10 11) the name, age, date of birth, gender, address, place of employment, relationship to the minor, if any, of the individual or corporation whom the petitioner suggests that the

court appoint as guardian or conservator, or both, and any personal or agency interest of the proposed guardian or proposed conservator that may be perceived as self-serving or adverse to the position or best interest of the proposed ward or proposed conservatee;

~~(11 12)~~ if the petitioner suggests the appointment of co-guardians or co-conservators, or both, a statement of the reasons why such appointment is sought and whether the petitioner suggests that the co-guardians or co-conservators, if appointed, should be able to act independently or whether they should be required to act only in concert or only in concert with regard to specified matters; and

~~(12 13)~~ a request that the court make a determination that the proposed ward or proposed conservatee is a minor in need of a guardian or a conservator, or both, that the court enter one or more of the orders provided for in K.S.A. 59-3063 and 59-3065, and amendments thereto, and that the court appoint a guardian or a conservator, or both, for the minor.

(c) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a proposed guardianship plan as provided for in K.S.A. 59-3076, and amendments thereto, or a proposed conservatorship plan as provided for in K.S.A. 59-3079, and amendments thereto, or both.

K.S.A. 59-3060. (a)(1) Any person may file in the district court of the county of residence of the proposed ward or proposed conservatee or of any county wherein the proposed ward or proposed conservatee may be found, a verified petition requesting the appointment of a guardian or a conservator, or both, for a minor with an impairment in need of a guardian or conservator, or both. If the proposed conservatee is not a resident of or present within the state of Kansas, such petition may be filed in the district court of any county in which any property of the proposed conservatee is situated. If a petition is filed in the district court of a county other than the county of residence of the minor, the court may consider whether it is in the best interests of the minor or in the interests of justice for the proceedings to take place in that county.

(2) If the court finds it is not in the best interests of the minor or in the interests of justice that the proceedings take place in that county and the minor is a nonresident of the state of Kansas, the court may dismiss the matter immediately, or may continue the matter for a specific period of time not to exceed 60 days to allow for the filing of proceedings in the state of residence. After the expiration of that period of time, or upon the filing of proceedings in the state of residence, the court shall dismiss the petition without prejudice.

(3) If the court finds it is not in the best interests of the minor or in the interests of justice that the proceedings take place in that county and the minor is a resident of a different county in Kansas, the court may dismiss the matter immediately, or may transfer venue to the county of residence, or may continue the matter for a specific period of time not to exceed 60 days to allow for the filing of proceedings in the county of residence. After the expiration of that period of time, or upon the filing of proceedings in the county of residence, the court shall dismiss the petition without prejudice.

(b) The petition shall include:

(1) The petitioner's name and address;

(2) the minor's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the minor's permanent residence;

(3) the places where the minor has lived during the last five years, and the names and present addresses of the persons with whom the minor has lived during that period.

(3 4) if the minor is a nonresident of the county in which the petition is filed, a statement of

why it is in the best interests of the minor or in the interests of justice for the proceedings to take place in that county;

(4 5) a statement that it is the petitioner's belief that the proposed ward or proposed conservatee is a minor with an impairment in need of a guardian or conservator, or both;

(5 6) the factual basis upon which the petitioner makes this allegation;

(6 7) the names and addresses of any spouse of the minor, any natural guardian, any grandparent, any person nominated by a natural guardian to be the guardian or conservator, or both, any child or children of the minor, any permanent custodian appointed for the minor pursuant to K.S.A. 38-2269, and amendments thereto, any fiduciary appointed for the minor by any court order, and any other person or agency having or claiming a right to legal or physical custody of or visitation with the minor or who has assumed responsibility for or care of the minor, and the circumstances under which the minor came into such person's or agency's care or control. If no such names or addresses are known to the petitioner, but the petitioner has reason to believe such persons exist, then the petition shall state that fact and that the petitioner has made diligent inquiry to learn those names and addresses;

(7 8) a list and description of all court proceedings in which the minor is or has recently been a party, or is or has recently been the subject of, or was or may be a beneficiary of, or in which any rights of the minor were or may be determined or affected, including any proceeding concerning the custody of or visitation with the minor, any domestic relations matters, juvenile proceedings or adoptions, and the name and address of any attorney who represents or has represented the minor in any such matter. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(8 9) in general terms, the location, type, and value of any real or personal property of the minor, including the amount and sources of any income of the minor. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(9 10) the names and addresses of witnesses by whom the truth of the petition may be proved;

(10 11) the name, age, date of birth, gender, address, place of employment, relationship to the minor, if any, of the individual or corporation whom the petitioner suggests that the

court appoint as guardian or conservator, or both, and any personal or agency interest of the proposed guardian or proposed conservator that may be perceived as self-serving or adverse to the position or best interest of the proposed ward or proposed conservatee;

~~(11 12)~~ if the petitioner suggests the appointment of co-guardians or co-conservators, or both, a statement of the reasons why such appointment is sought and whether the petitioner suggests that the co-guardians or co-conservators, if appointed, should be able to act independently or whether they should be required to act only in concert or only in concert with regard to specified matters; and

~~(12 13)~~ a request that the court make a determination that the proposed ward or proposed conservatee is a minor with an impairment in need of a guardian or conservator, or both, that the court enter one or more of the orders provided for in K.S.A. 59-3063, 59-3064 and 59-3065, and amendments thereto, that the court appoint a guardian or a conservator, or both, for the minor and that the court order that this appointment shall extend beyond the minor's 18th birthday.

(c) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a report of an examination and evaluation which meets the requirements of K.S.A. 59-3064, and amendments thereto. In such case, the petition may include a request that the court accept this report in lieu of ordering any additional examination and evaluation pursuant to K.S.A. 59-3064, and amendments thereto.

(d) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a proposed guardianship plan as provided for in K.S.A. 59-3076, and amendments thereto, or a proposed conservatorship plan as provided for in K.S.A. 59-3079, and amendments thereto, or both.

K.S.A. 59-3061. (a) The guardian, conservator or other similarly empowered fiduciary appointed in any other state for a person who has been previously adjudged as impaired in another state may file in the district court of the county wherein the proposed ward or proposed conservatee may be found or wherein the petitioner plans to relocate the proposed ward or proposed conservatee, a verified petition requesting that the court give full faith and credit to the prior adjudication and appoint a guardian or a conservator, or both, in Kansas. The petition shall also declare that immediately upon such appointment, the petitioner will take the necessary action to terminate the proceedings in the other state.

(b) The petition shall include:

(1) The petitioner's name and address;

(2) the proposed ward's or proposed conservatee's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the proposed ward's or proposed conservatee's permanent residence;

(3) the places where the proposed ward or proposed conservatee has lived during the last five years, and the names and present addresses of the persons with whom the proposed ward or proposed conservatee has lived during that period.

~~(3)~~ (4) if the proposed ward or proposed conservatee is not already present within Kansas, the address and nature of the place located within Kansas to which the petitioner plans to relocate the proposed ward or proposed conservatee if the court does appoint a guardian or conservator, or both, in Kansas;

~~(4)~~ (5) the place where and the date upon which the petitioner was appointed as the guardian, conservator or other similarly empowered fiduciary for the proposed ward or proposed conservatee and a statement that this appointment remains in full force and effect;

~~(5)~~ (6) the factual basis upon which the petitioner alleges the need for the appointment of a guardian or conservator, or both, in Kansas;

~~(6)~~ (7) the names and addresses of any spouse, adult children and adult grandchildren of the proposed ward or proposed conservatee, and those of any parent and adult siblings of the proposed ward or proposed conservatee, or if no such names or addresses are known to the petitioner, the name and address of at least one adult who is nearest in kinship to the

proposed ward or proposed conservatee, or if none, that fact. If no such names or addresses are known to the petitioner, but the petitioner has reason to believe such persons exist, then the petition shall state that fact and that the petitioner has made diligent inquiry to learn those names and addresses;

(7 8) the name and address of any person or corporation acting for or nominated to act on behalf of the proposed ward or proposed conservatee pursuant to any power of attorney, trust or other fiduciary relationship established by any court order, other than the appointment in the other state of the petitioner as the guardian, conservator or other similarly empowered fiduciary for the proposed ward or proposed conservatee, and a description of that authority or relationship. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(8 9) a list and description of all court proceedings in which the proposed ward or proposed conservatee is a party, or is the subject of, or may be a beneficiary of, or in which any rights of the proposed ward or proposed conservatee may be determined or affected, and the name and address of any attorney who represents the proposed ward or proposed conservatee in such matter. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(9 10) in general terms, the location, type and value of any real or personal property of the proposed ward or proposed conservatee, including the amount and sources of any income of the proposed ward or proposed conservatee. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(10 11) the names and addresses of the witnesses by whom the truth of the petition may be proved;

(11 12) the name, age, date of birth, gender, address, place of employment, relationship to the proposed ward or proposed conservatee, if any, of the individual or corporation whom the petitioner suggests that the court appoint as guardian or conservator, or both, and any personal or agency interest of the proposed guardian or proposed conservator that may be perceived as self-serving or adverse to the position or best interest of the proposed ward or proposed conservatee, and if the suggested guardian or conservator is under contract with the Kansas guardianship program, that fact;

~~(12~~ 13) if the petitioner suggests the appointment of co-guardians or co-conservators, or both, a statement of the reasons why such appointment is sought and whether the petitioner suggests that the co-guardians or co-conservators, if appointed, should be able to act independently or whether they should be required to act only in concert or only in concert with regard to specified matters;

~~(13~~ 14) a declaration that, immediately upon the appointment of a guardian or conservator in this state, the petitioner will take the necessary action to terminate the proceedings in the other state; and

~~(14~~ 15) a request that the court make a determination that the proposed ward or proposed conservatee is a person who has been previously adjudged as impaired in another state, that the court enter one or more of the orders provided for in K.S.A. 59-3063 and 59-3065, and amendments thereto, and that the court appoint a guardian or conservator, or both, for the proposed ward or proposed conservatee in Kansas.

(c) Any such petition shall be accompanied by a duly authenticated copy of the order of adjudication and appointment and documents showing the continuing authority of the petitioner in the other state.

(d) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a proposed guardianship plan as provided for in K.S.A. 59-3076, and amendments thereto, or a proposed conservatorship plan as provided for in K.S.A. 59-3079, and amendments thereto, or both.