HOUSE BILL No. 2536

AN ACT concerning the Kansas uniform guardianship, conservatorship and other protective arrangements act; requiring the secretary for aging and disability services to approve training programs for proposed guardians for certain adults who have a cognitive impairment or are diagnosed with a neurological condition; requiring such proposed guardians to complete an approved training program prior to appointment as a guardian; amending K.S.A. 59-30,149 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) The secretary for aging and disability services shall approve training programs for proposed guardians for adults as described in K.S.A 59-30,149, and amendments thereto, and maintain a list of such approved programs for use by courts and proposed guardians.

(b) The secretary shall require such training programs to provide specific guidance for proposed guardians who will be assisting adults who have a cognitive impairment or are diagnosed with Alzheimer's disease, dementia or a similar neurological condition, which shall include:

(1) Common aspects of normal aging;

(2) warning signs of Alzheimer's disease and dementia;

(3) effective strategies for communicating with such adults; and

(4) effective strategies and resources available for supporting such adults in exercising their rights.

(c) Application for approval of a training program under this section shall be made to the secretary in such manner as the secretary may direct. The secretary may suspend or revoke approval of a program under this section if the secretary finds that such program is not in compliance with the criteria established in this section or rules and regulations adopted pursuant to this section.

(d) The secretary shall adopt rules and regulations necessary to administer the provisions of this section.

(e) This section shall be a part of and supplemental to the Kansas uniform guardianship, conservatorship and other protective arrangements act.

Sec. 2. K.S.A. 59-30,149 is hereby amended to read as follows: 59-30,149. (a) Except as otherwise provided in subsection (c), the court in appointing a guardian for an adult shall consider persons qualified to be guardian in the following order of priority:

(1) A guardian, other than a temporary or emergency guardian, currently acting for the respondent in another jurisdiction;

(2) a person nominated as guardian by the respondent, including the respondent's most recent nomination made in a power of attorney;

(3) an agent appointed by the respondent under a power of attorney for healthcare;

(4) a spouse of the respondent;

(5) a family member or other individual who has shown special care and concern for the respondent; and

(6) a person nominated as guardian by the spouse, adult child or other close family member of the respondent.

(b) If two or more persons have equal priority under subsection (a), the court shall select as guardian the person *whom* the court considers best qualified. In determining the best qualified person, the court shall consider the person's relationship with the respondent, the person's skills, the expressed wishes of the respondent, the extent to which the person and the respondent have similar values and preferences and the likelihood the person will be able to perform the duties of a guardian successfully.

(c) The court, acting in the best interest of the respondent, may decline to appoint as guardian a person having priority under subsection (a) and appoint a person having a lower priority or no priority.

(d) In determining whether the appointment of a proposed guardian is in the best interest of the respondent, the court shall consider the number of other cases in which the proposed guardian, other than a corporation, is currently serving as guardian, particularly if

that number is more than 15.

(e) The following persons shall not be appointed as guardian unless the court finds by clear and convincing evidence that the person is the best qualified person available for appointment and the appointment is in the best interest of the respondent:

(1) A person that provides paid services to the respondent, or an individual who is employed by a person that provides paid services to the respondent, or is the spouse, parent or child of an individual who provides or is employed to provide paid services to the respondent;

(2) an owner, operator or employee of any entity at which the respondent is receiving care; and

(3) a person who provides care or other services, or is an employee of an agency, partnership or corporation that provides care or other services to persons with needs similar to those of the respondent.

(f) (1) Except as provided further, if the respondent has cognitive impairment or has been diagnosed with Alzheimer's disease, dementia or a similar neurological condition, the court shall not appoint a person as guardian for such adult until such person completes a training program approved pursuant to section 1, and amendments thereto, and verifies completion of such program by filing an affidavit with the court.

(2) The court, acting in the best interest of the respondent, may waive the requirements of this subsection. The court shall enter such waiver in the record of the proceedings.

Sec. 3. K.S.A. 59-30,149 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

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Speaker of the House.

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Chief Clerk of the House.

Passed the SENATE _____

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President of the Senate.

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Secretary of the Senate.

APPROVED _____

_____

Governor.