

## HOUSE BILL No. 2536

By Committee on Judiciary

Requested by Jamie Gideon on behalf of the Alzheimer's Association

1-23

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-

1 30,149. (a) Except as otherwise provided in subsection (c), the court in  
2 appointing a guardian for an adult shall consider persons qualified to be  
3 guardian in the following order of priority:

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

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

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

10 (4) a spouse of the respondent;

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

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

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

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

25 (d) In determining whether the appointment of a proposed guardian is  
26 in the best interest of the respondent, the court shall consider the number  
27 of other cases in which the proposed guardian, other than a corporation, is  
28 currently serving as guardian, particularly if that number is more than 15.

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

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

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

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

42 (f) (1) *Except as provided further, if the respondent has cognitive*  
43 *impairment or has been diagnosed with Alzheimer's disease, dementia or a*

1 *similar neurological condition, the court shall not appoint a person as*  
2 *guardian for such adult until such person completes a training program*  
3 *approved pursuant to section 1, and amendments thereto, and verifies*  
4 *completion of such program by filing an affidavit with the court.*

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

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

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