

2012 Kansas Statutes

59-3051. Definitions. When used in the act for obtaining a guardian or a conservator, or both:

(a) "Adult with an impairment in need of a guardian or a conservator, or both" means a person 18 years of age or older, or a minor who is considered to be of the age of majority pursuant to K.S.A. 38-101, and amendments thereto, or upon whom the rights of majority have been conferred pursuant to K.S.A. 38-108, and amendments thereto, whose ability to receive and evaluate relevant information, or to effectively communicate decisions, or both, even with the use of assistive technologies or other supports, is impaired such that the person lacks the capacity to manage such person's estate, or to meet essential needs for physical health, safety or welfare, and who is in need of a guardian or a conservator, or both. No person who is being treated by prayer in the practice of the religion of any church which teaches reliance on spiritual means alone through prayer for healing shall be determined to be an adult with an impairment in need of a guardian under this act for that reason alone, nor considered to lack the capacity to meet essential needs for physical health, safety or welfare because of such person's reliance upon such treatment.

(b) "Appropriate alternative" means any program or service, or the use of a legal device or representative, which enables a person with an impairment to adequately meet essential needs for physical health, safety or welfare, or to reasonably manage such person's estate. Appropriate alternatives may include, but are not limited to, a power of attorney, a durable power of attorney, a power of attorney for health care decisions, a living will, a trust, a joint tenancy or a representative payee.

(c) "Conservatee" means a person who has a conservator.

(d) "Conservator" means an individual or a corporation who or which is appointed by the court to act on behalf of a conservatee and who or which is possessed of some or all of the powers and duties set out in K.S.A. 59-3078, and amendments thereto.

(e) "Guardian" means an individual or a corporation certified in accordance with K.S.A. 59-3070, and amendments thereto, who or which is appointed by a court to act on behalf of a ward, and who or which is possessed of some or all of the powers and duties set out in K.S.A. 59-3075, [and] amendments thereto. "Guardian" does not mean a "natural guardian" unless specified.

(f) "In need of a guardian" means a person who because of both an impairment and the lack of appropriate alternatives for meeting essential needs, requires the appointment of a guardian.

(g) "In need of a conservator" means a person who because of both an impairment and the lack of appropriate alternatives for managing such person's estate, requires the appointment of a conservator.

(h) "Manage such person's estate" means making those determinations and taking those actions which are reasonably necessary in order for a person to receive and account for personal or business income, benefits and property, whether real, personal or intangible, and except for reasons of indigency, to purchase or otherwise obtain necessary goods or services, to pay debts and expenses, to sell, exchange or otherwise dispose of property, and to plan for future accumulation, conservation, utilization, investment, and other disposition of financial resources.

(i) "Meet essential needs for physical health, safety or welfare" means making those determinations and taking those actions which are reasonably necessary in order for a person to obtain or be provided with shelter, sustenance, personal hygiene or health care, and without which serious illness or injury is likely to occur.

(j) "Minor" means any person defined by K.S.A. 38-101, and amendments thereto, as being within the period of minority.

(k) "Minor with an impairment in need of a guardian or a conservator, or both" means a person under 18 years of age who otherwise meets the definition of an "adult with an impairment in need of a guardian or conservator, or both" and whose impairment is expected to continue beyond the age of 18.

(l) "Natural guardian" means both the biological or adoptive mother and father of a minor if neither parent has been found to be an adult with an impairment in need of a guardian or has had parental rights terminated by a court of competent jurisdiction. If either parent of a minor is deceased, or has been found to be an adult with an impairment in need of a guardian or has had parental rights terminated by a court of competent jurisdiction, then the other parent shall be the natural guardian, unless also deceased, or found to be an adult with an impairment in need of a guardian, or has had parental rights terminated by a court of competent jurisdiction, in which case no person shall qualify as the natural guardian.

(m) "Person who has been previously adjudged as impaired in another state" means a person who has been duly adjudged by a court of competent jurisdiction of any other state to be unable to meet essential needs for physical health, safety or welfare or to manage such person's estate and for whom a guardian or a conservator, or other similarly empowered fiduciary, has been appointed by that court, but who now resides within Kansas or for whom plans have been made by such person's guardian or other fiduciary to relocate the person to Kansas.

(n) "Person in need of an ancillary conservator" means a person not residing within Kansas, who has been duly adjudged by a court of competent jurisdiction of another state to be unable to manage such person's estate and for whom a conservator or other fiduciary of the person's estate has been appointed by that court, and who has property in Kansas for which a conservator is required.

(o) "Proposed ward" means a person for whom a petition for the appointment of a guardian pursuant to K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and amendments thereto, has been filed.

(p) "Proposed conservatee" means a person for whom a petition for the appointment of a conservator pursuant to K.S.A. 59-3058, 59-3059, 59-3060, 59-3061 or 59-3062, and amendments thereto, has been filed.

(q) "Ward" means a person who has a guardian.

(r) The terms defined in K.S.A. 59-2946 and 59-29b46, and amendments thereto, have the meanings provided by those statutes.

(s) "Personal or agency interest" shall include, but not be limited to, details of any financial, agency or other transactions between a proposed guardian, guardian, proposed conservator or conservator and the proposed ward, ward, proposed conservatee or conservatee as applicable.

History: L. 2002, ch. 114, § 2; L. 2008, ch. 64, § 1; July 1.