

2012 Kansas Statutes

59-3081. Authority of conservator to establish extended distribution plan for minor's estate; petition; contents; notice; hearing; procedure. (a) At any time after the 17th birthday of a minor conservatee who has not been adjudged to be a minor with an impairment in need of a guardian or conservator, or both, but before 30 days prior to the minor's 18th birthday, the conservator may file a verified petition requesting that the court grant authority to the conservator to establish a plan for the extended distribution of the minor's estate to the minor after the minor's 18th birthday. The petition shall include:

(1) The conservator's name and address, and if the conservator is also the minor's court appointed guardian, that fact;

(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 name and address of the minor's court appointed guardian, if a guardian has been appointed by the court and is different from the petitioner;

(4) the names and addresses of any spouse of the minor, and those of any parent and adult siblings of the minor, or if none, that fact. If no such names or addresses are known to the petitioner, but the petitioner has reason to believe that such persons exist, then the petition shall state that fact and that the petitioner has made diligent inquiry to learn those names and addresses;

(5) a description of the funds or assets of the minor's estate which the conservator proposes to distribute to the minor over an extended period following the minor's 18th birthday;

(6) the factual basis upon which the conservator alleges the need for such an extended distribution plan;

(7) a description of the plan proposed by the conservator and how and by what means the distribution will occur if the court grants to the conservator the authority to establish such a plan;

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

(9) a request that the court find that the conservator should be granted such authority, and that the court grant to the conservator the authority to establish such an extended distribution plan.

(b) Upon the filing of such a petition, the court shall issue an order fixing the date, time and place of a hearing on the petition, which hearing may be held forthwith and without further notice if the minor and those other persons named within the petition pursuant to the requirements of subsection (a)(4), as applicable, have entered their appearance, waived notice, and agreed to the court's granting to the conservator the authority to establish the plan for the extended distribution of the minor's estate as contained within the petition. Otherwise, the court shall require the conservator to give notice of this hearing to the minor and those other persons in such manner as the court may direct. The court shall require that the notice be accompanied by a copy of the petition containing a description of the plan proposed by the conservator. The court shall require that the notice advise the minor and those other persons that if they have any objections to this authority being granted to the conservator, that they must file their written objections with the court prior to the scheduled hearing or that they must appear at the hearing to present those objections. The court may appoint an attorney to represent the minor in this matter similarly as provided for in subsection (a)(3) of K.S.A. 59-3063, and amendments thereto, and in such event, the court shall require the conservator to also give this notice to that attorney.

(c) At the conclusion of the hearing, if the court finds by a preponderance of the evidence that:

(1) Based upon the value, nature and character of the assets within the minor's estate, the minor does not possess the maturity and judgment to make determinations and act responsibly with regard to such estate, and that therefore it is in the best interests of the minor that the court grant this authority to the conservator;

(2) the plan approved by the court will fully distribute all of the funds and assets of the minor's estate to the minor by the minor's 25th birthday; and

(3) the plan approved by the court adequately provides for meeting the expected needs of the minor from the minor's 18th birthday until the final distribution of the funds or assets which the court authorizes to be set aside or transferred from the estate are paid over to the minor, including provisions for accelerated distribution in extraordinary circumstances, which may require court approval, then the court may grant to the conservator the authority to establish such a plan and to effectuate it. The court shall order the conservator to report any expenditure or transfer of funds or assets from the minor's estate for the purposes of effectuating this plan within the conservator's next accounting as required by K.S.A. 59-3083, and amendments thereto.

(d) The court may require that the conservator continue to administer the plan after the minor becomes 18 years of age. The court may extend the conservatorship with regard to the funds or assets of the minor's estate which are set aside to effectuate the plan and in such case the conservator shall continue to be subject to the same requirements and limitations as provided for in this act concerning conservatorships and shall report and account to the court concerning the plan's execution, even though other funds or assets of the minor's estate are paid over to the minor upon the minor's becoming 18 years of age.

(e) The minor shall be without the power, voluntarily or involuntarily, to sell, mortgage, pledge, hypothecate, assign, alienate, anticipate, transfer or convey any interest in the principal or the income from any funds or assets of the minor's estate set aside or transferred to effectuate a plan for extended distribution as herein provided until such is actually paid to the minor.

History: L. 2002, ch. 114, § 32; July 1.