

CHAPTER 58**(HB 374)**

AN ACT relating to voting rights for persons with disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 387.580 is amended to read as follows:

- (1) At a hearing convened under KRS 387.500 to 387.770 for a determination of partial disability or disability, the jury shall:
 - (a) Inquire into the nature and extent of the general intellectual functioning of the respondent;
 - (b) Inquire into the respondent's capacity to make informed decisions concerning his personal affairs and financial resources;
 - (c) Determine whether the respondent is disabled, partially disabled, or has no disability in relation to the management of his financial resources; and
 - (d) Determine whether the respondent is disabled, partially disabled, or has no disability in relation to the management of his personal affairs.
- (2) If the respondent is found not to be disabled or partially disabled, the petition shall be dismissed.
- (3) If the respondent is found to be disabled or partially disabled, the court shall, at the same hearing, without a jury, determine:
 - (a) The type of guardian or conservator to be appointed;
 - (b) The specific legal disabilities to which the respondent is subject, if the respondent has been determined to be partially disabled;
 - (c) ***Whether the respondent retains the right to vote;***
 - (d) The corresponding powers and duties of the limited guardian or limited conservator, if the respondent has been determined to be partially disabled;
 - ~~(e)(d)~~ The individual or entity to be appointed by the court as limited guardian, guardian, limited conservator, or conservator;
 - ~~(f)(e)~~ The individual or entity, if any, to be appointed as standby guardian or conservator; and
 - ~~(g)(f)~~ The duration of the term of guardianship or conservatorship.

Section 2. KRS 387.590 is amended to read as follows:

- (1) If the respondent is found partially disabled in managing his personal affairs, but not partially disabled or disabled in managing his financial resources, a limited guardian shall be appointed.
- (2) If the respondent is found partially disabled in managing his financial resources, but not partially disabled or disabled in managing his personal affairs, a limited conservator shall be appointed.
- (3) If the respondent is found partially disabled in managing both his personal affairs and financial resources, a limited guardian shall be appointed, unless the court considers it in the best interest of the ward to appoint both a limited guardian and a limited conservator.
- (4) If the respondent is found disabled in managing his financial resources, but not partially disabled or disabled in managing his personal affairs, a conservator shall be appointed.
- (5) If the respondent is found disabled in managing both his personal affairs and financial resources, a guardian shall be appointed, unless the court considers it in the best interest of the ward to appoint both a limited guardian and a conservator.
- (6) The order of appointment of a limited guardian, guardian, limited conservator, or conservator shall specify:
 - (a) The type of guardianship or conservatorship to which the ward is subject;
 - (b) The name and address of the limited guardian, guardian, limited conservator, or conservator;

- (c) The name and address of the standby guardian or conservator, if a standby guardian or conservator is designated;
 - (d) The specific legal disabilities to which the respondent is subject, if the respondent has been determined to be partially disabled;
 - (e) The corresponding powers and duties of the limited guardian or limited conservator, if the respondent has been determined to be partially disabled; and
 - (f) The duration of the term of guardianship or conservatorship.
- (7) A limited guardian or limited conservator shall not be appointed for a term greater than five (5) years and may be appointed for a lesser period. A guardian or conservator may be appointed for a period of unlimited duration.
- (8) The judgment of partial disability or disability and the order of appointment shall be filed in the District Court. The judgment shall be indexed by the county clerk in the book in which notices of actions and encumbrances are indexed. Unless such judgment is filed and indexed, it shall not constitute notice to any subsequent bona fide purchaser for value, mortgagee, or encumbrancer.
- (9) If the respondent is determined to be disabled or partially disabled but no limited guardian, guardian, limited conservator, or conservator is appointed at the hearing, the determination shall have no legal effect.
- (10) The rights of which a ward is legally deprived upon a determination of disability in managing his personal affairs and financial resources include, but are not limited to, the right to ~~vote,~~ dispose of property, execute instruments, enter into contractual relationships, determine his living arrangements, consent to medical procedures, and obtain a motor vehicle operator's license. ***A ward shall only be deprived of the right to vote if the court separately and specifically makes a finding on the record as established in subsection (3)(c) of Section 1 of this Act.***
- (11) A partially disabled or disabled person for whom a limited guardian, limited conservator, or conservator has been appointed retains all legal and civil rights except those which have by court order been designated as legal disabilities or which have been specifically granted to the limited guardian, limited conservator, or conservator. A person who is partially disabled may be subject to some but not all of the disabilities specified in subsection (10) of this section.

Approved March 21, 2007.