

1 AN ACT regarding guardianship and conservatorship of partially disabled or
2 disabled adults.

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

4 ➔Section 1. KRS 210.290 is amended to read as follows:

5 (1) The Cabinet for Health and Family Services may be appointed and act as executor,
6 administrator, guardian, limited guardian, conservator, or limited conservator as
7 provided in this section. In this capacity the cabinet may ***act as a fiduciary and***
8 ***transact business in the same manner as any individual and for fiduciary***
9 ***purposes***~~[this purpose]~~ may sue and be sued in any of the courts of the state. Bond
10 shall not be required of the cabinet.

11 (2) ***(a)*** Whenever a resident of the state is adjudged partially disabled or disabled and
12 no other suitable person or entity is available and willing to act as limited
13 guardian, guardian, limited conservator, or conservator, the cabinet ***may be***
14 ***appointed as the resident's limited guardian, guardian, limited conservator,***
15 ***or conservator. As used in this paragraph, "resident of the state" means an***
16 ***individual who has a permanent, full-time residence in Kentucky prior to***
17 ***the filing of a petition for or appointment of a limited guardian, guardian,***
18 ***limited conservator, or conservator for at least the previous six (6) months***
19 ***that is not a hospital, treatment facility, correctional facility, or long-term***
20 ***care facility, and who is a citizen or permanent resident of the United***
21 ***States.***

22 ***(b)*** ***Notwithstanding paragraph (a) of this subsection, except upon written order***
23 ***of the court in exceptional circumstances, the cabinet shall not be appointed***
24 ***as a limited guardian, guardian, limited conservator, or conservator of a***
25 ***partially disabled or disabled person when the person:***

26 ***1. Has been convicted of, pled guilty to, or entered an Alford plea for a***
27 ***sex crime as defined in KRS 17.500 or an offense that would classify***

1 *the person as a violent offender under KRS 439.3401; or*

2 *2. Is not alive or cannot be physically located.*

3 *(c) Before appointing the cabinet, consideration shall be given to the average*
 4 *caseload of each field social worker.*

5 *(d) The cabinet,* acting through its designated officer, may apply to the District
 6 Court of the county in which the adjudication is made for appointment as
 7 limited guardian, guardian, limited conservator, or conservator for ~~a[such]~~
 8 partially disabled or disabled person *who meets the requirements of this*
 9 *subsection.*

10 *(3) When the cabinet is appointed as a limited guardian, guardian, limited*
 11 *conservator, or conservator of a partially disabled or disabled person, the cabinet*
 12 *shall not:*

13 *(a) Assume physical custody of the person;*

14 *(b) Be assigned as the person's caregiver or custodian; or*

15 *(c) Become personally liable for the person's expenses or placement, or to third*
 16 *parties for the person's actions. However, the cabinet shall procure*
 17 *resources and services for which the person is eligible when necessary and*
 18 *available.*

19 ~~(4)~~~~(3)~~ *(a) Except as provided in paragraph (b) of this subsection,* upon the death
 20 of a person for whom the cabinet has been appointed guardian or conservator,
 21 or upon the death of a person who has been committed to the cabinet leaving
 22 an estate and having no relatives at the time residing within the state, the
 23 cabinet may apply for appointment as administrator and upon appointment
 24 shall close the administration of the estate.

25 *(b) If a person for whom the cabinet has been appointed guardian or*
 26 *conservator dies with less than ten thousand dollars (\$10,000) of personal*
 27 *property or money, the cabinet shall not be required to apply for*

1 *appointment as administrator. However, prior to the release of funds to the*
 2 *person's estate, the cabinet shall ensure all outstanding bills related to*
 3 *living expenses, reasonable funeral expenses when not prepaid, and estate*
 4 *recovery are paid.*

5 ~~(5)~~~~(4)~~ The cabinet may invest funds held as fiduciary in bonds or other securities
 6 guaranteed by the United States, and may sell or exchange such securities in its
 7 discretion. *In addition, the cabinet may establish or place funds held as fiduciary*
 8 *in a trust.*

9 ~~(6)~~~~(5)~~ The cabinet shall receive such fees for its fiduciary services as provided by
 10 law. These fees shall be placed in a trust and agency account, from which may be
 11 drawn expenses for filing fees, court costs, and other expenses incurred in the
 12 administration of estates. Claims of the cabinet against the estates shall be
 13 considered in the same manner as any other claim.

14 ~~(7)~~~~(6)~~ An officer designated by the secretary may act as legal counsel for any patient
 15 in a state mental hospital or institution against whom a suit of any nature has been
 16 filed, without being appointed as guardian, limited guardian, conservator, or limited
 17 conservator.

18 ~~(8)~~~~(7)~~ Patients hospitalized pursuant to KRS Chapters 202A and 202B who are not
 19 adjudged disabled or partially disabled may authorize the Cabinet for Health and
 20 Family Services to handle personal funds received by them at the hospital in the
 21 same manner as prescribed in subsections ~~(5)~~~~(4)~~ and ~~(6)~~~~(5)~~ of this section.

22 ➔Section 2. KRS 387.510 is amended to read as follows:

23 As used in KRS 387.500 to 387.770 and 387.990:

24 (1) "Conservator" means an individual, agency, or corporation appointed by the court to
 25 manage the financial resources of a disabled person.

26 (2) "Limited conservator" means an individual, agency, or corporation appointed by the
 27 court to assist in managing the financial resources of a partially disabled person and

1 whose powers and duties have been specifically enumerated by court order.

2 (3) "Guardian" means any individual, agency, or corporation appointed by the court to
3 manage the personal affairs~~[have full care, custody, and control]~~ of a disabled
4 person~~[and to manage his financial resources]~~.

5 (4) "Limited guardian" means an individual, agency, or corporation appointed by the
6 court to assist in managing the personal affairs of a partially disabled person~~[a~~
7 ~~guardian who possesses fewer than all of the legal powers and duties of a full~~
8 ~~guardian,]~~ and whose powers and duties have been specifically enumerated by court
9 order.

10 (5) "Standby" guardian or conservator means a person or entity designated by the court
11 to assume the powers and duties assigned to a limited guardian, guardian, limited
12 conservator, or conservator upon his death, resignation, removal, or incapacity.

13 (6) "Testamentary" guardian or conservator means an individual, agency, or corporation
14 nominated in the will of a limited guardian, guardian, limited conservator, or
15 conservator to succeed the testator in that capacity upon his death.

16 (7) "Developmental disability" means a severe, chronic disability of a person which:

17 (a) Is attributable to a mental or physical impairment or combination of mental
18 and physical impairments, including pervasive developmental disorder;

19 (b) Is manifested before the person attains age twenty-two (22);

20 (c) Is likely to continue indefinitely;

21 (d) Results in substantial functional limitations in three (3) or more of the
22 following areas of major life activity:

23 1. Self-care;

24 2. Receptive and expressive language;

25 3. Learning;

26 4. Mobility;

27 5. Self-direction;

- 1 6. Capacity for independent living; and
- 2 7. Economic self-sufficiency; and
- 3 (e) Reflects the person's need for a combination and sequence of special
- 4 interdisciplinary or generic care, treatment, or other services which are of
- 5 lifelong or extended duration and are individually planned and coordinated.
- 6 (8) "Disabled" means a legal *disability*, not a medical disability, and is measured by
- 7 functional inabilities. It refers to any person *seventeen (17)*~~fourteen (14)~~ years of
- 8 age or older who is:
- 9 (a) Unable to make informed decisions with respect to his personal affairs to such
- 10 an extent that he lacks the capacity to provide for his physical health and
- 11 safety, including but not limited to health care, food, shelter, clothing, or
- 12 personal hygiene; or
- 13 (b) Unable to make informed decisions with respect to his financial resources to
- 14 such an extent that he lacks the capacity to manage his property effectively by
- 15 those actions necessary to obtain, administer, and dispose of both real and
- 16 personal property.
- 17 Such inability shall be evidenced by acts or occurrences within six (6) months prior
- 18 to the filing of the petition for guardianship or conservatorship and shall not be
- 19 evidenced solely by isolated instances of negligence, improvidence, or other
- 20 behavior.
- 21 (9) "Partially disabled" refers to an individual who lacks the capacity to manage some
- 22 of his personal affairs and/or financial resources as provided in subsection (8) of
- 23 this section, but who cannot be found to be fully disabled as provided therein.
- 24 (10) "Mentally ill person" means a person with substantially impaired capacity to use
- 25 self-control, judgment, or discretion in the conduct of his affairs and social
- 26 relations, associated with maladaptive behavior or recognized emotional symptoms
- 27 where impaired capacity, maladaptive behavior, or emotional symptoms can be

1 related to physiological, psychological, or social factors.

2 (11) "Interdisciplinary evaluation report" means a report of an evaluation of a respondent
3 performed pursuant to the provisions of KRS 387.540 to determine whether he is
4 partially disabled or disabled as defined herein.

5 (12) "Interested person or entity" means an adult relative or friend of the respondent or
6 ward, an official or representative of a public or private agency, corporation, or
7 association concerned with that person's welfare, or any other person found suitable
8 by the court.

9 (13) "Petitioner" means a person who institutes a proceeding under KRS 387.530.

10 (14) "Respondent" means an individual alleged to be a partially disabled or disabled
11 person.

12 (15) "Ward" means a person for whom a limited guardian, guardian, limited conservator,
13 or conservator has been appointed.

14 (16) "Committee" means a person appointed by the court prior to July 1, 1982, to have
15 full care, custody, and control of a disabled person and his estate.

16 **(17) "Personal affairs" means decisions regarding the person of an adult, including**
17 **but not limited to health care, food, shelter, clothing, or personal hygiene.**

18 ➔Section 3. KRS 387.540 is amended to read as follows:

19 (1) Prior to a hearing on a petition for a determination of partial disability or disability
20 and the appointment of a limited guardian, guardian, limited conservator, or
21 conservator, an interdisciplinary evaluation report shall be filed with the court. The
22 report may be filed as a single and joint report of the interdisciplinary evaluation
23 team, or it may otherwise be constituted by the separate reports filed by each
24 individual of the team. If the court and all parties to the proceeding and their
25 attorneys agree to the admissibility of the report or reports, the report or reports
26 shall be admitted into evidence and shall be considered by the **court or the jury if**
27 **one is impaneled**. The report shall be compiled by at least three (3) individuals,

1 including a physician, ~~or~~ an advanced practice registered nurse, or a physician
2 assistant, a psychologist licensed or certified under the provisions of KRS Chapter
3 319, and a person licensed or certified as a social worker or an employee of the
4 Cabinet for Health and Family Services who meets the qualifications of KRS
5 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c). The social worker shall,
6 when possible, be chosen from among employees of the Cabinet for Health and
7 Family Services residing or working in the area, and there shall be no additional
8 compensation for their service on the interdisciplinary evaluation team.

9 (2) At least one (1) person participating in the compilation of the report shall have
10 knowledge of the particular disability which the respondent is alleged to have or
11 knowledge of the skills required of the respondent to care for himself and his estate.

12 (3) If the respondent is alleged to be partially disabled or disabled due to mental illness,
13 at least one (1) person participating in the compilation of the interdisciplinary
14 evaluation report shall be a qualified mental health professional as defined in KRS
15 202A.011(12). If the respondent is alleged to be partially disabled or disabled due to
16 an intellectual disability, at least one (1) person participating in the compilation of
17 the evaluation report shall be a qualified professional in the area of intellectual
18 disabilities as defined in KRS 202B.010(12).

19 (4) The interdisciplinary evaluation report shall contain:

20 (a) A description of the nature and extent of the respondent's disabilities, if any;

21 (b) Current evaluations of the respondent's social, intellectual, physical, and
22 educational condition, adaptive behavior, and social skills. Such evaluations
23 may be based on prior evaluations not more than three (3) months old, except
24 that evaluations of the respondent's intellectual condition may be based on
25 individual intelligence test scores not more than one (1) year old;

26 (c) An opinion as to whether guardianship or conservatorship is needed, the type
27 of guardianship or conservatorship needed, if any, and the reasons therefor;

- 1 (d) An opinion as to the length of time guardianship or conservatorship will be
2 needed by the respondent, if at all, and the reasons therefor;
- 3 (e) If limited guardianship or conservatorship is recommended, a further
4 recommendation as to the scope of the guardianship or conservatorship,
5 specifying particularly the rights to be limited and the corresponding powers
6 and duties of the limited guardian or limited conservator;
- 7 (f) A description of the social, educational, medical, and rehabilitative services
8 currently being utilized by the respondent, if any;
- 9 (g) A determination whether alternatives to guardianship or conservatorship are
10 available;
- 11 (h) A recommendation as to the most appropriate treatment or rehabilitation plan
12 and living arrangement for the respondent and the reasons therefor;
- 13 (i) A listing of all medications the respondent is receiving, the dosage, and a
14 description of the impact of the medication upon the respondent's mental and
15 physical condition and behavior;
- 16 (j) An opinion whether attending a hearing on a petition filed under KRS 387.530
17 would subject the respondent to serious risk of harm;
- 18 (k) The names and addresses of all individuals who examined or interviewed the
19 respondent or otherwise participated in the evaluation; and
- 20 (l) Any dissenting opinions or other comments by the evaluators.
- 21 (5) The evaluation report may be compiled by a community center for mental health or
22 individuals with an intellectual disability, a licensed facility for mentally ill or
23 developmentally disabled persons, if the respondent is a resident of such facility, or
24 a similar agency.
- 25 (6) In all cases where the respondent is a resident of a licensed facility for mentally ill
26 or developmentally disabled persons and the petition is filed by an employee of that
27 facility, the petition shall be accompanied by an interdisciplinary evaluation report

1 prepared by the facility.

2 (7) Except as provided in subsection (6) of this section, the court shall order
3 appropriate evaluations to be performed by qualified persons or a qualified agency.

4 The report shall be prepared and filed with the court and copies mailed to the
5 attorneys for both parties at least ten (10) days prior to the hearing. All items
6 specified in subsection (4) of this section shall be included in the report.

7 (8) If the person evaluated is a poor person as defined in KRS 453.190, the examiners
8 shall be paid by the county in which the petition is filed upon an order of allowance
9 entered by the court. Payment shall be in an amount which is reasonable as
10 determined by the court, except no payment shall be required of the county for an
11 evaluation performed by a salaried employee of a state agency for an evaluation
12 performed within the course of his employment. Additionally, no payment shall be
13 required of the county for an evaluation performed by a salaried employee of a
14 community center for mental health or individuals with an intellectual disability or
15 private facility or agency where the costs incurred by the center, facility, or agency
16 are reimbursable through third-party payors. Affidavits or other competent evidence
17 shall be admissible to prove the services rendered but not to prove their value.

18 (9) The respondent may file a response to the evaluation report no later than five (5)
19 days prior to the hearing.

20 (10) The respondent may secure an independent evaluation. If the respondent is unable
21 to pay for the evaluation, compensation for the independent evaluation may be paid
22 by the county in an amount which is reasonable as determined by the court.

23 ➔Section 4. KRS 387.570 is amended to read as follows:

24 (1) At a hearing convened pursuant to KRS 387.500 to 387.770 for the purpose of
25 determining the disability of a respondent, the respondent shall ~~have a jury trial and~~
26 ~~shall~~ have the right to present evidence and to confront and cross-examine all
27 witnesses.

- 1 (2) The hearing may be closed to the public on request of the respondent or his counsel.
- 2 (3) The respondent shall **have the right to** be present at the hearing, and his presence
 3 may be waived only **by his failure to appear at the hearing or** upon a
 4 determination of the court that his attendance would subject him to serious risk of
 5 harm. Such determination shall be evidence only of the respondent's inability to
 6 attend the hearing and shall not be considered in determining the need for
 7 guardianship or conservatorship.
- 8 (4) The court may remove itself to the place of residence of the respondent to conduct
 9 the hearing in the presence of the respondent.
- 10 (5) The burden of proof shall be on the Commonwealth to prove the disability or partial
 11 disability of the respondent by clear and convincing evidence.
- 12 (6) The respondent will not be determined partially disabled or disabled unless at least
 13 one (1) of the persons who participated in the interdisciplinary evaluation required
 14 by KRS 387.540 testifies in person at the hearing. This section shall not be
 15 interpreted to preclude the respondent from requiring the testimony of more than
 16 one (1) person participating in the preparation of the evaluation report.
- 17 **(7) The hearing shall be a jury trial, unless:**
- 18 **(a) The respondent if present, counsel for the respondent, and the attorney for**
 19 **the Commonwealth agree to a bench trial;**
- 20 **(b) No objection to a bench trial is made by an interested person or entity; and**
- 21 **(c) The interdisciplinary evaluation report prepared for the proceeding reflects**
 22 **a unanimous consensus of the persons preparing it that the respondent is**
 23 **disabled or partially disabled, the court has reviewed the report, and the**
 24 **court finds no cause to require a jury trial.**
- 25 ➔Section 5. KRS 387.580 is amended to read as follows:
- 26 (1) At a hearing convened under KRS 387.500 to 387.770 for a determination of partial
 27 disability or disability, the **court, or the jury if one is impaneled,** shall:

- 1 (a) Inquire into the nature and extent of the general intellectual functioning of the
2 respondent;
- 3 (b) Inquire into the respondent's capacity to make informed decisions concerning
4 his personal affairs and financial resources;
- 5 (c) Determine whether the respondent is disabled, partially disabled, or has no
6 disability in relation to the management of his financial resources; and
- 7 (d) Determine whether the respondent is disabled, partially disabled, or has no
8 disability in relation to the management of his personal affairs.
- 9 (2) If the respondent is found not to be disabled or partially disabled, the petition shall
10 be dismissed.
- 11 (3) If the respondent is found to be disabled or partially disabled, the court shall, at the
12 same hearing, without a jury, determine:
- 13 (a) The type of guardian, ~~for~~ conservator, or guardian and conservator to be
14 appointed;
- 15 (b) The specific legal disabilities to which the respondent is subject, if the
16 respondent has been determined to be partially disabled;
- 17 (c) Whether the respondent retains the right to vote;
- 18 (d) The corresponding powers and duties of the limited guardian or limited
19 conservator, if the respondent has been determined to be partially disabled;
- 20 (e) The individual or entity to be appointed by the court as limited guardian,
21 guardian, limited conservator, or conservator;
- 22 (f) The individual or entity, if any, to be appointed as standby guardian or
23 conservator; and
- 24 (g) The duration of the term of guardianship or conservatorship.
- 25 ➔Section 6. KRS 387.590 is amended to read as follows:
- 26 (1) (a) If the respondent is found partially disabled in managing his personal affairs,
27 but not partially disabled or disabled in managing his financial resources, a

1 limited guardian shall be appointed.

2 ~~(b)~~~~(2)~~ If the respondent is found partially disabled in managing his financial
3 resources, but not partially disabled or disabled in managing his personal
4 affairs, a limited conservator shall be appointed.

5 ~~(c)~~~~(3)~~ If the respondent is found partially disabled in managing both his
6 personal affairs and financial resources, a limited guardian ***and a limited***
7 ***conservator*** shall be appointed~~, unless the court considers it in the best~~
8 ~~interest of the ward to appoint both a limited guardian and a limited~~
9 ~~conservator~~. ***The limited guardian and the limited conservator may be the***
10 ***same individual, agency, or corporation.***

11 **(2) (a)**~~(4)~~ If the respondent is found disabled in managing his ***personal***
12 ***affairs***~~[financial resources]~~, but not partially disabled or disabled in managing
13 his ***financial resources***~~[personal affairs]~~, a ***guardian***~~[conservator]~~ shall be
14 appointed.

15 ~~(b)~~~~(5)~~ If the respondent is found disabled in managing ~~both~~ his ***financial***
16 ***resources, but not partially disabled or disabled in managing his*** personal
17 ~~affairs~~ ~~and financial resources~~, a ***conservator***~~[guardian]~~ shall be appointed~~,~~
18 ~~unless the court considers it in the best interest of the ward to appoint both a~~
19 ~~limited guardian and a conservator~~.

20 **(c) If the respondent is found disabled in managing both his personal affairs**
21 **and his financial resources, a guardian and a conservator shall be**
22 **appointed. The guardian and the conservator may be the same individual,**
23 **agency, or corporation.**

24 **(3)**~~(6)~~ The order of appointment of a limited guardian, guardian, limited conservator,
25 or conservator shall specify:

26 (a) The type of guardianship, ~~or~~ conservatorship, ***or guardianship and***
27 ***conservatorship*** to which the ward is subject;

- 1 (b) The name and address of the limited guardian, guardian, limited conservator,
2 or conservator;
- 3 (c) The name and address of the standby guardian or conservator, if a standby
4 guardian or conservator is designated;
- 5 (d) The specific legal disabilities to which the respondent is subject, if the
6 respondent has been determined to be partially disabled;
- 7 (e) The corresponding powers and duties of the limited guardian or limited
8 conservator, if the respondent has been determined to be partially disabled;
9 and
- 10 (f) The duration of the term of guardianship or conservatorship.
- 11 ~~(4)~~~~(7)~~ A limited guardian or limited conservator shall not be appointed for a term
12 greater than five (5) years and may be appointed for a lesser period. A guardian or
13 conservator may be appointed for a period of unlimited duration.
- 14 ~~(5)~~~~(8)~~ The judgment of partial disability or disability and the order of appointment
15 shall be filed in the District Court. The judgment shall be indexed by the county
16 clerk in the book in which notices of actions and encumbrances are indexed. Unless
17 such judgment is filed and indexed, it shall not constitute notice to any subsequent
18 bona fide purchaser for value, mortgagee, or encumbrancer.
- 19 ~~(6)~~~~(9)~~ If the respondent is determined to be disabled or partially disabled but no
20 limited guardian, guardian, limited conservator, or conservator is appointed at the
21 hearing, the determination shall have no legal effect.
- 22 ~~(7)~~~~(10)~~ The rights of which a ward is legally deprived upon a determination of
23 disability in managing his personal affairs and financial resources include but are
24 not limited to the right to dispose of property, execute instruments, enter into
25 contractual relationships, determine his living arrangements, consent to medical
26 procedures, and obtain a motor vehicle operator's license. A ward shall only be
27 deprived of the right to vote if the court separately and specifically makes a finding

1 on the record as established in KRS 387.580(3)(c).

2 ~~(8)~~~~(11)~~ A partially disabled or disabled person for whom a limited guardian, limited
3 conservator, or conservator has been appointed retains all legal and civil rights
4 except those which have by court order been designated as legal disabilities or
5 which have been specifically granted to the limited guardian, limited conservator, or
6 conservator. A person who is partially disabled may be subject to some but not all
7 of the disabilities specified in subsection (10) of this section.

8 ➔Section 7. KRS 387.610 is amended to read as follows:

9 Prior to the expiration of a term of guardianship or conservatorship, the limited guardian,
10 guardian, limited conservator, or conservator may petition, pursuant to KRS 387.620, for
11 a renewal of his appointment for a period not to exceed five (5) years. The petition shall
12 be accompanied by verified affidavits of a physician, an advanced practice registered
13 nurse or physician assistant working within his or her scope of practice, or a
14 psychologist licensed or certified under the provisions of KRS Chapter 319, or a person
15 licensed or certified as a social worker or an employee of the Cabinet for Health and
16 Family Services who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or
17 335.090(1)(a), (b), and (c) supporting the need for the continuation of the guardianship or
18 conservatorship.

19 ➔Section 8. KRS 387.660 is amended to read as follows:

20 A guardian of a disabled person shall have the following powers and duties, except as
21 modified by order of the court:

22 (1) To ~~take custody of the ward and to~~ establish the ward's~~his~~ place of abode within
23 the state, except that, if at any time a guardian places a ward in a licensed residential
24 facility for developmentally disabled persons, the guardian shall, within thirty (30)
25 days of such placement, file with the court notice of the placement, stating with
26 specificity the reasons for such placement, and an interdisciplinary evaluation report
27 detailing the social, psychological, medical or other considerations on which such

1 placement is predicated, a description of the treatment or habilitation programs
2 which will benefit the ward as a result of such placement, and a determination that
3 such placement will provide appropriate treatment in the least restrictive available
4 treatment and residential program. For purposes of this subsection, the
5 interdisciplinary evaluation report may be one performed within two (2) months
6 prior to the placement for purposes of determining whether such placement is
7 necessary and appropriate, or may be an evaluation and assessment provided by the
8 residential facility immediately after placement. Notice to the court shall not be
9 required where the ward is transferred from one licensed residential facility to
10 another.

11 (2) To make provision for the ward's care, comfort, and maintenance and arrange for
12 such educational, social, vocational, and rehabilitation services as are appropriate
13 and as will assist the ward in the development of maximum self-reliance and
14 independence.

15 (3) To give any necessary consent or approval to enable the ward to receive medical or
16 other professional care, counsel, treatment or service, except that a guardian may
17 not consent on behalf of a ward to an abortion, sterilization, psychosurgery, removal
18 of a bodily organ, or amputation of a limb unless the procedure is first approved by
19 order of the court or is necessary, in an emergency situation, to preserve the life or
20 prevent serious impairment of the physical health of the ward.

21 (4) To act with respect to the ward in a manner which limits the deprivation of civil
22 rights and restricts his personal freedom only to the extent necessary to provide
23 needed care and services to him.

24 (5) To expend sums from the financial resources of the ward reasonable and necessary
25 to carry out the powers and duties assigned to him by the court ~~and, unless a~~
26 ~~separate conservator has been appointed, to manage the financial resources of this~~
27 ~~ward~~.

1 If a separate limited conservator or conservator has been appointed for the ward, the
2 expenditure of funds by the limited guardian shall be consistent with the duties assigned
3 to and procedures and policies established by such limited conservator or conservator.
4 Conflicts arising between a limited guardian and a limited conservator or conservator
5 regarding the expenditure of funds which are unable to be otherwise resolved shall be
6 submitted to the court for resolution.

7 ➔Section 9. KRS 387.670 is amended to read as follows:

- 8 (1) A guardian shall file with the court at least annually a verified report stating:
- 9 (a) The ward's current mental, physical, and social condition;
 - 10 (b) The address of every residence of the ward during the reporting period and
11 length of stay at each residence;
 - 12 (c) A summary of the medical, social, educational, vocational, and other
13 professional services received by the ward during the reporting period;
 - 14 (d) An outline of the guardian's visits with and activities on behalf of the ward;
 - 15 (e) A recommendation as to the need for continued guardianship;
 - 16 (f) A statement signed by the standby guardian, if one has been appointed, that
17 the standby guardian continues to be willing to serve in the event of the death,
18 resignation, removal, or incapacity of the guardian; and
 - 19 (g) Other information requested by the court or useful in the opinion of the
20 guardian.
- 21 (2) For the purpose of filing the report required by subsection (1) of this section, the
22 guardian shall be given access to records pertaining to the ward held by public or
23 private agencies which contain information necessary for the guardian to perform
24 his duties.
- 25 (3) The court shall review the report required in subsection (1) of this section and take
26 whatever action it considers necessary to enhance the well-being of the ward.
- 27 ~~[(4) In addition to the requirements of this section, a guardian shall comply with the~~

1 ~~reporting requirements of KRS 387.710 unless a separate conservator has been~~
2 ~~appointed.~~

3 ➔Section 10. KRS 387.680 is amended to read as follows:

4 It shall be the general duty of the limited conservator or conservator to carry out,
5 diligently and in good faith, the specific duties and powers assigned by the court and to:

6 (1) Manage or assist in managing those financial resources placed under his
7 supervision and/or control as would a prudent person managing his own resources,
8 *including establishing or placing resources in a trust,* and, if a conservator has
9 special skills or is named conservator on the basis of representations of special
10 skills or expertise, he shall use those skills; and

11 (2) Encourage the ward to:

12 (a) Participate, to the maximum extent of his abilities, in all decisions which
13 affect him;

14 (b) Act on his own behalf on all matters in which he is able to do so; and

15 (c) Develop or regain, to the maximum extent possible, his capacity to manage
16 his financial resources and, if impaired, his capacity to meet the essential
17 requirements for his physical health or safety.

18 ➔Section 11. KRS 387.700 is amended to read as follows:

19 (1) A conservator has all of the powers conferred herein and any additional powers
20 conferred by law on trustees in this state. The conservator may take possession of
21 the ward's real and personal property, and of all rents, incomes, and benefits
22 therefrom, whether accruing before or after his appointment, and of the proceeds
23 arising from the sale, mortgage, lease or exchange thereof. Subject to such
24 possession the title of all such estate and to the increment and proceeds thereof shall
25 be to the ward and not to the conservator. It is the duty of the conservator to protect
26 and preserve the estate, to retain, sell and invest it as hereinafter provided, prosecute
27 or defend actions, claims or proceedings in any jurisdiction for the protection of the

1 estate's assets, to account for it faithfully, to perform all other duties required of him
2 by law, and, at the termination of the conservatorship, to deliver the assets of the
3 ward to the persons lawfully entitled thereto.

4 (2) The conservator shall apply the money and property for the payments of debts,
5 taxes, claims, charges and expenses of the conservatorship and for the support, care,
6 maintenance and education of the ward or his dependents.

7 (3) Any sale of realty of a ward shall be as provided in KRS Chapter 389A.

8 (4) Any lease of mineral rights, oil and gas rights, or sale of timber owned by a ward, or
9 consolidation agreement, as defined by KRS 353.220, to be made on behalf of a
10 ward by a conservator ~~or guardian~~ shall require the authorization and order of the
11 District Court of the county where the conservator ~~or guardian~~ has qualified. Such
12 order may be given only pursuant to written motion which contains the grounds for
13 the motion and a description of the lease or agreement involved.

14 ➔Section 12. KRS 387.710 is amended to read as follows:

15 (1) Within sixty (60) days of appointment, the limited conservator or conservator shall
16 file with the court a verified inventory of all the property of the ward which has
17 come to his possession or knowledge, including a statement of all encumbrances,
18 liens, and other secured claims on any item, any claims against the estate of the
19 ward, and any cause of action accruing to the ward. The limited conservator or
20 conservator shall provide a copy thereof to the ward if he has sufficient mental
21 capacity to understand it.

22 (2) (a) A limited conservator or conservator shall file with the court a verified report
23 and financial account biennially within one hundred twenty (120) days after
24 the anniversary date of his appointment. The report shall contain:

25 1. The present personal status of the ward whose estate is managed by the
26 conservator;

27 2. The conservator's plan for preserving and maintaining the estate of

1 which he has control or supervision;

2 3. The need for continuation or cessation of the conservatorship; and

3 4. The need for any alteration in the powers of the conservatorship.

4 (b) The biennial report shall specify the amount and type of real and personal
5 property received by the conservator and remaining in his control or invested
6 by him, the nature of such investment, and expenditures made during the
7 preceding year. Upon request of the court, the conservator shall produce for
8 examination any information or documentation which the court may consider
9 relevant to the accounting of the financial and property transactions of the
10 estate.

11 (c) If the ward has no real property and possesses personal property of two
12 thousand five hundred dollars (\$2,500) or less for any year during the biennial
13 report, the ~~guardian,~~ conservator~~,~~ or limited conservator may file an
14 informal biennial financial report attesting to the identity of the ward's
15 financial account and its current balance. If the balance does not exceed two
16 thousand five hundred dollars (\$2,500) for any year of the biennial report, the
17 ~~guardian,~~ conservator~~,~~ or limited conservator shall not be required to
18 render to the court a detailed accounting of the expenditures from the fund,
19 unless the court, on its own motion or that of any interested party or
20 individual, deems it necessary to order the ~~guardian,~~ conservator~~,~~ or
21 limited conservator to provide a detailed biennial accounting, including the
22 listing of all expenditures for that reporting period.~~[For guardians filing an~~
23 ~~informal biennial financial report, the provisions of subsection (2)(a)2. of this~~
24 ~~section shall not apply.]~~

25 (3) Upon the resignation, removal, or death of a limited conservator or conservator, or
26 on the termination of the conservatorship, the limited conservator or conservator, or
27 his personal representative, shall forthwith submit a final report and account to the

1 court and to the former ward and to the successor limited conservator or
2 conservator, or, if the ward is deceased, to his personal representative, and shall pay
3 over the trust estate to the person entitled thereto. Upon approval of the report and
4 account, the limited conservator or conservator shall be discharged and his surety, if
5 any, released.