

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 for at*  
17 *least the previous six (6) months that is not a hospital, treatment facility,*  
18 *correctional facility, or long-term care facility, and who is a citizen or*  
19 *permanent resident of the United States.*

20 *(b) Notwithstanding paragraph (a) of this subsection, the cabinet shall not be*  
21 *appointed as a limited guardian, guardian, limited conservator, or*  
22 *conservator of a partially disabled or disabled person when the person:*

23 *1. Has been convicted of, pled guilty to, or entered an Alford plea for a*  
24 *sex crime as defined in KRS 17.500 or an offense that would classify*  
25 *the person as a violent offender under KRS 439.3401; or*  
26 *2. Is not alive or cannot be physically located.*

27 *(c) Before appointing the cabinet, consideration shall be given to the average*

1 caseload of each field social worker.

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

7 (3) When the cabinet is appointed as a limited guardian, guardian, limited  
 8 conservator, or conservator of a partially disabled or disabled person, the cabinet  
 9 shall not:

10 (a) Assume physical custody of the person;

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

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

16 ~~(4)~~(3) (a) Except as provided in paragraph (b) of this subsection, upon the death  
 17 of a person for whom the cabinet has been appointed guardian or conservator,  
 18 or upon the death of a person who has been committed to the cabinet leaving  
 19 an estate and having no relatives at the time residing within the state, the  
 20 cabinet may apply for appointment as administrator and upon appointment  
 21 shall close the administration of the estate.

22 (b) If a person for whom the cabinet has been appointed guardian or  
 23 conservator dies with less than ten thousand dollars (\$10,000) of personal  
 24 property or money, the cabinet shall not be required to apply for  
 25 appointment as administrator but may close the administration of the  
 26 estate.

27 ~~(5)~~(4) The cabinet may invest funds held as fiduciary in bonds or other securities

1 guaranteed by the United States, and may sell or exchange such securities in its  
 2 discretion. **In addition, the cabinet may establish or place funds held as fiduciary**  
 3 **in a trust.**

4 ~~(6)~~~~(5)}~~ The cabinet shall receive such fees for its fiduciary services as provided by law.  
 5 These fees shall be placed in a trust and agency account, from which may be drawn  
 6 expenses for filing fees, court costs, and other expenses incurred in the  
 7 administration of estates. Claims of the cabinet against the estates shall be  
 8 considered in the same manner as any other claim.

9 ~~(7)~~~~(6)}~~ An officer designated by the secretary may act as legal counsel for any patient  
 10 in a state mental hospital or institution against whom a suit of any nature has been  
 11 filed, without being appointed as guardian, limited guardian, conservator, or limited  
 12 conservator.

13 ~~(8)~~~~(7)}~~ Patients hospitalized pursuant to KRS Chapters 202A and 202B who are not  
 14 adjudged disabled or partially disabled may authorize the Cabinet for Health and  
 15 Family Services to handle personal funds received by them at the hospital in the  
 16 same manner as prescribed in subsections ~~(5)~~~~(4)}~~ and ~~(6)~~~~(5)}~~ of this section.

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

18 As used in KRS 387.500 to 387.770 and 387.990:

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

21 (2) "Limited conservator" means an individual, agency, or corporation appointed by the  
 22 court to assist in managing the financial resources of a partially disabled person and  
 23 whose powers and duties have been specifically enumerated by court order.

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

27 (4) "Limited guardian" means **an individual, agency, or corporation appointed by the**

1        *court to assist in managing the personal affairs of a partially disabled person* ~~is a~~  
2        ~~guardian who possesses fewer than all of the legal powers and duties of a full~~  
3        ~~guardian,~~ and whose powers and duties have been specifically enumerated by court  
4        order.

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

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

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

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

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

15       (c) Is likely to continue indefinitely;

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

18           1. Self-care;

19           2. Receptive and expressive language;

20           3. Learning;

21           4. Mobility;

22           5. Self-direction;

23           6. Capacity for independent living; and

24           7. Economic self-sufficiency; and

25       (e) Reflects the person's need for a combination and sequence of special  
26       interdisciplinary or generic care, treatment, or other services which are of  
27       lifelong or extended duration and are individually planned and coordinated.

1 (8) "Disabled" means a legal *disability*, not a medical disability, and is measured by  
2 functional inabilities. It refers to any person *eighteen (18)*~~fourteen (14)~~ years of  
3 age or older who is:

4 (a) Unable to make informed decisions with respect to his personal affairs to such  
5 an extent that he lacks the capacity to provide for his physical health and  
6 safety, including but not limited to health care, food, shelter, clothing, or  
7 personal hygiene; or

8 (b) Unable to make informed decisions with respect to his financial resources to  
9 such an extent that he lacks the capacity to manage his property effectively by  
10 those actions necessary to obtain, administer, and dispose of both real and  
11 personal property.

12 Such inability shall be evidenced by acts or occurrences within six (6) months prior  
13 to the filing of the petition for guardianship or conservatorship and shall not be  
14 evidenced solely by isolated instances of negligence, improvidence, or other  
15 behavior.

16 (9) "Partially disabled" refers to an individual who lacks the capacity to manage some of  
17 his personal affairs and/or financial resources as provided in subsection (8) of this  
18 section, but who cannot be found to be fully disabled as provided therein.

19 (10) "Mentally ill person" means a person with substantially impaired capacity to use self-  
20 control, judgment, or discretion in the conduct of his affairs and social relations,  
21 associated with maladaptive behavior or recognized emotional symptoms where  
22 impaired capacity, maladaptive behavior, or emotional symptoms can be related to  
23 physiological, psychological, or social factors.

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

27 (12) "Interested person or entity" means an adult relative or friend of the respondent or

1 ward, an official or representative of a public or private agency, corporation, or  
 2 association concerned with that person's welfare, or any other person found suitable  
 3 by the court.

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

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

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

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

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

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

14 (1) Prior to a hearing on a petition for a determination of partial disability or disability  
 15 and the appointment of a limited guardian, guardian, limited conservator, or  
 16 conservator, an interdisciplinary evaluation report shall be filed with the court. The  
 17 report may be filed as a single and joint report of the interdisciplinary evaluation  
 18 team, or it may otherwise be constituted by the separate reports filed by each  
 19 individual of the team. If the court and all parties to the proceeding and their  
 20 attorneys agree to the admissibility of the report or reports, the report or reports  
 21 shall be admitted into evidence and shall be considered by the **court or the jury if**  
 22 **one is impaneled**. The report shall be compiled by at least three (3) individuals,  
 23 including a physician, ~~or~~ an advanced practice registered nurse, **or a physician**  
 24 **assistant**, a psychologist licensed or certified under the provisions of KRS Chapter  
 25 319, and a person licensed or certified as a social worker or an employee of the  
 26 Cabinet for Health and Family Services who meets the qualifications of KRS  
 27 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c). The social worker shall,

1 when possible, be chosen from among employees of the Cabinet for Health and  
2 Family Services residing or working in the area, and there shall be no additional  
3 compensation for their service on the interdisciplinary evaluation team.

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

7 (3) If the respondent is alleged to be partially disabled or disabled due to mental illness,  
8 at least one (1) person participating in the compilation of the interdisciplinary  
9 evaluation report shall be a qualified mental health professional as defined in KRS  
10 202A.011(12). If the respondent is alleged to be partially disabled or disabled due to  
11 an intellectual disability, at least one (1) person participating in the compilation of  
12 the evaluation report shall be a qualified professional in the area of intellectual  
13 disabilities as defined in KRS 202B.010(12).

14 (4) The interdisciplinary evaluation report shall contain:

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

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

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

23 (d) An opinion as to the length of time guardianship or conservatorship will be  
24 needed by the respondent, if at all, and the reasons therefor;

25 (e) If limited guardianship or conservatorship is recommended, a further  
26 recommendation as to the scope of the guardianship or conservatorship,  
27 specifying particularly the rights to be limited and the corresponding powers

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



1 (4) of this section shall be included in the report.

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

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

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

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

19 (1) At a hearing convened pursuant to KRS 387.500 to 387.770 for the purpose of  
 20 determining the disability of a respondent, the respondent shall have a jury trial ***if***  
 21 ***demande*** ***by or on behalf of any party. Otherwise, the court may hold the***  
 22 ***hearing with or without a jury.***

23 ***(2) At the hearing, the respondent*** ~~and~~ shall have the right to present evidence and to  
 24 confront and cross-examine all witnesses.

25 ~~(3)~~ ~~(2)~~ The hearing may be closed to the public on request of the respondent or his  
 26 counsel.

27 ~~(4)~~ ~~(3)~~ The respondent shall be present at the hearing, and his presence may be waived

1           only upon a determination of the court that his attendance would subject him to  
 2           serious risk of harm. Such determination shall be evidence only of the respondent's  
 3           inability to attend the hearing and shall not be considered in determining the need for  
 4           guardianship or conservatorship.

5     ~~(5)~~~~(4)~~    The court may remove itself to the place of residence of the respondent to  
 6           conduct the hearing in the presence of the respondent.

7     ~~(6)~~~~(5)~~    The burden of proof shall be on the Commonwealth to prove the disability or  
 8           partial disability of the respondent by clear and convincing evidence.

9     ~~(7)~~~~(6)~~    The respondent will not be determined partially disabled or disabled unless at  
 10          least one (1) of the persons who participated in the interdisciplinary evaluation  
 11          required by KRS 387.540 testifies in person at the hearing. This section shall not be  
 12          interpreted to preclude the respondent from requiring the testimony of more than  
 13          one (1) person participating in the preparation of the evaluation report.

14          ➔Section 5. KRS 387.580 is amended to read as follows:

15     (1) At a hearing convened under KRS 387.500 to 387.770 for a determination of partial  
 16          disability or disability, the *court, or the jury if one is impaneled*, shall:

17             (a) Inquire into the nature and extent of the general intellectual functioning of the  
 18                 respondent;

19             (b) Inquire into the respondent's capacity to make informed decisions concerning  
 20                 his personal affairs and financial resources;

21             (c) Determine whether the respondent is disabled, partially disabled, or has no  
 22                 disability in relation to the management of his financial resources; and

23             (d) Determine whether the respondent is disabled, partially disabled, or has no  
 24                 disability in relation to the management of his personal affairs.

25     (2) If the respondent is found not to be disabled or partially disabled, the petition shall  
 26          be dismissed.

27     (3) If the respondent is found to be disabled or partially disabled, the court shall, at the

1 same hearing, without a jury, determine:

- 2 (a) The type of guardian, ~~{or}~~ conservator, **or guardian and conservator** to be  
 3 appointed;
- 4 (b) The specific legal disabilities to which the respondent is subject, if the  
 5 respondent has been determined to be partially disabled;
- 6 (c) Whether the respondent retains the right to vote;
- 7 (d) The corresponding powers and duties of the limited guardian or limited  
 8 conservator, if the respondent has been determined to be partially disabled;
- 9 (e) The individual or entity to be appointed by the court as limited guardian,  
 10 guardian, limited conservator, or conservator;
- 11 (f) The individual or entity, if any, to be appointed as standby guardian or  
 12 conservator; and
- 13 (g) The duration of the term of guardianship or conservatorship.

14 ➔Section 6. KRS 387.590 is amended to read as follows:

15 (1) **(a)** If the respondent is found partially disabled in managing his personal affairs,  
 16 but not partially disabled or disabled in managing his financial resources, a  
 17 limited guardian shall be appointed.

18 ~~**(b)**~~<sup>(2)</sup> If the respondent is found partially disabled in managing his financial  
 19 resources, but not partially disabled or disabled in managing his personal  
 20 affairs, a limited conservator shall be appointed.

21 ~~**(c)**~~<sup>(3)</sup> If the respondent is found partially disabled in managing both his  
 22 personal affairs and financial resources, a limited guardian **and a limited**  
 23 **conservator** shall be appointed~~[, unless the court considers it in the best~~  
 24 ~~interest of the ward to appoint both a limited guardian and a limited~~  
 25 ~~conservator]. **The limited guardian and the limited conservator may be the**  
 26 **same individual, agency, or corporation.**~~

27 **(2)** ~~**(a)**~~<sup>(4)</sup> If the respondent is found disabled in managing his **personal**

1 ~~affairs~~~~[financial resources]~~, but not partially disabled or disabled in managing  
 2 his financial resources~~[personal affairs]~~, a guardian~~[conservator]~~ shall be  
 3 appointed.

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

9 (c) If the respondent is found disabled in managing both his personal affairs  
 10 and his financial resources, a guardian and a conservator shall be  
 11 appointed. The guardian and the conservator may be the same individual,  
 12 agency, or corporation.

13 ~~(3)~~~~[(6)]~~ The order of appointment of a limited guardian, guardian, limited conservator,  
 14 or conservator shall specify:

- 15 (a) The type of guardianship, ~~for~~ conservatorship, or guardianship and  
 16 conservatorship to which the ward is subject;
- 17 (b) The name and address of the limited guardian, guardian, limited conservator,  
 18 or conservator;
- 19 (c) The name and address of the standby guardian or conservator, if a standby  
 20 guardian or conservator is designated;
- 21 (d) The specific legal disabilities to which the respondent is subject, if the  
 22 respondent has been determined to be partially disabled;
- 23 (e) The corresponding powers and duties of the limited guardian or limited  
 24 conservator, if the respondent has been determined to be partially disabled; and
- 25 (f) The duration of the term of guardianship or conservatorship.

26 ~~(4)~~~~[(7)]~~ A limited guardian or limited conservator shall not be appointed for a term  
 27 greater than five (5) years and may be appointed for a lesser period. A guardian or

1 conservator may be appointed for a period of unlimited duration.

2 ~~(5)~~~~(8)~~ The judgment of partial disability or disability and the order of appointment  
3 shall be filed in the District Court. The judgment shall be indexed by the county clerk  
4 in the book in which notices of actions and encumbrances are indexed. Unless such  
5 judgment is filed and indexed, it shall not constitute notice to any subsequent bona  
6 fide purchaser for value, mortgagee, or encumbrancer.

7 ~~(6)~~~~(9)~~ If the respondent is determined to be disabled or partially disabled but no  
8 limited guardian, guardian, limited conservator, or conservator is appointed at the  
9 hearing, the determination shall have no legal effect.

10 ~~(7)~~~~(10)~~ The rights of which a ward is legally deprived upon a determination of  
11 disability in managing his personal affairs and financial resources include but are not  
12 limited to the right to dispose of property, execute instruments, enter into  
13 contractual relationships, determine his living arrangements, consent to medical  
14 procedures, and obtain a motor vehicle operator's license. A ward shall only be  
15 deprived of the right to vote if the court separately and specifically makes a finding  
16 on the record as established in KRS 387.580(3)(c).

17 ~~(8)~~~~(11)~~ A partially disabled or disabled person for whom a limited guardian, limited  
18 conservator, or conservator has been appointed retains all legal and civil rights  
19 except those which have by court order been designated as legal disabilities or which  
20 have been specifically granted to the limited guardian, limited conservator, or  
21 conservator. A person who is partially disabled may be subject to some but not all of  
22 the disabilities specified in subsection (10) of this section.

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

24 Prior to the expiration of a term of guardianship or conservatorship, the limited guardian,  
25 guardian, limited conservator, or conservator may petition, pursuant to KRS 387.620, for  
26 a renewal of his appointment for a period not to exceed five (5) years. The petition shall  
27 be accompanied by verified affidavits of a physician, *an advanced practice registered*

1 nurse or physician assistant working within his or her scope of practice, or a  
2 psychologist licensed or certified under the provisions of KRS Chapter 319, or a person  
3 licensed or certified as a social worker or an employee of the Cabinet for Health and  
4 Family Services who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or  
5 335.090(1)(a), (b), and (c) supporting the need for the continuation of the guardianship or  
6 conservatorship.

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

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

10 (1) To ~~take custody of the ward and to~~ establish the ward's~~his~~ place of abode within  
11 the state, except that, if at any time a guardian places a ward in a licensed residential  
12 facility for developmentally disabled persons, the guardian shall, within thirty (30)  
13 days of such placement, file with the court notice of the placement, stating with  
14 specificity the reasons for such placement, and an interdisciplinary evaluation report  
15 detailing the social, psychological, medical or other considerations on which such  
16 placement is predicated, a description of the treatment or habilitation programs  
17 which will benefit the ward as a result of such placement, and a determination that  
18 such placement will provide appropriate treatment in the least restrictive available  
19 treatment and residential program. For purposes of this subsection, the  
20 interdisciplinary evaluation report may be one performed within two (2) months  
21 prior to the placement for purposes of determining whether such placement is  
22 necessary and appropriate, or may be an evaluation and assessment provided by the  
23 residential facility immediately after placement. Notice to the court shall not be  
24 required where the ward is transferred from one licensed residential facility to  
25 another.

26 (2) To make provision for the ward's care, comfort, and maintenance and arrange for  
27 such educational, social, vocational, and rehabilitation services as are appropriate

1 and as will assist the ward in the development of maximum self-reliance and  
2 independence.

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

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

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

16 If a separate limited conservator or conservator has been appointed for the ward, the  
17 expenditure of funds by the limited guardian shall be consistent with the duties assigned to  
18 and procedures and policies established by such limited conservator or conservator.  
19 Conflicts arising between a limited guardian and a limited conservator or conservator  
20 regarding the expenditure of funds which are unable to be otherwise resolved shall be  
21 submitted to the court for resolution.

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

- 23 (1) A guardian shall file with the court at least annually a verified report stating:
- 24 (a) The ward's current mental, physical, and social condition;
- 25 (b) The address of every residence of the ward during the reporting period and  
26 length of stay at each residence;
- 27 (c) A summary of the medical, social, educational, vocational, and other

- 1 professional services received by the ward during the reporting period;
- 2 (d) An outline of the guardian's visits with and activities on behalf of the ward;
- 3 (e) A recommendation as to the need for continued guardianship;
- 4 (f) A statement signed by the standby guardian, if one has been appointed, that the
- 5 standby guardian continues to be willing to serve in the event of the death,
- 6 resignation, removal, or incapacity of the guardian; and
- 7 (g) Other information requested by the court or useful in the opinion of the
- 8 guardian.

9 (2) For the purpose of filing the report required by subsection (1) of this section, the

10 guardian shall be given access to records pertaining to the ward held by public or

11 private agencies which contain information necessary for the guardian to perform his

12 duties.

13 (3) The court shall review the report required in subsection (1) of this section and take

14 whatever action it considers necessary to enhance the well-being of the ward.

15 ~~[(4) In addition to the requirements of this section, a guardian shall comply with the~~

16 ~~reporting requirements of KRS 387.710 unless a separate conservator has been~~

17 ~~appointed.]~~

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

19 It shall be the general duty of the limited conservator or conservator to carry out,

20 diligently and in good faith, the specific duties and powers assigned by the court and to:

21 (1) Manage or assist in managing those financial resources placed under his supervision

22 and/or control as would a prudent person managing his own resources, ***including***

23 ***establishing or placing resources in a trust***, and, if a conservator has special skills

24 or is named conservator on the basis of representations of special skills or expertise,

25 he shall use those skills; and

26 (2) Encourage the ward to:

27 (a) Participate, to the maximum extent of his abilities, in all decisions which affect



1           him;

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

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

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

7           (1) A conservator has all of the powers conferred herein and any additional powers  
8           conferred by law on trustees in this state. The conservator may take possession of  
9           the ward's real and personal property, and of all rents, incomes, and benefits  
10          therefrom, whether accruing before or after his appointment, and of the proceeds  
11          arising from the sale, mortgage, lease or exchange thereof. Subject to such  
12          possession the title of all such estate and to the increment and proceeds thereof shall  
13          be to the ward and not to the conservator. It is the duty of the conservator to protect  
14          and preserve the estate, to retain, sell and invest it as hereinafter provided, prosecute  
15          or defend actions, claims or proceedings in any jurisdiction for the protection of the  
16          estate's assets, to account for it faithfully, to perform all other duties required of him  
17          by law, and, at the termination of the conservatorship, to deliver the assets of the  
18          ward to the persons lawfully entitled thereto.

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

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

23          (4) Any lease of mineral rights, oil and gas rights, or sale of timber owned by a ward, or  
24          consolidation agreement, as defined by KRS 353.220, to be made on behalf of a  
25          ward by a conservator~~[or guardian]~~ shall require the authorization and order of the  
26          District Court of the county where the conservator~~[or guardian]~~ has qualified. Such  
27          order may be given only pursuant to written motion which contains the grounds for

1 the motion and a description of the lease or agreement involved.

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

- 3 (1) Within sixty (60) days of appointment, the limited conservator or conservator shall  
4 file with the court a verified inventory of all the property of the ward which has  
5 come to his possession or knowledge, including a statement of all encumbrances,  
6 liens, and other secured claims on any item, any claims against the estate of the  
7 ward, and any cause of action accruing to the ward. The limited conservator or  
8 conservator shall provide a copy thereof to the ward if he has sufficient mental  
9 capacity to understand it.
- 10 (2) (a) A limited conservator or conservator shall file with the court a verified report  
11 and financial account biennially within one hundred twenty (120) days after the  
12 anniversary date of his appointment. The report shall contain:
- 13 1. The present personal status of the ward whose estate is managed by the  
14 conservator;
  - 15 2. The conservator's plan for preserving and maintaining the estate of which  
16 he has control or supervision;
  - 17 3. The need for continuation or cessation of the conservatorship; and
  - 18 4. The need for any alteration in the powers of the conservatorship.
- 19 (b) The biennial report shall specify the amount and type of real and personal  
20 property received by the conservator and remaining in his control or invested  
21 by him, the nature of such investment, and expenditures made during the  
22 preceding year. Upon request of the court, the conservator shall produce for  
23 examination any information or documentation which the court may consider  
24 relevant to the accounting of the financial and property transactions of the  
25 estate.
- 26 (c) If the ward has no real property and possesses personal property of two  
27 thousand five hundred dollars (\$2,500) or less for any year during the biennial

1 report, the ~~guardian,~~ conservator~~,~~ or limited conservator may file an  
2 informal biennial financial report attesting to the identity of the ward's financial  
3 account and its current balance. If the balance does not exceed two thousand  
4 five hundred dollars (\$2,500) for any year of the biennial report, the ~~guardian,~~  
5 ~~conservator,~~ or limited conservator shall not be required to render to the  
6 court a detailed accounting of the expenditures from the fund, unless the court,  
7 on its own motion or that of any interested party or individual, deems it  
8 necessary to order the ~~guardian,~~ conservator~~,~~ or limited conservator to  
9 provide a detailed biennial accounting, including the listing of all expenditures  
10 for that reporting period. ~~For guardians filing an informal biennial financial~~  
11 ~~report, the provisions of subsection (2)(a)2. of this section shall not apply.~~

12 (3) Upon the resignation, removal, or death of a limited conservator or conservator, or  
13 on the termination of the conservatorship, the limited conservator or conservator, or  
14 his personal representative, shall forthwith submit a final report and account to the  
15 court and to the former ward and to the successor limited conservator or  
16 conservator, or, if the ward is deceased, to his personal representative, and shall pay  
17 over the trust estate to the person entitled thereto. Upon approval of the report and  
18 account, the limited conservator or conservator shall be discharged and his surety, if  
19 any, released.