

“Someone needs what you have to offer”



Every year many adult Kansans experience diminished capacity and become unable to make informed decisions regarding their lives and finances. For those who do not have willing and able family members to assist them, fellow citizens can be court appointed as a guardian or conservator.

KGP

The Kansas Guardianship Program is recruiting, screening and training interested persons to be court appointed guardians and conservators.

Individuals served through KGP are over 18 years of age, may have a disability, can be a senior without family involvement and unable to conduct their affairs, and they need your help.

KGP Offers

Opportunities to blend personal interests and abilities with those to be served
Support from regional staff
Networking and information
Ongoing assistance and support
Training and reference materials

What volunteering with KGP can mean for you . . .

- ❖ Be an instrument of change in another life
- ❖ Experience the satisfaction of having helped another person
- ❖ Provide a valuable service to another in your community
- ❖ Walk with another person on the road of their life



Kansas Guardianship Program

I am interested in helping the KGP by:

- _____ becoming a volunteer with the KGP
- _____ providing names of individuals in my community or other communities throughout the State who may be interested in volunteering
- _____ helping arrange for a presentation by KGP with my church or other community organizations
- _____ placing “Volunteers Needed” leaflet in my church or other community organization newsletters, bulletins, etc.

Name _____

Address _____

City/Zip Code _____

Phone _____ E-mail _____

Contact/Mail to:

Kansas Guardianship Program
3248 Kimball Ave, Manhattan KS 66503
(785) 587-8555 or 1 (800) 672-0086
www.ksgprog.org



Legal advocacy with
dignity and respect

Kansas Guardianship Program

SHARI BROWN

Recruiter/Facilitator

3248 Kimball Ave.
Manhattan, KS 66503
FAX (785) 587-9626
www.ksgprog.org

(785) 587-8555 ext. 16
(800) 672-0086 ext. 16
sbrown@ksprog.org

KGP

OVERVIEW OF PROGRESS

Recruiting Volunteers

KGP recruits volunteers willing to accept appointment by and responsibility to the courts to serve as guardian or conservator.

Training Volunteers

KGP provides one-on-one training and a comprehensive information and reference manual.

Matching and Nomination

KGP matches the abilities and interests of the possible ward or conservatee with those of a volunteer.

Following the Appointment

After the court appointment occurs, the KGP:

- contracts with the volunteer serving as guardian or conservator to provide advocacy and protection,
- requires monthly reports of advocacy activities undertaken on behalf of the person,
- provides a monthly stipend to offset-out-of-pocket expenses to the guardian or conservator for services on behalf of the person,
- provides ongoing training, monitoring, support and assistance to the volunteers.

Referral

DCF adult protective services social workers and KDADS state hospital social workers make referrals to KGP for approved volunteers to be nominated to the court for appointment as guardian or conservator.

Legal Services

DCF and KDADS legal services petitions the court for the determination of possible need for a guardian or conservator.

The District Court determines the need for and level of guardianship or conservatorship services and makes the appointment of the guardian or conservator.

Main Office

3248 Kimball Avenue
Manhattan KS 66503

(785) 587-8555

Fax (785) 587-9626

1-800-672-0086 (Kansas Only)

www.ksgprog.org

Kansas City Office

601 N Mur-Len Road
Suite 12B

Olathe KS 66062

(913) 780-3300

Wichita Office

505 S. Broadway
Suite 207

Wichita KS 67202

(316) 269-2525

The Kansas Guardianship Program was initiated in 1979 under the administration of Kansas Advocacy and Protective Services, Inc. The 1995 Kansas Legislature established the program as a separate public instrumentality pursuant to K.S.A. 74-9601 et seq., as amended. The KGP is governed by a seven member board of directors, six of whom are appointed by the Governor and one by the Chief Justice. Funds are provided by the State of Kansas.

KANSAS GUARDIANSHIP PROGRAM

The Kansas Guardianship Program is a partnership involving the State of Kansas and citizen volunteers.

VOLUNTEER ADVOCATES NEEDED

The program seeks individuals interested in volunteering for this important advocacy work.

To learn more about the program and how to apply to become a volunteer, visit our website at

www.ksgprog.org

or call

1-800-672-0086

Kansas Guardianship Program

KGP

Every year many adults in Kansas are declared legally unable to manage their lives and financial affairs. Some individuals have family members who are appointed by the courts to serve as guardians or conservators. There are, however, a significant number of adults who have no family able to or willing to provide the necessary care involved in guardianship or conservatorship.

The KGP recruits citizen volunteers willing to be appointed as guardian or conservator to advocate for and protect the rights of these vulnerable, at-risk individuals. We maintain that if guardianship or conservatorship is imposed, the person should be assured the benefit of someone to act as an advocate and protector.

RESPONSIBILITIES OF A GUARDIAN OR CONSERVATOR

The responsibilities of a guardian or conservator are to:

- advocate for and exercise authority as necessitated by the person's limitations,
- access services and supports including physical, psychological and emotional care and treatment,
- monitor quality of supports and services,
- provide necessary paperwork such as court reports and accountings, applications for supports, services and benefits, etc.,
- provide necessary consents,

- visit ward or conservatee regularly,
- manage the finances and estate on behalf of conservatee.

DEFINITIONS

Pursuant to K.S.A. Chapter 59, Article 30

Adult with an impairment in need of a guardian or a conservator, or both – any adult person whose ability to receive and evaluate information effectively, or to communicate decision, or both, is impaired to such an extent 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.

Ward – is a person who has a guardian.

Conservatee – is a person who has a conservator.

The goal of the KGP is to provide that qualified, caring and trained volunteers are available throughout the State of Kansas to serve as court appointed guardians or conservators for individuals in need of this level of protection and advocacy and who do not have family members capable of or willing to assume such responsibilities and who meet program eligibility criteria.

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CHARACTERISTICS NEEDED IN A GUARDIAN OR CONSERVATOR

It is a significant matter to ask someone to accept both legal and moral responsibility for the well-being of another person – someone who is often previously unknown and not a family member. Nevertheless, the KGP seeks this considerable personal commitment from volunteers who agree to serve as guardians or conservators.

The process of a guardian or conservator becoming an effective advocate takes time and commitment.

The KGP seeks volunteers with the following characteristics.

- compassion
- wisdom
- integrity
- dependability
- self-initiative
- desire to serve as a personal advocate
- interest in learning new information
- ability to make wise and appropriate decision regarding another person

A friend is to the lonely



what sunshine is to a flower

Become a volunteer in the Kansas Guardianship Program
Serve as a Court Appointed Guardian or Conservator

1-800-672-0086

www.ksgprog.org

KGP



KANSAS GUARDIANSHIP PROGRAM
3248 Kimball Avenue, Manhattan, KS 66503



KANSAS GUARDIANSHIP PROGRAM

FREQUENTLY ASKED QUESTIONS ABOUT GUARDIANSHIP OR CONSERVATORSHIP

What is a guardian or a conservator?

A **guardian** is a person appointed by the court to make legal decisions affecting a ward's personal health, safety and welfare.

A **ward** is a person for whom the court has appointed a guardian.

A **conservator** is a person appointed by the court to make legal decisions affecting a conservatee's finances and estate (personal and real property).

A **conservatee** is a person for whom the court has appointed a conservator.

Why is guardianship and conservatorship put in place?

Guardianship or conservatorship is a legal tool used to provide advocacy and protection for an individual unable to make or communicate sound decisions about self-care or take actions in their own best interest leaving them vulnerable to abuse, neglect and exploitation. Guardianship or conservatorship should only be considered after less restrictive alternatives have proven ineffective or unavailable.

What are the responsibilities of a guardian or conservator?

A **guardian** makes legal decisions on behalf of the ward including accessing and monitoring supports and services for physical, psychological and emotional care. The guardian provides informed consents and maintains communication with service providers including case managers, facility staff and medical providers. A guardian advocates for and protects the personal, civil and human rights of a ward.

A **conservator** makes legal decisions on behalf of the conservatee, manages a conservatee's financial

affairs and advocates for and protects the conservatee's personal, civil, and human rights.

When making decisions, a guardian or conservator shall consider the expressed desires and personal values of the ward or conservatee; the authority of a guardian or conservator should be used only as needed; and the ward or conservatee should be encouraged to make decisions, develop skills for daily living, and do as much as the person can on his or her own. The law requires a guardian or conservator act in the best interest of the ward and conservatee and exercise reasonable care and diligence in decision making. A guardian or conservator is always subject to the control and direction of the court.

Is a guardian or conservator legally liable for the actions of a ward or conservatee?

A guardian or conservator is not personally liable to a third person for the acts of the ward or conservatee solely by virtue of the legal appointment. A guardian or conservator who exercises reasonable care in selecting a third person to provide any medical or other care, treatment or service for the ward or conservatee shall not be liable for any injury to the ward or conservatee resulting from the wrongful conduct of that third person.

Is a guardian or conservator required to use personal resources to care for the ward or conservatee?

The law does **not** require a guardian or conservator to use personal money or other assets for support of the ward or conservatee solely because of the court appointment as guardian or conservator. The law provides a guardian or conservator shall not be liable for the debts of a ward or conservatee. Also the guardian or conservator is not responsible for payment of medical, nursing home care, clothing, food and necessities from the personal resources of the guardian or conservator.

DUTIES, RESPONSIBILITIES AND LIMITATIONS OF GUARDIANS IN KANSAS

K.S.A. 59-3075 et seq.

The duties, responsibilities and limitations of a guardian are found in Kansas Statutes Annotated (K.S.A.) 59-3075 et seq.

The guardian shall:

- become and remain personally acquainted with the ward, the spouse of the ward and other interested persons associated with the ward and who are knowledgeable about the ward's needs, and the ward's responsibilities
- exercise authority only as necessitated by the ward's limitations
- encourage the ward to participate in making decisions affecting the ward
- encourage the ward to act on the ward's own behalf to the extent the ward is able
- encourage the ward to develop or regain the skills and abilities necessary to meet the ward's own essential needs and to otherwise manage the ward's own affairs

In making decisions on behalf of the ward, the guardian shall:

- consider the expressed desires and personal values of the ward to the extent known to the guardian
- strive to assure that the personal, civil, and human rights of the ward are protected
- at all times act in the best interests of the ward and exercise reasonable care, diligence and prudence
- file with the court reports concerning the status of the ward and actions of the guardian as the court directs

The guardian shall exercise all powers and discharge all duties necessary or proper to implement the following provisions:

- take charge of the person of the ward, and provide for the ward's care, treatment, habilitation, education, support and maintenance
- consider and provide on behalf of the ward necessary or required consents or refuse the same
- assure the ward resides in the least restrictive setting appropriate to the needs of the ward and which are reasonably available
- assure the ward receives any necessary and reasonably available medical care and, any reasonably available non-medical care or other services as may be needed to preserve the health of the ward or to assist the ward to develop or retain skills and abilities
- promote and protect the comfort, safety, health and welfare of the ward
- make necessary determinations and arrangements for and give necessary consents in regard to the ward's funeral arrangements, burial or cremation, the performance of an autopsy upon the body of the ward, and anatomical gifts of the ward. Cremation, autopsies and anatomical gifts are subject to limitations and provisions in other areas of the law.

LIMITATIONS OF POWERS OF A GUARDIAN

Unless approved by the court, a guardian shall not have the power on behalf of the ward to:

- consent to the adoption of the ward
- place the ward in a treatment facility as defined in K.S.A. 2002 Supp. 59-3077 (h)
- exercise any control or authority over the ward's estate
- consent to any psychosurgery, removal of a bodily organ, or amputation of a limb, unless, the surgery, removal or amputation has been approved in advance by the court, except in an emergency and when necessary to preserve the life of the ward or to prevent serious and irreparable impairment to the physical health of the ward consent to the sterilization of the ward, unless approved by the court following a due process hearing where the ward is represented by a court appointed attorney
- consent to the withholding or withdrawing of life-saving or life-sustaining medical care, treatment, services or procedures, except in accordance with the provisions of any declaration of the ward making a Living Will pursuant to K.S.A. 65-28, 101 through 65-28, 109 and amendments thereto; or, if the ward, before the appointment of a guardian, executed a *durable power attorney for health care decisions* (DPOAHC) and the document as not revoked by the ward and there is included any provision relevant to the withholding or withdrawal of life-saving or life-sustaining medical care, treatment, services or procedures,
 - the guardian shall have the authority to act as provided for in the DPOAHC even if the guardian has revoked or amended the power of attorney; OR,
 - the guardian may allow the agent appointed by the ward to act on the ward's behalf if the guardian has not revoked or amended the power of attorney; OR,
 - where the ward's treating physician shall certify in writing to the guardian that:
 - the ward is in a persistent vegetative state, or, is suffering from an illness or other medical condition for which further treatment, other than for relief of pain, would not likely prolong the life of the ward other than by artificial means,
 - nor would be likely to restore to the ward any significant degree of capabilities beyond those the ward possesses, and,
 - which opinion is concurred in by either a second physician or by any medical ethics or similar committee to which the health care provider has access, established for the purposes of reviewing the circumstances and the appropriateness of any type of physician's order which would have the effect of withholding or withdrawing life-saving or life sustaining medical care, treatment, services or procedures. The written certification shall be approved by a court order.
- to exercise any control or authority over the ward's estate, except if the court shall specifically authorize such. The court may assign such authority to the guardian, including the authority to establish certain trusts as provided in K.S.A. 2002 Supp. 59-3080, and amendments thereto.

Conservator (financial authority) Duties, Responsibilities and Limitations may be found in K.S.A. 59-3078 et seq.

ADDITIONAL GUARDIANSHIP RESOURCES

1. Guardianship Statutes – K.S.A 59-3050 through 59-3096.
2. Guide to Kansas Laws on Guardianship and Conservatorship – KGP at www.ksgprog.org
3. Basic Instructions for Guardians and Conservators – Kansas Judicial Council at <http://www.kansasjudicialcouncil.org/GuardianConservatorTraining.shtm>

What are the reporting responsibilities of a guardian or conservator?

Guardian Report - Each year a guardian is required to file a report informing the court about the ward's condition and actions taken on behalf of the ward. The report covers a 12-month period.

Accounting Report – Each year a conservator is required to file a detailed accounting of income, payments and financial actions taken by the conservator on behalf of the conservatee. The report covers a 12-month period.

What training is required for a guardian or a conservator?

Basic Instructional Program

Every individual appointed as guardian or conservator on or after January 1, 2009, must file with the court an affidavit of completion of a basic instructional program concerning the duties and responsibilities of a guardian or conservator prior to the issuance of letters of guardianship or conservatorship.

INFORMATION RELEVANT TO KGP VOLUNTEERS SERVING AS GUARDIANS OR CONSERVATORS

What training, support and assistance is available for KGP volunteers?

KGP staff provides one to one training with newly appointed guardians or conservators. Additional training, monitoring, information and support are provided to a volunteer throughout the duration of guardianship or conservatorship service.

KGP Conflict of Interest Guideline

The role of a guardian or conservator is to advocate for and protect the rights of the ward or conservatee. In this role, the guardian or conservator must be free of any appearance of personal or employer conflict of interest, self-serving gain, compromising influences and loyalties when advocating on behalf of the person. The guardian and conservator must be free to challenge inappropriate or poorly delivered services and to advocate and exercise judgment solely for the benefit of the ward or conservatee.

What protection is available for the conservatee's estate?

A bond is intended to protect the conservatee's property should the conservator mismanage funds or property. A **conservator who contracts with the KGP is bonded with a signature bond** and the Secretary of Kansas Department for Children and Families (DCF) serves as the surety.

What liability protection is available for volunteers?

The Kansas Tort Claims Act provides KGP volunteers with liability protection from tort claims (being sued) when appropriately performing duties in their role as a court appointed guardian or conservator similar to protections extended to state employees.

Who pays for the legal fees when a KGP volunteer is appointed guardian or conservator?

Legal services for KGP volunteers are provided through DCF legal services. Other legal fees are absorbed by the State of Kansas.

What time expenditure is involved in being a guardian or conservator?

On average, a volunteer may spend at least ten hours or more each month working on issues related to the ward or conservatee. The basic responsibility of a guardian or conservator is to advocate for a higher quality of life for the ward or conservatee. This includes visiting the person on a regular basis, planning supports and services and monitoring and protecting individual rights. Additional advocacy time may become necessary as a person experiences a crisis, while less time may be needed as the person's situation stabilizes.

Resource

The [Guide to Kansas Laws on Guardianship and Conservatorship](#) provides an overview of definitions, duties, responsibilities and limitations of guardians or conservators. The Guide is available on our website, www.ksgprog.org. Contact us at 1-800-672-0086.

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