

GUARDIANSHIP PACKET- MINOR

**INSTRUCTIONS FOR FILING FOR GUARDIANSHIP OF MINOR CHILD.
IN THE EVENT OF MULTIPLE CHILDREN WITH DIFFERENT PARENTS, YOU
MUST FILE SEPARATE GUARDIANSHIP CASES FOR EACH CHILD.**

**THESE FORMS MUST BE FILED IN THE PROBATE
DEPARTMENT OF THE WYANDOTTE COUNTY DISTRICT
COURT, 1st FLOOR
710 N 7th ST KANSAS CITY, KS 66101**

READ ALL OF THE DIRECTIONS CAREFULLY – PRINT NEATLY USING BLUE OR
BLACK INK ONLY.

COURT STAFF **CANNOT** PROVIDE ASSISTANCE OR ADVICE IN COMPLETING
THESE FORMS.

ONLY ONE-SIDED DOCUMENTS ARE ACCEPTED. DO NOT PRINT DOUBLE SIDED.
AS YOU COMPLETE THE FORMS, NO LINE CAN BE LEFT BLANK.

CONTENTS:

INSTRUCTIONS (3 PAGES), CIVIL INFORMATION SHEET (2 PAGES),
PETITION FOR APPOINTMENT OF GUARDIAN (4 PAGES), PRELIMINARY ORDER
AND NOTICE (1 PAGE), NOTICE OF HEARING (1 PAGE), ENTRY OF APPEARANCE (1
PAGE), UCCJEA (4 PAGES), BASIC INSTRUCTIONS FOR GUARDIANS (9 PAGES),
AFFIDAVIT OF COMPLETION OF INSTRUCTIONAL PROGRAM (1 PAGE), OATH OF
GUARDIAN/CO-GUARDIAN (1 PAGE), ORDER APPOINTING GUARDIAN (2 PAGES),
LETTERS OF GUARDIANSHIP (1 PAGE), GUARDIAN'S REPORT OF CONDITION OF
WARD (2 PAGES)

**CAUTION: *Use of legal forms without the assistance of a lawyer could harm your legal
rights. You may want to have a lawyer review your completed forms before you file them with
the court. These are basic forms and do not cover every situation.***

FOLLOW THESE STEPS TO COMPLETE THE GUARDIANSHIP PROCESS

STEP 1. Petitioner(s), complete the Civil Information Sheet (The person filing the petition will always be designated as the Petitioner.) All self-represented parties must include an email address. **This is so the court can notify you of any changes in the court schedule on short notice.**

STEP 2. Petitioner(s) complete the Petition and sign it in front of a notary. At the time you file, you will be given a case number which you should enter on **all** the documents.

STEP 3. Petitioner(s) complete the Preliminary Order and Notice & UCCJEA. At the time you file, you will be given the time and date of the hearing which you should enter on the Preliminary Order.

STEP 4. Petitioner(s), you must read the Basic Instructions for Guardianship and complete the Certificate of Completion.

STEP 5. **(Optional)** Petitioner(s), have the natural guardian sign the Entry and Appearance, Waiver of Notice and Consent in front of a notary public. If you do this, you will not need to have the papers served on the natural guardian.

STEP 6. Petitioner(s), take the completed forms to the Wyandotte County District Court, Probate Department 1st Fl, 710 N 7th St, Kansas City, KS and file them with the Clerk. **YOU MUST FILL #4 OF THE PETITION COMPLETELY OUT.**

STEP 7. Petitioner(s), at the time of filing you will be required to pay the filing fee of **\$91.50** in cash, money order or cashier's check payable to the "Clerk of the District Court". If you cannot afford the filing fee, you may complete a Poverty Affidavit, which you can obtain from the Self-Help Center on the 3rd floor. Upon completion the Judge will review the Poverty Affidavit and may or may not approve it.

STEP 8. Petitioner(s), at the time the Petition is filed, the Court will appoint an attorney to represent the minor child in the proceedings. The aide for the Judge of the probate department will provide you with the name and address of the attorney. You will be required to pay the fees of the attorney who is appointed. These fees cannot be waived. See STEP 19.

STEP 9. Petitioner, upon filing the Judge will approve the Preliminary Order and Notice of Hearing at which time the date and time of the hearing will be entered. You must then file the Preliminary Order with the Clerk. To obtain a court date, you must email the judges administrative assistant, Tina at trockey@wycokck.org. All hearings will be held via **ZOOM**.

STEP 10. Upon filing, Petitioner(s) should obtain a **filed stamped** copy of the Petition, the Preliminary Order and the Notice of Hearing & UCCJEA. Keep these for your records.

STEP 11. Petitioner, you must serve a filed stamped copy of the Petition, the Preliminary Order and the Notice of Hearing on the natural guardian(s) of the minor child and any other interested persons unless they have entered their appearance pursuant to STEP 5 and retain a copy for yourself.

You cannot serve the papers yourself. You must have the Sheriff or Process Server deliver the papers. You will need to pay for service (\$15 if served by a Sheriff in Kansas) and provide an extra copy of the **file stamped papers** to the Sheriff or process server for them to deliver.

If you cannot provide notice of the Guardianship petition to the natural guardian by Sheriff or Process Server, then you may be able to provide notice of the petition by publishing notice in either the Wyandotte Echo or Wyandotte County Business News. You must request permission to do this by filing the “Affidavit for Service by Publication” and obtaining an order from Judge Lynch in Division 10. After you obtain the signed “Order Allowing Service by Publication”, you must then publish the notice for 3 consecutive weeks. You must obtain “proof of publication” from the newspaper and file the proof with the court. Court personnel cannot help you with this process.

STEP 12. The Sheriff or special process server will make a return to the clerk showing how they delivered the papers. **Make sure that the papers have been served and the return filed with the Clerk prior to the date of the hearing.**

STEP 13. Petitioner, you must send a copy of the file stamped Petition, Preliminary Order and Notice of Hearing by first class mail, to the attorney who is appointed to represent the minor child.

STEP 14. Petitioner(s), on the day of the hearing, you are required to **personally appear with the minor(s)** in the Probate Department, 1st Fl 710 N 7th St Kansas City, Ks 66101. You should be prepared to testify to the Court about the circumstances that require the appointment of a guardian for the minor child.

STEP 15. Petitioner(s), take to the hearing, the Order Appointing Guardian, the Oath of Guardian and the Letters of Guardianship or Letters of Co-Guardianship. At the hearing give those documents to the Judge for them to complete.

STEP 16. Petitioner(s), at the conclusion of the hearing, you should take the signed and completed Order Appointing Guardian, the Oath and Letters of Guardianship or Letters of Co-Guardianship to the Clerk of the Probate Department and file them.

STEP 17. Petitioner(s), at the time you perform **STEP 16**, you should obtain at least one **certified copy** of the Letters of Guardianship or Letters of Co-Guardianship from the Clerk for yourself. They should be kept in a safe place. These are your important documents of authority. Whenever you deal with someone on behalf of the Minor(s), such as the school, physician, hospital or dentist, you should have them make a copy of your Letters of Guardianship so that you retain your copy.

STEP 18. Petitioner(s), you should make arrangements with the attorney who was appointed to represent the Minor(s) to pay the fee you were ordered to pay.

STEP 19. Petitioner(s), remember that you are required to file a Report of the Condition of the Minor(s) with the Clerk of the Probate Department. **ANNUAL REPORTS ARE DUE YEARLY FROM THE DATE AWARDED.** Failure to complete and return the form to the Clerk may result in termination of the Guardianship.

CIVIL COVER SHEET

The civil cover sheet neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Clerk of the District Court for the purposes of initiating the civil docket sheet. **This information will not be available to the public and this document will be stored in a separate location from the case file and then destroyed within a reasonable time.** A new case **will not be accepted** without a cover sheet attached. (THIS FORM MUST BE TYPED OR PRINTED LEGIBLY). This form can be found at www.kscourts.org.

<u>NATURE OF SUIT</u> (Mark only one - If the case involves more than one of the following categories, indicate the category having the highest dollar value.)			
<u>CIVIL</u> If a CH. 61: \$ _____ (Judgment Demand Amount)			
TORT WARRANT <input type="checkbox"/> Asbestos Product Liability <input type="checkbox"/> Automobile Tort <input type="checkbox"/> Intentional Tort <input type="checkbox"/> Legal Malpractice <input type="checkbox"/> Medical Malpractice <input type="checkbox"/> Other Professional Malpractice <input type="checkbox"/> Premises Liability <input type="checkbox"/> Slander/Libel/Defamation <input type="checkbox"/> Tobacco Product Liability <input type="checkbox"/> Toxic/Other Product Liability <input type="checkbox"/> Other Tort	CONTRACT <input type="checkbox"/> Buyer Plaintiff <input type="checkbox"/> Employment Dispute – Discrimination <input type="checkbox"/> Employment Dispute - Other <input type="checkbox"/> Fraud <input type="checkbox"/> Landlord/Tenant - Unlawful Detainer <input type="checkbox"/> Landlord/Tenant Dispute – Other <input type="checkbox"/> Seller Plaintiff (debt collection) <input type="checkbox"/> Other Contract CIVIL APPEALS <input type="checkbox"/> Administrative Agency <input type="checkbox"/> Other Civil Appeal	REAL PROPERTY <input type="checkbox"/> STATE TAX <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Mortgage Foreclosure <input type="checkbox"/> Other Real Property MISCELLANEOUS <input type="checkbox"/> 60-1507 <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Other Writs <input type="checkbox"/> OTHER CIVIL <input type="checkbox"/> SMALL CLAIMS	
<u>DOMESTIC</u>			
<input type="checkbox"/> MARRIAGE DISSOLUTION/DIVORCE <input type="checkbox"/> PROTECTION FROM ABUSE <input type="checkbox"/> PROTECTION FROM STALKING <input type="checkbox"/> UIFSA <input type="checkbox"/> OTHER DOMESTIC RELATIONS <input type="checkbox"/> NON-DIVORCE SUPPORT, CUSTODY OR VISITATION <input type="checkbox"/> PATERNITY			
<u>*PROBATE/ESTATE</u>			
GUARDIAN/CONSERVATOR <input type="checkbox"/> Conservatorship/Trusteeship <input type="checkbox"/> Guardianship - Adult <input type="checkbox"/> Guardianship - Minor <input type="checkbox"/> Guardian/Conservator - Adult <input type="checkbox"/> Guardian/Conservator – Minor	<input type="checkbox"/> DETERMINATION OF DESCENT <input type="checkbox"/> SEXUALLY VIOLENT PREDATOR <input type="checkbox"/> DECEDENT ESTATE CARE AND TREATMENT	<input type="checkbox"/> ELDER ABUSE <input type="checkbox"/> ADOPTION <input type="checkbox"/> OTHER PROBATE/ESTATE	

JURY DEMAND YES (Check yes only if jury demand is included in petition or as a separate pleading)
 NO

SUMMONS ATTACHED: YES
 NO

SERVICE BY: PROCESS SERVER/ATTORNEY
 SHERIFF IN STATE _____ (County)
 SHERIFF OUT OF STATE _____ (State)

SHERIFF'S PROCESS FEE ATTACHED YES
 NO

SUBJECT INFORMATION
(ATTACH ADDITIONAL SHEET, IF NECESSARY)

NAME: _____

ADDRESS: _____

PHONE: _____ SEX: _____

CELL PHONE: _____

E-MAIL: _____

SSN: _____ DOB: _____

DL OR STATE ID NO: _____
State and Number

ALIAS NAMES USED: _____

SUBJECT INFORMATION
(ATTACH ADDITIONAL SHEET, IF NECESSARY)

NAME: _____

ADDRESS: _____

PHONE: _____ SEX: _____

CELL PHONE: _____

E-MAIL: _____

SSN: _____ DOB: _____

DL OR STATE ID NO: _____
State and Number

ALIAS NAMES USED: _____

OTHER PARTY INFORMATION
(ATTACH ADDITIONAL SHEET, IF NECESSARY)

NAME: _____

ADDRESS: _____

PHONE: _____ SEX: _____

CELL PHONE: _____

E-MAIL: _____

SSN: _____ DOB: _____

DL OR STATE ID NO: _____
State and Number

ALIAS NAMES USED: _____

OTHER PARTY INFORMATION
(ATTACH ADDITIONAL SHEET, IF NECESSARY)

NAME: _____

ADDRESS: _____

PHONE: _____ SEX: _____

CELL PHONE: _____

E-MAIL: _____

SSN: _____ DOB: _____

DL OR STATE ID NO: _____
State and Number

ALIAS NAMES USED: _____

The requirement that Social Security numbers be included on domestic cases is mandatory and authorized by the Supreme Court and federal law. On non-domestic cases, the Social Security number is not mandatory. The number is used for purposes of identification and may be disclosed as permitted by law. This form is not considered to be a public record.

IN THE 29TH JUDICIAL DISTRICT
DISTRICT COURT WYANDOTTE COUNTY, KANSAS
PROBATE DEPARTMENT

IN THE MATTER OF THE GUARDIANSHIP OF

_____, A MINOR(S)

Case No. _____
Div. 10

Pursuant to K.S.A. Chapter 59

PETITION FOR APPOINTMENT OF

GUARDIAN

CO-GUARDIANS

FOR _____, A MINOR CHILD(REN)

Come now _____, Petitioner and _____ Petitioner,
and allege and state:

1. I We, reside at (address) _____
_____ (city), Wyandotte County, Kansas

2. _____ (Name of Minor(s) children),
hereinafter referred to as the Minor(s), whose date(s) of birth is _____, whose
residence address is _____ and who is
presently residing with Petitioner(s) and has been since (date) _____.

3. The Minor(s) are in need of a guardian of person to provide them health insurance,
make medical decisions, make all custodial decisions, and provide a stable residence for the
Minor(s).

4. During the past five years before the Petition was filed, the Minor(s) lived at the
following addresses with the adults listed below:

From Date	Until Date	City & Names, State	Addresses Relationship of Custodian who Lived with the Minor(s) at the time
--------------	---------------	------------------------	--------------------------------------------------------------------------------------

5. List any other court cases, past, or current, in this state or any other, regarding the custody of the Minor(s)

Name of Court	Case Number	Location of Court
_____	_____	_____
_____	_____	_____

6. _____ (Parent of the Minor(s) is our son daughter and is the natural guardian of the Minor(s) and is unable to provide for the immediate needs of the Minor(s)

7. The Minor(s) have been informally placed in Petitioner(s) custody and legal guardianship is required to permit the Petitioner(s) to assist the Minor(s).

8. The names and addresses of the following persons, besides the Natural Guardian(s) have an interest in the Minor(s):

Name	Address	Relationship to Minor(s)
_____	_____	_____
_____	_____	_____
_____	_____	_____

9. The Minor(s) is not married and has no children.

10. There is no fiduciary appointed for the minor, nor are there any other persons or agencies that claim any legal right to physical custody or visitation of the Minor(s).

11. The Minor(s) owns no real or personal property and had no income.

12. The truth of the allegations in this Petition may be proven by the natural guardian and the Petitioners.

13. No personal guardian had been appointed for the Minor(s) by any Court.

14. No fiduciary has been appointed for the Minor(s) by any Court.

15. Petitioner (name) _____ is:

- an adult
- is employed at _____
- has no personal or agency interest that might be perceived as self-serving or adverse to the best interest of the Minor (s).

16. Petitioner (name) _____ is:

- an adult
- is employed at: _____
- has no personal or agency interest that might be perceived as self-serving or adverse to the best interest of the Minor (s).

17. Petitioner(s) have completed the instructional program required by K.S.A 59-3069.

WHEREFORE, Petitioner(s) pray:

- a. that the Court determine the Minor(s) to be minor child or children in need of a guardian.
- b. that the Court issue an order setting the date time and place for the hearing on the Petition.
- c. that the Court issue an order granting Petitioner(s) temporary physical custody of the Minor(s)
- d. that the Court require the Petitioner(s) to act as provided by law.
- e. that the Court appoint Petitioner(s) as ___ Guardian ___ Co-Guardians for the Minor(s) and authorize them to act independently of each other.

Petitioner (Signature)
Address: _____
City, State ,ZIP _____
Telephone: _____
Email: _____

Co-Petitioner (Signature)
Address: _____
City, State ,ZIP _____
Telephone: _____
Email: _____

STATE OF KANSAS
COUNTY OF WYANDOTTE, ss:

I/We swear or affirm under penalty of perjury, that I/We are the Petitioner(s) in this case, and that the statements made in this Petition are true and correct.

Executed this _____ day of _____, 20__.

Petitioner

Co-Petitioner

SUBSCRIBED AND SWORN to before me, a Notary Public, this ____ day of _____, 20__.

Notary Public
My Appointment expires _____

IN THE 29TH JUDICIAL DISTRICT
DISTRICT COURT WYANDOTTE COUNTY, KANSAS
PROBATE DEPARTMENT

IN THE MATTER OF THE GUARDIANSHIP OF

_____, A MINOR(S)

Case No. _____
Div. 10

Pursuant to K.S.A. Chapter 59

PRELIMINARY ORDER AND NOTICE

NOW on this the ____ day of _____, 20__ the Court makes the following preliminary orders and notice requirements:

1. A hearing on the Petition for Appointment of Guardian/Co-Guardians for _____ Minor(s) is set for the ____ day of _____, 20__ at ____:____ a.m. p.m. via **ZOOM**.

2. The Petitioner(s) shall have temporary custody of the Minor(s) until further order of the Court.

3. The minor child shall personally appear at the hearing set forth in paragraph 1 of this order.

4. _____, a qualified, practicing attorney, whose address is _____, _____, Kansas, _____ (zip), is appointed to represent Minor(s) at all stages of the proceedings.

5. The Wyandotte County Sheriff or _____, a special process server shall personally serve _____ (attorney) with a copy of this order, a copy of the petition and a copy of the Notice of Hearing and file a proof of service.

6. The Wyandotte County Sheriff or _____, a special process server shall personally serve a copy of the Petition, this Preliminary Order and the Notice of Hearing on the Natural Guardian and the following persons:

Name and Address

IT IS SO ORDERED.

Judge of the District Court

IN THE 29TH JUDICIAL DISTRICT
DISTRICT COURT WYANDOTTE COUNTY, KANSAS
PROBATE DEPARTMENT

IN THE MATTER OF THE GUARDIANSHIP OF

_____, A MINOR(S)

Case No. _____
Div. 10

Pursuant to K.S.A. Chapter 59

NOTICE OF HEARING

THE STATE OF KANSAS TO ALL PERSONS CONCERNED:

You are notified that on the ____ day of _____, 20____, a Petition

was filed in this Court by _____

requesting to be appointed a Guardian Co-Guardian for

_____ Minor(s). You are requested to file your

written defenses to the Petition on or before the ____ day of _____, 20____, at

_____ a.m. p.m. in the District Court, District County, Kansas, Probate Department,

710 N 7th St, Kansas City, KS 66101, at which time the Petition will be heard. The hearing will be held via **ZOOM**.

Should you fail to file your written defenses, judgment and decree will be entered in due course upon the Petition.

Signature of Petitioner

Signature of Co-Petitioner

IN THE 29TH JUDICIAL DISTRICT
DISTRICT COURT WYANDOTTE COUNTY, KANSAS
PROBATE DEPARTMENT

IN THE MATTER OF THE GUARDIANSHIP OF

_____, A MINOR(S)

Case No. _____
Div. 10

Pursuant to K.S.A. Chapter 59

**ENTRY OF APPEARANCE, WAIVER OF NOTICE,
AND CONSENT TO PETITION FOR APPOINTMENT OF GUARDIAN FOR MINOR**

_____, natural guardian of

_____, Minor(s) and enters their appearance in this action, waives

further notice of hearing on the Petition for Appointment of Guardian/Co-Guardian for the

Minor(s), and further consents to an entry of an order appointing _____ and

_____ Guardian/Co-Guardians of the Minor(s).

Date signed _____ Signature _____

State of Kansas
County of Wyandotte

This instrument was acknowledged before me this ___ day of _____, 20__

by _____.

Notary Public
My Appointment expires _____

IN THE 29TH JUDICIAL DISTRICT
DISTRICT COURT WYANDOTTE COUNTY, KANSAS
PROBATE DEPARTMENT

IN THE MATTER OF THE GUARDIANSHIP OF

_____, A MINOR(S)

Case No. _____
Div. 10

Pursuant to K.S.A. Chapter 59

UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA)
AFFIDAVIT
(K.S.A. 23-37,101 *et seq.*)

I, _____ (*full legal name*), certify that the following statements are true:

1. The names and dates of birth of the children now under eighteen years of age and subject to this proceeding are:

- a. _____ (child's name), was born in _____ (month) _____ (year).
- b. _____ (child's name), was born in _____ (month) _____ (year).
- c. _____ (child's name), was born in _____ (month) _____ (year).
- d. _____ (child's name), was born in _____ (month) _____ (year).

2. The child(ren) now live with: _____ (name of adult)
at _____ (Street address),
_____ (city), _____ (state) and have lived at this place since
_____ (date). (*Add additional pages if more space is needed.*)

3. The child(ren) lived at the following addresses with the custodian(s) listed during the past five years:

From Date	Until Date	City, State	Name and Relationship of Custodian(s) Living with Child, and Custodian(s) Present Address

4. I have have not been involved in a court case involving the custody or visitation of the child(ren). The following court cases are on file about the child(ren):

Type of Case	Court, City and State	Case Number	Last Order Date

5. I have do not have information concerning ANY OTHER proceeding that could affect the current proceeding including but not limited to proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoption. The following court cases are on file and could affect the current proceedings:

Type of Case	Court, City and State	Case Number	Last Order Date

6. The following named persons not a party to this proceeding have physical custody or claim to have custody or visitation rights with respect to any child subject to this proceeding: None

Name	Address, City and State	Check the box that applies
		<input type="checkbox"/> Has Physical Custody <input type="checkbox"/> Claims Custody Rights <input type="checkbox"/> Claims Visitation Rights
		<input type="checkbox"/> Has Physical Custody <input type="checkbox"/> Claims Custody Rights <input type="checkbox"/> Claims Visitation Rights
		<input type="checkbox"/> Has Physical Custody <input type="checkbox"/> Claims Custody Rights <input type="checkbox"/> Claims Visitation Rights
		<input type="checkbox"/> Has Physical Custody <input type="checkbox"/> Claims Custody Rights <input type="checkbox"/> Claims Visitation Rights
		<input type="checkbox"/> Has Physical Custody <input type="checkbox"/> Claims Custody Rights <input type="checkbox"/> Claims Visitation Rights

7. I acknowledge that I have a continuing duty to inform the court of proceeding(s) in this or any other state that could affect the current proceeding.

I certify under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct. Executed on _____, 20__.

X _____
Signature
 Name (Print): _____

(Make as many copies of this page as necessary.)

THE FOLLOWING INFORMATION IS TRUE:

(*Child's Full Legal Name*) _____, lived at the following address(es) with the adult(s) listed during the past five years:

From Date	Until Date	City, State	Name and Relationship of Adult(s) Living with Child, and Adult(s) Present Address

THE FOLLOWING INFORMATION IS TRUE:

(*Child's Full Legal Name*) _____, lived at the following address(es) with the adult(s) listed during the past five years:

From Date	Until Date	City, State	Name and Relationship of Adult(s) Living with Child, and Adult(s) Present Address

BASIC INSTRUCTIONS FOR GUARDIANS

January 1, 2009

Revised and Updated - 2017

Kansas Judicial Council

Preface

These basic instructions for guardians were prepared by the Guardianship and Conservatorship Advisory Committee of the Kansas Judicial Council. After their original publication in January 2009, the instructions were revised and updated in June 2015 and again in 2017. The instructions constitute the basic instructional program concerning the duties and responsibilities of a guardian required by K.S.A. 59-3069(j). After reading these instructions, a proposed guardian should sign the affidavit of completion at the end of this booklet and file it with the court as evidence of completion of the basic instructional program.

Table of Contents

Definitions	1
Guardian’s Powers and Duties.....	1
Responsibilities to the Court	
Required Training.....	3
Oath.....	4
Letters	4
Guardianship Plan.....	4
Guardian’s Annual Report on the Ward’s Condition	4
Special Reports and Accountings.....	4
Reimbursement for Time and Expenses	5
How a Guardianship Ends.....	5
Conflicts of Interest.....	5
Additional Resources	6
Sample Forms	
Sample Report on Condition of Guardian’s Ward.....	7
Affidavit of Completion of Basic Instructional Program.....	last page

BASIC INSTRUCTIONS FOR GUARDIANS

Definitions of Words You Need to Know:

Guardian - A guardian is a person appointed by a court to act on behalf of a minor or impaired person, who is called a “ward.” A guardian manages a ward’s personal health, safety, and welfare.

Ward - A ward is a person for whom a guardian has been appointed. A ward may be either a minor or an adult person with an impairment.

Conservator - A conservator is a person appointed by a court to act on behalf of a minor or impaired person, who is called a “conservatee.” A conservator manages a conservatee’s property or “estate,” such as money, personal and real property.

Conservatee - A conservatee is a person for whom a conservator has been appointed. A conservatee may be a minor, an adult person with an impairment, or a person who has voluntarily requested a conservatorship.

NOTE: Sometimes, a person is appointed as both a guardian and conservator. In that case, the person they are helping may be called either a ward or conservatee, or both.

What Are a Guardian’s Powers and Duties?

The basic duties, responsibilities, powers and authorities of guardians are defined by statute and can be found at K.S.A. 59-3075. The following is a general overview.

A guardianship is a legal proceeding filed to protect an impaired person, who is called a “ward.” A guardian manages a ward’s personal health, safety, and welfare. If the court appoints you as guardian your job is separate from the duties of a conservator, though the court may appoint the same person to serve in both roles. As guardian you are always subject to the control and direction of the court. After a hearing to determine whether a guardianship is necessary, a court order will be issued. Your attorney should provide you with a copy of that court order.

State law and the court define a guardian’s power and set the rules to be followed when caring for the ward. At all times, a guardian is under the court’s direction and control. A guardian must always act in the ward’s best interest and use reasonable care and attention. **EACH YEAR THE GUARDIAN MUST FILE A REPORT WITH THE COURT TELLING THE COURT ABOUT THE GUARDIAN’S ACTIONS AND THE WARD’S CONDITION.**

If the court authorizes a guardian to exercise authority over a ward’s estate valued at less than \$10,000, the guardian may have many of the same duties as a conservator, including filing an annual accounting with the court. In that situation, a guardian might find it helpful to read the booklet, “Basic Instructions for a Conservator,” which includes a sample accounting form.

As a guardian, your job is to get to know the ward and the ward's family, friends, and care givers. You should use your authority only as needed and allow the ward to take part in decisions. You should consider the ward's personal desires and values when making decisions on the ward's behalf. You should encourage the ward to make decisions, develop skills for daily living, and do as much as the ward can on his or her own.

The law does **NOT** require you as guardian to use your own personal money or other assets for support of the ward solely because you have been appointed as guardian. **However**, if you are the parent or spouse of the ward, you may have a personal duty to support the ward. For example, each parent has a legal duty to support his or her minor child by paying the ordinary expenses of the child's care, treatment, housing and education.

You are not liable to other persons for the acts of the ward solely because you have been appointed as guardian. This means you are not responsible to anyone else for something that the ward has done simply because you are the guardian.

You should protect the ward's personal, civil, and human rights. The law requires that you **MUST ALWAYS** act in the best interest of the ward and exercise reasonable care, diligence, and good sense.

A guardian has the following general duties, responsibilities, powers and authorities, which may be exercised without getting additional court approval:

1. If the ward is a minor, to have custody and control of the minor and to provide for the minor's care, treatment, housing, education, support and maintenance;
2. If the ward is an adult, to take charge of the person of the ward and to provide for the ward's care, treatment, housing, education, support and maintenance;
3. To consider and either provide on behalf of the ward necessary or required consents or refuse the same (*e.g.* release of medical records; consent to services and supports provided);
4. To assure that the ward lives in the least restrictive setting that meets the ward's needs and is reasonably available;
5. To assure that the ward receives all necessary and reasonably available medical care or services to preserve the ward's health. This also includes assisting the ward to develop or retain skills and abilities;
6. To consent to experimental procedures only if approved by an institutional review board or committee;
7. To protect the health, safety and welfare of the ward;
8. To revoke a durable power of attorney for health care decisions; and
9. To make necessary arrangements for the ward's funeral, burial or cremation.

As a guardian, you may NOT take any of the following actions UNLESS the supervising court issues a written order approving the action(s):

1. Consent to adoption of the ward;
2. Consent to any psychosurgery, organ or limb removal except in a life-threatening emergency or to prevent lasting impairment to the ward's physical health;
3. Consent to sterilization of the ward;
4. Consent to withholding or withdrawal of life-saving medical care unless the ward previously made a written advance directive (living will, durable power of attorney for health care decisions, or similar document) that meets legal requirements;
5. Have any control over the ward's property, unless the Letters of Guardianship authorize you to do so **AND** the value of the ward's property is less than \$10,000;
6. Place the ward in a psychiatric treatment facility;
7. Access digital assets of the ward, such as online accounts, pictures and music stored electronically, social media accounts, etc.;
8. Pay the guardian or the guardian's attorney a fee; or
9. Dispose of property after the ward's death.

As a guardian, you may NEVER take any of the following actions:

1. Prohibit the marriage or divorce of the ward; or
2. Consent to termination of the ward's parental rights.

What Are a Guardian's Responsibilities to the Court?

Required Training

Before you are appointed as guardian, you must complete a basic training program about the duties and responsibilities of a guardian. Reading this booklet meets that requirement. At the end of this booklet, you will find an affidavit of completion of the basic training program (a form stating you have read the booklet). When you finish reading this booklet, you should sign the affidavit and file it with the court to prove that you have completed the program. You should also keep this booklet for future reference.

Oath

When you are appointed as guardian, the court will require that you file an oath or affirmation stating that you will faithfully, impartially and to the best of your ability fulfill all duties assigned by the court. The oath must be in writing and signed before a notary or the judge.

Letters

After you have filed your oath and affidavit of completion of the basic training program, the court will issue Letters of Guardianship. This document gives you the authority to carry out your legal duties. You should ask for a certified (legal) copy of the original document, which is on file with the court. You should keep the certified copy in a safe place and provide copies of the Letters of Guardianship to anyone you deal with who provides services to the ward.

Guardianship Plan

In some cases, the court may require, or your attorney may suggest, that you file a guardianship plan. A guardianship plan might include provisions about where a ward will live and what kinds of decisions the ward will be allowed to make on his or her own, and, if no conservator has been appointed, how the ward's financial assets will be used. Guardianship plans are most useful in situations where the ward is capable of making some decisions independently.

Guardian's Annual Report on the Ward's Condition

Because the court needs to know where the ward is living and how the ward is doing, a guardian must file a report on the ward's condition every year. This report is required even if there is no change in the ward's condition. The reporting period usually starts when the guardian is appointed and covers a 12-month period of time, unless the judge orders a different reporting time period. If a guardian fails to file the required annual report, the court may compel the guardian to appear and take actions to remove that person as guardian. A sample of the annual report is included at the end of this booklet.

Special Reports and Accountings

A guardian must file a special report or accounting with the court if any of the following occurs:

- 1) a change of address of the guardian;
- 2) a change of residence or placement of the ward;
- 3) a significant change in the health or impairment of the ward;
- 4) if the ward acquires any real property, or if the ward receives or accumulates other property or income which causes the total value of the ward's estate to equal or exceed \$10,000;
- 5) a change in the circumstances of the guardian or ward that may constitute a conflict of interest; or
- 6) the death of the ward.

You should also inform the court if your telephone number or email address changes. If the ward dies, you will need to complete a final report on the ward's condition so that the court can close the case.

Reimbursement for Time and Expenses

The court must approve in advance any reimbursement to the guardian for expenses and time spent on official duties. If you want to be paid back for your time and expenses, you must keep a detailed timesheet of time spent and a detailed record of expenses incurred. Many guardians do not claim such expenses, especially if the ward is a family member, and perform their duties out of love and affection. If you want to receive reimbursement, you should talk to your attorney and bring this up preferably at the first court hearing.

How Does a Guardianship End?

A guardianship never ends automatically. The court may end a guardianship for a number of different reasons, including when the need for it no longer exists, when the ward has turned 18 (and was not determined to be a minor with an impairment), or when the ward has died. At any time, any person including the ward may file a petition asking the court to end the guardianship for any of the reasons listed above.

The court may also end a guardianship because the ward is no longer impaired. At any time, the ward may file a petition asking the court to find that he or she is no longer impaired and requesting to be restored to capacity.

If the court ends a guardianship, the court will enter appropriate orders to close the case.

What are Conflicts of Interest?

A conflict of interest happens when your personal or financial interests as guardian go against those of the ward or where your actions appear to be self-serving (for your own benefit). For example, it would be a conflict of interest for a guardian to get a loan from or buy property belonging to the ward's estate. It could also be a conflict of interest for a guardian to work in the same facility where the ward lives.

Whenever you think you might have a conflict of interest, even if you are not sure, report it to the court. Just because you may have a conflict of interest does not mean you cannot serve as guardian, as long as you keep the court informed.

Additional resources:

If you have questions about any of your duties as a guardian, ask your attorney. Additional resources, including blank forms for guardian's reports, can be found on the Kansas Judicial Council's webpage at: www.kansasjudicialcouncil.org

SAMPLE

IN THE 29th JUDICIAL DISTRICT
DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS

In the Matter
of the Guardianship
of Samuel G. Crown

Case No. _____

Proceeding Pursuant to K.S.A. Chapter 59

X ANNUAL _ FINAL REPORT ON THE CONDITION
OF THE GUARDIAN'S WARD

From July 01, 2013 to June 30, 2014

Marjorie Crestone 3299 Smithville Road, Apartment #4
Name Address

Sanesville, KS 66666 (785) 999-71000 mcrestone@gmail.com
City & Zip Code Telephone Number Email Address

guardian in the above-entitled estate submits the following annual report on the condition of

Samuel G. Crown 1942
Name Year of Birth

1. The ward resided at the following places during the reporting period:
39 Solar Haven Rd, Sanesville, KS 66666 Own home 22 years
(address) (type of residence) (length of stay)

2. State the approximate number of times the guardian has contact with the ward, the nature of such contacts, and the date the ward was last seen by the guardian:
Guardian visits ward in his own home approximately two to three times per month. Guardian checks on the ward's health status, sufficient groceries, household and personal care items, and the home cleanliness, maintenance and upkeep.

3. Summarize the medical, social, educational, vocational and other professional services received by the ward during the reporting period:

Samuel is retired. He is recuperating from recent hip surgery and receives bi-weekly physical therapy; he takes medications for diabetes, high blood pressure, heart disease and pain associated with osteoporosis. He has monthly doctor appointments to monitor medications. Additionally, a home health nurse visits weekly to set up his medications. Samuel reads, watches TV and enjoys activities at the senior center and periodic visits from his great-niece who lives out of state.

4. If the ward is institutionalized, the results of an investigation into the nature and appropriateness of the ward's care and treatment are as follows:
Ward lives in his own home. Following hip surgery in August 2013, he recuperated for three weeks in a local nursing home after which he was able to return home.
5. What changes in the mental or physical condition of the ward has the guardian observed?
During the past year, Samuel experienced several episodes of memory lapses for which he is now receiving medication. The doctor indicates Samuel is in early stages of Alzheimer's disease. He had hip replacement surgery in August 2013 and now is able to walk using a cane. Other medical conditions are stable.
6. What major problems relating to the guardianship, if any, have arisen during the reporting period?
A former neighbor who had exploited Samuel attempted to reintroduce himself into Samuel's life. Guardian secured a restraining order against the person. No other problems were experienced.
7. In the opinion of the guardian, does the guardianship need to continue, and is it necessary to increase or decrease the powers of the guardian?
The guardian has advocated and provided consents regarding health care, home maintenance and freedom from exploitation. Guardianship should continue with the current powers.
8. State compensation requested and expenses incurred by the guardian:
Refer to itemized list attached.
9. What circumstances, if any, have arisen during the reporting period that could constitute a conflict of interest between the guardian and ward?
None.
10. Other information required by the court is:

I declare under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct. Executed on June 30, 2014.

Guardian

IN THE 29TH JUDICIAL DISTRICT
DISTRICT COURT WYANDOTTE COUNTY, KANSAS
PROBATE DEPARTMENT

IN THE MATTER OF THE GUARDIANSHIP OF

_____, A MINOR(S)

Case No. _____
Div. 10

Pursuant to K.S.A. Chapter 59

AFFIDAVIT OF COMPLETION
OF BASIC INSTRUCTIONAL PROGRAM

I declare that I have received and reviewed the Basic Instructions for Guardians and kept a copy of those Instructions. I acknowledge that, as guardian, I have the duties and responsibilities described in the Instructions.

I declare under penalty of perjury that this is true and correct.

Executed on this ____ day of _____, 20____.

Signature

Please Print Your Name

Address

Telephone Number

Email Address

IN THE 29TH JUDICIAL DISTRICT
DISTRICT COURT WYANDOTTE COUNTY, KANSAS
PROBATE DEPARTMENT

IN THE MATTER OF THE GUARDIANSHIP OF

_____, A MINOR(S)

Case No. _____
Div. 10

Pursuant to K.S.A. Chapter 59

OATH OF GUARDIAN/CO-GUARDIAN

STATE OF KANSAS, COUNTY OF WYANDOTTE I, _____,
Petitioner herein, swear or affirm that I will faithfully and impartially and to the best of my
ability discharge all the duties of trust according to law as Guardian/Co-Guardian of
_____ Minor(s), and I am acting on my own behalf
independently and not on behalf of any bank or corporation which is not authorized to act as a
fiduciary in this state.

Guardian/Co-Guardian

Signed and sworn to or affirmed before me on this ____ day of _____, 20____.

Notary/Judge of District court

My Appointment expires _____.

IN THE 29TH JUDICIAL DISTRICT
DISTRICT COURT WYANDOTTE COUNTY, KANSAS
PROBATE DEPARTMENT

IN THE MATTER OF THE GUARDIANSHIP OF

_____, A MINOR(S)

Case No. _____
Div. 10

Pursuant to K.S.A. Chapter 59

ORDER APPOINTING GUARDIAN/CO-GUARDIANS FOR MINOR

NOW, on this the ____ day of _____, 20____, this matter comes on for hearing on the Petition of _____ and _____ for appointment as Guardian/Co-Guardians for _____ Minor(s).

Petitioner(s) appear in person. The Minor(s) appear in person and by their attorney,
_____.

THEREUPON, the Court, having heard the evidence, examined the court file, and hearing the arguments of counsel, makes the following findings, orders and decrees:

1. That notice of the hearing has been given as required by law, and proof of service has been filed and is approved.
2. _____ is a Minor(s) in need of a guardian.
3. Petitioner(s) have filed evidence of completion of the instructional program required by K.S.A. 59-3069(j).
4. (Optional) _____, the natural guardian of the Minor(s) has consented to the appointment of Petitioner(s) as Guardian/Co-Guardians of the Minor(s).
5. The allegations of the Petition are true.
6. _____ and _____ are fit and proper to be appointed Guardian/Co-Guardians of the Minor (s) and upon the filing of their oaths, shall have Letters of Guardianship/Co-Guardianship issued with full authority under the law.
7. (Optional) ____ The Co-Guardians may act independently from each other.

8. _____ has performed services as attorney for the Minors, pursuant to the appointment by the Court and shall be allowed \$_____ for their services which shall be paid by Petitioner(s) for which judgment is granted against Petitioner(s).

9. No guardianship plan is required at this time, by the Guardian/Co-Guardians shall file an annual report of the minor ward not later than one year from the filing date of this order and each year thereafter until further order of the Court.

IT IS SO ORDERED.

Judge

Approved:

Petitioner

Petitioner

Attorney for Minor(s)

IN THE 29TH JUDICIAL DISTRICT
DISTRICT COURT WYANDOTTE COUNTY, KANSAS
PROBATE DEPARTMENT

IN THE MATTER OF THE GUARDIANSHIP OF

_____, A MINOR(S)

Case No. _____
Div. 10

Pursuant to K.S.A. Chapter 59

LETTERS OF GUARDIANSHIP

_____, having been appointed and qualified as
Guardian of the person of _____
Minor(s), is granted Letters of Guardianship with full power and authority as provided by law,
including all powers and duties of Guardian as set out in K.S.A. 59-3075.

In Witness whereof, I, the undersigned Judge of the 29th Judicial District, District Court,
Wyandotte County, Kansas, Probate Department, have signed my name and affixed the seal of
the Court on this the _____ day of _____, 20____.

Judge of District Court

IN THE 29TH JUDICIAL DISTRICT
DISTRICT COURT WYANDOTTE COUNTY, KANSAS
PROBATE DEPARTMENT

IN THE MATTER OF THE GUARDIANSHIP OF

_____, A MINOR(S)

Case No. _____
Div. 10

Pursuant to K.S.A. Chapter 59

ANNUAL FINAL REPORT ON THE CONDITION
OF THE GUARDIAN'S WARD

From _____, 20____ to _____, 20____

Name Address

City & Zip Code Telephone Number Email Address

guardian in the above-entitled estate submits the following (annual) (final) report on the condition of

Name Year of Birth

1. The ward resided at the following places during the reporting period:

(address) (type of residence) (length of stay)

2. State the approximate number of times the guardian has had contact with the ward, the nature of such contacts, and the date the ward was last seen by the guardian:

3. Summarize the medical, social, educational, vocational and other professional services received by the ward during the reporting period:

4. If the ward is institutionalized, the results of an investigation into the nature and appropriateness of the ward's care and treatment are as follows:

5. What changes in the mental or physical condition of the ward has the guardian observed?

6. What major problems relating to the guardianship, if any, have arisen during the reporting period?

7. In the opinion of the guardian, does the guardianship need to continue, and is it necessary to increase or decrease the powers of the guardian?

8. State compensation requested and expenses incurred by the guardian:

9. What circumstances, if any, have arisen during the reporting period that could constitute a conflict of interest between the guardian and ward?

10. Other information required by the court is:

I declare under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct. Executed on _____, 20____.

Guardian

**USE THE
FOLLOWING
FORMS ONLY IF
YOU HAVE TO DO
SERVICE BY
PUBLICATION.**

IN THE 29TH JUDICIAL DISTRICT
DISTRICT COURT WYANDOTTE COUNTY, KANSAS
PROBATE DEPARTMENT

IN THE MATTER OF THE GUARDIANSHIP OF

_____, A MINOR(S)

Case No. _____
Div. 10

Pursuant to K.S.A. Chapter 59

AFFIDAVIT FOR SERVICE BY PUBLICATION

Having been properly sworn by a notary public, I state the following for my affidavit:

1. I am the person who filed the guardianship petition in this matter.
2. I make this affidavit so that I can obtain an order allowing me to obtain publication service of the guardianship petition upon the natural guardian under K.S.A. 59-3050
3. I seek an order for publication service upon the natural guardian because I do not know where the natural guardian is currently living even though I have asked people who know the natural guardian, even though I have searched through documents in my possession, even though I have diligently searched telephone listings in the places I believe the natural guardian may now live, and even though I have diligently searched publicly available internet resources for information about where the natural guardian may now live.
4. The last address at which the natural guardian lived was:
_____.
5. I have tried unsuccessfully to serve the natural guardian by certified mail and personal service with the guardianship petition and summons.

I have taken the following steps to locate all other natural guardians/interested parties:

<u>Name</u>	<u>Action Taken</u>	<u>Date</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. This guardianship action is one of the actions mentioned in K.S.A. 59-3051(a) through (s), and amendments thereto, and allows notice by publication under these circumstances.

X _____
Your Signature

Name (Print): _____

Address 1: _____
Address 2: _____
City, State, Zip: _____
Telephone Number: _____

VERIFICATION

STATE OF KANSAS
COUNTY OF _____

Signed or attested before me on this _____ day of _____, 20____, by

_____.

Notary Public

IN THE 29TH JUDICIAL DISTRICT
DISTRICT COURT WYANDOTTE COUNTY, KANSAS
PROBATE DEPARTMENT

IN THE MATTER OF THE GUARDIANSHIP OF

_____, A MINOR(S)

Case No. _____
Div. 10

Pursuant to K.S.A. Chapter 59

ORDER ALLOWING SERVICE BY PUBLICATION

The Court finds:

1. The Petitioner filed an Affidavit seeking publication service upon the Respondent.
2. After inquiry of the Petitioner, it appears to the Court that the Petitioner does not now know where the Natural Guardian lives, it appears that the Petitioner has made reasonable efforts to find out where the Natural Guardian is living but has not been able to find out that information, and it appears that the Petitioner has done all things reasonably necessary to try to find out where the Natural Guardian is living.
3. The Petitioner is allowed to give notice to the Natural Guardian of the filing of the Guardianship Petition by publication service as is provided by K.S.A. 59.3050

IT IS SO ORDERED.

Judge of the District Court

Submitted by:

X _____
Signature of Petitioner

Petitioner's Name (Print): _____

Address: _____

Address: _____

City, State, Zip: _____

Telephone: _____