

## GUARDIANSHIPS AND CONSERVATORSHIPS

A number of changes to the existing laws regarding Guardianships and Conservatorships were adopted by the 2002 Kansas Legislature. Guardianships and Conservatorships are probate proceedings that typically take place in the District Court of the county in which the proposed “ward” (person in need of a guardian) or “conservatee” (person in need of a conservator) lives. A Guardianship relates to the care of the person, whereas, a Conservatorship relates to the management and control of assets

Terminology has changed. Instead of referring to a “disabled person,” the law now refers to an “adult with an impairment in need of a guardian or conservator or both,” which is defined as an adult “whose ability to receive and evaluate relevant information, or to effectively communicate decisions, or both, even with the use of assistive technologies or other supports, is impaired such 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 conservator or both.”

Separate Classifications have been created for individuals in need of Guardians and Conservators. Some of these distinctions previously existed, however, under the changes that have been adopted, they are:

1. An adult who makes a voluntary application for a conservator.
2. An adult with an impairment for whom an application is made by a third party for appointment of a Guardian and/or Conservator.
3. Minors for whom an application is made for a Guardian and/or Conservator.
4. An application for the appointment of a Guardian and/or Conservator for an individual previously determined to be impaired, and such judicial determination was made in a state other than Kansas.
5. An application for the appointment of an Ancillary Conservator by a Conservator appointed in another state who needs to deal with property located in the state of Kansas.

Other significant changes or additions to the law are:

A specific provision authorizing the control of assets of a minor not exceeding \$100,000 by a natural guardian by placing the funds in an investment account with the only authority to withdraw funds to be by court approval. Further, the amount which triggers the need for the natural guardian or a conservator of a minor to manage funds has been raised from \$5,000 to \$10,000.

When attempting to get a Guardian and Conservator for an individual, it is possible to attach a report by a physician or other qualified person who has evaluated the individual to the petition instead of having the court order an examination subsequent to the filing of the petition.

The court may now request that a guardianship plan or conservatorship plan be submitted to the court.

Please consult with a knowledgeable attorney if you have questions or concerns about these issues or any issues relating to estate planning or elder law.

We hope that you find this information helpful.

**Tim J. Larson, JD, PA, has its offices in Wichita, Kansas. Tim J. Larson and Logan M. Brown are members of Wealth Counsel, the Wichita Estate Planning Council, and *e.Planners*, a select group of nationally known and recognized Estate-planning Attorneys.**