



Manual

For Guardians and Conservators

A companion manual for the Guardianship Training Video of the
Kentucky Guardianship Association, Inc.
www.kyguardianship.org

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Kentucky Bar Association's Elder Law Section
And
The Kentucky Bar Foundation**

KENTUCKY GUARDIANSHIP ASSOCIATION MANUAL FOR GUARDIANS AND CONSERVATORS 2017-18 EDITION

The Kentucky Guardianship Association (KGA) developed this manual to introduce Kentucky's Guardianship and Conservatorship laws and process to a variety of audiences:

- The general public;
- Judges;
- Attorneys;
- Court personnel;
- Legislators;
- Health and Personal Care Professionals and
- Guardians and Conservators.

The manual may be a resource for anyone seeking to review or familiarize themselves with the process of conducting disability cases and understanding alternatives to the legal process for caregiving in Kentucky.

A companion DVD video is accessible in the "Resources" section at the KGA web page: www.kyguardianship.org. A DVD for office and personal use is available upon request from the Kentucky Guardianship Association, Inc. by emailing request to kgainc2008@gmail.com or mailing request to KGA at P.O. Box 25173, Lexington, KY 40524.

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HISTORIAL PROSPECTIVE ON GUARDIANSHIP

Before our American Revolution, for hundreds of years, we were under the “protection of the King.” As such, the King appointed propertied Earls or Lords to protect those subjects in need. From those origins, our system of Guardians and Conservators has evolved under the authority of our Courts. Although we live in a country that values “liberty” and “freedom” above all treasure, there are times when our society defines the limits of that liberty and freedom to avoid self-destructive behavior. Alternatively, limits are intended to assure the benefits and protections of freedom and liberty to those who would be denied due to their personal incapacity. In the absence of ability, the protections of our freedom and liberty are the responsibility of our government. Only as a last resort does our legal system become “*parens patriae*,” exercising an historically¹ accepted public policy that the “state” must assure the protection of its citizens.²

Because of this role for protection of incapacitated adults and legally incompetent children, our legal system allows the Court’s authority to assume the “parent” role on behalf of those who cannot properly manage their care and property. Throughout the United States, every state has assigned statutes that govern the conduct of public and private efforts on behalf of those in need of intervention. To that end, the Kentucky Legislature has adopted laws directly related to determining need and appointing representatives according to that need.

In the history of the legislative process it was recognized that “[i]t was the intent of Senate Bill 35 [Guardianship and Conservatorship for Disabled Persons, now KRS 387.500 - .800] that Guardianship and Conservatorship for disabled persons be established only when necessary and if partial Guardianship or Conservatorship was appropriate, it was preferable. It

¹ Our earliest reported case for reference is 1608, Coke’s Report of Calvin’s Case. In the early case of Shaw v Dixon, 69 Ky. 644 (Ky. 1869) the Kentucky Court of Appeals recognized the right of family members to protect the family home of a demented parent from court ordered execution.

² “To this end, Guardianship and Conservatorship...shall be utilized only as is necessary to promote their well-being,... and shall be designed to encourage the development of maximum self-reliance and independence....” KRS 387.500(3).

certainly was not our intent that every disabled person has a Guardian or Conservator appointed.”³

KENTUCKY GUARDIANSHIP LAWS

In Kentucky the authority and responsibilities of Guardians, Conservators and Curators are found primarily in the Kentucky Revised Statutes at Chapter 387.⁴ (See Legislative Research Commission (LRC) at <http://www.lrc.ky.gov/Statutes/index.aspx>) These laws begin with Guardians/Conservators for Minors at 387.010 through 387.330; then beginning at 387.500, relate to Fiduciaries for Disabled Persons.⁵ Recent statutes, 387.810-387.854, Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act effective in 2011, relate to jurisdiction and transferring Guardianship actions between states. Chapter 388.190 through 388.390 Uniform Veterans’ Guardianship Act apply to veterans’ benefits.

To be appointed to act on behalf of another, with authority and responsibility for decisions which directly affect that person’s personal life, is a deep responsibility. Once an individual has been determined to have limited capacity to act in his/her own personal interests, another person is appointed by a court to step into his/her shoes and substitute judgment on behalf of the individual.

The importance of being a Guardian, Conservator, Limited Guardian or Limited Conservator cannot be overstated. There are wonderful individuals (and some not so wonderful) who have served us through the years but now need our help to assist them with the simple things of living out their remaining years as well as those who are just beginning their lives but are not yet prepared to face it. There are also those who have been offered life with limitations but who can share in life’s experience with additional help.

³ Legislative Research Commission note by chairman of the Guardianship subcommittee of the 1980-82 Interim Joint Committee on Judiciary Statutes, in a letter to the Deputy Director and Reviser of Statutes, dated 2-7-86.

⁴ Certain relevant statutes may be found elsewhere in the Kentucky Revised Code, such as the procedures necessary for selling a Respondent’s real property which relates to “judicial sales of real estate.”

⁵ These statutes have been used by Courts as overlapping.

A Guardian/Conservator can provide the necessary supports to keep such a person in the community or at home or provide protection against those who would seek to exploit the innocent who are unable to protect themselves in their infirmity.

LEGAL RESPONSIBILITY

There are some constraints on the reach of our authority. For example, although permitted to make parental like decisions, even a natural parent is not the legal “Guardian” or “Conservator” for disabled adult children. Until proven otherwise, as adults, we are free in the United States to make our own decisions (even bad ones) until there is an unusual intervention to protect us or those around us.

Guardians and Conservators are “court appointed” because it was determined that under certain conditions, an individual does not have the capacity to perform some of life’s important tasks or that circumstances exist that imperil our social structure. Questions of capacity are brought to the attention of the “state” by someone in the community through an application to the county’s District Court or a Mental Health Division of a District Court for intervention. When a Court determines limited competence, a court Judgment of “disability” is entered and at that point, because the Judge (the “Court”) cannot manage the individual’s personal affairs, it appoints another to act on behalf of the Court. However, the appointment is made at the will of the Court and the responsibility remains with the Court to assure the appointment is proper and that the personal affairs are adequately handled.

Because the responsibility ultimately remains with the Court, the Guardian/Conservator is simply a part of the legal system and must continue to report and account for his/her work on behalf of the Ward for the Court to monitor the individual’s care. An annual report must be filed by the Guardian to report on the Ward’s housing and care. A Conservator must report every two years or at the direction of the court on the Ward’s financial status. This responsibility remains as long as the appointment is in place.

WHO NEEDS GUARDIANSHIP?

Guardianship is not just for older people, however, our population is aging. A variety of mental and physical disabilities attach to the aging process. Dementia, brought on by Alzheimer's disease and weakened circulatory function can lead to irrational behavior and an inability to maintain the individual's former clean and protected lifestyle. Bipolar disorder and schizophrenia can also bring similar incapacities, especially when medications are refused. Often those with such conditions refuse to seek treatment or maintain necessary prescribed treatment.

Minors who reach eighteen (18) years of age are now of majority and, under the law, allowed to make personal decisions. Unfortunately, for some with special needs, incapacity is a fact and reaching the age of majority does not "cure" their life long incapacity that is due to permanent mental or physical limitations. Although in such cases, parents who have long provided for their special needs children will continue to provide, the law recognizes a legal right to self-determination at the age of majority. As such, the parents must take affirmative steps to be recognized under the law with power to act on behalf of their (now adult) child.

When steps are taken to be recognized as legally acting on the part of the incapacitated person, the principal of "least restrictive alternatives" must guide both the Petitioner and the Court. The designation should only reach so far as to provide the missing link between incapacity (informed decision making) and autonomy.

LESS RESTRICTIVE OPTIONS

Representative Payee: The Representative Payee is an individual appointed by the Social Security Administration, the Department of Veteran's Affairs or the Federal Employees' Accounting Office. These agencies do not recognize an "agent" under "power of attorney" instrument as having any authority regarding an individual's right to receive his or her Federal

payments. They will qualify an applicant pursuant to their own Federal policies.

Power of Attorney: A power of attorney is a legal document executed by a legally competent individual (the “principal”) empowering (authorizing) an “agent” (the “attorney-in-fact”) to act on behalf of the principal to the extent of the terms set out in the document. Often such instruments can avoid incapacity trials by authorizing an agent to take steps necessary to protect the principal from harm. The term “power of attorney” refers to the instrument, not the individual agent. Usual powers accommodate financial or business affairs and/or healthcare decisions or records access.

Durable Power of Attorney: Because an agent can only do what the principal can do, a Power of Attorney is durable if it remains valid and in effect even if a person becomes incapacitated and cannot make decisions for him/herself. The Power of Attorney has to explicitly state that it is “durable” or that it “survives any period of disability.”

Health Care Surrogate: A Health Care Surrogate is someone you name who can make your healthcare decisions when you are unable to do so for yourself. When choosing a Health Care Surrogate make sure you select someone you trust who knows you and will carry out your directions. Let that person know that they may be asked to make those decisions for you.

Advance Directive: Power of Attorney, Durable Power of Attorney, Health Care Power of Attorney or a Living Will gives instructions in case a person is incapacitated.

Living Will: A Living Will gives you a voice in decisions about one’s medical care when he/she is permanently unconscious or too terminally ill to communicate if extraordinary treatment should be continued. As long as one is able to express his/her own decisions, the Living Will will not be used and he/she can accept or refuse any medical treatment. But if someone becomes seriously ill, he/she may lose the ability to participate in decisions about treatment. The Kentucky Living Will Directive Act of 1994 was passed to ensure that citizens have the right to make decisions regarding their own medical care, including the right to accept or refuse treatment. This right to

decide — to say yes or no to proposed treatment — applies to artificial treatments that extend life, like a breathing machine or a feeding tube. In Kentucky a Living Will allows one to leave instructions in four critical areas:

- Designate a Health Care Surrogate
- Refuse or request life prolonging treatment
- Refuse or request artificial feeding or hydration (tube feeding)
- Express wishes regarding organ donation

Curator: A Court appoints a voluntary curator on request to handle a person’s financial or business matters if the person specifically asks for assistance. A curator is not a “Guardian.” If a person decides that properly managing his or her own financial, property or business affairs, has become too difficult, the person may submit a sworn petition to the District Court stating the reasons for his/her decision. The person may be of advanced age or have a physical disability that causes the problem. In that instance, the District Court may, upon that person’s own sworn petition, appoint a curator to handle financial and business matters for that person, subject to the watchful eye of the Court.

The Court will require a bond with surety from the individual appointed curator for the full and faithful performance of the trust confided in him or her.

The person seeking assistance must have the intellectual and emotional capacity to make that sworn petition. The appointment of a curator does not require a hearing. A curator is in a “management” role; therefore does not make decisions regarding the person’s medical or other personal matters.

For example: if your loved one has physical limitations making it difficult to tend to his/her business affairs, but is very sharp in the area of intellectual and emotional capacity, (i.e., “sharp as a tack”) the appointment of a curator may be a good approach.

WHEN DO WE DECIDE THAT LESS RESTRICTIVE ALTERNATIVES ARE NOT EFFECTIVE AND GUARDIANSHIP IS THE FINAL OPTION FOR AN ADULT?

From, “GUARDIANSHIP; A Guide for Citizens With Developmental Disabilities.” at page 6. Published by the Kentucky Department of Public Advocacy, Protection and Advocacy Division, revised 1984, Questions to consider in determining whether Guardianship or Conservatorship is necessary are:

- Is the disabled person able to provide adequately for his personal needs for physical health, food, clothing or shelter?
- Is the disabled person able to manage his financial resources effectively?
- Is the person going to be taken advantage of if no one is appointed to act on his behalf?
- Is assistance available through means other than Guardianship or Conservatorship? (See Less Restrictive Options starting Page 10-12)

Guardianship of an Adult

Uncle Albert is 80 years old and for the last two years his health has been failing. He is not eating well. Although in the past he avidly cared for his house and property, the house has begun to deteriorate and recently he paid a group of men \$25,000 in advance to paint the exterior. The men never returned and only after repeated questions to him did you discover that he had also sent a \$60,000 check to collect lottery winnings in Jamaica.

At Issue: Who will protect Uncle Albert and his property? Who will be watching to assure that he is not taken advantage of?

Guardianship of a Minor

Shawna and Will are twelve (12) year old twins whose mother and father lost their lives in an automobile accident when hit by a drunken driver. They lived in their own home in a wonderful neighborhood with friends. That awful night the teenage baby sitter answered the door to see two Kentucky State Police officers. Once the details were known, Shawna and Will's four grandparents who live in Texas and Alabama were contacted and plans were made to settle the family issues related to the accident.

At Issue: Who will make the life changing decisions for these children? Who will be the children's legal Guardian(s), Limited Guardian(s), or Conservator(s)? Was someone appointed under the parents' Will? What if each parent made different choices? What if there is no Will? What if the grandparents don't want the children? Or the grandparents are divorced?

Although hard to accept, these examples are real and action needs to be taken to protect both the children and the adult.

IDENTIFYING PARTIES INVOLVED IN A GUARDIANSHIP

“Applicant”: Although the Petitioner and Applicant are typically one and the same person, the roles are different and can be two (or more) different people.⁶ While the Petitioner will file AOC Form 740, the Applicant is the individual who asks to be appointed as Guardian, Conservator, Limited Guardian, or Limited Conservator to act on behalf of the “Respondent” and files AOC Form 745.

“Cabinet for Health and Family Services”: Kentucky's agency for the support of individual protections and social services. The agency is divided to include Adult Protective Services (“APS”) and the Department for Aging

⁶ A “joint” Petition as well as a “joint” Application may be filed if more than one person seeks relief or to serve.

and Independent Living (“DAIL”) which includes “State Guardianship” (also called Public Guardianship or Guardianship of Last Resort).

“Commissioner”: The “mental health Commissioner” is not a “Judge,” but is an attorney appointed by the Chief Judge of a judicial District to act in place of the District Court Judge who would normally handle the mental health docket. Doing so helps with the speed of the process as Judges are very busy. The Commissioner makes findings consistent with the jury’s determination and recommends appropriate Guardian/Conservator appointments to the Judge. The parties may challenge those recommendations. Although rare, the Judge schedules such challenges for a hearing. In more populated counties, unless there is a challenge to a ruling, the Commissioner will likely be the only “judicial identity” with whom the parties involving a matter of disability interact.

“Committee”: In years past, a Guardianship appointment was labeled as “Committee” for the Ward although usually acting as an individual. This term is no longer the preferred term but may appear in cases and limited references in a given statute. When encountered, the term refers to a Guardian or Conservator in a given case.

“Conservator”: The Conservator is responsible for the property and financial affairs of the Ward, not the personal care of the individual. Conservators may make decisions about spending the Ward’s income, contracts that affect the Ward, and the investment in, sale and management of real property.

“Conservator for VA Purposes”: Under KRS Chapter 388, the *Uniform Veteran’s Guardianship Act*, the Conservator is responsible only for accepting and accounting for the veteran’s VA funds, paying bills responsibly for the veteran and accounting to the Court and the Veteran’s Administration. The general statutes regarding Kentucky Guardianships do not govern the Conservator for VA Purposes. However, this does not diminish the responsibility that attaches to the role. There is no

determination of disability by a jury in VA Conservator cases. The United States Department for Veterans Affairs handles the question of disability.

“Emergency Conservator”: An Emergency Conservator is appointed in emergency cases involving a Respondent’s property or finances. The appointment is effective in cases of exploitation where a Respondent is suffering unfair financial mistreatment, theft or irrational waste or spending either by oneself or others.

“Limited Conservator”: A Limited Conservator may be for a limited purpose relating to financial matters. Typical examples are for the contracts related to certain resources such as real property or assistance with complex financial transactions.

“Counsel for the Respondent”: “Counsel for the Respondent” is the Respondent’s attorney. Unlike the Guardian ad litem (GAL), the role of Counsel is to advocate for the Respondent’s position, regardless of whether the attorney believes the position to be in the individual’s best interests or not. To that end, the Respondent’s “Counsel” is limited only by the Kentucky Bar Association’s rules of Ethical Conduct but otherwise advocates strongly on behalf of the Respondent.

“County Attorney”: Once a Petition to determine someone incapacitated has been filed, the matter is delivered to the County Attorney’s office for processing of the determination.⁷ In most counties, the County Attorney will perform the trial duties, from seating the jury panel to presentation of evidence (reports of the interdisciplinary team) and reviewing the qualifications of an Applicant for appointment as Guardian/Conservator.

“District Court”: In Kentucky, there are two primary trial court offices, the District Court with “limited jurisdiction” and the Circuit Court with “general” jurisdiction. The District Court is a court of “limited jurisdiction” because it handles smaller claims and less serious misdemeanor criminal

⁷ KRS 387.560(3) states that the County Attorney is to “assist” in the Petition. That may simply be answering questions or the complete management of the trial prosecution, depending on the county.

actions. The District Court has “civil” and “criminal” responsibilities. The “mental health” division of the District Court is a “civil” responsibility of the District Court. In some of the larger court houses, there may be a completely different office for “civil” cases versus “criminal” cases. In counties with higher populations, the “mental health” clerk may have a separate office in the “civil” branch of the court house.

“Estate”: Once appointed, the relationship of the Guardian/Conservator to the property of the Ward is an “Estate.” The Estate is analogous to a legal entity such as a corporation. The Estate Guardian/Conservator files accountings and, having separate trusts or businesses may have its own income and expenses separate from the Ward. In complex cases an accountant may be important.

“Fiduciary”: Fiduciary is a general term for the individual(s) appointed by the Court to act on behalf of the Court’s Respondent. The responsibility of a Fiduciary equals that of the Court in relation to the Ward or his/her property. A Fiduciary owes the highest level of honesty and dedication to the Ward. In the case of a minor Ward the relationship is analogous to a parent. Actions not specifically set out in statute or in the Order appointing the Fiduciary, must be approved by the Court. The “Fiduciary” may be a “Limited Guardian,” “Guardian,” “Limited Conservator,” “Conservator,” “Conservator for VA Purposes” or a “Curator.”

“Guardian”: The role of “full” Guardian is similar to that of a parent.⁸ Essentially, unless limited by the Court⁹ and subject to the ability of the Respondent to offer input, the Guardian will have complete control of the Ward’s choices of managing his/her personal affairs such as where to live, medical decisions, travel, access to (or by) others and financial decisions affecting the Ward’s property. Being a Guardian involves personal involvement in the life of the Ward. Such decisions may concern where should my Ward live or who will provide daily care for him/her. Who will have the right to visit and interact with the Ward? Who may take the Ward

⁸ Specific powers for Guardians are set out in detail in KRS 387.660.

⁹ KRS 387.650

for outings? Will I employ round- the-clock caregivers or who will carefully transport him/her to adult day care daily? What foods can potentially cause trouble? Where do I get the least expensive incontinence products? Is the nursing home providing the care I would be satisfied with or is there a reason I need to find other placement? How do I best keep my brothers and sisters up to date when they live so far away? ¹⁰

“Limited Guardian”: A Limited Guardian is appointed to assist in the personal care of a Ward after a Jury has determined a limited incapacity of the “Respondent.”¹¹

“Emergency Guardian”: An Emergency Guardian is appointed by the Court, for interim protection of a Respondent, between the time the Petition is filed and the disability trial by Jury. Because the time from filing to trial may take several months, some cases require that steps be taken to protect a truly incapacitated Ward or his/her property. An Emergency Guardian has limited powers to take such protective steps as are necessary. The Emergency Guardian may not sell real property and the appointment expires at the appointment of a permanent Guardian/Conservator.

“Co-Guardian or Co-Conservator”: An appointment may be made of multiple individuals to serve concurrently and equally as Guardian or Conservator. However, these arrangements can cause stress for the Ward and the Court. Disagreements between multiple guardians/conservators should be brought to the Court for resolution without threatening the ability of the co-guardians or co-conservators to work together. Both (all) Co-Guardians/Co-Conservators must sign checks or execute documents binding the Ward’s estate.

“Standby” Guardian or Conservator: It is sound practice for the Court to appoint a Standby Guardian/Conservator to substitute for the permanent appointments when the Guardian or Conservator is unable to act. This appointment can avoid further hearings in the event that the

¹⁰ See, KRS 387.640 for duties of Limited Guardian or Guardian

¹¹ Id. But *see also*, KRS 387.650 for how the Court “limits” the scope of a Limited Guardian.

Guardian/Conservator is unable to continue to serve. Unless there is an emergency situation, the “Standby” will not act over the Guardian/Conservator without authorization from the Court. This is because the Court should always be aware of who is acting for the Ward. A Standby Guardian is an individual who is standing in the wing to replace the primary Guardian should the Guardian be unable to continue serving. There is a preference in Guardianship proceedings to have a Standby Guardian involved. The appointment is for the security of the Ward’s continued consistent care and management. Powers of the Standby Guardian will be those of the Guardian when/if the substitution is made. Outside emergency, it is appropriate to petition the Court for an Order acknowledging the substitution.

“Guardian ad Litem”: A Guardian ad Litem (“GAL”) is appointed by the Court to protect the Respondent from abuses in the legal process. Although the GAL can be an advocate for the Respondent, the standard for the GAL’s role is to represent the “best interests” of the Respondent. In some cases, this role may be to argue against the Respondent’s freedom to return to status quo. In some cases, the GAL may admit that there is a level of incapacity and suggest that an appointment of a Guardian or Conservator is in the “best interests” of the individual while, at the same time, the individual is arguing, whether good or bad, against such an appointment.

“Interdisciplinary Evaluation Team (IDT)”: The Interdisciplinary Evaluation Team is comprised of three professionals: a social worker, a medical doctor, and a psychologist. These professionals will check medical records, examine the Respondent, review living arrangements, possibly interview others who know the Respondent and then each will write a report.

“Judge”: The Judge in the District Court is the individual elected by the citizens of Kentucky to preside over the Court. In Kentucky, the determination of whether the Respondent is “legally disabled” is a question for a Jury, not a judge. The Judge’s role is to assure that a Respondent receives “due process” as required by the Federal and Kentucky Constitutions and the laws of the Commonwealth of Kentucky. Only after a

determination is made by the Jury that an individual is incapacitated to some degree does the Judge's role turn to any substantive issue, such as that of choosing who will be appointed as Guardian/Conservator. In some Counties, the District Court is so busy with other matters, that an attorney is appointed as "**Mental Health Commissioner**" to represent the Judge's role at the trial. The Commissioner's recommendations are submitted to the judge for approval and the Judge signs an order appointing the Guardian/Conservator.

"Jury": In Kentucky, every determination of legal disability is a question for a jury of six citizens drawn from the usual quarterly jury panel assembled by the Circuit Clerk. The jury is selected for each trial and is subjected to questions from the Judge, County Attorney, Guardian ad Litem and any other attorney of record in the matter. Questions are focused assisting the parties in assuring a fair determination based on the evidence to be presented. The jury decision is limited to whether the individual is legally disabled (sometimes called "incapacitated") and if so, to what level, such as limited in capacity for personal affairs, financial affairs or both; or fully incapacitated for personal affairs, financial affairs, or both. The jury is excused before an appointment of a Fiduciary is involved. Once there is a "verdict" of "legal disability," the decision of who will serve as Fiduciary is for the Judge to determine.

"Mental Health Clerk": Matters involving legal disability are handled through the "Mental Health" division of District Court. Of course, not all disability matters involve "mental health", but by design the process is to be consistent. Because of the "confidential" nature of disability proceedings, it is normal that only one of the assistant Clerk's or a separate mental health office handles the administrative duties of the District Court involving Applications for disability determinations, and appointments of Guardians/Conservators and follow up, including accountings. The mental health clerk will be present at hearings.

"Petitioner": The Petitioner is the individual who signs the Petition to Determine if Disabled or the Petition/Application for Emergency

Appointment of Fiduciary for Disabled Persons.¹² He or she may also file the Application for Appointment of Fiduciary for Disabled Persons.¹³ Both forms are filed with the District Court Assistant Clerk who has responsibility for the District Court’s “mental health” docket. The Petitioner is asking the Court for a determination of whether an individual in the community needs someone to be appointed by the Court to assist that individual [the “Respondent”] in the management of their property or in managing his/her personal care or both. In a very limited number of cases, an individual may, themselves, voluntarily petition the Court to appoint a Guardian or Conservator and Standby Guardian¹⁴ or “Curator” who may perform similar responsibilities as a Guardian or Conservator.¹⁵

“Respondent”: A Respondent is the individual who is thought to need help in meeting his or her needs for personal care or management of his/her property estate. The term Respondent applies because once a Petition is filed and service of process is made upon an individual, he/she must “respond” to the allegations in the Petition.¹⁶

“Ward”: A minor or respondent who has been determined to be incapable of managing his/her personal or financial affairs (or both) may be referred to as a “Ward” of the Court having jurisdiction or [because the Commonwealth of Kentucky, through its Court, has asserted *parens patriae* (the parental role)] of the state. It is a term for a legally disabled person for whom a limited guardian, guardian, limited conservator or conservator has been appointed by a court.

¹² AOC Form 747

¹³ AOC Form 745

¹⁴ AOC Form 777

¹⁵ See, KRS 387.320 and 387.289 through 330 accommodate voluntary appointments without the necessity for jury trials. Curators may be appointed by the Court to protect the interests of prisoners while incarcerated.

¹⁶ As set out later, others may “respond” on behalf of the individual.

GUARDIANSHIP PROCESS FOR ADULTS

Once an Interested Party believes that an individual cannot adequately provide for him/herself such that, without help, the individual will be a danger to himself/herself or others, a “Petition” is filed to determine the need for Guardianship or Conservatorship.

Emergency Guardianship/Conservator Process for Adults:¹⁷

In some cases, the needs of the Respondent cannot wait for a full determination of the need for intervention.¹⁸ “Emergency” is an operative term. In those cases, a *“Petition/Application for Emergency Appointment of Fiduciary for Disabled Person”*¹⁹ is filed in addition to Forms 740 and 745 and a Judge has the authority to immediately issue an order appointing an Emergency Guardian or Conservator to protect the Respondent. Based on the facts in the Petition, “[t]he Court may exercise the power of a Limited Guardian or Limited Conservator or may appoint an individual or agency to exercise such powers if ... it appears there is danger of serious impairment to the health or safety of the respondent or damage or dissipation to his property if immediate action is not taken.”²⁰

In the case of Uncle Al, if someone is not appointed to act as his Conservator, his poor financial decisions may deplete the last of his resources that may be needed for long term care. Because of the nature of Disability Determinations and the rights they affect, the Judge is cautious to be certain an “emergency” actually exists. It is easy to see that Uncle Al is wasting his money and beginning to lose the ability to work in the yard, but his case may not be an “emergency.”

¹⁷ KRS 387.740

¹⁸ The process may take as long as ninety (90) days due to the requirement of having a physician, psychologist and social worker examine the Respondent and prepare their written reports.

¹⁹ AOC Form 747, found at the end of this manual.

²⁰ KRS 387.740

Given that it is a limited appointment, a Judge shall hold a hearing for the Respondent within “one week,”²¹ allowing the Respondent to protect against an unwarranted attack on his/her right of self-determination. To protect the rights of the Respondent, it is the Court who appoints Counsel for the Respondent. This attorney is assigned to interview the Respondent and determine if the Petition is warranted. A report is made to the Court and in “emergency” cases; because this is not a determination of “legal disability” the Court will approve or deny the Emergency Petition, based on the facts in the Petition, without a jury determination. However, following any appointment of an Emergency Guardian or Conservator for an adult, the full process of determining disability moves forward for the Respondent.

Permanent Guardianship/Conservator Process for Adults

The process of becoming a “permanent” Guardian or Conservator begins in the District Court of the County where the Respondent resides²² with filing a “*Petition to Determine if Disabled*” [AOC Form 740] and an “*Application for Appointment of Fiduciary for Disabled Persons*” [AOC Form 745] which can be found on the Kentucky Administrative Office of the Courts website.

The Petition is filed with the Mental Health Clerk in the County’s District Court Clerk’s office, and a filing fee is paid. The Petition begins a process that can take approximately ninety (90) days to complete because of the need to protect the legal rights of the Respondent.

Once a Petition and Application for Appointment are filed with the Clerk, the Petition is forwarded to the County Attorney, who prosecutes the action.

Then, within one week, the District Court Clerk²³ appoints an attorney as “Counsel” for the Respondent. If the Respondent has adequate funds, he/she may hire an attorney of choice. Additionally, the Clerk can appoint an

²¹ KRS 387.740(3)

²² KRS 387.520(2), or the County where the parent lives in cases involving Minors, Id. at (3)

²³ KRS 387.560(1)

attorney to be Guardian ad Litem to act objectively on behalf of the Court to assure that the rights of the Respondent are protected but also to provide an independent opinion.²⁴ The Counsel for Respondent and Guardian ad Litem may be paid from the County funds if the Respondent is indigent. Otherwise, the payment is made from the estate of the Respondent. However, if the Petition is determined to be frivolous, the Court may order the Applicant/Petitioner to pay the costs of the action as well as file criminal charges related to unjustifiably filing the action.²⁵

The Clerk also appoints an “interdisciplinary evaluation team” of professionals to evaluate the condition of the Respondent as it relates to physical, mental and social conditions. Team members, each of whom makes an individual, written report to the Court for use as evidence at the trial, answer questions relating to the medical, psychological and personal needs. Members are a medical doctor, psychologist and a qualified social worker.²⁶ Typically it is the responsibility of the Applicant to see that the appointments with team members are made and attended by the Respondent. In the case of a Respondent who refuses to attend the appointment or allow the evaluation, the Applicant may petition the Court for an order that will be enforced by the Sheriff accompanying the Respondent.

If no “emergency” appointment is necessary, the team members are expected to examine the Respondent’s conditions diligently and after completing their respective written reports, send them to the Clerk who then sets a court date for a disability trial by jury.²⁷

²⁴ The Counsel for the Respondent and the Guardian ad Litem are two separate roles. The Counsel for the Respondent represents the Respondent’s position in the action, which may be contrary to the Petition or the Applicant’s interest or desire. If the Respondent does not want Guardianship, the Counsel for the Respondent may not argue that Guardianship is in his/her best interests. That would be a prohibited “conflict of interest.” The Guardian ad Litem who on the other hand serves the role of protecting the Respondent’s interests but also the interests of the Court may argue that the best interest of the Respondent is to be determined to need a Fiduciary appointed.

²⁵ KRS 387.990

²⁶ See, KRS 387.540

²⁷ See, KRS 387.540(4) for the elements of the reports

The Clerk must set the trial within sixty (60) days of the date the Petition was filed.²⁸ Notice of the hearing must be given to “the attorneys for both parties, all persons named in the Petition, and the person proposed for appointment” not less than fourteen (14) days before the hearing.²⁹

At the trial, a six (6) person jury may make a determination of disability and the limits of disability.³⁰ The jury is drawn from the regular county jury pool. Once the jury is selected by the judge and the parties (who may object to someone being on the jury for reasons such as conflict of interest, prejudice or prior knowledge of the facts), an actual trial is held allowing the County Attorney or others to present facts from the reports and any other testimony³¹ that will assist the jury in deciding if the Respondent is disabled. Usually, the Social Worker who was on the interdisciplinary team will present the reports of the entire team. Although any team member may be required to testify, usually only the Social Worker testifies.³² Once the County Attorney finishes entering testimony, the Respondent may also provide testimony to support his/her position that he/she is not disabled and does not need a Guardian or Conservator. Finally, the Guardian ad Litem may make a report on behalf of the Court, objectively advising the Court of any level of the need or refuting the findings of the report or problems with the process followed such as irregularities in the interdisciplinary team or service of process.

Once evidence is closed, the jury goes to the jury room for isolated deliberations. The findings are returned to the judge and read to the parties. The jury may find complete or partial disability and may recommend full Guardianship, Limited Guardianship, full Conservatorship or Limited Conservatorship. If the jury determines that the individual is “disabled,” its

²⁸ KRS 387.550(1)

²⁹ KRS 387.550(2)

³⁰ See, KRS 387.580 for the Responsibilities of a jury and a list of what specific details are required in the “judgment.”

³¹ This trial is an actual jury trial with evidence and testimony. Witnesses may include other professionals as well as family members and friends who may testify for or against the question of disability. Although rules of evidence apply, the Court may be more lenient in allowing hearsay testimony because of the natural objective to assure the Respondent receives the help sought. However, constitutional protections are never far away.

³² The Respondent may require all team members to testify. KRS 387.570(6)

role is complete. The appointment of the individual who will serve in the recommended capacity is the role of the judge and the jury is excused from the court room.

If the jury does not find the Respondent “disabled,” the action is dismissed.³³ There is a basis for argument that once filed, a Petition to Determine Disability may not be dismissed until the final determination is made. This foundation is based on the constitutional right of an individual to a final action on such a Petition.

Who Should be Appointed?

If the Respondent is found to be disabled or partially disabled, the judge must make an immediate appointment.³⁴ The Judge may appoint the person who applies to be Guardian/Conservator according to the Application for Appointment or may address reasons to deny the Application and may appoint someone unrelated to the Respondent to serve as Guardian/Conservator. In most “contested” disability trials, this is the point of disagreement. Because an immediate appointment is necessary, the judge may appoint an interim or Temporary Guardian/Conservator and assign the decision to appoint a permanent Guardian/Conservator to be determined after a full hearing on that issue alone. Such hearings are often set on future dates because of the need to allow contesting parties to research and present their competing reasons for appointment.

In cases where there are competing Applications to the Court on who will serve as Guardian/Conservator, a legal hearing is set by the Court to allow the parties to present evidence of why their Application should be granted. Family disagreements often justify the Court in appointing unrelated third parties or professionals to act as Guardian/Conservator.

³³ KRS 387.580

³⁴ See, KRS 387.590 for types of Guardians and Conservators to be appointed and the order of appointment.

The choice of Guardian/Conservator is not an emotional one for the Court. The appointment is a “legal” question based in the “best interests of the Respondent.” The Court may appoint any “suitable” person willing to be appointed, giving due consideration to preferences set out in KRS 387.600. Although family members are often the Applicants, the Court is required to “reasonably” question the Respondent regarding his/her preference. A prior designation of agent under Power of Attorney is an indication of preference but is not mandatory for the Court. “The court shall appoint the person or entity best qualified and willing to serve.”³⁵

The Court may choose to appoint Co-Guardians or to divide the roles of Guardian (of the person) into Limited Guardian and Conservator (for the Ward’s property). Appeals may be taken from such decisions, but they are rare. Appeals are made to the Circuit Court but are based on law only because the District Court has “exclusive” jurisdiction over Guardianship appointments.

What happens when no one volunteers to be Guardian/Conservator? If no other person or agency steps forward to apply, the Kentucky Cabinet for Health and Family Services through its Division for Aging and Independent Living (DAIL) may, by default, be appointed by the Court to act as Guardian for any individual found to be legally disabled. This can be by Emergency appointment or as Permanent Guardian. The Cabinet may also be appointed because of concerns of an Applicant’s ability to provide the needed care without further Court intervention. Disability matters are not about the family members and sibling rivalries that have simmered for years. Guardianship appointments are all about the proper care of the Respondent and protection/management of the Ward’s estate.

Actions in the Mental Health/District Court are CONFIDENTIAL³⁶

Individuals who are brought before the Court are protected from public disclosure of their respective personal difficulties and particulars of their

³⁵ KRS 387.600(2)

³⁶ KRS 387.770 Confidentiality of records – Expungement of records – Disclosure of Information

estates. For a jury to make the determination about an individual's need for a Guardian, Limited Guardian, Conservator or Limited Conservator, details regarding that individual's personal, financial, medical and mental health matters are presented for a jury panel to hear and consider in that jury's decision on disability. Because the individual's private matters are subject to this kind of scrutiny, Guardianship proceedings and records are not available to the public. The hearings are closed and the records are sealed. Only the determinations of disability and orders of appointment, modification, and termination are public records.

Because of the confidentiality requirement, even the Applicant has no right to receive copies of the interdisciplinary team reports before trial. The Applicant is not a party to the action until and unless actually appointed as a Guardian/Conservator after the trial. Although others may be called as "witnesses," the action is solely between the Commonwealth of Kentucky and the Respondent, until a finding of disability is made.

Once the Guardian/Conservator(s) is/are appointed, the Judgment and Appointment are recorded in the records of the County Clerk³⁷ and the real work begins.

AFTER APPOINTMENT

Retained Rights

If a determination of "partial disability" is made by the jury, the Ward retains all rights not specifically limited in the judgment.³⁸ A determination of "fully disabled" does not deprive the Ward of the right to vote unless specifically stated in the judgment.³⁹

³⁷ See, KRS 387.590(8)

³⁸ KRS 387.590(11)

³⁹ Id.

Limits of Guardianship

Being appointed a Guardian does not give absolute control over every aspect of a Ward's life. There are limits under the United States and Kentucky Constitutions which are retained and "unalienable." Examples are: Guardians cannot automatically "commit" Wards into mental treatment or force their Wards to take their medication. When such issues arise, the Guardians need to ask the Court for guidance.

Bonding

A Full Guardian, Conservator or Limited Conservator (Fiduciary) appointed by the Court must execute a "bond" for the protection of the Ward's estate. Although a Court may not require a "surety"⁴⁰ for the bond, the Fiduciary will be personally bonding the Ward's property to the extent of its value. If the Court requires a surety for the bond, many insurance companies will be able to provide a policy to cover the value of the estate. The premium (cost of the insurance) is to be paid from the Ward's estate, not from the Guardian's/Conservator's personal funds. No officer of the Court may be accepted as surety for the bond of a Guardian or Conservator.⁴¹

Inventory and Appraisal

Within sixty (60) days after being appointed, the Guardian with financial responsibilities or Conservator must make an inventory of the Ward's estate and report to the Court. AOC Form 855 can be used for this report. (*see*, Appendix). Where appropriate, using professional appraisers may be necessary to determine the value of certain property such as jewelry and collections. The Property Valuation Administrator estimate of fair cash value for assets such as real property, cars, boats, and trailers is adequate to advise the Court on inventory.

⁴⁰ A "surety" is a guarantee from a person or insurance company that assures recovery of the value of the estate from the Fiduciary.

⁴¹ KRS 387.070

Accounts

The Guardian/Conservator should go to the bank and set up a separate bank account in the name of the Guardian/Conservator on behalf of the Ward not only to assure separation but also to establish authority for the Guardian/Conservator to make financial transactions with the Ward's accounts and property.

A typical account would be titled:

“(Fiduciary’s name), Guardian [*or Conservator*] on behalf of (Ward’s name)”

for example:

“John Smith, Guardian on behalf of Mary Smith”

Use the Ward’s Social Security Number when opening the account.⁴²

When signing any document, letter or other paper for the Ward, **always** sign the Ward’s name by you as court appointed guardian for name of the Ward.

For example:

“Mary Smith by John Smith as court appointed guardian for Mary Smith”

Conflict of Interest

Conflict of Interest should always be considered in making personal and financial decisions for a ward. A “conflict of interest” is when forces push, or **might appear** to push, a Fiduciary’s focus from benefitting the Respondent’s “**best**” interests” ... to benefitting the Fiduciary’s interests (even if only slightly or only “appearing” to). Key to the role of Fiduciary is that the ward’s interests are always put above the Fiduciary’s. **ALWAYS!** **If in any circumstance it appears that the Fiduciary will benefit from action taken on behalf of the Respondent/ward, an independent,**

⁴² Banks do not always understand that Guardianship accounts still belong to the Respondent.

objective, opinion must be infused into the circumstance and disclosure made by the Fiduciary of what the benefit will be and what the effect will be on the Respondent/ward and his/her estate. If the action of the Fiduciary (Guardian, Limited Guardian, Conservator, Limited Conservator or Curator) in any way adversely affects the interest of the Respondent/ward while benefitting the Fiduciary, there is a “conflict of interest” and the Fiduciary must decline to act unless approved by the Court.

Examples of conflicts might be:

- 1) Transferring the Ward’s property to the Fiduciary or someone related by family, business interest or otherwise connected by influence to the Fiduciary;
- 2) Being paid by others rather than by the Ward when the payor may benefit from conduct of the Fiduciary;
- 3) Family influences where siblings are of differing opinions on what to do with a dependent parent and their property;
- 4) Issues that may arise that negatively affect the Fiduciary such as where the Ward may live or the care expense required of the Fiduciary above that of the Ward, such that care may be denied;
- 5) Sibling rivalries and second marriage conflicts related to visitation access and estate succession.

WHAT CAN THE GUARDIAN DO FOR THE WARD

A good start is to review the KGA Guardianship Training Video on the KGA website at www.kyguardianship.org.

KRS 387.640 sets out the duties of a guardian or limited guardian. KRS 387.650 says that the limited guardian may have any duties that the guardian may have at the discretion of the Court. And KRS 387.660 list the specific powers and duties of a full guardian. Decisions for care and comfort, medical treatment, health care decisions, living arrangements, educational and social, vocational and rehabilitation services are examples.

KRS 387.680 list general duties and KRS 387.690 sets out specific duties of the conservator or limited conservator. Employment of caregivers, contracting for property services for the preservation of assets may be decisions for the Conservator if one is appointed. If full Guardianship is with a single person/entity all these decisions are for the Guardian.

The Guardian is charged with care of the Ward and this includes making medical decisions. This would include end of life decisions such as “Do Not Resuscitate” and life support issues in the event of terminal illness or permanent loss of consciousness. (See Page 42 for End of Life)

A Guardian **may not consent** to dramatic changes to the Ward’s affairs such as sterilization, psychosurgery, removal of a bodily organ, or amputation of a limb unless first authorized by the Court. When in doubt, it is wise counsel to seek an Order of the Court in taking dramatic steps affecting the life or substantial property of the Respondent.

A ward must reside within the state of Kentucky. It is necessary to inform the Court when a Ward is placed in a licensed residential facility. It is not necessary to seek a court order to transfer the Ward from one licensed institution to another.⁴³

Specific duties of a Limited Guardian or Limited Conservator are set out in KRS 387.690. Because the Ward has not been determined to be wholly disabled, the degree of intervention is adjusted accordingly by the Court.⁴⁴ The limited Guardian/Conservator is to give consideration to the extent of assistance necessary to protect the Ward and his/her estate.⁴⁵

FINANCIAL RESPONSIBILTIES OF A CONSERVATOR

A Conservator protects and manages the Ward’s property and financial affairs which includes paying the Ward’s bills and assuring that any

⁴³ KRS 387.660(1)

⁴⁴ KRS 387.690(3)

⁴⁵ Id. at (2)

available benefits for which the Ward is eligible are secured.. The Conservator is not charged with the responsibility of caring for the Ward personally, such as locating housing or providing food and clothing. Those are the Guardian’s responsibilities. The Conservator is charged with the provisions of KRS 387.700 as well as the requirements of Kentucky statutes as they govern the conduct of Trustees.⁴⁶ Under the Special Needs Trust statute, a Conservator is not empowered to create a Special Needs Trust, but may apply to the Court for an order authorizing the Conservator to take action to have the trust created to preserve funds for the Ward.

INCOME

The Ward’s income may be from employment, retirement, inheritance, public and private assistance, trust benefits or other sources. When acting as full Guardianship or Conservator, the Guardian/Conservator collects and accounts for all income.

Income from Public Benefits

1. **Social Security:** “Social Security” (“SS”) is the generic term⁴⁷ for the benefit for retired individuals or disabled individuals who are eligible by making contributions throughout periods of employment. These contributions have been set aside by the Federal Government into the Social Security Trust Fund. The amount of monthly benefit varies and is determined by the amount the individual paid into the system over the years. Generally, in order to receive the monthly check, the individual must have reached his Full Retirement Age (depending on year of birth) and elect to withdraw or has become permanently disabled and is no longer able to work.⁴⁸ Generally, a worker must have earned forty (40)

⁴⁶ Because the Conservator is effectively a “trustee” of the Respondent’s estate, *see also*, KRS Chapter 386, et seq.

⁴⁷ The real name is “Old Age, Survivors and Disability Insurance” [OASDI] *See*, 42 U.S.C. §401 et seq.

⁴⁸ An individual may elect to begin payments early at age 62 or delay withdrawal until age 70. But if the election is made to take early payments, the monthly payment is reduced. If the recipient waits beyond full retirement age, the monthly payment is increased by an annual rate of about 8%. A Fiduciary may have access to the SS records to determine the amount of benefits available or can easily access the information through the SS web site: WWW.SSA.gov

quarters of employment (a “quarter” is a measure of money, not calendar months) in order to be eligible for SS. But disabling events can cause this to change. A spouse may draw on his/her spouse’s benefit if the beneficiary spouse is drawing SS and a disabled child or spouse may also benefit through a parent or spouse. Details about Social Security benefits are complex and questions should be directed to the Social Security office or to a competent attorney or agent.

2. **Medicare and Medicare Supplement:** Medicare is the Medical benefit which is automatically available to each eligible SS beneficiary who reaches age 65. Generally, Medicare is not available before age 65 unless the individual has received Social Security Disability Payments for about 2½ years.⁴⁹ Medicare “Part A” pays primarily for hospitalization and major medical treatment, where “Part B” pays for doctor visits and diagnostics. Anyone who has paid into SS has also paid into Medicare and receives Part A without additional premium. Part B is an elective benefit and requires an additional premium to be paid monthly or deducted automatically from the monthly SS payment. Part A with Part B will pay 80% of the medical bill but in order to have the deductibles and co-pays met, the Respondent must be enrolled into a Medicare Supplement Plan with a private insurance company. This premium is paid from the Respondent’s funds. As an alternative, an individual may enroll in a Medicare Advantage Plan which is a private insurance that is compensated by Medicare and is ancillary to Medicare in insuring aged and infirm enrollees. Effectively the coverage is the same but private companies may vary in additional benefits such as gym memberships and dental coverage.

3. **Social Security Disability Insurance (“SSDI”):** Sometimes referred to as “OASDI,” [Old Age Survivors Disability Insurance] if the Respondent has not reached his/her retirement age and his/her disability prevents him/her from working, he/she may apply for and be awarded the right to draw from his SS account early as though he/she had reached

⁴⁹ Medicare does not pay for “skilled” nursing home benefits.

age full retirement age. This application requires a determination by SS either by filing the necessary forms for evaluation by the agency or, if denied the early benefit, by an administrative hearing before an Administrative Law Judge. Once a determination of eligibility is granted, if the individual is under age 65, there is a waiting period of up to approximately two and a half years before Medicare will begin. If the individual reaches 65 before the end of that period, he/she is automatically enrolled in Medicare.

4. **Supplemental Security Income (“SSI”):** SSI is a subsistence payment from the Federal Government’s “general fund budget” [not the SS trust fund] to assure that those without a work history or who have not had enough “quarters” in the workforce have food and shelter support.⁵⁰ In Kentucky, if a Respondent is eligible for SSI, he/she is automatically eligible for Medicaid. However, there are income and resource limitations which must be met in order to qualify for this supplement.

5. **Medicaid:** Medicaid is medical insurance “for the aged, blind or disabled” administered through the Kentucky Cabinet for Health and Family Resources’ Department for Medicaid Services. Medicaid is a “means tested” benefit that is available only if the Respondent meets certain resource and income limitations or is eligible for SSI. It is a Federal program funded jointly with Federal and State dollars to pay medical bills for those with low income and resources.⁵¹ There are other opportunities through special “waiver” programs such as “Michelle P;” “Acquired Brain Injury Waiver” and Acquired Brain Injury at Home;” “Home and Community Based Services Waiver,” and “Supports for Community Living,” “Money Follows the Person” for payments for home care when the individual would qualify for Nursing Home Benefits but is able to remain in the community because of other supports such as family members providing care; “Consumer Directed Options” a program similar to Money Follows the Person but is funded

⁵⁰ In order to participate in Social Security, the Respondent must have had 40 “eligible quarters” of payments into the fund. These quarters are based on the amount of payments by the Respondent over the years. To see more, go to the SS web site, WWW.SSA.gov.

⁵¹ Currently the resource limit is \$2,000. Income limits vary by program.

through the Area Agencies on Aging and Community Mental Health Centers. These programs can be explained and applied for through the Kentucky Cabinet for Health and Family Services,⁵² Department of Community Based Services. There are estate planning techniques available to qualify even those with resources. A qualified attorney can advise a Guardian in this regard. Some benefits also pay Medicare Part B premiums for low income individuals.

6. **HUD Housing Vouchers [“Section 8”]**: Housing Voucher program formerly known as “Section 8”, is a housing rental support payment through the Department for Housing and Urban Development and the Kentucky Housing Corporation. These programs assist with housing cost assistance. Typically access is made through public housing developments or private low-income housing agencies.

Savings and Investments; Assets

Similar to income, the Guardian/Conservator is responsible for collecting and controlling/investing/disposing of the assets of the Ward’s estate. Caution is encouraged when disposing of a Ward’s personal and real property due to the rights of descendants/heirs/beneficiaries in succession. The Guardian/Conservator has a limited right to dispose of personal property of the Ward, although discretion should be exercised as to valuable property such as family heirlooms or art. However, in the sale of real property, a qualified appraisal including market comparisons of similar properties in the neighborhood is appropriate. Disposition of real estate requires the Court to approve any sale of real property owned by the Ward under the Kentucky Revised Statutes Chapter 389A, relating to “Fiducial and Judicial Sales of Real Estate.”⁵³

The Guardian/Conservator should invest pursuant to generally accepted strategies, sometimes referred to as the “Prudent Person Rule.”

⁵² <http://www.chfs.ky.gov/dms>

⁵³ Sales of real property are not required to take place “on the court house steps” but may be sold through fair market sales by commissioned realtors and auctioneers. The sale must be “commercially reasonable.”

Consideration should be given to the history of the Ward's approach but also to the role of the Fiduciary in preserving more than growing assets.

Estate Planning

Certain kinds of estate planning techniques may be available to enable an otherwise ineligible Ward to become eligible for public benefits such as Medicaid when ordinarily the Ward's resources may exceed the eligibility standards. In order to assure that the Guardian maximizes every opportunity for the Ward to receive public benefits, contact an attorney familiar with public benefits and estate planning, such as an Elder Law Attorney or an attorney familiar with Special Needs Planning.

Special Needs Trusts

A "Special Needs Trust" also known as a "Supplemental Needs Trust" or "Sole Benefit Trust" is a specially designed trust permitted under the Social Security and Medicaid Rules to exempt the value of the resource held in trust (including cash) from being considered as an "available" resource for the Ward's support or nursing home payments. Where appropriate, the Court, the Guardian, a parent or grandparent as well as the disabled individual can create a Special Needs Trust⁵⁴ to protect the resources of the Ward to be used for "supplemental needs" and to use the public benefit at the same time without unreasonably exhausting the Ward's estate on expenses such as nursing home costs. For those over 65 years of age, in Kentucky, "pooled" special needs trusts offer similar benefits.⁵⁵ These statutory trusts are set up with the Ward's money. Consult with an attorney experienced in Special Needs planning for more details and to see if the Ward can benefit. While the Federal and state statutes permit a parent, grandparent, Guardian, Court and even the beneficiary to create a Special Needs Trust with the *Ward's funds* and exempt them from being considered a "resource" in exchange, the trust must provide that Medicaid is reimbursed from any remaining funds when the trust is terminated, up to the amount

⁵⁴ 42 U.S.C. 1396p (d)(4)(A) and (C) and KRS 387.855 et. seq.

⁵⁵ Id. at (C)

Medicaid has paid on behalf of the Ward.⁵⁶ These are called “1st party trusts” or “sole benefit trusts” because they are funded with the beneficiary Ward’s own funds and only he/she may benefit from the distributions.

Some disabled individuals may have similar trusts created by parents or others for the benefit of the Ward. Because these trusts are not funded with the Ward’s money or property, there is no requirement that Medicaid is reimbursed when the trust is terminated or the beneficiary Ward dies. These are not statutory trusts but are recognized as “discretionary” trusts where the terms grant “discretionary power” to the Trustee over distributions. These are called “3rd party trusts” because the funding comes from a “3rd party” not the beneficiary Ward.

In a “Trust,” the Trustee holds legal title to the asset(s) rather than the beneficiary Ward. That is why the trust asset is not considered “available” for SSI and Medicaid purposes. The trust document limits distribution for the benefit of the beneficiary Ward.

Bills, Expenses, and Liabilities

A Conservator files returns and pays taxes, and generally treats the income as it would be treated with reasonable administration of an estate, paying for the benefit of the Ward. In special circumstances, the Guardian/Conservator may have responsibility for support of other family members such as children or adults who are legitimate dependents of the Ward. In supporting legitimate dependents of the Ward, it is appropriate to seek Court authority for such expenditures and to maintain records needed for annual and biennial accounting to the Court.

When acting as full Guardian or Conservator, the Guardian/Conservator is empowered to “...spend sums from the financial resources of the Ward reasonable and necessary to carry out the powers and duties assigned to him/her by the Court and, unless a separate Conservator has been appointed,

⁵⁶ Id.

to manage the financial resources of this Ward.”⁵⁷ For practical reasons, the Ward’s funds should be separate from the funds of any other person, especially the Guardian/Conservator’s own funds. **Co-mingling of the Ward’s funds with other resources is prohibited.** Do not do this. **Keep receipts for each and every expenditure**, however small. The annual accounting and report by the Guardian/Conservator must have “back-up” documentation for all expenditures. The most perilous area of Fiduciary misconduct involves financial misconduct, ie. misappropriation of the Ward’s funds.

Fees

All Guardians/Conservators are entitled to be paid for their services and reimbursed for the expenses related to the care provided as Fiduciary. The limit on payment is six percent (6%) of the income collected, payable when collected and either 6% of the principal distributed or three-tenths of one percent (.3%) of the fair market value of the Ward’s real and personal property in the care of the Guardian/Conservator. If extraordinary services are rendered, the Guardian/Conservator may petition the Court for additional reasonable compensation for services rendered.⁵⁸

Annual/Biennial Reports and “Accounting” of the Ward’s Estate

The Guardian is responsible for reporting to the Court annually.⁵⁹ The report consists of filing AOC Form 790. The report includes disclosing the Ward’s location, age, social and physical condition, guardian’s visits and activities on behalf of the Ward, and whether the appointment should continue. If the Guardian is responsible for the Ward’s finances and property, a similar report called a Biennial Report is made every two years regarding the financial position of the estate. This consists of filing AOC Form 856. The financial report should include copies of receipts of payments and disclosure of any check or credit card payments.

⁵⁷ KRS 387.690(5)

⁵⁸ KRS 387.760(2)

⁵⁹ KRS 387.670

It should be noted that each county may expect different filing timelines and information. In order to be in compliance, it is best to ask the District Court Clerk when your reports should be filed.

How Long Does the Guardian/Conservator Appointment Last?

A Guardian or Conservator is usually appointed indefinitely; however, a Judge may set a period for appointment.⁶⁰ A Limited Guardian or Limited Conservator appointment is for a period not to exceed five (5) years.⁶¹ The period of the appointment should be stated in the appointment papers. If appointment is for a set period of time, a Petition must be submitted to the Court to extend the guardianship, if necessary.⁶²

“Standby” Guardian

There is a preference for the appointment of a Standby Guardian⁶³ (Limited Guardian, Conservator or Limited Conservator) for purposes of continuity. The Standby Guardian is listed on the Order Appointing the Guardian. Upon the inability of the appointed Guardian to act, within ten (10) days, the Standby Guardian must file an “acceptance” with the Court, with notice to the Ward and his/her nearest adult relative. After that, the Standby Fiduciary acts with all the authority of the permanent Fiduciary.

In an emergency, absence or unavailability of the permanent Guardian/Conservator, the Standby Guardian/Conservator may temporarily act on behalf of the Ward without further action by the Court.⁶⁴

Changing or Modifying the Guardianship or Conservatorship

⁶⁰ KRS 387.590(7)

⁶¹ Id.

⁶² KRS 387.610. Petition for renewal of appointment

⁶³ See, KRS 387.750

⁶⁴ KRS 387.750(3)

In the event there is a need to change or modify the court appointment, such as moving the Ward to a different county, appointing a different Fiduciary, a change from Conservator to full Guardian, the Fiduciary must apply to the Court for an Order authorizing the modification.⁶⁵ Because the responsibility for the Ward is with the Court, a change of Fiduciary or the level of Guardianship requires a court order. All such orders must be based on findings in the record and may require a full hearing because of the importance of the effect of Guardianship/Conservatorship on the individual Ward. Notice of any such effort to change must be filed with the current District Court Clerk on AOC Form 795 describing the need for change, sent to the Ward and his/her attorney, any Guardian ad Litem and the County Attorney. A hearing is held with the Judge and an order entered approving or denying the request. In the event the Ward is moved to a different Kentucky County, the Court file should be transferred promptly to the Court Clerk in the new county of residence. All future reports are then made in the new county of residence.

Transferring Guardianship from/to Another State

Although an out of state Guardian may “register” his appointment in Kentucky for various reasons,⁶⁶ sometimes it is necessary to transfer an existing Guardianship that originated in another State into the Kentucky court system or from Kentucky to another state’s court. See KRS 387.810 – 990. In 2011, Kentucky adopted the Uniform Adult Guardianship and Protective Proceedings Act which guides the transfer of Guardianship appointments into Kentucky when determinations of disability have been processed by other states. Once a state takes a Ward under its legal protection, protection stays with that state until released to a new state. An Order must be made releasing the jurisdiction (control) to Kentucky; Kentucky does not have a right to control an individual’s life until the order establishing jurisdiction is entered in the proper Kentucky District Court. The steps necessary include obtaining a “provisional” order from the former

⁶⁵ KRS 387.610 Petition for relief-Hearing on petition-Judgment or modification

⁶⁶ Kentucky has facilities that may be unique such as for management of special care for acquired brain injuries and special ventilator care. See, KRS 385.844 regarding registering foreign judgments.

state and allowing the transfer of the action to the Kentucky Court. A Fiduciary who knows that the Ward will reside in Kentucky should make arrangements in the former state to have the action transferred to Kentucky before moving the individual ward. An attorney should be retained in both states to assist in this relatively complex process.

How Can a Ward Recover His/Her Rights

Upon application to the Court, a Ward is entitled to challenge the continuing determination of disability or partially recover any rights restricted by the Court in the original judgment by using AOC Form 795 Application for Relief, Modification or Termination [*See*, Appendix]. The Ward is entitled to present such evidence as necessary to prove that competency has been restored. No jury is required for this process; the decision is up to the Judge.

“End-of-Life” Decisions

A Guardian has the authority to make an end-of-life decision relating to life support and medical treatment. Preferably the Ward would have an “advance directive” such as a Living Will to outline the individual’s preferences for extended treatments such as artificially provided nutrition and hydration (feeding tube) or ventilator, respirator, or other measures which may extend one’s life. However, in the absence of an advance directive, Kentucky law empowers the Guardian to act in the “best interests” of the Ward or, if possible, to “substitute” the Guardian’s judgment in place of the Ward’s choice of such treatment.⁶⁷ This is done by research, to the best of the Guardian/Conservator’s ability, to find as near as possible the preference of the ward before his/her legal disability. It is recommended that, unless there is an advance directive in place, this question be brought to the Court for consideration and approval.

⁶⁷ See, DeGrella By and Through Parrent v Elston, (Ky.1993) 858 S.W.2d 698.

Ending a Guardianship or Conservatorship

The Guardianship or Conservatorship can be closed upon the transfer of guardianship, recovery of rights by the Ward or the death of the Ward. In such an event, the Guardian/Conservator files a Motion with the Court setting out the reasons for the closure and, after filing the final accounting, and upon the Court's Order, the Guardian/Conservator shall be discharged and any bond with surety posted will be released.

Upon the death of a Ward / Funeral Expenses

Funeral Expenses: The Guardian/Conservator may pre-pay funeral expenses for the ward if reasonable. However, once the ward has died, the responsibility of paying the final expenses passes to the estate fiduciary [the "executor" or "administrator"].

Wills and Trusts: A discussion of the administration of a Ward's testamentary estate is beyond the scope of this manual. Consultation with a qualified attorney is recommended. However, upon the passing of the Ward, the Fiduciary relationship ends. The Conservator is required to file a final accounting of the Ward's property and transfer the remaining estate property to a duly appointed Executor (if the Ward has a Will) or Administrator (if the Ward did not have a Will.) An Executor or Administrator is a Fiduciary appointed by the District Court Probate Division who is empowered to act on behalf of the deceased Ward and distribute the residuary of the estate according to law.⁶⁸ If there is no known Executor or Administrator, the Court will refer the estate to the Public Administrator.

⁶⁸ If there is a Will, the person appointed is called an Executor (male); Executrix (female) or simply Personal Representative and the estate is distributed according to the terms of the Will. If the Respondent did not have a Will, the court will appoint an Administrator who will "administer" the closing of the estate according to laws provided in the Kentucky Statutes. Often, the Court will appoint the Guardian or Conservator to finish the estate because of the familiarity the Fiduciary has with the property and family.

GUARDIANSHIP OF A MINOR

Chapter 387.010 - 280 of the Kentucky Revised Statutes sets out the Guardianship process for appointing Guardians and Conservators for minors. Though under normal circumstances, a parent may act independently for their Minor Child, when the Minor Child [under age 18] has an estate independent of the parent, such as when the Minor Child recovers civil damages as a plaintiff in a lawsuit, the law does not recognize a Minor Child as having legal capacity (therefore “*legally* disabled”) to deal with his/her estate independent of a court appointed Conservator. If the Minor Child is without a parent as the result of death or termination of parental rights, the Court must appoint a Guardian for the (legally) incapacitated child. Unlike an adult who requires a jury trial to determine incapacity, a Minor Child under the age of eighteen (18) years has yet to reach legal capacity.⁶⁹

If a last surviving parent of a minor child dies, under KRS 387.040 the Court may look to the parent’s will or any other legal documents to determine if the parent had nominated or expressed a preference for a Guardian, Limited Guardian or Conservator for the minor. Once a minor attains age fourteen (14) the child can, under private examination with the judge, voice a preference, regardless of any nomination. But the decision is with the Court.

Otherwise, to start the Guardianship process, an applicant must file a Petition for Appointment of Guardian/Conservator for Minor and an Application for Appointment as Guardian/Conservator for Minor.⁷⁰ *See, KRS 387.025*

Although the Petition and Application may be filed by different persons, they must be filed together. The Petition and Application must be filed for the Court to make an appointment. The information contained in the form is primarily identification of the Applicant and the Estate of the Minor Child

⁶⁹ A Minor may be considered “emancipated” if married or on active military service. Emancipation terminates the natural parental responsibility.

⁷⁰ AOC Forms 852 and 853. Examples of these forms are found at the end of this Manual.

and a summary of the Minor Child's estate property. The applicant for Guardian of a minor must reside within the Commonwealth of Kentucky.

Notice of the time and place for a hearing on the Petition shall be given to the minor not less than five (5) days before the hearing, although the notice may be waived. In making the appointment, the Court considers the "best interest of the minor" considering the ability of the applicant to provide care and manage and preserve the minor's estate. Contested matters include the presentation of evidence by counsel for any party interested in the matter.

The appointment may be as Guardian, Limited Guardian, Conservator or Limited Conservator, depending on the facts presented.

Powers, Duties and Responsibilities of a Minor Child's Guardian/Conservator

Being appointed as a Fiduciary, Guardian or Conservator [full or limited], the work has just begun. The responsibility of Guardianship of a minor is the equivalent of parenting, except the financial responsibility. Additionally, the Guardian is not liable to third persons for acts of the Minor. While a "Limited" Guardian may only be responsible for the minor's welfare, full Guardianship will include the management of the Minor's estate property. As Conservator, the responsibilities are to manage, preserve, invest, expand and protect the Minor's property on behalf of the Court. The powers inherent in the respective appointment are derived from the Court and only entrusted to the Fiduciary by law.

Within sixty (60) days of being appointed, the Fiduciary must file an inventory of the Minor's real and personal property, including rights to financial accounts such as trusts. If added property comes to the Minor after that, a supplemental inventory must be filed within the following sixty (60) days.

KRS 387.065 summarizes at length the powers, duties and responsibilities of a Guardian of a minor. In particular, the Guardian shall accommodate

housing and protect the Minor's personal effects. In doing so, the Guardian shall expend the Minor's estate accordingly for support, education and care without needing the approval of the Court. The Guardian may accept social security and any public benefit support, trust and annuity distributions intended for the minor as would a parent. The Guardian may approve medical treatment, consent to marriage, adoption or enlistment for military service as well as pay child support owed by the minor.

Limitations on spending the minor's funds are reasonably based on the size of the estate; the Minor's age, needs, physical and mental limitations; future ability to earn a living; and other sources of funds available. The Guardian is prohibited from paying for a Minor's support if the parent is legally obligated and able to pay for that support.

Once the minor reaches eighteen (18) years of age, the Guardian shall turn over the estate to the Minor who is now a legal adult, unless the Minor is determined by law to be "incapacitated." If the Guardian believes the Minor will be incapacitated as an adult, the Guardian is to initiate a proceeding for appointment of a Fiduciary pursuant to KRS 387.500 through 387.770.

Restricted Accounts

The Court may require all of the funds belonging to a Minor to be placed into a "restricted" account with a financial institution. Such an account will only be accessed with the Court issuing a written order permitting a distribution from the account. As an example, if the Minor needs a vehicle for transportation to work or school, the Fiduciary petitions the Court for authority to purchase a vehicle. In the petition, the Fiduciary should summarize the expense, including taxes, license and insurance and document to the Court that such a vehicle is available and that insurance has been confirmed.

The property of a Minor (**Guardian's or Conservator's Trust**) is held by the Guardian or Conservator as a "Trust" and must be accounted for annually. See KRS 387.175.

Selling the Minor's Property

Generally, the Fiduciary may sell the Minor's personal property without seeking permission of the Court. However, it would not be advisable to sell valuable or unique personal property without Court approval.

Real estate interests of a Minor require a Judge's order. The Fiduciary must follow the more complex "judicial sale" provisions set out in KRS Chapter 389A with notice to all Interested Parties. Once an order authorizing the sale of real property of a Minor is issued, a deed cannot be granted until thirty (30) days have passed. It is recommended that any sale of a Minor's real property be with the assistance of an attorney experienced in such sales.

Investing the Minor's Funds

Fiduciaries are guided in investments by KRS 386.020. Such investments are federal bonds, state bonds, certificates of deposit, notes secured by a mortgage or trust deed, loans secured by real estate or leases that are insured by federal housing administration, real property (after Court approval), life insurance and annuities, notes guaranteed by the United States, U.S. Government securities or such government agency securities.

Guardian/Conservator Compensation

All Fiduciaries are entitled to be paid for their services and reimbursed for the expenses related to care provided as Fiduciary. The limit on payment is six percent (6%) of the income collected, payable when collected and either 6% of the principal distributed or three-tenths of one percent (.3%) of the fair market value of the Minor's real and personal property in the care of the Fiduciary.⁷¹ If extraordinary services are rendered, the Fiduciary may

⁷¹ KRS 387.760(2)

petition the Court for additional reasonable compensation for services rendered.⁷²

Removing a Guardian or Conservator

The Guardian must reside within the Commonwealth of Kentucky. A non-resident may not serve as Guardian for a Kentucky Minor. Additionally, the District Court shall remove the minor's Guardian if he/she moves out of the Commonwealth or becomes incapable of discharging the duties or if the Court deems the removal to be in the best interests of the minor. A Fiduciary may resign only after filing a final accounting with the Court and the Court accepting the final accounting. The Court must appoint a successor Guardian immediately upon removal or resignation.

⁷² Id. at (3)

THE GUARDIAN'S SUMMARY "TO DO LIST"

- 1) Open a separate Guardian's checking account titled in your name as Guardian for the Ward. "John Doe, Guardian for Mary Doe" and use Mary Doe's Social Security Number to open the account.
- 2) Use AOC Form 855 to file an Inventory within 60 days of your appointment.
- 3) Pay all the expenses for the Ward from that Guardianship Account.
- 4) Within one year of your appointment, use AOC Form 790 to file your annual report on the Ward's location, condition and financial report.
- 5) Within two years of your appointment or at the direction of the Court, use AOC Form 855 to file your biennial report on the status of the Ward's real property, personal property, monies owed, cash on hand, and claims pending.
- 6) Create a plan for preserving the Estate, including any personal property and real estate.
- 7) Invest the Ward's money into an interest-bearing account or, if appropriate, an investment account.
- 8) If possible, have the "Standby" Guardian appointed by the Court in the event the Guardian is unable to act.
- 9) DO NOT use the Ward's money for your own purposes or loan the Ward's funds for use by others. This is conduct interpreted as exploitation and abuse.
- 10) Any "gifts" of the Ward's resources must be approved by the Court.
- 11) In order to sell any real estate owned by the Ward, a Guardian must have a Court Order approving the sale and all heirs must be notified of that intention.
- 12) A Guardian is limited in what the Guardian can approve. Abortion and sterilization are two such serious treatment strategies that require

court intervention. Electro convulsive therapy and most psychotropic pharmacy intervention requires court approval. A Guardian cannot force a Ward to take their medication or seek mental health treatment. When in doubt, seek input from the Court.

- 13) If you perform extraordinary services for the Respondent, beyond the normal Guardianship services, seek court approval for any additional fees beyond the amount permitted by the statute.
- 14) Consider pre-paying funeral/final expenses.
- 15) If in doubt about whether you can do something, ask the Judge.

1. ADDITIONAL RESOURCES

Administration on Aging. The **Administration on Aging (AoA)** is an agency of the United States Department of Health and Human Services. AoA works to ensure that older Americans can stay independent in their communities, mostly by awarding grants to States, Native American tribal organizations, and local communities to support programs authorized by the Congress in the Older Americans Act. AoA also awarding discretionary grants to research organizations working on projects that support those goals. It conducts statistical activities in support of the research, analysis, and evaluation of programs to meet the needs of an aging population. www.aoa.gov

American Bar Association Commission on Law and Aging. The ABA Commission provides a forum for legal professionals to communicate and share ideas on two active listserves—**Elderbar**, an open discussion listserve for professionals in law and aging, and **Collaborate**, a listserve on aging, disability and dispute resolution. It has been a leader in addressing national issues of Guardianship.

http://www.americanbar.org/groups/law_aging.html

Center for Guardianship Certification. The mission of the Center for Guardianship Certification is to enhance the quality of Guardianship services by providing examination and certification of Guardians and fiduciaries. <http://www.guardianshipcert.org/index.cfm>

Kentucky Cabinet for Health and Family Services. The Cabinet for Health and Family Services (CHFS) is home to most of the state's human services and health care programs, including Medicaid, the Department for Community Based Services and the Department for Public Health. CHFS is one of the largest agencies in state government, with nearly 8,000 full and part-time employees. <http://chfs.ky.gov/>

Kentucky Guardianship Association, Inc. The KGA is a private non-profit, voluntary organization formed in Kentucky to promote improved practice in Guardianship. <http://kyguardianship.org>

Kentucky Justice Center for Elders and Vulnerable Adults. The Kentucky Justice Center is dedicated to research and educational efforts intended to make a difference in the lives of older Kentuckians. Textbooks and research speak to the huge problem of abuse, neglect and exploitation of the elderly whether it takes the form of emotional, financial, mental, physical, sexual or social mistreatment.

<http://www.mc.uky.edu/publichealth/jceva.html>

Kentucky Protection and Advocacy (P&A). The Kentucky Protection and Advocacy's mission is to protect and promote the rights of Kentuckians with disabilities through legally based individual and systematic advocacy and education. www.kypa.net

National Guardianship Association, Inc. The mission of the National Guardianship Association is to advance nationally recognized standards of excellence in Guardianship and offers numerous resources to assist those appointed to the care of Guardians,

Conservators and fiduciaries. NGA represents more than 1000 professional, volunteer, and family Guardians, Conservators, and fiduciaries from across the United States. <http://www.guardianship.org/>

National Academy of Elder Law Attorneys. The National Academy of Elder Law Attorneys, Inc. (NAELA) was founded in 1987 as a professional association of attorneys who are dedicated to improving the quality of legal services provided to people as they age and people with special needs. NAELA membership is comprised of attorneys in the private and public sectors who deal with legal issues affecting people as they age and people with disabilities. Members also include judges, professors of law, and students. <http://www.naela.org/>

Public Guardianship after 25 Years: In the Best Interest of Incapacitated People? (2010). Praeger Publishing Company. Authors: Teaster, P.B, Wood, E.; Schmidt, W., Lawrence, S.A., Mendiondo, M. [four of the five authors are Kentucky residents].

STATE STATUTES AND CASE LIST FOR GUARDIANS AND CONSERVATORS

KRS 387.10 – 387.125

Chapter 387: Guardianship

387.010: Definitions for KRS 387.010-387.280

- 68 ALR 1309- Admissibility and Prob Force
- Law Review- A survey on key issues in Ky. elder law (Nacev & Retting)
- Shaw v. Dixon (1870) 69 Ky. 644.
- Mitchell By and Through Fee v Mitchell (Ky. App. 1998) 963 S.W. 2d 222.
- Morgan v. Getter, 441 S.W.3d 94, 106, 2014 Ky. LEXIS 439, *30 (Ky. Sept. 18, 2014)
- Wagner v. Hannifan, 2015 U.S. Dist. LEXIS 27405, *14-15 (W.D. Ky. Mar. 6, 2015)
- A.J. v. King, 2015 U.S. Dist. LEXIS 28628, *9 (W.D. Ky. Jan. 12, 2015)
- McCracken v. Wickey, 2013 Ky. App. Unpub. LEXIS 300, *3, 2013 WL 1488033 (Ky. Ct. App. Apr. 12, 2013)

387.020- Jurisdiction of District Courts Over Guardians etc.

- Vaughn v Webb, (Ky. App. 1995) 911 S.W. 2d 273.
- Quinn v Franzen, (Ky. 1970) 451 S.W. 2d 665.
- Stuart v Richardson, (Ky. 1966) 407 S.W. 2d 716.
- Baker v Md., Casey Cnty., (Ky. 1954) 264 S.W. 2d 784.
- Poynter v Smith, (Ky. 1942) 290 Ky. 169, 160 S.W. 2d 380.
- S. Covington & Cincinnati St. R.R. Co. v Lee, (Ky. 1913) 153 Ky. 621/ 1565. W. 99.
- Estridge v Estridge, (Ky. 1903) 25 Ky. L. Reporter 1026, 76 S.W. 1101.
- Louisville & Nashville R.R. Co. v Kimbrough, 115 Ky. 512, 74 S.W. (1903) 229.
- City of Louisville v Sherley's Guardian, (Ky. 1882) 3 Ky. L. Reporter 566, 80 Ky. 71.
- Wilson v Brown, (W.D. Ky. 1952) 106 F.Supp. 500.
- Hicks v. Halsey, 402 S.W.3d 79, 83, 2013 Ky. App. LEXIS 90, *8-9, 2013 WL 2659860 (Ky. Ct. App. June 14, 2013)
- McCracken v. Wickey, 2013 Ky. App. Unpub. LEXIS 300, *3-4, 2013 WL 1488033 (Ky. Ct. App. Apr. 12, 2013)
- Scott v. Montgomery Traders Bank & Trust Co., 956 S.W.2d 902, 904, 1997 Ky. LEXIS 162, *4 (Ky. Dec. 18, 1997)

- Fischer v. E. State Hosp., 2011 U.S. Dist. LEXIS 31814, *6 (E.D. Ky. Mar. 25, 2011)
- Stuart v. Richardson, 407 S.W.2d 716, 716-717, 1966 Ky. LEXIS 185, *2-3 (Ky. 1966)

387.025-Application for Appointment as Guardian

- Mitchell By and Through Fee v Mitchell, (See section 387.010)
- Scott v Montgomery Traders Bank & Trust Co., (Ky. 1997) 956 S.W. 2d 902.
- Quinn v Franzen, (See section 387.020).
- Settle v Triplett, (Ky. 1968) 426 S.W. 2d 423.
- Logsdon v Logsdon, (Ky. 1960) 334 S.W. 2d 919.
- Hume v Chenault, (Ky. 1947) 305 Ky. 68 202 S.W. 2d 1018.
- HoRespondent v HoRespondent, (Ky. 1945) 300 Ky. 60, 187 S.W. 2d 276.
- Simmons v Simmons, (Ky. 1919) 185 Ky. 449 215 S.W. 86.
- Mason v Williams, (Ky. 1915) 165 Ky. 331 176 S.W. 1171.
- Leavel v Bettis, (Ky. 1867) 66 Ky. 74.
- McCracken v. Wickey, 2013 Ky. App. Unpub. LEXIS 300, *4, 2013 WL 1488033 (Ky. Ct. App. Apr. 12, 2013)
- Ford v. Alquizar, 2013 Ky. App. Unpub. LEXIS 590, *14-16, 2013 WL 3480290 (Ky. Ct. App. July 12, 2013)

387.032- Matters to be Considered by Court When Making Appointment

- McCary v Mitchell, (Ky. App. 2008) 260 S.W. 3d 362.
- Ridgeway v Walter, (Ky. 1939) 281 Ky. 140, 133 S.W. 2d 748.
- McCracken v. Wickey, 2013 Ky. App. Unpub. LEXIS 300, *4, 2013 WL 1488033 (Ky. Ct. App. Apr. 12, 2013)
- M.Y. v. W.L., 2015 Ky. App. Unpub. LEXIS 657, *3, 2015 WL 5308067 (Ky. Ct. App. Sept. 11, 2015)

387.040- Appointment by Will

- Addison v Allen, (Ky. 1943) 293 Ky. 325, 168 S.W. 2d 1005.
- Thompson v Childers, (Ky. 1929) 231 Ky. 179, 21 S.W. 2d 247.
- Mason v. Williams, (See section 387.025)
- Hudson's Guardian v Hudson, (Ky. 1914) 160 Ky. 432, 1695 S.W. 811.
- Bush v. Bush, 63 Ky. 269, 2 Duv. 269, 1865 Ky. LEXIS 64 (Ky. 1865)
- Branham v. Stewart, 307 S.W.3d 94, 96, 2010 Ky. LEXIS 45, *3 (Ky. Mar. 18, 2010)
- McCracken v. Wickey, 2013 Ky. App. Unpub. LEXIS 300, *3, 2013 WL 1488033 (Ky. Ct. App. Apr. 12, 2013)

387.050- Nomination by Minor 14 Years or Younger

- Hume v. Chenault, (See section 387.025)

- Hunt v Irwin, (Ky. 1946) 301 Ky. 726, 193 S.W. 2d 154.
- Stringer's Guardian v Stringer, (Ky. 1936) 263 Ky. 355, 92 S.W. 2d 339.
- Kash v Kash's Guardian, (Ky. 1935) 260 Ky. 377 85 S.W. 2d 866.
- Central Trust Co. of Owensboro v McCarroll, (Ky. 1910) 141 Ky. 278, 132 S.W. 541.
- Garth's Guardian v Taylor, (1903) 115 Ky. 128, 72 S.W. 777.
- Mays v. Mays, 10 Ky. Op. 577, 1880 Ky. LEXIS 237 (Ky. 1880) (decided under prior law).
- Howard v. Howard, 300 Ky. 60, 63-64, 187 S.W.2d 276, 277, 1945 Ky. LEXIS 818, *7 (Ky. 1945)

387.065- Powers, Duties and Responsibilities

In General:

- Johnson v Johnson, (Ky. 1943) 294 Ky. 77, 170 S.W. 2d 889.
- Doty's Adm'rs v Doty's Guardian, (Ky. 1904) 26 Ky. L. Reporter 63, 118 Ky. 204, 80 S.W. 803.
- Cunningham's Devises v Cunningham's Heirs, (Ky. 1856) 57 Ky. 19.
- Lindsey v Stevens, (Ky. 1837) 35 Ky. 104.

Duties of Guardian

- Brown v Mays, (Ky. 1872).
- Harris v Berry, 82 Ky. 137, 6 KLR 157 (1884).
- Boaz's Adm'r v Milliken, 83 Ky. 634, 7 KLR 777 (1886).
- Durett v Com., 90 Ky. 312, 14 S.W. 189 (1890).
- Fidelity Trust & Safety Vault Co. v Glover, 90 Ky. 355, 14 S.W. 343 (1890).
- Hemphill v Lewis, (Ky. 1870) 70 Ky. 214.
- Hanna v Spotts Heirs, 9 Ky. 1845) 44 Ky. 362.
- Jennings' Ex'r v Davis & Wheeler, 35 Ky. 127 (1837).
- Clay v Clay, (1838) 36 Ky. 172.
- Windsor v McAtee, 59 Ky. 430 (1859).
- Lee & Graham v Fox, 36 Ky. 172 (1838).
- Higgins v McClure, 70 Ky. 379 (1870).
- Hughes v Smith, 32 Ky. 251 (1834).
- Finnell v O'Neal, 76 Ky. 176 (1877).
- Fletcher v. Lippert's Guardian, 251 Ky. 469, 65 S.W.2d 450, 451 (Ky. 1933)

Powers of Guardian

- Williams v First National Bank & Trust Co. of Lexington, (Ky. 1959) 328 S.W. 2d 152.
- W.T. Sistrunk & Co. v Navarra's Comm., (Ky. 1937) 268 Ky. 753, 105 S.W. 2d 1039.
- Riedlin's Guardian v Cobb, (Ky. 1928) 222 Ky. 654, 1 S.W. 2d 1071.
- Hudson's Guardian v Hudson, (Ky. 1914) 160 Ky. 432, 169 S.W. 891.

- Fidelity Trust & Safety Vault Co. v Glover, 90 Ky. 355, 14 S.W. 343 (1890).
- Durett v Commonwealth, (Ky. 1890) 12 Ky. L. Reporter. 207, 90 Ky. 312, 14 S.W. 189.
- Irvine v McDowell, 34 Ky. 629 (1836).
- Thompson v Pettibone, 79 Ky. 319, 2 KLR 341 (1881).
- Moore v Moore, (Ky. 1852) 51 Ky. 651.
- Tanner v Skinner, 74 Ky. 120 (1874).
- Adm'r v Patton's Heirs, (Ky. 1842) 42 Ky. 160.
- Stewart v. Branham, 2007 Ky. App. LEXIS 80, *8, 2007 WL 704016 (Ky. Ct. App. Mar. 9, 2007)
- Kindred Nursing Ctrs., L.P. v. Leffew, 398 S.W.3d 463, 468, 2013 Ky. App. LEXIS 64, *7, 2013 WL 1688361 (Ky. Ct. App. Apr. 19, 2013)

Custody of Respondent

- Fletcher v Lippert's Guardian, (Ky. 1933) 251 Ky. 469, 65 S.W. 2d 450.
- Fitzpatrick's Guardian v Baker, (Ky. 1929) 227 Ky. 788, 14 S.W. 2d 181.
- Shelton v Hensley, (Ky. 1927) 221 Ky. 808, 299 S.W. 979.
- Garth v City Sav. Bank, (Ky. 1905).
- Hicks v. Halsey, 402 S.W.3d 79, 83, 2013 Ky. App. LEXIS 90, *8-10, 2013 WL 2659860 (Ky. Ct. App. June 14, 2013)
- McCracken v. Wickey, 2013 Ky. App. Unpublished. LEXIS 300, *3, 2013 WL 1488033 (Ky. Ct. App. Apr. 12, 2013)

Maintenance and Education of Respondent

- Clark v Thompson, (Ky. 1948) 309 Ky. 850, 219 S.W. 2d 22.
- Walker v Browne, (Ky. 1868) 66 Ky. 686.

387.070- Bonding of Guardian or Conservator

In General

- Vaughn v Webb, (Ky. App. 1995) 911 S.W. 2d 273.
- Ridgeway v Walter, (Ky. 1939) 281 Ky. 140, 133 S.W. 2d 748.
- Langston v Kelly, (Ky. 1938) 272 Ky. 109, 113 S.W. 2d 471.
- Rider's Ex'r v Sherrard's Guardian, (Ky. 1929) 231 Ky. 112, 21 S.W. 2d 147.
- Taylor v Taylor's Ex'r, 45 Ky. 559 (1846).
- Mahan v Steele, 109 Ky. 31, 58 S.W. 446 (1900).
- Elbert v Jacoby, (Ky. 1872) 71 Ky. 542.
- Brooks v. Troutman, 104 Ky. 392, 47 S.W. 271, 20 Ky. L. Reporter 640, 1898 Ky. LEXIS 178 (Ky. 1898).
- Branham v. Stewart, 307 S.W.3d 94, 104, 2010 Ky. LEXIS 45, *31 (Ky. Mar. 18, 2010)

Liability of Surety for Guardian

- National Surety Co. v McNeill's Guardian, 251 Ky. 509, 65 S.W. 2d 721.
- Polk v American Cas Co. of Reading, Pa., (Ky. 1991) 816 S.W. 2d 178.
- Poynter v Smith, (Ky. 1942) 290 Ky. 169, 160 S.W. 380.
- U.S. Fidelity & Guarantee Company v Drinkard, (Ky. 1933) 250 Ky. 695, 63 S.W. 2d 916.
- Jones v Gallatin County, 78 Ky. 491 (1880).
- Abshire v Rowe, (Ky. 1902) 23 Ky. L. Reporter 1854, 112 Ky. 545, 66 S.W. 394, 99 Am.St.Rep 302.
- Wills v Evans, (Ky. 1897) 18 Ky. L. Reporter. 1067, 38 S.W. 1090.
- McChord v Fisher's Heirs, 52 Ky. 193 (1852).
- Cotton's Guardian v Wolf, (Ky. 1878) 77 Ky. 238.
- Greenly v Daniels, (Ky. 1869) 69 Ky. 41.
- McDonald v Meadows, (1858) 58 Ky. 507.
- Johnson v. Johnson's Heirs, 31 Ky. 364, 1 Dana 364, 1833 Ky. LEXIS 91 (Ky. 1833)
- Boyd v. Withers, 103 Ky. 698, 46 S.W. 13, 20 Ky. L. Reporter. 511, 1898 Ky. LEXIS 115 (Ky. 1898)
- Rudy v. Rudy, 145 Ky. 245, 140 S.W. 192, 1911 Ky. LEXIS 827 (Ky. 1911).

Liability of surety for judge

- American Sur. Co. of N.Y. v Skaggs' Guardian, (Ky. 1933) 247 Ky. 687, 57 S.W. 2d 495.

Liability of Judge

- Vaughn v Webb, (Ky. App. 1995) 911 S.W. 2d 273.
- Baker v Md. Gas Co., (Ky. 1954) 274 S.W.
- Rider's Ex'r v Sherrard's Guardian, (see section 387.070)
- Com ex rel Lee v Lee, (1905) 120 Ky. 443, 89 SW 731.
- Com. V Lewis' Adm'r, (Ky. 1897) 19 Ky. L. Reporter. 170, 39 S.W. 38.
- Cosby v Com., (Ky 1891) 12 Ky. L. Reporter 808, 91 Ky. 235, 15 S.W. 514.
- Daneils v Vertrees, 69 Ky. 4 (1869).
- Best v Robinson, 114 Ky. 11, 69 S.W. 1087.
- Com v Neth.'s Adm'r, (Ky. 1888) 10 Ky. L. Reporter 123, 87 Ky. 195.
- Cosby v Com ex rel Morris, 91 Ky. 235, 15 S.W. 514, (1891).
- Kimball v Thruman, 98 Ky. 578, 33 S.W. 834 (1896).
- Com. use of Buckler v Tilton, 111 Ky. 341, 63 S.W. 602 (1901).
- Burdine v Pettus, (Ky. 1881) 79 Ky. 240.
- Kinnison v Carpenter, 72 Ky. 599 (1873).
- Cosby v Com., 91 Ky. 235, 15 S.W. 514 (1891).
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- Farley v. Lewis, 102 Ky. 234, 19 Ky. L. Reporter 1255, 44 S.W. 114, 1897 Ky. LEXIS 140 (Ky. 1897)

387.080 Recovery of Damages on Bond

- Polk v American Casket Co. of Reading, Pa., (Ky. 1991) 816 S.W. 2d 178.
- Webber v Commonwealth, (Ky. 1936) 265 Ky. 696, 97 S.W. 2d 422.
- Kash v Kash's Guardian, (Ky. 1935) 260 Ky. 377, 85 S.W. 2d 866.
- U.S. Fidelity & Guarantee Co. v Drinkard. (See 387.070)
- Fidelity & Cas. Co. of N.Y. v Miller's Guardian (Ky. 1930) 235 Ky. 109, 29 S.W. 2d 595.
- Rudy v Rudy, (Ky. 1911) 145 Ky. 245, 140 S.W. 192.
- Boyd v Withers, (Ky. 1898) 20 Ky. L. Reporter 511, 103 Ky. 698 46 S.W. 13.
- Wills v Evans, (see section 387.070).
- Nelms v Vanmeter, (1895) 31 S.W. 874, 17 Ky. L. Reporter 498.
- Hughard v Spratt, (Ky. 1880) 78 Ky. 313.
- Cotton's Guardian v Wolf, (Ky. 1878) 77 Ky. 238.
- Hood v Hood, (1876) 9 Ky. Op. 65.
- Withers v Hickman, 45 Ky. 292 (1845).
- Elbert v Jacoby, (Ky. 1872) 71 Ky. 542.
- Duncan v Petty's Heirs, 33 Ky. 224 (1835).
- McDonald v Meadows, (Ky. 1858) 58 Ky. 507.
- Johnson v Johnson's Heirs, (Ky. 1833) 31 Ky. 364.
- Bolmer v U.S. Fidelity & Guarantee Co. of Baltimore, Md., (W.D. Ky. 1935) 11 F.Supp.560).
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387.090 Removal of Guardian, Limited Guardian or Conservator

- Poynter v. Smith, 290 Ky. 169, 160 S.W.2d 380, 1942 Ky. LEXIS 358 (Ky. 1942)
- Stringers' Guardian v Stringer, (Ky. 1936) 263 Ky. 355, 92 S.W. 2d 339.
- Bell v Bell's Guardian, (Ky. 1915) 167 Ky. 430, 180 S.W. 803.
- Davis Adm'r v Davis, (Ky. 1915) 162 Ky. 316, 172 S.W. 665
- Anderson's Committee v Anderson's Adm'r, (Ky. 1914) 161 Ky. 18, 170 S.W. 213.
- Central Trust of Owensboro v McCarroll, (see section 387.050).
- Clay's Guardian v Clay, (Ky. 1905) 28 Ky. L. Reporter 398, 89 S.W. 500.
- U.S. Fidelity & Guar. Co. v Carter, (Ky. 1904) 26 Ky. L. Reporter 665, 82 S.W. 380.
- Phillips v Williams, (Ky. 1904) 26 Ky. L. Reporter 654, 118 Ky. 757, 82 S.W. 379.

- Mahan v Steele, (Ky. 1900) 22 Ky. L. Reporter 546, 109 Ky. 31, 58 S.W. 446.
- Level v Bettis, (see section 387.025).
- Cotton's Guardian v Wolf, (see section 387.070).
- Dunlap v. Kennedy, 73 Ky. 539, 10 Bush 539, 1874 Ky. LEXIS 87 (Ky. 1874)
- Cunningham's Devises v. Cunningham's Heirs, 57 Ky. 19, 18 B. Mon. 19, 1857 Ky. LEXIS 4 (Ky. 1856)
- Branham v. Stewart, 307 S.W.3d 94, 101, 2010 Ky. LEXIS 45, *21 (Ky. Mar. 18, 2010)
- Arthur v. Bailey, 2014 Ky. App. Unpub. LEXIS 571, *9, 2014 WL 3714371 (Ky. Ct. App. July 25, 2014)
- McCracken v. Wickey, 2013 Ky. App. Unpub. LEXIS 300, *3-4, 2013 WL 1488033 (Ky. Ct. App. Apr. 12, 2013)
- Fischer v. E. State Hosp., 2011 U.S. Dist. LEXIS 31814, *6-7 (E.D. Ky. Mar. 25, 2011)

387.100 Inventory of Respondent's Estate

- Burton v Burton's Committee, (Ky. 499), 90 S.W. 2d 687.
- Arthur v. Bailey, 2014 Ky. App. Unpub. LEXIS 571, *9, 2014 WL 3714371 (Ky. Ct. App. July 25, 2014)

387.111 Compensation for Guardians, Limited Guardians, and Conservators; Reimbursement for Expenses

- Rudd v Fineberg's Tr., (Ky. 1939) 277 Ky. 505, 126 S.W. 2d 1102.
- Farris v Bingham, (Ky. 1915) 164 Ky. 444, 175 S.W. 649.
- Commonwealth v Graves Cnty. Banking & Trust Co., (Ky. 1914).
- Sherley v Sherley, (Ky. 1895) 17 Ky. L. Reporter 450, 97 Ky. 512, 31 S.W. 275.
- Tanner v Skinner, (Ky. 1875) 74 Ky.120.
- Withers v Hickman, (Ky. 1845) 45 Ky. 292.
- Hayden v Stone, (1865) 62 Ky. 397.
- Ex'r v Dulany's Devises, 35 Ky. 589 (1837).
- Bybee v Tharp, 43 Ky. 313 (1843).
- Chapline v Moore, (Ky. 1828) 23 Ky. 150.
- Campbell v Golden, (Ky. 1881) 3 Ky. L. Reporter 355, 79 Ky. 544.
- Campbell v Williams, (1825) 19 Ky. 123.
- Arthur v. Bailey, 2014 Ky. App. Unpub. LEXIS 571, *2, 2014 WL 3714371 (Ky. Ct. App. July 25, 2014)

387.122 Certain Assets Subject to Withdrawal Only Upon Authorization of Court

- Branham v. Stewart, 307 S.W.3d 94, 104, 2010 Ky. LEXIS 45, *31 (Ky. Mar. 18, 2010)

387.125 Guardian's Duty as to Use of Respondent's Assets

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- Bye v Mattingly, (Ky. 1998) 975 S.W. 2d 451.
- Riedlin's Guardian v Cobb, (Ky. 1928) 222 Ky. 654, 1 S.W. 2d 1071.
- Durrett v Com., (1890) 90 Ky. 312, 14 S.W. 189.
- Branham v. Stewart, 307 S.W.3d 94, 104, 2010 Ky. LEXIS 45, *10-13 (Ky. Mar. 18, 2010)

Maintenance and Support

- Clark v Thompson, (Ky. 1948) 309 Ky. 850, 219 S.W. 2d 22.
- Hammons v Musselman's Adm'rs, (Ky. 1940) 282 Ky. 507, 139 S.W. 2d 423.
- Davidson's Adm'rs v Davidson, (Ky. 1938) 274 Ky. 28, 117 S.W. 2d 1044.
- Sumner v Hall, (Ky. 1938) 273 Ky. 138, 116 S.W. 2d 309.
- Hamilton's Adm'r v Riney, (Ky. 1910) 140 Ky. 476, 131 S.W. 287.
- McDonald v Weisiger, (Ky. 1907) 30 Ky. L. Reporter 1224, 100 S.W. 832.
- Bush's Representatives v White, 19 Ky. 100 (1825).
- Chaplin v Simmons' Heirs, (Ky. 1828) 23 Ky. 338.
- Fidelity Trust Co v Rudtloff, 89 S.W. 119, 28 Ky. L. Reporter 152 (1905).
- Hedges v Hedges, 73 SW 1112, 24 Ky. L. Reporter 2220 (1903).
- Wilson v Fidelity Trust Co., 97 S.W. 753, 30 Ky. L. Reporter 263 (1906).
- Bybee v Tharp, (see section 387.111)
- Scott v. Montgomery Traders Bank & Trust Co., 956 S.W.2d 902, 904, 1997 Ky. LEXIS 162, *4 (Ky. Dec. 18, 1997)
- Brockman v. Young, 2011 Ky. App. Unpub. LEXIS 834, *9, 2011 WL 5419713 (Ky. Ct. App. Nov. 10, 2011)
- Lawson ex rel Lawson v. Dawson, 2004 Ky. App. Unpub. LEXIS 710, *11-12, 2004 WL 1909357 (Ky. Ct. App. Aug. 27, 2004)
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- LP Pikeville, LLC v. Wright, 2014 Ky. App. LEXIS 57, *8, 2014 WL 1345293 (Ky. Ct. App. Apr. 4, 2014)

STATE STATUTES AND CASE LIST FOR FIDUCIARIES

KRS 395.001 – 395.657

Chapter 395: Personal Representatives

395.001 Definition of “Fiduciary”

In General

- In re Sallee v Fort Knox National Bank, 6th Cir. R. 286 F3d 878 (2002).
- Forsythe v Banc Boston Mortg. Corp., 6th Cir. R.135 F3d 1069 (1997).
- Schmitt v. Kentucky Trust Co., 429 S.W.2d 839, 1968 Ky. LEXIS 756 (Ky. 1968).
- First Nat'l Bank v. First Nat'l Bank, 567 S.W.2d 316, 1978 Ky. App. LEXIS 544
- Scott v. Montgomery Traders Bank & Trust Co., 956 S.W.2d 902, 44:14 Ky. L. Summary 39, 1997 Ky. LEXIS 162
- Gregory v. Lewisport, 369 S.W.2d 133, 134, 1963 Ky. LEXIS 70, *1 (Ky. 1963)

Trustees

- Rohleder v French, (Ky. App. 1984) 675 S.W. 2d 8.
- Whelan v Payne, (Ky. 1960) 343 S.W. 2d 383.
- Riedinger v Murphy, (Ky. 1960) 337 S.W. 2d 22.
- Maynard v Chrisman, (Ky. 1946) 301 Ky. 631, 192 S.W. 2d 818.
- Rice v. Floyd, 768 S.W.2d 57, 57, 1989 Ky. LEXIS 22, *1 (Ky. Apr. 6, 1989)

Executrix

- Lucas v Mannering, (Ky. App. 1987) 745 S.W. 2d 654.
- Batts v. Ill. Cent. R.R., 217 S.W.3d 881, 883, 2007 Ky. App. LEXIS 65, *6 (Ky. Ct. App. Mar. 2, 2007)

395.005 Who may be Appointed as Fiduciary

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Foreign Bank

- Gregory v City of Lewisport, (Ky. 1963) 269 S.W. 2d 133.
- GGNSC Stanford, LLC v. Rowe, 388 S.W.3d 117, 122, 2012 Ky. App. LEXIS 177, *8, 2012 WL 4208924 (Ky. Ct. App. Sept. 21, 2012)
- Stathis v. Farmers Bank & Capital Trust Co., 444 S.W.2d 112, 113, 1969 Ky. LEXIS 196, *2 (Ky. 1969)

395.120 Oaths of representatives

- Maratty v. Pruitt, 334 S.W.3d 107, 112, 2011 Ky. App. LEXIS 26, *15 (Ky. Ct. App. Feb. 11, 2011)

395.130 Bond, when required; cost of corporate surety paid from estate

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- Greenway v Irvine's Ex'r, (Ky. 1930) 234 Ky. 597, 28 S.W. 2d 760.
- Clay v Eager, (Ky. 1969) 444 S.W. 2d 124.
- Home Mission Board v. Wylie's Ex'r, 230 Ky. 284, 18 S.W.2d 1106, 1929 Ky. LEXIS 67 (Ky. 1929)
- Costigan v. Kraus, 158 Ky. 818, 166 S.W. 755, 1914 Ky. LEXIS 725 (Ky. 1914).

Waste or Mismanagement

- Stafford's Ex'r v Spradlin, (Ky. 1946) 301 Ky. 841, 193 S.W. 2d 474.
- Kaufman v Kaufman's Adm'r, (Ky. 1942) 292 Ky. 351, 166 S.W. 2d 860.
- Foster v Hill, (Ky. 1940) 282 Ky. 327, 138 S.W. 2d 495.
- Hopkins v HoRespondent's Ex'r, (Ky. 1936) 266 Ky. 685, 99 S.W. 2d 810.
- Roach v Hubbard, (1816) 16 Ky. 235.
- Young v Wickliffe, (1838) 37 Ky. 447.
- Walker v Walker's Ex'r, (1889) 88 Ky. 615, 11 S.W. 718.
- Albro v Robinson, (1892) 93 Ky. 195, 19 S.W. 587.
- Collins v Carlisle's Hairs, (1846) 46 Ky. 13.
- Grundy v Gye, (1898) 104 Ky. 825, 48 S.W. 155.
- Moore's Adm'r v Tandy, (Ky. 1813) 6 Ky. 97.

Liability

- Cawood v Cawood's Adm'x, (Ky. 1940) 285 Ky. 201, 147 S.W. 2d.
- United States Fidelity & Guarantee Co v Joseph W Russell & Co., (Ky. 1911) 141 Ky. 601, 133 S.W. 572.

Bond Requirement

- McCann v McCann's Ex'r, (1906) 29 KY. L. Reporter 537, 93 S.W. 1045.
- Gibson's Ex'r v Fishback, (1901) 22 KY. L. Reporter 1267, 60 S.W. 396.
- Grigsby v Cocke's Ex'r, (Ky. 1887) 9 KY. L. Reporter 12, 85 Ky. 314, 3 S.W. 418.

- Harrell v. Westover, 283 S.W.2d 197, 201, 1955 Ky. LEXIS 292, *11-12 (Ky. 1955)

395.140 Bond; Persons not to be Surety on; Recording of In General

- Morgan's Adm'r v Louisville & NR Co., (Ky. 1918) 181 Ky. 76, 203 S.W. 1065.
- Atwell's Ex'r v Helm, (1871) 70 Ky. 504.

Action on Bond

- Robinson's Comm. v Elam's Ex'x. (Ky. 1890) 12 Ky. L. Reporter 271, 90 Ky. 300, 14 S.W. 84.
- Hobbs v Middleton. (1829) 24 Ky. 176.
- Jeeter v Durham, (1831) 29 Ky. 228.
- McCalla's Adm'r v Patterson, (1857) 57 Ky. 201.
- Emmerson's Adm'r v Herriford, (1871) 71 Ky. 229.
- Lee v Waller, (1860) 60 Ky. 61.
- Young v Duhme, (1863) 61 Ky. 239.
- Gregg v Com ex rel Boude, (1840) 39 Ky. 343.
- O'bannor v Cord, (Ky. 1880) 1 KY. L. Reporter 398.
- Curd v Mix, (1873) 6 Ky. Op. 332.
- White v Dunn, (1872) 5 Ky. Op. 233.

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- Grundy v Drye, (1898) 104 Ky. 825, 48 S.W. 155.
- Johnson v Hicks, (Ky. 1895) 97 Ky. 116, 30 S.W. 3.
- Clay v Hart, (1838) 37 Ky. 1.
- Shields v Smith, (1871) 71 Ky. 601.
- Collins v Carlisle's Heirs, (1846) 46 Ky. 13.
- Warfield v Brand's Adm'r, (Ky. 1877) 76 Ky. 77.
- Walker v Walker, (1889) 88 Ky. 615, 11 S.W. 718.
- Moore's Administrators v Tandy, (1813) 6 Ky. 97.
- Lawrence v Lawrence, (1811) 16 Ky. 123.
- Mercer v Glass' Executor, (1894) 15 KY. L. Reporter 710, 25 S.W. 114.
- Roach v Hubbard, (Ky. 1816) 16 Ky. 235.

395.150 Compensation of Representatives

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- Russel v Hogan, (Ky. 1940) 282 Ky. 764, 140 S.W. 2d 615.
- Morgan v Meacham, (Ky. 1938) 279 Ky. 526, 130 S.W. 2d 992.

- Douglas' Adm'r v Douglas' Ex'r, (Ky. 1932) 243 Ky. 321, 48 S.W. 2d 11.
- McCreery's Adm'r v McCreery's Comm., (Ky. 1919) 185 Ky. 445, 215 S.W. 78.
- Slusher v Weller, (Ky. 1912) 151 Ky. 203, 151 S.W. 684.
- Garr v Roy, (Ky. 1899) 20 KY. L. Reporter 1697, 50 S.W. 25.
- Bilbert v Bartlett, (Ky. 1872) 72 Ky. 49.
- Taylor v. Taylor, 223 Ky. 799, 4 S.W.2d 752, 1928 Ky. LEXIS 444 (Ky. 1928).
- Avey v. Stearman, 145 Ky. 574, 140 S.W. 1055, 1911 Ky. LEXIS 919 (Ky. 1911).
- Taylor v. Minor, 90 Ky. 544, 12 Ky. L. Reporter 479, 14 S.W. 544, 1890 Ky. LEXIS 125 (Ky. 1890)
- Harding's Adm'r v. Harding, 132 Ky. 133, 116 S.W. 305, 1909 Ky. LEXIS 98 (Ky. 1909).
- Oyler v. Thomas, 2004 Ky. App. Unpub. LEXIS 927, *14, 2004 WL 2151198 (Ky. Ct. App. Sept. 24, 2004)
- Brown v. McLamb, 2007 Ky. App. Unpub. LEXIS 565, *10, 2007 WL 2012836 (Ky. Ct. App. July 13, 2007)
- Conley v. Conway, 2013 Ky. App. Unpub. LEXIS 801, *12, 2013 WL 5521925 (Ky. Ct. App. Oct. 4, 2013)
- Ky. Bar Ass'n v. Greene, 386 S.W.3d 717, 728, 2012 Ky. LEXIS 192, *24-25 (Ky. Nov. 21, 2012)

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- Clay v Eager, (Ky. 1969) 444 S.W. 2d 124.
- Skinner v Morrow, (Ky. 1958) 318 S.W. 2d 419.
- Peoples State Bank & Trust Co. v Hodgkin, (Ky. 1956) 287 S.W. 2d 425.
- Baker's Heirs v Dixon Bank & Trust Co., (Ky. 1943) 292 Ky. 701, 168 S.W. 2d 24.
- Maynard v Maynard's Adm'r, (Ky. 1933) 251 Ky. 246, 64 S.W. 2d 567.
- Carpenter's Adm'r v Demoisey, (Ky. 1931) 237 Ky. 628, 36 S.W. 2d 27.
- Young v Smith, (Ky. 1873) 72 Ky. 421.
- Wilder v. Hast, 96 S.W. 1106, 29 Ky. L. Reporter 1181 (1906).
- Glover v. Check, 71 S.W. 438, 24 Ky. L. Reporter 1281 (1903)
- Clark v. Young, 74 S.W. 245, 24 Ky. L. Reporter 2395 (1903).
- Joan Kincaid Advisory Comm. v. Kincaid, 2011 Ky. App. LEXIS 145 (Ky. Ct. App. Sept. 2.), sub. op., 2011

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- Anderson's Ex'r v. Prewitt, 114 S.W. 275 (Ky. 1908)
- Central Trust Co. v. Johnson, 74 S.W. 663, 1903 Ky. LEXIS 364, 25 Ky. L. Reporter 55 (1903).
- Miller v. Keown, 176 Ky. 117, 195 S.W. 430, 1917 Ky. LEXIS 28 (Ky. 1917)
- Monin v. Monin, 156 S.W.3d 309, 316, 2004 Ky. App. LEXIS 367, *16 (Ky. Ct. App. Dec. 30, 2004)

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- Robinson's Ex'r v Robinson, (Ky. 1944) 297 Ky. 229, 179 S.W. 2d 886.
- Greenway v Irvine's Ex'r, (Ky. 1930) 234 Ky. 597, 28 S.W. 2d 760.
- Morton's Ex'r v Morton's Ex'r, (Ky. 1902) 23 KY. L. Reporter 2079, 112 Ky. 706, 66 S.W. 641.
- Doty v Cox, (1893) 15 KY. L. Reporter 68, 22 S.W. 321,
- Bate v Bate, (Ky. 1876) 74 Ky. 639.
- Wilder v Host, (1906) 29 KY. L. Reporter 1181, 96 S.W. 1106.
- Brown's Ex'r v Brown's Devisees, (Ky. 1870) 69 Ky. 648.
- Clark v Constantine, (Ky. 1868) 66 Ky. 652.
- Lockhard v. Brown, 536 S.W.2d 318, 1976 Ky. LEXIS 72 (Ky. 1976)
- Gentry v. Gentry, 798 S.W.2d 928, 1990 Ky. LEXIS 117 (Ky. 1990)
- Panke v. Louisville Trust Co., 303 Ky. 579, 198 S.W.2d 313, 1946 Ky. LEXIS 905 (Ky. 1946).
- Skinner v. Morrow, 318 S.W.2d 419, 1958 Ky. LEXIS 136 (Ky. 1958)
- Ky. Bar Ass'n v. Fernandez, 397 S.W.3d 383, 2013 Ky. LEXIS 106 (Ky. 2013).
- Reed v. Reed, 66 S.W. 819, 23 Ky. L. Reporter 2186, 1902 Ky. LEXIS 526 (Ky. Ct. App. 1902).

Disallowed

- Newton v Hick's Adm'r, (Ky. 1940) 282 Ky. 226, 138 S.W. 2d 329.
- Burton v Burton's Comm., (Ky. 1936) 262 Ky. 499, 90 S.W. 2d 687.
- Oliver v Crewdson's Adm'r, (Ky. 1934) 256 Ky. 797, 77 S.W. 2d 20.
- Wheeldon's Adm'r v Barrett's Guardian, (Ky. 1934) 253 Ky. 737, 70 S.W. 2d 11.

- Clay v HoRespondent's Ex'r, (Ky. 1933) 247 Ky. 512, 57 S.W. 25.
- Worsham v Worsham's Adm'r, (1876) 0 Ky. Op. 37.
- Albro v Robinson, (1892) 93 Ky. 195, 19 S.W. 587.

Misconduct

- Hale v Moore, (Ky. App., 2008) 2008 WL 53871.
- Ky. Bar Ass'n v Profumo, (Ky. 1996) 931 S.W. 2d 149.
- Curtis v Citizens Bank & Trust Co., (Ky. 1964) 384 S.W. 2d 328.
- Greenway's Adm'r v Greenway, (Ky. 1936) 266 Ky. 114, 98 S.W. 2d 283.
- Anspacher v Utterback's Adm'r, (Ky. 1934) 252 666, 68 S.W. 2d 15.
- Nickell v. Nickell, 118 S.W. 966 (Ky. 1909).
- Ky. Bar Ass'n v. Jacobs, 387 S.W.3d 332, 2012 Ky. LEXIS 193 (Ky. 2012).

395.155 Computation of Personal Representative's Commission

395.160 Removal of Representatives

- Taylor v. Tibbatts, 52 Ky. 177, 13 B. Mon. 177, 1852 Ky. LEXIS 9 (Ky. 1852)
- Trevathan v. Grogan, 210 Ky. 694, 276 S.W. 556, 1925 Ky. LEXIS 755 (Ky. 1925).
- Kuechler v. Rubbathen, 266 Ky. 390, 99 S.W.2d 193, 1936 Ky. LEXIS 676 (Ky. 1936).
- Landrum v. Louisville & N. R. Co., 290 Ky. 724, 162 S.W.2d 543, 1942 Ky. LEXIS 483 (Ky. 1942).
- Karsner's Ex'r v. Monterey Christian Church, 304 Ky. 269, 200 S.W.2d 474, 1947 Ky. LEXIS 623 (Ky. 1947).
- Cecil v. Farmers Nat. Bank, 245 S.W.2d 430, 433, 1951 Ky. LEXIS 1255, *8-9 (Ky. 1951)
- Wolfe v. Young, 2017 Ky. App. Unpub. LEXIS 423, *8-9, 2017 WL 2491661 (Ky. Ct. App. June 9, 2017)
- Harber v. Kentucky Ridge Coal Co., 188 F.2d 62, 1951 U.S. App. LEXIS 3791 (6th Cir. Ky. 1951).
- Price's Adm'r v. Price, 291 Ky. 211, 163 S.W.2d 463, 1942 Ky. LEXIS 203 (Ky. 1942).
- Karsner's Ex'r v. Monterey Christian Church, 304 Ky. 269, 200 S.W.2d 474, 1947 Ky. LEXIS 623 (Ky. 1947)
- Howd v. Clay, 312 Ky. 508, 228 S.W.2d 437, 1950 Ky. LEXIS 695 (Ky. 1950).
- Ewald v. Citizens Fidelity Bank & Trust Co., 305 S.W.2d 533, 1957 Ky. LEXIS 321 (Ky. 1957)

- Lovely v. Barnett Builders, Inc., 2010 Ky. App. Unpub. LEXIS 478, *11, 2010 WL 2326517 (Ky. Ct. App. June 11, 2010)
- Stafford's Ex'rs v. Spradlin, 301 Ky. 841, 193 S.W.2d 474, 1946 Ky. LEXIS 593 (Ky. 1946)
- Warden v. Hoover's Adm'r, 214 Ky. 370, 283 S.W. 444, 1926 Ky. LEXIS 370 (Ky. 1926)
- Breitenstein v. Bradas' Ex'r, 290 Ky. 43, 160 S.W.2d 323, 1942 Ky. LEXIS 341 (Ky. 1942).
- Morris v. Brien, 712 S.W.2d 347, 1986 Ky. App. LEXIS 1066 (Ky. Ct. App. 1986)
- Barnett's Adm'r v. Pittman, 282 Ky. 162, 137 S.W.2d 1098, 1940 Ky. LEXIS 134 (Ky. 1940)
- Zinn's Adm'r v. Brown, 225 Ky. 814, 10 S.W.2d 300, 1928 Ky. LEXIS 884 (Ky. 1928)
- Landrum v. Louisville & N. R. Co., 290 Ky. 724, 162 S.W.2d 543, 1942 Ky. LEXIS 483 (Ky. 1942).
- Rieke's Adm'r v. Rieke, 183 Ky. 131, 208 S.W. 764, 1919 Ky. LEXIS 446 (Ky. 1919)
- Mullins v. Mullins, 307 Ky. 748, 212 S.W.2d 272, 1948 Ky. LEXIS 819 (Ky. 1948)
- Gill v. Riley, 90 S.W. 2, 28 Ky. L. Reporter 639 (1906)
- Taylor v. Taylor's Ex'r, 271 Ky. 509, 112 S.W.2d 399, 1937 Ky. LEXIS 253 (Ky. 1937)
- Miller v. Taylor, 352 S.W.2d 69, 1961 Ky. LEXIS 190 (Ky. 1961)
- Liberty Bank & Trust Co. v. Kentucky Title Trust Co., 239 Ky. 263, 39 S.W.2d 258, 1931 Ky. LEXIS 761 (Ky. 1931).
- Lee v. Porter, 598 S.W.2d 465, 1980 Ky. App. LEXIS 311 (Ky. Ct. App. 1980)

395.170 Nonresident Representatives; Bond; Actions by

- Vassill's Adm'r v. Scarsella, 292 Ky. 153, 166 S.W.2d 64, 1942 Ky. LEXIS 56 (Ky. 1942)
- Swift's Ex'x v. Donahue, 104 Ky. 137, 20 Ky. L. Reporter 446, 46 S.W. 683, 1898 Ky. LEXIS 145 (Ky. 1898)
- Steitler v. Helenbush's Ex'rs, 61 S.W. 701, 23 Ky. L. Reporter 174, 1901 Ky. LEXIS 650 (Ky. Ct. App. 1900).
- Ballard v. United Distillers Co., 28 F. Supp. 633, 1939 U.S. Dist. LEXIS 2380 (D. Ky. 1939).
- Ritchie v. Paine, 431 S.W.2d 498, 1968 Ky. LEXIS 367 (Ky. 1968).

- Louisville & N. R. Co. v. Brantley's Adm'r, 96 Ky. 297, 16 Ky. L. Reporter 691, 28 S.W. 477, 1894 Ky. LEXIS 113 (Ky. 1894).
- Bankemper v. Boone County Aviation, Inc., 435 S.W.2d 58, 60, 1968 Ky. LEXIS 191, *3-4 (Ky. 1968)
- Conner's Adm'x v. Paul, 75 Ky. 144, 12 Bush 144, 1876 Ky. LEXIS 50 (Ky. 1876)
- Marrett v. Babb's Ex'r, 91 Ky. 88, 12 Ky. L. Reporter 652, 15 S.W. 4, 1891 Ky. LEXIS 3 (Ky. 1891)
- Brown's Adm'r v. Louisville & N. R. Co., 97 Ky. 228, 30 S.W. 639, 17 Ky. L. Reporter 145, 1895 Ky. LEXIS 183 (Ky. 1895).
- Scott-Lees Collegiate Institute v. Charles, 283 Ky. 234, 140 S.W.2d 1060, 1940 Ky. LEXIS 319 (Ky. 1940).
- Compton's Adm'r v. Borderland Coal Co., 179 Ky. 695, 201 S.W. 20, 1918 Ky. LEXIS 270 (Ky. 1918) (Ky. 1918).
- Gibbs v. Deins, 282 Ky. 625, 139 S.W.2d 430, 1940 Ky. LEXIS 218 (Ky. 1940).
- Service Lines, Inc. v. Mitchell, 419 S.W.2d 525, 1967 Ky. LEXIS 150 (Ky. 1967).
- Wayland v. Porterfield's Ex'r, 58 Ky. 638, 1 Met. 638, 1859 Ky. LEXIS 31 (Ky. 1859)

395.195 Transaction Authorized for Personal Representative; Exceptions

Personal Property

- Wood v Wingfield, (Ky. 1991) 816 S.W. 2d 899.
- McCaslin v Hamilton, (Ky. App. 1987) 726 S.W. 2d 713.
- Conley v. Conway, 2013 Ky. App. Unpub. LEXIS 801, *9-11, 2013 WL 5521925 (Ky. Ct. App. Oct. 4, 2013)

Attorney Fees

- White v White, (Ky. App. 1994) 883 S.W. 2d 502.
- Lucas v Mannering, (Ky. App. 1987) 745 S.W. 2d 654.
- Ford v. RDI/Caesars Riverboat Casino, LLC, 2008 U.S. Dist. LEXIS 97658 (W.D. Ky. Dec. 2, 2008), aff'd, 328 Fed. Appx. 1000, 2009 FED App. 0500N, 2009 U.S. App. LEXIS 15876 (6th Cir. Ky. 2009).
- Flick v. Estate of Christina Wittich, 396 S.W.3d 816, 2013 Ky. LEXIS 89 (Ky. 2013)
- Justice v. Adkins, 2016 Ky. App. Unpub. LEXIS 351, *8 (Ky. Ct. App. May 20, 2016)
- McCormick v. Becker, 2014 Ky. App. Unpub. LEXIS 277, *11-12, 2014 WL 1407244 (Ky. Ct. App. Apr. 11, 2014)

395.196 Powers in KRS 195 not Exclusive

- Ford v. RDI/Caesars Riverboat Casino, LLC, 2008 U.S. Dist. LEXIS 97658, *8 (W.D. Ky. Dec. 2, 2008)

395.197 Applicability of Powers in KRS 395.195 and 395.196

395.200 Sale of Personal Property by Fiduciary

In General

- Colwell v Holliday, (Ky. 1933) 250 Ky. 584, 63 S.W. 2d 776.
- Osborn v. Griffin, 50 F. Supp. 3d 772, 801-802, 2014 U.S. Dist. LEXIS 139915, *69 (E.D. Ky. Sept. 29, 2014)

Court Order

- Farmers Nat'l Bank of Danville v Louisville & NR Co., (Ky. 1955) 283 S.W. 2d 385.
- Barth v Fidelity & Columbia Trust Co., (Ky. 1920) 188 Ky. 788, 224 S.W. 351.
- Flick v. Estate of Christina Wittich, 396 S.W.3d 816, 821, 2013 Ky. LEXIS 89, *11, 2013 WL 1776747 (Ky. Apr. 25, 2013)

Debts

- Breetz v Hill, (Ky. 1943) 293 Ky. 526, 169 S.W. 2d 632.

Liability for Losses

- Eaker v Husbands, (Ky. 1935) 263 Ky. 283, 92 S.W. 2d 43.

395.240 Sale of Choices in action; Compromise of Claims

In General

- Turner v Gambill, (Ky. 1938) 275 Ky. 330, 121 S.W. 2d 705.
- Ransdell v Threlkeld's Adm'r, (Ky. 1868) 67 Ky. 347.
- Bell v Henshaw's Ex'r, (1891) 91 Ky. 430, 15 S.W. 3.
- Beeler v Hill's Ex'r, (1837) 35 Ky. 37.
- Kellar's Ex'rs v Beelor, (1827) 21 Ky. 573.
- Calvert v Holland, (1849) 48 Ky. 458.
- Burnes v Burton, (1818) 8 Ky. 349.
- Turley's Adm'r v Barners, (1898) 103 Ky. 127
- 44 S.W. 446.
- Woolridge's Heirs v Watkins, (Ky. 1814) 6 Ky. 349.

Agreements

- City of Louisville v Hart's Adm'r, (Ky. 1911) 143 Ky. 171, 136 S.W. 212.

- Daviess County Bank & Trust Co. v Wrights, (Ky. 1908) 33 KY. L. Reporter, 129 Ky. 21, 110 S.W. 361.
- Dant's Ex'r v Cooper, (Ky. 1906) 123 Ky. 359, 96 S.W. 454.
- McLemore v Sebree Coal & Mineral Co., (Ky. 1905) 28 Ky. L Reporter 25, 121 Ky. 53, 88 S.W. 1062.

Compromise of Claims

- State Nat. Bank of Frankfort v Thompson, (Ky. 1938) 277 Ky. 527, 126 S.W. 2d 412.
- Crum's Adm'r v Crum, (Ky. 1936) 263 Ky. 219, 92 S.W. 2d 63.
- Compton's Adm'r v Borderland Coal Co., (Ky. 1918) 179 Ky. 695, 201 S.W. 20.
- New Bell Jellico Coal Co. v Stewart's Adm'x, (Ky. 1913) 155 Ky. 415, 159 S.W. 962.
- Leach v Owensboro City Ry. Co., (1910) 137 Ky. 292, 125 S.W. 708.
- McFarland's Adm'r v Louisville & NR Co., (Ky. 1908) 130 Ky. 172, 113 S.W. 82.
- Pullins' Adm'r v. Smith, 106 Ky. 418, 50 S.W. 833, 20 Ky. L. Reporter 1993, 1899 Ky. LEXIS 60 (Ky. 1899).

Court Approval

- Hudson's Adm'x v Collins, (Ky. 1931) 239 Ky. 131, 38 S.W. 2d 975.
- Trevathan's Ex'r v Dees Ex'r, (Ky. 1927) 221 Ky. 396, 298 S.W. 975.

Credits

- Thompson v Fraley, (Ky. 1939) 279 Ky. 323 130 S.W. 2d 793.
- Amos Adm'r v Heatherby, (Ky. 1838) 37 Ky. 45.

395.250 Inventory; When to be Returned; Copies are Evidence

In General

- Slack's Ex'r v Barrett, (Ky. 1942) 290 Ky. 251, 160 S.W. 2d 595.
- Williams' Adm'r v Vonderhaar's Ex'x, (Ky. 1935) 262 Ky. 68, 89 S.W. 2d 321.
- Com v Peter, 136 Ky. 689, 124 S.W. 896 (1910).
- McGee v Weissinger, 147 Ky. 321, 144 S.W. 20 (1912).
- Dant's Ex'r v Cooper, (Ky. 1906) 29 KY. L. Reporter 778.

Filing

- Commonwealth v Gaulbert's Adm'r, (Ky. 1909) 134 Ky. 157, 119 S.W. 779.
- Ward v. Shire, 65 S.W. 8, 23 Ky. L. Reporter 1279, 1901 Ky. LEXIS 557 (Ky. Ct. App. 1901).

Procedural Issues

- Com ex rel Byars v Bullock, (1918) 178 Ky. 729, 200 S.W. 45.
- Summe v. Gronotte, 357 S.W.3d 211, 214, 2011 Ky. App. LEXIS 158, *6 (Ky. Ct. App. Sept. 9, 2011)

395.255 Notice to Compel Filing Inventory or Account; Removal for Delinquency; Disallowance of Compensation

- Hill v. Roberts, 311 S.W.2d 569, 572, 1958 Ky. LEXIS 212, *5 (Ky. 1958)
- Kaufman v. Kaufman's Adm'r, 292 Ky. 351, 166 S.W.2d 860, 1942 Ky. LEXIS 102 (Ky. 1942)

395.260 Personal estate of nonresident; administration of In General

- Bertram v Jones, (Ky. 1924) 205 Ky. 691, 266 S.W. 385.
- Lee v Belknap, (Ky. 1915) 163 Ky. 418, 173 S.W. 1129.

Personal Property

- Barrett v Barrett's Adm'r, (Ky. 1916) 170 Ky. 91, 185 S.W. 499.

Adopted Children

- Pyles v Russell, (Ky. 2000) 36 S.W. 3d 365.

395.270 When action against representative may be commenced

- Commonwealth ex rel. Cummins v. Ryan's Ex'rs, 126 Ky. 649, 104 S.W. 727, 31 Ky. L. Reporter 1069, 1907 Ky. LEXIS 87 (Ky. 1907).
- Arrowood v. Duff, 287 Ky. 107, 152 S.W.2d 291, 1941 Ky. LEXIS 507 (Ky. 1941).
- Holland v. Lowe, 101 Ky. 98, 39 S.W. 834, 19 Ky. L. Reporter 97, 1897 Ky. LEXIS 157 (Ky. 1897)
- Davis' Adm'r v. Auxier, 41 S.W. 767, 19 Ky. L. Reporter 719 (1897).
- Johnson v. Equitable Life Assurance Soc., 137 Ky. 437, 125 S.W. 1074, 1910 Ky. LEXIS 587 (Ky. 1910).
- Coffee v. Owens' Adm'r, 216 Ky. 142, 287 S.W. 540, 1926 Ky. LEXIS 861 (Ky. 1926)

- Collett v. Helton, 264 Ky. 214, 94 S.W.2d 603, 1936 Ky. LEXIS 296 (Ky. 1936) (decision prior to 1942 amendment).
- Homer R. Hutchinson Estate v. Reyes, 715 S.W.2d 896, 1986 Ky. App. LEXIS 1216 (Ky. Ct. App. 1986).
- Kentucky-Virginia Stone Co. v. Ball, 426 S.W.2d 455, 458, 1968 Ky. LEXIS 650, *10 (Ky. 1968)
- Linthecum v. Vowel's Ex'r, 118 Ky. 338, 80 S.W. 1090, 26 Ky. L. Reporter 221, 1904 Ky. LEXIS 34 (Ky. 1904).
- Gibbs v. Tyree, 287 Ky. 656, 154 S.W.2d 732, 1941 Ky. LEXIS 604 (Ky. 1941).
- Sullenger v. Sullenger's Adm'x, 287 Ky. 232, 152 S.W.2d 571, 1941 Ky. LEXIS 511 (Ky. 1941)
- Engle Funeral Home, Inc. v. Peggy Sterling, 2003 Ky. App. Unpub. LEXIS 959, *3, 2003 WL 22751945 (Ky. Ct. App. Nov. 21, 2003)
- Courtney v. Morgan, 288 Ky. 342, 156 S.W.2d 175, 1941 Ky. LEXIS 109 (Ky. 1941).
- Brown's Ex'rs v. Durbin's Adm'r, 28 Ky. 170, 1830 Ky. LEXIS 405 (Ky. 1830) (decided under prior law).

395.290 Extent of Liability of representative

In General

- Miller's Adm'r v Eving, (Ky. 1915) 163 Ky. 401, 174 S.W. 22.
- Head v Perry, (Ky. 1824) 17 Ky. 253.
- Anderson v. Akers, 9 F. Supp. 151, 1934 U.S. Dist. LEXIS 1175 (D. Ky. 1934).

Judgments

- Ewing v Handley, 14 Ky. 346 (1823).
- Jones v Commercial Bank of Kentucky, 78 Ky. 413 (1880)
- Hopkins v Stout, (Ky. 1869) 69 Ky. 375.

Surplus

- Longest Adm'r v Tyler's Ex'r, (Ky. 1864) 62 Ky. 192.

395.325 Fiduciary Resignation or Disability; Settlement of Accounts; Appointment of Successor Trustee

Resignation

- Well's Adm'x v Heil, (Ky. 1932) 243 Ky. 282, 47 S.W. 2d 1041.
- Hunt v. Irwin, 301 Ky. 726, 728, 193 S.W.2d 154, 155, 1946 Ky. LEXIS 560, *3-4 (Ky. 1946)

395.380 Public administrator and Guardian

- Louisville & N. R. Co. v. Herndon's Adm'r, 126 Ky. 589, 104 S.W. 732, 31 Ky. L. Reporter 1059, 1907 Ky. LEXIS 89 (Ky. 1907).
- Newman v. Flowers' Guardian, 134 Ky. 557, 121 S.W. 652, 1909 Ky. LEXIS 433 (Ky. 1909).

395.390 Public administrator and Guardian to act, when

In General

- Bannon v Fox, (Ky. 1923) 199 Ky. 262, 250 S.W. 966.
- Olsen's Adm'r v Rich, (Ky. 1881) 79 Ky. 244.
- Paslick v. Shay, 148 Ky. 642, 147 S.W. 369, 1912 Ky. LEXIS 504 (Ky. 1912).
- Commonwealth v. Cabinet for Human Resources, 686 S.W.2d 465, 467, 1984 Ky. App. LEXIS 629, *5 (Ky. Ct. App. Dec. 7, 1984)

Premature Order

- Fentzka's Adm'r v Warwick Const. Co., (Ky. 1915) 162 Ky. 580, 172 S.W. 1060.
- Jackson's Adm'r v Asher Coal Co., 153 Ky. 547, 156 S.W. 136 (1913).
- Underwood v Underwood's Adm'r, (Ky. 1901) 23 KY. L. Reporter 111 Ky. 966, 65 S.W. 130.
- Harris v. Jackson, 192 S.W.3d 297, 302, 2006 Ky. LEXIS 132, *12 (Ky. May 18, 2006)
- Figueroa v. Meinhart, 2011 Ky. App. Unpub. LEXIS 907, *1, 2011 WL 6260434 (Ky. Ct. App. Dec. 16, 2011)

Sheriff's Duties

- Pierce v Marrs, 153 Ky. 748, 156 S.W. 404 (1913).
- Heeter v Jewwell, (Ky. 1870) 69 Ky. 510.

395.410 Curator; grounds for Appointment; Bond

In General

- Noran v Hammer (Ky. 1900) 22 Ky. L. Reporter 831, 109 Ky. 333, 58 S.W. 988.
- King's Adm'r v. Rose, 100 Ky. 393, 38 S.W. 844, 18 Ky. L. Reporter 862, 1897 Ky. LEXIS 18 (Ky. 1897).

Valid Delay

- Hood v Higgins' Curator (Ky. 1928) 225 Ky. 718, 9 S.W. 2d 1078.

Qualified Appointee

- Holt v Kellar (Ky. 1958) 319 S.W. 2d 45.

- Worthington v Worthington's Ex'r (Ky. 1896) 18 KY. L. Reporter 62, 35 S.W. 113.
- Couchman v. Lisle, 33 S.W. 940, 17 Ky. L. Reporter 1295 (1896).

395.420 Functions of Curator

Interest

- Taylor v Minor (Ky. 1890) 12 Ky. L. Reporter 479, 90 Ky. 544, 14 S.W. 544.
- Moran v. Hammer, 109 Ky. 333, 58 S.W. 988, 22 Ky. L. Reporter 831, 1900 Ky. LEXIS 208 (Ky. 1900).

Duties

- Ellis v Wren (Ky. 1886) 8 Ky. L. Reporter 285, 84 Ky. 254, 1 S.W. 440.

395.430 Application for Curator for Absent Person; Notice

395.440 Appeal from Order Appointing Curator

In General

- King's Adm'r v Rose, (Ky. 1897) 18 Ky. L. Reporter 862, 100 393, 38 S.W. 844.
- Couchman v Liskle, (Ky. 1896) 17 Ky. L. Reporter 1295, 33 S.W. 940.

395.480 Consent of Persons Under Disability

395.610 Periodic Accounting by Fiduciaries

Attorney Fees

- Ky. Bar Ass'n. v Profumo, (Ky. 1996) 931 S.W. 2d 149.
- Karem v. Bryant, 370 S.W.3d 867, 870, 2012 Ky. LEXIS 82, *8, 2012 WL 2362338 (Ky. June 21, 2012)
- Scisney v. Snorton, 2013 Ky. App. Unpub. LEXIS 511, *3-4, 2013 WL 3105040 (Ky. Ct. App. June 21, 2013)
- Maratty v. Pruitt, 334 S.W.3d 107, 111, 2011 Ky. App. LEXIS 26, *9 (Ky. Ct. App. Feb. 11, 2011)

395.640 Sureties of Fiduciaries, Inquiry into Solvency of; Additional Surety

Judge's Duties

- Vaughn v Webb, (Ky. App. 1995) 911 S.W. 2d 273.

395.645 Clerk to Record Settlements and Reports

395.650 Circuit Clerk to File Certificate of Settlement

- Lee v. Porter, 598 S.W.2d 465, 469, 1980 Ky. App. LEXIS 311, *10-11 (Ky. Ct. App. 1980)

KENTUCKY GUARDIANSHIP COURT FORMS

ALL FORMS SHOULD BE FILED WITH THE COURTS
SINGLE SIDED

These forms are available on Line at Administrative Office of the Courts

<https://courts.ky.gov/resources/legalforms/Pages/legalformlibrary.aspx>

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Commonwealth of Kentucky
Court of Justice www.kycourts.net
KRS 387.530



PETITION TO DETERMINE
IF DISABLED

Case No. _____
Court _____
County _____

COMMONWEALTH OF KENTUCKY

PETITIONER

VS.

RESPONDENT

_____ has reasonable grounds or knowledge to lead him/her to believe Respondent appears to be unable to provide for his/her physical health and safety and/or manage his/her financial resources effectively and submits to the Court the following facts upon which he/she supports this belief:

1. **Name of Petitioner:** _____
Address: _____

Telephone Number: _____
Petitioner's relationship to Respondent: _____

2. **Name of Respondent:** _____
Address: _____

Respondent's Date of Birth (if known): _____

3. **The nature of Respondent's disability and the facts or reasons supporting the need for determination of disability are:**

4. Respondent owns the following estate, including government benefits, insurance entitlements, and anticipated yearly income (state none or unknown):

<u>ESTATE</u>	<u>VALUE</u>
Real Property	\$ _____
Personal Property	\$ _____
Yearly Income	\$ _____
Source of Yearly Income	_____

5. **Name of Person having custody of Respondent:** _____
Address: _____

6. Respondent's Durable Power of Attorney OR Health Care Surrogate is:

Name: _____

Address: _____

7. Respondent's next of kin:

Name: _____

Address: _____

Relationship to Respondent: _____

Name: _____

Address: _____

Relationship to Respondent: _____

WHEREFORE, Petitioner requests the Court inquire into Respondent's ability to care for himself/herself and to manage his/her financial resources. Petitioner attaches an **Application for Appointment of Fiduciary and further requests:**

1. Trial by jury;
2. Counsel to represent the Respondent; and
3. Court appointment of a physician, psychologist and social worker to evaluate Respondent as provided by law unless the evaluation report is filed with this Petition.

Date: _____, 2_____

Signature of Petitioner

Subscribed and before me on _____, 2_____. My commission expires: _____, 2_____.

Name/Title


To be completed if Applicant is represented by counsel:

Attorney's Name _____

Address _____

Telephone Number _____

Attorney Signature

AOC-745 Doc. Code: AAF Rev. 3-03 09/12/2012 06:12 pm Page 1 of 2 Ver. 1.01 Commonwealth of Kentucky Court of Justice www.kycourts.net KRS 387.530(2); 387.720; 395.130	 APPLICATION FOR APPOINTMENT OF FIDUCIARY FOR DISABLED PERSONS	Case No. _____ Court <u>District</u> County _____
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COMMONWEALTH OF KENTUCKY PETITIONER

VS. RESPONDENT

1. Comes now _____, Applicant herein,
and requests to be appointed as _____ for Respondent.
2. Applicant states his/her relationship to Respondent is _____.
3. Applicant states his/her qualifications for appointment are as follows: _____

4. Applicant offers as surety on his/her bond the following: _____

5. Respondent owns the following estate, including government benefits, insurance entitlements, and anticipated yearly income (state if none or unknown):

ESTATE	VALUE
Real Property	\$ _____
Personal Property	_____
Yearly Income	_____
Source of yearly Income	_____

6. Applicant states that all statements in the foregoing are true.

Applicant's Name: _____

Address: _____

Telephone Number: _____

Date: _____, 2____.

Applicant's Signature

Subscribed and sworn to before me on _____, 2____. My commission expires _____ 2____. <div style="text-align: right; margin-top: 10px;">_____ Name/Title</div>
--

Case No. _____

**WAIVER OF NOTICE AND REQUEST
FOR APPOINTMENT OF FIDUCIARY**

The undersigned hereby waive notice of hearing and the right to appointment and request the Court to make the appointment herein applied for:

_____	_____
_____	_____
_____	_____
_____	_____

To be completed if Applicant is represented by counsel:

Attorney's Name _____

Address _____

Telephone Number _____

Attorney Signature



PETITION / APPLICATION FOR
EMERGENCY APPOINTMENT
OF FIDUCIARY FOR DISABLED PERSONS

Case No. _____
Court _____ District _____
County _____

COMMONWEALTH OF KENTUCKY ex rel

VS.

PETITIONER

RESPONDENT

1. Comes Petitioner and requests appointment as emergency limited guardian OR conservator for Respondent for the purpose of: _____

2. Petitioner states his/her relationship to Respondent is: _____ and his/her qualifications for appointment are: _____

3. Petitioner offers as surety on his/her bond the following: _____

4. Respondent is _____ years of age and resides at: _____

5. The person or facility having custody of the Respondent is (name and address): _____

6. A petition for a Determination of Disability was filed on _____, 2_____.

7. Respondent's Durable Power of Attorney OR Health Care Surrogate is:

Name: _____

Address: _____

8. Affidavit(s) are attached setting forth facts, including any danger alleged as imminent, and reasons necessitating such appointment.

9. Respondent's next of kin is/are:

Name: _____

Address: _____

Relationship: _____

Name: _____

Address: _____

Relationship: _____

WHEREFORE, Petitioner respectfully requests that a hearing be held within one (1) week of the filing of this Application.

Petitioner's Name: _____

Address: _____

Telephone Number: _____ Social Security No. _____

Date: _____

Petitioner's Signature

Subscribed and sworn to before me this _____ day of _____, 2____. My Commission expires:
_____, 2____.

Name/Title

WAIVER OF NOTICE AND REQUEST FOR APPOINTMENT OF FIDUCIARY

The undersigned hereby waive notice of hearing and the right to appointment and request the Court to make the appointment herein requested.

To be completed if Petitioner is represented by counsel:

Petitioner's Attorney: _____

Address: _____

Telephone No. _____

Attorney's Signature

Distribution: Petitioner/Attorney

County Attorney

Respondent/Attorney

AOC-777 Doc. Code: PVA & OAG
Rev. 8-03 Or OCON
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Commonwealth of Kentucky
Court of Justice www.kycourts.net

KRS 387.330



VERIFIED PETITION FOR THE VOLUNTARY
APPOINTMENT OF A GUARDIAN OR CONSERVATOR
AND STANDBY GUARDIAN AND ORDER

Case No. _____

Court _____

County _____

IN RE: _____
Petitioner's Full Name

_____ Social Security No.

_____ Date of Birth / Age

_____ Address

Pursuant to KRS 387.330, the above-named petitioner hereby requests this Court to appoint

(Name) (Address)

_____, as [] guardian [] conservator of my property. Upon the death,
(Telephone Number)

resignation, removal, or incapacity of the appointed guardian or conservator, I nominate _____
(Name)

(Address) (Telephone Number)

as standby guardian. Petitioner requests that the appointment be made [] without bond or [] with bond to be fixed in the
amount of \$ _____.

The Petitioner's [] Durable Power of Attorney [] Health Care Surrogate is:

_____ Name

_____ Address

This petition is to be acted upon by the Court only upon one of the following conditions:

a. Occurrence of the following event:

The occurrence of the above event shall be established by:

b. Existence of the following condition of the petitioner's mental or physical health:

The existence of the above condition shall be established by:

Additionally, this petition is to be acted upon by the Court only if accompanied by an affidavit from a licensed physician indicating that the above-named petitioner is disabled as defined in KRS 387.510. That affidavit [] is attached [] will be filed later.

The proposed ward is hereby advised that a guardian's powers are defined in KRS 387.065 and consist of the support, care and education of the ward while not being personally liable for the ward's expenses or to third parties. Specifically, a guardian has the power to take custody of the ward, establishing the ward's place of abode within the Commonwealth, and to take reasonable care of the ward's personal effects and finances. The proposed ward is also advised that a conservator's powers are defined in KRS 387.137 and unlike the guardian's powers, consist only of managing the ward's finances and assets.

_____ Date _____ Signature of Petitioner _____

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2_____.

_____ Name / Title _____

_____ County, Kentucky _____

*** **

ORDER

Having fully reviewed the above petition, and being otherwise sufficiently advised,

IT IS HEREBY ORDERED that _____ [] is [] is not competent and fit to be appointed as guardian or conservator. It is further ordered that _____ [] is [] is not competent and fit to be appointed as standby guardian. Therefore, the Court appoints _____, as [] guardian, [] conservator and _____, as standby guardian.

_____ Date _____

_____ Judge _____



ANNUAL REPORT
OF GUARDIAN

Case No. _____
Court _____
County _____

COMMONWEALTH OF KENTUCKY)
)
)
VS.)
)
)
)
)
)
RESPONDENT)

I, the undersigned, state that I am the Guardian Limited Guardian of the above-named Respondent, and report to the Court as follows:

1. Present age of Ward: _____
2. Date of birth: _____
3. Current address of Ward: _____

4. Ward's present living arrangement is:

- | | |
|--|--|
| <input type="checkbox"/> Own home | <input type="checkbox"/> Nursing home |
| <input type="checkbox"/> Guardian's home | <input type="checkbox"/> Skilled care |
| <input type="checkbox"/> Hospital | <input type="checkbox"/> Intermediate care |
| <input type="checkbox"/> Relative's home | <input type="checkbox"/> Personal care |

Relationship

Other: _____

5. Ward has been at present residence since _____
If Ward has lived elsewhere during the reporting period, list description and address of each residence and the length of stay at each.

6. During this reporting period, the Ward's mental condition has:

Remained about the same.

Improved. Describe: _____

Deteriorated. Describe: _____

7. During this reporting period, the Ward's physical health has:

Remained about the same.

Improved. Describe: _____

Deteriorated. Describe: _____

8. During this reporting period, the Ward's social condition has:

Remained about the same.

Improved. Describe: _____

Deteriorated. Describe: _____

9. During this reporting period, the Ward has received the following services:

Medical: _____

Educational: _____

Social: _____

Vocational: _____

Other: _____

10. My visits and activities on behalf of the Ward were:

11. The guardian should should not be continued or modified for the following reasons:

12. I do do not have responsibility for managing the Ward's estate. If so, an accounting of the estate is attached was filed last year.

13. A standby guardian has has not been appointed.

Date

Guardian

Guardian's Phone Number

Guardian's Social Security Number

Address

SUBSCRIBED and SWORN to before me this _____ day of _____.

My Commission expires: _____.

Notary Public

To be signed by Standby Guardian if one is appointed.

I, the undersigned, state that I am the Standby Guardian of the above-named Respondent and continue to be willing to serve in the event of the death, resignation, removal or incapacity of the Guardian.

Date

Signature of Standby Guardian

Standby Guardian's Phone Number

Standby Guardian's Social Security Number

Address



**Petition For Appointment Of
 Guardian/Conservator For Minor**

Case No. _____
 Court _____
 County _____

SS# or EIN# (If any) _____
 Voluntary

NOTE TO PETITIONER: A verified application for appointment as guardian/limited guardian/conservator must accompany this form. AOC 853 may be used.

In re estate of _____, a minor under the age of 18.

Petitioner, _____, petitions this Court for appointment of a (choose one):

- guardian (individual, agency, or corporation having care, custody, and control of minor and managing minor's financial resources); or
- limited guardian (individual, agency, or corporation having care, custody, and control of minor without managing minor's financial resources); or
- conservator (individual, agency, or corporation managing minor's financial resources) for the above named minor.

In support of this petition, petitioner states as follows:

1. Minor's address is _____
2. Minor's date of birth is _____
3. Name and address of minor's spouse is _____
4. Name(s) and address(es) of minor's living parent(s) is (are) _____
5. If no living parent(s), name(s) and address(es) of minor's adult next of kin is (are) _____
6. Name and address of individual or facility having custody of minor is _____
7. Facts and reasons supporting need for appointment are: _____

8. Description and value of estate:

	Description	Value
a. Real Property	_____	\$ _____
b. Personal Property	_____	\$ _____
c. Other Financial Resources:		
(1) Government Benefits	_____	\$ _____
(2) Insurance Entitlement	_____	\$ _____

(3) Anticipated Yearly
Income

_____ \$ _____

(4) Other

_____ \$ _____

9. Petitioner's address is _____

10. Name and address of petitioner's attorney is _____

11. Name and address of person/entity desiring appointment is _____

Based on the above, petitioner prays that the above named person/entity be appointed as guardian,
 limited guardian, or conservator. A verified application for appointment as guardian/limited guardian/conservator
for minor completed by the above named person/entity is attached.

Petitioner

SUBSCRIBED AND SWORN to before me on this date, _____

Name/Title

Attorney Name & Address (If any)

**Choice of Guardian
by Minor age 14 or older**

(This choice must be made in the presence of the Court.)

The undersigned, being a minor aged 14 or older, nominates as guardian, limited guardian, or
 conservator:

Name

Address

Minor

Copy Distribution:

- Minor (If 14 or older)
- Each Person / Entity Named in Petition

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Court of Justice www.courts.ky.gov
KRS 387.025



**APPLICATION FOR APPOINTMENT AS
GUARDIAN/CONSERVATOR FOR MINOR**

Case No. _____
Court _____
County _____

In Re: estate of _____, a unmarried minor under the age of 18.

Comes now the applicant, _____, affiant herein, and applies to be appointed as guardian, limited guardian, or conservator of the above-named minor. In support of this application, applicant states as follows:

1. My address is _____

2. My birthdate is _____
3. My relationship to minor, if any, is _____
4. I have/ have not been convicted of a crime.
If yes, please explain _____
5. My qualifications for this appointment are _____

6. Applicant waives does not waive notice of appointment hearing. If waived, applicant has completed waiver at the bottom of form.

Applicant states that all the statements above are true and correct.

_____, 2_____
Date

Applicant's Signature

Subscribed and sworn to before me on this date _____, 2_____

Name/Title

Attorney Name and Address (if any)

**WAIVER OF NOTICE AND
REQUEST FOR APPOINTMENT OF GUARDIAN**

The undersigned, being under no legal disability, hereby waive notice of hearing on the appointment of guardian/limited guardian/conservator and request the court to make the requested appointment. A minor age 14 or older may waive notice if present in person at hearing on application. Court may dispense with notice requirements if gross amount of estate is less than \$5,000. KRS 387.025; KRS 395.016.



**60 DAY INVENTORY OR
SUPPLEMENTAL INVENTORY**
 MINOR DISABLED PERSON

Case No. _____

Court _____

County _____

NOTICE TO GUARDIAN/CONSERVATOR: FILE THIS INVENTORY WITHIN 60 DAYS OF APPOINTMENT. IF OTHER PROPERTY LATER COMES TO YOUR KNOWLEDGE, A SUPPLEMENTAL INVENTORY MUST BE FILED WITHIN 60 DAYS OF OBTAINING SUCH KNOWLEDGE.

In re estate of _____, a Minor under 18 Disabled Person.

_____ states that as guardian conservator, the following is a full, true and complete inventory of the Estate which has come into his/her hands or the existence of which he/she has knowledge:

1. **Real Property:** (Include description, address, probable value and probable value of rent.)
- | | Value |
|-------|----------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |

2. **Personal Property:**
- a. Motor Vehicles (Autos, Trucks, Farm Equipment)
- | | Value |
|-------|----------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |

- b. Household Appliances and Jewelry
- | | Value |
|-------|----------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |

3. **List all monies owed for any item under 1 and 2:**
- _____
- _____

4. **Monies or Cash on Hand:**

a.	Monthly Government Benefits and Pensions, Social Security, SSI	Value
	_____	\$ _____
	_____	\$ _____
	_____	\$ _____
	_____	\$ _____

b.	Savings, Checking Accounts and Certificates of Deposit:	Value
	_____	\$ _____
	_____	\$ _____
	_____	\$ _____
	_____	\$ _____

5.	<u>Claims against</u> the Ward:	Value
	_____	\$ _____
	_____	\$ _____

6.	<u>Claims by the Ward</u> against others:	Value
	_____	\$ _____
	_____	\$ _____

Guardian/Conservator

Subscribed and sworn to before me this _____ day of _____

Name/Title

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 Commonwealth of Kentucky
 Court of Justice www.courts.ky.gov
 KRS 387.175, 387.670, 387.710
 395.610-.657; 395.990



**Periodic/Final Settlement of
 Guardian/Conservator For
 Minor Disabled Person**

Case No. _____
 Court District Probate
 County _____

Notice to Guardian/Conservator: File this Settlement one (1) year after appointment and annually thereafter. If the net estate is \$5,000 or less, file this Settlement every two (2) years after the original report.

IN RE: Estate of _____, a Minor under 18 Disabled Person.

Comes _____, appointed as Guardian Conservator of the above estate on _____, 2____. This Periodic Final Settlement indicates, by itemized statement and supported by receipts and vouchers, the assets received and disbursements made since the Inventory or last Settlement was filed. It is submitted pursuant to:
 KRS 387.710 OR KRS 387.175, 395.610 - 395.657 and 395.990

ASSETS & INVESTMENTS

(Include anything of value to the estate including government benefits, Social Security and SSI pension plan benefits, savings and checking accounts, certificates of deposit, all personal property, rents from real estate, and proceeds from the sale of real estate and personal property. Attach additional sheets of paper if necessary).

<u>ITEM</u>	<u>AMOUNT</u>
_____	\$ _____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
TOTAL ASSETS RECEIVED:	\$ _____

<u>DISBURSEMENTS</u>	<u>AMOUNT</u>
_____	\$ _____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
TOTAL DISBURSEMENTS MADE:	\$ _____

BALANCE **ASSETS LESS DISBURSEMENTS:** \$ _____

For Periodic Settlements - carry balance forward to next report.
 For Final Settlements - indicate to whom balance was paid and attach receipt.

IN PERIODIC SETTLEMENTS:

PLAN FOR PRESERVING AND MAINTAINING ESTATE *(not to be filled out if estate has net value of \$5,000 or less)*

IN FINAL SETTLEMENTS:

UNPAID CREDITORS - ALLOWED CLAIMS		<u>AMOUNT</u>
_____	\$	_____
_____		_____
_____		_____
_____		_____
_____		_____
_____		_____
	TOTAL	\$ _____

CREDITORS - DISALLOWED CLAIMS		<u>AMOUNT</u>
_____	\$	_____
_____		_____
_____		_____
_____		_____
_____		_____
	TOTAL	\$ _____

Above-named Guardian/Conservator submits this Settlement to the Court, and if a Final Settlement, asks that the Surety be discharged.

Guardian's/Conservator's Signature

Subscribed and sworn before me on _____, 2____. My commission expires: _____ 2____.
_____ Name/Title