

1 AN ACT regarding guardianship and conservatorship of partially disabled or  
2 disabled adults.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. KRS 210.290 is amended to read as follows:

5 (1) The Cabinet for Health and Family Services may be appointed and act as executor,  
6 administrator, guardian, limited guardian, conservator, or limited conservator as  
7 provided in this section. In this capacity the cabinet may ***act as a fiduciary and***  
8 ***transact business in the same manner as any individual and for fiduciary***  
9 ***purposes***~~[this purpose]~~ may sue and be sued in any of the courts of the state. Bond  
10 shall not be required of the cabinet.

11 (2) ***(a)*** Whenever a resident of the state is adjudged partially disabled or disabled and  
12 no other suitable person or entity is available and willing to act as limited  
13 guardian, guardian, limited conservator, or conservator, the cabinet ***may be***  
14 ***appointed as the resident's limited guardian, guardian, limited conservator,***  
15 ***or conservator. As used in this paragraph, "resident of the state" means an***  
16 ***individual who has a permanent, full-time residence in Kentucky prior to***  
17 ***the filing of a petition for or appointment of a limited guardian, guardian,***  
18 ***limited conservator, or conservator for at least the previous six (6) months***  
19 ***that is not a hospital, treatment facility, correctional facility, or long-term***  
20 ***care facility, and who is a citizen or permanent resident of the United***  
21 ***States.***

22 ***(b)*** ***Notwithstanding paragraph (a) of this subsection, except upon written order***  
23 ***of the court in exceptional circumstances, the cabinet shall not be appointed***  
24 ***as a limited guardian, guardian, limited conservator, or conservator of a***  
25 ***partially disabled or disabled person when the person:***

26 ***1. Has been convicted of, pled guilty to, or entered an Alford plea for a***  
27 ***sex crime as defined in KRS 17.500 or an offense that would classify***

1 *the person as a violent offender under KRS 439.3401; or*

2 *2. Is not alive or cannot be physically located.*

3 *(c) Before appointing the cabinet, consideration shall be given to the average*  
4 *caseload of each field social worker.*

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

10 *(3) When the cabinet is appointed as a limited guardian, guardian, limited*  
11 *conservator, or conservator of a partially disabled or disabled person, the cabinet*  
12 *shall not:*

13 *(a) Assume physical custody of the person;*

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

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

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

25 *(b) If a person for whom the cabinet has been appointed guardian or*  
26 *conservator dies with less than ten thousand dollars (\$10,000) of personal*  
27 *property or money, the cabinet shall not be required to apply for*

1                   *appointment as administrator. However, prior to the release of funds to the*  
 2                   *person's estate, the cabinet shall ensure all outstanding bills related to*  
 3                   *living expenses, reasonable funeral expenses when not prepaid, and estate*  
 4                   *recovery are paid.*

5     ~~(5)~~~~(4)~~     The cabinet may invest funds held as fiduciary in bonds or other securities  
 6                   guaranteed by the United States, and may sell or exchange such securities in its  
 7                   discretion. *In addition, the cabinet may establish or place funds held as fiduciary*  
 8                   *in a trust.*

9     ~~(6)~~~~(5)~~     The cabinet shall receive such fees for its fiduciary services as provided by  
 10                   law. These fees shall be placed in a trust and agency account, from which may be  
 11                   drawn expenses for filing fees, court costs, and other expenses incurred in the  
 12                   administration of estates. Claims of the cabinet against the estates shall be  
 13                   considered in the same manner as any other claim.

14    ~~(7)~~~~(6)~~     An officer designated by the secretary may act as legal counsel for any patient  
 15                   in a state mental hospital or institution against whom a suit of any nature has been  
 16                   filed, without being appointed as guardian, limited guardian, conservator, or limited  
 17                   conservator.

18    ~~(8)~~~~(7)~~     Patients hospitalized pursuant to KRS Chapters 202A and 202B who are not  
 19                   adjudged disabled or partially disabled may authorize the Cabinet for Health and  
 20                   Family Services to handle personal funds received by them at the hospital in the  
 21                   same manner as prescribed in subsections ~~(5)~~~~(4)~~ and ~~(6)~~~~(5)~~ of this section.

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

23     As used in KRS 387.500 to 387.770 and 387.990:

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

26     (2) "Limited conservator" means an individual, agency, or corporation appointed by the  
 27                   court to assist in managing the financial resources of a partially disabled person and

- 1           whose powers and duties have been specifically enumerated by court order.
- 2       (3) "Guardian" means any individual, agency, or corporation appointed by the court to
- 3           manage the personal affairs~~[have full care, custody, and control]~~ of a disabled
- 4           person~~[and to manage his financial resources]~~.
- 5       (4) "Limited guardian" means an individual, agency, or corporation appointed by the
- 6           court to assist in managing the personal affairs of a partially disabled person~~[a~~
- 7           guardian who possesses fewer than all of the legal powers and duties of a full
- 8           guardian,] and whose powers and duties have been specifically enumerated by court
- 9           order.
- 10      (5) "Standby" guardian or conservator means a person or entity designated by the court
- 11           to assume the powers and duties assigned to a limited guardian, guardian, limited
- 12           conservator, or conservator upon his death, resignation, removal, or incapacity.
- 13      (6) "Testamentary" guardian or conservator means an individual, agency, or corporation
- 14           nominated in the will of a limited guardian, guardian, limited conservator, or
- 15           conservator to succeed the testator in that capacity upon his death.
- 16      (7) "Developmental disability" means a severe, chronic disability of a person which:
- 17           (a) Is attributable to a mental or physical impairment or combination of mental
- 18                 and physical impairments, including pervasive developmental disorder;
- 19           (b) Is manifested before the person attains age twenty-two (22);
- 20           (c) Is likely to continue indefinitely;
- 21           (d) Results in substantial functional limitations in three (3) or more of the
- 22                 following areas of major life activity:
- 23                     1. Self-care;
- 24                     2. Receptive and expressive language;
- 25                     3. Learning;
- 26                     4. Mobility;
- 27                     5. Self-direction;

- 1           6. Capacity for independent living; and
- 2           7. Economic self-sufficiency; and
- 3           (e) Reflects the person's need for a combination and sequence of special
- 4           interdisciplinary or generic care, treatment, or other services which are of
- 5           lifelong or extended duration and are individually planned and coordinated.
- 6       (8) "Disabled" means a legal ***disability***, not a medical disability, and is measured by
- 7       functional inabilities. It refers to any person ***seventeen (17)***~~fourteen (14)~~ years of
- 8       age or older who is:
- 9           (a) Unable to make informed decisions with respect to his personal affairs to such
- 10          an extent that he lacks the capacity to provide for his physical health and
- 11          safety, including but not limited to health care, food, shelter, clothing, or
- 12          personal hygiene; or
- 13          (b) Unable to make informed decisions with respect to his financial resources to
- 14          such an extent that he lacks the capacity to manage his property effectively by
- 15          those actions necessary to obtain, administer, and dispose of both real and
- 16          personal property.
- 17       Such inability shall be evidenced by acts or occurrences within six (6) months prior
- 18       to the filing of the petition for guardianship or conservatorship and shall not be
- 19       evidenced solely by isolated instances of negligence, improvidence, or other
- 20       behavior.
- 21       (9) "Partially disabled" refers to an individual who lacks the capacity to manage some
- 22       of his personal affairs and/or financial resources as provided in subsection (8) of
- 23       this section, but who cannot be found to be fully disabled as provided therein.
- 24       (10) "Mentally ill person" means a person with substantially impaired capacity to use
- 25       self-control, judgment, or discretion in the conduct of his affairs and social
- 26       relations, associated with maladaptive behavior or recognized emotional symptoms
- 27       where impaired capacity, maladaptive behavior, or emotional symptoms can be

1 related to physiological, psychological, or social factors.

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

5 (12) "Interested person or entity" means an adult relative or friend of the respondent or  
6 ward, an official or representative of a public or private agency, corporation, or  
7 association concerned with that person's welfare, or any other person found suitable  
8 by the court.

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

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

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

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

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

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

19 (1) Prior to a hearing on a petition for a determination of partial disability or disability  
20 and the appointment of a limited guardian, guardian, limited conservator, or  
21 conservator, an interdisciplinary evaluation report shall be filed with the court. The  
22 report may be filed as a single and joint report of the interdisciplinary evaluation  
23 team, or it may otherwise be constituted by the separate reports filed by each  
24 individual of the team. If the court and all parties to the proceeding and their  
25 attorneys agree to the admissibility of the report or reports, the report or reports  
26 shall be admitted into evidence and shall be considered by the **court or the jury if**  
27 **one is impaneled**. The report shall be compiled by at least three (3) individuals,

1 including a physician, ~~or~~ an advanced practice registered nurse, or a physician  
2 assistant, a psychologist licensed or certified under the provisions of KRS Chapter  
3 319, and a person licensed or certified as a social worker or an employee of the  
4 Cabinet for Health and Family Services who meets the qualifications of KRS  
5 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c). The social worker shall,  
6 when possible, be chosen from among employees of the Cabinet for Health and  
7 Family Services residing or working in the area, and there shall be no additional  
8 compensation for their service on the interdisciplinary evaluation team.

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

12 (3) If the respondent is alleged to be partially disabled or disabled due to mental illness,  
13 at least one (1) person participating in the compilation of the interdisciplinary  
14 evaluation report shall be a qualified mental health professional as defined in KRS  
15 202A.011(12). If the respondent is alleged to be partially disabled or disabled due to  
16 an intellectual disability, at least one (1) person participating in the compilation of  
17 the evaluation report shall be a qualified professional in the area of intellectual  
18 disabilities as defined in KRS 202B.010(12).

19 (4) The interdisciplinary evaluation report shall contain:

- 20 (a) A description of the nature and extent of the respondent's disabilities, if any;
- 21 (b) Current evaluations of the respondent's social, intellectual, physical, and  
22 educational condition, adaptive behavior, and social skills. Such evaluations  
23 may be based on prior evaluations not more than three (3) months old, except  
24 that evaluations of the respondent's intellectual condition may be based on  
25 individual intelligence test scores not more than one (1) year old;
- 26 (c) An opinion as to whether guardianship or conservatorship is needed, the type  
27 of guardianship or conservatorship needed, if any, and the reasons therefor;

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



1 prepared by the facility.

2 (7) Except as provided in subsection (6) of this section, the court shall order  
3 appropriate evaluations to be performed by qualified persons or a qualified agency.

4 The report shall be prepared and filed with the court and copies mailed to the  
5 attorneys for both parties at least ten (10) days prior to the hearing. All items  
6 specified in subsection (4) of this section shall be included in the report.

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

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

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

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

24 (1) At a hearing convened pursuant to KRS 387.500 to 387.770 for the purpose of  
25 determining the disability of a respondent, the respondent shall ~~have a jury trial and~~  
26 ~~shall~~ have the right to present evidence and to confront and cross-examine all  
27 witnesses.

- 1 (2) The hearing may be closed to the public on request of the respondent or his counsel.
- 2 (3) The respondent shall have the right to be present at the hearing, and his presence  
3 may be waived only by his failure to appear at the hearing or upon a  
4 determination of the court that his attendance would subject him to serious risk of  
5 harm. Such determination shall be evidence only of the respondent's inability to  
6 attend the hearing and shall not be considered in determining the need for  
7 guardianship or conservatorship.
- 8 (4) The court may remove itself to the place of residence of the respondent to conduct  
9 the hearing in the presence of the respondent.
- 10 (5) The burden of proof shall be on the Commonwealth to prove the disability or partial  
11 disability of the respondent by clear and convincing evidence.
- 12 (6) The respondent will not be determined partially disabled or disabled unless at least  
13 one (1) of the persons who participated in the interdisciplinary evaluation required  
14 by KRS 387.540 testifies in person at the hearing. This section shall not be  
15 interpreted to preclude the respondent from requiring the testimony of more than  
16 one (1) person participating in the preparation of the evaluation report.
- 17 **(7) The hearing shall be a jury trial, unless:**
- 18 **(a) The respondent if present, counsel for the respondent, and the attorney for**  
19 **the Commonwealth agree to a bench trial;**
- 20 **(b) No objection to a bench trial is made by an interested person or entity; and**
- 21 **(c) The interdisciplinary evaluation report prepared for the proceeding reflects**  
22 **a unanimous consensus of the persons preparing it that the respondent is**  
23 **disabled or partially disabled, the court has reviewed the report, and the**  
24 **court finds no cause to require a jury trial.**
- 25 ➔Section 5. KRS 387.580 is amended to read as follows:
- 26 (1) At a hearing convened under KRS 387.500 to 387.770 for a determination of partial  
27 disability or disability, the court, or the jury if one is impaneled, shall:

- 1 (a) Inquire into the nature and extent of the general intellectual functioning of the  
2 respondent;
- 3 (b) Inquire into the respondent's capacity to make informed decisions concerning  
4 his personal affairs and financial resources;
- 5 (c) Determine whether the respondent is disabled, partially disabled, or has no  
6 disability in relation to the management of his financial resources; and
- 7 (d) Determine whether the respondent is disabled, partially disabled, or has no  
8 disability in relation to the management of his personal affairs.
- 9 (2) If the respondent is found not to be disabled or partially disabled, the petition shall  
10 be dismissed.
- 11 (3) If the respondent is found to be disabled or partially disabled, the court shall, at the  
12 same hearing, without a jury, determine:
- 13 (a) The type of guardian, ~~for~~ conservator, or guardian and conservator to be  
14 appointed;
- 15 (b) The specific legal disabilities to which the respondent is subject, if the  
16 respondent has been determined to be partially disabled;
- 17 (c) Whether the respondent retains the right to vote;
- 18 (d) The corresponding powers and duties of the limited guardian or limited  
19 conservator, if the respondent has been determined to be partially disabled;
- 20 (e) The individual or entity to be appointed by the court as limited guardian,  
21 guardian, limited conservator, or conservator;
- 22 (f) The individual or entity, if any, to be appointed as standby guardian or  
23 conservator; and
- 24 (g) The duration of the term of guardianship or conservatorship.
- 25 ➔Section 6. KRS 387.590 is amended to read as follows:
- 26 (1) (a) If the respondent is found partially disabled in managing his personal affairs,  
27 but not partially disabled or disabled in managing his financial resources, a

1 limited guardian shall be appointed.

2 ~~(b)~~~~(2)~~ If the respondent is found partially disabled in managing his financial  
3 resources, but not partially disabled or disabled in managing his personal  
4 affairs, a limited conservator shall be appointed.

5 ~~(c)~~~~(3)~~ If the respondent is found partially disabled in managing both his  
6 personal affairs and financial resources, a limited guardian ***and a limited***  
7 ***conservator*** shall be appointed~~[, unless the court considers it in the best~~  
8 ~~interest of the ward to appoint both a limited guardian and a limited~~  
9 ~~conservator]~~. ***The limited guardian and the limited conservator may be the***  
10 ***same individual, agency, or corporation.***

11 **(2) (a)**~~(4)~~ If the respondent is found disabled in managing his ***personal***  
12 ***affairs***~~[financial resources]~~, but not partially disabled or disabled in managing  
13 his ***financial resources***~~[personal affairs]~~, a ***guardian***~~[conservator]~~ shall be  
14 appointed.

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

20 **(c) If the respondent is found disabled in managing both his personal affairs**  
21 **and his financial resources, a guardian and a conservator shall be**  
22 **appointed. The guardian and the conservator may be the same individual,**  
23 **agency, or corporation.**

24 **(3)**~~(6)~~ The order of appointment of a limited guardian, guardian, limited conservator,  
25 or conservator shall specify:

26 (a) The type of guardianship, ~~for~~ conservatorship, ***or guardianship and***  
27 ***conservatorship*** to which the ward is subject;

- 1 (b) The name and address of the limited guardian, guardian, limited conservator,  
2 or conservator;
- 3 (c) The name and address of the standby guardian or conservator, if a standby  
4 guardian or conservator is designated;
- 5 (d) The specific legal disabilities to which the respondent is subject, if the  
6 respondent has been determined to be partially disabled;
- 7 (e) The corresponding powers and duties of the limited guardian or limited  
8 conservator, if the respondent has been determined to be partially disabled;  
9 and
- 10 (f) The duration of the term of guardianship or conservatorship.
- 11 ~~(4)~~~~(7)~~ A limited guardian or limited conservator shall not be appointed for a term  
12 greater than five (5) years and may be appointed for a lesser period. A guardian or  
13 conservator may be appointed for a period of unlimited duration.
- 14 ~~(5)~~~~(8)~~ The judgment of partial disability or disability and the order of appointment  
15 shall be filed in the District Court. The judgment shall be indexed by the county  
16 clerk in the book in which notices of actions and encumbrances are indexed. Unless  
17 such judgment is filed and indexed, it shall not constitute notice to any subsequent  
18 bona fide purchaser for value, mortgagee, or encumbrancer.
- 19 ~~(6)~~~~(9)~~ If the respondent is determined to be disabled or partially disabled but no  
20 limited guardian, guardian, limited conservator, or conservator is appointed at the  
21 hearing, the determination shall have no legal effect.
- 22 ~~(7)~~~~(10)~~ The rights of which a ward is legally deprived upon a determination of  
23 disability in managing his personal affairs and financial resources include but are  
24 not limited to the right to dispose of property, execute instruments, enter into  
25 contractual relationships, determine his living arrangements, consent to medical  
26 procedures, and obtain a motor vehicle operator's license. A ward shall only be  
27 deprived of the right to vote if the court separately and specifically makes a finding

1 on the record as established in KRS 387.580(3)(c).

2 ~~(8)~~~~(11)~~ A partially disabled or disabled person for whom a limited guardian, limited  
3 conservator, or conservator has been appointed retains all legal and civil rights  
4 except those which have by court order been designated as legal disabilities or  
5 which have been specifically granted to the limited guardian, limited conservator, or  
6 conservator. A person who is partially disabled may be subject to some but not all  
7 of the disabilities specified in subsection (10) of this section.

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

9 Prior to the expiration of a term of guardianship or conservatorship, the limited guardian,  
10 guardian, limited conservator, or conservator may petition, pursuant to KRS 387.620, for  
11 a renewal of his appointment for a period not to exceed five (5) years. The petition shall  
12 be accompanied by verified affidavits of a physician, *an advanced practice registered*  
13 *nurse or physician assistant working within his or her scope of practice*, or a  
14 psychologist licensed or certified under the provisions of KRS Chapter 319, or a person  
15 licensed or certified as a social worker or an employee of the Cabinet for Health and  
16 Family Services who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or  
17 335.090(1)(a), (b), and (c) supporting the need for the continuation of the guardianship or  
18 conservatorship.

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

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

22 (1) To ~~take custody of the ward and to~~ establish *the ward's*~~[his]~~ place of abode within  
23 the state, except that, if at any time a guardian places a ward in a licensed residential  
24 facility for developmentally disabled persons, the guardian shall, within thirty (30)  
25 days of such placement, file with the court notice of the placement, stating with  
26 specificity the reasons for such placement, and an interdisciplinary evaluation report  
27 detailing the social, psychological, medical or other considerations on which such

1 placement is predicated, a description of the treatment or habilitation programs  
2 which will benefit the ward as a result of such placement, and a determination that  
3 such placement will provide appropriate treatment in the least restrictive available  
4 treatment and residential program. For purposes of this subsection, the  
5 interdisciplinary evaluation report may be one performed within two (2) months  
6 prior to the placement for purposes of determining whether such placement is  
7 necessary and appropriate, or may be an evaluation and assessment provided by the  
8 residential facility immediately after placement. Notice to the court shall not be  
9 required where the ward is transferred from one licensed residential facility to  
10 another.

11 (2) To make provision for the ward's care, comfort, and maintenance and arrange for  
12 such educational, social, vocational, and rehabilitation services as are appropriate  
13 and as will assist the ward in the development of maximum self-reliance and  
14 independence.

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

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

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

1 If a separate limited conservator or conservator has been appointed for the ward, the  
2 expenditure of funds by the limited guardian shall be consistent with the duties assigned  
3 to and procedures and policies established by such limited conservator or conservator.  
4 Conflicts arising between a limited guardian and a limited conservator or conservator  
5 regarding the expenditure of funds which are unable to be otherwise resolved shall be  
6 submitted to the court for resolution.

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

- 8 (1) A guardian shall file with the court at least annually a verified report stating:
- 9 (a) The ward's current mental, physical, and social condition;
  - 10 (b) The address of every residence of the ward during the reporting period and  
11 length of stay at each residence;
  - 12 (c) A summary of the medical, social, educational, vocational, and other  
13 professional services received by the ward during the reporting period;
  - 14 (d) An outline of the guardian's visits with and activities on behalf of the ward;
  - 15 (e) A recommendation as to the need for continued guardianship;
  - 16 (f) A statement signed by the standby guardian, if one has been appointed, that  
17 the standby guardian continues to be willing to serve in the event of the death,  
18 resignation, removal, or incapacity of the guardian; and
  - 19 (g) Other information requested by the court or useful in the opinion of the  
20 guardian.
- 21 (2) For the purpose of filing the report required by subsection (1) of this section, the  
22 guardian shall be given access to records pertaining to the ward held by public or  
23 private agencies which contain information necessary for the guardian to perform  
24 his duties.
- 25 (3) The court shall review the report required in subsection (1) of this section and take  
26 whatever action it considers necessary to enhance the well-being of the ward.
- 27 ~~[(4) In addition to the requirements of this section, a guardian shall comply with the~~



1 ~~reporting requirements of KRS 387.710 unless a separate conservator has been~~  
2 ~~appointed.~~

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

4 It shall be the general duty of the limited conservator or conservator to carry out,  
5 diligently and in good faith, the specific duties and powers assigned by the court and to:

6 (1) Manage or assist in managing those financial resources placed under his  
7 supervision and/or control as would a prudent person managing his own resources,  
8 **including establishing or placing resources in a trust,** and, if a conservator has  
9 special skills or is named conservator on the basis of representations of special  
10 skills or expertise, he shall use those skills; and

11 (2) Encourage the ward to:

12 (a) Participate, to the maximum extent of his abilities, in all decisions which  
13 affect him;

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

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

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

19 (1) A conservator has all of the powers conferred herein and any additional powers  
20 conferred by law on trustees in this state. The conservator may take possession of  
21 the ward's real and personal property, and of all rents, incomes, and benefits  
22 therefrom, whether accruing before or after his appointment, and of the proceeds  
23 arising from the sale, mortgage, lease or exchange thereof. Subject to such  
24 possession the title of all such estate and to the increment and proceeds thereof shall  
25 be to the ward and not to the conservator. It is the duty of the conservator to protect  
26 and preserve the estate, to retain, sell and invest it as hereinafter provided, prosecute  
27 or defend actions, claims or proceedings in any jurisdiction for the protection of the

1 estate's assets, to account for it faithfully, to perform all other duties required of him  
2 by law, and, at the termination of the conservatorship, to deliver the assets of the  
3 ward to the persons lawfully entitled thereto.

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

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

8 (4) Any lease of mineral rights, oil and gas rights, or sale of timber owned by a ward, or  
9 consolidation agreement, as defined by KRS 353.220, to be made on behalf of a  
10 ward by a conservator ~~or guardian~~ shall require the authorization and order of the  
11 District Court of the county where the conservator ~~or guardian~~ has qualified. Such  
12 order may be given only pursuant to written motion which contains the grounds for  
13 the motion and a description of the lease or agreement involved.

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

15 (1) Within sixty (60) days of appointment, the limited conservator or conservator shall  
16 file with the court a verified inventory of all the property of the ward which has  
17 come to his possession or knowledge, including a statement of all encumbrances,  
18 liens, and other secured claims on any item, any claims against the estate of the  
19 ward, and any cause of action accruing to the ward. The limited conservator or  
20 conservator shall provide a copy thereof to the ward if he has sufficient mental  
21 capacity to understand it.

22 (2) (a) A limited conservator or conservator shall file with the court a verified report  
23 and financial account biennially within one hundred twenty (120) days after  
24 the anniversary date of his appointment. The report shall contain:

25 1. The present personal status of the ward whose estate is managed by the  
26 conservator;

27 2. The conservator's plan for preserving and maintaining the estate of

1                   which he has control or supervision;

2                   3.    The need for continuation or cessation of the conservatorship; and

3                   4.    The need for any alteration in the powers of the conservatorship.

4           (b)   The biennial report shall specify the amount and type of real and personal  
5           property received by the conservator and remaining in his control or invested  
6           by him, the nature of such investment, and expenditures made during the  
7           preceding year. Upon request of the court, the conservator shall produce for  
8           examination any information or documentation which the court may consider  
9           relevant to the accounting of the financial and property transactions of the  
10          estate.

11          (c)   If the ward has no real property and possesses personal property of two  
12          thousand five hundred dollars (\$2,500) or less for any year during the biennial  
13          report, the ~~guardian,~~ conservator~~,~~ or limited conservator may file an  
14          informal biennial financial report attesting to the identity of the ward's  
15          financial account and its current balance. If the balance does not exceed two  
16          thousand five hundred dollars (\$2,500) for any year of the biennial report, the  
17          ~~guardian,~~ conservator~~,~~ or limited conservator shall not be required to  
18          render to the court a detailed accounting of the expenditures from the fund,  
19          unless the court, on its own motion or that of any interested party or  
20          individual, deems it necessary to order the ~~guardian,~~ conservator~~,~~ or  
21          limited conservator to provide a detailed biennial accounting, including the  
22          listing of all expenditures for that reporting period. ~~For guardians filing an~~  
23          ~~informal biennial financial report, the provisions of subsection (2)(a)2. of this~~  
24          ~~section shall not apply.~~

25          (3)   Upon the resignation, removal, or death of a limited conservator or conservator, or  
26          on the termination of the conservatorship, the limited conservator or conservator, or  
27          his personal representative, shall forthwith submit a final report and account to the

1 court and to the former ward and to the successor limited conservator or  
2 conservator, or, if the ward is deceased, to his personal representative, and shall pay  
3 over the trust estate to the person entitled thereto. Upon approval of the report and  
4 account, the limited conservator or conservator shall be discharged and his surety, if  
5 any, released.