

OKLAHOMA STATUTES
TITLE 30. GUARDIAN AND WARD

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§30-1. Renumbered as § 1-105 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-1-101. Short title.

Sections 1-101 through 5-101 of this title shall be known and may be cited as the "Oklahoma Guardianship and Conservatorship Act". Added by Laws 1988, c. 329, § 1, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 1, operative July 1, 1990.

§30-1-102. Articles in Act.

The Oklahoma Guardianship and Conservatorship Act shall be composed of the following articles:

- Article I General provisions
- Article II Minors
- Article III Adults
- Article IV Miscellaneous

Added by Laws 1988, c. 329, § 2, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 2, operative July 1, 1990.

§30-1-103. Purpose of Act - Legislative intent.

A. It is the purpose of the Oklahoma Guardianship Act to promote the general welfare of all citizens by establishing a system of general and limited guardianships for minors and for incapacitated and partially incapacitated persons which provides for the protection of their rights and the management of their financial resources.

B. It is the purpose of the system of general and limited guardianships for incapacitated and partially incapacitated persons established by this act to provide for the participation of such persons, as fully as possible, in the decisions which affect them. It is the intent of the Oklahoma State Legislature:

1. That the court shall exercise the authority conferred by the Oklahoma Guardianship Act so as to encourage the development of maximum self-reliance and independence of the incapacitated or partially incapacitated person and make appointive and other orders only to the extent necessitated by the mental and adaptive limitations or other condition of the incapacitated or partially incapacitated person warranting the procedure;

2. That in performing their duties and exercising their powers, guardians and limited guardians of incapacitated or partially incapacitated persons shall:

- a. assure, to the extent reasonably possible, that the rights of the wards for whom they are appointed are protected;
- b. encourage, to the extent reasonably possible, incapacitated or partially incapacitated persons to participate to the maximum extent of their abilities in all decisions which affect them and to act on their own behalf on all matters in which they are able to do so within the limitations imposed by the court; and
- c. as appropriate, assist their wards to develop or regain to the maximum extent possible their capacity to meet the essential requirements for their health or safety, or to manage their financial resources or both.

Added by Laws 1988, c. 329, § 3, eff. Dec. 1, 1988.

§30-1-104. Existing guardianships or conservatorships - Compliance with Act - Court review of cases.

A. 1. Any guardianship or conservatorship in existence on or created on or after December 1, 1990, shall comply with the provisions of the Oklahoma Guardianship and Conservatorship Act.

2. Unless otherwise modified or terminated, all guardianships and conservatorships established prior to the effective date of the Oklahoma Guardianship and Conservatorship Act shall remain in full force and effect.

3. All guardians or conservators shall retain the powers assigned to them, unless otherwise modified or terminated by the court.

B. The Chief Judge of each district court shall establish a schedule by court rule which shall provide for a court review by December 1, 1991 of each guardianship and conservatorship case in which a guardian or conservator was appointed after January 1, 1980. Added by Laws 1988, c. 329, § 4, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 3, operative July 1, 1990.

§30-1-105. Guardian defined.

A guardian is a person appointed by the court to take care of the person or property of another.

R.L. 1910, § 3321. Amended by Laws 1988, c. 329, § 5, eff. Dec. 1, 1988. Renumbered from § 1 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-1-106. Guardians ad litem excluded.

The term "guardian" includes persons appointed as general and limited guardians of the person, general and limited guardians of property, and special guardians, but does not include persons appointed as guardians ad litem.

Added by Laws 1988, c. 329, § 6, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 4, operative July 1, 1990.

§30-1-107. Ward defined.

A person over whom a guardian is appointed and a person over whose property a guardian or conservator is appointed is called a ward.

R.L. 1910, § 3322. Amended by Laws 1988, c. 329, § 7, eff. Dec. 1, 1988. Renumbered from § 2 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-1-108. Guardians classified.

Guardians are either:

1. General;
2. Limited; or
3. Special.

R.L. 1910, § 3323. Amended by Laws 1988, c. 329, § 8, eff. Dec. 1, 1988. Renumbered from § 3 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 5, operative July 1, 1990.

§30-1-109. General guardian.

A. A general guardian is a guardian of the person or of all the property of the ward within this state or of both such person and property.

B. A limited guardian is a person authorized by the court to exercise limited powers over the person of the ward, or over the property of the ward within this state, or over both such person and property.

R.L. 1910, § 3324. Amended by Laws 1988, c. 329, § 9, eff. Dec. 1, 1988. Renumbered from § 4 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 6, operative July 1, 1990.

§30-1-110. Special guardian.

A special guardian may be appointed by the court pursuant to Section 3-115 of this title.

R.L. 1910, § 3325. Amended by Laws 1988, c. 329, § 10, eff. Dec. 1, 1988. Renumbered from § 5 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 7, operative July 1, 1990.

§30-1-111. Definitions.

A. As used in the Oklahoma Guardianship and Conservatorship Act:

1. "Abuse" means the intentional infliction of physical pain, injury, or mental anguish or the deprivation of food, clothing, shelter or medical care to an incapacitated person, partially incapacitated person, or a minor by a guardian or other person responsible for providing these services;

2. "Confidential information" means medical records, physical, psychological or other evaluations of a ward or subject of the proceeding, initial and subsequent guardianship plans, reports of guardians, limited guardians and conservators submitted to the court in connection with a proceeding pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act;

3. "Court" means a judge of the district court assigned to hear probate matters or assigned to the division of the district court designated to exercise probate jurisdiction;

4. "Estate" means the property of the person whose affairs are subject to a guardianship proceeding;

5. "Evaluation" means a professional assessment of:

- a. the ability of an adult to receive and evaluate information effectively or communicate decisions,
- b. the impact of any impairment of these skills on the capacity of the individual to meet the essential requirements for the individual's physical health or

safety, or to manage the individual's financial resources, and

c. the services necessary to provide for the ward;

6. "Exploitation" means an unjust or improper use of the resources of an incapacitated person, a partially incapacitated person or a minor for the profit or advantage, pecuniary or otherwise, of a person other than an incapacitated person, a partially incapacitated person or a minor through the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense;

7. A "guardian of an incapacitated person" means a person who has been appointed by a court to serve as the guardian of an incapacitated person to assure that the essential requirements for the health and safety of the person are met, to manage the estate or financial resources of the person, or both;

8. "Guardian ad litem" means, with respect to a guardianship proceeding, a person appointed by the court to assist the subject of the proceeding in making decisions with regard to the guardianship proceeding, or to make the decisions when the subject of the proceeding is wholly incapable of making the decisions even with assistance;

9. "Guardianship plan" means the plan for the care and treatment of a ward, the plan for the management of the financial resources of a ward, or both;

10. "Guardianship proceeding" means a proceeding for the appointment of a guardian, or for other orders regarding the condition, care or treatment or for the management of the financial resources of a ward;

11. "Guardianship report" means any report required by the provisions of Sections 4-305 and 4-306 of this title;

12. "Incapacitated person" means a person eighteen (18) years of age or older:

- a. who is impaired by reason of:
 - (1) mental illness as defined by Section 1-103 of Title 43A of the Oklahoma Statutes,
 - (2) intellectual or developmental disability as defined by Section 1430.2 of Title 10 of the Oklahoma Statutes,
 - (3) physical illness or disability,
 - (4) drug or alcohol dependency as defined by Section 3-403 of Title 43A of the Oklahoma Statutes, or
 - (5) such other similar cause, and
- b. whose ability to receive and evaluate information effectively or to make and to communicate responsible decisions is impaired to such an extent that the person:

- (1) lacks the capacity to meet essential requirements for physical health or safety, or
- (2) is unable to manage financial resources.

Whenever in the Oklahoma Statutes the term "incompetent person" appears and refers to a person who has been found by a district court to be an incompetent person because of an impairment or condition described in this paragraph it shall have the same meaning as "incapacitated person" but shall not include a person who is a partially incapacitated person;

13. "Least restrictive alternative" means an approach to meeting the needs of an individual that restricts fewer rights of the individual than would the appointment of a guardian or conservator including, but not limited to, supported decision making, appropriate technological assistance, appointment of a representative payee and appointment of an agent by the individual including under a power of attorney for health care or finances;

14. "Intangible personal property" means cash, stocks and bonds, mutual funds, money market accounts, certificates of deposit, insurance contracts, commodity accounts, and other assets of a similar nature;

15. "Letters" means a document issued by the court subsequent to the appointment of a guardian which designates the name of the guardian and specifies the authority and powers of the guardian. Such document shall be endorsed thereon with the oath of the guardian that he or she will perform the duties of his or her office as guardian according to law;

16. A "limited guardian" means a person appointed by the court to serve as the guardian of a partially incapacitated person and who is authorized by the court to exercise only:

- a. some of the powers of a guardian of the person or whose power as guardian of the person extends only to certain matters pertaining to the care or control of the ward as specified by the court, or
- b. certain powers as guardian of the property over the estate or financial resources of the ward, or whose powers as guardian of the property extend only to some portion of the estate or financial resources of the ward;

17. "Manage financial resources" or "manage the estate" means those actions necessary to obtain, administer and dispose of real property, business property, benefits and income, and to otherwise manage personal financial or business affairs;

18. "Meet the essential requirements for physical health or safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which serious physical injury is more likely than not to occur;

19. "Minor" means a person under eighteen (18) years of age;

20. "Neglect" means the failure to provide protection for an incapacitated person, a partially incapacitated person or a minor who is unable to protect the person's own interest; or the failure to provide adequate shelter or clothing; or the harming or threatening with harm through action or inaction by either another individual or through the person's own action or inaction because of a lack of awareness, incompetence or incapacity, which has resulted or may result in physical or mental injury;

21. "Organization" means a corporation, trust, business trust, partnership, association or other legal entity;

22. "Partially incapacitated person" means an incapacitated person whose impairment is only to the extent that without the assistance of a limited guardian the person is unable to:

- a. meet the essential requirements for physical health or safety, or
- b. manage all of the person's financial resources or to engage in all of the activities necessary for the effective management of the person's financial resources.

A finding that an individual is a partially incapacitated person shall not constitute a finding of legal incompetence. A partially incapacitated person shall be legally competent in all areas other than the area or areas specified by the court in its dispositional or subsequent orders. Such person shall retain all legal rights and abilities other than those expressly limited or curtailed in the orders;

23. "Party" means the person or entity filing a petition, application, motion, acceptance of a testamentary nomination or objection; the subject of a guardianship proceeding; and the guardian, the guardian ad litem and the conservator, if any such persons have been appointed;

24. "Person" means an individual;

25. "Property" means real property, personal property, income, any interest in such real or personal property and includes anything that may be the subject of ownership;

26. "Restrictions on the legal capacity of a person to act in the person's own behalf" means powers of an incapacitated or partially incapacitated person which are assigned to a guardian;

27. "Subject of the proceeding" means a minor or an adult:

- a. who is the subject of a petition requesting the appointment of a guardian, limited guardian or special guardian,
- b. for whom a guardian or limited guardian has been appointed by the court, or
- c. an adult for whom a conservator is requested or appointed;

28. "Supported decision making" means assistance from one or more persons chosen by an individual in understanding the nature and consequences of potential personal and financial decisions to enable the individual to make such decisions, and in communicating such decisions if consistent with the wishes of the individual; and

29. "Surcharge" means the imposition of personal liability by a court on a guardian or limited guardian for willful or negligent misconduct in the administration of the estate or other financial resources of a ward.

B. 1. Nothing in this section shall be construed to mean an incapacitated person, a partially incapacitated person or a minor is abused or neglected for the sole reason that a guardian or other person responsible, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practices of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of the person or minor in their trust, and, in the case of an adult, in accordance with the practices of or the express consent of the incapacitated or partially incapacitated person.

2. Nothing contained in this subsection shall prevent a court from immediately assuming custody of a minor, pursuant to the Oklahoma Children's Code, and ordering whatever action may be necessary including medical treatment, to protect the minor's health or welfare.

Added by Laws 1988, c. 329, § 11, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 8, operative July 1, 1990; Laws 1998, c. 298, § 1, eff. Nov. 1, 1998; Laws 2019, c. 475, § 28, eff. Nov. 1, 2019; Laws 2021, c. 133, § 1, eff. Nov. 1, 2021.

§30-1-112. Persons and property subject to act - Power of appointment - Parental rights.

A. Except as otherwise specifically provided by law, the Oklahoma Guardianship and Conservatorship Act applies to:

1. Minors in this state. Guardianships for minors established pursuant to Section 3 of this act shall only be subject to provisions of the Oklahoma Guardianship and Conservatorship Act as provided in subsection B of this section;

2. Incapacitated and partially incapacitated persons in this state; and

3. Property located in this state of nondomiciliaries who are minors or incapacitated or partially incapacitated persons, or property coming into the control of a guardian who is subject to the laws of this state.

B. Guardianships, subject to Section 3 of this act, shall be subject to Article 1 of the Oklahoma Guardianship and Conservatorship Act and Sections 4-501, 4-503, 4-706, 4-707, 4-801, 4-802, 4-901 and 4-902 of Title 30 of the Oklahoma Statutes.

C. No person, whether a parent or otherwise, has any power as a guardian, except by appointment by a court. The provisions of the Oklahoma Guardianship and Conservatorship Act shall not be construed to limit the parental rights of parents as the natural guardians of their children.

R.L. 1910, § 3327. Amended by Laws 1988, c. 329, § 12, eff. Dec. 1, 1988. Renumbered from § 7 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 9, operative July 1, 1990; Laws 2000, c. 385, § 13, eff. Nov. 1, 2000.

§30-1-113. Appointment of guardian - Jurisdiction.

A. A guardian of the person or property, or both, of a person residing in this state, who is a minor, or an incapacitated or partially incapacitated person, may be appointed in all cases by the court as provided in this title.

B. After the service of notice in a proceeding seeking the appointment of a guardian or other order, in subsequent proceedings pertaining to the guardianship of a ward and until termination of the proceeding, the court in which the petition is filed has exclusive jurisdiction to determine:

1. The need for a guardian or other order; and
2. How the estate of the ward shall be managed, expended, or distributed to or for the use of the ward or the dependents of the ward.

R.L. 1910, § 3328. Amended by Laws 1988, c. 329, § 13, eff. Dec. 1, 1988. Renumbered from § 8 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 10, operative July 1, 1990.

§30-1-114. Powers of court.

A. In all cases the court making the appointment of a guardian has exclusive jurisdiction to control such guardian in the management and disposition of the person and property of the ward.

B. The court has jurisdiction over guardianship proceedings, and has the following powers, which must be exercised in the manner prescribed by statute, to:

1. Appoint and remove guardians for minors and for incapacitated and partially incapacitated persons;
2. Issue and revoke letters of guardianship;
3. Control the conduct of guardians with regard to the care and treatment provided to their wards;
4. Control the conduct of guardians with regard to the management of the financial resources of their wards, including but not limited to the power to:
 - a. compel guardians to submit plans, reports, inventories and accountings to the court,

- b. compel payment and delivery by guardians of property belonging to their wards,
 - c. order the payment of debts, the sale of property, and order and regulate the distribution of property which has been placed under the control or management of a guardian, and
 - d. settle the accounts of guardians;
5. Appoint appraisers of the property of wards;
 6. Compel the attendance of witnesses and the production of documents and property;
 7. After a petition has been filed for appointment of a guardian for a minor, make or modify any temporary order of guardianship during the progress of the proceedings that would be in the best interest of the ward. Any such temporary order may be entered ex parte with written notice sent to all parties directing them to appear before the court, at a time and place therein specified, not more than twenty (20) days from the time of making such order, to show cause why the order should not be granted for temporary guardianship; and
 8. Exercise all powers conferred by the Oklahoma Guardianship and Conservatorship Act, Section 1-101 et seq. of this title, and to make such orders as may be necessary for the exercise of said powers.

C. The chief judge of each district court shall establish by court rule a system for:

1. The filing of guardianship and conservatorship cases and records which distinguish them from probate cases; and
2. Monitoring the filing of annual reports and inventories required by this title for the purpose of assuring that the court will be notified of annual reports as they fall due and whether or not said reports are filed.

R.L. 1910, § 3330. Amended by Laws 1988, c. 329, § 14, eff. Dec. 1, 1988. Renumbered from § 10 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 11, operative July 1, 1990; Laws 1992, c. 115, § 1, eff. Sept. 1, 1992.

§30-1-115. Venue - Priorities of jurisdiction - Transfer - Consolidation.

- A. The venue for a guardianship proceeding is in:
1. The district court of the county where the minor or the incapacitated or partially incapacitated person resides;
 2. The district court of the county where the proposed guardian resides if the proposed guardian is a member of the minor's or incapacitated person's family; or
 3. The district court of the county to which the cause is transferred by a judge of the court in which the petition was filed or the cause is pending. Provided, venue to appoint the guardian of

a nonresident minor or incapacitated person shall be in a county where the nonresident has property.

B. If a proceeding pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act could be maintained in more than one place in this state, the court in which the proceeding is first commenced has the exclusive right to exercise jurisdiction over the proceeding and proceed with the action. A court shall not exercise jurisdiction over a proceeding for guardianship of a minor pursuant to this title if, at the time the petition for guardianship is filed, another court of this state is exercising jurisdiction pursuant to Section 1-4-101 of Title 10A of the Oklahoma Statutes, unless after notice to the parties in the deprived action, the written consent of such court is obtained and filed in the guardianship proceeding.

1. If proceedings concerning the same estate, minor, alleged incapacitated or partially incapacitated person, or ward are commenced in more than one court of this state, the court in which a proceeding was first commenced shall continue to hear the matter and determine venue. If the court where the proceeding was first filed determines that venue is properly in another court, it shall transfer the proceeding to the other court.

2. If the court finds that in the interest of justice a proceeding should be conducted in another court of this state, the court may transfer the proceeding to the other court.

C. If both guardianship and conservatorship proceedings as to the same person are commenced or pending in the same court, the proceedings may be consolidated.

Added by Laws 1988, c. 329, § 15, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 12, operative July 1, 1990; Laws 2005, c. 69, § 3, eff. Nov. 1, 2005; Laws 2009, c. 234, § 134, emerg. eff. May 21, 2009.

NOTE: Laws 1990, c. 51, § 20 repealed by Laws 1991, c. 335, § 36, emerg. eff. June 15, 1991.

§30-1-116. Place of hearing - Order and decree.

A. The power conferred upon the court in relation to guardians and wards may be exercised in chambers or elsewhere in the discretion of the judge. Any hearing held pursuant to the provisions of this act may be held at such place as the court directs.

B. Any order appointing a guardian must be entered as and become a decree of the court.

C. Except as otherwise specifically provided by this act, the provisions of Title 58 of the Oklahoma Statutes relative to the estates of decedents, so far as they relate to the practice in the courts, apply to proceedings under this title. The rules of civil procedure including the rules concerning discovery, vacation of

orders and appellate review, govern proceedings subject to the Oklahoma Guardianship and Conservatorship Act unless otherwise provided in this title or Title 58 of the Oklahoma Statutes.

R.L. 1910, § 6585. Amended by Laws 1953, p. 249, § 87; Laws 1988, c. 329, § 16, eff. Dec. 1, 1988. Renumbered from Title 58, § 893 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 13, operative July 1, 1990.

§30-1-117. Guardians ad litem - Power to appoint - Appointment.

A. Nothing contained in this title affects or impairs the power of any court to appoint a guardian ad litem to defend the interests of any minor interested in any suit or matter pending therein.

B. At any point in a guardianship proceeding, the subject of the proceeding, his attorney, the guardian of the subject of the proceeding or anyone interested in the welfare of the subject of the proceeding may file an application to have a guardian ad litem appointed by the court, or the court on its own motion may appoint a guardian ad litem. If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several persons or interests.

R.L. 1910, § 6537. Amended by Laws 1953, p. 249, § 86; Laws 1988, c. 329, § 17, eff. Dec. 1, 1988. Renumbered from Title 58, § 891 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 14, operative July 1, 1990.

§30-1-118. Guardian of nonresident.

A guardian of the property, within this state, of a person not residing therein, who is a minor, or an incapacitated or partially incapacitated person, may be appointed by the court as provided by this title.

R.L. 1910, § 3329. Amended by Laws 1988, c. 329, § 18, eff. Dec. 1, 1988. Renumbered from § 9 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 15, operative July 1, 1990.

§30-1-119. Powers of guardian.

A guardian has only those powers over the person or the property of the ward, or both such person and property, as ordered by the court pursuant to this title.

R.L. 1910, § 3333. Amended by Laws 1988, c. 329, § 19, eff. Dec. 1, 1988. Renumbered from § 14 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 16, operative July 1, 1990.

§30-1-120. Power of guardian of the person - Report of change of ward's abode - Power of limited guardians.

A. A guardian, including a special guardian, of the person is charged with the custody of the ward, and must look to the support, health and education of the ward. Except as provided by Section 3-113 of this title, he may fix the place of abode of the ward at any place within the county, but not elsewhere, without permission of the court and any change in the place of abode of a ward within the county shall be reported to the court.

B. Limited guardians of partially incapacitated persons shall not have custody of the person of the ward and shall have only those powers or controls over the person of the ward specifically ordered in a dispositional order or other order of the court.

R.L. 1910, § 3334. Amended by Laws 1988, c. 329, § 20, eff. Dec. 1, 1988. Renumbered from § 15 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 17, operative July 1, 1990.

§30-1-121. Guardian of the property - Power - Fiduciary duty.

A. A guardian of the property must keep safely the property of his ward. He must not permit any unnecessary waste or destruction of the real property, nor make any sale of such property without the order of the court, but must so far as it is in his power, maintain the same, with its buildings and appurtenances, out of the income or other property of the estate, and deliver it to the ward or the successors of the ward at the close of his guardianship, in as good condition as he received it.

B. A guardian of the property, in relation to powers conferred pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act, shall act as a fiduciary and shall perform, diligently and in good faith, as a prudent person would in managing his own property, not with regard to speculation but with regard to conservation and growth, and the specific duties and powers assigned by the court.

R.L. 1910, § 3335. Amended by Laws 1988, c. 329, § 21, eff. Dec. 1, 1988. Renumbered from § 16 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 18, operative July 1, 1990.

§30-1-122. Confidential information filed with court.

A. Confidential information filed with or submitted to the court in conjunction with any proceeding pursuant to the Oklahoma Guardianship and Conservatorship Act, shall not constitute a public record and shall be sealed by the court. Access to confidential information shall be strictly controlled. Except upon court order, no confidential information shall be disclosed to persons other than:

1. The subject of the proceeding and the subject's attorney;
2. The guardian ad litem;

3. If the subject of the confidential information is a ward, the guardian or conservator of such ward;

4. If the subject of the confidential information is the guardian or conservator, the ward and the subject's attorney, and the attorney of such guardian or conservator;

5. Abstractors licensed pursuant to the Oklahoma Abstractors Law, for the purpose of having access to records regarding minors and determinations of persons as incapacitated or partially incapacitated persons pursuant to the Oklahoma Guardianship Act. Abstractors shall maintain the confidentiality of this data, except for such parts as are relevant to the land title being researched;

6. An authorized representative of the United States Department of Veterans Affairs upon presentation of proper identification; and

7. An authorized representative of the Department of Human Services upon presentation of proper identification.

B. The fact of the existence of a guardianship or conservatorship of a person or that person's estate shall not be considered confidential information.

Added by Laws 1988, c. 329, § 22, eff. Dec. 1, 1988. Amended by Laws 1989, c. 12, § 1, emerg. eff. March 27, 1989; Laws 1990, c. 323, § 79, operative July 1, 1990; Laws 1991, c. 18, § 2, emerg. eff. March 29, 1991; Laws 1992, c. 395, § 1, eff. Sept. 1, 1992; Laws 1999, c. 214, § 1, eff. Nov. 1, 1999.

§30-1-123. Letters of guardianship.

Letters of guardianship are evidence of the transfer of the management or administration of all assets, or the part thereof specified in the letters, of a ward to the guardian. An order terminating a guardianship is evidence of transfer of the management or administration of all assets subject to the guardianship from the guardian to the ward, or to successors of the ward.

Added by Laws 1988, c. 329, § 23, eff. Dec. 1, 1988.

§30-1-124. Guardianship and conservatorship handbook and duties summary.

The Oklahoma Bar Association shall prepare a guardianship and conservatorship handbook for distribution by the Administrative Office of the Courts to the district courts by providing a link to the handbook on the Oklahoma State Courts Network (OSCN) website. The handbook shall be written in clear, simple language and shall include information about the laws and procedures which apply to adult guardianships and conservatorships and the duties and responsibilities of such guardians and conservators. The handbook shall include a summary of the duties of guardians and conservators including, but not limited to, statutory notices, timetables, and required court approvals. The summary shall emphasize the significance of timely accountability to the court and to the ward

as well as the sanctions and penalties which may be imposed for failure to comply with the requirements of the law or orders of the court.

Added by Laws 1988, c. 329, § 24, eff. Dec. 1, 1988. Amended by Laws 1994, c. 234, § 3, eff. Sept. 1, 1994; Laws 2019, c. 417, § 2, eff. Nov. 1, 2019.

§30-1-125. Computation of time.

The time within which an act is to be done, as provided for in Title 30 of the Oklahoma Statutes, shall be computed by excluding the first day and including the last day. If the last day is a legal holiday as defined by Section 82.1 of Title 25 of the Oklahoma Statutes, it shall be excluded. The provisions of this section are hereby declared to be a clarification of the law as it existed prior to the effective date of this act and shall not be considered or construed to be a change of the law as it existed prior to the effective date of this act. Any action or proceeding arising under Title 30 of the Oklahoma Statutes prior to the effective date of this act for which a determination of the period of time prescribed by this section is in question or has been in question due to the enactment of Section 20, Chapter 293, O.S.L. 1999, shall be governed by the method for computation of time as prescribed by this section. Added by Laws 2000, c. 260, § 2, emerg. eff. June 1, 2000.

§30-2. Renumbered as § 1-107 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-2-101. When guardian of minor to be appointed - Petition - Notice.

A. The court of each county, when it appears necessary or convenient, may appoint guardians for the persons and estates, or either, or both of them, of minors.

B. Such appointment may be made on the verified petition of a relative or other person in behalf of such minor.

C. 1. Before making the appointment, the court may receive an investigation and report regarding the background and home of the prospective guardian. The investigation and report of the prospective guardian and placement restrictions and requirements shall be made pursuant to the requirements of the Oklahoma Adoption Code. In determining whether to require a home study pursuant to the provisions of this paragraph, the court shall balance the need for a home study to protect the best interests of the minor with the ability of the prospective guardian to pay for the home study.

2. a. Costs of the home study shall be assessed against any private child-placing agency having custody of the child, or the person having legal custody of the child or the prospective guardians of the child.

- b. (1) For any child in the custody of the Department of Human Services or the Department of Juvenile Justice, the applicable Department shall conduct or provide for the home study for such child as required by the Oklahoma Children's Code or the Oklahoma Juvenile Code.
- (2) The Department of Human Services or the Department of Juvenile Justice shall not be required by any court to conduct or provide for a home study and report to the court on guardianship placements for any child that is not in the custody of either Department.

3. An order appointing a guardian of the minor who has a parent living or other person legally responsible for the child shall comply with the provisions of Section 2-108 of this title.

4. Except in the case of an emergency guardianship placement, the court shall receive a background check for a prospective guardian and all other household members eighteen (18) years of age and older, consisting of a review of a national fingerprint-based criminal background check or an Oklahoma State Bureau of Investigation name-based criminal history background check, a search of the Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act, and a search of the child abuse and neglect information system (CANIS) maintained for review by authorized entities by the Department of Human Services. The Department may charge a fee not to exceed Thirty-five Dollars (\$35.00) for each search performed pursuant to this paragraph. In the case of an emergency placement, the court may waive the requirement for a CANIS search if it cannot be obtained in a reasonable time and the court determines that it is in the minor's best interest that the CANIS search be waived.

D. In addition, before making the appointment, the court must cause notice of the hearing on the petition for appointment of a guardian for a minor to be given in the form required by the court to the minor if the minor has attained the age of fourteen (14) as of the date the petition is filed. The court shall also cause notice to be sent to the following persons:

1. The then-living parents of the minor and any other person having custody of the minor, if such parent or person is not one of the petitioners;

2. If the minor has no then-living parent, then to one of the then-living grandparents who is not one of the petitioners and who is not married to one of the petitioners; and

3. If there is no such then-living grandparent or if there is no such then-living grandparent whose address is known to the petitioner, then notice shall be given to an adult relative, if any, of the minor residing in the county in which the petition was filed.

E. Such notice shall be mailed to each person entitled to notice pursuant to this section, at that person's address as last-known to the petitioner, at least ten (10) days prior to the date set by the court for hearing on the petition. Provided, the court may direct a shorter notice period if the court deems such shorter notice period to be appropriate under the circumstances. If there is no person other than the minor who is entitled to notice, or if the address of any person, other than the minor, who is entitled to notice is not known to the petitioner, the petition shall so allege. The court may direct that notice, other than notice to the minor if the minor has attained the age of fourteen (14), be waived or be given to any person or persons other than the minor in such manner as the court determines and directs.

R.L. 1910, § 6522. Amended by Laws 1953, p. 244, § 64; Laws 1969, c. 302, § 27, eff. Jan. 1, 1970; Laws 1988, c. 329, § 25, eff. Dec. 1, 1988. Renumbered from § 761 of Title 58 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 19, operative July 1, 1990; Laws 2004, c. 158, § 1; Laws 2018, c. 196, § 1, eff. Nov. 1, 2018; Laws 2019, c. 401, § 1, eff. Nov. 1, 2019; Laws 2021, c. 26, § 1, eff. Nov. 1, 2021.

§30-2-102. Nominations of guardian.

A. A guardian of the person or estate, or of both, of a child born, or likely to be born, may be nominated by will or by other written instrument, to take effect upon the death of the parent so nominating:

1. If the child is born in wedlock, by either parent or by both parents.

2. If the child is born out of wedlock, by the mother of the child or by the natural father of the child, if said natural father has acknowledged paternity pursuant to Section 55 of Title 10 of the Oklahoma Statutes or has been judicially determined to be the father of the child at a paternity proceeding pursuant to Section 70 of Title 10 of the Oklahoma Statutes, or by both such mother and father.

B. A nomination made by a parent who has relinquished parental rights pursuant to an adoption proceeding or whose parental rights have been terminated by a district court shall have no effect.

R.L. 1910, § 3326. Amended by Laws 1988, c. 329, § 26, eff. Dec. 1, 1988. Renumbered from § 6 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1991, c. 71, § 6, emerg. eff. April 15, 1991.

§30-2-103. Nomination and appointment of guardian - Age of minor.

A. If the minor is under the age of fourteen (14) years, the court may name and appoint his guardian. If the minor has attained the age of fourteen (14) years, the minor may nominate his own

guardian, who, if approved by the court, must be appointed accordingly.

B. The court, in appointing a guardian for a minor, is to be guided by Section 112.5 of Title 43 of the Oklahoma Statutes. R.L. 1910, § 6523. Amended by Laws 1953, p. 244, § 65; Laws 1988, c. 329, § 27, eff. Dec. 1, 1988. Renumbered from § 762 of Title 58 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 2009, c. 234, § 135, emerg. eff. May 21, 2009; Laws 2010, c. 358, § 5, emerg. eff. June 7, 2010.

§30-2-104. Nomination of guardian by minor at 14 years of age - Approval of court.

When a guardian has been appointed by the court for a minor under the age of fourteen (14) years, the minor, at any time after he has attained age fourteen (14), may nominate his own guardian, subject to the approval of the court.

R.L. 1910, § 6529. Amended by Laws 1988, c. 329, § 28, eff. Dec. 1, 1988. Renumbered from Title 58, § 768 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-2-105. Appointment when ward's nominee ineligible.

If a guardian nominated by a minor who has attained the age of fourteen (14) years is not approved by the court or if, after being notified by the court, the minor neglects for ten (10) days to nominate a suitable person, the court may name and appoint a guardian in the same manner as if the minor was under the age of fourteen (14) years.

R.L. 1910, § 6524. Amended by Laws 1988, c. 329, § 29, eff. Dec. 1, 1988. Renumbered from Title 58, § 763 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-2-106. Appointment of parents as guardians.

A minor's parent who is competent to transact his or her own business and not otherwise unsuitable or disqualified by law to serve as the guardian of said minor, shall be entitled to the guardianship of the minor until the minor has attained the age of fourteen (14) years. The parent petitioning the court for appointment as guardian of the minor must have the endorsement or nomination of the other parent, if the natural parents of the minor are married and living together. In cases where both parents are separately seeking appointment as guardian of the minor, the court may, upon full investigation, appoint the parent who in the judgment of the court is the most competent to look after the interest of said minor.

R.L. 1910, § 6530. Amended by Laws 1913, c. 29, p. 59, § 1; Laws 1988, c. 329, § 30, eff. Dec. 1, 1988. Renumbered from Title 58, § 769 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-2-107. Guardian in charge of education.

If the minor has no father or mother living who is competent to have charge of the education of the minor, the guardian appointed by the court shall have the same.

R.L. 1910, § 6531. Amended by Laws 1988, c. 329, § 31, eff. Dec. 1, 1988. Renumbered from Title 58, § 801 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-2-108. Education and maintenance of minor - Income from property of minor - Guardianship of minor with living parent - Child support.

A. If any minor, having a parent or parents living, has property, the income of which is sufficient for his or her maintenance and education in a manner more expensive than such parent or parents can reasonably afford, regard being had to all of the circumstances of the case, the expenses of the education and maintenance of such minor may be defrayed out of the income of the property of the minor in whole or in part, as judged reasonable and as directed by the court. The charges therefor may be allowed accordingly in the settlement of the accounts of the guardian of the minor.

B. Except as provided in subsection A of this section:

1. Any order appointing a guardian of the minor who has a living parent or other person legally responsible for the support of the child shall:

- a. provide for the payment of child support by each parent or other responsible party pursuant to the Oklahoma child support guidelines as set forth in Sections 118 and 119 of Title 43 of the Oklahoma Statutes. Each parent, including parents who reside together, shall be individually ordered to pay the percentage of the total monthly child support obligation attributable to that parent, and
- b. contain an immediate income assignment provision pursuant to Section 115 of Title 43 of the Oklahoma Statutes;

2. The court may defer the issue of establishment or enforcement of child support to the appropriate administrative or district court when child support services are being provided pursuant to the state child support plan as provided in Section 237 of Title 56 of the Oklahoma Statutes; and

3. Any guardianship or conservatorship for a minor created on or after December 1, 2000, shall comply with the provisions of this subsection. Guardianships or conservatorships for a minor in existence prior to December 1, 2000, shall comply with the provisions of this subsection as ordered by the court.

C. In any guardianship in which provision is made for the custody or support of a minor child or enforcement of an existing custody or support order or before hearing the matter or signing any orders, the court shall inquire whether public assistance money or medical support has been provided through the Department of Human Services, hereafter referred to as the Department, for the benefit of each child, or whether the Department is providing child support services pursuant to the state child support plan as provided in Section 237 of Title 56 of the Oklahoma Statutes. If public assistance money, medical support, or child support services have been provided for the benefit of the child, the Department shall be a necessary party for the adjudication of the debt due to the state, as defined in Section 238 of Title 56 of the Oklahoma Statutes, and for the adjudication of paternity, child support, and medical insurance coverage for the minor children in accordance with federal regulations. When a guardianship action is filed, the petitioner shall give the Department notice of the action according to Section 2004 of Title 12 of the Oklahoma Statutes. The Department shall not be required to intervene in the action to have standing to appear and participate in the action. When the Department is a necessary party to the action, any orders concerning paternity, child support, medical support, or the debt due to the state shall be approved and signed by the Department.

R.L.1910, § 6535. Amended by Laws 1988, c. 329, § 32, eff. Dec. 1, 1988. Renumbered from § 802 of Title 58 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 2000, c. 385, § 14, eff. Nov. 1, 2000; Laws 2008, c. 407, § 18, eff. Nov. 1, 2008.

§30-2-109. Conditions of appointment.

A. When any person is appointed guardian of a minor, the court shall include in the order of appointment conditions providing for the care, treatment, education and welfare of the minor.

B. An order providing for the transfer of the permanent care and custody of a child:

1. Shall require that the placement be reviewed within one (1) year after transfer and may require the person to whom custody is transferred to submit any records or reports the court deems necessary for purposes of the review; and

2. Shall require periodic reviews by the court thereafter as necessary to serve the best interests of the child.

R.L. 1910, § 6533. Amended by Laws 1988, c. 329, § 33, eff. Dec. 1, 1988. Renumbered from § 770 of Title 58 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 20, operative July 1, 1990; Laws 2010, c. 358, § 6, emerg. eff. June 7, 2010.

§30-2-110. Investments authorized.

A guardian legally holding funds or assets belonging to or for the benefit of a minor may with the approval of the district court or other court in which such estate is pending, invest such funds or assets or any part thereof, in single premium life, single premium endowment, or single premium annuity contracts of legal reserve life insurance companies as are duly licensed and qualified to transact business within this state.

Added by Laws 1947, p. 346, § 1. Renumbered from Title 58, § 816.1 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 21, operative July 1, 1990.

§30-2-111. Contracts on lives of wards and beneficiaries of trust funds.

Such contracts may be issued on the life of a ward or beneficiary of a trust fund, and shall be so drawn by the insuring company so that the proceeds, or avails thereof shall be the sole property of the person whose funds are invested.

Added by Laws 1947, p. 347, § 2. Renumbered from Title 58, § 816.2 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 22, operative July 1, 1990.

§30-2-112. Interest of guardian.

Such contracts may not be purchased from any company for which the guardian is acting as agent, or receives any commission, or part of any commission, directly or indirectly paid by such company to its agent soliciting or selling such contract.

Added by Laws 1947, p. 347, § 3. Renumbered from Title 58, § 816.3 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 23, operative July 1, 1990.

§30-2-113. When power of guardian appointed by parent ceases.

The power of a guardian appointed for a minor ceases upon:

1. The removal of the guardian;
2. The solemnized marriage of the ward; or
3. The ward's attaining majority.

R.L. 1910, § 3338. Amended by Laws 1988, c. 329, § 34, eff. Dec. 1, 1988. Renumbered from § 19 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 24, operative July 1, 1990.

§30-2-114. Release of minor ward at majority.

After a minor ward has come to his majority, such ward may settle accounts with his guardian and give him a release, which is valid, subject to approval of the court, if obtained fairly and without undue influence.

R.L. 1910, § 3340. Amended by Laws 1988, c. 329, § 35, eff. Dec. 1, 1988. Renumbered from § 21 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-2-115. Limitation of discharge by court.

A guardian of a minor appointed by a court is not entitled to his discharge until one (1) year after the majority of the ward unless the court determines that the minor has earlier validly released said guardian after a final accounting.

R.L. 1910, § 3341. Amended by Laws 1988, c. 329, § 36, eff. Dec. 1, 1988. Renumbered from § 22 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-2-116. Delivery of up to \$10,000 of minor's estate to custodian, parent or minor.

A. 1. When the whole estate of a minor does not exceed the value of Ten Thousand Dollars (\$10,000.00), the court may, in its discretion, without the appointment of a guardian or the giving of bond, authorize and direct:

- a. the delivery of the property or any portion thereof to one or more custodians pursuant to the Oklahoma Uniform Transfers to Minors Act or to one or more other custodians designated by the court, or
- b. the payment or delivery of the property or any portion thereof to the parent of the minor, or to the person having the care or custody of the minor, or to the minor. The person receiving the property shall pay necessary expenses of the minor and hold, manage, and dispose of the property in the manner directed by the court.

2. When the whole estate of a minor exceeds the value of Ten Thousand Dollars (\$10,000.00), the court may, in its discretion, without the appointment of a guardian or the giving of bond, authorize and direct:

- a. the delivery of property having a value of up to Ten Thousand Dollars (\$10,000.00) to one or more custodians pursuant to the Oklahoma Uniform Transfers to Minors Act or to one or more other custodians designated by the court, or
- b. the payment or delivery of up to Ten Thousand Dollars (\$10,000.00) of the property or any portion thereof to the parent of the minor, or to the person having the care or custody of the minor, or to the minor. The person receiving the property shall pay necessary expenses of the minor and hold, manage, and dispose of the property in the manner directed by the court.

B. The person making payment, delivery, transfer or issuance of property or evidence thereof to the individual or custodian designated by the court pursuant to this section is discharged and released to the same extent as if payment, delivery, transfer, or issuance was made to a guardian of the minor, and the person is not required to see to the application thereof. A person making payment, delivery, transfer, or issuance of property, or evidence thereof, to a next friend or guardian ad litem may be discharged and released as provided for by this act.

Added by Laws 1967, c. 51, § 1, emerg. eff. April 14, 1967. Amended by Laws 1988, c. 329, § 37, eff. Dec. 1, 1988. Renumbered from § 898.1 of Title 58 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1996, c. 293, § 2, eff. Nov. 1, 1996.

§30-2-117. Custody by abandonment of a minor - Qualified relative.

A. The court of each county, when it appears necessary or convenient, may grant a qualified relative custody by abandonment of a minor or minors who have been abandoned, as defined by Section 1-1-105 of Title 10A of the Oklahoma Statutes, in the care of the qualified relative if:

1. The minor is residing full-time with the qualified relative and the qualified relative contributes the major degree of support for the minor; and

2. The qualified relative is unable to contact the parent or parents or person or persons having legal custody of the minor, or the parent or parents or other person or persons having legal custody of the minor fail to or refuse to regain physical custody of the minor after a written request to do so by the qualified relative.

B. For purposes of this section, a "qualified relative" means an adult grandparent, great-grandparent, brother, sister, half-brother, half-sister, uncle, aunt, niece or nephew or a spouse of a qualified relative.

C. A qualified relative who is granted custody by abandonment shall have the same rights to arrange for, authorize, and consent to day care services, medical, psychological, dental, and educational assessment and services, and any other services that may be necessary to provide for the care, treatment, education, and welfare of the minor or minors that are given to legal guardians by the Oklahoma Guardianship and Conservatorship Act except that such relative may not consent to an adoption of the minor or minors.

D. Custody by abandonment shall be made on the verified petition of a qualified relative and shall be substantially in the following form:

PETITION FOR CUSTODY BY ABANDONMENT

Comes Now the Petitioner, _____, and informs the Court as follows:

1. That I am now a resident in good faith of _____ County, and the State of Oklahoma for at least six (6) months prior to the filing of this petition.
2. That my home address is _____.
3. That my date of birth is _____.
4. That my Oklahoma driver license or other identification card number is _____.
5. That _____ is/are minor child(ren) _____ years of age, respectively, having the following date(s) of birth: _____.
6. That I am related to the child(ren) as his/her/their _____.
7. That the child(ren) has/have been living in my home since the _____ day of _____, 20____. Prior to this date, the child(ren) resided at the following address and in the following county and state: _____.
8. That the Court has jurisdiction in this action to make a child custody determination pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act, Sections 551-101 through 551-402 of Title 43 of the Oklahoma Statutes in that Oklahoma is the home state of the minor child(ren). A Uniform Child Custody Jurisdiction and Enforcement Act Affidavit is attached to this petition.
9. That the minor child(ren) is/are not Indian children within the meaning of the Federal or State Indian Child Welfare Acts.
10. That (check one)
 - () I am unable to contact or locate either parent of the child(ren) or other person(s) having legal custody of the child(ren) at this time.
 - () I made a written request to the child(ren)'s parent(s) or other person(s) having legal custody of the child(ren) on the _____ day of _____, 20____, to regain physical custody of the child(ren), and said custodian has failed to regain custody or such request has been refused.
11. That, at this time, I do/do not (choose one) intend to seek child support from the child(ren)'s parent(s) or legal guardian(s).
12. That granting Petitioner care and custody by abandonment is necessary to provide for the general welfare of the child(ren) and to allow Petitioner to authorize medical, dental, educational, child care and/or other services for the child(ren).
13. That I hereby accept care and custody of the child(ren). I will exercise continuing general supervision of the child(ren).
14. That I am qualified to be granted care and custody by abandonment. I further inform the Court that I am not a minor, incapacitated person or partially incapacitated person. Attached to this petition is a completed Oklahoma Sex Offenders Registration Act Affidavit. There are no conflicts of interest that would preclude

or be substantially detrimental to my ability to act in the best interest(s) of the minor child(ren).

WHEREFORE, the Petitioner prays the Court to grant Petitioner care and custody by abandonment and issue Letters of Custody by Abandonment upon the taking of the oath.

Signature of Attorney or Pro Se Petitioner
Printed Name
Address

Verification
State of Oklahoma)
County of _____) SS.

I, _____, of lawful age, being first duly sworn upon oath depose and state that I am the Petitioner named above; that I have read the foregoing Petition and understand its contents; that I hereby state that the facts set forth in the foregoing Petition are true and correct to the best of my knowledge and belief.

Signature of Petitioner
Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public
My Commission Number is: _____
My Commission Expires: _____

E. Affidavits attesting to the compliance of the guardian with the Uniform Child Custody Jurisdiction and Enforcement Act and the Oklahoma Sex Offenders Registration Act shall be attached to the petition and shall be substantially in the following forms:

Uniform Child Custody
Jurisdiction And Enforcement Act
Affidavit

STATE OF OKLAHOMA)
) SS
COUNTY OF _____)

I, _____, of lawful age, am the Petitioner in the above-styled and numbered guardianship proceeding, being first duly sworn upon oath, depose and state:

1. The minor(s), _____, _____, presently live at _____ (city), _____ (state), _____ (zip).
2. The minor(s) has/have lived at the following address during the last five (5) years:

Name	Address	City	State	Zip	Date

3. I have/have not participated as a party, witness or otherwise been involved in a legal proceeding concerning the custody of, or visitation with, said minor(s).
If you have, list the Court, the case number(s) and the date(s) of participation:

Court Case Number Dates

4. I have knowledge of the following proceeding pertaining to a divorce of the minor's(s') parents, custody proceeding(s) concerning this/these minor(s) proceedings concerning domestic violence or abuse, protective orders, termination of parental rights, adoptions or Department of Human Services or other proceedings.

Court Case Number Dates

5. I have knowledge that the following named persons claim a right to custody or a right to visitation with said minor.

Name Address City State Zip Date

6. I acknowledge that I have a continuing duty under the law to inform the Court, in writing, of any additional information acquired by me after executing this "Affidavit".

Signature: _____

Print Name: _____

Petitioner

Subscribed and sworn to before me this _____ day of

_____, _____.

Court Clerk / Notary Public

My Commission Number: _____

My Commission Expires: _____

Oklahoma Sex Offenders Registration Act
Affidavit

I am not a person subject to registration under the Oklahoma Sex Offenders Registration Act. I am not married to or living with such a person, or a person who has been convicted of, or has charges pending for, a felony or any relevant misdemeanor, nor has anyone living with me or frequently present in my home previously been

convicted of, or has charges pending for, a relevant felony or misdemeanor.

That as guardian of the above minor child(ren) under no circumstances shall I permit the child to be left in the custody of a person who is known to me to be subject to registration under the Oklahoma Sex Offenders Registration Act. Nor shall I permit the children to be left in the custody of a person married or living with such a person, or with any individual who has been convicted of any crime involving domestic abuse. Nor shall these children be placed in the custody of a person who has previously been convicted of, or has charges pending for, a relevant felony or misdemeanor.

Petitioner

Subscribed and sworn to before me on this _____ day of _____.

Court Clerk or Notary Public

My Commission Number: _____

My Commission Expires: _____

F. The provisions for satisfying notice requirements and receiving reports and investigations shall be identical to those provided for under subsection C of Section 2-101 of Title 30 of the Oklahoma Statutes.

G. The annual accounting requirements for custody by abandonment shall be identical to the accounting requirements provided in Section 4-303 of Title 30 of the Oklahoma Statutes.

H. The filing fees in matters pertaining to custody by abandonment shall not exceed the fees for matters pertaining to relative guardianship under Section 4-404 of Title 30 of the Oklahoma Statutes.

I. If after consideration, the court finds that granting custody by abandonment to a qualified relative is in the best interest of the child, the court shall issue an order granting said relative custody by abandonment. A qualified relative who is granted custody by abandonment shall be issued Letters of Custody by Abandonment. Letters of Custody by Abandonment shall specify that the guardian shall have the authority to consent to medical services and shall be indemnified from personal liability for medical services provided to the child or children. Custody by abandonment shall take effect upon taking of an oath by the qualified relative.

J. 1. A minor who is in the permanent care of the qualified relative granted care and custody by abandonment and who is either:

- a. twenty-four (24) months of age or less and who has been abandoned for at least six (6) months in the physical care of the qualified relative, or
- b. over twenty-four (24) months of age and who has been abandoned for a period of twelve (12) months out of

the last fourteen (14) months in the physical care of the qualified relative, may not be reclaimed or recovered to the parent or parents or other person or persons having legal custody of the minor who abandoned the minor except through order of a court of competent jurisdiction or by voluntary release of the minor by the qualified relative.

2. Upon any action to determine the custody of the minor pursuant to the provisions of this subsection, the court shall base its findings and determination of custody on the best interests of the minor and:

- a. the duration of the abandonment and integration of the minor into the home of the relative,
- b. the preference of the minor if the minor is determined to be of sufficient maturity to express a preference,
- c. the mental and physical health of the minor, and
- d. such other factors as are deemed necessary in the particular circumstances.

3. During the pendency of any action to determine the custody of a minor pursuant to this subsection, unless it is determined not to be in the best interests of the minor, the minor shall remain in the custody of the qualified relative who has accepted custody by abandonment.

4. If the court orders the minor be returned to the minor's parent or parents or other legal guardian, the court may provide for a transitional period for the return in the best interest of the minor.

K. The provisions of this section shall not apply to the acceptance of care and custody by one parent of the minor from the other parent of the minor.

L. 1. Custody by abandonment for a minor ceases upon:

- a. the minor attaining majority, or attaining the age of nineteen (19) years if the minor is a full-time student in high school,
- b. the solemnized marriage of the minor,
- c. the voluntary relinquishment by the qualified relative granted custody by abandonment, or
- d. by order of the court.

2. If the minor stops residing with the relative, or if custody by abandonment has been terminated for any reason, the relative shall notify the court issuing the Letters of Custody by Abandonment and any school, health care provider, health care service plan, or other provider that has been given a copy of the Letters of Custody by Abandonment.

M. Actions establishing abandonment pursuant to this section shall not be required to be reported to the Department of Human Services under subsection B of Section 1-2-101 of Title 10A of the Oklahoma Statutes.

Added by Laws 2010, c. 358, § 7, emerg. eff. June 7, 2010.

§30-3. Renumbered as § 1-108 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-3-101. Petition for appointment of guardian.

A. Any person interested in the welfare of a person believed to be an incapacitated person or partially incapacitated person may file a petition alleging that such person is an incapacitated or partially incapacitated person, and request the appointment of a guardian.

B. The petition shall be verified and shall specify:

1. The names and addresses of persons entitled to notice pursuant to Section 3-110 of this title and to the attorney of the subject of the proceeding, if any, and if known to the petitioner;

2. The nature and degree of the alleged incapacity;

3. The relief requested and the facts and reasons supporting the need for such relief including, where applicable, a description of any acts or behavior of the subject of the proceeding which gave rise to the allegations; and

4. The estimated value of all intangible personal property of the ward.

C. A copy of the results of any physical, psychological or other appropriate professional evaluation of the condition of the subject of the proceeding which has been completed within sixty (60) days prior to the filing of the petition, may be attached to the petition at the time it is filed.

D. A guardianship plan or plans substantially in the form required by Section 3-120 or Section 3-122 of this title or both, as appropriate, may be attached to the petition at the time it is filed or may be submitted to the court at the time of the hearing.

E. Before making the appointment, the court may receive an investigation and report regarding the background and home of the prospective guardian. When required, the investigation and report of the prospective guardian and placement restrictions and requirements shall include a check for the petitioner and each adult member of the petitioner's household establishing that there is no record of a criminal conviction, protective order or pending criminal charge. Additionally, the report shall include an Oklahoma State Bureau of Investigation name-based criminal background check for the petitioner and each adult member of the petitioner's household establishing that no record of a criminal conviction exists in the OSBI criminal history repository based on the search criteria provided. The petitioner shall disclose the case name and status of any civil or criminal matter in state or federal court, including but not limited to bankruptcy adjudications, involving the petitioner or any adult household member.

Added by Laws 1988, c. 329, § 38, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 25, operative July 1, 1990; Laws 2007, c. 364, § 1, emerg. eff. June 4, 2007.

§30-3-102. Nomination of guardians or alternate guardians by adult - Priorities of nominations.

A. Every person eighteen (18) years of age or older who is of sound mind and not acting under duress, menace, fraud or undue influence, may nominate a guardian of his person and property, or of either, as provided by this section. Such nomination shall, in the event of the incapacity or partial incapacity of said person be proved in the same manner as any other writing. The nomination shall be binding on any court having jurisdiction of said guardianship subject to the disqualification of the nominee by the court.

B. Such nomination shall be in writing and shall be signed by the person making such nomination. The nomination shall be substantially in the following form:

Nomination of Guardian by an Adult

I, _____, being of sound mind and not
(Name)

acting under any duress, menace, fraud, or other undue influence do hereby nominate (Name, current residence, and relationship, if any, of the nominee) to serve as the guardian of my (person, property, both) in the event that after the date of this instrument I become incapacitated.

Executed at _____ (city, state)
on this _____ day of _____, 19__.

Signature

C. In such nomination, the person making it may nominate an alternate guardian or guardians to act in the event a previously named nominee is unable or unwilling to act as guardian.

D. If the same person has executed more than one nomination of a guardian:

1. The most recent nomination shall control; or
2. If two or more nominations bear the same most recent date the court may appoint one of the nominees or may appoint more than one of the nominees as coguardians upon determining the nominator to be an incapacitated or partially incapacitated person.

E. This section shall not be construed as amending or in any manner affecting special powers of attorney, Sections 1051 through 1077 of Title 58 of the Oklahoma Statutes, or durable powers of attorney or express trusts established pursuant to the provisions of Title 60 of the Oklahoma Statutes.

Added by Laws 1961, p. 441, § 1. Amended by Laws 1988, c. 329, § 39, eff. Dec. 1, 1988. Renumbered from Title 58, § 896 by Laws

1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 26, operative July 1, 1990.

§30-3-102.1. Initiation of guardianship proceedings for minors at least 17 years and 6 months of age.

A. Any person interested in the welfare of a minor, where the minor is at least seventeen (17) years and six (6) months of age and believed to be an incapacitated person or partially incapacitated person, may initiate guardianship proceedings, file a petition pursuant to Section 3-101 of Title 30 of the Oklahoma Statutes and request that any guardianship order take effect immediately on the minor's eighteenth birthday.

B. The petitioner may provide with the petition a copy of the results of an evaluation of the minor by a physician, psychologist or other appropriate professional evaluation that meets the requirements of subsection C of Section 3-101 of Title 30 of the Oklahoma Statutes. If the evaluation was conducted within sixty (60) days prior to the filing of the petition, the petitioner may ask in the petition that the court accept this report in lieu of ordering any additional evaluation pursuant to Section 3-108 of Title 30 of the Oklahoma Statutes, and the court may grant the request.

Added by Laws 2017, c. 182, § 1, eff. Nov. 1, 2017.

§30-3-103. Nomination of guardian or limited guardian by will.

A parent of an unmarried incapacitated or partially incapacitated person, the spouse of a married incapacitated or partially incapacitated person, or an adult child of such person who is serving as guardian or limited guardian may nominate by will, or by other writing executed by the nominating parent or parents, spouse, or adult child, an individual to serve as guardian or limited guardian upon the death or incapacity of the nominator. Such nomination shall be executed by the nominator in the same manner as provided for nominations made pursuant to Section 3-102 of this title.

Added by Laws 1988, c. 329, § 40, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 27, operative July 1, 1990.

§30-3-104. Priorities for selection by court of guardian or limited guardian - Appointment of organization - Determination of suitability - Appointment of public agency.

A. The following priorities shall guide the selection by the court of a guardian or limited guardian of an incapacitated or partially incapacitated person from among those eligible:

1. The individual or individuals nominated by the subject of the proceeding pursuant to Section 3-102 of this title;

2. The current guardian or limited guardian appointed or recognized by the appropriate court of any other jurisdiction in which the incapacitated or partially incapacitated person resides;

3. An individual nominated by the will or by other writing of a deceased parent, spouse, or an adult child who was serving as the guardian or limited guardian of the subject of the proceeding;

4. The spouse of the subject of the proceeding;

5. An adult child of the subject of the proceeding;

6. A parent of the subject of the proceeding;

7. A sibling of the subject of the proceeding;

8. Any individual approved by the court with whom the subject of the proceeding has been living for more than six (6) months prior to the filing of the petition. Provided that any owner, operator, administrator or employee of a facility subject to the provisions of the Nursing Home Care Act, the Residential Home Care Act or the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act shall not be appointed guardian or limited guardian of a resident of such facility unless the owner, operator, administrator or employee is the spouse of the resident, or a relative of the resident within the second degree of consanguinity and is otherwise eligible for appointment; or

9. If applicable, an individual volunteer qualified for appointment as a guardian of a veteran pursuant to the Veterans Volunteer Guardianship Act.

B. When the guardian or limited guardian of an incapacitated or partially incapacitated person is the guardian of property only, the court may appoint an organization which is eligible to manage the financial resources of an individual and has fiduciary powers, or its successor in interest, when:

1. Such organization is nominated by the subject of the proceeding pursuant to Section 3-102 of this title;

2. Such organization is nominated by a person eligible to make such nomination pursuant to Section 3-103 of this title; or

3. The appointment of such organization is in the best interest of the subject of the proceeding.

C. The court shall make reasonable inquiry to determine whether the person or organization proposed to serve as the guardian or limited guardian of an incapacitated or partially incapacitated person is suitable and will exercise the powers and carry out the duties and responsibilities of guardian or limited guardian in the best interest of the ward. The court shall also inquire of the proposed guardian of the person of the ward as to how the guardian proposes to provide for the care of the ward, and of the proposed guardian of the estate of the ward as to how the guardian proposes to manage the property of the ward and to provide for the ward's financial care. The court shall make such orders with respect thereto as the court deems to be for the best interest of the ward.

D. A public agency shall not be appointed to serve as guardian for an adult except as provided in Section 1415 of Title 10 and Section 10-108 of Title 43A of the Oklahoma Statutes. Added by Laws 1988, c. 329, § 41, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 28, operative July 1, 1990; Laws 2019, c. 23, § 7, emerg. eff. April 4, 2019.

§30-3-105. Court appointment where nominee is unable, unwilling or cannot qualify to serve.

In the event the person nominated is unable, unwilling, or cannot qualify to so serve, the court shall make a finding of such fact and shall proceed to the appointment of a guardian as if such nomination had not been made, taking into account any alternative guardian named in the nomination.

Added by Laws 1961, p. 441, § 2. Amended by Laws 1988, c. 329, § 42, eff. Dec. 1, 1988. Renumbered from Title 58, § 897 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-3-106. Rights of individual alleged to be or found to be incapacitated or partially incapacitated - Confidentiality - Relief from costs and fees - Record.

A. In all hearings conducted pursuant to Article III of the Oklahoma Guardianship and Conservatorship Act, an individual who is alleged to be or found to be an incapacitated or partially incapacitated person shall have a right to:

1. Notice as provided in Section 3-110 of this title;
2. Be present at such hearings;
3. Compel the attendance of witnesses;
4. Present evidence;
5. Cross-examine witnesses;
6. Appeal adverse orders and judgments as provided by the rules of civil procedure;
7. Representation by court-appointed counsel upon request; and
8. Request that the proceedings be closed to the public.

B. The requirement of notice to the subject of the proceeding shall not be waived. The requirement that the subject of the proceeding be present at a hearing may be waived only for good cause shown. The court shall make inquiries to determine whether there is sufficient cause to waive the right to be present. Whenever the requirement that the subject of the proceeding be present is waived, the court shall make a finding on the record as to the reason the subject of the proceeding is not present at the proceeding and the alternatives which were considered to enable the subject of the proceeding to be present.

C. Any person may apply for permission to participate in a proceeding or to be admitted to a proceeding which has been closed to the public. The court may grant the request to participate upon

determining that the best interest of the subject of the proceeding will be served thereby. The court may, for good cause shown, grant the request of such person for permission to be admitted to the closed proceeding upon determining that said person has a legitimate interest in the proceedings. In granting either request, the court may impose any appropriate conditions it deems necessary.

D. If the subject of the proceeding is under the influence of psychotropic medication, during any judicial hearing held pursuant to the Oklahoma Guardianship and Conservatorship Act, the court shall be advised of this fact, the purpose of the medication, and the effect which it may have on the individual's actions, demeanor and participation at the hearing.

E. Statements of individuals alleged or found to be partially incapacitated or incapacitated persons made during the course of the evaluations, examinations and treatment pursuant to the Oklahoma Guardianship and Conservatorship Act shall be privileged and confidential. Such statements shall not be admissible without the individual's consent in any civil or criminal proceeding other than a proceeding held pursuant to the Oklahoma Guardianship and Conservatorship Act.

F. A party to a proceeding held pursuant to the Oklahoma Guardianship and Conservatorship Act may be relieved of court costs and filing fees as specified by Section 152 of Title 28 of the Oklahoma Statutes or as provided by Section 192 of Title 56 of the Oklahoma Statutes.

G. At the request of any party to a proceeding pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act, the court shall order that a stenographic or mechanical record of the proceeding be made.

Added by Laws 1988, c. 329, § 43, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 29, operative July 1, 1990.

§30-3-106.1. Court-appointed advocates for vulnerable adults programs.

A. As used in this section:

1. "Court-appointed advocates for vulnerable adults" or "CAAVA" means a responsible adult who has been trained and is supervised by a court-appointed advocates for vulnerable adults program recognized by the court, and who has volunteered to be available for appointment under this section to serve as an officer of the court, as a guardian ad litem to represent the best interests of any vulnerable adult over whom the district court exercises jurisdiction, until discharged by the court;

2. "Court-appointed advocates for vulnerable adults program" means an organized program, administered by either an independent, not-for-profit corporation, a dependent project of an independent, not-for-profit corporation, or a unit of local government, which

recruits, screens, trains, assigns, supervises and supports volunteers to be available for appointment by the court as guardians ad litem, to represent the best interests of a vulnerable adult;

3. "Vulnerable adult" means a person, eighteen (18) years of age or older, who is a victim of abuse, neglect or exploitation, or who is disabled; and

4. "Best interests" means a determination with regard to a vulnerable adult that is made from the perspective of the vulnerable adult, considering, but without giving primary importance to, the convenience of the vulnerable adult's relatives, caregivers or health care providers, and without regard for the perceived quality of life of the vulnerable adult or the vulnerable adult's perceived nearness to death.

B. The following entities shall collectively develop policy guidelines for court-appointed advocates for vulnerable adults programs:

1. Oklahoma Planning Council on Developmental Disabilities;
2. Court-appointed special advocates (CASA);
3. Aging Services Division of the Department of Human Services;
4. Adult Protective Services Program Office;
5. Office of Public Guardian;
6. Advocacy Partnership for Aging Oklahomans;
7. The State Long-Term Care Ombudsman; and
8. The Developmental Disabilities Division of the Department of Human Services.

C. 1. Whenever a petition is filed alleging that a potential ward, hereinafter referred to as a vulnerable adult, is abused, neglected, exploited or disabled, or for any other action related to the vulnerable adult, the court may appoint a guardian ad litem for the vulnerable adult at any time subsequent to the filing of the petition.

2. The court may appoint a guardian ad litem upon the request of the vulnerable adult, the attorney of the vulnerable adult, the Office of Public Guardian, the Adult Protective Services Program Office, Aging Services Division and the Developmental Disabilities Services Division within the Department of Human Services, the Office of the State Long-Term Care Ombudsman, the state legal services developer, or any other party to the action.

3. A guardian ad litem shall not be a district attorney, an employee of the office of the district attorney, the vulnerable adult's attorney, an employee of the court, or an employee of any public agency having duties or responsibilities related to the vulnerable adult.

4. The guardian ad litem shall be appointed to advocate objectively on behalf of the vulnerable adult and act as an officer of the court to investigate all matters concerning the best interests of the vulnerable adult. In addition to other duties

required by the court and as specified by the court, a guardian ad litem shall have the following responsibilities:

- a. review documents, reports, records and other information relevant to the case, meet with and observe the vulnerable adult in appropriate settings, and interview relatives, health care providers, adult protective services workers and any other persons with knowledge relevant to the case,
- b. advocate for the vulnerable adult's best interests by participating in the case, attending any hearings in the matter and advocating for appropriate services for the vulnerable adult when necessary,
- c. maintain the confidentiality of information related to the case,
- d. monitor the vulnerable adult's best interests throughout any judicial proceeding, and
- e. present written reports on the vulnerable adult's best interests that include conclusions and recommendations, and the facts upon which they are based.

5. The guardian ad litem shall be given access to the court files and agency files and access to all documents, reports, records and other information relevant to the case and to any records and reports of examination of the vulnerable adult's relatives, guardian or custodian, made pursuant to the laws relating to adult abuse and neglect, including reports generated by service providers.

D. 1. Whenever a court-appointed advocates for vulnerable adults program is available to the court to serve as a guardian ad litem, priority shall be given to appointment of the court-appointed advocate for vulnerable adults to serve as guardian ad litem for the vulnerable adult regardless of whether a guardian ad litem has been requested pursuant to the provisions of this subsection.

2. A court-appointed advocates for vulnerable adults (CAAVA) program may be made available to each judicial district.

3. For purposes of this section, the terms "court-appointed advocate for vulnerable adults" and "guardian ad litem" shall have the same function. In like manner, a court-appointed advocate for vulnerable adults, except as specifically otherwise provided by law or by the court, shall have the same power, duties and responsibilities as assigned to a guardian ad litem by law and shall have such other qualifications, duties and responsibilities as may be prescribed by rule of the Supreme Court.

4. A court-appointed advocate for vulnerable adults shall serve without compensation.

E. 1. Any person participating in a judicial proceeding as a court-appointed advocate for vulnerable adults shall be presumed prima facie to be acting in good faith and in so doing shall be

immune from any civil liability that otherwise might be incurred or imposed.

2. Any person serving in a management position of a court-appointed advocate for vulnerable adults organization, including a member of the Board of Directors acting in good faith, shall be immune from any civil liability or any vicarious liability for the negligence of any court-appointed advocate for vulnerable adults organization advocates, managers or directors.

Added by Laws 2002, c. 298, § 1, eff. July 1, 2002.

§30-3-107. Appointment of counsel - Explanation and inquiry by court - Replacement of appointed counsel - Determination of independence of retained counsel - Record.

A. If at or prior to a hearing on a petition alleging a person to be an incapacitated or partially incapacitated person, or if at any point in the course of a proceeding pursuant to said petition, the subject of the proceeding is not represented by counsel, the court may appoint an attorney as provided in this section, and the court may at any time subsequent to the filing of said petition appoint a guardian ad litem to assist the court in making a determination as to whether or not an attorney should be appointed for the subject of the proceeding. Where available, an attorney appointed by the court may be a public defender.

B. If the subject of the proceeding is present at the hearing on the petition and is not represented by counsel at said hearing:

1. The court shall explain on the record:

- a. the purpose and potential consequences of the proceeding; and
- b. the right to be represented by counsel upon request and that if the subject of the proceeding wishes to be represented by counsel, the court will appoint an attorney to represent the subject of the proceeding at the hearing on the petition.

2. Following such explanation the court shall inquire of the subject of the proceeding whether he wishes to have an attorney appointed.

- a. If the subject of the proceeding requests the appointment of an attorney, the court shall appoint an attorney.
- b. If the subject of the proceeding does not request the appointment of an attorney and the court is in doubt as to whether the subject of the proceeding is capable of making an informed decision regarding the appointment of an attorney and the court determines that it is in the best interest of the subject of the proceeding to be represented by counsel, the court shall appoint an attorney for the subject of the

proceeding, or if the court determines that the appointment of counsel is not in the best interest of the subject of the proceeding, the court shall not appoint an attorney.

- c. If the subject of the proceeding does not request the appointment of an attorney and the court determines that the subject of the proceeding is capable of making an informed decision regarding the appointment of an attorney, the court shall not appoint an attorney.

3. The court may make the explanation and inquiry required by this subsection, regarding the purpose and potential consequences of the proceeding and the appointment of an attorney, prior to the hearing on the petition. At the hearing on the petition the court shall include on the record the facts related to said explanation and inquiry, the determinations made by the court with respect thereto and the reasons for such determinations.

C. If the subject of the proceeding is not present at the hearing on a petition alleging him to be an incapacitated or partially incapacitated person and is not represented by counsel and the court has not made the explanation and inquiry as provided by paragraph 3 of subsection B of this section, the court shall make sufficient inquiry to determine affirmatively whether it would be in the best interest of the subject of the proceeding to appoint counsel to represent the subject of the proceeding at the hearing on the petition.

1. If the court determines that it is in the best interest of the subject of the proceeding to be represented by counsel, the court shall appoint an attorney.

2. If the court determines that the appointment of counsel is not in the best interest of the subject of the proceeding, the court shall not appoint an attorney.

D. Whenever the court determines that the appointment of counsel is not in the best interests of the subject of the proceeding, or if the subject of the proceeding does not request the appointment of an attorney and the court determines that the subject of the proceeding is capable of making an informed decision regarding the appointment of counsel, the court shall explain on the record the reason for such determination.

E. 1. If an attorney is appointed, the court shall delay the hearing on the petition only for the period of time necessary for the attorney to prepare the case for the hearing but in no event less than five (5) days after such appointment.

2. The attorney appointed by the court shall be replaced by another attorney if:

- a. the subject of the proceeding prefers the services of an attorney other than the one initially appointed for him;
- b. the preferred attorney agrees to accept the responsibility; and
- c. the subject of the proceeding or the attorney whom he prefers notifies the court of the preference and the attorney's acceptance of employment.

3. An attorney appointed pursuant to this section shall contact the subject of the proceeding promptly after receiving notification of his appointment. An attorney appointed pursuant to the provisions of this section shall be compensated pursuant to the provisions of Section 4-403 of this title.

F. 1. Except as provided by paragraph 2 of this subsection or as otherwise ordered by the court, the responsibility of an attorney appointed pursuant to the provisions of this section ceases upon the appointment of a guardian or limited guardian of the subject of the proceeding or when a determination not to appeal the decision is made. The court may appoint an attorney to represent a ward at any subsequent proceeding.

2. Whenever there is an appeal of a decision made subsequent to a hearing on a petition requesting the appointment of a guardian or limited guardian, the responsibility of an attorney appointed pursuant to this subsection continues with respect to the appeal until the conclusion of the appeal proceedings. Upon application of the attorney, the court may allow the attorney to withdraw from the case and shall appoint another attorney to represent the subject of the proceeding in any appeal proceedings.

G. In all cases where independent counsel is retained by or on behalf of the subject of the proceeding, the court shall make independent inquiry to determine whether counsel is independent and whether any conflict of interest exists which would preclude proper representation of the subject of the proceeding or which would be detrimental to the best interest of the subject of the proceeding. The court shall appoint other counsel where retained counsel is found not to be independent.

H. Proceedings brought pursuant to the provisions of this section shall be made a part of the record in the guardianship proceeding.

Added by Laws 1988, c. 329, § 44, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 30, operative July 1, 1990.

§30-3-108. Evaluations of subject of proceeding.

A. After the filing of the petition, the court may, on its own motion or at the request of any party to the proceeding, if the court determines it to be for the best interest of the ward, order an evaluation of the subject of the proceeding in connection with

any proceeding pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act where the capacity of said person is a material issue.

B. Any evaluations made pursuant to the Oklahoma Guardianship and Conservatorship Act, as appropriate for the condition or alleged condition of the person being evaluated, shall be performed by:

1. A physician;
2. A psychologist;
3. A social worker with a graduate degree in social work and field training or experience in working with incapacitated or partially incapacitated persons; or
4. Other expert with knowledge of the particular incapacity or disability which the individual is alleged or has been found to have, or knowledge of the skills required to meet the essential requirements for the individual's physical health or safety or to manage that individual's financial resources.

C. An evaluation report prepared and signed by the person or persons performing the evaluation shall be submitted to the court prior to the hearing at which the court shall consider the report. The report shall include, but not be limited to:

1. A description of the nature and extent of the incapacity of the person, if any;
2. A description of the mental, emotional and physical condition of the person, his ability to function in the ordinary activities of daily life and, if appropriate, the educational condition, adaptive behavior and social skills of the person;
3. An opinion regarding the kind and extent of assistance, if any, required by the person;
4. An assessment and review of any services necessary to provide for the well-being of the person in the following areas:
 - a. physical health,
 - b. mental health,
 - c. social skills, and
 - d. adequate and appropriate living conditions;
5. An opinion regarding:
 - a. the probability that the extent of the incapacity, if any, of the person may significantly lessen or increase, and
 - b. the type of services or treatment, if any, appropriate for the subject of the proceeding or which could facilitate improvement in the condition of the subject of the proceeding; and
6. A description of any tests or other evaluative techniques used.

Added by Laws 1988, c. 329, § 45, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 31, operative July 1, 1990.

§30-3-109. Hearing on petition - Setting of date.

When it is represented to the court in a petition filed pursuant to this act alleging that a person is an incapacitated person or partially incapacitated person, the court shall set a date for a hearing on the petition which date shall be no more than thirty (30) days after the filing of the petition. The court shall cause notice to be served pursuant to the provisions of Section 3-110 of this title and to the attorney of the subject of the proceeding, if any, and if known to the petitioner.

R.L. 1910, § 6538. Amended by Laws 1955, p. 302, § 1; Laws 1972, c. 174, § 1, eff. Oct. 1, 1972; Laws 1988, c. 329, § 46, eff. Dec. 1, 1988. Renumbered from Title 58, § 851 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 32, operative July 1, 1990.

§30-3-110. Notice of hearing.

A. The court shall cause notice to be served of the time and place of the hearing on the petition requesting the appointment of a guardian for an incapacitated or partially incapacitated person on:

1. The subject of the proceeding; and
2. The following persons, other than the petitioner, who are known to the petitioner or whose existence and address can be ascertained by the petitioner with reasonably diligent efforts:
 - a. the spouse, if any, of the subject of the proceeding,
 - b. the attorney, if any, of the subject of the proceeding,
 - c. all adult children of the subject of the proceeding,
 - d. if there is no such adult child, the then living parent or parents of the subject of the proceeding, or
 - e. if there is no such parent, all adult brothers and sisters of the subject of the proceeding, and all adult children of any deceased brothers or sisters of the subject of the proceeding, and all adult grandchildren of the subject of the proceeding;
3. In case no person listed in paragraph 2 of this subsection is given notice, notice shall be given to at least one and not more than three of the nearest adult relatives of the subject of the proceeding who are known to the petitioner or whose existence and address can be ascertained with reasonably diligent efforts;
4. If not the petitioner, any person or organization which, in the petition, is proposed to serve as guardian or limited guardian or, to the extent such nomination is known to the petitioner, who is nominated by will or other writing to serve as guardian or limited guardian;
5. To the extent known to the petitioner:
 - a. the person or facility having care or custody of the subject of the proceeding, and

- b. the Department of Human Services or the Department of Mental Health and Substance Abuse Services, if the Departments are providing services to the subject of the proceeding;

6. As appropriate, the Secretary of the United States Department of Veterans Affairs if the subject of the proceeding is a veteran and is reasonably believed to be eligible for or in receipt of benefits or services from the Department; and

7. Any other person as directed by the court.

B. A copy of the pleading which gave rise to the notice shall be attached to any notice served pursuant to this section.

C. Except for actions appointing a special guardian pursuant to Section 3-115 of this title:

1. Notice shall be served personally on the individual who is the subject of the proceeding at least ten (10) days before the time set for hearing. Such personal service may be made by the attorney for the petitioner, sheriff, or licensed process server. The person making such services shall make proper return thereof; and

2. Notice to other persons entitled to notice of a hearing on the original petition requesting the appointment of a guardian shall be mailed by regular first-class mail at least ten (10) days before the time set for the hearing. Such service by mail may be made by the court clerk, deputy court clerk or attorney for the petitioner.

D. The notice to the subject of the proceeding shall set forth the date, time, place, and purpose of the hearing to which the notice refers. Such notice shall be substantially in the following form:

NOTICE OF HEARING

TO: _____
(Name of subject of proceeding)

Service Address _____

You are hereby notified that a petition has been filed alleging that you are an ___ incapacitated, ___ partially incapacitated person and are incapable of ___ caring for yourself, ___ managing your property. The petition requests that a ___ guardian, ___ limited guardian be appointed by the court to make decisions for you regarding ___ yourself, ___ your property. A copy of the petition is attached. The hearing on the petition will be held on

_____ .
(date, time and place of the hearing)

At the hearing a () guardian, () limited guardian may be appointed for your () person, () property. The judge will explain to you the nature, purpose and effect of the proceedings.

You have the right to attend the hearing. You may confront and cross-examine all witnesses and present your own witnesses. You have the right to request that your hearing be closed to the public. You may request that an expert be appointed to examine you and if

the judge believes that an examination is necessary, the judge will order an evaluation to be done.

You have the right to hire an attorney of your choice to represent you. If you do not have an attorney and you wish to be represented by an attorney at the hearing, the court will appoint one for you. You may request the appointment of an attorney orally or in writing prior to the hearing or at the hearing. If you are able, you will be required to pay the cost of an attorney appointed by the court.

Added by Laws 1988, c. 329, § 47, eff. Dec. 1, 1988. Amended by Laws 1989, c. 319, § 1, eff. Nov. 1, 1989; Laws 1990, c. 323, § 33, operative July 1, 1990; Laws 1991, c. 335, § 10, emerg. eff. June 15, 1991; Laws 2016, c. 320, § 2, eff. Nov. 1, 2016; Laws 2019, c. 23, § 8, emerg. eff. April 4, 2019.

NOTE: Laws 1989, c. 270, § 1 repealed by Laws 1990, c. 51, § 146, emerg. eff. April 9, 1990, and Laws 1990, c. 323, § 80, operative July 1, 1990. Laws 1990, c. 51, § 21 repealed by Laws 1991, c. 335, § 36, emerg. eff. June 15, 1991.

§30-3-111. Determination by court - Order appointing guardian - Explanation on record.

A. At the hearing on the petition the court shall determine whether or not it is necessary to appoint a guardian of the person, property or both. If a guardian is needed, the court shall determine:

1. When a general or limited guardian of the person of the subject of the proceeding is requested, the essential requirements for the health and safety of the subject of the proceeding and the skills and knowledge necessary to meet those requirements;

2. When a general or limited guardian of the property of the subject of the proceeding is requested, the type and amount of the financial resources of the subject of the proceeding, the essential requirements for managing the financial resources and the skills and knowledge necessary to manage the financial resources;

3. The nature and extent of the incapacity of the subject of the proceeding, if any; and

4. Whether by clear and convincing evidence the subject of the proceeding is an incapacitated or partially incapacitated person.

B. If after a full hearing and examination upon such petition, the court finds by clear and convincing evidence that the subject of the proceeding is an incapacitated or partially incapacitated person, the court shall determine the extent of the incapacity and the feasibility of less restrictive alternatives to guardianship to meet the needs of the subject of the proceeding. Upon such determination, the court may:

1. Dismiss the action if the court finds that less restrictive alternatives to guardianship are feasible and adequate to meet the needs of the subject of the proceeding; or

2. Appoint a guardian or limited guardian. An order making such an appointment shall include a specific finding that it was established by clear and convincing evidence that the identified needs of the subject of the proceeding require a guardianship instead of less restrictive alternatives.

C. Guardianship for an incapacitated person shall be:

1. Used only as is necessary to promote and protect the well-being of the person and his or her property;

2. Designed to encourage the development of maximum self-reliance and independence of the person; and

3. Ordered only to the extent required by the actual mental, physical and adaptive limitations of the person.

R.L. 1910, § 6539. Amended by Laws 1953, p. 247, § 80; Laws 1955, p. 302, § 2; Laws 1988, c. 329, § 48, eff. Dec. 1, 1988. Renumbered from Title 58, § 852 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 34, operative July 1, 1990; Laws 2021, c. 133, § 2, eff. Nov. 1, 2021.

§30-3-112. Appointment of guardians or limited guardians.

A. Whenever the court finds the subject of the proceeding to be an incapacitated person the court shall appoint:

1. A general guardian of the person; and

2. As the court determines to be necessary and appropriate, a guardian of the property of the ward.

B. Whenever the court finds the subject of the proceeding to be a partially incapacitated person the court shall appoint, as necessary and appropriate for said person:

1. A limited guardian of the person; or

2. A general or a limited guardian of the property of said person; or

3. A limited guardian of the person and a general or limited guardian of the property of said person.

C. The court may appoint the same or separate persons to serve as guardian or limited guardian of the person and guardian or limited guardian of the property of a ward.

Added by Laws 1988, c. 329, § 49, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 35, operative July 1, 1990.

§30-3-113. Order appointing guardian - Specific determinations of capacity - Submission of guardianship plan - Other orders.

A. The order appointing a guardian, based upon evidence adduced, shall set forth:

1. The determinations made by the court at the hearing;

2. The name and address of the individual, if any, appointed to serve as the limited guardian or guardian;

3. The specific limitations imposed upon the ward, if the ward is a partially incapacitated person;

4. Any authority granted a guardian of the person of the ward to change the place of abode of the ward outside of the state or county without the prior permission of the court;

5. Findings of fact as to whether the ward retains sufficient capacity to vote; and

6. Whenever the court determines a review hearing is necessary or desirable, the date of the review hearing.

B. In establishing the specific limitations on the legal activities of a ward for whom a limited guardian of the person is appointed, the court shall make specific determinations regarding the capacity of the subject of the proceeding, including but not limited to determining whether the ward retains sufficient capacity:

1. To vote;

2. To serve as a juror;

3. To operate a motor vehicle;

4. To be licensed or continue to practice any profession of the ward; and

5. To make personal medical decisions including but not limited to decisions to withhold or withdraw life-sustaining procedures, to receive hospice services through a home or inpatient hospice program, to donate organs, to undergo elective surgery, or to consent to routine or necessary medical or other professional care, treatment or advice.

C. In establishing the specific limitations on the legal abilities of a ward for whom a limited guardian of the property is appointed, the court shall make specific determinations regarding the capacity of the subject of the proceeding, including but not limited to determining whether the ward retains sufficient capacity to:

1. Appoint an agent to act on his behalf;

2. Enter into contracts;

3. Grant conveyances; or

4. Make gifts of property.

D. If not submitted with the petition or at the hearing, the guardian or limited guardian shall submit a guardianship plan as required by Section 3-120 or 3-122 of this title, or both, as appropriate and a copy of said plan shall be mailed to those persons entitled to notice pursuant to paragraphs 1, 2, 3 and 7 of subsection A of Section 3-110 of this title. The guardianship plan as approved by the court shall be made a part of the order of the court. Said plan may be modified as provided by this act.

E. The court may, in its discretion, make such further orders as the court deems necessary for the best interest of the ward for

care of the ward and maintenance or management of the ward's property, including but not limited to:

1. Order the guardian of the property of the ward to provide the ward from such property with specified amounts of money, monthly, or from time to time, which the ward may dispose of as the ward shall determine and for which, other than a showing of the amounts paid to the ward, the guardian will not be required to account. Such order may be modified upon application of the guardian or any interested person, and a hearing conducted thereon, with notice of the hearing on such application to be given to those persons entitled to notice pursuant to paragraphs 1, 2, 3 and 7 of subsection A of Section 3-110 of this title and shall be given as provided in Section 3-110 of this title; and

2. The amount of the bond as required by Section 4-201 of this title.

Added by Laws 1988, c. 329, § 50, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 36, operative July 1, 1990; Laws 2019, c. 86, § 1, eff. Nov. 1, 2019; Laws 2021, c. 544, § 2, eff. Nov. 1, 2021.

§30-3-114. Assignment of powers to limited guardian - Endorsement of limitation or specification of assets upon letters of guardianship.

A. The court may assign to a limited guardian of the person any portion of the powers and duties of a general guardian of the person except the power to take custody of the person of the ward. The court may also assign to the limited guardian the duty to assist the ward in those particular areas in which the capacity of the ward is impaired including, but not limited to, the duty to assist the ward in:

1. Meeting the requirements for his health or safety;
2. Protecting his rights;
3. Obtaining necessary services;
4. Fulfilling his civic duties; and
5. Any other areas as determined necessary by the court and

which are not specifically prohibited by Section 56 of this act.

B. An order specifying that only part of the property or estate of a ward is under the control or management of the guardian creates a limited guardianship of the property.

1. The court may assign to a limited guardian of property any of the duties and powers of a general guardian of the property regarding the management of financial resources which the partially incapacitated person lacks the capacity to perform; or

2. The court may assign to a limited guardian of property the duty of assisting the ward to perform any of such functions with regard to any financial resource of the ward.

C. If the court limits any power conferred on the guardian of property or specifies that management of some but not all assets of

the ward be placed under the control of a guardian of the property, the limitation or specification of assets subject to the guardianship must be endorsed upon the letters of guardianship. Added by Laws 1988, c. 329, § 51, eff. Dec. 1, 1988.

§30-3-115. Appointment of special guardian - Powers - Duration - Bond - Removal.

A. The court may appoint a special guardian for a person who appears to be or has been found to be an incapacitated or partially incapacitated person when it appears:

1. There is imminent danger that the health or safety of said person will be seriously impaired or that the financial resources of said person will be seriously damaged or dissipated unless immediate action is taken; and

2. No other person appears to have authority to act in the circumstances or the guardian previously appointed is unable to or refuses to take action.

B. The request for appointment of a special guardian may be included in the petition to appoint a guardian or by separate petition, either of which must be verified.

C. The court may appoint an attorney, separate and apart from the petitioner's attorney, for the subject of the proceeding who does not have legal representation and either cannot afford a private attorney or cannot retain counsel due to incapacity and may proceed to hear the petition as same pertains to appointment of a special guardian with or without notice. If notice is required, the notice shall set a time for hearing on the petition within seventy-two (72) hours. Notice shall be served on:

1. The subject of the proceeding;

2. The attorney of the subject of the proceeding, if any;

3. The spouse of the subject of the proceeding, if any, and if the spouse is not the petitioner; and

4. At least one other adult relative of the subject of the proceeding or any other person who is not the petitioner, as directed by the court.

Notice shall be personally served in the manner as the court directs on the subject of the proceeding and on other persons receiving notice as directed by the court.

D. The court may without notice appoint a special guardian upon the filing of the petition, upon presentation of evidence of the incapacity of the subject of the proceeding, upon a showing that an immediate or reasonably foreseeable serious physical harm to the subject of the proceeding or serious impairment of the financial resources of said person will result from a delay, and upon presentation of a proposed emergency plan of care for the subject of the proceeding. Whenever a special guardian is immediately appointed as provided by this subsection, the court shall cause a

copy of the petition, order and letters of special guardianship to be served on:

1. The subject of the proceeding;
2. The spouse of the subject of the proceeding, if any, if the spouse is not the petitioner; and
3. At least one other adult relative of the subject of the proceeding, if such relative is known or can be ascertained with reasonable diligence, or by any other person who is not the petitioner, as directed by the court.

The notice shall be served in the manner the court directs.

E. The court shall grant the special guardian only those powers necessary to act with respect to the particular emergency, as determined by the court. The special guardian shall be granted only powers to accomplish acts that are both supported by the proposed emergency plan of care and found necessary by the court. Power to change the place of residence of the subject of the proceeding shall be specifically granted by the court upon a showing that the needs of the subject of the proceeding cannot be met within such subject's present residential arrangements. The court's approval shall be required for any changes in either the emergency plan of care or the specified powers of the special guardian. The letters for a special guardian shall state that the person is a special guardian, the date of the expiration of the special guardianship, and the specific power or powers of the special guardian.

F. The appointment of a special guardian shall be effective from the date of appointment until a guardian is appointed pursuant to Section 1-112 of this title, or for thirty (30) days, whichever is less.

G. The court shall not require bond if the appointment is over the person only, and may require or waive bond if the appointment is as to the property of the ward.

H. The authority of any guardian or limited guardian previously appointed by the court is suspended with regard to the powers granted to the special guardian, but not otherwise, for as long as a special guardian has authority as provided by this section.

I. The court may remove a special guardian at any time. The special guardian shall file a report showing all actions taken during the special guardianship and shall make any other report the court requires.

Added by Laws 1988, c. 329, § 52, eff. Dec. 1, 1988. Amended by Laws 1989, c. 319, § 2, eff. Nov. 1, 1989; Laws 1990, c. 323, § 37, operative July 1, 1990; Laws 1994, c. 234, § 4, eff. Sept. 1, 1994; Laws 2001, c. 322, § 1, emerg. eff. June 1, 2001.

§30-3-116. Proceedings to determine restoration to capacity.

A. Any person who has been judicially determined to be an incapacitated or partially incapacitated person, the guardian or

limited guardian, any relative of the ward or any friend of the ward may apply by petition to the district court of the county in which such person was declared incapacitated or partially incapacitated, to have the fact of the ward's restoration to capacity judicially determined. The petition shall be verified, and shall state that such person is no longer incapacitated or partially incapacitated.

B. Upon receiving the petition, the court shall appoint a day for the hearing. Such hearing shall be set within thirty (30) days after the date of the filing of the petition. The court shall cause notice to be served as provided by Section 3-110 of this title and to the attorney of the subject of the proceeding, if any, and if known to the petitioner. At the hearing, the guardian or relative of the petitioner, and in the discretion of the court, any other person, may contest the right of the petitioner to the relief demanded. Witnesses may be required to appear and testify, as in all other civil matters, and may be called and examined by the judge on his own motion. If it is found that the petitioner is no longer incapacitated or partially incapacitated and capable of taking care of himself or his property, or both, his restoration to capacity shall be adjudged, and the guardianship of such person shall cease. R.L. 1910, § 6541. Amended by Laws 1955, p. 303, § 4; Laws 1988, c. 329, § 53, eff. Dec. 1, 1988. Renumbered from Title 58, § 854 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1989, c. 270, § 2, eff. Nov. 1, 1989; Laws 1990, c. 323, § 38, operative July 1, 1990.

§30-3-117. Presumption of capacity when guardian discharged without appointment of another.

Whenever a guardian or limited guardian who has been appointed for an incapacitated or partially incapacitated person has been discharged by the final order of a court having jurisdiction thereof, and no other guardian has been appointed for said person by a court of competent jurisdiction, the person for whom said guardian had been appointed shall be presumed to be fully restored and shall be presumed to be fully capable and competent to make contracts and transact any and all business as though said person had never been declared to be incapacitated or partially incapacitated.

Added by Laws 1947, p. 346, § 1. Amended by Laws 1988, c. 329, § 54, eff. Dec. 1, 1988. Renumbered from Title 58, § 855 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 39, operative July 1, 1990.

§30-3-118. Duties and powers of guardian or limited guardian.

A. A guardian or limited guardian of the person of an incapacitated or partially incapacitated person is responsible for the care or control of the ward pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act, and the orders of the

court, and the guardianship plan approved by the court and shall perform diligently and in good faith any specific duties and powers assigned by the court.

B. 1. A guardian or limited guardian of the person of an incapacitated or partially incapacitated person shall:

- a. become or remain sufficiently acquainted with the ward and maintain sufficient contact with the ward to know of the capacities, limitations, needs, opportunities, and physical and mental health of the ward;
- b. assure that the ward has a place of abode in the least restrictive, most normal setting consistent with the requirements for his health or safety; and
- c. provide any required consents or approvals on behalf of the ward as authorized by the court.

2. A guardian or limited guardian of the person, if consistent with the terms of an order of the court, may:

- a. if no guardian of the property or conservator for the estate of the ward has been appointed, institute proceedings, including administrative proceedings, or take other appropriate action to compel the performance by any person of a duty to support the ward or to pay sums for the welfare of the ward; and
- b. consent to routine or necessary medical or other professional care, treatment, or advice for the ward without liability by reason of the consent for injury to the ward resulting from the negligence or acts of third persons unless a parent would have been liable in the circumstances.

C. If satisfied that the incapacity or partial incapacity of the ward has ceased, the guardian or limited guardian shall file a petition requesting a determination on the restoration to capacity of the ward and the termination of the guardianship.

Added by Laws 1988, c. 329, § 55, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 40, operative July 1, 1990.

§30-3-119. Limitation of powers of guardian.

A guardian shall have no powers except as provided by the Oklahoma Statutes or given to such guardian in the orders in the guardianship proceeding. This limitation of powers includes but is not limited to the following:

1. No guardian shall have the power to consent on behalf of the ward to the withholding or withdrawal of life-sustaining procedures as provided in the Oklahoma Advance Directive Act from the ward, except, in accordance with Section 3102.4 of Title 63 of the Oklahoma Statutes:

- a. with specific authorization of the court having jurisdiction over the guardianship proceedings which

authorization must be granted in a separate order and only at such time as the ward is in need of life-sustaining treatment, and must include specific findings of fact and conclusions of law based on the standard established in Section 3101.16 of Title 63 of the Oklahoma Statutes,

- b. as authorized by an advance directive executed pursuant to the Oklahoma Advance Directive Act,
- c. as authorized by a consent not to resuscitate made pursuant to the Oklahoma Do-Not-Resuscitate Act, or
- d. to receive hospice services as authorized by a licensed physician who determines the ward is terminally ill, as defined in Section 1-860.2 of Title 63 of the Oklahoma Statutes, provided that withholding or withdrawal of life-sustaining procedures can be authorized only in accordance with the provisions of this paragraph;

2. No guardian or court having jurisdiction of the guardianship proceeding shall have the power to consent on behalf of the ward or order the consent on behalf of the ward to the termination or relinquishment of parental rights of the ward;

3. Except in an emergency and only as necessary to preserve the life of the ward, no guardian shall have the power to consent on behalf of the ward to an abortion, psychosurgery, removal of a bodily organ, performance of any experimental biomedical or behavioral procedure, or participation in any biomedical or behavioral experiment, except with specific authorization of the court having jurisdiction of the guardianship proceeding;

4. No guardian shall have the power to prohibit the marriage or divorce of a ward except with specific authorization of the court having jurisdiction of the guardianship proceeding; and

5. No guardian shall have the power to consent on behalf of the ward to placement of the ward in a facility or institution to which a person without a guardian would have to be committed pursuant to the laws of this state absent formal commitment proceedings in which the ward has independent counsel.

Added by Laws 1988, c. 329, § 56, eff. Dec. 1, 1988. Amended by Laws 1989, c. 319, § 3, eff. Nov. 1, 1989; Laws 1990, c. 323, § 41, operative July 1, 1990; Laws 1992, c. 114, § 19, eff. Sept. 1, 1992; Laws 1997, c. 327, § 15, eff. Nov. 1, 1997; Laws 2019, c. 86, § 2, eff. Nov. 1, 2019; Laws 2020, c. 24, § 1, eff. Nov. 1, 2020.

§30-3-120. Proposed plan for care and treatment of ward.

A. If not filed with the petition or submitted to the court at the time of the hearing, within ten (10) days after his appointment the guardian or limited guardian of the person of an incapacitated or partially incapacitated person shall file with the court, for its

approval, a proposed plan for the care and treatment of the ward and shall submit subsequent or modified plans as required by this title. Upon the application of the guardian or limited guardian, the court may extend the time for filing the plan for not more than thirty (30) days. The court may approve a plan acceptable to the court without notice or hearing or may, as necessary, order the modification of the plan at the initial review hearing.

B. 1. The proposed guardianship plan and any subsequent guardianship plans for the care and treatment of the ward shall state:

- a. the services which are necessary to meet the essential requirements for the physical health or safety of the ward taking into account the contents and recommendations of an evaluation report made with respect to the ward, if any;
- b. the means for obtaining those services;
- c. the manner in which the guardian or limited guardian, the ward, and the guardian of the property of the ward or the conservator, or if an organization or another person has been appointed to serve in that capacity, will exercise and share decision-making authority; and
- d. such other services necessary to assist in fulfilling the needs of the ward, the terms of the most recent dispositional order applying to such guardian or limited guardian, and the duties of such guardian or limited guardian.

2. Each such plan shall be substantially in the following form:
Plan for the Care and Treatment of a Ward

I, _____, the (guardian, limited
(Name)

guardian) for _____
(Name and the current place of abode of the ward)

hereby submit this (initial, annual or as ordered by the court) Guardianship Plan for the care and treatment of said ward.

1. I believe the services necessary for the physical health and safety of the ward are: _____

2. Those services will be obtained or provided as follows:

3. The guardian (or conservator) of the property (Name or indicate as not applicable) of the ward, the ward, and I plan to cooperate and share decision-making authority with regard to the ward within the provisions of the dispositional order as follows:

4. I believe the following services will assist in fulfilling the needs of the ward, implementing the terms of the most recent

dispositional order applying to me as (guardian or limited guardian):

Date

(Signature of guardian or limited guardian)

C. If ordered by the court, the plan for the care and treatment of the ward shall be prepared with the assistance of any person designated by the court to provide such assistance.

Added by Laws 1988, c. 329, § 57, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 42, operative July 1, 1990.

§30-3-121. Disposition of financial resources under supervision and control of guardian or limited guardian - Petition for restoration of capacity.

A. A guardian of the property must keep safe the property of his ward and shall act as a fiduciary as provided by Section 1-121 of this title.

Subject to the order and the guardianship plan for the management of the financial resources of the ward, a guardian or limited guardian of the property of the ward:

1. Shall expend or distribute, authorize the expenditure or distribution of, and assist in the expenditure or distribution of, the principal of or income from the financial resources placed under his supervision and control to assure that:

- a. the essential requirements for the physical health or safety of the ward are met,
- b. the property rights of the ward are protected,
- c. the financial resources of the ward which are subject to the guardianship are prudently managed, and
- d. the guardian or limited guardian of the person of the ward, if any, or if other than the guardian or limited guardian of the property, is able to perform the duties and powers assigned by the court;

2. May expend funds of the estate for the support of persons legally dependent on the ward and others who are members of the ward's household who are unable to support themselves, and who are in need of support;

3. May, subject to prior specific approval by the court, make gifts to charity, persons, which may include the guardian or limited guardian, or both such charity and persons, as the ward might have been expected to make, based upon an established pattern of giving made by the ward prior to the appointment of a guardian or limited guardian or if the court finds it is in the best interest of the subject of the proceeding on the basis of tax or estate planning. The court may approve gifts of small amounts for holidays, birthdays or similar occasions and shall specify in the order the maximum amount which may be expended for such purpose and the person or

persons to whom such gifts can be made, which may include guardians or limited guardians.

B. Limited guardians of property shall consider the size of the financial resources of the ward which have not been placed under their supervision or control.

C. If satisfied that the incapacity or partial incapacity of the ward has ceased, the guardian or limited guardian of the property shall file a petition requesting a determination on the restoration to capacity of the ward and the termination of the guardianship.

Added by Laws 1988, c. 329, § 58, eff. Dec. 1, 1988. Amended by Laws 1989, c. 319, § 4, eff. Nov. 1, 1989; Laws 1990, c. 323, § 43, operative July 1, 1990.

§30-3-122. Proposed plan for management of financial resources of ward.

A. If not filed with the petition or submitted to the court at the time of the hearing, within two (2) months after his appointment, a guardian or limited guardian of the property of an incapacitated or partially incapacitated person shall file with the court for its approval a proposed plan for the management of the financial resources of the ward that are under his management or administration, and an inventory as required pursuant to Section 4-301 of this title. Said guardian or limited guardian shall submit subsequent or modified plans as required by this title.

B. Initial and subsequent guardianship plans for the management of the financial resources of the ward shall state:

1. The services which are necessary to manage the property of the ward placed under the control of the guardian or limited guardian;

2. The means for obtaining those services;

3. The manner in which the guardian or limited guardian of the property of the ward, the ward, and the guardian or limited guardian of the person, or if another individual has been appointed to serve in that capacity, will exercise and share decision-making authority;

4. Such other services necessary to assist in the management of the property placed under the guardian or limited guardian in fulfilling the needs of the ward and the duties of such guardian or limited guardian, and the terms of the most recent dispositional order.

C. Each such plan shall be substantially in the following form:

Plan for the Management
of the Property of the Ward

I, _____, the (petitioner, guardian or limited

(Name)

guardian) for _____

(Name and current place of abode)

hereby submit this (initial, annual or as ordered by the court) Guardianship Plan.

1. I believe the services necessary to manage the property of the ward which is subject to this Plan are as follows: _____

2. Those services will be provided in the following manner: _____

3. The guardian (or limited guardian) of the person, (Name, or indicate as not applicable) the ward, and I plan to cooperate and share decision-making authority with regard to the ward within the provisions of the dispositional order as follows: _____

4. I believe the following services will assist in the management of the property of the ward subject to my control, implementing the terms of the most recent dispositional order applying to me as (guardian or limited guardian) of the property: _____

Date (Signature of guardian or limited guardian)
Added by Laws 1988, c. 329, § 59, eff. Dec. 1, 1988. Amended by
Laws 1990, c. 323, § 44, operative July 1, 1990.

§30-3-123. Sale or lease of homestead of incapacitated or partially incapacitated person.

Guardians of incapacitated and partially incapacitated persons are authorized and empowered subject to the dispositional order and the guardianship plan to sell and convey all or part of the homestead of the incapacitated or partially incapacitated person, and to lease all or part of the homestead of the incapacitated or partially incapacitated person for oil, gas, and other mineral exploration, development and production purposes and for agricultural purposes.

Added by Laws 1959, p. 223, § 1. Amended by Laws 1988, c. 329, § 60, eff. Dec. 1, 1988. Renumbered from Title 58, § 856 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-3-124. Sale or lease of real property by guardian - Approval - Joinder of spouse.

When the ward owns an interest in a tract of real property in addition to a homestead interest, no conveyance, deed, contract or lease executed pursuant to the authority granted by Section 3-123 of this title shall be valid, unless the sale or leasing be conducted in the manner provided by law for the sale or leasing of other lands of an incapacitated or partially incapacitated person, be approved

by the court in which the guardianship proceeding is pending, and the spouse of the ward be a party to such conveyance, deed, contract or lease and join in the execution and acknowledgment thereof, but when the ward owns no interest in a tract of real property other than a homestead interest or possible homestead interest, a guardian may execute a conveyance thereof on behalf of the ward for the purpose of waiving such homestead interest or possible homestead interest, if so authorized by order of the court in which such proceeding is pending, made pursuant to application and notice sent by ordinary mail to the persons set forth in Section 3-110 of this title at least ten (10) days prior to the hearing of such application.

Added by Laws 1959, p. 223, § 2. Amended by Laws 1988, c. 329, § 61, eff. Dec. 1, 1988. Renumbered from Title 58, § 857 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1994, c. 234, § 5, eff. Sept. 1, 1994.

§30-3-125. Application - Sections 60 and 61 cumulative.

Sections 60 and 61 of this act apply only to the homestead and are cumulative and in addition to any such procedures now provided or permissible under existing statutes.

Added by Laws 1959, p. 223, § 3. Amended by Laws 1988, c. 329, § 62, eff. Dec. 1, 1988. Renumbered from Title 58, § 858 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-3-126. Estates of incapacitated or partially incapacitated persons not exceeding \$10,000.00 - Disposition - Discharge and release.

A. When the whole estate of an adult who has been adjudicated to be incapacitated or partially incapacitated does not exceed the value of Ten Thousand Dollars (\$10,000.00), the court may, in its discretion, without the appointment of a guardian or the giving of bond, authorize the deposit thereof in a depository authorized to receive fiduciary funds in the name of a suitable person designated by such court, or, if the assets do not consist of money, authorize the delivery thereof to a suitable person designated by such court. The person receiving such property shall hold and dispose of the same in such manner as such court directs.

B. The person making payment, delivery, transfer or issuance of property or evidence thereof to the person designated by such court under this section is discharged and released to the same extent as if such payment, delivery, transfer or issuance was made to a guardian of the incapacitated or partially incapacitated person, and he is not required to see to the application thereof. A person making payment, delivery, transfer or issuance of property, or evidence thereof, to a next friend or guardian ad litem may be

discharged and released as provided for in the Oklahoma Guardianship and Conservatorship Act.

Added by Laws 1967, c. 51, § 2, emerg. eff. April 14, 1967. Amended by Laws 1988, c. 329, § 63, eff. Dec. 1, 1988. Renumbered from Title 58, § 898.2 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 45, operative July 1, 1990.

§30-3-201. Repealed by Laws 1989, c. 276, § 17, eff. Nov. 1, 1989.

§30-3-202. Repealed by Laws 1989, c. 276, § 17, eff. Nov. 1, 1989.

§30-3-203. Repealed by Laws 1989, c. 276, § 17, eff. Nov. 1, 1989.

§30-3-204. Repealed by Laws 1989, c. 276, § 17, eff. Nov. 1, 1989.

§30-3-205. Repealed by Laws 1989, c. 276, § 17, eff. Nov. 1, 1989.

§30-3-206. Repealed by Laws 1989, c. 276, § 17, eff. Nov. 1, 1989.

§30-3-207. Repealed by Laws 1989, c. 276, § 17, eff. Nov. 1, 1989.

§30-3-208. Repealed by Laws 1989, c. 276, § 17, eff. Nov. 1, 1989.

§30-3-209. Repealed by Laws 1989, c. 276, § 17, eff. Nov. 1, 1989.

§30-3-210. Repealed by Laws 1989, c. 276, § 17, eff. Nov. 1, 1989.

§30-3-211. Petition for appointment of conservator by reason of physical disability - Consent - Notice and hearing.

When it is represented to the court upon verified petition of any person, any relative, or friend that:

1. A person is an inhabitant or resident of the county or is not a resident of the county or the state but has property within the county;

2. That such person is, by reason of physical disability only, unable to manage his property; and

3. That such person voluntarily consents to the establishment of a conservatorship and the appointment of a conservator, the court must cause notice to be served personally on the person so alleged to be unable to manage his property and on such other persons and in such manner as the court directs, of the time and place of hearing such petition, not less than five (5) days before the time so appointed, and such person, if able to attend, must be produced before the court at the hearing.

Added by Laws 1989, c. 276, § 7, eff. Nov. 1, 1989. Amended by Laws 1990, c. 323, § 46, operative July 1, 1990.

§30-3-212. Appointment of conservator - Consent necessary.

If, after a full hearing and examination upon such petition, it appears to the court that the person in question is, by reason of physical disability, unable to manage his property and that such person consents to the appointment of a conservator, the court shall appoint a conservator of the estate of such person. A conservator shall not be appointed if the person in question does not consent to the appointment.

Added by Laws 1989, c. 276, § 8, eff. Nov. 1, 1989.

§30-3-213. Persons ineligible for appointment as conservator.

No person shall be appointed conservator of an estate who would be ineligible to act as guardian of the ward in such case.

Added by Laws 1989, c. 276, § 9, eff. Nov. 1, 1989.

§30-3-214. Care, custody and management of estate - Bond.

Every conservator appointed to preserve and protect the estate of his ward as provided in Sections 3-201 and 3-202 of Title 30 of the Oklahoma Statutes shall have the care, custody and management of such estate until such conservator is legally discharged. The conservator shall give bond to the State of Oklahoma, in like manner and with like conditions as provided for guardians of incapacitated and partially incapacitated persons.

Added by Laws 1989, c. 276, § 10, eff. Nov. 1, 1989. Amended by Laws 1990, c. 323, § 47, operative July 1, 1990.

§30-3-215. Powers and duties of conservator - Jurisdiction of court.

A conservator shall have the same powers and duties, including the submission of plans and reports, as a guardian or limited guardian of the property of an incapacitated or partially incapacitated person as required by the Oklahoma Guardianship and Conservatorship Act. All laws relative to the jurisdiction of the court over the estate of a person under guardianship as an incapacitated or partially incapacitated person, including the investment, management, sale or mortgage of his property and the payment of his debts, shall be applicable to the estate of a person under conservatorship.

Added by Laws 1989, c. 276, § 11, eff. Nov. 1, 1989. Amended by Laws 1990, c. 323, § 48, operative July 1, 1990.

§30-3-216. Discharge of conservator - Accounting.

A conservator may be discharged by the court upon the application of the ward or otherwise upon such notice to the conservator and next of kin of said ward as the court may determine reasonable and proper, when it appears that the conservatorship is no longer necessary. In the event of the death, resignation or

removal of a conservator, the court, on the application of the former ward and upon such notice to the next of kin of said ward as the court may order, may certify that said ward is discharged by operation of law if it appears that the conservatorship of said ward is no longer necessary. Upon the termination of a conservatorship, a conservator shall account to the court as otherwise provided by the Oklahoma Guardianship and Conservatorship Act for guardians of property.

Added by Laws 1989, c. 276, § 12, eff. Nov. 1, 1989. Amended by Laws 1990, c. 323, § 49, operative July 1, 1990.

§30-3-217. Compensation of conservator.

The conservator shall receive as compensation for his services the compensation provided by law for guardians.

Added by Laws 1989, c. 276, § 13, eff. Nov. 1, 1989.

§30-3-218. Subsequent appointment of guardian of ward - Effect on estate.

Any subsequent appointment of a guardian of said ward as an incapacitated or partially incapacitated person shall be an appointment as guardian of the person only of said ward and shall not include the appointment of such guardian of the estate of said ward or in any manner affect the custody, management and the handling of the estate of said ward by the conservator so long as such conservatorship proceedings are pending.

Added by Laws 1989, c. 276, § 14, eff. Nov. 1, 1989.

§30-3-219. Limitation on right of ward to contract.

Upon the appointment of a conservator, the ward shall not thereafter have the power to enter into any contract creating an obligation against his estate except for necessities.

Added by Laws 1989, c. 276, § 15, eff. Nov. 1, 1989.

§30-3-220. Validation of prior conservatorships.

All conservatorships created prior to the effective date of the Oklahoma Guardianship and Conservatorship Act, Section 1-101 et seq. of this title, with the consent of the person for whose property a conservator was appointed, are hereby validated. Each such conservatorship shall be presumed to have been created by consent unless otherwise established by documents filed in the conservatorship action or by other evidence.

Added by Laws 1989, c. 276, § 16, eff. Nov. 1, 1989. Amended by Laws 1990, c. 323, § 50, operative July 1, 1990; Laws 1992, c. 395, § 2, eff. Sept. 1, 1992.

§30-3-301. Short title.

This act shall be known and may be cited as the "Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act".
Added by Laws 2010, c. 257, § 1, eff. Nov. 1, 2010.

§30-3-302. Definitions.

As used in the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act:

(1) "Adult" means an individual who has attained eighteen (18) years of age;

(2) "Conservator" means a person appointed by the court to administer the property of an adult;

(3) "Guardian" means a person appointed by the court to make decisions regarding the person of an adult;

(4) "Guardianship order" means an order appointing a guardian;

(5) "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued;

(6) "Incapacitated person" means an adult for whom a guardian has been appointed;

(7) "Party" means the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding;

(8) "Person", except in the term incapacitated person or protected person, means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

(9) "Protected person" means an adult for whom a protective order has been issued;

(10) "Protective order" means an order appointing a conservator or other order related to management of an adult's property;

(11) "Protective proceeding" means a judicial proceeding in which a protective order is sought or has been issued;

(12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(13) "Respondent" means an adult for whom a protective order or the appointment of a guardian is sought; and

(14) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

Added by Laws 2010, c. 257, § 2, eff. Nov. 1, 2010.

§30-3-303. Communication between courts.

(a) A court of this state may communicate with a court in another state concerning a proceeding arising under this act. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection (b) of this section, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

(b) Courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record.

Added by Laws 2010, c. 257, § 3, eff. Nov. 1, 2010.

§30-3-304. Requests between courts in guardianship or protective proceedings.

(a) In a guardianship or protective proceeding in this state, a court of this state may request the appropriate court of another state to do any of the following:

(1) Hold an evidentiary hearing;

(2) Order a person in that state to produce evidence or give testimony pursuant to procedures of that state;

(3) Order that an evaluation or assessment be made of the respondent;

(4) Order any appropriate investigation of a person involved in a proceeding;

(5) Forward to the court of this state a certified copy of the transcript or other record of a hearing under paragraph (1) of this subsection or any other proceeding, any evidence otherwise produced under paragraph (2) of this subsection, and any evaluation or assessment prepared in compliance with an order under paragraph (3) or (4) of this subsection;

(6) Issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated or protected person;

(7) Issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in 45 C.F.R. Section 164.504, as amended.

(b) If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in subsection (a) of this section, a court of this state has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

Added by Laws 2010, c. 257, § 4, eff. Nov. 1, 2010.

§30-3-305. Testimony of a witness located in another state.

(a) In a guardianship or protective proceeding, in addition to other procedures that may be available, testimony of a witness who

is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

(b) In a guardianship or protective proceeding, a court in this state may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this state shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

(c) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the best evidence rule.

Added by Laws 2010, c. 257, § 5, eff. Nov. 1, 2010.

§30-3-306. Definitions - Applicability.

(a) In this article:

(1) "Emergency" means a circumstance that likely will result in substantial harm to a respondent's health, safety, or welfare, and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on the respondent's behalf;

(2) "Home state" means the state in which the respondent was physically present, including any period of temporary absence, for at least six (6) consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian; or if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six (6) consecutive months ending within the six (6) months prior to the filing of the petition; and

(3) "Significant-connection state" means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

(b) In determining under Section 8 and subsection (e) of Section 15 of this act whether a respondent has a significant connection with a particular state, the court shall consider:

(1) The location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding;

(2) The length of time the respondent at any time was physically present in the state and the duration of any absence;

(3) The location of the respondent's property; and

(4) The extent to which the respondent has ties to the state such as voting registration, state or local tax return filing,

vehicle registration, driver license, social relationship, and receipt of services.

Added by Laws 2010, c. 257, § 6, eff. Nov. 1, 2010.

§30-3-307. Jurisdictional basis for appointing a guardian or issuing a protective order.

This article provides the exclusive jurisdictional basis for a court of this state to appoint a guardian or issue a protective order for an adult.

Added by Laws 2010, c. 257, § 7, eff. Nov. 1, 2010.

§30-3-308. Jurisdictional requirements for appointing a guardian or issuing a protective order.

A court of this state has jurisdiction to appoint a guardian or issue a protective order for a respondent if:

(1) This state is the respondent's home state;

(2) On the date the petition is filed, this state is a significant-connection state and:

(A) the respondent does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this state is a more appropriate forum, or

(B) the respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection state, and, before the court makes the appointment or issues the order:

(i) a petition for an appointment or order is not filed in the respondent's home state,

(ii) an objection to the court's jurisdiction is not filed by a person required to be notified of the proceeding, and

(iii) the court in this state concludes that it is an appropriate forum under the factors set forth in Section 11 of this act;

(3) This state does not have jurisdiction under either paragraph (1) or (2) of this subsection, the respondent's home state and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with the constitutions of this state and the United States; or

(4) The requirements for special jurisdiction under Section 9 of this act are met.

Added by Laws 2010, c. 257, § 8, eff. Nov. 1, 2010.

§30-3-309. Special jurisdiction.

(a) A court of this state lacking jurisdiction under paragraphs (1) through (3) of Section 8 of this act has special jurisdiction to do any of the following:

(1) Appoint a guardian in an emergency for a term not to exceed ninety (90) days for a respondent who is physically present in this state;

(2) Issue a protective order with respect to real or tangible personal property located in this state;

(3) Appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to Section 15 of this act.

(b) If a petition for the appointment of a guardian in an emergency is brought in this state and this state was not the respondent's home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

Added by Laws 2010, c. 257, § 9, eff. Nov. 1, 2010.

§30-3-310. Continuing jurisdiction over proceeding.

Except as otherwise provided in Section 9 of this act, a court that has appointed a guardian or issued a protective order consistent with this act has exclusive and continuing jurisdiction over the proceeding until it is terminated by the court or the appointment or order expires by its own terms.

Added by Laws 2010, c. 257, § 10, eff. Nov. 1, 2010.

§30-3-311. Factors for declining jurisdiction.

(a) A court of this state having jurisdiction under Section 8 of this act to appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

(b) If a court of this state declines to exercise its jurisdiction under subsection (a) of this section, it shall either dismiss or stay the proceeding. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or issuance of a protective order be filed promptly in another state.

(c) In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:

(1) Any expressed preference of the respondent;

(2) Whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;

(3) The length of time the respondent was physically present in or was a legal resident of this or another state;

- (4) The distance of the respondent from the court in each state;
 - (5) The financial circumstances of the respondent's estate;
 - (6) The nature and location of the evidence;
 - (7) The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;
 - (8) The familiarity of the court of each state with the facts and issues in the proceeding; and
 - (9) If an appointment were made, the court's ability to monitor the conduct of the guardian or conservator.
- Added by Laws 2010, c. 257, § 11, eff. Nov. 1, 2010.

§30-3-312. Jurisdiction acquired through unjustifiable conduct.

(a) If at any time a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may:

- (1) Decline to exercise jurisdiction;
- (2) Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or
- (3) Continue to exercise jurisdiction after considering:
 - (A) the extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;
 - (B) whether it is a more appropriate forum than the court of any other state under the factors set forth in subsection (c) of Section 11 of this act; and
 - (C) whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of Section 8 of this act.

(b) If a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, it may assess against that party necessary and reasonable expenses, including attorney fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by law other than this act.

Added by Laws 2010, c. 257, § 12, eff. Nov. 1, 2010.

§30-3-313. Notice of petition in home state of respondent.

If a petition for the appointment of a guardian or issuance of a protective order is brought in this state and this state was not the respondent's home state on the date the petition was filed, in addition to complying with the notice requirements of this state, notice of the petition shall be given to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice shall be given in the same manner as notice is required to be given in this state.

Added by Laws 2010, c. 257, § 13, eff. Nov. 1, 2010.

§30-3-314. Rules for filing of petitions in multiple states.

Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this state under paragraph (1) or (2) of subsection (a) of Section 9 of this act, if a petition for the appointment of a guardian or issuance of a protective order is filed in this state and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

(1) If the court in this state has jurisdiction under Section 8 of this act, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to Section 8 of this act before the appointment or issuance of the order.

(2) If the court in this state does not have jurisdiction under Section 8 of this act, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the court in this state shall dismiss the petition unless the court in the other state determines that the court in this state is a more appropriate forum.

Added by Laws 2010, c. 257, § 14, eff. Nov. 1, 2010.

§30-3-315. Transfer of guardianship or conservatorship - Notification of petition.

(a) A guardian or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.

(b) Notice of a petition under subsection (a) of this section shall be given to the persons that would be entitled to notice of a petition in this state for the appointment of a guardian or conservator.

(c) On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a

hearing on a petition filed pursuant to subsection (a) of this section.

(d) The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds that:

(1) The incapacitated person is physically present in or is reasonably expected to move permanently to the other state;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person; and

(3) Plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

(e) The court shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds that:

(1) The protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors in subsection (b) of Section 6 of this act;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person; and

(3) Adequate arrangements will be made for management of the protected person's property.

(f) The court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of:

(1) A provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to Section 16 of this act; and

(2) The documents required to terminate a guardianship or conservatorship in this state.

Added by Laws 2010, c. 257, § 15, eff. Nov. 1, 2010.

§30-3-316. Confirmation of transfer of guardianship or conservatorship.

(a) To confirm transfer of a guardianship or conservatorship transferred to this state under provisions similar to Section 15 of this act, the guardian or conservator shall petition the court in this state to accept the guardianship or conservatorship. The

petition shall include a certified copy of the other state's provisional order of transfer.

(b) Notice of a petition under subsection (a) of this section shall be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this state. The notice shall be given in the same manner as notice is required to be given in this state.

(c) On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to subsection (a) of this section.

(d) The court shall issue an order provisionally granting a petition filed under subsection (a) of this section unless:

(1) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person; or

(2) The guardian or conservator is ineligible for appointment in this state.

(e) The court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian or conservator in this state upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to Section 15 of this act transferring the proceeding to this state.

(f) Not later than ninety (90) days after issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the law of this state.

(g) In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated or protected person's incapacity and the appointment of the guardian or conservator.

(h) The denial by a court of this state of a petition to accept a guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian or conservator in this state under Section 3-101 of Title 30 of the Oklahoma Statutes if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

Added by Laws 2010, c. 257, § 16, eff. Nov. 1, 2010.

§30-3-317. Registration of out-of-state guardianship order.

If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the

guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this state by filing as a foreign judgment in a court, in any appropriate county of this state, certified copies of the order and letters of office.

Added by Laws 2010, c. 257, § 17, eff. Nov. 1, 2010.

§30-3-318. Registration of out-of-state protective order.

If a conservator has been appointed in another state and a petition for a protective order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this state by filing as a foreign judgment in a court of this state, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

Added by Laws 2010, c. 257, § 18, eff. Nov. 1, 2010.

§30-3-319. Use of authorized powers.

(a) Upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the guardian or conservator is not a resident of this state, subject to any conditions imposed upon nonresident parties.

(b) A court of this state may grant any relief available under this act and other law of this state to enforce a registered order.

Added by Laws 2010, c. 257, § 19, eff. Nov. 1, 2010.

§30-3-320. Applying and construing the act.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Added by Laws 2010, c. 257, § 20, eff. Nov. 1, 2010.

§30-3-321. Relation to Electronic Signatures in Global and National Commerce Act.

This act modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

Added by Laws 2010, c. 257, § 21, eff. Nov. 1, 2010.

§30-3-322. Application of act.

(a) This act applies to guardianship and protective proceedings begun on or after the effective date of this act.

(b) Articles 1, 3, and 4 and Sections 21 and 22 of this act apply to proceedings begun before the effective date of this act, regardless of whether a guardianship or protective order has been issued.

Added by Laws 2010, c. 257, § 22, eff. Nov. 1, 2010.

§30-4. Renumbered as § 1-109 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-101. Appointment as guardian of more than five wards prohibited - Exceptions.

No person shall be appointed guardian of any minor or incapacitated or partially incapacitated person, who is, at the time of the hearing of the application for appointment, the guardian of as many as five persons, other than his own family or relatives. The provisions of this section and Section 4-102 of this title shall not apply to boards of control and superintendents of eleemosynary or charitable institutions, under the control and charge of the state, where under the law such boards of control and superintendents may be appointed as guardians of the estates, or of the persons, of those committed to their charge or safekeeping. The provisions of this section shall not prohibit the appointment of officers or managers of fraternal or benevolent orders or homes and church orphanages as to inmates of such institutions. This section shall in no way alter or repeal the provisions of Section 1001 of Title 6 of the Oklahoma Statutes, or Section 126.4 of Title 72 of the Oklahoma Statutes.

Added by Laws 1913, c. 172, p. 391, § 1. Amended by Laws 1915, c. 203, § 1; Laws 1953, p. 245, § 66; Laws 1988, c. 329, § 72, eff. Dec. 1, 1988. Renumbered from Title 58, § 773 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 51, operative July 1, 1990.

§30-4-102. Violations - Punishment.

Any person or official violating the provisions of Section 4-101 of this title shall be guilty of a misdemeanor.

Added by Laws 1913, c. 172, p. 391, § 2. Amended by Laws 1953, p. 245, § 67; Laws 1988, c. 329, § 73, eff. Dec. 1, 1988. Renumbered from Title 58, § 774 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 52, operative July 1, 1990.

§30-4-103. Disqualification by financial relations with judge of district court - Removal of ineligible guardians - Liability for continuing to act - Removal of judge.

No natural person shall be eligible to act as guardian of an estate under the jurisdiction of any judge of the district court, if said judge of the district court is under any financial obligation whatsoever to such person. If any judge of the district court, while holding the office of judge of the district court, becomes pecuniarily liable to any guardian of any minor or incapacitated or partially incapacitated person, such liability shall operate to disqualify such guardian. It is hereby made the duty of the judge of the district court to enter on the court docket such disqualifying conditions. The disqualification shall also apply if such person, except a parent who is guardian of his or her own child or children has rendered financial aid to said judge, in securing his nomination and election to the office of judge of the district court, or his appointment as judge of the district court. Persons who have heretofore been appointed guardians, who are not eligible to act under this section shall be by the judge of the district court removed and successors appointed, as provided by law. If any person not eligible to act under this section continues to act as guardian, after such ineligibility has been legally determined, such person and the surety upon his bond shall be liable to the estate of the minor or incapacitated or partially incapacitated person for all money unlawfully paid by such ineligible guardian out of the estate of such minor or incapacitated or partially incapacitated person, and if a judge of the district court knowingly permits an ineligible person to act, he shall be removed from office.

Added by Laws 1923-24, c. 84, p. 100, § 1. Amended by Laws 1953, p. 248, § 84; Laws 1988, c. 329, § 74, eff. Dec. 1, 1988. Renumbered from Title 58, § 881 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 53, operative July 1, 1990.

§30-4-104. Eligibility of nonresidents - Foreign trust companies or institutions - Domestic corporations or trust companies

A. Only a person who is a citizen or legal resident of or legally present in the United States of America shall be eligible to be appointed guardian of the property or person of a minor or an incapacitated or partially incapacitated person by the courts of this state, except as provided under subsection G of Section 4-105 of this title.

B. Only a person who has been a resident, in good faith, of this state for one (1) year past shall be eligible to be appointed guardian of the property or person of a minor or an incapacitated or partially incapacitated person by the courts of this state, and no foreign trust company or institution shall be appointed guardian of the property or person of any minor or an incapacitated or partially incapacitated person by the courts of this state. Provided that this shall not prevent a person from being appointed guardian of his or her own spouse, child, children, grandchild, grandchildren,

parent, grandparent, brother, sister, aunt, uncle, niece or nephew even though he or she is a nonresident of this state.

C. No domestic corporation or trust company shall be appointed or qualify as guardian of a minor or incapacitated or partially incapacitated person unless such company is at the time a resident of and maintains its usual place of business in the county of the residence of such minor or incapacitated or partially incapacitated person. No such company shall be appointed or act as such guardian unless its principal place of business is located in the county where such proceedings are filed and conducted. Such a domestic corporation or a natural person not a resident of this state may be appointed as such guardian upon the written request in a will or otherwise of a person eligible to make such nomination pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act. Added by Laws 1927, c. 39, p. 60, § 1. Amended by Laws 1933, c. 79, p. 144, § 1; Laws 1953, p. 245, § 68; Laws 1967, c. 53, § 1, emerg. eff. April 14, 1967; Laws 1976, c. 133, § 1; Laws 1977, c. 107, § 1; Laws 1979, c. 258, § 12; Laws 1986, c. 67, § 1, eff. Nov. 1, 1986; Laws 1988, c. 329, § 75, eff. Dec. 1, 1988. Renumbered from Title 58, § 775 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 54, operative July 1, 1990; Laws 2016, c. 370, § 1, eff. Nov. 1, 2016.

§30-4-105. Inquiry into suitability of person proposed to serve as guardian

A. In conducting an inquiry to determine whether a person is suitable to serve as a guardian, the court shall determine if:

1. The person proposed to serve as guardian is a minor or an incapacitated or partially incapacitated person;

2. The person proposed to serve as guardian and each adult member of the proposed guardian's household has a record of a criminal conviction, protective order, or pending criminal charge.

When requested by the court, the petitioner shall present to the court an Oklahoma State Bureau of Investigation (OSBI) criminal background check for the proposed guardian and any adult household member evidencing no record of a criminal conviction in the OSBI criminal history repository based on the search criteria provided. The petitioner shall disclose the case name and status of any civil or criminal matter in state or federal court involving the proposed guardian or any adult household member of the proposed guardian;

3. The person proposed to serve as guardian is insolvent or has declared bankruptcy during five (5) years prior to the filing of the pleading proposing such person to serve as guardian;

4. The person proposed to serve as guardian is under any financial obligation to the ward; or

5. There exists a conflict of interest which would preclude or be substantially detrimental to the ability of the person to act in

the best interest of the subject of the proceeding if such person is appointed.

B. No minor or incapacitated person shall be appointed guardian of an incapacitated or partially incapacitated person.

C. If the person proposed to serve has a criminal conviction, protective order, pending criminal charge, or other civil or criminal matter in state or federal court, the court shall make further inquiry into the nature of such conviction, order, charge or matter and the surrounding circumstances. The court shall appoint such person proposed to serve only upon determining that the facts underlying the circumstances do not give rise to a reasonable belief that the person proposed to serve will be unfaithful to or neglectful of the fiduciary and care responsibilities of the guardian, and that the appointment is in the best interest of the ward.

D. If the person proposed to serve as guardian or limited guardian of the property of an incapacitated or partially incapacitated person is insolvent or has declared bankruptcy within five (5) years prior to the filing of the pleading proposing that such person serve, the court shall appoint such person only after giving due consideration to the nature and extent of the property of the ward and the anticipated actions necessary to manage the estate of the ward, and only upon a determination that such appointment is in the best interest of the ward. Insolvency or bankruptcy shall have no effect on the qualification of a person proposed to serve as guardian or limited guardian of the person of an incapacitated or partially incapacitated person.

E. If the person proposed to serve as guardian or limited guardian of the property of an incapacitated or partially incapacitated person is under any financial obligation to the ward, the court shall make further inquiry into the nature and extent of such obligation. The court shall appoint the person proposed to serve only after a determination that such obligation will not impair the ability of the person proposed to serve to discharge the person's fiduciary responsibilities, and that the appointment is in the best interest of the ward. Being under financial obligation to the ward shall have no effect on the qualification of a person proposed to serve as guardian or limited guardian of the person of an incapacitated or partially incapacitated person.

F. A current or potential conflict of interest which is not substantial and not likely to preclude or impair the ability of a person proposed to serve as a guardian acting in the best interest of the person's ward shall not, by itself, disqualify such person from appointment.

G. Only a person who is a citizen or legal resident of or legally present in the United States of America shall be eligible to be appointed guardian of the property or person of a minor or an

incapacitated or partially incapacitated person by the courts of this state, unless the court determines that there are no such qualified individuals available to serve as guardian and that it is in the best interest of the minor or incapacitated or partially incapacitated person to appoint a person without such qualifications.

Added by Laws 1988, c. 329, § 76, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 55, operative July 1, 1990; Laws 2007, c. 364, § 2, emerg. eff. June 4, 2007; Laws 2016, c. 370, § 2, eff. Nov. 1, 2016.

§30-4-201. Guardian's bond.

A. Before the entry of an order appointing a person or organization as a guardian of the person and before the letters of guardianship issue, the court may require the person or organization to be appointed to provide a bond to this state, with sufficient sureties, to be approved by the court, and in such penal sum as the court shall order, conditioned that the guardian will faithfully execute the duties of the trust according to law.

B. 1. Before the entry of an order appointing a person or organization as the guardian of a minor or as the guardian or limited guardian of the property of an incapacitated or partially incapacitated person takes effect, and before the letters of guardianship issue, the court shall require the person or organization to be appointed to provide a bond, in an amount not less than the value of intangible personal property as alleged in the petition or otherwise determined by the court at the hearing on the petition, to this state, with sufficient sureties, to be approved by the court, and in such penal sum as the court shall order, conditioned that the guardian will faithfully execute the duties of the trust according to law.

2. Except as otherwise provided by paragraph 3 of this subsection, upon a finding by the court that the anticipated annual income to a ward for one (1) year plus the value of the personal property of the ward is less than Forty Thousand Dollars (\$40,000.00), the court may order that a bond is not necessary. For purposes of this paragraph, personal property shall not include property owned with a joint tenant.

3. The provisions of this section shall not apply to cases subject to the Veterans Volunteer Guardianship Act.

C. In the event the intangible personal property of the ward, as determined by the inventory, is in a greater amount than as alleged in the petition or determined by the court at the hearing on the petition, the guardian shall file at the time the inventory is filed a bond sufficient for the full amount of the intangible personal property, which bond will be in substitution for the bond originally filed on the appointment of the guardian. The amount of

the bond in the future may be adjusted up or down in amount based upon the intangible personal property shown in future annual accountings; provided, however, no bond shall be reduced except upon order of the court.

R.L. 1910, § 6532. Amended by Laws 1953, p. 245, § 69; Laws 1963, c. 133, § 1; Laws 1987, c. 164, § 3, operative July 1, 1987; Laws 1988, c. 181, § 3, eff. Nov. 1, 1988; Laws 1988, c. 329, § 77, eff. Dec. 1, 1988. Renumbered from § 776 of Title 58 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 56, operative July 1, 1990; Laws 1991, c. 18, § 3, emerg. eff. March 29, 1991; Laws 1994, c. 234, § 6, eff. Sept. 1, 1994; Laws 1998, c. 77, § 1, eff. Nov. 1, 1998; Laws 2004, c. 181, § 7, eff. Nov. 1, 2004; Laws 2019, c. 23, § 9, emerg. eff. April 4, 2019.

§30-4-202. Request for security or bond - Suspension of powers - Order.

When a petition is presented praying that a guardian be required to give further security, or to give bond where, by order of the court no bond was originally required, and it is alleged on oath that such is necessary to serve the best interest of the ward or his estate, the judge may, by order, suspend his powers until the matter can be heard and determined. If the judge determines a bond or other security is in the best interests of the ward or his estate, the judge shall order the same to be posted, and if it is not given within a reasonable time, to be fixed by the judge, the guardian shall be removed.

Added by Laws 1987, c. 164, § 5, operative July 1, 1987. Renumbered from Title 58, § 776.2 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-203. Requirement of new bonds - Discharge of sureties on old bond.

The court may require a new bond to be given by a guardian whenever the court deems it necessary, and may discharge the existing sureties from further liability, after due notice is given as the court may direct, when it shall appear that no injury can result therefrom to those interested in the estate.

R.L. 1910, § 6580. Amended by Laws 1988, c. 329, § 78, eff. Dec. 1, 1988. Renumbered from Title 58, § 779 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-204. Preservation of bonds - Breach of condition - Actions on bonds.

Every bond given by a guardian must be filed and preserved in the office of the district court clerk, and in case of a breach of a condition thereof, may be prosecuted for the use and benefit of the

ward or of any person interested in the person or estate of the ward.

R.L. 1910, § 6581. Amended by Laws 1953, p. 246, § 71; Laws 1988, c. 329, § 79, eff. Dec. 1, 1988. Renumbered from Title 58, § 780 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-205. Limitation of action on bond - Effect of disability.

No action can be maintained against the sureties on any bond given by a guardian, unless it be commenced within three (3) years from the discharge or removal of the guardian; but if at the time of such discharge a person entitled to bring such action is under any legal disability to sue, the action may be commenced by such person at any time within three (3) years after such disability is removed. R.L. 1910, § 6582. Amended by Laws 1988, c. 329, § 80, eff. Dec. 1, 1988. Renumbered from Title 58, § 781 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-301. Inventory and account of estate of ward - Appraisal - Waiver of inventory prohibited.

A. Every guardian or limited guardian of the property of a ward shall file an inventory of the estate of his ward within two (2) months after his appointment. The time to file an inventory may be extended by the court for good cause shown. The court may, upon application made for that purpose by any interested person, compel the guardian or limited guardian of the property of a ward to render a revised inventory or account to the court of the estate of his ward. Each inventory and account returned or rendered must be sworn to by the guardian or limited guardian.

B. The guardian shall state his opinion of the value of the estate of the ward described in the first inventory. Such inventory shall be filed with the district court clerk. Whenever any other property of the estate of any ward is discovered, not included in the inventory of the estate already returned, and whenever any other property has been succeeded to or acquired by any ward, or for his benefit, like proceedings must be had for the return thereof. If requested by the ward, judge or any interested person, such property must be appraised by appraisers appointed, sworn and acting in the manner provided for regulating the settlement of the estate of decedents.

C. The court shall not waive any inventory of property of the ward which is required by this section.

R.L. 1910, § 6549. Amended by Laws 1953, p. 247, § 82; Laws 1988, c. 329, § 81, eff. Dec. 1, 1988. Renumbered from Title 58, § 871 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 57, operative July 1, 1990.

§30-4-302. Repealed by Laws 1990, c. 323, § 80, operative July 1, 1990.

§30-4-303. Settlement and allowance of accounts - Reports to court - Accounting informations - Date certain for next annual report.

A. Except as otherwise provided by subsection B of this section, a guardian or limited guardian of the property shall, upon the expiration of a year from the time of appointment, and at least annually thereafter, present accounts to the court for settlement and allowance as part of the guardianship report as required by Section 4-306 of this title.

B. 1. In addition, a guardian or limited guardian of the property shall:

- a. present accounts whenever the court requires that such report or accounts be presented, and
- b. with the annual report of accounts, report any changes of property listed on the inventory required by Section 4-301 of this title. The report shall state the compensation requested by the guardian and for the attorneys.

2. If there has been a significant change in the physical or mental condition of the ward, or the ward's financial resources, the details thereof shall be set forth in the annual report required by subsection A of this section.

3. Except as otherwise directed by the court or required by the Veterans Volunteer Guardianship Act, the provisions of this subsection regarding the filing of an annual accounting and annual plan shall not apply to any guardianship of the property of a ward if the ward's financial resources or assets, other than a homestead, are worth less than Forty Thousand Dollars (\$40,000.00) if a bond has been posted, or are worth less than Ten Thousand Dollars (\$10,000.00) regardless of whether or not a bond has been posted, and if the guardian or limited guardian of the property is the spouse or a relative of the ward within the fourth degree of consanguinity.

C. In addition to the reports required by subsections A and B of this section, a guardian or limited guardian shall submit a report:

1. If the ward is an incapacitated or partially incapacitated person, when there is a significant change in the capacity of the ward to meet the essential requirements for the physical health or safety of the ward or to manage the financial resources of the ward;
2. If the ward is a minor, any significant change in the condition of the minor or in the condition of the estate of the minor;
3. When the guardian or limited guardian resigns or is removed; and

4. When the guardianship is terminated.

D. 1. Unless waived at the discretion of the court, a guardian or limited guardian of the person of an incapacitated or partially incapacitated person shall file a report on the guardianship of the person pursuant to Section 4-305 of this title.

2. A guardian of the person of a minor ward shall not be required to file annual reports of the guardianship of the person of the ward unless ordered by the court.

3. A guardian or limited guardian of the property of a ward shall file a report on the guardianship of the property pursuant to Section 4-306 of this title.

E. The court shall not waive the filing of any report for a period in excess of five (5) years.

F. If the same person or organization is required to file reports as to both the person and the property of a ward, the reports may be consolidated.

G. Any accounting information submitted by a guardian or limited guardian of the property of a ward shall be verified and shall be rendered in the same manner as required by Title 58 of the Oklahoma Statutes with respect to any information of an estate of a decedent. Such information shall also set forth any charges to the property of the ward which have accrued since the previous accounting or, in the case of an initial accounting, since the filing of an inventory of the property of the ward placed under the control of the guardian or limited guardian.

H. In addition to other specified information any order of the court approving an annual guardianship plan and report shall include the date certain by which the guardian shall file the next annual report.

R.L. 1910, § 6550. Amended by Laws 1988, c. 329, § 83, eff. Dec. 1, 1988. Renumbered from § 872 of Title 58 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 58, operative July 1, 1990; Laws 1992, c. 115, § 2, eff. Sept. 1, 1992; Laws 2001, c. 322, § 2, emerg. eff. June 1, 2001; Laws 2004, c. 181, § 8, eff. Nov. 1, 2004; Laws 2019, c. 23, § 10, emerg. eff. April 4, 2019.

§30-4-304. Account by one of joint guardians.

When an account is rendered by two or more joint guardians, the judge of the district court may allow the same upon oath of any of them.

R.L. 1910, § 6551. Renumbered from Title 58, § 873 by Laws 1988, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 59, operative July 1, 1990.

§30-4-305. Report on guardianship of person - Requirements - attachments.

A. A report on the guardianship of the person of an incapacitated or partially incapacitated person shall set forth:

1. The name and place of abode of the ward and the name and address of the guardian or limited guardian;
2. Any significant change in the capacity of the ward to meet the essential requirements for his physical health or safety;
3. The services being provided to the ward and the relationship of those services to the individual guardianship plan;
4. Any significant actions taken by the guardian or limited guardian or guardian during the reporting period;
5. Any significant problems relating to the guardianship which have arisen during the reporting period;
6. The reasons, if any, why the appointment should be continued; and
7. The reasons, if any, why no less restrictive alternative will permit the incapacitated or partially incapacitated person to meet the essential requirements for his physical health or safety.

B. The report shall be substantially in the following form:

Report on the Guardianship of the Person

I, _____ (Name) _____ the (Guardian/Limited Guardian of the person) for _____ (Name) _____, an (incapacitated/partially incapacitated) person hereby submit this (annual, court-ordered) Guardianship Report.

1. The present place of abode of the ward is:

2. The type of home or facility in which the ward lives is _____ and the name of the person in charge of the home or facility is _____

3. My present street address and telephone number is:

4. During the last year, I have seen the ward _____ times. I otherwise or also have become or remained familiar with the needs and care of the ward as follows: _____
The nature of my visits to the ward have been:

5. The following services are currently being provided to the ward:

6. These services (are, are not) provided for in the current Guardianship Plan. The reason they are not shown in the current Guardianship Plan is: _____

7. The ward was last seen by a physician on: _____ The purpose of the visit was: _____

8. I (have, have not) observed any major change in the ward's physical or mental condition during the last year. (If so,) these are my observations:

9. I (have, have not) taken any significant action for or on behalf of the ward since the last time I submitted a Guardianship Report. (If so,) I took the following actions:

10. There (have, have not) been any significant problems relating to the ward or to my guardianship of the ward since the last time I submitted a Guardianship Report or, if this is an initial report, since the issuance of my letters. (If so,) I have observed these problems:

11. It is my opinion that the guardianship (should, should not) be continued. (If so,) the basis for my belief is as follows:

12. I believe the ward (would, would not) be able to manage essential requirements for physical health and safety with fewer restrictions on the ward's ability to act for himself or herself. (If so,) the basis for my belief is as follows:

13. My opinion of the present care being provided to the ward is as follows:

14. The place of abode of the ward (has, has not) changed since the last guardianship report. (If so,) the place of abode of the ward was changed for the following reasons:

I hereby swear that the answers set forth above are true and correct to the best knowledge and belief of the undersigned, subject to the penalties of making a false affidavit or declaration.

Date: _____
(Signature of Guardian or Limited Guardian)
Telephone: _____

C. Whenever there are changes or proposed changes to the guardianship plan, an individual guardianship plan, substantially in the same form as provided in Section 3-120 of this title, shall be submitted with the guardianship report and shall show any such changes or proposed changes in the guardianship plan since last submitted to and approved by the court.

D. Attached to the report shall be:

1. An accounting of any monies received by the guardian or limited guardian on behalf of the ward;
2. Any expenditures made by the limited guardian or guardian on behalf of the ward;
3. Any compensation requested by the guardian or limited guardian; and
4. Copies of any appropriate medical records, evaluations, or other similar documentation pertinent to the reporting period.

Added by Laws 1988, c. 329, § 84, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 60, operative July 1, 1990.

§30-4-306. Report on guardianship or limited guardianship of property - Requirements - Attachments - Review of financial resources.

A. A report on the guardianship or limited guardianship of the property of a ward shall set forth:

1. The name and place of abode of the ward, and the name and address of the guardian or limited guardian;
2. If the ward is an incapacitated or partially incapacitated person, significant changes in the capacity of the ward to manage his financial resources and the services being provided to the ward and the relationship of those services to the individual guardianship plan for the management of financial resources;
3. Any significant actions taken by the guardian or limited guardian during the reporting period;
4. Any significant problems relating to the guardianship which have arisen during the reporting period; and
5. If the ward is an incapacitated or partially incapacitated person, the reasons, if any, why the guardianship should not be terminated, or why no less restrictive alternative would permit the ward to manage his financial resources.

B. If the ward is an incapacitated or partially incapacitated person, reports on the guardianship of the property shall be substantially in the following form:

Report on the Guardianship of Property

I, _____ (Name) _____ the (Guardian or Limited Guardian of the property) of _____ (Name) _____, an incapacitated (or a partially incapacitated) person, hereby submit this (annual, court-ordered) Report.

1. List any significant changes in the capacity of the ward to manage his or her financial resources: _____

2. The services currently being provided to the ward are as follows: _____

3. These services (are, are not) provided for in the current Guardianship Plan as approved by the court.

The reason these services are not shown in the current plan are as follows: _____

4. I (have, have not) taken any significant actions for or on behalf of the ward since the last time I submitted a Guardianship Report.

(If so:) These actions are as follows: _____

5. There (have, have not) been any significant problems relating to the guardianship since the last time I submitted a Guardianship Report.

(If so:) The problems are as follows:

6. In my opinion, the guardianship (should, should not) be continued. The reasons for my belief are as follows:

7. It is my belief that the ward (would, would not) be able to manage his or her financial resources with fewer restrictions on the ward's ability to act for him or herself. The reasons for my belief are as follows:

I hereby swear that the answers set forth above are true and correct to the best knowledge and belief of the undersigned, subject to the penalties of making a false affidavit or declaration.

(Date of Report) (Signature of Guardian or Limited Guardian)

C. If the ward is a minor, reports on the guardianship of the property shall be substantially in the following form:

I, (Name) the (Guardian or Limited Guardian of the property) of (Name), a minor, hereby submit this (annual, court-ordered) Report.

1. The services currently being provided to the ward are as follows:

2. These services (are, are not) provided for in the current Guardianship Plan as approved by the court.

The reason these services are not shown in the current plan are as follows:

3. I (have, have not) taken any significant actions for or on behalf of the ward since the last time I submitted a Guardianship Report.

(If so:) These actions are as follows:

4. There (have, have not) been any significant problems relating to the guardianship since the last time I submitted a Guardianship Report.

(If so:) The problems are as follows:

I hereby swear that the answers set forth above are true and correct to the best knowledge and belief of the undersigned, subject to the penalties of making a false affidavit or declaration.

(Date of Report) (Signature of Guardian or Limited Guardian)

D. Whenever there are changes or proposed changes to the guardianship plan, an individual guardianship plan for the management of financial resources, substantially in the same form as provided in Section 3-122 of this title, shall be submitted with the guardianship report and shall show any such changes or proposed changes in the guardianship plan since last submitted and approved by the court.

E. The report:

1. Shall contain a complete financial statement of the financial resources of the ward under the control or supervision of the guardian or limited guardian of the property;

2. Shall contain an accounting of any receipts and disbursements received, or expenditures made by the guardian or limited guardian on behalf of the ward;

3. May include any request for compensation for the guardian; and

4. May include any compensation request for the attorney for the ward.

F. As directed by the court, following submission of a report or in conjunction with an initial or annual review or any subsequent proceeding, a guardian or limited guardian shall submit to an actual review of the financial resources placed under his control.

Added by Laws 1988, c. 329, § 85, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 61, operative July 1, 1990.

§30-4-307. Mailing of copies of annual report - Objections to report - Hearing - Order granting immediate relief - Order for compensation - New bond - Appointment of counsel to represent ward.

A. 1. Upon the filing of an annual report the court shall immediately cause a copy of the report to be mailed by first-class mail to:

a. the persons entitled to notice pursuant to Section 2-101 of this title for minors, or

b. those persons entitled to notice pursuant to paragraphs 1, 2, 3 and 7 of subsection A of Section 3-110 of this title for adults, and

c. the attorney of the ward, if any.

2. Attached to the copy of the report shall be a statement notifying the person receiving copies of said reports that any objection to the report must be filed within fifteen (15) days after the date of the filing of the annual report with the court.

3. Any person entitled to receive a copy of the annual report may file an objection to said report within fifteen (15) days after the filing of the annual report with the court.

B. 1. After notice, the court may on its own motion hold a hearing on an annual report and shall hold a hearing:

- a. upon the filing of an objection to the annual report;
or
- b. when the court is considering issuing an order other than an order accepting the report and granting the relief requested.

2. Notice for a hearing on an annual report shall be given, by mail, to the persons entitled to notice pursuant to Section 2-101 of this title for minors or paragraphs 1, 2, 3 and 7 of subsection A of Section 3-110 of this title for adults at least ten (10) days prior to the date set for the hearing. Notice shall be in such form as the court may direct and shall be sent by regular first-class mail.

C. The court may enter an order granting the relief requested in the report without notice if the court determines that such relief should be granted immediately. In that event, the court shall grant such relief on a temporary basis pending a hearing on the report or the expiration of the fifteen (15) days within which an objection to the report may be filed.

D. When no objection to an annual report is filed and no hearing on the annual report is held as otherwise provided by this section, the court shall issue an order accepting the annual report and granting the relief requested.

E. The compensation for the guardian, the guardian's attorney, and any other person entitled to compensation from the property of the ward shall be determined by the court in the manner required by the provisions of the Oklahoma Guardianship and Conservatorship Act. Such order, whether issued at the expiration of the fifteen (15) days within which an objection to the annual report may be filed or after a hearing on the report, shall be final with respect to all persons given copies of the annual report or notice of such hearing, except with regard to any such person who may be determined to have been subject to a legal disability at the time such notice was given. Such order also shall be final with respect to the guardian except with respect to challenge by the ward upon the removal of the ward's legal disability.

F. With regard to an annual report of a guardian of the property of a ward, the court shall examine the changes, if any, to the property of the ward as set forth in the report. If the guardian was required to submit a bond, and if the total value of the ward's property which is subject to the proceeding differs significantly from the total value of the ward's property as last disclosed to the court:

1. The court shall direct such guardian to obtain a new bond of such lesser or greater penal amount as will adequately protect the ward's property which is subject to the proceeding;

2. Such new bond shall be filed with the district court clerk within thirty (30) days following the date of the order; and

3. If the court requires a new bond of a greater penal amount than the bond previously submitted, failure of the guardian to submit such new bond within the thirty-day period set forth in this subsection shall constitute grounds for removal of such guardian or limited guardian.

G. At any hearing held upon an annual report:

1. If required by the court, the guardian or limited guardian shall be present;

2. The court shall review the annual report and consider any objection made thereto, and thereupon enter such order as the court deems appropriate; and

3. The court may make any order which the court deems to be in the best interest of the ward or the estate of the ward. The court may also set for further hearing, with prior notice to be given as provided in this section, any other matter which the court deems should be considered in the best interest of the ward or the estate of the ward. Subject to appeal or vacation within the time permitted, an order entered after the hearing of an annual report after notice adjudicates as to liabilities concerning the matters considered in connection with said hearing.

H. At a hearing upon an annual report the court may appoint an attorney to represent the ward who is an incapacitated or partially incapacitated person, in the same manner and with the same compensation as provided in this act for appointment of an attorney for the subject of the proceeding following the filing of a petition for appointment of a guardian or limited guardian of the person or property of an alleged incapacitated or partially incapacitated person. The appointment of such attorney shall cease:

1. Upon the entry by the court of an order pertaining to the matters considered at such hearing, unless the court otherwise directs, either in the order appointing such attorney or in the order pertaining to the matters considered at such hearing;

2. Unless an appeal is taken from the order of the court pertaining to the matters considered at such hearing, in which event such attorney shall continue to represent the ward until final disposition of the appeal or as otherwise ordered by the court; or

3. Upon application of said attorney, the court may allow the attorney to withdraw from the case and shall appoint another attorney to represent the subject of the proceeding in any appeal proceeding.

Added by Laws 1988, c. 329, § 86, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 62, operative July 1, 1990; Laws 1991, c. 18, § 1, emerg. eff. March 29, 1991; Laws 1992, c. 274, § 1, eff. Sept. 1, 1992.

§30-4-308. Application for relief - Notice - Hearing - Order - Appointment of counsel to represent ward - Joinder of separate

applications or objections - Evaluation of ward - Hearing without notice.

A. After the appointment of a guardian, the ward, any person interested in the welfare of the ward, or a guardian may make application to the court for:

1. Termination of the guardianship;
2. Removal of the guardian;
3. Resolution of a dispute pertaining to the guardianship plan;
4. If the ward is an incapacitated or partially incapacitated person, the imposition of additional restrictions upon the legal capacity of the ward to act on his own behalf or the removal of one or more existing restrictions; or
5. A review hearing.

B. Such application shall set forth:

1. The names and addresses of the individuals and entities entitled to notice;
2. The relief requested; and
3. The alleged facts and reasons supporting the request.

C. Any person entitled to notice of the hearing on an application filed pursuant to this section may object to the relief requested in the application. If the ward is a minor, notice shall be as provided by Section 2-101 of this title. If the ward is an incapacitated or partially incapacitated person, notice shall be given to those persons entitled to notice pursuant to paragraphs 1, 2, 3 and 7 of subsection A of Section 3-110 of this title and shall be given as provided by Section 3-110 of this title and to the attorney of the subject of the proceeding, if any, and if known to the petitioner.

D. The court shall set an application filed pursuant to this section for hearing on a date certain and shall cause notice to be given to the persons entitled thereto by regular first-class mail at least ten (10) days prior to such date. However, except for an order terminating a guardianship, the court may enter an order granting the relief requested in the application without notice if the court determines that such relief should be granted immediately. In that event, the court may grant such relief on a temporary basis and proceed to set the application for further hearing following the giving of notice as provided by this subsection. At the hearing, based upon the evidence adduced, the judge may continue, modify or vacate his temporary order.

E. At the hearing held upon an application filed pursuant to this section for which notice is required, the court may, based upon the evidence adduced, enter an order granting or denying the relief requested. At such hearing, the court also may make any other order which the court deems to be in the best interests of the ward or the estate of the ward. The court may also set for further hearing, with prior notice to be given as provided in this section, any other

matter which the court deems should be considered in the best interest of the ward or the estate of the ward.

F. With respect to any matter set for hearing pursuant to this section, the court may appoint an attorney to represent at such hearing a ward who is an incapacitated or partially incapacitated person, in the same manner and with the same compensation as provided in the Oklahoma Guardianship and Conservatorship Act for appointment of an attorney for the subject of the proceeding following the filing of a petition for appointment of a guardian or limited guardian of the person or property of an alleged incapacitated or partially incapacitated person. The appointment of such attorney shall cease:

1. Upon the entry by the court of an order pertaining to the matters considered at such hearing, unless the court otherwise directs, either in the order appointing such attorney or in the order pertaining to the matters considered at such hearing;

2. Unless an appeal is taken from the order of the court pertaining to the matters considered at such hearing, in which event such attorney shall continue to represent the ward until final disposition or as otherwise ordered by the court; or

3. Upon application of said attorney, the court may allow the attorney to withdraw from the case and shall appoint another attorney to represent the subject of the proceeding in any appeal proceeding.

G. After notice, the court may join the issues raised in separate applications or separate objections for determination at a single hearing, unless the court determines joinder would be prejudicial to the interests of the ward.

H. As necessary and appropriate the court may order an evaluation of the ward in connection with any guardianship proceeding subsequent to the appointment of a guardian.

I. The court may hear an application other than with respect to the matters set forth in subsection A of this section, with or without notice as the court determines. If the court requires notice to be given, the court shall specify the persons to whom notice shall be given and the manner and time in which such notice shall be given.

Added by Laws 1988, c. 329, § 87, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 63, operative July 1, 1990.

§30-4-401. Expenses and compensation of guardians.

A. Every guardian must be allowed the amount of his reasonable expenses in the execution of his trust, and he must also have such compensation for his services as the court in which his accounts are settled deems just and reasonable.

B. To the extent that the services of a guardian or limited guardian of the property are for the collection of income of the

ward, compensation for such services shall not exceed seven and one-half percent (7 1/2%) of the income so collected. For the purposes of this section, "income" means funds received by and accounted for by the guardian or limited guardian on behalf of the ward, other than from the sale of property of the ward, plus the net proceeds from the sale of property of the ward in excess of the value of such property as last determined in the guardianship proceeding.

C. All compensation and reimbursements pursuant to this section shall be approved by the court prior to payment.

Added by Laws 1923-24, c. 84, p. 101, § 4. Amended by Laws 1953, p. 248, § 85; Laws 1965, c. 55, § 1, emerg. eff. March 29, 1965; Laws 1988, c. 329, § 88, eff. Dec. 1, 1988. Renumbered from Title 58, § 884 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-402. Joint guardians - Compensation.

Joint guardians shall not receive more compensation than a single guardian.

Added by Laws 1923-24, c. 84, p. 101, § 6, emerg. eff. March 21, 1924. Renumbered from Title 58, § 886 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-403. Compensation for attorneys, guardians ad litem and persons conducting evaluations.

A. 1. An attorney, other than a public defender, for a ward or a subject of a proceeding pursuant to the Oklahoma Guardianship and Conservatorship Act or whose services are obtained by a guardian on behalf of a ward is entitled to reasonable compensation to be paid from and as a charge against the estate of the ward. Reasonable compensation for attorney services rendered and expenses made on behalf of the guardian of the ward incurred prior to the appointment of the guardian may be paid from and charged against the estate of the ward, as approved by the court prior to payment.

2. Guardians ad litem, other than an employee of a public agency or an employee of a private agency which provides such service pursuant to a contract with a public agency, appointed pursuant to the provisions of this act are entitled to reasonable compensation.

3. A person conducting an evaluation of the subject of the proceeding, whose services resulted in the appointment of a limited guardian or guardian or other order beneficial to the subject of the proceeding, is entitled to reasonable and necessary compensation.

B. 1. Compensation and reimbursements pursuant to this section shall be paid from the financial resources of the subject of the proceeding unless the court determines that such payment of compensation and reimbursements would:

- a. substantially impede the partially incapacitated or incapacitated person from meeting the essential requirements for his physical health or safety, and
- b. substantially impair the financial resources of such person, or substantially impede his ability to obtain the services necessary for developing or regaining his abilities to the maximum extent possible.

2. If not otherwise compensated or reimbursed pursuant to the provisions of paragraph 1 of this subsection:

- a. any attorney or guardian ad litem appointed by the court who is entitled to compensation shall be compensated from the court fund of the court having jurisdiction,
- b. the cost of services provided by a person conducting an evaluation, when such person is the employee of a public agency or the employee of a private agency which provides such services for guardianship proceedings pursuant to an agreement with a public agency, shall be borne by the public agency, or by the private agency in accordance with the terms of such agreement, and
- c. if the person conducting an evaluation is a private individual or agency and the cost of the services provided is not otherwise compensable under a state or federal public assistance program, compensation for the cost of services shall be from the court fund of the court having jurisdiction.

3. Compensation or reimbursement from the court fund for attorneys and guardian ad litem pursuant to the provisions of this subsection shall be in accordance with the provisions of Section 1304 of Title 20 of the Oklahoma Statutes.

C. All compensation and reimbursements pursuant to the provisions of this section shall be approved by the court prior to payment.

D. Contingent fees and contracts for recovery of property agreed upon and approved by courts or the ranking official representing the Secretary of the Interior in Oklahoma, who has supervision of any restricted Indian tribe in this state do not come within the provisions of the Oklahoma Guardianship and Conservatorship Act.

Added by Laws 1923-24, c. 84, p. 101, § 5. Amended by Laws 1988, c. 329, § 89, eff. Dec. 1, 1988. Renumbered from § 885 of Title 58 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 64, operative July 1, 1990; Laws 2000, c. 144, § 1, emerg. eff. April 28, 2000.

§30-4-404. Costs - Appointment of guardian to authorize entry into armed forces - Performance of conditions.

A. No costs shall be required by the court clerk in any guardianship proceeding where the proceeding is for the purpose of appointing a guardian to approve or authorize the ward to enter the armed forces of the United States.

B. If the court waives the report, the court may waive the fee for the filing of the annual guardianship report required by Section 152 of Title 28 of the Oklahoma Statutes, for a guardian or limited guardian of the person of an incapacitated or partially incapacitated person or for a guardian of the person of a minor.

C. The clerk of the district court in which an application for a relative guardianship, defined as an application for the care and custody of a child to be transferred to an adult relative of the child within the third degree of consanguinity, is filed shall collect as court costs a fee of Fifty Dollars (\$50.00). The court may waive the fee if, in the opinion of the court, it creates a financial hardship for the individual applying for a relative guardianship.

D. The performance of such conditions shall be a part of the duties of the guardian, for the faithful performance of which the guardian and the sureties on the guardian's bond are responsible. Added by Laws 1943, p. 131, § 1, emerg. eff. March 22, 1943. Renumbered from § 782 of Title 58 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 2001, c. 322, § 3, emerg. eff. June 1, 2001; Laws 2010, c. 358, § 8, emerg. eff. June 7, 2010.

§30-4-501. Appointment of more than one guardian - Bond.

The court may appoint more than one guardian of any person or property subject to guardianship. Such guardians shall be governed and liable in all respects as a sole guardian. Such guardian shall give bond in like manner and with like conditions as prescribed for sole guardians unless waived.

R.L. 1910, § 6584. Amended by Laws 1987, c. 164, § 2, operative July 1, 1987; Laws 1988, c. 329, § 90, eff. Dec. 1, 1988. Renumbered from Title 58, § 772 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-502. Two or more guardians.

A. If there are two guardians, the act of one alone shall be effectual:

1. If a coguardian is laboring under any legal disability from serving, said coguardian in such case shall be relieved from official liability; provided however, proper finding and valid order of the district court having jurisdiction therein is first obtained; or

2. If a coguardian has given the other coguardian authority in writing to act for both.

B. If there are more than two guardians, the act of a majority of them is valid, however, any guardian may authorize his or her coguardians to act on that guardian's behalf by giving the other coguardian authority in writing to do so.

Added by Laws 1953, p. 254, § 1. Amended by Laws 1988, c. 329, § 91, eff. Dec. 1, 1988. Renumbered from Title 58, § 894 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 2023, c. 50, § 1, eff. Nov. 1, 2023.

§30-4-503. Death of joint guardian.

On the death of one of two or more joint guardians, the power continues to the survivor until a further appointment is made by the court.

R.L. 1910, § 3336. Renumbered from § 17 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-601. Guardian for nonresident ward - Notice of hearing.

When a person liable to be put under guardianship, according to the provisions of this chapter, resides without this state, and has estate therein, any friend of such person, or any one interested in his estate, in expectancy or otherwise, may apply to the judge of the district court of any county in which there is any estate of such absent person, for the appointment of a guardian; and if, after notice given to all interested, in such manner as the judge orders, and a full hearing and examination, it appears proper, a guardian for such absent person may be appointed.

R.L. 1910, § 6570. Renumbered from Title 58, § 861 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-602. Powers of nonresident's guardian same as in other cases.

Every guardian appointed under the preceding section has the same powers and performs the same duties, with respect to the estate of the ward found within the state, and with respect to the person of the ward, if he shall cease to reside therein, as are prescribed with respect to any other guardian appointed under this chapter.

R.L. 1910, § 6571. Amended by Laws 1953, p. 247, § 81. Renumbered from Title 58, § 862 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-603. First appointment is exclusive.

The guardianship which is first lawfully granted, of any person residing without this state, extends to all the estate of the ward within the same, and excludes the jurisdiction of the district court of every other county.

R.L. 1910, § 6573. Renumbered from Title 58, § 771 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-604. Bond of guardian of nonresident.

Every such guardian must give bond to the State of Oklahoma, in the manner and with like conditions as hereinbefore provided for other guardians, except that the provisions respecting the inventory, the disposal of the estate and effects, and the account to be rendered by the guardian must be confined to such estate and effects as come to his hands in this state.

R.L. 1910, § 6572. Amended by Laws 1963, c. 103, § 2, emerg. eff. May 27, 1963. Renumbered from Title 58, § 863 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-605. Removal of property.

When the guardian and ward are both nonresidents, and the ward is entitled to property in this state which may be removed to another state, territory or foreign country without conflict with any restriction or limitation thereupon, or impairing the right of the ward thereto, such property may be removed to the state, territory or foreign country of the residence of the ward, upon the application of the guardian to the judge of the district court of the county in which the estate of the ward, or the principal part thereof, is situated.

R.L. 1910, § 6574. Renumbered from Title 58, § 864 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-606. Application for removal - Requirements.

The application must be made upon ten (10) days' notice to the resident personal representative or guardian, if there be such, and upon such application the nonresident guardian must produce and file a certificate, under the hand of the clerk, judge, surrogate or other authorized officer, and the seal of the court from which his appointment was derived, showing:

1. A transcript of the record of his appointment.
2. That he has entered upon the discharge of his duties.
3. That he is entitled by the laws of the state, territory or

country of his appointment to the possession of the estate of the ward; or must produce and file a certificate under the hand and seal of the clerk, judge, surrogate or other authorized officer of the court having jurisdiction in the country of his residence, of the estates of persons under guardianship, or of the highest court in such state, territory or country, that by the laws of such country the applicant is entitled to the custody of the estate of his ward without the appointment of any court.

Upon such application, unless good cause to the contrary be shown, the judge of the district court must make an order granting to such guardian leave to take and remove the property of his ward to the state, territory or place of his residence, which is

authority to him to sue for and receive the same in his own name, for the use and benefit of his ward.

R.L. 1910, § 6575. Renumbered by Title 58, § 865 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 65, operative July 1, 1990.

§30-4-607. Order for removal discharges local guardian.

Such order is a discharge of the personal representative, local guardian, or other person in whose possession the property may be at the time the order is made, on filing with the district court the receipt therefor of the foreign guardian of such absent ward.

R.L. 1910, § 6576. Renumbered from Title 58, § 866 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 66, operative July 1, 1990.

§30-4-701. Payment of debts.

Every guardian appointed under the provisions of this act shall pay all just debts due from the ward out of the personal estate and income from the real estate of the ward, if sufficient. If said estate and income is not sufficient, then payment shall be made out of the real estate of the ward, upon obtaining an order for the sale thereof, the proceeds of such sale shall be disposed of in the manner provided by law for the sale of real estate of decedents.

R.L. 1910, § 6542. Amended by Laws 1988, c. 329, § 92, eff. Dec. 1, 1988. Renumbered from Title 58, § 803 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-702. Collection and settlement of accounts and appearance for ward in suits - Compromise and settlement of claims.

A guardian must settle all accounts of the ward, and demand, sue for, and receive all debts due to the ward, or may, with the approval of the court, compromise or compound for the same and give discharges to the debtors on receiving a fair and just settlement of such claim. A guardian shall appear for and represent the ward in all legal suits and proceedings, unless another person is appointed for that purpose as guardian or next friend. A guardian, with the approval of the court exercising jurisdiction in the suit or proceeding, may compromise and settle any claim made by, on behalf of or against the ward in such suit or proceeding.

R.L. 1910, § 6543. Amended by Laws 1953, p. 246, § 72; Laws 1988, c. 329, § 93, eff. Dec. 1, 1988. Renumbered from Title 58, § 804 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-703. Discharge and release.

The person making payment, delivery, transfer or issuance of property or evidence thereof to the person designated by such court under this section is discharged and released to the same extent as

if such payment, delivery, transfer or issuance was made to a guardian of the minor or incapacitated or partially incapacitated person, and he is not required to see to the application thereof. A person making payment, delivery, transfer or issuance of property, or evidence thereof, to a next friend or guardian ad litem may be discharged and released as provided for in the Oklahoma Guardianship and Conservatorship Act.

Added by Laws 1967, c. 51, § 3, emerg. eff. April 14, 1967. Amended by Laws 1988, c. 329, § 94, eff. Dec. 1, 1988. Renumbered from Title 58, § 898.3 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 67, operative July 1, 1990.

§30-4-704. Service upon guardian - Duty of guardian.

Whenever a minor or an incapacitated or partially incapacitated person has a guardian of his estate residing in this state, personal service upon the guardian of any process, notice, or order of the court concerning the estate of the deceased person, in which the ward is interested, is equivalent to service upon the ward. It is the duty of the guardian to attend to the interests of the ward in the matter. Such guardian may also appear for his ward, and waive any process, notice, or order to show cause which an adult or a person of sound mind might do.

R.L. 1910, § 6568. Amended by Laws 1988, c. 329, § 95, eff. Dec. 1, 1988. Renumbered from Title 58, § 810 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-705. Management of estate - Income applied for support of ward - Sale of realty.

Every guardian must manage the estate of his ward frugally and without waste, and apply the income and profits thereof, as far as may be necessary, for the comfortable and suitable maintenance and support of the ward, and his family, if there be any; and if such income and profits be insufficient for that purpose, the guardian may sell the real estate, upon obtaining an order of the district court therefor, as provided, and must apply the proceeds of such sale, as far as may be necessary, for the maintenance and support of the ward and his family, if there be any.

R.L. 1910, § 6544. Renumbered from Title 58, § 805 by Laws 1988, § 134, eff. Dec. 1, 1988.

§30-4-706. Maintenance and support of ward - Credit on settlement - Payment of third person furnishing necessaries on guardian's refusal.

When a guardian has advanced for the necessary maintenance, support and education of his ward, an amount not disproportionate to the value of the estate or condition of life of the ward and the same is made to appear to the satisfaction of the court, by proper

supporting documents and proofs, the guardian must be allowed credit therefor in his settlement. Whenever a guardian fails, neglects, or refuses to furnish suitable and necessary maintenance, support or education for his ward, the court may order the guardian to do so and enforce such order by proper process. Whenever any third person, at the request of the ward, supplies a ward with such suitable and necessary maintenance, support or education which is shown to have been done after refusal or neglect of the guardian to supply the same, the court may direct the guardian to pay therefor out of the estate of the ward, and may enforce such payment by due process.

R.L. 1910, § 6545. Amended by Laws 1988, c. 329, § 96, eff. Dec. 1, 1988. Renumbered from Title 58, § 806 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-707. Execution of waivers or consents for wards.

The duly appointed and acting guardian, limited guardian, conservator, attorney in fact, or any other person legally authorized to act on behalf of any minor or incapacitated or partially incapacitated heir, devisee or legatee may execute waivers or consents for his ward as authorized by the court. There shall be attached to each waiver or consent a certified copy of the instrument authorizing him to perform such act.

Added by Laws 1980, c. 310, § 6, eff. Oct. 1, 1980. Amended by Laws 1988, c. 329, § 97, eff. Dec. 1, 1988. Renumbered from Title 58, § 859 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-708. Investment of money and proceeds of sales.

The district court, on the application of a guardian or any person interested in the estate of any ward, after such notice to persons interested therein as the judge shall direct, may authorize and require the guardian to invest the proceeds of sales, and any other of his ward's money in his hands, in real estate, or in any other manner most to the interest of all concerned therein; and the district court may make such other orders and give such directions as are needful for the management, investment and disposition of the estate and effects, as circumstances require.

R.L. 1910, § 6569. Renumbered from Title 58, § 811 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-709. Investment of monies belonging to estates - Purchase of homesteads for incapacitated or partially incapacitated persons.

A. Except as provided in subsection B of this section, the money belonging to estates of minors and incapacitated or partially incapacitated persons, subject to the jurisdiction of the court, can only be invested in one or more of the following:

1. Real estate and first mortgages upon real property which do not exceed fifty percent (50%) of the actual value of the property;
2. United States bonds, or any other type of security certificate, or evidence of indebtedness which is guaranteed by the United States government, or any authorized agency thereof;
3. State bonds;
4. Bonds of municipal corporations;
5. Annuities covered by the Oklahoma Life and Health Insurance Guaranty Association, which do not exceed Three Hundred Thousand Dollars (\$300,000.00), individually; or
6. Accounts in savings and loan associations and credit unions located in this state, and all types of interest-bearing time deposits and certificates of banks, savings and loan associations, and credit unions located in this state, not to exceed the amount insured by the United States government.

B. When an individual guardian is investing the money belonging to estates of minors or incapacitated or partially incapacitated persons, subsection A of this section shall not apply, provided that the guardian has contracted with a person who is a registered investment advisor representative pursuant to the Oklahoma Uniform Securities Act of 2004 and a certified Financial Planner credentialed by the Certified Financial Planner Board of Standards, and provided further that the court authorizes such investments.

C. Upon application to the court by the guardian of the estate of the incapacitated or partially incapacitated person, showing to the satisfaction of the court:

1. That the incapacitated or partially incapacitated person is vitally in need of a home;
2. That the incapacitated or partially incapacitated person owns no suitable homestead;
3. That the incapacitated or partially incapacitated person has sufficient monthly, semi-annual, or annual fixed income to retire an incurred indebtedness for the remaining unpaid cost of a homestead; and
4. That it would be in the best interest of the incapacitated or partially incapacitated person that a suitable homestead be purchased on that basis.

The court may enter an order authorizing the guardian to execute and deliver a note and mortgage, under such tenor and terms as the court will approve, for the purpose of securing payment of any remaining cost of such a homestead. Any note and mortgage given by a guardian under the provisions of this section shall, if authorized by the court as provided for in this section, be endorsed "approved" by the judge. When so authorized and endorsed, the note and mortgage shall be a binding obligation against the ward and the estate of the ward until fully paid. The ward, if subsequently restored to competency to transact business, shall be held firmly bound by the note and

mortgage in the same manner and to the same extent as though the ward had given the homestead purchase-money note and mortgage.

D. When an individual guardian enters into an agreement with a bank or trust company, or when the guardian is a bank or trust company qualified and acting under the supervision of the Banking Board, or of the Comptroller of the Currency of the United States of America, the guardian may, upon application to the court, invest funds coming into its hands as guardian in any property, real, personal or mixed, in which an individual may invest the individual's own funds pursuant to the provisions of the Oklahoma Uniform Prudent Investor Act, unless otherwise provided by law. Added by Laws 1923-24, c. 84, p. 100, § 2. Amended by Laws 1955, p. 302, § 1; Laws 1968, c. 15, § 2, emerg. eff. Feb. 19, 1968; Laws 1975, c. 166, § 1, emerg. eff. May 20, 1975; Laws 1988, c. 329, § 98, eff. Dec. 1, 1988. Renumbered from § 882 of Title 58 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1995, c. 351, § 18, eff. Nov. 1, 1995; Laws 1996, c. 293, § 3, eff. Nov. 1, 1996; Laws 1999, c. 47, § 1, eff. Nov. 1, 1999; Laws 2017, c. 168, § 1, eff. Nov. 1, 2017.

NOTE: Laws 1985, c. 199, § 2 repealed by Laws 1988, c. 329, § 136, eff. Dec. 1, 1988.

§30-4-710. Transfer of real or personal property - Protective arrangements.

A. If a ward is the owner of any real or personal property that is or may be deemed an available resource by the United States Social Security Administration or by the applicable Medicaid rules promulgated by the Oklahoma Health Care Authority or other state agency, the guardian may petition the court for permission to transfer or convey such property to a protective arrangement in accordance with this section.

1. The guardian shall file a verified petition setting forth what specific property is or may be deemed a resource by the federal or state authority, including an affirmative statement that such resource will or may affect the ward's receipt of public benefits unless such resource is transferred to a protective arrangement. As used in this section, "protective arrangement" includes, but is not limited to, any of the following transfers or conveyances of the ward's resources:

- a. to a first-party Medicaid payback trust, also known as a d4A trust,
- b. to a pooled trust approved by the Oklahoma Department of Human Services, also known as a d4C trust,
- c. as permitted by the administrative rules promulgated by the Oklahoma Health Care Authority, such as to a spouse or qualified disabled child of the ward,

- d. to a sole benefit trust for the benefit of the spouse or qualified disabled child of the ward,
- e. to a sole benefit trust for any qualified disabled person,
- f. to a qualified disabled child or caregiving child of the ward who qualifies pursuant to administrative rules by providing caregiving services for the required period of time, or
- g. to a qualified Achieving a Better Life Experience (ABLE) account within or without the State of Oklahoma.

2. The court shall set the petition for a hearing not less than ten (10) days nor more than thirty (30) days from the date of filing.

- a. Notice of the hearing shall be given to those persons entitled to notice of the guardian's annual report pursuant to Section 4-307 of Title 30 of the Oklahoma Statutes. If the court has previously waived the filing of the guardian's annual report, then notice shall be given to those persons entitled to notice pursuant to Section 3-110 of Title 30 of the Oklahoma Statutes.
- b. If all persons entitled to notice have waived such notice, no notice shall be given and the court shall proceed without delay to hear the petition.
- c. At the hearing, the court shall hear testimony regarding the public benefits that may be beneficial to the ward or others and if and how the transfer or conveyance of the ward's property to a protective arrangement may allow the ward or others to receive such public benefits.

B. If the court approves the petition and authorizes the guardian to transfer or convey the ward's property that is or may be deemed an available resource to a protective arrangement, such transfer or conveyance shall not be considered a sale of the property and shall not be subject to the provisions of Sections 4-751 through 4-770 of Title 30 of the Oklahoma Statutes. Sections 380 through 512 of Title 58 of the Oklahoma Statutes shall not apply to any transfer or conveyance of the ward's assets to a protective arrangement pursuant to this section.

C. If a bond was previously required by the court, the court may continue the bond to include assets transferred or conveyed to a protective arrangement, require a new bond in a lesser amount due to the transfer of some or all of the ward's resources or waive the requirement of a bond on the value of the transferred assets.

D. For the purposes of this section, a protective arrangement shall not create, expand or otherwise modify any state or federally

authorized rules regarding exemption or transfer of assets or resources for determination of Medicaid or Social Security eligibility. Nor shall a court's order authorizing a protective arrangement have any effect or impact on the protective arrangement's consideration in the actual Medicaid eligibility determination decision by the Oklahoma Department of Human Services, Oklahoma Health Care Authority or other appropriate determining agency. The primary purpose of this section is to authorize a guardian to pursue on behalf of his or her ward those same steps that any legally competent person could pursue to apply for or retain Medicaid or Social Security benefits.

E. This section shall not infringe upon or void an existing homestead lien of record that has been filed by the Oklahoma Health Care Authority pursuant to Section 5051.3 of Title 63 of the Oklahoma Statutes.

Added by Laws 2021, c. 27, § 1, eff. Nov. 1, 2021.

§30-4-751. Income insufficient for maintenance - Sale of property necessary.

When the income of an estate under guardianship is not sufficient to maintain the ward and his family, or to maintain and educate the ward when a minor, his guardian may sell the real or personal estate of the ward for that purpose, upon obtaining an order therefor.

R.L. 1910, § 6553. Amended by Laws 1988, c. 329, § 99, eff. Dec. 1, 1988. Renumbered from Title 58, § 821 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-752. Sale of property for investment.

When it appears to the satisfaction of the court, upon the petition of the guardian, that for the benefit of the ward or the real or personal estate of the ward, or some part of said estate, should be sold, and the proceeds thereof invested, the guardian may sell the same for such purpose upon obtaining an order therefor.

R.L. 1910, § 6554. Amended by Laws 1988, c. 329, § 100, eff. Dec. 1, 1988. Renumbered from Title 58, § 822 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-753. Proceeds of sale - Investment - Maintenance of ward and family.

If the property is sold for the purposes mentioned in Sections 4-751 and 4-752 of this title, the guardian must apply the proceeds of the sale to such purposes, as far as necessary, and put out the residue, if any, on interest, or invest it in the best manner in his power as provided in the Oklahoma Guardianship and Conservatorship Act, until the capital is needed for the maintenance of the ward and his family, or the education of his children, or for the education

of the ward when a minor, in which case the capital may be used for that purpose, as far as may be necessary, in like manner as if it had been personal estate of the ward.

R.L. 1910, § 6555. Amended by Laws 1988, c. 329, § 101, eff. Dec. 1, 1988. Renumbered from Title 58, § 823 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 68, operative July 1, 1990.

§30-4-754. Petition for sale - Verification.

To obtain an order for such sale, the guardian must present to the court a verified petition therefor, setting forth the condition of the estate of the ward and the facts and circumstances on which the petition is founded.

R.L. 1910, § 6557. Amended by Laws 1988, c. 329, § 102, eff. Dec. 1, 1988. Renumbered from Title 58, § 825 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-755. Hearing, notice and order.

If it appears to the court, from the petition, that it is necessary or would be beneficial to the ward or the estate of the ward that the real or personal estate, or some part of such estate, should be sold, the court shall thereupon make an order directing all persons entitled to notice pursuant to Section 2-101 of this title for minors or Section 3-110 of this title for adults to appear before the court, at a time and place therein specified in the order and notice, not less than ten (10) nor more than thirty (30) days from the time of making such order, unless notice is waived, as provided in Section 4-756 of this title, to show cause why an order should not be granted for the sale of such estate. If it appear that it is necessary or would be beneficial to the ward to sell the personal estate or some part of it, the court must order the sale to be made.

R.L. 1910, § 6558. Amended by Laws 1953, p. 246, § 74; Laws 1988, c. 329, § 103, eff. Dec. 1, 1988. Renumbered from Title 58, § 826 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 69, operative July 1, 1990.

§30-4-756. Mailing or publication of order - Waiver of notice.

The court shall cause copies of said order to be mailed to the persons entitled to notice of the proceeding at least ten (10) days before the hearing on the petition. If the mailing address of any such person is unknown, a copy of the order must be published one time in some newspaper in the county of the court having jurisdiction over the case, and the hearing of said petition shall not be less than ten (10) days from the date of the first publication of such notice. If written consent to making the order of sale is given by all persons entitled to notice, except the ward

if the ward has been adjudicated to be fully incapacitated, said order of sale may be made at once without giving the notice.

R.L. 1910, § 6559. Amended by Laws 1927, c. 83, p. 127, § 1; Laws 1953, p. 246, § 75; Laws 1969, c. 302, § 28, eff. Jan. 1, 1970; Laws 1988, c. 329, § 104, eff. Dec. 1, 1988. Renumbered from Title 58, § 827 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1992, c. 395, § 3, eff. Sept. 1, 1992.

§30-4-757. Hearing upon order - Protests.

The court, at the time and place appointed in the order, or such other time to which the hearing is postponed, upon proof of the service or publication of the order, must hear the petition and examine the proofs and allegations of the petitioner and any objections made by persons entitled to notice of the proceeding.

R.L. 1910, § 6560. Amended by Laws 1988, c. 329, § 105, eff. Dec. 1, 1988. Renumbered from Title 58, § 828 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-758. Partition of real estate - Assent to - Approval of court.

The guardian may join in and assent to a partition of the real estate of the ward with the written approval of the judge of the district court, whenever such assent may be given by any person.

R.L. 1910, § 6546. Renumbered from Title 58, § 807 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-759. Sale of oil, gas, mining leases.

Personal representatives including but not limited to guardians of the property, guardians of minors or of incapacitated or partially incapacitated persons are hereby authorized and empowered to sell and execute oil and gas or other mining leases upon the lands belonging to the estates of such deceased persons or of such minors or incapacitated or partially incapacitated persons in consideration of a royalty or part or portion of the production thereof, and under the same procedure in the district court, as provided by Sections 924 through 928 of Title 58 of the Oklahoma Statutes, where such consideration is money.

R.L. 1910, § 6547. Amended by Laws 1953, p. 246, § 73; Laws 1955, p. 301, § 1; Laws 1988, c. 329, § 106, eff. Dec. 1, 1988. Renumbered from Title 58, § 808 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-760. Testimony - Witnesses - Attendance and examination of.

At the hearing on the petition the guardian may be examined on oath, witnesses may be produced and examined, and process to compel the attendance and testimony of witnesses may be issued by the court.

R.L. 1910, § 6561. Amended by Laws 1988, c. 329, § 107, eff. Dec. 1, 1988. Renumbered from Title 58, § 829 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-761. Costs awarded prevailing party on hearing of objections to order.

If any person entitled to notice of the proceeding enters an objection to the requests made in the petition, the court may, in granting or refusing the order requested by the petition, award costs to the prevailing party, and enforce the payment thereof. R.L. 1910, § 6562. Amended by Laws 1953, p. 247, § 76; Laws 1988, c. 329, § 108, eff. Dec. 1, 1988. Renumbered from Title 58, § 830 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-762. Order for sale - Public or private sale.

If, after a full examination, it appears necessary or for the benefit of the ward that the real or personal estate of the ward, or some part thereof, should be sold, the court may grant an order therefor, specifying therein the causes or reasons why the sale is necessary or beneficial, and may, if the same has been prayed for in the petition, order such sale to be made either at public or private sale.

R.L. 1910, § 6563. Amended by Laws 1988, c. 329, § 109, eff. Dec. 1, 1988. Renumbered from Title 58, § 831 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-763. Sale bond by guardian.

Every guardian authorized to sell real estate shall, before the sale, give bond to the State of Oklahoma, with sufficient surety to be approved by the court, with condition to sell the same in the manner and to account for the proceeds of the sale as provided for by the Oklahoma Guardianship and Conservatorship Act. The court may order that such bond is not required if the court specifically finds that the general bond, if any, of the guardian is of a sufficient penal amount to provide for the proceeds of the sale in addition to the property secured by said bond or upon a finding by the court that:

1. The anticipated annual income to a ward for one (1) year plus the value of the personal property of the ward, after sale, is less than Forty Thousand Dollars (\$40,000.00); and

2. The guardian of the ward is either a parent, spouse, brother, sister, grandparent, child or grandchild of the ward.

R.L. 1910, § 6564. Amended by Laws 1953, p. 247, § 77; Laws 1963, c. 147, § 1; Laws 1987, c. 164, § 7, operative July 1, 1987; Laws 1988, c. 329, § 110, eff. Dec. 1, 1988. Renumbered from Title 58, § 832 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws

1989, c. 270, § 3, eff. Nov. 1, 1989; Laws 1990, c. 323, § 70, operative July 1, 1990; Laws 1994, c. 234, § 7, eff. Sept. 1, 1994.

§30-4-764. Sales governed by same law as in estates of decedents.

Except as otherwise specifically provided by the Oklahoma Guardianship and Conservatorship Act, all the proceedings pursuant to petitions of guardians for sales of property of their wards, giving notice and the hearing of such petitions, granting and refusing an order of sale, directing the sale to be made at public or private sale, reselling the same property, return of sale and application for confirmation thereof, notice and hearing of such application, making orders, rejecting or confirming sales and reports of sales and ordering and making conveyances of property sold shall be had and made as provided and required by the provisions of law concerning the estates of decedents.

R.L. 1910, § 6565. Amended by Laws 1953, p. 247, § 78; Laws 1961, p. 441, § 1; Laws 1988, c. 329, § 111, eff. Dec. 1, 1988.

Renumbered from Title 58, § 833 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 71, operative July 1, 1990.

§30-4-765. Order in force for one year only.

No order of sale granted pursuant to Sections 4-751 through 4-770 of this title continues in force more than one (1) year after granting the same, without a sale being had.

R.L. 1910, § 6566. Amended by Laws 1953, p. 247, § 79; Laws 1988, c. 329, § 112, eff. Dec. 1, 1988. Renumbered from Title 58, § 834 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 72, operative July 1, 1990.

§30-4-766. Terms of sale - Security.

All sales of real estate of wards must be for cash, or for part cash and part deferred payments not to exceed ten (10) years, bearing interest from date of sale as, in the discretion of the court, is most beneficial to the ward. A guardian making a sale of real property shall demand and receive from the purchasers a note and mortgage on the real estate sold, with such additional security, if any, as the court deems necessary and sufficient to secure the faithful payment of the deferred payments and the interest thereon.

R.L. 1910, § 6567. Amended by Laws 1975, c. 11, § 1, eff. Oct. 1, 1975; Laws 1988, c. 329, § 113, eff. Dec. 1, 1988. Renumbered from Title 58, § 835 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-767. Limitation of action for recovery of estate sold - Disability and removal thereof.

No action for the recovery of any estate sold by a guardian can be maintained by the ward, or by any person claiming under him,

unless it is commenced within three (3) years immediately following the termination of the guardianship or, when a legal disability to sue exists by reason of minority or otherwise, at the time when the cause of action accrues, within three (3) years immediately following the removal of such disability.

R.L. 1910, § 6583. Amended by Laws 1988, c. 329, § 114, eff. Dec. 1, 1988. Renumbered from Title 58, § 836 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-768. Exchange of property held by ward or wards in common - Notice.

When it shall appear to the court to be to the advantage or best interests of the ward, or wards, to exchange an interest in real estate held by such ward or wards in common with another, or others, for other real estate also held in common by such ward or wards with another or others, to be owned solely by said ward or wards, after such exchange, a guardian of the ward's estate may be authorized by the court, after hearing and appraisal, to effectuate such exchange and to give or accept cash in part consideration. The provisions of Section 4-756 of this title governing the giving of notice of hearing of a petition for an order to sell, and appraisal, shall apply and govern an order authorizing an exchange of real estate of a ward or wards by his guardian.

Added by Laws 1971, c. 300, § 1, emerg. eff. June 24, 1971. Amended by Laws 1988, c. 329, § 115, eff. Dec. 1, 1988. Renumbered from Title 58, § 837 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 73, operative July 1, 1990.

§30-4-769. Sale of perishable property - Report - Good faith determination of perishability.

A. Notwithstanding any other provision contained in the Oklahoma Guardianship and Conservatorship Act, a guardian or limited guardian of the property of a ward may sell, at public auction or private sale, without obtaining prior court authorization for sale, without filing a return of sale, and without obtaining court confirmation of sale, any personal property of the ward which is perishable, is otherwise likely to depreciate in value, or would cause the estate of the ward to incur loss or expense if kept. Title to such property shall pass to the purchaser thereof without approval of or confirmation by the court of such sale.

B. With respect to a limited guardian of the property, this section shall apply only to property of the ward which is subject to such limited guardian's control pursuant to a dispositional order.

C. Any sale of property made by a guardian or limited guardian of the property of a ward pursuant to this section shall be reported in the accounting next filed by such guardian or limited guardian after the making of the sale. If the court determines the property

sold was not perishable or was not otherwise likely to depreciate in value and would not have caused the estate of the ward to incur loss or expense if kept, the guardian or limited guardian who made such sale shall not be surcharged or otherwise held liable with respect to such sale if he made a reasonable determination in good faith that the property sold was perishable, was otherwise likely to depreciate in value, or would have caused the estate of the ward to incur loss or expense if kept.

Added by Laws 1988, c. 329, § 116, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 74, operative July 1, 1990.

§30-4-770. Former leases legalized.

All such leases and grants of mineral oil and gas heretofore made and confirmed by the court, in consideration of a royalty, part or portion of the production thereof, are hereby legalized.

R.L. 1910, § 6548. Amended by Laws 1988, c. 329, § 117, eff. Dec. 1, 1988. Renumbered from Title 58, § 809 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-801. Removal of guardians.

A guardian may be removed by the district court for any of the following causes:

1. For abuse of his fiduciary responsibility.
2. For continued failure to perform his duties.
3. For incapacity to perform his duties.
4. For gross immorality.
5. For having an interest adverse to the faithful performance of his duties.
6. If the instrument in which the person was nominated as guardian is judicially determined to be invalid.
7. In the case of guardian of the property, for insolvency.
8. When it is no longer proper that the ward should be under guardianship.

R.L. 1910, § 3337. Amended by Laws 1988, c. 329, § 118, eff. Dec. 1, 1988. Renumbered from § 18 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-802. Suspension of power of guardian - Marriage of incapacitated or partially incapacitated person.

- A. The power of a guardian is suspended only:
1. By order of the court;
 2. If the appointment was made solely because of the ward's minority, by his obtaining majority; or
 3. The guardianship over the person only of a minor ward, by the marriage of the ward.
- B. Whenever a person who has been found by the court to be an incapacitated or partially incapacitated person marries, the court

may, upon application of an interested person, hold a review hearing to determine whether:

1. The guardianship should be terminated;
2. A successor guardian should be appointed;
3. The limitations on the ward, or the powers and duties of the guardian; or
4. The guardianship should be continued unchanged.

R.L. 1910, § 3339. Amended by Laws 1988, c. 329, § 119, eff. Dec. 1, 1988. Renumbered from § 20 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 75, operative July 1, 1990.

§30-4-803. Termination of authority and responsibility of guardian - Removal - Resignation - Final account - Notice and hearing.

A. The authority and responsibility of a guardian terminates upon the death of the guardian, conservator, or the ward, the determination of incapacity of the guardian or conservator, or upon removal or resignation of the guardian or conservator. Termination does not affect the liability of a guardian or conservator for prior acts or the obligation to account for any funds and assets of the ward under the control of the guardian or conservator. The authority and responsibility of a guardian of a minor also terminates upon the marriage or majority of the ward.

B. The court, after notice and hearing, may remove a guardian or conservator for cause if the guardian or conservator has failed for thirty (30) days, after he is required to do so, to render an account or make a report, and compel him to surrender the estate of the ward to the person found to be lawfully entitled thereto.

C. Every guardian or conservator may resign when it appears proper to allow the same and upon the resignation or removal of a guardian or conservator the court may appoint a successor guardian or conservator in the place of the guardian or conservator who has resigned or has been removed or make other appropriate orders pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act.

D. Upon termination of the disability of the ward or upon his death, or upon the resignation or removal of the guardian or conservator, a guardian or conservator or the guardian's or conservator's personal representative, or if the guardian or conservator is incapacitated or deceased and there is no personal representative, then some suitable person appointed by the court shall file the guardian's or conservator's final account and request for final compensation with the court within thirty (30) days after such event.

1. The court shall set the final account for hearing on a date not less than fifteen (15) days after the filing thereof. Notice of such hearing shall be given at least ten (10) days prior to the date

set for hearing, by mailing a copy of the notice of hearing by first-class mail:

- a. if the guardianship was established for a minor or a minor's estate, to the persons entitled to notice pursuant to Section 2-101 of this title if the ward is still a minor, or to the ward only if the ward has attained majority or has married, or if the ward is deceased, to the persons entitled to notice pursuant to Section 2-101 of this title and to the personal representative of the ward's estate if such representative has been appointed and the representative's appointment is known to or ascertainable by reasonably diligent efforts of the person rendering the final account; or
- b. if the guardianship was established for an adult or an adult's estate, or if the proceeding is a conservatorship action, to those persons entitled to notice pursuant to paragraph 1, unless the ward is deceased, and paragraphs 2, 3 and 7 of subsection A of Section 3-110 of this title and, if the ward is deceased, to the personal representative of the ward's estate if such representative has been appointed and the representative's appointment is known to or ascertainable by reasonably diligent efforts of the person rendering the final account.

2. Any person to whom notice is given in accordance with this subsection may appear at the hearing on the final account and file his exceptions in writing to the final account and contest the same.

3. The settlement of the account and the allowance thereof by the court shall be conclusive against all persons interested in the estate of the ward, except as to persons subject to a legal disability at the time the notice of hearing is given.

4. Upon approval of the final account, the guardian or conservator and his sureties, if any, shall be discharged.

R.L. 1910, § 6578. Amended by Laws 1953, p. 248, § 83; Laws 1988, c. 329, § 120, eff. Dec. 1, 1988. Renumbered from Title 58, § 875 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1992, c. 274, § 2, eff. Sept. 1, 1992.

§30-4-804. Termination of guardianship when unnecessary.

The guardian of an incapacitated or partially incapacitated person or minor may be discharged by the court when it appears to the court, on the application of the ward or otherwise, that the guardianship is no longer necessary.

R.L. 1910, § 6579. Amended by Laws 1988, c. 329, § 121, eff. Dec. 1, 1988. Renumbered from Title 58, § 876 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-4-805. Distribution of personal property of intestate ward.

When an adult ward shall die intestate leaving only personal property and his total estate does not exceed Ten Thousand Dollars (\$10,000.00), the guardian shall proceed to probate and distribute his estate in the same manner as if he had been appointed personal representative of such estate, and the surety or sureties on his bond shall be responsible for his faithful administration and distribution of such estate.

Added by Laws 1961, p. 441, § 1. Amended by Laws 1969, c. 121, § 1, emerg. eff. April 3, 1969; Laws 1988, c. 329, § 122, eff. Dec. 1, 1988. Renumbered from Title 58, § 895 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 76, operative July 1, 1990.

§30-4-901. Civil liability of guardians or petitioners - Damages.

A. Any guardian who willfully violates the duties or willfully misuses the powers assigned by the court and thereby causes injury to the ward or damages to the financial resources of the ward shall, in addition to any criminal penalties, be liable in a civil action for any actual damages suffered by the ward. Nothing in this subsection shall limit the authority of the court to surcharge a guardian as otherwise provided by law.

B. Any person who willfully or maliciously files a false petition or application pursuant to the provisions of this act or a petition or application without a reasonable basis in fact for such a petition pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act shall be liable in a civil suit for any actual damages suffered by the subject of the petition or application.

Added by Laws 1988, c. 329, § 123, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 77, operative July 1, 1990.

§30-4-902. Citation for concealment or embezzlement.

Upon complaint made to the court by any guardian, ward, creditor, or other person interested in the estate, or having a prospective interest therein as heir or otherwise, against anyone suspected of having concealed, or conveyed away any of the money, goods or effects, or an instrument in writing, belonging to the ward or to his estate, the court may require such suspected person to appear before the court, and may examine and proceed with such person on such charge in the manner provided by law with respect to persons suspected of, and charged with, concealing or embezzling the effects of a decedent.

R.L. 1910, § 6577. Amended by Laws 1988, c. 329, § 124, eff. Dec. 1, 1988. Renumbered from Title 58, § 892 by Laws 1988, c. 329, §

134, eff. Dec. 1, 1988. Amended by Laws 1990, c. 323, § 78, operative July 1, 1990.

§30-4-903. Reporting of abuse, neglect or exploitation - Violation and penalty - Civil liability.

A. 1. Any person having reasonable cause to believe that an incapacitated person, a partially incapacitated person, or a minor is suffering from abuse, neglect, or exploitation shall make a report to the Department of Human Services, the office of the district attorney in the county in which the suspected abuse, neglect, or exploitation occurred, or the local municipal police department or sheriff's department as soon as such person is aware of the situation.

2. With regard to minors, the use of ordinary force as a means of discipline pursuant to Section 844 of Title 21 of the Oklahoma Statutes shall not constitute abuse.

3. Reports regarding the abuse, neglect, or exploitation of an incapacitated person, or a partially incapacitated person shall be made and shall be governed by the provisions of the Protective Services for Vulnerable Adults Act. Reports regarding the abuse, neglect, or exploitation of a minor shall be made and shall be governed by the Oklahoma Child Abuse Reporting and Prevention Act.

B. Any person who knowingly and willfully fails to promptly report any abuse, neglect, or exploitation as required by the provisions of subsection A of this section, upon conviction, shall be guilty of a misdemeanor.

C. Any person participating in good faith and exercising due care in the making of a report pursuant to the provisions of this section shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

D. Any person who willfully or recklessly makes a false report or a report without a reasonable basis in fact for such a report pursuant to the provisions of this section shall be civilly liable for any actual damages suffered by the person or persons being reported and for any punitive damages set by the court or jury which may be allowed in the discretion of the court or jury.

E. No employer shall terminate the employment, prevent or impair the practice or occupation of, or impose any other sanction on any employee solely for the reason that the employee made or caused to be made a report or cooperated with an investigation pursuant to the provisions of this section. A court, in addition to other damages and remedies, may assess reasonable attorney fees against an employer who has been found to have violated the provisions of this subsection.

Added by Laws 1998, c. 298, § 2, eff. Nov. 1, 1998.

§30-4-904. Concealment or removal from jurisdiction of certain persons.

Any individual who maliciously, forcibly or fraudulently takes or entices away any incapacitated or partially incapacitated person, or any other person over the age of sixteen (16) for whom a guardian has been appointed, with intent to detain and conceal such person from his or her guardian or who transports such person from the jurisdiction of this state or the United States without consent of the guardian or the court shall, upon conviction, be guilty of a felony punishable by imprisonment not to exceed ten (10) years. Added by Laws 2008, c. 176, § 1, eff. Nov. 1, 2008.

§30-5. Renumbered as § 1-110 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-5-101. Repealed by Laws 1993, c. 155, § 4, eff. July 1, 1993.

§30-6. Renumbered as § 2-102 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-6-101. Short title - Purpose - Office of Public Guardian - Powers and duties.

A. 1. This section and Section 4 of this act shall be known and may be cited as the "Oklahoma Public Guardianship Act".

2. The purpose of the Oklahoma Public Guardianship Act is to, within the budgetary limits specified by the Oklahoma Public Guardianship Act:

- a. furnish guardianship services, and information regarding less restrictive alternatives, to all Oklahomans who need them,
- b. provide assistance to guardians throughout the state in securing necessary services for their wards, including, but not limited to, removing a guardian or limited guardian, and
- c. provide assistance to courts, attorneys, and proposed guardians or limited guardians in the handling of guardianship proceedings.

3. There is hereby created the Office of Public Guardian within the Department of Human Services. Until the expansion of the pilot program established by Section 4 of this act becomes statewide and rules are promulgated by the Commission for Human Services, the Office of Public Guardian, subject to the availability of funds, shall be a source of information and assistance on guardianship and alternatives for the public needing public guardianship services.

B. 1. Upon receipt of recommendations of the evaluating board established pursuant to Section 4 of this act evaluating the pilot

project established pursuant to Section 4 of this act which indicates that the expansion of the pilot project on a statewide basis would be economically feasible and practical, the Commission shall promulgate rules for developing a statewide program for public guardianship pursuant to the Oklahoma Public Guardianship Act.

2. Upon promulgation of rules by the Commission, the provisions of this section shall become effective statewide.

C. For the pilot program, and after the program has been expanded on a statewide basis, the Office of Public Guardian shall serve as a public guardian for eligible wards. The Office of Public Guardian shall be a source of guardians, limited guardians, attorneys for guardians and wards. In addition, after the program has been expanded statewide, the Office of Public Guardian shall:

1. Be a source of information and assistance on guardianship and alternatives for the public needing public guardianship services;

2. Establish and maintain relationships with governmental, public, and private agencies, institutions, and organizations to assure the most effective guardianship program for each ward;

3. Have, at a minimum, phone contact with each ward, if capable, every two (2) weeks;

4. Visit each ward at least three times every quarter, with one visit being unannounced;

5. Keep and maintain the following records on all cases in which the public guardian provides guardianship services:

- a. itemized financial records,
- b. health care,
- c. rehabilitation,
- d. education, and
- e. vocation;

6. Provide information and referrals to the public regarding guardianship proceedings, but not information that would identify a particular case;

7. Foster the increased independence of the ward, to include termination of the guardianship when appropriate; and

8. Develop and maintain a current listing of public and private medical, mental health, social advocacy, educational, rehabilitative, counseling, therapeutic, homemaking, recreational, financial, and legal services and programs available to assist wards and their families.

D. The Office of Public Guardian may:

1. Contract for services necessary to carry out the duties of the Office; and

2. Accept the services of volunteer workers or consultants and reimburse them for their necessary expenses.

E. For the pilot program and after the program has been expanded on a statewide basis, the Office of Public Guardian may, on

its own motion or at the request of a district court, intervene in a guardianship proceeding if the public guardian or a court considers the intervention to be justified because:

1. An appointed guardian is not fulfilling his or her duties;
2. The estate is subject to waste as a result of the costs of the guardianship;
3. A willing and qualified guardian is not available; or
4. The best interests of the ward or the person who is the subject of a guardianship proceeding require the intervention.

F. The Office of Public Guardian, as funds become available, may employ staff and delegate to members of the staff or to volunteers the powers and duties as guardian and other powers and duties pursuant to the Oklahoma Public Guardianship Act. However, the Office of Public Guardian retains responsibility for the proper performance of the delegated powers and duties. All delegations shall be to persons who meet the eligibility requirements of a guardian pursuant to Section 3-104 of Title 30 of the Oklahoma Statutes.

G. For the pilot program, and after the program has been expanded on a statewide basis, a public guardian has the same powers and duties with respect to the ward as a private or volunteer guardian.

H. For the pilot program and after the program has been expanded on a statewide basis, a public guardian shall endeavor, for as long as practicable, to find a suitable private or volunteer guardian of the ward. For each ward, the public guardian shall report to the court having jurisdiction of the ward, at least every six (6) months, efforts to find a private or volunteer guardian.

I. For the pilot program and after the program has been expanded on a statewide basis, any district court of this state may order a public guardian to act as full guardian, limited guardian, special guardian, or conservator for a person who is determined under the Oklahoma Public Guardianship Act to be in need of guardian service if no other person or private guardianship association is willing and qualified to perform this function.

Added by Laws 2001, c. 310, § 3, emerg. eff. June 1, 2001.

§30-6-102. Public guardianship pilot program - Evaluating board.

A. Subject to the availability of funds, the Department of Human Services shall establish a public guardianship pilot program.

B. The Department of Human Services shall establish and operate the pilot program in consultation with an evaluating board established pursuant to this section and in accordance with the provisions of the Oklahoma Public Guardianship Act, except as to custody orders entered in criminal competency proceedings as set forth in Section 7 of this act.

C. The evaluating board shall determine the effectiveness of the pilot program. The evaluating board shall submit a preliminary report to the Legislature no later than six (6) months after the pilot program is established. Such report shall cover:

1. The feasibility of statewide expansion of the program;
2. Staffing, particularly use of volunteers, training and liability issues;
3. Funding sources;
4. Eligibility standards;
5. Fee schedule;
6. Special-needs wards; and
7. Professional guardians.

D. The evaluating board shall consist of not more than two appointees from each of the following officials and agencies:

1. Governor;
2. Speaker of the House of Representatives;
3. President Pro Tempore of the Senate;
4. Office of the Attorney General;
5. Oklahoma Health Care Authority;
6. Developmental Disabilities Services Division of the Department of Human Services;
7. Department of Mental Health and Substance Abuse Services;
8. Adult Protective Services;
9. A Legal Services Developer;
10. State Long-Term Care Ombudsman;
11. Legal Aid of Western Oklahoma;
12. Legal Services of Eastern Oklahoma;
13. Oklahoma Bar Association; and
14. Advocacy Partnership for Aging Oklahomans.

Added by Laws 2001, c. 310, § 4, emerg. eff. June 1, 2001. Amended by Laws 2004, c. 106, § 9, eff. April 1, 2005.

§30-7. Renumbered as § 1-112 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-7-101. Short title – Oklahoma Standby Guardianship Act.

This act shall be known and may be cited as the “Oklahoma Standby Guardianship Act”.

Added by Laws 2024, c. 41, § 1, eff. Nov. 1, 2024.

§30-7-102. Definitions.

As used in this act:

1. “Designation” means a writing which is voluntarily executed in conformance with the requirements of Section 3 of this act and signed by a parent and names a person to act as standby guardian;
2. “Parent” means a genetic or adoptive parent or parent determined in accordance with the standards set forth in Section

7700-201 of Title 10 of the Oklahoma Statutes, and includes a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody;

3. "Qualified parent" means a parent who has become unavailable due to a military deployment, court proceeding, incapacity, or other matter, as evidenced in writing, by a court of appropriate jurisdiction or by a state or the federal government;

4. "Standby guardian" means a person who, in accordance with this act, is designated in writing or approved by the court to temporarily assume the duties of guardian of the person or guardian of the property, or both, of a minor child on behalf of or in conjunction with a qualified parent upon the occurrence of a triggering event; and

5. "Triggering event" means the event upon the occurrence of which the standby guardian may be authorized to act.

Added by Laws 2024, c. 41, § 2, eff. Nov. 1, 2024.

§30-7-103. Written designation of standby guardian – Authority.

A. A parent may execute a written designation of a standby guardian at any time. The written designation shall state:

1. The name, address and birthdate of the child affected; and

2. The name and address of the person designated as standby guardian or alternate.

The written designation shall be signed by the parent. The designated standby guardian or alternate may not sign on behalf of the parent. The signed designation shall be delivered to the standby guardian and any alternate named as soon as practicable.

B. Following such delivery of the designation, the authority of a standby guardian to act for a qualified parent shall commence upon the occurrence of the triggering event, receipt of documentation, if any, supporting the occurrence of the triggering event and the qualified parent's written consent to such commencement signed by the parent.

C. A standby guardian under a designation shall have the authority of a guardian of the person and a guardian of the property of the child, unless otherwise specified in the designation.

Added by Laws 2024, c. 41, § 3, eff. Nov. 1, 2024.

§30-7-104. Petition for approval as standby guardian – Notice – Order.

A. A designated standby guardian or alternate shall file a petition for approval as standby guardian. The petition shall be filed as soon as practicable after the occurrence of the triggering event but in no event later than thirty (30) days after the triggering event. The authority of the standby guardian shall cease upon his or her failure to so file but shall recommence upon such

filing. The petition shall be accompanied by a copy of the designation and any documentation supporting the occurrence of the triggering event.

B. Upon the filing of a petition, notice of the filing shall promptly be given to each parent of the child whose identity and whereabouts are known to the petitioner. The court shall direct the issuance of summonses to the child, if the child is twelve (12) years of age or older and the proposed standby guardian and alternate, if any, and such other persons as appear to the court to be necessary parties to the proceedings including the child's parents, stepparents, grandparents, adult siblings, guardian, legal custodian or other person standing in loco parentis, if the identity and whereabouts of such persons are known.

C. The court shall enter an order approving the standby guardian upon finding that:

1. The person was duly designated as standby guardian pursuant to this act and the designation has not been revoked;

2. A triggering event occurred, and the parent consented to commencement of the standby guardian's authority;

3. The best interests of the child will be served by approval of the standby guardian; and

4. If the petition is by an alternate standby guardian, that the designated standby guardian is unwilling or unable to serve.

D. An order approving the standby guardian shall not be entered without a hearing if there is another known parent, stepparents, adult siblings, or other adult related to the child by blood, marriage, or adoption who requests a hearing within ten (10) days of the date that notice of the filing was sent or if there is other litigation pending regarding custody of the child.

E. Prior to any hearing on the petition, the court may appoint a guardian ad litem to represent the child. The qualified parent shall not be required to appear in court if the parent is detained and unable to appear, or upon motion for any other good cause shown. Added by Laws 2024, c. 41, § 4, eff. Nov. 1, 2024.

§30-7-105. Approval of standby guardian without designation – Approval of alternate standby guardian.

A. If no designation for a standby guardian has been completed by a qualified parent, upon petition of any person, the district court of the jurisdiction in which a child resides may approve a person as standby guardian for a child of a qualified parent upon the occurrence of a triggering event. If requested in the petition, the court may also approve an alternate standby guardian identified by the petitioner, to act in the event that at any time after approval pursuant to this section the standby guardian is unable or unwilling to assume the responsibilities of the standby guardianship.

B. The petition shall state:

1. The name and address of the petitioner and his relationship to the child and the name and address of the child's qualified parent, and the name and address of any other parent of the child whose identity and whereabouts are known to the petitioner or can reasonably be ascertained;

2. The name, address and birthdate of the child;

3. The triggering event;

4. The name and address of the person proposed as standby guardian and any alternate and whether the petition requests that such person be given authority as a guardian of the person or guardian of the property of the minor, or both;

5. A statement of any known reasons as to why the child's other parent is not assuming or should not assume responsibility for the child; and

6. Whether there is any prior judicial history regarding custody of the child or any pending litigation regarding custody of the child.

Added by Laws 2024, c. 41, § 5, eff. Nov. 1, 2024.

§30-7-106. Revocation of standby guardian authority – Statement of refusal by standby guardian.

A. The authority of a standby guardian approved by the court may be revoked by the qualified parent by filing a notice of revocation with the court. The notice of revocation shall identify the standby guardian or alternate standby guardian to which the revocation will apply. A copy of the revocation shall also be delivered to the standby guardian whose authority is revoked and any alternate standby guardian who may then be authorized to act.

B. At any time following his or her approval by the court, a standby guardian may decline to serve by filing a written statement of refusal with the court and having the statement personally served on the qualified parent and any alternate standby guardian who may then be authorized to act.

C. When a written designation has been executed, but is not yet effective because the triggering event has not yet occurred, the parent may revoke or the prospective standby guardian may refuse the designation by notifying the other party in writing. A written designation may also be revoked by the execution of a subsequent inconsistent designation.

D. When a standby guardian's authority becomes effective upon the occurrence of a triggering event of the qualified parent, the standby guardian's authority to act on behalf of the qualified parent continues even though the qualified parent is no longer unavailable, unless the qualified parent notifies the standby guardian and the court, in writing, that the standby guardian's authority is revoked due to the expiration of the triggering event.

E. If at any time the court finds that the parent no longer meets the definition of "qualified parent," the court shall rescind its approval of the standby guardian.
Added by Laws 2024, c. 41, § 6, eff. Nov. 1, 2024.

§30-7-107. Petition for review of continuation of standby guardianship.

A child's parent, stepparent, adult sibling or any adult related to the child by blood, marriage or adoption may petition the court which approved the standby guardian at any time following such approval and prior to any termination of the standby guardianship for review of whether continuation of the standby guardianship is in the best interests of the child. Notice of the filing of a petition shall promptly be given to the standby guardian, the child, if the child is twelve (12) years of age or older, and each parent of the child whose identity and whereabouts are known or could reasonably be ascertained.

Added by Laws 2024, c. 41, § 7, eff. Nov. 1, 2024.

§30-8. Renumbered as § 1-113 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-9. Renumbered as § 1-118 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-10. Renumbered as § 1-114 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-11. Repealed by Laws 1983, c. 269, § 4, operative July 1, 1983.

§30-12. Repealed by Laws 1983, c. 269, § 4, operative July 1, 1983.

§30-13. Repealed by Laws 1988, c. 329, § 136, eff. Dec. 1, 1988.

§30-14. Renumbered as § 1-119 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-15. Renumbered as § 1-120 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-16. Renumbered as § 1-121 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-17. Renumbered as § 4-503 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-18. Renumbered as § 4-801 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-19. Renumbered as § 2-113 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-20. Renumbered as § 4-802 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-21. Renumbered as § 2-114 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-22. Renumbered as § 2-115 of this title by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§30-30. Short title – Courtney Smith Act.

This act shall be known and may be cited as the "Courtney Smith Act".

Added by Laws 2023, c. 183, § 1, eff. Nov. 1, 2023.

§30-31. Definitions – Court order for inpatient mental health treatment – Criteria.

A. As used in this act:

1. "General guardianship" means a relationship where a person has been appointed by a court to serve as the guardian of an incapacitated person to ensure that the essential requirements for the health and safety of the person are met, to manage the estate or financial resources of the person, or both;

2. "Gravely disabled" means a condition in which a person, because of a mental illness, is unable to provide for his or her basic personal needs for food, clothing, or shelter;

3. "Inpatient mental health treatment" means a treatment service offered or provided for a continuous period of more than twenty-four (24) hours in residence after admission to a mental health or substance abuse treatment facility for the purpose of observation, evaluation, or treatment; and

4. "Ward" means a person over whom a guardian is appointed and a person over whose property a guardian or conservator is appointed.

B. A guardian who has general guardianship and who has obtained an order by a court for inpatient mental health treatment for the ward may apply for an order requiring either municipal or county officials to retrieve, only if in an unsheltered environment, and deliver the gravely disabled ward to an inpatient treatment facility, pursuant to Section 1-110 of Title 43A of the Oklahoma Statutes, when one of the following criteria is met:

1. The ward is unable to utilize the means available to provide for his or her basic personal needs regarding food, clothing, or

shelter. Considerations that shall be made when making this evaluation shall include, but not be limited to, the following:

- a. whether lab examinations reveal signs of malnutrition or dehydration,
- b. whether there is observed, documented behavior showing an inability to consume adequate amounts of food or water due to a mental illness,
- c. whether there is a history of public nudity or inadvertent exhibitionism which has been observed and documented and is due to a mental illness,
- d. the existence of physical evidence of exposure to the environment due to mental illness symptoms which prevent the ward from wearing adequate clothing,
- e. whether there is observed behavior and symptoms of a mental illness which prevent the ward from utilizing or obtaining adequate shelter,
- f. the existence of a repeated and recent history of failure to maintain adequate shelter in the community due to behaviors and symptoms of a mental illness, or
- g. evidence of a failure to maintain a shelter in a manner that is safe to live in, due to symptoms of a mental illness;

2. The ward is unable to voluntarily request and receive assistance for his or her basic personal needs; or

3. The ward is unable to survive safely without involuntary detention and does not have the help of family members, friends, or others to provide the ward's basic personal needs regarding food, clothing, or shelter.

C. No person shall be presumed to be incompetent because the person has been evaluated or treated for a mental illness, regardless of whether such evaluation or treatment was voluntarily or involuntarily received.

Added by Laws 2023, c. 183, § 2, eff. Nov. 1, 2023.