

Oklahoma Guardianship Act

Title 30. Guardian and Ward

(STOKST30)

[Search](#)

Oklahoma Guardianship and Conservatorship Act

Article I - General Provisions

[§ 1-101. Short Title](#)

[§ 1-102. Composition of Oklahoma Guardianship and Conservatorship Act](#)

[§ 1-103. Purpose and Intent of Legislature](#)

[§ 1-104. Existing Guardianships or Conservatorships to Comply with Act - Court Review](#)

[§ 1-105. Definition of Guardian](#)

[§ 1-106. Persons Included as Guardians](#)

[§ 1-107. Definition of Ward](#)

[§ 1-108. Classifications of Guardians](#)

[§ 1-109. General and Limited Guardian](#)

[§ 1-110. Appointment Special Guardian](#)

[§ 1-111. Terms Defined](#)

[§ 1-112. Applicability of Act - Power of Appointment - Act Not a Limitation of Parental Rights](#)

[§ 1-113. Appointment of Guardian - Exclusive Jurisdiction](#)

[§ 1-114. Jurisdiction of Court over Guardians an Guardianship Proceedings](#)

[§ 1-115. Venue for Guardianship Proceedings - Exclusive Right to Exercise Jurisdiction - Consolidation](#)

[§ 1-116. Judge May Act at Chambers or in Court - Practice](#)

[§ 1-117. Guardians Ad Litem not Affected](#)

[§ 1-118. Guardian of Person Not Residing within this State](#)

[§ 1-119. Guardian Powers](#)

[§ 1-120. Power of Guardian over the Person - Change of Ward's Abode - Power of Limited Guardians](#)

[§ 1-121. Duties of Guardian of the Property - Powers - Fiduciary Duty](#)

[§ 1-122. Confidential Information](#)

[§ 1-123. Guardianship Letters](#)

[§ 1-124. Guardianship and Conservatorship Handbook - Summary of Duties](#)

[§ 1-125. Time Computation](#)

Article II - Minors

[§ 2-101. Appointment of Guardian of Minor](#)

[§ 2-102. Guardian Nominations](#)

[§ 2-103. Nomination and Appointment of Minor - Age of Minor](#)

[§ 2-104. Minor at 14 Years of Age May Nominate Guardian Subject to Approval of Court](#)

[§ 2-105. Appointment of Guardian When Minor has Attained 14 Years of Age](#)

[§ 2-106. Appointment of Parents as Guardians](#)

[§ 2-107. Appointed Guardian in Charge of Education](#)

[§ 2-108. Expenses of Education and Maintenance of Minor - Property and Income from Property](#)

[§ 2-109. Appointment Conditions](#)

[§ 2-110. Investments in Life Insurance](#)

[§ 2-111. Contracts](#)

[§ 2-112. Guardian - Agent of Company - Commissions](#)

[§ 2-113. When Power of Guardian Appointed for Minor Ceases](#)

[§ 2-114. Minor Ward at Majority - Release of](#)

[§ 2-115. Discharge of Guardian by Court](#)

[§ 2-116. Estate of Minors not Exceeding \\$10,000 - Disposition](#)

Appointment of Guardian

Article III - Adults

[§ 3-101. Petition for Appointment of Guardian](#)

[§ 3-102. Nomination of Guardian by Person 18 Years of Age - Priorities of Nominations.](#)

[§ 3-103. Nomination of Guardian or Limited Guardian by Will for Incapacitated Person](#)

[§ 3-104. Priorities for Selection of Guardian or Limited Guardian - Appointment of Organization - Inquiry as to Suitability of Guardian -Appointment of Public Agency](#)

[§ 3-105. Nominee Unable or Unwilling to Serve](#)

[§ 3-106. Rights of Incapacitated or Partially Incapacitated Person - Confidentiality - Relief from Costs and Fees - Record](#)

[§ 3-106.1. Court-Appointed Advocates for Vulnerable Adults \(CAAVA\) Program](#)

[§ 3-107. Appointment of Attorney and Guardian Ad Litem - Explanation and Inquiry by Court if Subject not Represented - Record](#)

[§ 3-108. Evaluations of Subject of Proceeding in Connection with Proceeding](#)

[§ 3-109. Petitions for Guardians of Incapacitated or Partially Incapacitated Persons - Notice](#)

[§ 3-110. Notice of Hearing on Petition Requesting Appointment of Guardian for Incapacitated or Partially Incapacitated Person](#)

[§ 3-111. Guardian Appointed, When](#)

[§ 3-112. Appointment of Guardians](#)

[§ 3-113. Contents of Order Appointing Guardian - Specific Determinations Regarding Capacity - Guardianship Plan](#)

[§ 3-114. Assignment of Powers and Duties to Limited Guardian - Creation of Limited Guardianship - Limitation or Specification of Assets](#)

[§ 3-115. Appointment of Special Guardian in Certain Instances - Notice - Powers - Duration - Bond - Removal](#)

[§ 3-116. Proceedings to Determine Restoration to Capacity](#)

[§ 3-117. Guardian of Incompetent - Discharge - Presumed Competent](#)

[§ 3-118. Duties and Powers of Guardian or Limited Guardian - Diligent and Good Faith Performance of Duties and Powers - Termination of Guardianship](#)

[§ 3-119. Powers of Guardian - Limitation of](#)

[§ 3-120. Proposed Guardianship Plan for Care and Treatment of Ward](#)

[§ 3-121. Duty to Keep Property of Ward Safe - Fiduciary Duties](#)

[§ 3-122. Plans for Management of Financial Resources of Ward - Form](#)

[§ 3-123. Homestead of Incapacitated or Partially Incapacitated Person - Sale or Lease by Guardian Authorized](#)

[§ 3-124. Sale or Lease Procedure - Joinder by Spouse](#)

[§ 3-125. Applicable Only to Homestead - Cumulative](#)

[§ 3-126. Estates of Incapacitated or Partially Incapacitated Persons not Exceeding \\$10,000.00 - Disposition](#)

Appointment of Conservator

[§ 3-201. Repealed by Laws 1989, HB 1556, c. 276, § 17, eff. November 1, 1989](#)

[§ 3-202. Repealed by Laws 1989, HB 1556, c. 276, § 17, eff. November 1, 1989](#)

[§ 3-203. Repealed by Laws 1989, HB 1556, c. 276, § 17, eff. November 1, 1989](#)

[§ 3-204. Repealed by Laws 1989, HB 1556, c. 276, § 17, eff. November 1, 1989](#)

[§ 3-205. Repealed by Laws 1989, HB 1556, c. 276, § 17, eff. November 1, 1989](#)

[§ 3-206. Repealed by Laws 1989, HB 1556, c. 276, § 17, eff. November 1, 1989](#)

[§ 3-207. Repealed by Laws 1989, HB 1556, c. 276, § 17, eff. November 1, 1989](#)

[§ 3-208. Repealed by Laws 1989, HB 1556, c. 276, § 17, eff. November 1, 1989](#)

[§ 3-209. Repealed by Laws 1989, HB 1556, c. 276, § 17, eff. November 1, 1989](#)

[§ 3-210. Repealed by Laws 1989, HB 1556, c. 276, § 17, eff. November 1, 1989](#)

[§ 3-211. Establishment of Conservatorship by Reason of Physical Disability - Consent - Notice - Hearing](#)

[§ 3-212. Appointment of Conservator After Full Hearing and Examination - Consent](#)

[§ 3-213. Ineligibility](#)

[§ 3-214. Conservator - Care, Custody and Management of Estate Until Legally Discharged - Bond](#)

[§ 3-215. Conservator's Powers and Duties - Jurisdiction](#)

[§ 3-216. Discharge and Accounting](#)

[§ 3-217. Compensation](#)

[§ 3-218. Subsequent Appointment of Guardian of Said Ward](#)

[§ 3-219. Limitation on Power to Contract](#)

[§ 3-220. Effect on Prior Conservatorships](#)

Eligibility for Appointment to Guardianship

Article IV - Miscellaneous Provisions

[§ 4-101. Appointment of Guardian of More than Five Wards Prohibited - Exceptions](#)

[§ 4-102. Violations - Punishment](#)

[§ 4-103. Disqualification by Financial Relations with District Court Judge - Removal of Ineligible Guardians - Liability for Continuing to Act - Removal of Judge](#)

[§ 4-104. Eligibility of Non-Residents - Foreign Trust Companies - Domestic Corporations or Trust Companies](#)

[§ 4-105. Inquiry to Determine Whether Person is Suitable to Serve as Guardian](#)

Bond

[§ 4-201. Guardian's Bond - Letters to Issue on Filing](#)

[§ 4-202. Petition Requesting for Further Security - Suspension of Powers - Order](#)

[§ 4-203. Court May Require New Bond - Discharging Sureties](#)

[§ 4-204. Bonds to be Preserved - Breach of Condition - Actions on Bonds](#)

[§ 4-205. Statute of Limitation of Action - Effect of Disability](#)

Inventories, Accountings, and Reports

[§ 4-301. Inventory and Account of Ward's Estate](#)

[§ 4-302. Repealed by Laws 1990, HB 2176, c. 323, § 80, emerg. eff. July 1, 1990](#)

[§ 4-303. Account Settlement and Allowance - Reports - Consolidation of Reports - Accounting Information](#)

[§ 4-304. Account Rendered by Two or More Joint Guardians](#)

[§ 4-305. Report on Guardianship of Incapacitated or Partially Incapacitated Person](#)

[§ 4-306. Contents of Report on Guardianship or Limited Guardianship of Property of Ward](#)

[§ 4-307. Mailing of Copies of Annual Report Upon Filing - Hearing - Report Without Notice - Compensation - New Bond - Appointment of Counsel to Represent Ward](#)

[§ 4-308. Applications to Court for Relief - Contents for Application - Notice and Hearing - Order - Appointment of Counsel - Joinder - Evaluation of Ward - Hearing Without Notice.](#)

Costs, Expenses, and Compensation

[§ 4-401. Compensation of Guardians](#)

[§ 4-402. Joint Guardians' Compensation](#)

[§ 4-403. Attorney Fees](#)

[§ 4-404. Costs - Guardian to Approve Minor Entering Armed Services](#)

Joint Guardians

[§ 4-501. Appointing More than One Guardian - Bond](#)

[§ 4-502. Two or More Guardians](#)

[§ 4-503. Death of One of Two or More Joint Guardians](#)

Nonresident Wards

[§ 4-601. Nonresident Ward's Guardian - Notice](#)

[§ 4-602. Powers of Nonresident Guardian](#)

[§ 4-603. Jurisdiction of First Appointment](#)

[§ 4-604. Bond of Guardian of Nonresident](#)

[§ 4-605. Removal or Impairing Right of Ward to Property](#)

[§ 4-606. Removal Application - Contents - Requirements](#)

[§ 4-607. Order for Discharge of Personal Representative or Local Guardian](#)

Guardians' Powers and Duties

[§ 4-701. Payment of Just Debts](#)

[§ 4-702. Collection and Settlement of Accounts - Appearance for Ward](#)

[§ 4-703. Discharge and Release](#)

[§ 4-704. Service upon Guardian Equivalent to Service upon Ward - Duty of Guardian](#)

[§ 4-705. Estate Management - Income Applied to Maintenance and Support of Ward - Sale of Realty](#)

[§ 4-706. Credit in Settlement for Maintenance and Support of Ward - Payment by Third Person](#)

[§ 4-707. Execution of Waivers or Contents for Wards](#)

[§ 4-708. Authorization to Invest of Proceeds of Sales and Money in Estate](#)

[§ 4-709. Investment of Monies Belonging to Estates - Purchase of Homesteads for Incapacitated or Partially Incapacitated](#)

Sale of Property

[§ 4-751. When Income of Estate is Insufficient for Maintenance](#)

[§ 4-752. Sale of Property](#)

[§ 4-753. Proceeds of Sale to Be Applied for Certain Purposes - Investment - Maintenance](#)

[§ 4-754. Petition - Facts and Circumstances](#)

[§ 4-755. Sale of Ward's Property - Hearing - Notice - Order](#)

[§ 4-756. Mailing or Publication of Order - Waiver of Notice](#)

[§ 4-757. Hearing Petition upon Order](#)

[§ 4-758. Partition of Real Estate](#)

[§ 4-759. Personal Representatives May Sell Oil, Gas and Mining Leases](#)

[§ 4-760. Guardian May Be Examined - Witnesses](#)

[§ 4-761. Award of Costs to Prevailing Party on Objection](#)

[§ 4-762. Order for Sale Either Public or Private](#)

[§ 4-763. Sale Bond by Guardian](#)

[§ 4-764. Sales Governed by Same Law as in Estates of Decedents](#)

[§ 4-765. Time Expiration on Order of Sale](#)

[§ 4-766. Terms of Sale - Security](#)

[§ 4-767. Time Limitation of Action for Recovery of Estate Sold - Disability and Removal Thereof](#)

[§ 4-768. Exchange of Property Held by Ward or Wards in Common - Notice](#)

[§ 4-769. Perishable Property Sale - Report - Determination of Perishability](#)

[§ 4-770. Legalization of Former Leases](#)

Removal, Suspension, or Termination of Guardianship

[§ 4-801. Causes for Removal of Guardians](#)

[§ 4-802. Power of Guardian Suspension upon Certain Factors - Effect of Marriage of Incapacitated or Partially Incapacitated Person](#)

[§ 4-803. Removal or Resignation of Guardian](#)

[§ 4-804. Discharge of Unnecessary Guardianship](#)

[§ 4-805. Distribution of Personal Property of Intestate Ward](#)

Civil Liability - Concealment or Misappropriation of Property

[§ 4-901. Civil Liability of Guardians or Petitioners - Damages - Willful or Malicious Filing of False Petition or Application](#)

[§ 4-902. Concealment or Embezzlement Citation](#)

[§ 4-903. Report of Abuse of Incapacitated Person or Minor - Failure to Report - Immunity from Liability - False Report](#)

[§ 4-904. Punishment for Taking Away of Incapacitated Person or Person for Whom Guardian Has Been Appointed](#)

Article V - Task Force on Adult Guardianship

[§ 5-101. Repealed by Laws 1993, HB 1398, c. 155, § 4, emerg. eff. July 1, 1993](#)

Article VI - Oklahoma Public Guardianship Act

[§ 6-101. Short Title - Purpose - Office of Public Guardian](#)

[§ 6-102. Public Guardianship Pilot Program](#)

[§ 1. Renumbered as 30 O.S. § 1-105 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 2. Renumbered as 30 O.S. § 1-107 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 3. Renumbered as 30 O.S. § 1-108 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 4. Renumbered as 30 O.S. § 1-109 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 5. Renumbered as 30 O.S. § 1-110 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 6. Renumbered as 30 O.S. § 2-102 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

Oklahoma Guardianship and Conservatorship Act

[§ 7. Renumbered as 30 O.S. § 1-112 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 8. Renumbered as 30 O.S. § 1-113 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 9. Renumbered as 30 O.S. § 1-118 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 10. Renumbered as 30 O.S. § 1-114 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 11. Repealed by Laws 1983, HB 1141, c. 269, § 4, emerg. eff. July 1, 1983](#)

[§ 12. Repealed by Laws 1983, HB 1141, c. 269, § 4, emerg. eff. July 1, 1983](#)

[§ 13. Repealed by Laws 1988, HB 1078, c. 329, § 136, eff. December 1, 1988](#)

[§ 14. Renumbered as 30 O.S. § 1-119 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 15. Renumbered as 30 O.S. § 1-120 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 16. Renumbered as 30 O.S. § 1-121 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 17. Renumbered as 30 O.S. § 4-503 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 18. Renumbered as 30 O.S. § 4-801 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 19. Renumbered as 30 O.S. § 2-113 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 20. Renumbered as 30 O.S. § 4-802 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 21. Renumbered as 30 O.S. § 2-114 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

[§ 22. Renumbered as 30 O.S. § 2-115 by Laws 1988, HB 1078, c. 329, § 134, eff. December 1, 1988](#)

O.S. §30-1-103.

§30-1-103.

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.

§30-1-104.

§30-1-104.

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.

§30-1-105.

§30-1-105.

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

§30-1-106.

§30-1-106.

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.

§30-1-107.

§30-1-107.

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

§30-1-108.

§30-1-108.

Guardians are either:

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

§30-1-109.

§30-1-109.

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.

§30-1-110.

§30-1-110.

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

§30-1-111.

§30-1-111.

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 his physical health or safety, or to manage his 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 said person are met, to manage the estate or financial resources of said 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 said decisions when the subject of the proceeding is wholly incapable of making said 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) mental retardation or developmental disability as defined by Section 1-818.2 of Title 63 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 said person:

(1) lacks the capacity to meet essential requirements for his physical health or safety, or

(2) is unable to manage his 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 dispositional alternative" means the form of assistance that least interferes with the legal ability of an incapacitated or partially incapacitated person to act in his own behalf;

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 said guardian. Such document shall be endorsed thereon with the oath of the guardian that he will perform the duties of his 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 said person is unable to:

- a. meet the essential requirements for his physical health or safety, or
- b. manage all of his financial resources or to engage in all of the activities necessary for the effective management of his 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 said 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 his 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; and

28. "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.

§30-1-112.

§30-1-112.

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

1. Minors in this state;
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. 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.

§30-1-113.

§30-1-113.

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.

§30-1-114.

§30-1-114.

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.

§30-1-115.

§30-1-115.

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.

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.

§30-1-116.

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.

§30-1-117.

§30-1-117.

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.

§30-1-117.

§30-1-117.

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.

§30-1-118.

§30-1-118.

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.

§30-1-119.

§30-1-119.

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.

§30-1-120.

§30-1-120.

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.

§30-1-121.

§30-1-121.

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.

§30-1-122.

§30-1-122.

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.

§30-1-123.

§30-1-123.

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.

§30-1-124.

§30-1-124.

The Administrative Office of the Courts shall prepare a guardianship and conservatorship handbook for distribution to the district courts. 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. In conjunction with the guardianship handbook, the Administrative Office of the Courts shall develop 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. Copies of the handbook shall be made available to the public through the offices of the district court clerks.

§30-3-101.

§30-3-101.

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.

§30-3-102.

§30-3-102.

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.

§30-3-103.

§30-3-103.

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.

§30-3-104.

§30-3-104.

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; or
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 said owner, operator, administrator or employee is the spouse of said resident, or a relative of said resident within the second degree of consanguinity and is otherwise eligible for appointment.

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; or
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.

§30-3-105.

§30-3-105.

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.

§30-3-106.

§30-3-106.

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.

§30-3-107.

§30-3-107.

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.

§30-3-108.

§30-3-108.

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.

§30-3-109.

§30-3-109.

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.

§30-3-110.

§30-3-110.

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 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 said Departments are providing services to the subject of the proceeding;
6. As appropriate, the Veterans Administration pursuant to Section 126.8 of Title 72 of the Oklahoma Statutes; 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.

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.

§30-3-111.

§30-3-111.

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 appoint a guardian or limited guardian and shall issue an order appointing a guardian. The court shall explain on the record the facts and reasons supporting the decision not to impose any less restrictive alternatives.

§30-3-112.

§30-3-112.

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.

§30-3-113.

§30-3-113.

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; and
5. 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 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.

§30-3-114.

§30-3-114.

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.

§30-3-115.

§30-3-115.

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.

Except as otherwise provided by this section, the appointment of a special guardian shall be for a period not to exceed ten (10) days.

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.

§30-3-116.

§30-3-116.

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.

§30-3-117.

§30-3-117.

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.

§30-3-118.

§30-3-118.

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.

§30-3-119.

§30-3-119.

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 defined by the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act from the ward, except:

a. with specific authorization of the court having jurisdiction over the guardianship proceedings. Such authorization must be granted in a separate order and only at such time when the ward is in need of life-sustaining treatment,

b. as authorized by an advance directive executed pursuant to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act, or

c. as authorized by a consent not to resuscitate made pursuant to the Oklahoma Do-Not-Resuscitate Act;

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.

§30-3-120.

§30-3-120.

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.

§30-3-121.

§30-3-121.

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.

§30-3-122.

§30-3-122.

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)

§30-3-123.

§30-3-123.

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.

§30-3-124.

§30-3-124.

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.

§30-3-125.

§30-3-125.

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.

§30-3-126.

§30-3-126.

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.

§30-3-211.

§30-3-211.

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.

§30-3-212.

§30-3-212.

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.

§30-3-213.

§30-3-213.

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

§30-3-214.

§30-3-214.

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.

§30-3-215.

§30-3-215.

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.

§30-3-216.

§30-3-216.

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.

§30-4-105.

§30-4-105.

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 is a convicted felon;
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 or 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 is a convicted felon, the court shall make further inquiry into the nature of the felony and the circumstances surrounding the conviction. The court shall appoint such person proposed to serve only upon determining that the facts underlying the conviction do not give rise to a reasonable belief that that person proposed to serve will be unfaithful to or neglectful of his fiduciary responsibilities, 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 his 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 his ward shall not, by itself, disqualify such person from appointment.

§30-4-501.

§30-4-501.

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.