

KANSAS GUARDIANSHIP PROGRAM

2004 Annual Report

July 1, 2003 – June 30, 2004

...a partnership involving the State of Kansas and citizen volunteers.

A Report to

Governor Kathleen Sebelius
Chief Justice Kay McFarland
the 2005 Legislature
the People of Kansas

Prepared Pursuant to K.S.A. 74-9601 et seq., as amended.

The Vision

The goal of the Kansas Guardianship Program (KGP) is to provide that qualified, caring, willing and trained persons are available throughout the State to serve as court appointed guardians or conservators for those program eligible persons in need of this level of protection and advocacy, and those non-adjudicated persons who elect to have a voluntary conservator, and who do not have family members willing or able to assume such responsibilities.

The Kansas Guardianship Program was initiated in 1979 under the administration of Kansas Advocacy and Protective Services, Inc. The 1995 Kansas Legislature established the program as a separate public instrumentality pursuant to K.S.A. 74-9601 et seq., as amended. The KGP is governed by a seven member board of directors, six of whom are appointed by the Governor and one by the Chief Justice. Funds are provided by the State of Kansas.

BOARD OF DIRECTORS

The Honorable Frank Yeoman, Jr.
Chair
Topeka

Senator Janis K. Lee
Vice Chair
Kensington

James Maag
Topeka

Eloise Lynch
Salina

Jack E. Dalton
Dodge City

John D. Bennett
Pittsburg

Senator Donald Betts, Jr.
Wichita

Executive Director
M. Jean Krahn

The Purpose

Every year many Kansans are declared legally unable to manage their lives and financial affairs. Most of the people have family members who are appointed by the courts to serve as guardians or conservators. There are, however, a significant number of adults who have been abandoned by families, or who have families unable or inappropriate to provide the necessary care involved in guardianship or conservatorship.

Kansas is unique in the country in that, on a statewide basis, citizen volunteers are appointed guardians or conservators for those program eligible persons adjudicated by the court and in need of this level of protection and advocacy. The Kansas Guardianship Program serves persons who are, essentially, the adult wards of the State.

“The program strives to... encourage respect for the rights and dignity of all Kansans.”

“Kansas is unique in the country..”

The KGP recruits volunteers willing to advocate for and protect the rights of these vulnerable, at-risk people. We maintain that, if a guardianship or conservatorship is imposed, the ward or conservatee should be assured the benefits of positive efforts by the guardian or conservator - efforts (relationships) that will assure the person of someone to act as an advocate and protector.

The program strives to advocate for and protect the rights of persons with disabilities in ways that recognize the interdependence of all individuals and encourage respect for the rights and dignity of all Kansans.

“28% of the volunteers have served 10 or more years and 63% have served 5 years or more.”

The Process

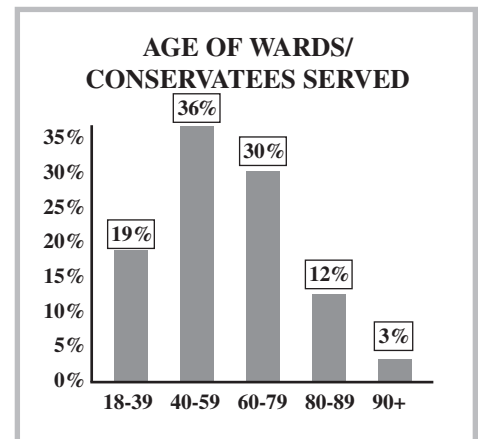
It is a significant matter to ask volunteers to accept both legal and moral responsibility for the well-being of a person unrelated and, probably, previously unknown to them. Nonetheless, the KGP does ask for this considerable personal commitment from the individuals who agree to become KGP volunteers.

Volunteers maintain regular contact with the ward and conservatee through personal visits, phone calls and other efforts. In their legal capacity as guardians and conservators, volunteers advocate for or take action on behalf of the ward or conservatee to access services including physical, psychological and emotional care and treatment. They also monitor the quality of those supports and services. Additionally, they provide consents and maintain communication with service providers such as case managers, facility staff and medical providers; and assume responsibility for the paperwork necessary in accessing appropriate benefits such as Social Security and Veteran's pensions. Finally, they are required to provide the court with annual documentation on the status of the ward and the finances of the conservatee.

Volunteers in the program are asked to make a long-term commitment to their ward or conservatee. For some individuals that may extend to the rest of their life or the life of the ward or conservatee. Caring and loving relationships develop and the guardian becomes, many times, the one person with long-term involvement in the ward's life. In reviewing our records over the year, we find that approximately 28% of the volunteers have served in the program for 10 or more years and 63% have served for 5 years or more. That represents an outstanding commitment to their wards or conservatees and to the program.

This model involves a collaborative working relationship with The Kansas Department of Social and Rehabilitation Services (SRS). Persons served by the KGP are identified by SRS. Adult Protective Services and State hospital social workers make formal requests to the KGP for an approved volunteer who may be nominated to the court for appointment as guardian or conservator or voluntary conservator. The individuals served generally are dependent upon public support. Referrals to the KGP are considered after all other less restrictive alternatives have been exhausted. The needs of the potential ward and conservatee are matched with the abilities and interests of the volunteer. SRS legal services petitions the court for the hearing to determine the need for guardianship or conservatorship. The District Court determines the need for and level of guardianship or conservatorship services and makes the appointment of the guardian or conservator.

After a KGP volunteer is appointed as the guardian or conservator, the KGP contracts with the volunteer to provide a high level of advocacy and protection to the ward or conservatee; requires a written monthly report of activities undertaken on behalf of the ward or conservatee; provides a small monthly stipend to the volunteer to offset out-of-pocket expenses for services provided on behalf of the person(s); and, provides ongoing training of and support to the volunteer in order to enhance the quality of life of the persons they serve.



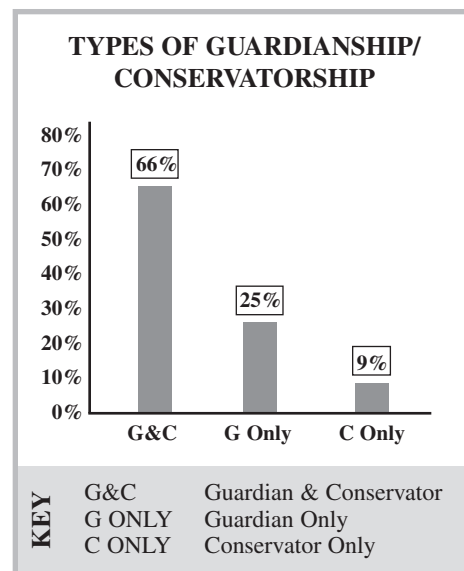
The Achievements

Guardians and conservators provide a check and balance on the services system. The more than 830 guardians and conservators currently volunteering with the KGP, through their legal authority, have access to group homes, nursing facilities, public institutions or residences of their wards and conservatees. Their advocacy and protective efforts frequently extend to a roommate or another resident. A guardian's very presence can afford a sense of safety, protection and security.

OF SIGNIFICANCE IN 2004

- During fiscal year 2004, the KGP volunteers provided guardianship/conservatorship services to 1583 wards and conservatees.
- On June 30, 2004, approximately 830 volunteers were serving in the program. Over the years, approximately 3395 Kansans have been recruited to serve as volunteers in the program.
- It is estimated that, on the average, a volunteer spends at least ten hours or more each month working on issues related to the ward or conservatee.
- The 2004 Legislature passed House Bill 2902 which adds the KGP volunteer guardians and conservators to the definition of "employee" in the Kansas Tort Claims Act. This expanded definition protects the volunteers from liability in cases of negligence or acts of omission but not in cases of fraud or acts of malice.

"...The KGP volunteers provided...services to 1583 wards and conservators."



- The KGP provides information, consultation and referral to service providers, family members and other interested groups and individuals upon request. The KGP also provides information and training programs. During the past year, the KGP provided such assistance to more than 3700 persons and agencies.
- The KGP Board of Directors actions included, approval of the FY 2005 budget proposal for submission to the Governor and the performance of the annual audit required pursuant to K.S.A. 74-9601 et seq.
- The KGP publishes and disseminates *A Guide To Kansas Laws on Guardianship and Conservatorship*.
- The KGP provides *The Guide* and other guardianship information at the website www.ksgprog.org.

The Future

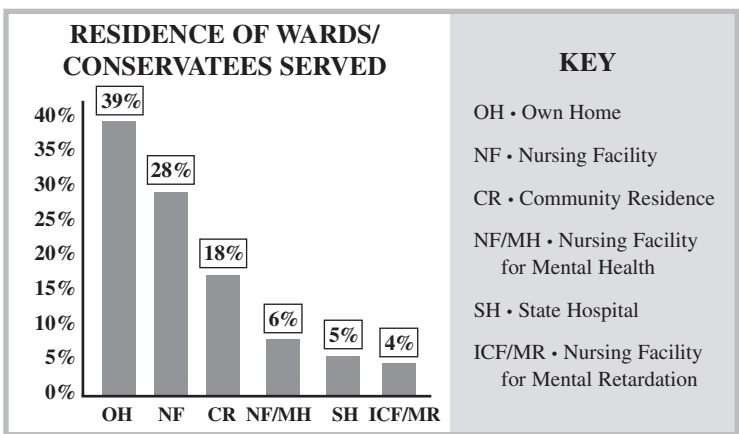
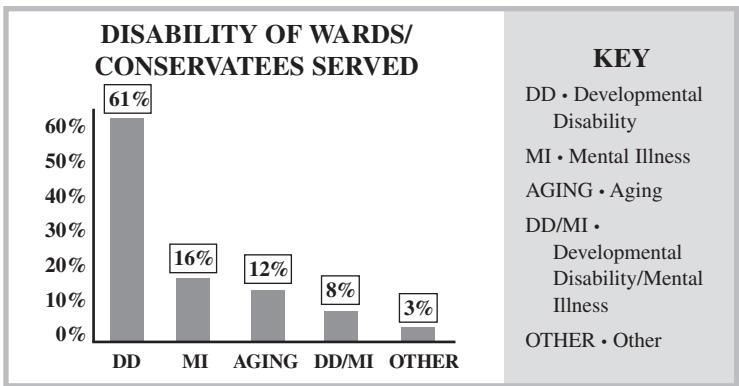
Adult protection concerns, of which guardianship plays a major part, are receiving increased attention throughout the country. Studies done on the national level point out that we are experiencing the aging of a nation. As advances in medical technology prolong life, more people are living longer and many will need some form of protection through substitute decision makers such as guardians and conservators. In addition, young adults with conditions that severely limit their ability to manage their lives and financial affairs are receiving services in a wide variety of programs operated by public and private providers throughout the State. Guardianship and conservatorship is an important part of protective services, but must always be viewed with caution since it represents the most restrictive and intrusive of the possible interventions available.

There are situations in which guardianship is pursued without consideration of alternative measures. At times we see attempts to use guardianship/conservatorship as a mechanism for bill collecting, to address fears of liability, and, sometimes, to control disruptive or uncontrolled behavior (usually unsuccessfully). While such basic problems may need to be addressed, often reasonable alternatives to guardianship/conservatorship are not considered.

Kansas statutes provide for advance directives and durable and health care powers of attorney; however, there is a need, on a statewide basis, for other community based interventions that may reduce the need for guardianship and conservatorship. These may include bill paying services, representative payee programs, and crisis intervention alternatives such as respite care and mediation services.

RECOMMENDATIONS

- Medical and other service providers need to be informed of the responsibilities of and limitations of guardians and conservators. This could include information on when guardianship is appropriate.
- As services for persons with developmental disabilities, mental illness and aging related illnesses become more widely dispersed in community settings throughout the State, attention should be focused on assuring that formal mechanisms are in place to provide for protection of these individuals from abuse, neglect and exploitation.



The People

BERNARD'S STORY

Almost seventy years ago on a road somewhere in Kansas, an automobile accident occurred killing both passengers. The couple killed in the accident had a seven-year old son who survived them. The little boy, who experienced severe dyslexia, was placed in a state institution serving individuals with mental retardation. Thus began the life quest of Bernard, "to have a family."

Bernard lived in various state institutions for the next forty-six years. In 1983 Bernard was selected to participate in a new program and moved to a private home with several other men with disabilities. The owner and operator had a vision of community inclusion long before it was mandated, a vision of what life could be for persons with disabilities if they had options beyond the institutions.

Bernard thrived. He worked in the community for a number of years. He joined a local church. He began frequenting the senior citizens center. He became a bit of a celebrity in different venues playing the spoons and a mouth harp. He also sang with great fervor. He was routinely referred to as the "music man."

Bernard loved the people who shared his home and those who provided support to him, but he still did not have his own family.

SRS Adult Protective Services requested a KGP volunteer be appointed by the court to serve as guardian and conservator for Bernard. Terri, a KGP volunteer, had worked in the field of developmental disabilities and wanted to give back to her community. When she met Bernard for the first time, he announced to her that he didn't need a guardian, but rather he wanted a family.

Terri immediately included Bernard in her family activities. Her two young children became fast friends with the new family member. Bernard shared in all family events and attended family ceremonies, from weddings to funerals. He developed a special bond with Terri's grandmoth-

er. At age 66, Bernard told Terri he finally had the grandmother he had always wanted.

When Terri's brother married, Bernard had a goal to dance with every woman at the reception. He refused to sit down until he achieved the goal. Every year Bernard traveled with Terri's family to her hometown for Christmas festivities. Numerous traditions started during the visits: singing Christmas carols with the radio as they drove, caroling with Bernard providing spoon accompaniment, visiting the live, rooftop Santa Claus, and Bernard becoming the self-designated cookie provider for Santa. Terri's hometown community came to know and love Bernard.

Two years ago, Bernard fell and broke his hip. Nursing home rehabilitative care followed the injury. After a brief time at home, Bernard returned to the nursing home where he died in November of 2004 at the age of 74.

For eight years, Terri opened her heart, home and family to Bernard. For eight years, Bernard gave Terri immeasurable gifts.

In the last years of his life, his wish had come true. Bernard had a family.

THEIR GUARDIANS

On behalf of the State of Kansas, we express our appreciation to the hundreds of Kansans who have volunteered to become legally responsible for the well-being of their neighbors in need. As guardians and conservators, KGP volunteers take on the responsibility of making decisions and advocating on behalf of another person in both the personal and financial aspects of their lives. They become an advocate, a voice and a friend.

The KGP would not be possible without the dedication of the volunteers. KGP volunteers donate many hours and often their own resources in helping the people they serve. Approximately 830 volunteers are currently serving as legal guardians and conservators through the program. These individuals exemplify commitment to their community as well as respect and dignity for all Kansans.

The Budget

KANSAS GUARDIANSHIP PROGRAM FISCAL YEAR 2004 BUDGET

Expenditures By Object

Salaries and Wages	\$525,987.00
Contractual Services	478,662.00
Commodities	15,678.00
Capital Outlay	12,527.00
Total Expenditures	<u>\$1,032,854.00</u>

Expenditures by Fund

State General Fund	\$1,032,854.00
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Kansas Guardianship Program

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