**Policy Statement:**

The Cabinet for Health and Family Services (CHFS) may serve as guardian of last resort for a partially or wholly disabled adult.

The Guardianship Field Services Office Supervisor (GFSOS), or designee, reviews all referrals requesting public guardianship

* to ensure the referral meets the requirements of KRS 210.290,
* to ensure the referral meets the requirements of 910 KAR 2:020, and
* to ensure that the person requesting public guardianship understands the role of a guardian, the meaning of guardianship, and the limitations of public guardianship.

**Legal Authority:**

* KRS 387.500 Declaration of Legislative Purpose
* KRS 387.600 Appointment-Consideration of Preference of Respondent
* 910 KAR 2:020 Referral process for adult guardianship
* 922 KAR 5:070 Adult Protective Services
* KRS 210.290 Cabinet may act as fiduciary…duties…guardianship trust fund...annual report…powers.
* KRS 311.631 Responsible Parties Authorized to Make Health Care Decisions

**Procedure**:

1. Referrals from an agency within the CHFS:
2. All referrals shall be submitted to the Department for Aging and Independent Living, Division of Guardianship within the Service Region where the person allegedly needing a guardian resides and shall include documentation of the following:
3. Completed GF-01 Guardianship Information Form, edition 09/2018;
4. Less restrictive alternatives explored (refer to 910 KAR 2:020) and the reason(s) they were or cannot be successful; and
5. Names and contact information for persons or entities who may be available and willing to act as limited guardian, guardian, limited conservator, or conservator; and
6. Documentation of reasons why any available persons or entities are not suitable for appointment; or
7. Documentation of inability to locate any persons or entities who may be available and willing to act as limited guardian, guardian, limited conservator, or conservator.
8. The referral shall be submitted to the Regional GFSOS, or designee.
9. The GFSOS, or designee, will add the referral to GFIS as “referral”. Within fourteen (14) working days, or if an emergency referral within three (3) working days, the Division of Guardianship will review the information to determine if the individual being referred meets the acceptance criteria as stated in KRS 210.290 and 910 KAR 2:020 as follows:
10. Is an adult;
11. Is alive and can be physically located;
12. Is a citizen or permanent resident of the United States;
13. Is a resident of the state – an individual who has a permanent, full-time residence in Kentucky prior to the filing of a petition for or appointment of a limited guardian, guardian, limited conservator, or conservator for at least the previous six (6) months that is not a hospital, treatment facility, correctional facility, or long-term care facility;
14. Does not have a history of violent or sexual criminal behavior;
15. Has exhausted all other least restrictive alternatives;
16. Has no capable informal network of support; and
17. Has no other suitable person or entity available or able to be the individual’s limited guardian, guardian, limited conservator, or conservator.
18. GFSOS, or designee, will ensure that the following actions are taken:
19. Review of ITWIST Records;
20. Review of CourtNet record to ensure respondent does not have a history of violent or sexual criminal behavior;
21. Initiation of family search, if appropriate, to determine if any suitable persons are available and able to be appointed as limited guardian, guardian, limited conservator, or conservator;
22. Discussion with the referral source, if appropriate, of
    1. The role of a guardian, the meaning of guardianship, the limitations of guardianship, and the limitations of public guardianship.
    2. All least restrictive alternatives that have been explored or could be explored;
    3. Any informal supports that could fulfill the needs of the individual without seeking guardianship; and

potential persons who may be willing to be appointed as limited guardian, guardian, limited conservator, or conservator that have been or may be contacted.

1. Discussion with any potential persons who may be willing to be appointed as limited guardian, guardian, limited conservator, or conservator, as appropriate, the potential needs of the individual, the purpose of guardianship, the limitations of public guardianship, and other relevant topics.
2. The GFSOS, or designee determines if the referral meets acceptance criteria for public guardianship through consideration of the following:
3. Basic requirements (1)(c)(i) through (v) have been met;
4. The extent to which and manner of least restrictive alternatives to guardianship that have been explored and whether or not other options are viable;
5. The availability of informal supports that may meet the needs of the individual without seeking guardianship; and
6. No other person or entity is suitable to be appointed as limited guardian, guardian, limited conservator, or conservator.
7. If the referral is determined to meet eligibility criteria for public guardianship, the GFSOS completes and signs the AOC 745 and returns it to the CHFS referral source to file with the District Court of origin.
8. GFSOS, or designee, will follow up with referral source and District Court Clerk to obtain the scheduled court date to ensure attendance by the Division of Guardianship.
9. If the referral does not meet eligibility criteria, the GFSOS informs the referral source in writing of the denial and the reason for the denial, specifically addressing which criteria were not met and providing alternative resources, if available. A copy of this denial shall be recorded in GFIS.
10. When the referring agency supervisor and the GFSOS do not agree on the determination of eligibility, the supervisors shall inform the Division Directors of the disagreement.
11. The Directors shall review the referral and documentation and speak with the referring worker and GFSOS to work toward a resolution.
12. If the Directors are unable to come to an agreement on the referral, the matter shall be presented to the Commissioners of the respective departments who may bring in a neutral third party to review the case for final determination.
13. A referral from any person or entity outside of CHFS shall be submitted to the Division’s Central Intake at [DAILDGS@KY.GOV](mailto:DAILDGS@KY.GOV) or by phone at 502-382-8843.
    1. The Central Intake shall review the inquiry and discuss with the referral source:
14. The role of a guardian, the meaning of guardianship, the limitations of guardianship, and the limitations of public guardianship;
15. All least restrictive alternatives that have been explored or could be explored;
16. Any informal supports that could fulfill the needs of the individual without seeking guardianship; and
17. Potential persons who may be willing to be appointed as limited guardian, guardian, limited conservator, or conservator that have been or may be contacted.
    1. If the referral source wishes to proceed with the referral to guardianship, the Central Intake shall:
18. Send a GF-01 to the referral source for completion along with a cover letter on the referral process; and
19. Add the referral to GFIS as “referral”.
    1. When the GF-01 is received from an external referral source, Central Intake will follow the same procedures outlined in (1)(c) through (i).