

### **387.860 Definitions for KRS 387.855 to 387.910.**

The following definitions apply with respect to KRS 387.855 to 387.910:

- (1) "Special needs person" means a person who, by reason of his or her disability, qualifies as a disabled individual under 42 U.S.C. sec. 1396p and whose disability is the basis for the exemption from Medicaid or Supplemental Security Income (SSI) transfer penalties, or both, either as an individual or as a special needs trust beneficiary under 42 U.S.C. sec. 1396p;
- (2) "Grantor" means an individual who is expressly empowered under 42 U.S.C. sec. 1396p, or this chapter, to establish a special needs trust for a special needs person, and thus qualifies as a grantor. Further, any individual with standing to petition the court under KRS 387.865 may also serve as a grantor of a special needs trust;
- (3) "Special needs trust" means a trust described in 42 U.S.C. sec. 1396p(d)(4)(A) or (C) which may receive assets of a special needs person or another person on behalf of the special needs person;
- (4) "The court," for the purposes of KRS 387.855 to 387.910, means:
  - (a) Where the special needs person has acquired, or will be acquiring, assets which are the subject of any judicial proceedings, the court where such proceedings had been brought, or where such proceedings are pending; and
  - (b) In all other cases, in the District Court in the county where the special needs person resides; and
- (5) "Interested parties," for the purposes of this chapter, means:
  - (a) Any individual who would have standing to petition the court for appointment as a legal guardian or conservator under this chapter;
  - (b) Any fiduciary of the special needs person, including but not limited to his or her legal guardian, conservator, attorney-in-fact, or trustee whether corporate or individual;
  - (c) If the special needs person is a ward of the state, the Protection and Advocacy Division of the Department for Public Advocacy; and
  - (d) If there is, or is believed to be, a Medicare or Medicaid lien, or subrogation rights with respect to the special needs person which have not been fully satisfied or discharged at the time the petition is filed, then the appropriate agency or other holder of such rights or claims.

**Effective:** July 12, 2012

**History:** Created 2012 Ky. Acts ch. 59, sec. 9, effective July 12, 2012.

**Legislative Research Commission Note** (7/12/2012). In subsection (4) of this statute, the Reviser of Statutes has inserted the phrase "KRS 387.855 to 387.910" in place of a reference to a single statute. In subsection (4) of 2012 Ky. Acts ch. 59, sec. 9, the term "the court" is defined "for the purposes of Section 8 of this Act," but the term does not appear in Section 8, and it is clear from the context that the definition is intended to apply to the entire range of statutes. This manifest clerical or typographical error has been corrected under KRS 7.136(1).