
ASSEMBLY BILL NO. 551—COMMITTEE ON JUDICIARY

MARCH 29, 2005

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning guardianships.
(BDR 13-434)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to guardianships; revising certain provisions relating to notice and notice by citation; providing that a guardian is a fiduciary; defining an “interested person” for purposes relating to guardianships; revising certain provisions relating to incompetent persons; revising provisions governing the powers of a guardian; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 159 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 10, inclusive, of this
3 act.

4 **Sec. 2.** *“Interested person” includes, without limitation, a*
5 *child, grandchild, spouse, sibling, guardian, guardian ad litem,*
6 *trustee of a revocable living trust, attorney, attorney-in-fact,*
7 *creditor, relative within the second degree of consanguinity and*
8 *any other person designated by a court.*

9 **Sec. 3.** *If a court determines, after a hearing, that a person*
10 *filed a petition or other pleading not in good faith, the court may*
11 *award to any other party costs and attorney’s fees reasonably*
12 *incurred as a result of the filing.*

13 **Sec. 4. 1.** *When, pursuant to the provisions of this chapter*
14 *or a court order, notice must be provided by citation, a petitioner*



1 *in a guardianship proceeding shall by citation give notice of the*
2 *hearing to:*

3 *(a) Each known interested person or the attorney of such an*
4 *interested person;*

5 *(b) Any spouse of the ward or proposed ward and all other*
6 *known relatives of the ward or proposed ward who are:*

7 *(1) Fourteen years of age or older; and*

8 *(2) Within the second degree of consanguinity;*

9 *(c) The parent or legal guardian of all known relatives of the*
10 *ward or proposed ward who are:*

11 *(1) Less than 14 years of age; and*

12 *(2) Within the second degree of consanguinity;*

13 *(d) The guardian of the person, of the estate, or of the person*
14 *and the estate, if any, if the guardian is not the petitioner;*

15 *(e) Any person or health care provider, including, without*
16 *limitation, the administrator of any health care facility, who has*
17 *care, custody or control of the ward or proposed ward;*

18 *(f) The office of the Department of Veterans Affairs in this*
19 *State, if the ward or proposed ward receives any payment or*
20 *benefit through the Department of Veterans Affairs; and*

21 *(g) Any other person who has filed a request for notice in the*
22 *guardianship proceeding.*

23 *2. The petitioner shall give notice not later than 20 days*
24 *before the date set for the hearing:*

25 *(a) By mailing a copy of the citation by certified or registered*
26 *mail with return receipt requested to the residence, office or post*
27 *office address of each person required to be notified pursuant to*
28 *this section;*

29 *(b) By personal service; or*

30 *(c) In any other manner ordered by the court, upon a showing*
31 *of good cause.*

32 *3. If the address or identity of a person required to be notified*
33 *of a hearing on a petition pursuant to this section is not known*
34 *and cannot be ascertained with reasonable diligence, notice must*
35 *be given:*

36 *(a) By publishing a copy of the citation in a newspaper of*
37 *general circulation in the county where the hearing is to be held,*
38 *in the manner provided in N.R.C.P. 4(e); or*

39 *(b) In any other manner ordered by the court, upon a showing*
40 *of good cause.*

41 *4. For good cause shown, the court may waive the*
42 *requirement of giving notice by citation.*

43 *5. A person entitled to notice by citation pursuant to this*
44 *section may waive the requirement of notice. A waiver of notice by*



1 *citation must specifically state that notice by citation is waived and*
2 *that consent is given to the relief requested in the petition.*

3 *6. On or before the date set for the hearing, the petitioner*
4 *shall file with the court proof of notice by citation to each person*
5 *entitled to notice pursuant to this section.*

6 *7. The citation must:*

7 *(a) Specify the name of the ward or proposed ward;*

8 *(b) Specify the name of the petitioner;*

9 *(c) Specify the date, time and place of the hearing;*

10 *(d) State the nature of the petition;*

11 *(e) Specify the case number assigned to the petition;*

12 *(f) Refer to the petition for further particulars and the relief*
13 *requested; and*

14 *(g) Notify all interested persons to appear at the time and place*
15 *mentioned in the notice to show cause why the court should not*
16 *enter an order granting the relief requested.*

17 **Sec. 5.** *A guardian or temporary guardian shall not change*
18 *the state of residence or domicile of a ward unless the guardian*
19 *petitions the court for and obtains from the court an order*
20 *authorizing the guardian to change the residence or domicile of*
21 *the ward.*

22 **Sec. 6.** *1. The guardian of an estate is a fiduciary.*

23 *2. A guardian shall invest the assets and manage the*
24 *investments of the estate as a prudent investor would, considering*
25 *the terms, purposes, requirements for distribution and other*
26 *circumstances of the needs of the ward. In satisfying this standard,*
27 *the guardian shall exercise reasonable care, skill and caution.*

28 *3. A decision of the guardian concerning investment and*
29 *management as applied to individual assets must be evaluated not*
30 *in isolation, but in the context of the investment portfolio as a*
31 *whole and as part of an overall strategy of investment having*
32 *objectives for risk and return reasonably suited for the future care*
33 *of the ward.*

34 *4. The circumstances that a guardian shall consider in*
35 *investing and managing investment property include, without*
36 *limitation:*

37 *(a) General economic conditions;*

38 *(b) The possible effect of inflation or deflation;*

39 *(c) The potential tax consequences of decisions or strategies;*

40 *(d) The role that each investment or course of action plays*
41 *within the estate as a whole;*

42 *(e) The expected return from income and the appreciation of*
43 *capital;*

44 *(f) The other resources of the ward;*



1 (g) *The need for liquidity, regularity of income and*
2 *preservation or appreciation of capital; and*

3 (h) *The special value or special relationship, if any, of an asset*
4 *to the estate.*

5 5. *A guardian shall make a reasonable effort to verify the*
6 *facts relevant to the investment and management of investment*
7 *property.*

8 6. *A guardian may invest in any kind of property or type of*
9 *investment consistent with the duties of a guardian of an estate.*

10 7. *A guardian who has special skills or expertise in the*
11 *investment and management of investment property, or is named*
12 *guardian in reliance upon his representation that he has special*
13 *skills or expertise in the investment and management of*
14 *investment property, has a duty to use those special skills or*
15 *expertise.*

16 **Sec. 7.** *A guardian shall diversify the investments of the*
17 *portfolio of the estate unless the guardian reasonably determines*
18 *that, because of special circumstances, the needs of the ward are*
19 *better served by not diversifying the investments.*

20 **Sec. 8.** *In investing and managing the investments of an*
21 *estate, a guardian may only incur costs that are appropriate and*
22 *reasonable in relation to the property, the needs of the ward and*
23 *the skills of the guardian.*

24 **Sec. 9.** *Compliance with the requirements of sections 6, 7*
25 *and 8 of this act relating to a prudent investor must be determined*
26 *in light of the facts and circumstances existing at the time of the*
27 *decision or action of the guardian, and not by hindsight.*

28 **Sec. 10. 1.** *A guardian may delegate to an agent any*
29 *functions of investment and management that a prudent fiduciary*
30 *of comparable skill may properly delegate under the*
31 *circumstances. The guardian shall exercise reasonable care, skill*
32 *and caution in:*

33 (a) *Selecting the agent;*

34 (b) *Establishing the scope and terms of delegation consistent*
35 *with the needs of the ward; and*

36 (c) *Periodically reviewing the actions of the agent to verify the*
37 *performance of the agent and his compliance with the terms of the*
38 *delegation.*

39 2. *In performing a delegated function, the agent owes a duty*
40 *to the ward to exercise reasonable care to comply with the terms of*
41 *the delegation.*

42 3. *A guardian who complies with the requirements of*
43 *subsection 1 is not liable to the ward for the decisions or actions of*
44 *the agent to whom the function is delegated.*



1 **4. By accepting the delegation of a function from a guardian**
2 **who is subject to the laws of this State, an agent submits to the**
3 **jurisdiction of the courts of this State.**

4 **Sec. 11.** NRS 159.013 is hereby amended to read as follows:

5 159.013 As used in this chapter, unless the context otherwise
6 requires, the words and terms defined in NRS 159.014 to 159.027,
7 inclusive, **and section 2 of this act** have the meanings ascribed to
8 them in those sections.

9 **Sec. 12.** NRS 159.015 is hereby amended to read as follows:

10 159.015 “Court” means any court or judge having jurisdiction
11 of the persons and estates of minors, ~~incompetent~~ **incapacitated**
12 persons, or persons of limited capacity.

13 **Sec. 13.** NRS 159.019 is hereby amended to read as follows:

14 159.019 ~~“Incompetent”~~ **“Incapacitated”** means an adult
15 person who, by reason of mental illness, mental deficiency, disease,
16 weakness of mind or any other cause, is unable, without assistance,
17 properly to manage and take care of himself or his property, or both.
18 ~~[The term includes a mentally incapacitated person.]~~

19 **Sec. 14.** NRS 159.034 is hereby amended to read as follows:

20 159.034 1. Except as otherwise provided ~~[in this section,]~~ by
21 specific statute or as ordered by the court, a petitioner in a
22 guardianship proceeding shall give notice of the ~~[time and place of~~
23 ~~the]~~ hearing on the petition to:

24 (a) Each **known** interested person or the attorney of ~~[the]~~ **such**
25 **an** interested person;

26 (b) Any ~~[person entitled to notice pursuant to this chapter or his~~
27 ~~attorney; and~~

28 ~~—(e)] spouse of the ward or proposed ward and all other known~~
29 ~~relatives of the ward or proposed ward who are:~~

30 (1) **Fourteen years of age or older; and**

31 (2) **Within the second degree of consanguinity;**

32 (c) **The parent or legal guardian of all known relatives of the**
33 **ward or proposed ward who are:**

34 (1) **Less than 14 years of age; and**

35 (2) **Within the second degree of consanguinity;**

36 (d) **The guardian of the person, of the estate, or of the person**
37 **and the estate, if any, if the guardian is not the petitioner;**

38 (e) **Any person or health care provider, including, without**
39 **limitation, the administrator of any health care facility, who has**
40 **care, custody or control of the ward or proposed ward;**

41 (f) **The office of the Department of Veterans Affairs in this**
42 **State, if the ward or proposed ward receives any payment or**
43 **benefit through the Department of Veterans Affairs;**

44 (g) Any other person who has filed a request for notice in the
45 guardianship proceedings ~~[]~~; **and**



1 *(h) Any other person who has filed a request for special notice.*

2 2. The petitioner shall give notice not later than 10 days before
3 the date set for the hearing:

4 (a) By mailing a copy of the notice by ~~[certified, registered or~~
5 ~~ordinary first class]~~ *regular* mail , *postage prepaid*, to the residence,
6 office or post office address of each person required to be notified
7 pursuant to this section;

8 (b) By personal service; or

9 (c) In any other manner ordered by the court, upon a showing of
10 good cause.

11 3. If the address or identity of a person required to be notified
12 of a hearing on a petition pursuant to this section is not known and
13 cannot be ascertained with reasonable diligence, notice must be
14 given:

15 (a) By publishing a copy of the notice in a newspaper of general
16 circulation in the county where the hearing is to be held at least once
17 every 7 days for 21 consecutive days, the last publication of which
18 must occur not later than 10 days before the date set for the hearing;
19 or

20 (b) In any other manner ordered by the court, upon a showing of
21 good cause.

22 4. For good cause shown, the court may waive the requirement
23 of giving notice.

24 5. A person entitled to notice pursuant to this section may
25 waive such notice. Such a waiver must be in writing and filed with
26 the court.

27 6. On or before the date set for the hearing, the petitioner shall
28 file with the court proof of giving notice to each person entitled to
29 notice pursuant to this section.

30 *7. The notice must:*

31 *(a) Specify the name of the ward or proposed ward;*

32 *(b) Specify the name of the petitioner;*

33 *(c) Specify the date, time and place of the hearing;*

34 *(d) State the nature of the petition;*

35 *(e) Specify the case number assigned to the petition;*

36 *(f) Refer to the petition for further particulars and the relief*
37 *requested; and*

38 *(g) Notify all interested persons to appear at the time and place*
39 *mentioned in the notice to show cause why the court should not*
40 *enter an order granting the relief requested.*

41 **Sec. 15.** NRS 159.044 is hereby amended to read as follows:

42 159.044 1. Except as otherwise provided in NRS 127.045, a
43 proposed ward, a governmental agency, a nonprofit corporation or
44 any interested person may petition the court for the appointment of a
45 guardian.



1 2. To the extent the petitioner knows or reasonably may
2 ascertain or obtain, the petition must include, without limitation:

3 (a) The name and address of the petitioner.

4 (b) The name, date of birth and current address of the proposed
5 ward.

6 (c) A copy of one of the following forms of identification of the
7 proposed ward which must be placed in the records relating to the
8 guardianship proceeding and, except as otherwise required to carry
9 out a specific statute, maintained in a confidential manner:

10 (1) A social security number;

11 (2) A taxpayer identification number;

12 (3) A valid driver's license number;

13 (4) A valid identification card number; or

14 (5) A valid passport number.

15 ➔ If the information required pursuant to this paragraph is not
16 included with the petition, the information must be provided to the
17 court not later than 60 days after the appointment of a guardian or as
18 otherwise ordered by the court.

19 (d) If the proposed ward is a minor, the date on which he will
20 attain the age of majority and:

21 (1) Whether there is a current order concerning custody and,
22 if so, the state in which the order was issued; and

23 (2) Whether the petitioner anticipates that the proposed ward
24 will need guardianship after attaining the age of majority.

25 (e) Whether the proposed ward is a resident or nonresident of
26 this State.

27 (f) The names and addresses of the spouse of the proposed ward
28 and the relatives of the proposed ward who are within the second
29 degree of consanguinity.

30 (g) The name, date of birth and current address of the proposed
31 guardian.

32 (h) A copy of one of the following forms of identification of the
33 proposed guardian which must be placed in the records relating to
34 the guardianship proceeding and, except as otherwise required to
35 carry out a specific statute, maintained in a confidential manner:

36 (1) A social security number;

37 (2) A taxpayer identification number;

38 (3) A valid driver's license number;

39 (4) A valid identification card number; or

40 (5) A valid passport number.

41 (i) Whether the proposed guardian has ever been convicted of a
42 felony and, if so, information concerning the crime for which he was
43 convicted and whether the proposed guardian was placed on
44 probation or parole.



1 (j) A summary of the reasons why a guardian is needed and
2 recent documentation demonstrating the need for a guardianship.
3 The documentation may include, without limitation:

4 (1) A certificate signed by a physician who is licensed to
5 practice medicine in this State stating the need for a guardian;

6 (2) A letter signed by any governmental agency in this State
7 which conducts investigations stating the need for a guardian; or

8 (3) A certificate signed by any other person whom the court
9 finds qualified to execute a certificate stating the need for a
10 guardian.

11 (k) Whether the appointment of a general or a special guardian
12 is sought.

13 (l) A general description and the probable value of the property
14 of the proposed ward and any income to which the proposed ward is
15 or will be entitled, if the petition is for the appointment of a
16 guardian of the estate or a special guardian. If any money is paid or
17 is payable to the proposed ward by the United States through the
18 Department of Veterans Affairs, the petition must so state.

19 (m) The name and address of any person or care provider having
20 the care, custody or control of the proposed ward.

21 (n) The relationship, if any, of the petitioner to the proposed
22 ward and the interest, if any, of the petitioner in the appointment.

23 (o) Requests for any of the specific powers set forth in NRS
24 159.117 to 159.175, inclusive, *and sections 6 to 10, inclusive, of*
25 *this act*, necessary to enable the guardian to carry out the duties of
26 the guardianship.

27 (p) Whether the guardianship is sought as the result of an
28 investigation of a report of abuse or neglect that is conducted
29 pursuant to chapter 432B of NRS by an agency which provides child
30 welfare services. As used in this paragraph, "agency which provides
31 child welfare services" has the meaning ascribed to it in
32 NRS 432B.030.

33 (q) Whether the proposed ward is a party to any pending
34 criminal or civil litigation.

35 (r) Whether the guardianship is sought for the purpose of
36 initiating litigation.

37 (s) Whether the proposed ward has executed a durable power of
38 attorney for health care, a durable power of attorney for financial
39 matters or a written nomination of guardian and, if so, who the
40 named agents are for each document.

41 **Sec. 16.** NRS 159.047 is hereby amended to read as follows:

42 159.047 1. Except as otherwise provided in NRS ~~159.0475~~
43 ~~and~~ 159.049 to 159.0525, inclusive, upon the filing of a petition
44 under NRS 159.044, the clerk shall issue a citation setting forth a
45 time and place for the hearing and directing the persons ~~for care~~



1 ~~provider~~ referred to in ~~[subsection 2]~~ *the citation* to appear and
2 show cause why a guardian should not be appointed for the
3 proposed ward.

4 2. ~~[A]~~ *In addition to the requirements of section 4 of this act,*
5 *a citation issued under subsection 1 must be served [:*

6 ~~—(a) Upon~~ *upon* a proposed ward who is 14 years of age or older
7 ~~];~~

8 ~~—(b) Upon the spouse of the proposed ward and all other known~~
9 ~~relatives of the proposed ward who are:~~

10 ~~—(1) Fourteen years of age or older; and~~

11 ~~—(2) Within the second degree of consanguinity;~~

12 ~~—(c) Upon the parent or legal guardian of all known relatives of~~
13 ~~the proposed ward who are:~~

14 ~~—(1) Less than 14 years of age; and~~

15 ~~—(2) Within the second degree of consanguinity;~~

16 ~~—(d) If there is no spouse of the proposed ward and there are no~~
17 ~~known relatives of the proposed ward who are within the second~~
18 ~~degree of consanguinity to the proposed ward, upon the office of the~~
19 ~~public guardian of the county where the proposed ward resides; and~~

20 ~~—(e) Upon any person or officer of a care provider having the~~
21 ~~care, custody or control of the proposed ward.] and must state that~~
22 ~~the:~~

23 *(a) Proposed ward may be adjudged to be incapacitated or of*
24 *limited capacity and a guardian may be appointed for the proposed*
25 *ward;*

26 *(b) Rights of the proposed ward may be affected as specified in*
27 *the petition;*

28 *(c) Proposed ward has the right to appear at the hearing and to*
29 *oppose the petition; and*

30 *(d) Proposed ward has the right to be represented by an*
31 *attorney, who may be appointed for the proposed ward by the court*
32 *if the proposed ward is unable to retain one.*

33 **Sec. 17.** NRS 159.052 is hereby amended to read as follows:

34 159.052 1. A petitioner may request the court to appoint a
35 temporary guardian for a ward who is a minor and who is unable to
36 respond to a substantial and immediate risk of physical harm or to a
37 need for immediate medical attention. To support the request, the
38 petitioner must set forth in a petition and present to the court under
39 oath:

40 (a) Facts which show that the proposed ward faces a substantial
41 and immediate risk of physical harm or needs immediate medical
42 attention; and

43 (b) Facts which show that:



1 (1) The petitioner has tried in good faith to notify the persons
2 entitled to notice pursuant to NRS 159.047 *and section 4 of this act*
3 by telephone or in writing before the filing of the petition;

4 (2) The proposed ward would be exposed to an immediate
5 risk of physical harm if the petitioner were to provide notice to the
6 persons entitled to notice pursuant to NRS 159.047 *and section 4 of*
7 *this act* before the court determines whether to appoint a temporary
8 guardian; or

9 (3) Giving notice to the persons entitled to notice pursuant to
10 NRS 159.047 *and section 4 of this act* is not feasible under the
11 circumstances.

12 2. The court may appoint a temporary guardian to serve for 10
13 days if the court:

14 (a) Finds reasonable cause to believe that the proposed ward
15 may suffer a substantial and immediate risk of physical harm or
16 needs immediate medical attention; and

17 (b) Is satisfied that the petitioner has tried in good faith to notify
18 the persons entitled to notice pursuant to NRS 159.047 *and section*
19 *4 of this act* or that giving notice to those persons is not feasible
20 under the circumstances, or determines that such notice is not
21 required pursuant to subparagraph (2) of paragraph (b) of
22 subsection 1.

23 3. Except as otherwise provided in subsection 4, after the
24 appointment of a temporary guardian, the petitioner shall attempt in
25 good faith to notify the persons entitled to notice pursuant to NRS
26 159.047 *and section 4 of this act*, including, without limitation,
27 notice of any hearing to extend the temporary guardianship. If the
28 petitioner fails to make such an effort, the court may terminate the
29 temporary guardianship.

30 4. If, before the appointment of a temporary guardian, the court
31 determined that advance notice was not required pursuant to
32 subparagraph (2) of paragraph (b) of subsection 1, the petitioner
33 shall notify the persons entitled to notice pursuant to NRS 159.047
34 *and section 4 of this act* without undue delay, but not later than 48
35 hours after the appointment of the temporary guardian or not later
36 than 48 hours after the petitioner discovers the existence, identity
37 and location of the persons entitled to notice pursuant to that
38 section. *Notice must be given by a notice of entry of order mailed*
39 *by regular first-class mail, postage prepaid, or delivered orally and*
40 *evidenced by an affidavit filed by the temporary guardian.* If the
41 petitioner fails to provide such notice, the court may terminate the
42 temporary guardianship.

43 5. Not later than 10 days after the date of the appointment of a
44 temporary guardian pursuant to subsection 2, the court shall hold a
45 hearing to determine the need to extend the temporary guardianship.



1 Except as otherwise provided in subsections 7 and 8, if the court
2 finds by clear and convincing evidence that the proposed ward is
3 unable to respond to a substantial and immediate risk of physical
4 harm or to a need for immediate medical attention, the court may
5 extend the temporary guardianship until a general or special
6 guardian is appointed, but not for more than 30 days.

7 6. If the court appoints a temporary guardian or extends the
8 temporary guardianship pursuant to this section, the court shall limit
9 the powers of the temporary guardian to those necessary to respond
10 to the substantial and immediate risk of physical harm or to a need
11 for immediate medical attention.

12 7. The court may not extend a temporary guardianship pursuant
13 to subsection 5 beyond the initial period of 10 days unless the
14 petitioner demonstrates that:

15 (a) The provisions of ~~NRS 159.0475~~ *section 4 of this act* have
16 been satisfied; or

17 (b) Notice by publication pursuant to N.R.C.P. 4(e) is currently
18 being undertaken.

19 8. In addition to any other extension granted pursuant to this
20 section, the court may extend the temporary guardianship, for good
21 cause shown, for not more than two 30-day periods.

22 **Sec. 18.** NRS 159.0523 is hereby amended to read as follows:

23 159.0523 1. A petitioner may request the court to appoint a
24 temporary guardian for a ward who is an adult and who is unable to
25 respond to a substantial and immediate risk of physical harm or to a
26 need for immediate medical attention. To support the request, the
27 petitioner must set forth in a petition and present to the court under
28 oath:

29 (a) Facts which show that the proposed ward:

30 (1) Faces a substantial and immediate risk of physical harm
31 or needs immediate medical attention; and

32 (2) Lacks capacity to respond to the risk of harm or to obtain
33 the necessary medical attention; and

34 (b) Facts which show that:

35 (1) The petitioner has tried in good faith to notify the persons
36 entitled to notice pursuant to NRS 159.047 *and section 4 of this act*
37 by telephone or in writing before the filing of the petition;

38 (2) The proposed ward would be exposed to an immediate
39 risk of physical harm if the petitioner were to provide notice to the
40 persons entitled to notice pursuant to NRS 159.047 *and section 4 of*
41 *this act* before the court determines whether to appoint a temporary
42 guardian; or

43 (3) Giving notice to the persons entitled to notice pursuant to
44 NRS 159.047 *and section 4 of this act* is not feasible under the
45 circumstances.



- 1 2. The court may appoint a temporary guardian to serve for 10
2 days if the court:
- 3 (a) Finds reasonable cause to believe that the proposed ward is
4 unable to respond to a substantial and immediate risk of physical
5 harm or to a need for immediate medical attention;
- 6 (b) Is satisfied that the petitioner has tried in good faith to notify
7 the persons entitled to notice pursuant to NRS 159.047 *and section*
8 *4 of this act* or that giving notice to those persons is not feasible
9 under the circumstances, or determines that such notice is not
10 required pursuant to subparagraph (2) of paragraph (b) of subsection
11 1; and
- 12 (c) Finds that the petition required pursuant to subsection 1 is
13 accompanied by:
- 14 (1) A certificate signed by a physician who is licensed to
15 practice in this State which states that the proposed ward is unable
16 to respond to a substantial and immediate risk of physical harm or to
17 a need for immediate medical attention; or
- 18 (2) The affidavit of the petitioner which explains the reasons
19 why the certificate described in subparagraph (1) is not immediately
20 obtainable.
- 21 3. Except as otherwise provided in subsection 4, after the
22 appointment of a temporary guardian, the petitioner shall attempt in
23 good faith to notify the persons entitled to notice pursuant to NRS
24 159.047 ~~(1)~~ *and section 4 of this act*, including, without limitation,
25 notice of any hearing to extend the temporary guardianship. If the
26 petitioner fails to make such an effort, the court may terminate the
27 temporary guardianship.
- 28 4. If, before the appointment of a temporary guardian, the court
29 determined that advance notice was not required pursuant to
30 subparagraph (2) of paragraph (b) of subsection 1, the petitioner
31 shall notify the persons entitled to notice pursuant to NRS 159.047
32 *and section 4 of this act* without undue delay, but not later than 48
33 hours after the appointment of the temporary guardian or not later
34 than 48 hours after the petitioner discovers the existence, identity
35 and location of the persons entitled to notice pursuant to that
36 section. *Notice must be given by a notice of entry of order mailed*
37 *by regular first-class mail, postage prepaid, or delivered orally and*
38 *evidenced by an affidavit filed by the temporary guardian.* If the
39 petitioner fails to provide such notice, the court may terminate the
40 temporary guardianship.
- 41 5. Not later than 10 days after the date of the appointment of a
42 temporary guardian pursuant to subsection 2, the court shall hold a
43 hearing to determine the need to extend the temporary guardianship.
44 Except as otherwise provided in subsections 7 and 8, the court may



1 extend the temporary guardianship until a general or special
2 guardian is appointed, but not for more than 30 days, if:

3 (a) The certificate required by subsection 2 has been filed and
4 the court finds by clear and convincing evidence that the proposed
5 ward is unable to respond to a substantial and immediate risk of
6 physical harm or to a need for immediate medical attention; or

7 (b) The certificate required by subsection 2 has not been filed
8 and the court finds by clear and convincing evidence that:

9 (1) The proposed ward is unable to respond to a substantial
10 and immediate risk of physical harm or to a need for immediate
11 medical attention;

12 (2) Circumstances have prevented the petitioner or temporary
13 guardian from obtaining the certificate required pursuant to
14 subsection 2; and

15 (3) The extension of the temporary guardianship is necessary
16 and in the best interests of the proposed ward.

17 6. If the court appoints a temporary guardian or extends the
18 temporary guardianship pursuant to this section, the court shall limit
19 the powers of the temporary guardian to those necessary to respond
20 to the substantial and immediate risk of physical harm or to a need
21 for immediate medical attention.

22 7. The court may not extend a temporary guardianship pursuant
23 to subsection 5 beyond the initial period of 10 days unless the
24 petitioner demonstrates that:

25 (a) The provisions of ~~[NRS 159.0475]~~ *section 4 of this act* have
26 been satisfied; or

27 (b) Notice by publication pursuant to N.R.C.P. 4(e) is currently
28 being undertaken.

29 8. In addition to any other extension granted pursuant to this
30 section, the court may extend the temporary guardianship, for good
31 cause shown, for not more than two 30-day periods.

32 **Sec. 19.** NRS 159.0525 is hereby amended to read as follows:

33 159.0525 1. A petitioner may request the court to appoint a
34 temporary guardian for a ward who is unable to respond to a
35 substantial and immediate risk of financial loss. To support the
36 request, the petitioner must set forth in a petition and present to the
37 court under oath:

38 (a) Facts which show that the proposed ward:

39 (1) Faces a substantial and immediate risk of financial loss;
40 and

41 (2) Lacks capacity to respond to the risk of loss; and

42 (b) Facts which show that:

43 (1) The petitioner has tried in good faith to notify the persons
44 entitled to notice pursuant to NRS 159.047 *and section 4 of this act*
45 by telephone or in writing before the filing of the petition;



1 (2) The proposed ward would be exposed to an immediate
2 risk of financial loss if the petitioner were to provide notice to the
3 persons entitled to notice pursuant to NRS 159.047 *and section 4 of*
4 *this act* before the court determines whether to appoint a temporary
5 guardian; or

6 (3) Giving notice to the persons entitled to notice pursuant to
7 NRS 159.047 *and section 4 of this act* is not feasible under the
8 circumstances.

9 2. The court may appoint a temporary guardian to serve for 10
10 days if the court:

11 (a) Finds reasonable cause to believe that the proposed ward is
12 unable to respond to a substantial and immediate risk of financial
13 loss;

14 (b) Is satisfied that the petitioner has tried in good faith to notify
15 the persons entitled to notice pursuant to NRS 159.047 *and section*
16 *4 of this act* or that giving notice to those persons is not feasible
17 under the circumstances, or determines that such notice is not
18 required pursuant to subparagraph (2) of paragraph (b) of subsection
19 1; and

20 (c) For a proposed ward who is an adult, finds that the petition
21 required pursuant to subsection 1 is accompanied by:

22 (1) A certificate signed by a physician who is licensed to
23 practice in this State which states that the proposed ward is unable
24 to respond to a substantial and immediate risk of financial loss; or

25 (2) The affidavit of the petitioner which explains the reasons
26 why the certificate described in subparagraph (1) is not immediately
27 obtainable.

28 3. Except as otherwise provided in subsection 4, after the
29 appointment of a temporary guardian, the petitioner shall attempt in
30 good faith to notify the persons entitled to notice pursuant to NRS
31 159.047 *and section 4 of this act*, including, without limitation,
32 notice of any hearing to extend the temporary guardianship. If the
33 petitioner fails to make such an effort, the court may terminate the
34 temporary guardianship.

35 4. If, before the appointment of a temporary guardian, the court
36 determined that advance notice was not required pursuant to
37 subparagraph (2) of paragraph (b) of subsection 1, the petitioner
38 shall notify the persons entitled to notice pursuant to NRS 159.047
39 *and section 4 of this act* without undue delay, but not later than 48
40 hours after the appointment of the temporary guardian or not later
41 than 48 hours after the petitioner discovers the existence, identity
42 and location of the persons entitled to notice pursuant to that
43 section. *Notice must be given by a notice of entry of order mailed*
44 *by regular first-class mail, postage prepaid, or delivered orally and*
45 *evidenced by an affidavit filed by the temporary guardian.* If the



1 petitioner fails to provide such notice, the court may terminate the
2 temporary guardianship.

3 5. Not later than 10 days after the date of the appointment of a
4 temporary guardian pursuant to subsection 2, the court shall hold a
5 hearing to determine the need to extend the temporary guardianship.
6 Except as otherwise provided in subsections 7 and 8, if the proposed
7 ward is a minor and the court finds by clear and convincing
8 evidence that the proposed ward is unable to respond to a substantial
9 and immediate risk of financial loss, the court may extend the
10 temporary guardianship until a general or special guardian is
11 appointed, but not for more than 30 days. Except as otherwise
12 provided in subsection 7, if the proposed ward is an adult, the court
13 may extend the temporary guardianship until a general or special
14 guardian is appointed, but not for more than 30 days, if:

15 (a) The certificate required by subsection 2 has been filed and
16 the court finds by clear and convincing evidence that the proposed
17 ward is unable to respond to a substantial and immediate risk of
18 financial loss; or

19 (b) The certificate required by subsection 2 has not been filed
20 and the court finds by clear and convincing evidence that:

21 (1) The proposed ward is unable to respond to a substantial
22 and immediate risk of financial loss;

23 (2) Circumstances have prevented the petitioner or temporary
24 guardian from obtaining the certificate required pursuant to
25 subsection 2; and

26 (3) The extension of the temporary guardianship is necessary
27 and in the best interests of the proposed ward.

28 6. If the court appoints a temporary guardian or extends the
29 temporary guardianship pursuant to this section, the court shall limit
30 the powers of the temporary guardian to those necessary to respond
31 to the substantial and immediate risk of financial loss.

32 7. The court may not extend a temporary guardianship pursuant
33 to subsection 5 beyond the initial period of 10 days unless the
34 petitioner demonstrates that:

35 (a) The provisions of ~~NRS 159.0475~~ *section 4 of this act* have
36 been satisfied; or

37 (b) Notice by publication pursuant to N.R.C.P. 4(e) is currently
38 being undertaken.

39 8. In addition to any other extension granted pursuant to this
40 section, the court may extend the temporary guardianship, for good
41 cause shown, for not more than two 30-day periods.

42 **Sec. 20.** NRS 159.055 is hereby amended to read as follows:

43 159.055 1. The petitioner has the burden of proving by clear
44 and convincing evidence that the appointment of a guardian of the
45 person, of the estate, or of the person and estate is necessary.



1 2. If it appears to the court that the allegations of the petition
2 are sufficient and that a guardian should be appointed for the
3 proposed ward, the court shall enter an order appointing a guardian.
4 The order must:

5 (a) Specify whether the guardian appointed is guardian of the
6 person, of the estate, of the person and estate or a special guardian;

7 (b) Specify whether the ward is a resident or nonresident of this
8 State;

9 (c) Specify the amount of the bond to be executed and filed by
10 the guardian; and

11 (d) Designate the names and addresses, so far as may be
12 determined, of ~~the~~

13 ~~(1) The~~ *the* relatives of the proposed ward *and any other*
14 *interested person* upon whom notice must be served pursuant to
15 ~~[NRS 159.047; and~~

16 ~~(2) Any other interested person.] section 4 of this act.~~

17 3. A notice of entry of the court order must be sent to ~~the~~

18 ~~(a) The~~ *the* relatives of the proposed ward *and any other*
19 *interested person* upon whom notice must be served pursuant to
20 ~~[NRS 159.047; and~~

21 ~~(b) Any other interested person.] section 4 of this act.~~

22 **Sec. 21.** NRS 159.059 is hereby amended to read as follows:

23 159.059 Any qualified person or entity that the court finds
24 suitable may serve as a guardian. A person is not qualified to serve
25 as a guardian who:

26 1. Is ~~[an incompetent.]~~ *incapacitated.*

27 2. Is a minor.

28 3. Has been convicted of a felony, ~~[relating to the position of a~~
29 ~~guardian,]~~ unless the court finds that it is in the best interests of the
30 ward to appoint the convicted felon as the guardian of the ward.

31 4. Has been suspended for misconduct or disbarred from:

32 (a) The practice of law;

33 (b) The practice of accounting; or

34 (c) Any other profession which:

35 (1) Involves or may involve the management or sale of
36 money, investments, securities or real property; and

37 (2) Requires licensure in this State or any other state,

38 ~~↪~~ during the period of the suspension or disbarment.

39 5. Is a nonresident of this State and:

40 (a) Is not a foreign guardian of a nonresident proposed ward
41 pursuant to subsection 2 of NRS 159.049;

42 (b) Has not associated as a coguardian, a resident of this State or
43 a banking corporation whose principal place of business is in this
44 State; and

45 (c) Is not a petitioner in the guardianship proceeding.



1 6. Has been judicially determined, by clear and convincing
2 evidence, to have committed abuse, neglect or exploitation of a
3 child, spouse, parent or other adult, unless the court finds that it is in
4 the best interests of the ward to appoint the person as the guardian of
5 the ward.

6 **Sec. 22.** NRS 159.061 is hereby amended to read as follows:

7 159.061 1. The parents of a minor, or either parent, if
8 qualified and suitable, are preferred over all others for appointment
9 as guardian for the minor. The appointment of a parent as a guardian
10 of the person must not conflict with a valid order for custody of the
11 minor. In determining whether the parents of a minor, or either
12 parent, is qualified and suitable, the court shall consider, without
13 limitation:

14 (a) Which parent has physical custody of the minor;

15 (b) The ability of the parents or parent to provide for the basic
16 needs of the child, including, without limitation, food, shelter,
17 clothing and medical care;

18 (c) Whether the parents or parent has engaged in the habitual use
19 of alcohol or any controlled substance during the previous 6 months,
20 except the use of marijuana in accordance with the provisions of
21 chapter 453A of NRS; and

22 (d) Whether the parents or parent has been convicted of a crime
23 of moral turpitude, a crime involving domestic violence or a crime
24 involving the exploitation of a child.

25 2. Subject to the preference set forth in subsection 1, the court
26 shall appoint as guardian for an ~~incompetent~~ *incapacitated*
27 *person*, a person of limited capacity or minor the qualified person
28 who is most suitable and is willing to serve.

29 3. In determining who is most suitable, the court shall give
30 consideration, among other factors, to:

31 (a) Any request for the appointment as guardian for an
32 ~~incompetent~~ *incapacitated person* contained in a written
33 instrument executed by the ~~incompetent~~ *incapacitated person*
34 while competent.

35 (b) Any nomination of a guardian for an ~~incompetent~~
36 *incapacitated person*, minor or person of limited capacity contained
37 in a will or other written instrument executed by a parent or spouse
38 of the proposed ward.

39 (c) Any request for the appointment as guardian for a minor 14
40 years of age or older made by the minor.

41 (d) The relationship by blood, adoption or marriage of the
42 proposed guardian to the proposed ward. In considering preferences
43 of appointment, the court may consider relatives of the half blood
44 equally with those of the whole blood. The court may consider
45 relatives in the following order of preference:



- 1 (1) Spouse.
- 2 (2) Adult child.
- 3 (3) Parent.
- 4 (4) Adult sibling.
- 5 (5) Grandparent or adult grandchild.
- 6 (6) Uncle, aunt, adult niece or adult nephew.
- 7 (e) Any recommendation made by a master of the court or
- 8 special master pursuant to NRS 159.0615.
- 9 (f) Any request for the appointment of any other interested
- 10 person that the court deems appropriate.
- 11 4. If the court finds that there is no suitable person to appoint
- 12 as guardian pursuant to subsection 3, the court may appoint as
- 13 guardian:
- 14 (a) The public guardian of the county where the ward resides, if:
- 15 (1) There is a public guardian in the county where the ward
- 16 resides; and
- 17 (2) The proposed ward qualifies for a public guardian
- 18 pursuant to chapter 253 of NRS; or
- 19 (b) A private fiduciary who may obtain a bond in this State and
- 20 who is a resident of this State, if the court finds that the interests of
- 21 the ward will be served appropriately by the appointment of a
- 22 private fiduciary.
- 23 **Sec. 23.** NRS 159.062 is hereby amended to read as follows:
- 24 159.062 A parent or spouse of an ~~incompetent,~~ *incapacitated*
- 25 *person*, minor or person of limited capacity may by will nominate a
- 26 guardian. The person nominated must file a petition and obtain an
- 27 appointment from the court before exercising the powers of a
- 28 guardian.
- 29 **Sec. 24.** NRS 159.0801 is hereby amended to read as follows:
- 30 159.0801 1. Except when responding to an emergency, a
- 31 special guardian of a person of limited capacity shall apply to the
- 32 court for instruction or approval before commencing any act relating
- 33 to the person of limited capacity.
- 34 2. The court may grant a special guardian of a person of limited
- 35 capacity the power to manage and dispose of the estate of the ward
- 36 pursuant to NRS 159.117 to 159.175, inclusive, *and sections 6 to*
- 37 *10, inclusive, of this act*, and perform any other act relating to the
- 38 ward upon specific instructions or approval of the court.
- 39 **Sec. 25.** NRS 159.0805 is hereby amended to read as follows:
- 40 159.0805 1. Except as otherwise provided in subsection 2, a
- 41 guardian shall not consent to:
- 42 (a) The experimental, medical, biomedical or behavioral
- 43 treatment of a ward;
- 44 (b) The sterilization of a ward;



1 (c) The participation of a ward in any biomedical or behavioral
2 experiment; or

3 (d) The commitment of a ward to a mental health facility.

4 2. The guardian may consent to and commence any treatment,
5 experiment or commitment described in subsection 1 if the guardian
6 applies to and obtains from the court authority to consent to and
7 commence the treatment, experiment or commitment.

8 3. The court may authorize the guardian to consent to and
9 commence any treatment, experiment or commitment described in
10 subsection 1 only if the treatment, experiment or commitment:

11 (a) Is of direct benefit to, and intended to preserve the life of or
12 prevent serious impairment to the mental or physical health of, the
13 ward; or

14 (b) Is intended to assist the ward to develop or regain the ward's
15 abilities.

16 **4. *Notwithstanding the provisions of subsections 1 and 2, a***
17 ***guardian may file a petition for a hearing to determine the mental***
18 ***health of a ward.***

19 **Sec. 26.** NRS 159.097 is hereby amended to read as follows:

20 159.097 Any contract, except to the extent of the reasonable
21 value of necessities, and any transaction with respect to the property
22 of a ward made by the ward are voidable by the guardian of the
23 estate if ~~[such] the~~ contract or transaction was made at any time by
24 the ward while an ~~[incompetent]~~ ***incapacitated person*** or a minor.

25 **Sec. 27.** NRS 159.101 is hereby amended to read as follows:

26 159.101 1. A guardian of the estate may exercise the ward's
27 rights which accrue pursuant to the ward's ownership of common or
28 preferred stock, including, but not limited to, the right to:

29 (a) Vote for officers or directors;

30 (b) Approve or disapprove mergers or consolidations;

31 (c) Exercise stock options;

32 (d) Appoint proxies;

33 (e) Consent to dissolutions; and

34 (f) Exercise all rights which the ward might exercise, if legally
35 qualified, regarding the management of the corporation ~~[]~~ ***or other***
36 ***business entity.***

37 ➤ If the stock owned by the ward in a corporation ***or other business***
38 ***entity*** exceeds 20 percent of the total issued and outstanding stock
39 having voting rights, the guardian must have prior approval of the
40 court to consent to any merger, consolidation or dissolution of the
41 corporation ***or other business entity*** or the sale or encumbrance of
42 its assets where the consent of the stockholders is required by law.

43 2. Whenever the estate of a ward includes corporate stock, the
44 guardian may hold it in the name of a nominee without mention of



1 the guardianship in the stock certificate, if any, or the stock
2 registration books, if:

3 (a) The guardian's records and all reports or accounts rendered
4 by the guardian clearly show the ownership of the stock by the
5 ward's estate and the facts regarding its holding; and

6 (b) The nominee deposits with the guardian a signed statement
7 showing ownership of the stock by the ward's estate, endorses any
8 stock certificate in blank and does not have possession of the stock
9 certificate or access to the certificate except under the immediate
10 supervision of the guardian.

11 3. The guardian is personally liable for any loss to the ward's
12 estate resulting from any act of the nominee in connection with
13 stock held pursuant to subsection 2.

14 **Sec. 28.** NRS 159.105 is hereby amended to read as follows:

15 159.105 1. Other than claims for attorney's fees that are
16 subject to the provisions of subsection 3, a guardian of the estate
17 may pay from the guardianship estate the following claims without
18 complying with the provisions of this section and NRS 159.107 and
19 159.109:

20 (a) The guardian's claims against the ward or the estate; and

21 (b) Any claims accruing after the appointment of the guardian
22 which arise from contracts entered into by the guardian on behalf of
23 the ward.

24 2. The guardian shall report all claims and the payment of
25 claims made pursuant to subsection 1 in the account that the
26 guardian makes and files in the guardianship proceeding following
27 each payment. *The debts and charges of and the claims against the*
28 *guardianship estate must be paid in the following order:*

29 (a) *Reasonable health care and living expenses of the ward.*

30 (b) *Prepaid funeral expenses to the extent authorized by*
31 *Medicaid.*

32 (c) *Expenses of administration, including, without limitation,*
33 *guardian fees, attorney's fees and accounting costs incurred by*
34 *the guardian.*

35 (d) *Debts having preference by laws of the United States.*

36 (e) *Money owed to the Department of Human Resources as a*
37 *result of the payment of benefits for Medicaid.*

38 (f) *Wages of not more than \$600 due to each employee of the*
39 *ward for work done or personal services rendered within 3 months*
40 *before the establishment of the guardianship of the ward. If there*
41 *is not sufficient money with which to pay all such labor claims in*
42 *full, the money available must be distributed among the claimants*
43 *in proportion to the amounts of their respective claims.*

44 (g) *Judgments rendered against the ward or estate and*
45 *mortgages in order of their date. The preference given to a*



1 *mortgage extends only to the proceeds of the property mortgaged.*
2 *If the proceeds of that property are insufficient to pay the*
3 *mortgage, the part remaining unsatisfied must be classed with*
4 *other demands against the ward or estate.*

5 *(h) All other demands against the ward or estate.*

6 3. Claims for attorney's fees which are associated with the
7 commencement and administration of the guardianship of the estate:

8 (a) May be made at the time of the appointment of the guardian
9 of the estate or any time thereafter; and

10 (b) May not be paid from the guardianship estate unless the
11 payment is made in compliance with the provisions of this section
12 and NRS 159.107 and 159.109.

13 **Sec. 29.** NRS 159.113 is hereby amended to read as follows:

14 159.113 1. Before taking any of the following actions, the
15 guardian shall petition the court for an order authorizing the
16 guardian to:

17 (a) Invest the property of the ward.

18 (b) Continue the business of the ward.

19 (c) Borrow money for the ward.

20 (d) Except as otherwise provided in NRS 159.079, enter into
21 contracts for the ward or complete the performance of contracts of
22 the ward.

23 (e) Make gifts from the ward's estate or make expenditures for
24 the ward's relatives.

25 (f) Sell, lease, place into any type of trust or surrender any
26 property of the ward.

27 (g) Exchange or partition the ward's property.

28 (h) Obtain advice, instructions and approval of any other
29 proposed act of the guardian relating to the ward's property.

30 (i) Release the power of the ward as trustee, personal
31 representative, custodian for a minor or guardian.

32 (j) Exercise or release the power of the ward as a donee of a
33 power of appointment.

34 (k) *File for bankruptcy protection on behalf of the ward.*

35 (l) *Bring an action in any court on behalf of the ward.*

36 (m) *Retain legal counsel on behalf of the ward.*

37 (n) *Settle any claim brought against or in the name of the*
38 *ward.*

39 (o) Change the state of residence or domicile of the ward.

40 ~~(+)~~ (p) Exercise the right of the ward to take under or against a
41 will.

42 ~~(+)~~ (q) Transfer to a trust created by the ward any property
43 unintentionally omitted from the trust.

44 ~~(+)~~ (r) Submit a revocable trust to the jurisdiction of the court
45 if:



1 (1) The ward or the spouse of the ward, or both, are the
2 grantors and sole beneficiaries of the income of the trust; or

3 (2) The trust was created by the court.

4 ~~(c)~~ (s) Take any other action which the guardian deems would
5 be in the best interests of the ward.

6 2. The petition must be signed by the guardian and contain:

7 (a) The name, age, residence and address of the ward.

8 (b) A concise statement as to the condition of the ward's estate.

9 (c) A concise statement as to the advantage to the ward of or the
10 necessity for the proposed action.

11 (d) The terms and conditions of any proposed sale, lease,
12 partition, trust, exchange or investment, and a specific description of
13 any property involved.

14 3. Any of the matters set forth in subsection 1 may be
15 consolidated in one petition, and the court may enter one order
16 authorizing or directing the guardian to do one or more of those acts.

17 4. A petition filed pursuant to paragraphs (b) and (d) of
18 subsection 1 may be consolidated in and filed with the petition for
19 the appointment of the guardian, and if the guardian is appointed the
20 court may enter additional orders authorizing the guardian to
21 continue the business of the ward, enter contracts for the ward, or to
22 complete contracts of the ward.

23 **Sec. 30.** NRS 159.115 is hereby amended to read as follows:

24 159.115 1. Upon the filing of any petition under NRS
25 159.078 or 159.113, or any account, notice must be given:

26 (a) At least 10 days before the date set for the hearing, by
27 mailing a copy of the notice by regular mail to the residence, office
28 or post office address of each person required to be notified pursuant
29 to subsection 3;

30 (b) At least 10 days before the date set for the hearing, by
31 personal service;

32 (c) If the address or identity of the person is not known and
33 cannot be ascertained with reasonable diligence, by publishing a
34 copy of the notice in a newspaper of general circulation in the
35 county where the hearing is to be held, the last publication of which
36 must be published at least 10 days before the date set for the
37 hearing; or

38 (d) In any other manner ordered by the court, for good cause
39 shown.

40 2. The notice must:

41 (a) Give the name of the ward.

42 (b) Give the name of the petitioner.

43 (c) Give the date, time and place of the hearing.

44 (d) State the nature of the petition.



1 (e) Refer to the petition for further particulars, and notify all
2 persons interested to appear at the time and place mentioned in the
3 notice and show cause why the court order should not be made.

4 3. At least 10 days before the date set for the hearing, the
5 petitioner shall cause a copy of the notice to be mailed to the
6 following:

7 (a) Any minor ward who is 14 years of age or older or the parent
8 or legal guardian of any minor ward who is less than 14 years of
9 age.

10 (b) The spouse of the ward and other heirs of the ward who are
11 related within the second degree of consanguinity so far as known to
12 the petitioner.

13 (c) The guardian of the person of the ward ~~or~~ *or of the estate*, if
14 the guardian is not the petitioner.

15 (d) Any person or care provider having the care, custody or
16 control of the ward.

17 (e) Any office of the Department of Veterans Affairs in this
18 State if the ward is receiving any payments or benefits through the
19 Department of Veterans Affairs.

20 (f) Any other interested person or his attorney who has filed a
21 request for notice in the guardianship proceeding and served a copy
22 of the request upon the guardian. The request for notice must state
23 the interest of the person filing the request, and his name and
24 address, or that of his attorney. If the notice so requests, copies of all
25 petitions and accounts must be mailed to the interested person or his
26 attorney.

27 4. An interested person who is entitled to notice pursuant to
28 subsection 3 may, in writing, waive notice of the hearing of a
29 petition.

30 5. Proof of giving notice must be:

31 (a) Made on or before the date set for the hearing; and

32 (b) Filed in the guardianship proceeding.

33 **Sec. 31.** NRS 159.117 is hereby amended to read as follows:

34 159.117 1. Upon approval of the court by order, a guardian
35 of the estate may:

36 (a) Invest the property of the ward, make loans and accept
37 security therefor, in the manner and to the extent authorized by the
38 court.

39 (b) Exercise options of the ward to purchase or exchange
40 securities or other property.

41 2. A guardian of the estate may, without securing the prior
42 approval of the court, invest the property of the ward in the
43 following:

44 (a) Savings accounts in any bank, credit union or savings and
45 loan association in this State, to the extent that the deposits are



1 insured by the Federal Deposit Insurance Corporation, the National
2 Credit Union Share Insurance Fund or a private insurer approved
3 pursuant to NRS 678.755.

4 (b) Interest-bearing obligations of or fully guaranteed by the
5 United States.

6 (c) Interest-bearing obligations of the United States Postal
7 Service.

8 (d) Interest-bearing obligations of the Federal National
9 Mortgage Association.

10 (e) Interest-bearing general obligations of this State.

11 (f) Interest-bearing general obligations of any county, city or
12 school district of this State.

13 (g) Money market mutual funds which are invested only in those
14 instruments listed in paragraphs (a) to (f), inclusive.

15 3. A guardian of the estate for two or more wards may invest
16 the property of two or more of the wards in property in which each
17 ward whose property is so invested has an undivided interest. The
18 guardian shall keep a separate record showing the interest of each
19 ward in the investment and in the income, profits or proceeds
20 therefrom.

21 4. ~~Upon approval of the court, for a period authorized by the~~
22 ~~court, a guardian of the estate may maintain the assets of the ward in~~
23 ~~the manner in which the ward had invested the assets before the~~
24 ~~ward's incapacity.] If, at the time a guardian of the estate is~~
25 ~~appointed, the ward holds assets of a kind other than those listed~~
26 ~~in subsection 2, the guardian shall, within a reasonable time after~~
27 ~~accepting the appointment as guardian of the estate, review the~~
28 ~~assets of the ward and make and carry out decisions, with prior~~
29 ~~court approval and in accordance with the provisions of sections 6~~
30 ~~to 10, inclusive, of this act, concerning the retention and~~
31 ~~disposition of those assets.~~

32 **Sec. 32.** NRS 159.152 is hereby amended to read as follows:

33 159.152 A guardian may sell any security of the ward if:

34 1. The guardian petitions the court for confirmation of the sale;

35 2. ~~The clerk sets the date of the hearing;~~

36 ~~—3.]~~ The guardian gives notice in the manner required pursuant
37 to NRS 159.034 unless, for good cause shown, the court shortens
38 the period within which notice must be given or dispenses with
39 notice; and

40 ~~[4.]~~ 3. The court confirms the sale.

41 **Sec. 33.** NRS 159.169 is hereby amended to read as follows:

42 159.169 1. A guardian of the estate may petition the court for
43 advice and instructions in any matter concerning:

44 (a) The administration of the ward's estate;

45 (b) The priority of paying claims;



- 1 (c) The propriety of making any proposed disbursement of
2 funds;
- 3 (d) Elections for or on behalf of the ward to take under the will
4 of a deceased spouse;
- 5 (e) Exercising for or on behalf of the ward:
- 6 (1) Any options or other rights under any policy of insurance
7 or annuity; and
- 8 (2) The right to take under a will, trust or other devise;
- 9 (f) The propriety of exercising any right exercisable by owners
10 of property; and
- 11 (g) Matters of a similar nature.
- 12 2. Any act done by a guardian of the estate after securing court
13 approval or instructions with reference to the matters set forth in
14 subsection 1 is binding upon the ward or those claiming through the
15 ward, and the guardian is not personally liable for performing any
16 such act.
- 17 3. If any interested person may be adversely affected by the
18 proposed act of the guardian, the court shall direct the issuance of a
19 citation to that interested person, to be served ~~upon the person at~~
20 ~~least 20 days before the hearing on the petition.~~ *in the manner*
21 *provided in section 4 of this act.* The citation must be served in the
22 same manner that summons is served in a civil action and must
23 direct the interested person to appear and show cause why the
24 proposed act of the guardian should not be authorized or approved.
25 All interested persons so served are bound by the order of the court
26 which is final and conclusive, subject to any right of appeal.
- 27 **Sec. 34.** NRS 159.185 is hereby amended to read as follows:
28 159.185 The court may remove a guardian if the court
29 determines that:
- 30 1. The guardian has become mentally ~~incompetent,~~
31 *incapacitated*, unsuitable or otherwise incapable of exercising the
32 authority and performing the duties of a guardian as provided by
33 law;
- 34 2. The guardian is no longer qualified to act as a guardian
35 pursuant to NRS 159.059;
- 36 3. The guardian has filed for bankruptcy within the previous 5
37 years;
- 38 4. The guardian of the estate has mismanaged the estate of the
39 ward;
- 40 5. The guardian has negligently failed to perform any duty as
41 provided by law or by any order of the court and:
- 42 (a) The negligence resulted in injury to the ward or his estate; or
43 (b) There was a substantial likelihood that the negligence would
44 result in injury to the ward or his estate;



1 6. The guardian has intentionally failed to perform any duty as
2 provided by law or by any lawful order of the court, regardless of
3 injury; or

4 7. The best interests of the ward will be served by the
5 appointment of another person as guardian.

6 **Sec. 35.** NRS 159.1873 is hereby amended to read as follows:

7 159.1873 1. A guardian of the person, of the estate, or of the
8 person and the estate, may file with the court a petition tendering the
9 resignation of the guardian.

10 2. If the guardian files a petition to resign, the court shall serve
11 notice upon any person entitled to notice pursuant to NRS 159.047
12 ~~§~~ *and section 4 of this act.*

13 **Sec. 36.** NRS 159.193 is hereby amended to read as follows:

14 159.193 1. The guardian of the estate is entitled to possession
15 of the ward's property and is authorized to perform the duties of the
16 guardian to wind up the affairs of the guardianship:

17 (a) For a period that is reasonable and necessary after the
18 termination of the guardianship;

19 (b) Except as otherwise provided in paragraph (c), for not more
20 than 90 days after the date of the appointment of a personal
21 representative of the estate of a deceased ward; or

22 (c) Upon approval of the court, for more than 90 days ~~§§~~ :

23 (1) *If* the guardian is awaiting certification from the
24 appropriate authority acknowledging that the guardian has no
25 further liability for taxes on the estate ~~§~~; *or*

26 (2) *For good cause shown.*

27 2. To wind up the affairs of the guardianship, the guardian
28 shall:

29 (a) Pay all expenses of administration of the guardianship estate,
30 including those incurred in winding up the affairs of the
31 guardianship.

32 (b) Complete the performance of any contractual obligations
33 incurred by the guardianship estate.

34 (c) With prior approval of the court, continue any activity that:

35 (1) The guardian believes is appropriate and necessary; or

36 (2) Was commenced before the termination of the
37 guardianship.

38 (d) If the guardianship is terminated for a reason other than the
39 death of the ward, examine and allow and pay, or reject, all claims
40 presented to the guardian prior to the termination of the
41 guardianship for obligations incurred prior to the termination.

42 **Sec. 37.** NRS 159.325 is hereby amended to read as follows:

43 159.325 In addition to any order from which an appeal is
44 expressly authorized pursuant to this chapter, an appeal may be



1 taken to the Supreme Court within 30 days after its notice of entry
2 from an order:

3 1. Granting or revoking letters of guardianship.

4 2. Directing or authorizing the sale or conveyance, or
5 confirming the sale, of property of the estate of a ward.

6 3. Settling an account.

7 4. Ordering or authorizing a guardian to act pursuant to
8 NRS 159.113.

9 5. Ordering or authorizing the payment of a debt, claim, devise,
10 guardian's fees or attorney's fees.

11 6. Determining ownership interests in property.

12 7. Granting or denying a petition to enforce the liability of a
13 surety.

14 8. Granting or denying a petition for modification or
15 termination of a guardianship.

16 9. Granting or denying a petition for removal of a guardian or
17 appointment of a successor guardian.

18 **10. Issued pursuant to NRS 159.169.**

19 **Sec. 38.** NRS 164.005 is hereby amended to read as follows:

20 164.005 When not otherwise inconsistent with the provisions
21 of chapters 162 to 167, inclusive, of NRS, all of the provisions of
22 chapters 132, 153, ~~and~~ 155 **and 159** of NRS regulating the matters
23 of estates:

24 1. Apply to proceedings relating to trusts, as appropriate; or

25 2. May be applied to supplement the provisions of chapters 162
26 to 167, inclusive, of NRS.

27 **Sec. 39.** NRS 616C.505 is hereby amended to read as follows:

28 616C.505 If an injury by accident arising out of and in the
29 course of employment causes the death of an employee in the
30 employ of an employer, within the provisions of chapters 616A to
31 616D, inclusive, of NRS, the compensation is known as a death
32 benefit, and is payable as follows:

33 1. In addition to any other compensation payable pursuant to
34 chapters 616A to 616D, inclusive, of NRS, burial expenses are
35 payable in an amount not to exceed \$5,000. When the remains of the
36 deceased employee and the person accompanying the remains are to
37 be transported to a mortuary or mortuaries, the charge of
38 transportation must be borne by the insurer.

39 2. To the surviving spouse of the deceased employee, 66 2/3
40 percent of the average monthly wage is payable until his death or
41 remarriage, with 2 years' compensation payable in one lump sum
42 upon remarriage.

43 3. In the event of the subsequent death of the surviving spouse:

44 (a) Each surviving child of the deceased employee must share
45 equally the compensation theretofore paid to the surviving spouse



1 but not in excess thereof, and it is payable until the youngest child
2 reaches the age of 18 years.

3 (b) Except as otherwise provided in subsection 11, if the
4 children have a guardian, the compensation they are entitled to
5 receive may be paid to the guardian.

6 4. Upon the remarriage of a surviving spouse with children:

7 (a) The surviving spouse must be paid 2 years' compensation in
8 one lump sum and further benefits must cease; and

9 (b) Each child must be paid 15 percent of the average monthly
10 wage, up to a maximum family benefit of $66 \frac{2}{3}$ percent of the
11 average monthly wage.

12 5. If there are any surviving children of the deceased employee
13 under the age of 18 years, but no surviving spouse, then each such
14 child is entitled to his proportionate share of $66 \frac{2}{3}$ percent of the
15 average monthly wage for his support.

16 6. Except as otherwise provided in subsection 7, if there is no
17 surviving spouse or child under the age of 18 years, there must be
18 paid:

19 (a) To a parent, if wholly dependent for support upon the
20 deceased employee at the time of the injury causing his death, $33 \frac{1}{3}$
21 percent of the average monthly wage.

22 (b) To both parents, if wholly dependent for support upon the
23 deceased employee at the time of the injury causing his death, $66 \frac{2}{3}$
24 percent of the average monthly wage.

25 (c) To each brother or sister until he or she reaches the age of 18
26 years, if wholly dependent for support upon the deceased employee
27 at the time of the injury causing his death, his proportionate share of
28 $66 \frac{2}{3}$ percent of the average monthly wage.

29 7. The aggregate compensation payable pursuant to subsection
30 6 must not exceed $66 \frac{2}{3}$ percent of the average monthly wage.

31 8. In all other cases involving a question of total or partial
32 dependency:

33 (a) The extent of the dependency must be determined in
34 accordance with the facts existing at the time of the injury.

35 (b) If the deceased employee leaves dependents only partially
36 dependent upon his earnings for support at the time of the injury
37 causing his death, the monthly compensation to be paid must be
38 equal to the same proportion of the monthly payments for the
39 benefit of persons totally dependent as the amount contributed by
40 the deceased employee to the partial dependents bears to the average
41 monthly wage of the deceased employee at the time of the injury
42 resulting in his death.

43 (c) The duration of compensation to partial dependents must be
44 fixed in accordance with the facts shown, but may not exceed
45 compensation for 100 months.



1 9. Compensation payable to a surviving spouse is for the use
2 and benefit of the surviving spouse and the dependent children, and
3 the insurer may, from time to time, apportion such compensation
4 between them in such a way as it deems best for the interest of all
5 dependents.

6 10. In the event of the death of any dependent specified in this
7 section before the expiration of the time during which compensation
8 is payable to him, funeral expenses are payable in an amount not to
9 exceed \$5,000.

10 11. If a dependent is entitled to receive a death benefit pursuant
11 to this section and is less than 18 years of age or ~~incompetent,~~
12 *incapacitated*, the legal representative of the dependent shall
13 petition for a guardian to be appointed for that dependent pursuant
14 to NRS 159.044. An insurer shall not pay any compensation in
15 excess of \$3,000, other than burial expenses, to the dependent until
16 a guardian is appointed and legally qualified. Upon receipt of a
17 certified letter of guardianship, the insurer shall make all payments
18 required by this section to the guardian of the dependent until the
19 dependent is emancipated, the guardianship terminates or the
20 dependent reaches the age of 18 years, whichever occurs first,
21 unless paragraph (a) of subsection 12 is applicable. The fees and
22 costs related to the guardianship must be paid from the estate of the
23 dependent. A guardianship established pursuant to this subsection
24 must be administered in accordance with chapter 159 of NRS,
25 except that after the first annual review required pursuant to NRS
26 159.176, a court may elect not to review the guardianship annually.
27 The court shall review the guardianship at least once every 3 years.
28 As used in this subsection, ~~“incompetent”~~ *“incapacitated”* has the
29 meaning ascribed to it in NRS 159.019.

30 12. Except as otherwise provided in paragraphs (a) and (b), the
31 entitlement of any child to receive his proportionate share of
32 compensation pursuant to this section ceases when he dies, marries
33 or reaches the age of 18 years. A child is entitled to continue to
34 receive compensation pursuant to this section if he is:

35 (a) Over 18 years of age and incapable of supporting himself,
36 until such time as he becomes capable of supporting himself; or

37 (b) Over 18 years of age and enrolled as a full-time student in an
38 accredited vocational or educational institution, until he reaches the
39 age of 22 years.

40 13. As used in this section, “surviving spouse” means a
41 surviving husband or wife who was married to the employee at the
42 time of the employee’s death.

43 **Sec. 40.** NRS 159.0475 and 159.048 are hereby repealed.



TEXT OF REPEALED SECTIONS

159.0475 Manner of serving citation.

1. A copy of the citation issued pursuant to NRS 159.047 must be served by:

(a) Certified mail, with a return receipt requested, on each person required to be served pursuant to NRS 159.047 at least 20 days before the hearing; or

(b) Personal service in the manner provided pursuant to N.R.C.P. 4(d) at least 10 days before the date set for the hearing on each person required to be served pursuant to NRS 159.047.

2. If none of the persons on whom the citation is to be served can, after due diligence, be served by certified mail or personal service and this fact is proven, by affidavit, to the satisfaction of the court, service of the citation must be made by publication in the manner provided by N.R.C.P. 4(e). In all such cases, the citation must be published at least 20 days before the date set for the hearing.

3. A citation need not be served on a person or an officer of the care provider who has signed the petition or a written waiver of service of citation or who makes a general appearance.

4. If the proposed ward is receiving money paid or payable by the United States through the Department of Veterans Affairs, a copy of the citation must be mailed to any office of the Department of Veterans Affairs in this State, unless the Department of Veterans Affairs has executed a written waiver of service of citation.

5. The court may find that notice is sufficient if:

(a) The citation has been served by certified mail, with a return receipt requested, or by personal service on the proposed ward, care provider or public guardian required to be served pursuant to NRS 159.047; and

(b) At least one relative of the proposed ward who is required to be served pursuant to NRS 159.047 has been served, as evidenced by the return receipt or the certificate of service. If the court finds that at least one relative of the proposed ward has not received notice that is sufficient, the court will require the citation to be published pursuant to subsection 2.

159.048 Contents of citation. The citation issued pursuant to NRS 159.047 must state that the:



1. Proposed ward may be adjudged to be incompetent or of limited capacity and a guardian may be appointed for the proposed ward;
2. Proposed ward's rights may be affected as specified in the petition;
3. Proposed ward has the right to appear at the hearing and to oppose the petition; and
4. Proposed ward has the right to be represented by an attorney, who may be appointed for the proposed ward by the court if the proposed ward is unable to retain one.



