ASSEMBLY BILL NO. 318–ASSEMBLYWOMAN MARZOLA

MARCH 17, 2021

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to estates. (BDR 3-805)

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 estates; revising provisions relating to certain declaratory relief; exempting certain fiduciaries from the requirement to provide a residential disclosure form in certain circumstances; revising provisions relating to electronic wills; establishing and revising various provisions governing the administration of estates; revising provisions concerning the distribution of small estates; revising provisions relating to the compensation of attorneys for personal representatives; revising the definition of the term "independent attorney"; revising provisions relating to the nomination of a guardian; authorizing a trustee to reimburse a settlor for the payment of tax on trust income or principal; revising various provisions concerning trusts and the administration of trusts; requiring that public administrators or similar persons be given certain information relating to a decedent and access to the safe deposit box of a decedent in certain circumstances; authorizing certain entities to charge a reasonable fee for providing certain information to public administrators or similar persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes certain persons to obtain declaratory relief under a deed, written contract or testamentary instrument or with respect to the administration of a trust or certain estates for certain purposes. (NRS 30.040,

30.060) **Sections 1 and 2** of this bill authorize a principal or person granted authority to act for a principal under a power of attorney to obtain declaratory relief under the power of attorney.

Existing law generally requires a seller of residential property to provide a disclosure form to the purchaser of the property, but provides that such a requirement does not apply in certain circumstances. (NRS 113.130) **Section 3** of this bill exempts from such a requirement certain fiduciaries who take temporary possession or control of or title to residential property solely to facilitate the sale of the property on behalf of a person who is deceased or incapacitated.

Sections 4-14 of this bill revise various provisions governing electronic wills. **Section 9** of this bill revises provisions governing the revocation of an electronic will. **Section 11** of this bill revises provisions relating to a qualified custodian of an electronic will ceasing to serve in that capacity and the appointment of a successor qualified custodian. **Section 13** of this bill revises provisions concerning the destruction of the electronic record of an electronic will. **Section 14** of this bill establishes provisions relating to the conversion of: (1) an electronic will into a certified paper original of the electronic will; and (2) an electronic revocation of a will into a certification of revocation.

Existing law authorizes the administration of an estate to be granted to one or more qualified persons not otherwise entitled to serve as an administrator if a qualified person who is entitled to serve as an administrator files a written request with the court. (NRS 139.050) **Section 15** of this bill requires the requester to provide his or her current address and telephone number in the written request and provides that failure to provide such information voids the written request. Existing law requires a petition for letters of administration to include certain information. (NRS 139.090) **Section 16** of this bill additionally requires such a petition to include the names and addresses of the proposed appointed administrators and any associated coadministrator.

Section 18 of this bill establishes the circumstances in which a person is required to accept or not accept certified letters of administration or letters testamentary and provides that a person who unlawfully refuses to accept such certified letters is subject to a court order requiring acceptance of the certified letters and liability for reasonable attorney's fees and costs incurred in an action or proceeding confirming the validity or mandating the acceptance of the certified letters. **Section 18** authorizes a person, after accepting certified letters of administration or letters testamentary, to subsequently request newly certified letters after a certain period for the purpose of validating the continued authority of the personal representative.

Section 19 of this bill authorizes a person holding property of a decedent to request the presentation of only certain items as a prerequisite to transferring such property in accordance with a court order providing to whom such property is to be transferred. **Section 19** requires the person to accept and comply with such a court order not later than 10 business days after the presentation of all requested items unless certain circumstances exist and provides that a person who unlawfully refuses to accept and comply with such a court order is subject to a court order requiring acceptance of the order, liability for reasonable attorney's fees and costs incurred in an action or proceeding confirming the validity of the court order and any damages resulting from the delay.

Existing law establishes provisions concerning the effect of the absence or disability of a personal representative on acts taken by one or more other personal representatives when more than one personal representative has been appointed. (NRS 143.010) **Section 20** of this bill provides that if there are two personal representatives, one of whom has a conflict of interest, the acts of the other personal representative alone are valid, and if there are more than two personal representatives, the acts of a majority of the personal representatives are sufficient.

Existing law establishes provisions concerning the continuation of the operation of a decedent's business by a personal representative. (NRS 143.050, 143.520) **Sections 21 and 26** of this bill make various changes to such provisions.

Existing law authorizes a court to require a person to post a bond when obtaining an ex parte order that restrains a personal representative from performing certain actions, exercising any powers or discharging any duties of the office, or any other order to secure proper performance of the duties of the office. (NRS 143.165) **Section 22** of this bill provides that a public administrator or similar person must not be required to post a bond for obtaining any such order.

Existing law requires the notice of a hearing on a petition filed by a personal representative for full or limited authority to administer an estate to be given to certain persons in certain circumstances. (NRS 143.345) Existing law generally requires the court to grant the authority requested unless an interested person timely objects and shows good cause why the authority should not be granted. (NRS 143.350) **Section 24** of this bill requires notice to be given to the public administrator of the county or a similar person in certain circumstances, and **section 25** of this bill provides that a person who receives notice is an interested person for purposes of having the ability to object to the granting of authority.

Existing law authorizes a decedent's estate to be set aside without administration if the value of the estate does not exceed $100,000. (NRS 146.070) **Section 27** of this bill additionally authorizes all or part of a decedent's estate to be set aside without administration if the decedent's will directs that such portion be distributed to the trustee of a nontestamentary trust established by the decedent and in existence at the decedent's death, and provides that the portion of the estate that is set aside is generally subject to creditors of the estate.

Existing law entitles an attorney for a personal representative to reasonable compensation for his or her services, paid from a decedent's estate, and sets forth the calculation for determining the allowable compensation in certain circumstances. (NRS 150.060) **Section 28** of this bill requires a court to allow the compensation of the attorney in the amount calculated.

Existing law provides that the transfer of property for less than fair market value is generally presumed to be void if the transfer is made to certain transferees, including the person who drafted the transfer instrument, and establishes the circumstances in which such a presumption does not apply, including if a transfer instrument is reviewed by an independent attorney who takes certain actions. (NRS 155.097, 155.0975) **Section 29** of this bill revises the definition of the term "independent attorney" to include the drafting attorney representing the transferor in preparation of the transfer instrument if the drafting attorney is not otherwise disqualified from being an independent attorney.

Existing law authorizes any person requesting to nominate another person to be appointed as his or her guardian to complete a form requesting to nominate a guardian. (NRS 159.0753) Existing law also authorizes the nomination of a guardian of the estate in a power of attorney and a guardian of the person in a power of attorney for health care in certain circumstances. (NRS 162A.250, 162A.800) **Section 30** of this bill revises provisions concerning a form requesting to nominate a guardian to reference the nomination of a guardian in any such power of attorney.

Section 31 of this bill allows a governing trust instrument to authorize a trustee to reimburse a settlor for all or a portion of tax on trust income or principal that is to be paid by the settlor and authorizes the trustee to pay the settlor directly or pay the appropriate taxing authority on behalf of the settlor. **Section 31** also provides that the authority of a trustee to make such a payment or a determination by the trustee to exercise such authority in favor of the settlor does not make the settlor a beneficiary for the purposes of Nevada law.

Existing law authorizes a trust to be created by a declaration by the owner of property that he or she or another person holds the property as trustee. (NRS 163.002) **Section 32** of this bill provides that a declaration by the owner of property that he or she or another person holds all the property of the declarant in trust is sufficient to create a trust over all the property of the declarant that is reliably identified as belonging to the declarant at the time of his or her death.

Existing law provides that: (1) a trust is irrevocable unless a right to amend or revoke the trust is expressly reserved by the settlor or granted to one or more other persons under the terms of the trust instrument; and (2) the power of appointment or power to add or remove beneficiaries, appoint, remove or replace the trustee or make administrative amendments does not make a trust revocable. (NRS 163.004) **Section 33** of this bill instead provides that a trust is irrevocable unless a right to revoke the trust is expressly reserved by the settlor under the terms of the trust instrument, and that any authority, power or right granted to any person other than the settlor under the terms of the trust instrument or by law, including the power or right to amend the trust, does not render or make a trust revocable. **Section 47** of this bill provides that such provisions apply to any trust created or amended before, on or after October 1, 2021.

Section 34 of this bill establishes the circumstances in which the custodian of an electronic trust may convert the electronic trust into a certified paper original of the electronic trust and the method by which an electronic trust may be converted into a certified paper original. **Section 34** also authorizes the custodian to destroy the electronic record of the electronic trust after converting the electronic trust into a certified paper original if the custodian first takes certain actions.

Existing law generally authorizes a trustee to combine two or more trusts into a single trust or divide a trust into two or more separate trusts in certain circumstances after giving notice to certain persons. (NRS 163.025) **Section 35** of this bill provides that if the terms of the trust instrument do not expressly authorize such a combination or division of trusts, the combination or division is required to be made by court order or after giving such notice.

Existing law provides that a trust instrument may grant certain powers to an investment trust adviser. (NRS 163.5557) **Section 37** of this bill provides that the power to value non-publicly traded investments held in trust that are subject to the investment management authority of the investment trust adviser may also be granted to an investment trust adviser.

Existing law prohibits a creditor of a settlor from seeking to satisfy a claim against the settlor from the assets of a trust in certain circumstances unless the creditor can prove that trust property transferred by the settlor was transferred fraudulently or was otherwise wrongful as to the creditor. (NRS 163.5559) **Section 38** of this bill establishes additional circumstances that generally prohibit a creditor from seeking to satisfy a claim against the settlor from the assets of the trust and provides that such a prohibition does not preclude a creditor from seeking to satisfy a claim against the settlor of a spendthrift trust if the creditor can prove by clear and convincing evidence that trust property transferred by the settlor was fraudulent as to the creditor or violates a legal obligation owed to the creditor under a contract or valid court order.

Section 39 of this bill provides that a trustee may act at the direction or with the consent of another party pursuant to the terms of a trust instrument to appoint property of one trust to another trust and revises other provisions relating to the appointment of such property.

Existing law authorizes a trustee to provide notice to certain persons after a revocable trust becomes irrevocable and generally prohibits any person who is provided notice from bringing an action to contest the validity of the trust more than 120 days after notice is served. (NRS 164.021) **Section 40** of this bill provides that such a prohibition exists regardless of whether a petition for the assumption of

jurisdiction of a trust by a court is served upon the person after such notice is provided.

Existing law authorizes a trustee of a nontestamentary trust to provide notice to creditors after the death of the settlor, establishes forms for a claim against the settlor or the trust and requires a creditor to file a claim with the trustee within a certain period or the claim is barred. (NRS 164.025) **Section 41** of this bill establishes a form for a claim against the settlor and the trust and provides that a claim filed with the trustee is presumed to be timely filed if it meets certain requirements. **Section 41** also establishes provisions concerning the discovery of the existence of an additional creditor after the initial notice to creditors is provided.

Existing law provides that if a trust has an unrepresented minor or incapacitated beneficiary, the custodial parent or guardian of the estate of the minor or incapacitated beneficiary is authorized to provide representation in any judicial proceeding or nonjudicial matter pertaining to the trust. (NRS 164.038) **Section 42** of this bill instead provides that any custodial parent or the guardian of the estate can provide such representation.

Section 44 of this bill requires a lender, trustee or assignee of an encumbrance against real property to provide to the Director of the Department of Health and Human Services or a public administrator or similar person a statement containing the identifying number and account balance of any encumbrance against real property on which the name of a decedent appears and authorizes a reasonable fee to be charged for providing such a statement to a public administrator or similar person. **Section 45** of this bill requires a financial institution to provide a public administrator or similar person with access to a safe deposit box of a decedent for the purpose of inspecting and removing any will or instructions for disposition of the remains of the decedent. **Section 46** of this bill requires county health officers to include the residential addresses of all deceased persons in a written list filed with a public administrator or similar person.

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

Section 1. NRS 30.040 is hereby amended to read as follows:

30.040 1. Any person interested under a deed, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

2. A maker or legal representative of a maker of a will, trust or other writings constituting a testamentary instrument may have determined any question of construction or validity arising under the instrument and obtain a declaration of rights, status or other legal relations thereunder. Any action for declaratory relief under this subsection may only be made in a proceeding commenced pursuant to the provisions of title 12 or 13 of NRS, as appropriate.

3. A principal or a person granted authority to act for a principal under power of attorney, whether denominated an agent, attorney-in-fact or otherwise, may have determined any question of construction or validity arising under the instrument and obtain a declaration of rights, status or other legal relations thereunder. Any action for declaratory relief under this subsection may only be made in a proceeding commenced pursuant to the provisions of title 12 or 13 of NRS, as appropriate.

Sec. 2. NRS 30.060 is hereby amended to read as follows:

30.060 1. Any person interested as or through an executor, administrator, trustee, guardian ***,*** ~~[or]~~ other fiduciary, ***including, without limitation, a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact or otherwise,*** creditor, devisee, legatee, heir, next of kin or cestui que trust, in the administration of a trust ~~[,]~~ or ~~[of]~~ the estate of a decedent, an infant, lunatic or insolvent, ***or in the actions taken pursuant to a power of attorney,*** may have a declaration of rights or legal relations in respect thereto:

(a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others;

(b) To direct ~~[the executors, administrators or trustees]~~ ***an executor, administrator, trustee or person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact or otherwise,*** to do or abstain from doing any particular act in ~~[their]~~ ***his or her*** fiduciary capacity; or

(c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills, trusts and other writings.

2. Any action for declaratory relief under this section may only be made in a proceeding commenced pursuant to the provisions of title 12 or 13 of NRS, as appropriate.

Sec. 3. NRS 113.130 is hereby amended to read as follows:

113.130 1. Except as otherwise provided in subsection 2:

(a) At least 10 days before residential property is conveyed to a purchaser:

(1) The seller shall complete a disclosure form regarding the residential property; and

(2) The seller or the seller's agent shall serve the purchaser or the purchaser's agent with the completed disclosure form.

(b) If, after service of the completed disclosure form but before conveyance of the property to the purchaser, a seller or the seller's agent discovers a new defect in the residential property that was not identified on the completed disclosure form or discovers that a defect identified on the completed disclosure form has become worse than was indicated on the form, the seller or the seller's agent

shall inform the purchaser or the purchaser's agent of that fact, in writing, as soon as practicable after the discovery of that fact but in no event later than the conveyance of the property to the purchaser. If the seller does not agree to repair or replace the defect, the purchaser may:

(1) Rescind the agreement to purchase the property; or

(2) Close escrow and accept the property with the defect as revealed by the seller or the seller's agent without further recourse.

2. Subsection 1 does not apply to a sale or intended sale of residential property:

(a) By foreclosure pursuant to chapter 107 of NRS.

(b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.

(c) Which is the first sale of a residence that was constructed by a licensed contractor.

(d) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.

(e) By a fiduciary under title 12 or 13 of NRS, including, without limitation, a personal representative, guardian, trustee or person acting under a power of attorney, who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who is deceased or incapacitated.

3. A purchaser of residential property may not waive any of the requirements of subsection 1. A seller of residential property may not require a purchaser to waive any of the requirements of subsection 1 as a condition of sale or for any other purpose.

4. If a sale or intended sale of residential property is exempted from the requirements of subsection 1 pursuant to paragraph (a) of subsection 2, the trustee and the beneficiary of the deed of trust shall, not later than at the time of the conveyance of the property to the purchaser of the residential property, or upon the request of the purchaser of the residential property, provide:

(a) Written notice to the purchaser of any defects in the property of which the trustee or beneficiary, respectively, is aware; and

(b) If any defects are repaired or replaced or attempted to be repaired or replaced, the contact information of any asset management company who provided asset management services for the property. The asset management company shall provide a service report to the purchaser upon request.

5. As used in this section:

(a) "Seller" includes, without limitation, a client as defined in NRS 645H.060.

(b) "Service report" has the meaning ascribed to it in NRS 645H.150.

Sec. 4. Chapter 132 of NRS is hereby amended by adding thereto a new section to read as follows:

1. For the purposes of this title, being "in the presence" of a testator, settlor, principal or witness includes, without limitation, being in the same location at the same time or appearing in the same location at the same time by means of audio-video communication.

2. As used in this section, "audio-video communication" has the meaning ascribed to it in paragraph (b) of subsection 3 of NRS 133.088.

Sec. 5. NRS 132.117 is hereby amended to read as follows:

132.117 "Electronic record" ~~[means a record created, generated, sent, communicated, received or stored by electronic means.]~~ ***has the meaning ascribed to it in NRS 719.090.***

Sec. 6. NRS 132.118 is hereby amended to read as follows:

132.118 "Electronic signature" ~~[means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.]~~ ***has the meaning ascribed to it in NRS 719.100.***

Sec. 7. NRS 132.119 is hereby amended to read as follows:

132.119 "Electronic will" means ~~[an instrument, including, without limitation, a codicil, that is executed by a person in accordance with the requirements of NRS 133.085 and which disposes of the property of the person upon or after his or her death.]~~ ***a will that is created and maintained in an electronic record.***

Sec. 8. NRS 133.086 is hereby amended to read as follows:

133.086 1. An electronic will is self-proving if:

(a) The declarations or affidavits of the attesting witnesses are incorporated as part of, attached to or logically associated with the electronic will, as described in NRS 133.050;

(b) The electronic will designates a qualified custodian to maintain custody of the electronic record of the electronic will; and

(c) Before ~~[being offered for probate or]~~ being reduced to a certified paper original ***,*** ~~[that is offered for probate,]~~ the electronic will was at all times under the custody of a qualified custodian.

2. A declaration or affidavit of an attesting witness made pursuant to NRS 133.050 and an affidavit of a person made pursuant to NRS 133.340 must be accepted by a court as if made before the court.

Sec. 9. NRS 133.120 is hereby amended to read as follows:

133.120 1. A written will other than an electronic will may ~~[only]~~ be revoked by:

(a) Burning, tearing, cancelling or obliterating the will, with the intention of revoking it, by the testator, or by some person in the presence and at the direction of the testator;

(b) Another will or codicil in writing, executed as prescribed in this chapter; ~~[or]~~

(c) An electronic will, executed as prescribed in this chapter ~~[.]~~ ***; or***

(d) An electronic revocation that meets the electronic requirements set forth in paragraphs (a) and (b) of subsection 1 of NRS 133.085.

2. An electronic will may ~~[only]~~ be revoked by:

(a) ~~[Another]~~ ***A subsequent*** will, codicil, electronic will or other writing, executed as prescribed in this chapter ~~[; or]~~ ***, that revokes all or part of the electronic will expressly or by inconsistency;***

(b) ~~[Cancelling, rendering unreadable]~~ ***If the electronic will has been converted to a certified paper original, burning, tearing, cancelling*** or obliterating the ~~[will]~~ ***certified paper original,*** with the intention of revoking ~~[it,]~~ ***the electronic will,*** by ~~[:~~

~~(1) The]~~ ***the*** testator ***,*** or ~~[a]~~ ***by some*** person in the presence and at the direction of the testator; or

~~[(2) If the will is in the custody of a qualified custodian, the qualified custodian at the direction of a testator in an electronic will.]~~

(c) An electronic revocation that meets the electronic requirements set forth in paragraphs (a) and (b) of subsection 1 of NRS 133.085.

3. This section does not prevent the revocation implied by law from subsequent changes in the condition or circumstances of the testator.

Sec. 10. NRS 133.300 is hereby amended to read as follows:

133.300 1. A person must execute a written statement affirmatively agreeing to serve as the qualified custodian of an electronic will before he or she may serve in such a capacity.

2. ~~[Except as otherwise provided in paragraph (a) of subsection 1 of NRS 133.310, a]~~ ***A*** qualified custodian may not cease serving in such a capacity until ~~[a successor qualified custodian executes the written statement required by subsection 1.]~~ ***the requirements of NRS 133.310 have been met.***

Sec. 11. NRS 133.310 is hereby amended to read as follows:

133.310 1. A qualified custodian may cease serving in such a capacity by:

(a) ~~[If not designating a successor qualified custodian, providing to the testator:~~

~~(1) Thirty days' written notice that the qualified custodian has decided to cease serving in such a capacity; and~~

~~(2)~~ The ***conversion of an electronic will into a*** certified paper original ~~[of, and all records concerning, the electronic will.]~~ ***in accordance with NRS 133.340;***

(b) ~~[If designating]~~ ***The conversion of an electronic revocation into a certification of revocation of the electronic will in accordance with subsection 7 of NRS 133.340; or***

(c) The appointment of a successor qualified custodian ~~[:~~

~~(1) Providing]~~ ***in accordance with subsection 2.***

2. A successor qualified custodian may be appointed as follows:

(a) The successor qualified custodian is designated by:

(1) The testator; or

(2) Except as otherwise provided in subsection 4, the qualified custodian, by providing the testator 30 days' written notice that the qualified custodian has decided to cease serving in such a capacity ~~[to:~~

~~(I) The testator; and~~

~~(II) The designated]~~ ***and designating the*** successor qualified custodian ~~[; and~~

~~(2) Providing]~~ ***;***

(b) The qualified custodian provides to the successor qualified custodian the electronic record of the electronic will and an affidavit which states:

~~[(I)]~~ ***(1)*** That the qualified custodian ceasing to act in such a capacity is eligible to act as a qualified custodian in this State and is the qualified custodian designated by the testator in the electronic will or was designated to act in such a capacity by another qualified custodian pursuant to this ~~[paragraph;~~

~~(II)]~~ ***subsection;***

(2) That an electronic record was created at the time the testator executed the electronic will;

~~[(III)]~~ ***(3)*** That the electronic record has been in the custody of one or more qualified custodians since the execution of the electronic will and has not been altered since the time it was created; and

~~[(IV)]~~ ***(4)*** The identity of all qualified custodians who have had custody of the electronic record since the execution of the electronic will ~~[.~~

~~2. For purposes of making the affidavit pursuant to subparagraph (2) of paragraph (b) of subsection 1, a qualified custodian is entitled to rely conclusively on any affidavits provided by a predecessor qualified custodian if all such affidavits are provided to the]~~ ***; and***

(c) The successor qualified custodian ~~[.]~~ ***executes a written statement pursuant to subsection 1 of NRS 133.300.***

3. ~~[Subject to the provisions of NRS 133.300, if the testator designates a successor]~~ ***If the*** qualified custodian ~~[in a writing executed with the same formalities required for the execution]~~ ***has custody of the testator's electronic revocation*** of ~~[an]~~ ***the*** electronic will, ~~[a]~~ ***the*** qualified custodian shall ~~[cease serving in such a capacity and]~~ provide to the ~~[designated]~~ successor qualified custodian ~~[:]~~ ***the electronic record of the electronic revocation and an affidavit stating:***

(a) ~~[The]~~ ***That an*** electronic record ~~[; and]~~ ***was created at the time the testator revoked the will;***

(b) ~~[The affidavit described in subparagraph (2) of paragraph (b) of subsection 1.]~~ ***That the electronic record has been in the custody of one or more qualified custodians since the execution of the electronic revocation and has not been altered since the time it was created; and***

(c) The identity of all qualified custodians who have had custody of the electronic record since the execution of the electronic revocation.

4. ~~[If]~~ ***Before the expiration of the 30 days after the qualified custodian gives notice designating a successor qualified custodian pursuant to subparagraph (2) of paragraph (a) of subsection 2, if the testator designates*** a ***different successor*** qualified custodian ***,*** ~~[is an entity, an affidavit of a duly authorized officer or agent of such entity constitutes the affidavit of]~~ the ***successor*** qualified custodian ~~[.]~~ ***whom the testator designates must be the appointed successor qualified custodian.***

Sec. 12. NRS 133.320 is hereby amended to read as follows:

133.320 A qualified custodian of an electronic will:

1. Must not be an heir of the testator or a beneficiary or devisee under the electronic will.

2. Shall consistently employ, and store electronic records of electronic wills in, a system that protects electronic records from destruction, alteration or unauthorized access and detects any change to an electronic record.

3. Shall store in the electronic record of an electronic will each of the following:

(a) A photograph or other visual record of the testator and the attesting witnesses that was taken contemporaneously with the execution of the electronic will;

(b) A photocopy, photograph, facsimile or other visual record of any documentation that was taken contemporaneously with the execution of the electronic will and provides satisfactory evidence of the identities of the testator and the attesting witnesses, including, without limitation, documentation of the methods of identification used pursuant to subsection 4 of NRS 240.1655; and

(c) An audio and video recording of the testator, attesting witnesses and notary public, as applicable, taken at the time the testator, each attesting witness and notary public, as applicable, placed his or her electronic signature on the electronic will, as required pursuant to paragraph (b) of subsection 1 of NRS 133.085.

4. Shall provide to any court that is hearing a matter involving an electronic will which is currently or was previously stored by the qualified custodian any information requested by the court pertaining to the qualifications of the qualified custodian and the policies and practices of the qualified custodian concerning the maintenance, storage and production of electronic wills.

5. For the purposes of this title, if a qualified custodian or other person is required to provide written notice to a testator, notice shall be deemed to be provided if the qualified custodian or other person delivers written notice to the last known address of the testator.

6. Except as otherwise provided by law, the requirements governing an electronic will also govern an electronic codicil and electronic revocation of a will.

Sec. 13. NRS 133.330 is hereby amended to read as follows:

133.330 1. With regard to an electronic record of an electronic will, a qualified custodian ~~[:~~

~~(a) Shall]~~ ***shall*** provide access to or information concerning the electronic will or the certified paper original of the electronic will only to:

~~[(1)]~~ ***(a)*** The testator or another person as directed by the written instructions of the testator; and

~~[(2)]~~ ***(b)*** After the death of the testator, the nominated personal representative of the testator or any interested person ***.*** ~~[;~~ ~~and~~

~~(b) May,]~~

2. A qualified custodian may, in the absolute discretion of the qualified custodian, destroy the electronic record ***of an electronic will*** at any ~~[time:~~

~~(1) Five or more years]~~ ***of the following times:***

(a) One year after ~~[the admission]~~ ***notice*** of ***entry of an order admitting*** any will ~~[of the testator]~~ to probate;

~~[(2) Five or more years after the revocation of the electronic will;~~

~~(3) Five or more years after]~~

(b) After ceasing to serve as the qualified custodian of the electronic record of the electronic will ***upon the appointment of a successor qualified custodian*** pursuant to NRS 133.310;

~~[(4) Ten or more years after the death of the testator; or~~

~~(5) One hundred and fifty years after the execution of the electronic will.~~

~~2. At~~

(c) If the electronic will has been converted to a certified paper original in accordance with NRS 133.340 and the qualified custodian complies with subsection 4, after 30 days' written notice to the testator;

(d) If a certification of revocation has been created in accordance with subsection 7 of NRS 133.340 and the qualified custodian complies with subsection 4, after 30 days' written notice to the testator;

(e) Pursuant to the direction of a testator in a writing executed with the same formalities required for the execution of ***a will or*** an electronic will ~~.~~ ***; or***

(f) Upon court order authorizing the destruction of the electronic will.

3. Subject to the provisions of subsection 4, if a certification of revocation has been created pursuant to subsection 7 of NRS 133.340, a qualified custodian ~~shall cancel, render unreadable or obliterate~~ ***may, in the absolute discretion of the qualified custodian, destroy*** the electronic record ~~.~~ ***of an electronic revocation at any of the following times:***

(a) One year after notice of entry of an order admitting any will to probate;

(b) If the requirements of subsection 3 of NRS 133.310 are met, after ceasing to serve as the qualified custodian of the electronic will upon the appointment of a successor qualified custodian pursuant to NRS 133.310;

(c) Pursuant to the direction of a testator in a writing executed with the same formalities required for the execution of a will or an electronic will;

(d) After 30 days' written notice to the testator; or

(e) Upon court order authorizing the destruction of the electronic record of the electronic will.

4. Before destroying an electronic will or an electronic revocation, the qualified custodian shall make reasonable efforts to provide to the testator the electronic record of the electronic will and electronic revocation.

Sec. 14. NRS 133.340 is hereby amended to read as follows:

133.340 1. ~~Upon the creation of~~ ***A qualified custodian may cause an electronic will to be converted into*** a certified paper original of ~~an~~ ***the*** electronic will ~~.~~ ***under the following circumstances:***

(a) ~~If~~ ***At the direction of the testator; or***

(b) Except as otherwise provided in subsection 9, with 30 days' written notice to the testator that the qualified custodian intends to convert the electronic will ~~[has always been in the custody of a qualified custodian, the qualified custodian shall state in an]~~ ***into a certified paper original.***

2. An electronic will may be converted into a certified paper original by creating a tangible document that contains the following:

(a) The text of the electronic will; and

(b) An affidavit ~~[:~~

~~(1) That the]~~ ***satisfying the requirements of subsections 3, 4 and 5, as applicable.***

3. A qualified custodian ~~[is eligible to act as a]~~ ***converting an electronic will into a certified paper original shall state all of the following in an affidavit:***

(a) That the qualified custodian ~~[in this State;~~

~~(2)]~~ ***is not a person described in subsection 1 of NRS 133.320;***

(b) That the qualified custodian is the qualified custodian designated by the testator in the electronic will or was designated to act in such a capacity pursuant to ~~[paragraph (b) of]~~ subsection ~~[1]~~ ***2 or 4*** of NRS 133.310;

~~[(3)]~~ ***(c)*** That an electronic record was created at the time the testator executed the electronic will;

~~[(4)]~~ ***(d)*** That the electronic record has been in the custody of one or more qualified custodians since the execution of the electronic will, and has not been altered since the time it was created;

~~[(5)]~~ ***(e)*** The identity of all qualified custodians who have had custody of the electronic record since the execution of the electronic will;

~~[(6)]~~ ***(f)*** That the certified paper original is a true, correct and complete tangible manifestation of the electronic will; and

~~[(7)]~~ ***(g)*** That the records described in subsection 3 of NRS 133.320 are in the custody of the qualified custodian.

~~[(b)]~~ ***4. In addition to the statements required pursuant to subsection 3, a qualified custodian converting a self-proving electronic will to a certified paper original shall state all of the following in the affidavit:***

(a) That the declaration or affidavits of the attesting witnesses satisfying the requirements of NRS 133.050 were created at the time the testator executed the electronic will and were incorporated as part of, attached to or logically associated with the electronic will as required pursuant to NRS 133.086;

(b) That the declarations or affidavits of the attesting witnesses have been in the possession of a qualified custodian since the execution of the electronic will and have not been altered since the time they were created;

(c) The identity of all qualified custodians who have had possession of the declarations or affidavits of the attesting witnesses since their creation; and

(d) That the certified paper original contains a true, correct and complete tangible manifestation of the original declarations or affidavits of the attesting witnesses.

5. If the electronic will has not always been under the custody of a qualified custodian, the person who discovered the electronic will ~~[and the person who reduced]~~ ***may cause*** the electronic will to ~~[the]~~ ***be converted into a*** certified paper original ~~[shall each state in an affidavit]~~ ***by creating a tangible document that contains*** the following ~~[information,]~~ ***:***

(a) The text of the electronic will; and

(b) An affidavit that states, to the best of their knowledge:

(1) When the electronic will was created, if not indicated in the electronic will;

(2) When, how and by whom the electronic will was discovered;

(3) The identities of each person who has had access to the electronic will;

(4) The method in which the electronic will was stored and the safeguards in place to prevent alterations to the electronic will;

(5) Whether the electronic will has been altered since its execution; and

(6) That the certified paper original is a true, correct and complete tangible manifestation of the electronic will.

~~[2.]~~ ***6.*** For purposes of making an affidavit pursuant to ~~[paragraph (a) of]~~ subsection ~~[1,]~~ ***3, 4 or 5,*** the qualified custodian may rely conclusively on any affidavits delivered by a predecessor qualified custodian.

7. If a testator has revoked a will through an electronic record, the qualified custodian may convert the electronic revocation into a certification of revocation by creating:

(a) A certified paper original of the electronic will; and

(b) A tangible document that contains the following:

(1) The text of the electronic revocation; and

(2) An affidavit stating:

(I) That an electronic record was created at the time the testator revoked the will;

(II) That the electronic record has been in the custody of one or more qualified custodians since the execution of the

electronic revocation, and has not been altered since the time it was created;

(III) The identity of all qualified custodians who have had custody of the electronic record since the execution of the electronic revocation;

(IV) That the certified paper original is a true, correct and complete tangible manifestation of the electronic revocation; and

(V) That the records described in subsection 3 of NRS 133.320 pertaining to the electronic revocation are presently in the custody of the qualified custodian.

8. A certified paper original of an electronic will satisfying the requirements of subsection 2 or 5, as applicable, may be offered for and admitted into probate in the same manner as if it were an original will. A certified paper original of an electronic will is presumed to be valid and, absent any objection, must be admitted to probate expeditiously without requiring further proof of validity.

9. Before the expiration of the 30 days after the qualified custodian gives notice to the testator of the qualified custodian's intent to convert the electronic will into a certified paper original pursuant to paragraph (b) of subsection 1, if the testator objects to the conversion and designates a successor qualified custodian in accordance with NRS 133.310, the qualified custodian shall not convert the electronic will into a certified paper original and shall instead comply with paragraph (b) of subsection 2 of NRS 133.310.

Sec. 15. NRS 139.050 is hereby amended to read as follows:

139.050 Administration may be granted upon petition to one or more qualified persons, although not otherwise entitled to serve, at the written request of the person entitled, filed in the court. ***The qualified person making the written request must provide his or her current address and phone number in the written request. Failure to provide such information voids the written request.***

Sec. 16. NRS 139.090 is hereby amended to read as follows:

139.090 1. A petition for letters of administration must be in writing, signed by the petitioner or the attorney for the petitioner and filed with the clerk of the court, and must state:

(a) The jurisdictional facts;

(b) The names and addresses of the heirs of the decedent and their relationship to the decedent, so far as known to the petitioner, and the age of any who is a minor;

(c) The character and estimated value of the property of the estate; ~~[and]~~

(d) ***The names and personal addresses of the proposed appointed administrators and the name and personal address of any associated coadministrator under paragraph (a) of subsection 2 of NRS 139.040 or, if the coadministrator is an attorney who is licensed in this State or a banking corporation authorized to do business in this State, the business address of the coadministrator; and***

(e) Whether the person to be appointed as administrator has been convicted of a felony.

2. No defect of form or in the statement of jurisdictional facts actually existing voids an order appointing an administrator or any of the subsequent proceedings.

Sec. 17. Chapter 143 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 and 19 of this act.

Sec. 18. ***1. Except as otherwise provided in subsection 2:***

(a) A person shall either accept letters of administration or letters testamentary that have been certified within 60 days after presentation of the certified letters of administration or letters testamentary for acceptance, or request a translation or an opinion of counsel, not later than 10 business days after such presentation;

(b) If a person requests a translation or an opinion of counsel, the person shall accept the certified letters of administration or letters testamentary not later than 5 business days after receipt of the translation or opinion of counsel; and

(c) A person may not require an additional or different form of certified letters of administration or letters testamentary for authority granted in the letters presented.

2. A person is not required to accept certified letters of administration or letters testamentary if:

(a) The person is not otherwise required to engage in a transaction with the personal representative in the same circumstances;

(b) Engaging in a transaction with the personal representative in the same circumstances would be inconsistent with federal law;

(c) The person has actual knowledge of the termination of the personal representative's authority before the exercise of authority; or

(d) A request for a translation or an opinion of counsel is refused.

3. A person who refuses to accept certified letters of administration or letters testamentary in violation of this section is subject to:

(a) A court order mandating acceptance of the certified letters of administration or letters testamentary; and

(b) Liability for reasonable attorney's fees and costs incurred in any action or proceeding that confirms the validity of the certified letters of administration or letters testamentary or mandates acceptance of the certified letters of administration or letters testamentary.

4. After accepting certified letters of administration or letters testamentary, a person may request newly certified letters of administration or letters testamentary any time after the 6-month period following the date of the previous acceptance of certified letters of administration or letters testamentary for the purpose of validating the continued authority of the personal representative.

Sec. 19. ***1. A person holding property that is attributable to a decedent may only request the presentation of the following items before transferring such property in accordance with a court order providing to whom such property is to be transferred:***

(a) A certified copy of the court order providing to whom such property is to be transferred;

(b) A certified copy of letters of administration or letters testamentary;

(c) The identification and contact information of the personal representative;

(d) Tax information, if necessary; and

(e) Documents evidencing the death of the decedent.

2. Except as otherwise provided in subsection 3, if a person holding property that is attributable to a decedent requests the presentation of any of the items set forth in subsection 1, the person must accept and comply with the court order providing to whom such property is to be transferred not later than 10 business days after the presentation of all items requested pursuant to subsection 1.

3. A person holding property that is attributable to a decedent is not required to transfer such property if:

(a) The certification of the court order, letters of administration or letters testamentary presented is older than 180 days;

(b) The court order is inconsistent with federal law; or

(c) The person has actual knowledge that the person presenting the court order is not a personal representative of the estate of the decedent.

4. The lack of legal or actual notice of the court proceeding resulting in the issuance of the court order providing to whom property is to be transferred is not a defense to not complying with the order unless an actual dispute exists over title to the property.

5. A person who timely complies with a court order in accordance with this section shall be held harmless.

6. A person who refuses to accept and comply with a court order in violation of this section is subject to:

(a) A court order requiring acceptance of the order; and

(b) Liability for reasonable attorney's fees and costs incurred in an action or proceeding confirming the validity of the court order, and any damages resulting from the delay beginning on the day of the presentation of all items requested pursuant to subsection 1.

Sec. 20. NRS 143.010 is hereby amended to read as follows:

143.010 If there are two personal representatives, the acts of one alone are valid if the other is absent from the state, or for any cause is laboring under any legal disability ~~[,]~~ ***or conflict of interest,*** and if there are more than two, the acts of a majority are sufficient.

Sec. 21. NRS 143.050 is hereby amended to read as follows:

143.050 1. Except as otherwise provided in ***subsection 2,*** NRS 143.520 ~~[,]~~ ***or the decedent's will,*** after notice given as provided in NRS 155.010 or in such other manner as the court directs ~~[, the court may authorize]~~ ***:***

(a) Subject to the partnership agreement and the applicable provisions of chapter 87, 87A or 88 of NRS, the personal representative ~~[to]~~ ***may*** continue ~~[the operation of the decedent's business to such an extent and subject to such restrictions as may seem to the court to be for the best interest of the estate and any interested persons.]~~ ***as a general partner in any partnership in which the decedent was a general partner at the time of death;***

(b) Subject to the operating agreement and the applicable provisions of chapter 86 of NRS, the personal representative may continue as a manager or managing member in any limited-liability company in which the decedent was a manager or managing member at the time of death;

(c) The personal representative may continue operation of any of the following:

(1) An unincorporated business or joint venture in which the decedent was engaged at the time of death; or

(2) An unincorporated business or joint venture which was wholly or partly owned by the decedent at the time of death; and

(d) The personal representative may continue to exercise any shareholder, partnership or membership rights owned by the decedent at the time of death to which the personal representative has succeeded during the administration of the estate.

2. The ~~[provisions of]~~ ***court may, upon its own motion or upon the petition of an interested person, restrict the actions of the personal representative set forth in*** subsection 1 ~~[do not apply to passive investments or the exercise of any shareholder or membership rights to which the personal representative has~~

~~succeeded.]~~ ***as the court determines to be in the best interest of the estate and any interested persons.***

3. Unless specifically authorized by the will or by the court, the personal representative may not receive any separate compensation for continuing the operation of the decedent's business pursuant to this section.

Sec. 22. NRS 143.165 is hereby amended to read as follows:

143.165 1. ~~[On]~~ ***Except as otherwise provided in subsection 6, on*** petition or ex parte application of an interested person, the court, with or without bond, may enter an ex parte order restraining a personal representative from performing specified acts of administration, disbursement or distribution, or exercising any powers or discharging any duties of the office, or enter any other order to secure proper performance of the duties of the office to be effective until further order of the court. Notwithstanding any other provision of law, if it appears to the court that the personal representative otherwise may take action that would jeopardize unreasonably the interest of the petitioner, of some other interested person or the estate, the court may enter the ex parte order. A person with whom the personal representative may transact business may be made a party to the ex parte order.

2. Any ex parte orders entered pursuant to subsection 1 must be set for hearing within 10 days after entry of the ex parte order, unless the parties otherwise agree, or on a date the court otherwise determines is in the best interest of the estate.

3. Notice of entry of the ex parte order entered pursuant to subsection 1 must be given by the petitioner or applicant to the personal representative and the attorney of record of the personal representative, if any, to any other party named as a party in the ex parte order and as otherwise directed by the court.

4. The court may impose a fine on an interested person who obtains an ex parte order pursuant to this section without probable cause.

5. The court may, at any time, terminate an ex parte order entered pursuant to subsection 1 on its own motion or upon petition of the personal representative if it no longer appears to the court that the personal representative otherwise may take action that would jeopardize unreasonably the interest of the petitioner, of some other interested person or the estate.

6. A public administrator or a person employed or contracted with pursuant to NRS 253.125, as applicable, must not be required to post a bond for obtaining any order pursuant to this section.

Sec. 23. NRS 143.305 is hereby amended to read as follows:

143.305 As used in NRS 143.300 to 143.815, inclusive, ***and section 19 of this act,*** unless the context otherwise requires, the

words and terms defined in NRS 143.310, 143.315 and 143.320 have the meanings ascribed to them in those sections.

Sec. 24. NRS 143.345 is hereby amended to read as follows:

143.345 1. If the authority to administer the estate pursuant to NRS 143.300 to 143.815, inclusive, ***and section 19 of this act*** is requested in a petition for appointment of the personal representative, notice of the hearing on the petition must be given for the period and in the manner applicable to the petition for appointment.

2. Where proceedings for the administration of the estate are pending at the time a petition is filed pursuant to NRS 143.340, notice of the hearing on the petition must be given for the period and in the manner provided in NRS 155.010 to all the following persons:

(a) Each person specified in NRS 155.010;

(b) Each known heir whose interest in the estate would be affected by the petition;

(c) Each known devisee whose interest in the estate would be affected by the petition; ~~[and]~~

(d) Each person named as personal representative in the will of the decedent ~~[.]~~ ***; and***

(e) The public administrator of the county or a person employed or contracted with pursuant to NRS 253.125, as applicable, if the decedent died intestate and the petitioner is not the surviving spouse or kindred under NRS 139.040, regardless of any nomination by an heir.

3. The notice of hearing of the petition for authority to administer the estate pursuant to NRS 143.300 to 143.815, inclusive, ***and section 19 of this act,*** whether included in the petition for appointment or in a separate petition, must include a statement in substantially the following form:

> The petition requests authority to administer the estate under the Independent Administration of Estates Act. This will avoid the need to obtain court approval for many actions taken in connection with the estate. However, before taking certain actions, the personal representative will be required to give notice to interested persons unless they have waived notice or have consented to the proposed action. Independent administration authority will be granted unless good cause is shown why it should not be.

Sec. 25. NRS 143.350 is hereby amended to read as follows:

143.350 1. Except as otherwise provided in subsection 2, unless an interested person ***, including, without limitation, a person who receives notice under NRS 143.345,*** objects in writing at or before the hearing to the granting of authority to administer the

estate pursuant to NRS 143.300 to 143.815, inclusive, ***and section 19 of this act*** and the court determines that the interested person has shown good cause why the authority to administer the estate under those provisions should not be granted, the court shall grant the requested authority.

2. If the interested person has shown good cause why only limited authority should be granted, the court shall grant limited authority.

Sec. 26. NRS 143.520 is hereby amended to read as follows:

143.520 1. Subject to the partnership agreement ***,*** ~~[and]~~ the applicable provisions of chapter 87 ***, 87A or 88*** of NRS ~~[,]~~ ***and the decedent's will,*** the personal representative who has limited authority or full authority has the power to continue as a general partner in any partnership in which the decedent was a general partner at the time of death.

2. ***Subject to the operating agreement, the applicable provisions of chapter 86 of NRS and the decedent's will, the personal representative who has limited authority or full authority has the power to continue as a manager or managing member in any limited-liability company in which the decedent was a manager or managing member at the time of death.***

3. The personal representative who has limited authority or full authority has the power to continue operation of any of the following:

(a) An unincorporated business or joint venture in which the decedent was engaged at the time of ~~[the decedent's]~~ death.

(b) An unincorporated business or joint venture which was wholly or partly owned by the decedent at the time of ~~[the decedent's]~~ death.

~~[3.]~~ ***4. The personal representative who has limited authority or full authority has the power to continue to exercise any shareholder, partnership or membership rights owned by the decedent at the time of death to which the personal representative has succeeded during the administration of the estate.***

5. Except as otherwise provided in subsection ~~[4,]~~ ***6,*** the personal representative may exercise the powers described in subsections 1 ~~[and 2]~~ ***to 4, inclusive,*** without giving notice of the proposed action pursuant to NRS 143.700 to 143.760, inclusive.

~~[4.]~~ ***6.*** The personal representative shall give notice of a proposed action pursuant to NRS 143.700 to 143.760, inclusive, if the personal representative continues as a general partner under subsection 1 ~~[,]~~ ***or a manager or managing member under subsection 2*** or continues the operation of any unincorporated business or joint venture under subsection ~~[2,]~~ ***3,*** for a period of

more than 6 months after the date on which letters are first issued to a personal representative.

Sec. 27. NRS 146.070 is hereby amended to read as follows:

146.070 1. ***All or part of the estate of a decedent may be set aside without administration by the order of the court as follows:***

(a) If the value of a decedent's estate does not exceed $100,000, the estate may be set aside without administration by the order of the court ~~.~~ ***; or***

(b) If a decedent's will directs that all or part of the decedent's estate is to be distributed to the trustee of a nontestamentary trust established by the decedent and in existence at the decedent's death, the portion of the estate subject to such direction may be set aside without administration. Any portion of a decedent's estate set aside to the nontestamentary trust pursuant to this paragraph is subject to creditors of the estate unless the petitioner provides proof to the court that the trustee has published or mailed the requisite notice to such creditors on behalf of the nontestamentary trust and settlor pursuant to NRS 164.025.

2. Except as otherwise provided in subsection 3, the whole estate ***set aside pursuant to paragraph (a) of subsection 1*** must be assigned and set apart in the following order:

(a) To the payment of the petitioner's attorney's fees and costs incurred relative to the proceeding under this section;

(b) To the payment of funeral expenses, expenses of last illness, money owed to the Department of Health and Human Services as a result of payment of benefits for Medicaid and creditors, if there are any;

(c) To the payment of other creditors, if any; and

(d) Any balance remaining to the claimant or claimants entitled thereto pursuant to a valid will of the decedent, and if there is no valid will, pursuant to intestate succession in accordance with chapter 134 of NRS.

3. If ***the value of the estate does not exceed $100,000 and*** the decedent is survived by a spouse or one or more minor children, the court must set aside the estate for the benefit of the surviving spouse or the minor child or minor children of the decedent, subject to any reduction made pursuant to subsection 4 or 5. The court may allocate the entire estate to the surviving spouse, the entire amount to the minor child or minor children, or may divide the estate among the surviving spouse and minor child or minor children.

4. As to any amount set aside to or for the benefit of the surviving spouse or minor child or minor children of the decedent pursuant to subsection 3, the court must set aside the estate without the payment of creditors except as the court finds necessary to prevent a manifest injustice.

5. To prevent an injustice to creditors when there are nonprobate transfers that already benefit the surviving spouse or minor child or minor children of the decedent, the court has the discretion to reduce the amount set aside under subsection 3 to the extent that the value of the estate, when combined with the value of nonprobate transfers, as defined in NRS 111.721, from the decedent to or for the benefit of the surviving spouse or minor child or minor children of the decedent exceeds $100,000.

6. In exercising the discretion granted in this section, the court shall consider the needs and resources of the surviving spouse and minor child or minor children, including any assets received by or for the benefit of the surviving spouse or minor child or minor children from the decedent by nonprobate transfers.

7. For the purpose of this section, a nonprobate transfer from the decedent to one or more trusts or custodial accounts for the benefit of the surviving spouse or minor child or minor children shall be considered a transfer for the benefit of such spouse or minor child or minor children.

8. Proceedings taken under this section must not begin until at least 30 days after the death of the decedent and must be originated by a petition containing:

(a) A specific description of all property in the decedent's estate;

(b) A list of all known liens and encumbrances against estate property at the date of the decedent's death, with a description of any that the petitioner believes may be unenforceable;

(c) An estimate of the value of the property, together with an explanation of how the estimated value was determined;

(d) A statement of the debts of the decedent so far as known to the petitioner;

(e) The names and residences of the heirs and devisees of the decedent and the age of any who is a minor and the relationship of the heirs and devisees to the decedent, so far as known to the petitioner; and

(f) If the decedent left a will, a statement concerning all evidence known to the petitioner that tends to prove that the will is valid.

9. If the petition seeks to have the estate set aside for the benefit of the decedent's surviving spouse or minor child or minor children without payment to creditors, the petition must also contain:

(a) A specific description and estimated value of property passing by one or more nonprobate transfers from the decedent to the surviving spouse or minor child or minor children; or

(b) An allegation that the estimated value of the property sought to be set aside, combined with the value of all nonprobate transfers

from the decedent to the surviving spouse or minor child or minor children who are seeking to receive property pursuant to this section, is less than $100,000.

10. When property is distributed pursuant to an order granted under this section, the court may allocate the property on a pro rata basis or a non-pro rata basis.

11. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition and hearing in the manner provided in NRS 155.010 to the decedent's heirs and devisees and to the Director of the Department of Health and Human Services. If a complete copy of the petition is not enclosed with the notice, the notice must include a statement setting forth to whom the estate is being set aside.

12. No court or clerk's fees may be charged for the filing of any petition in, or order of court thereon, or for any certified copy of the petition or order in an estate not exceeding $2,500 in value.

13. At the hearing on a petition under this section, the court may require such additional evidence as the court deems necessary to make the findings required under subsection 14.

14. The order granting the petition shall include:

(a) The court's finding as to the validity of any will presented;

(b) The court's finding as to the value of the estate and, if relevant for the purposes of subsection 5, the value of any property subject to nonprobate transfers;

(c) The court's determination of any property set aside under subsection 2;

(d) The court's determination of any property set aside under subsection 3, including, without limitation, the court's determination as to any reduction made pursuant to subsection 4 or 5; and

(e) The name of each distributee and the property to be distributed to the distributee.

15. As to the distribution of the share of a minor child set aside pursuant to this section, the court may direct the manner in which the money may be used for the benefit of the minor child as is deemed in the court's discretion to be in the best interests of the minor child, and the distribution of the minor child's share shall be made as permitted for the minor child's share under the terms of the decedent's will or to one or more of the following:

(a) A parent of such minor child, with or without the filing of any bond;

(b) A custodian under chapter 167 of NRS; or

(c) A court-appointed guardian of the estate, with or without bond.

16. For the purposes of this section, the value of property must be the fair market value of that property, reduced by the value of all

enforceable liens and encumbrances. Property values and the values of liens and encumbrances must be determined as of the date of the decedent's death.

Sec. 28. NRS 150.060 is hereby amended to read as follows:

150.060 1. An attorney for a personal representative is entitled to reasonable compensation for the attorney's services, to be paid out of the decedent's estate.

2. An attorney for a personal representative may be compensated based on:

(a) The applicable hourly rate of the attorney;

(b) The value of the estate accounted for by the personal representative;

(c) An agreement as set forth in subsection 4 of NRS 150.061; or

(d) Any other method preapproved by the court pursuant to a request in the initial petition for the appointment of the personal representative.

3. If the attorney is requesting compensation based on the hourly rate of the attorney, he or she may include, as part of that compensation for ordinary services, a charge for legal services or paralegal services performed by a person under the direction and supervision of the attorney.

4. If the attorney is requesting compensation based on the value of the estate accounted for by the personal representative, the ~~[allowable]~~ ***court shall allow*** compensation of the attorney for ordinary services ~~[must be determined]~~ as follows:

(a) For the first $100,000, at the rate of 4 percent;

(b) For the next $100,000, at the rate of 3 percent;

(c) For the next $800,000, at the rate of 2 percent;

(d) For the next $9,000,000, at the rate of 1 percent;

(e) For the next $15,000,000, at the rate of 0.5 percent; and

(f) For all amounts above $25,000,000, a reasonable amount to be determined by the court.

5. Before an attorney may receive compensation based on the value of the estate accounted for by the personal representative, the personal representative must sign a written agreement as required by subsection 8. The agreement must be prepared by the attorney and must include detailed information, concerning, without limitation:

(a) The schedule of fees to be charged by the attorney;

(b) The manner in which compensation for extraordinary services may be charged by the attorney; and

(c) The fact that the court is required to approve the compensation of the attorney pursuant to subsection 8 before the personal representative pays any such compensation to the attorney.

6. For the purposes of determining the compensation of an attorney pursuant to subsection 4, the value of the estate accounted for by the personal representative:

(a) Is the total amount of the appraisal of property in the inventory, plus:

(1) The gains over the appraisal value on sales; and

(2) The receipts, less losses from the appraisal value on sales; and

(b) Does not include encumbrances or other obligations on the property of the estate.

7. In addition to the compensation for ordinary services of an attorney set forth in this section, an attorney may also be entitled to receive compensation for extraordinary services as set forth in NRS 150.061.

8. The compensation of the attorney must be fixed by written agreement between the personal representative and the attorney, and is subject to approval by the court, after petition, notice and hearing as provided in this section. If the personal representative and the attorney fail to reach agreement, or if the attorney is also the personal representative, the amount must be determined and allowed by the court. The petition requesting approval of the compensation of the attorney must contain specific and detailed information supporting the entitlement to compensation, including:

(a) If the attorney is requesting compensation based upon the value of the estate accounted for by the personal representative, the attorney must provide the manner of calculating the compensation in the petition; and

(b) If the attorney is requesting compensation based on an hourly basis, or is requesting compensation for extraordinary services, the attorney must provide the following information to the court:

(1) Reference to time and hours;

(2) The nature and extent of services rendered;

(3) Claimed ordinary and extraordinary services;

(4) The complexity of the work required; and

(5) Other information considered to be relevant to a determination of entitlement.

9. The clerk shall set the petition for hearing, and the petitioner shall give notice of the petition to the personal representative if he or she is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the fee which the court will be requested to approve or allow.

10. On similar petition, notice and hearing, the court may make an allowance to an attorney for services rendered up to a certain time during the proceedings. If the attorney is requesting compensation based upon the value of the estate as accounted for by the personal representative, the court may apportion the compensation as it deems appropriate given the amount of work remaining to close the estate.

11. An heir or devisee may file objections to a petition filed pursuant to this section, and the objections must be considered at the hearing.

12. Except as otherwise provided in this subsection, an attorney for minor, absent, unborn, incapacitated or nonresident heirs is entitled to compensation primarily out of the estate of the distributee so represented by the attorney in those cases and to such extent as may be determined by the court. If the court finds that all or any part of the services performed by the attorney for the minor, absent, unborn, incapacitated or nonresident heirs was of value to the decedent's entire estate as such and not of value only to those heirs, the court shall order that all or part of the attorney's fee be paid to the attorney out of the money of the decedent's entire estate as a general administrative expense of the estate. The amount of these fees must be determined in the same manner as the other attorney's fees provided for in this section.

Sec. 29. NRS 155.094 is hereby amended to read as follows:

155.094 ***1.*** "Independent attorney" means an attorney, other than an attorney who:

~~[1.]~~ ***(a)*** Is a transferee described in subsection 2 of NRS 155.097; or

~~[2.]~~ ***(b)*** Served as an attorney for a person who is described in subsection 2 of NRS 155.097 at the time of the execution of the transfer instrument.

2. The term includes, without limitation, the drafting attorney representing the transferor in preparation of the transfer instrument if the drafting attorney is not a person described in paragraph (a) or (b) of subsection 1.

Sec. 30. NRS 159.0753 is hereby amended to read as follows:

159.0753 1. Any person who wishes to request to nominate another person to be appointed as his or her guardian may do so ~~[by]~~ ***:***

(a) If nominating a guardian of the estate, pursuant to NRS 162A.250;

(b) If nominating a guardian of the person, pursuant to NRS 162A.800; or

(c) By completing a form requesting to nominate a guardian in accordance with this section.

2. A form requesting to nominate a guardian ***pursuant to this section*** must be:

(a) Signed by the person requesting to nominate a guardian;

(b) Signed by two impartial adult witnesses who have no interest, financial or otherwise, in the estate of the person requesting to nominate a guardian and who attest that the person has the mental capacity to understand and execute the form; and

(c) Notarized.

3. A request to nominate a guardian ***pursuant to this section*** may be in substantially the following form, and must be witnessed and executed in the same manner as the following form:

REQUEST TO NOMINATE GUARDIAN

I, ... (insert your name), residing at ..... (insert your address), am executing this notarized document as my written declaration and request for the person(s) designated below to be appointed as my guardian should it become necessary. I am advising the court and all persons and entities as follows:

1. As of the date I am executing this request to nominate a guardian, I have the mental capacity to understand and execute this request.

2. This request pertains to a (circle one): (guardian of the person)/(guardian of the estate)/(guardian of the person and estate).

3. Should the need arise, I request that the court give my preference to the person(s) designated below to serve as my appointed guardian.

4. I request that my ..... (insert relation), ... (insert name), serve as my appointed guardian.

5. If ..... (insert name) is unable or unwilling to serve as my appointed guardian, then I request that my ..... (insert relation), ... (insert name), serve as my appointed guardian.

6. I do not, under any circumstances, desire to have any private, for-profit guardian serve as my appointed guardian.

(YOU MUST DATE AND SIGN THIS DOCUMENT)

I sign my name to this document on ..... (date)

.....

(Signature)

(YOU MUST HAVE TWO QUALIFIED ADULT WITNESSES DATE AND SIGN THIS DOCUMENT)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed this request to nominate a guardian in my presence, that the principal appears to be of sound mind, has the mental capacity to understand and execute this document and is under no duress, fraud or undue influence, and that I have no interest, financial or otherwise, in the estate of the principal.

.....
(Signature of first witness)

.....
(Print name)

.....
(Date)

.....
(Signature of second witness)

.....
(Print name)

.....
(Date)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

State of Nevada }
}
County of ..... }

On this ..... day of ....., in the year ....., before me, ... (insert name of notary public), personally appeared ..... (insert name of principal), ... (insert name of first witness) and ..... (insert name of second witness), personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to this instrument, and acknowledged that they have signed this instrument.

.....
(Signature of notarial officer)
(Seal, if any)

4. The Secretary of State shall make the form established in subsection 3 available on the Internet website of the Secretary of State.

5. The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.

Sec. 31. Chapter 163 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A governing trust instrument may authorize the trustee, in the sole discretion of the trustee or at the direction or with the consent of a directing trust adviser, to reimburse a settlor for all or a portion of tax on trust income or principal that is payable by the settlor under the law imposing such tax. In the sole discretion of the trustee, the trustee may pay such amount to the settlor directly or to an appropriate taxing authority on behalf of the settlor.

2. A trustee or directing trust adviser is not liable to any person as a result of determining whether to reimburse or not reimburse a settlor for all or a portion of tax on trust income or principal that is payable by the settlor pursuant to subsection 1.

3. The authority of a trustee to make a payment to or for the benefit of a settlor or a determination by the trustee to exercise such authority in favor of the settlor in accordance with subsection 1 does not make the settlor a beneficiary for purposes of the laws of this State. As used in this subsection, "beneficiary" has the meaning ascribed to it in NRS 163.4147.

Sec. 32. NRS 163.002 is hereby amended to read as follows:

163.002 1. Except as otherwise provided by specific statute ~~[,]~~ ***or any regulatory or contractual restrictions,*** a trust may be created by any of the following methods:

(a) A declaration by the owner of property that he or she or another person holds the property as trustee. In the absence of a contrary declaration by the owner of the property or of a transfer of the property to a third party and regardless of formal title to the property:

(1) Property declared to be trust property, together with all income therefrom and the reinvestment thereof, must remain trust property; and

(2) If the property declared to be trust property includes an account, contract, certificate, note, judgment, business interest, contents of a safe deposit box or other property interest that is subject to additions or contributions, all subsequent additions and contributions to the property are also trust property.

(b) A transfer of property by the owner during his or her lifetime to another person as trustee.

(c) A testamentary transfer of property by the owner to another person as trustee.

(d) An exercise of a power of appointment in trust.

(e) An enforceable promise to create a trust.

2. A declaration pursuant to paragraph (a) of subsection 1 may ***, but is not required, to*** include a schedule or list of trust assets that is signed by the owner of the property or that is incorporated by reference into a document that is signed by the owner of the property.

3. A declaration by the owner of property pursuant to paragraph (a) of subsection 1 that he or she or another person holds all the property of the declarant in trust is sufficient to create a trust over all the property of the declarant that is reliably identified through the use of extrinsic evidence as belonging to the declarant at the time of his or her death.

Sec. 33. NRS 163.004 is hereby amended to read as follows:

163.004 1. Except as otherwise provided by law, the terms of a trust instrument may expand, restrict, eliminate or otherwise vary the rights and interests of beneficiaries in any manner that is not illegal or against public policy, including, without limitation:

(a) The right to be informed of the beneficiary's interest for a period of time;

(b) The grounds for the removal of a fiduciary;

(c) The circumstances, if any, in which the fiduciary must diversify investments;

(d) A fiduciary's powers, duties, standards of care, rights of indemnification and liability to persons whose interests arise from the trust instrument; and

(e) The provisions of general applicability to trusts and trust administration.

2. A trust is irrevocable except to the extent that ~~[a right to amend the trust or]~~ a right to revoke the trust is expressly reserved by the settlor ~~[or is granted to one or more other persons]~~ under the terms of the trust instrument. ~~[Notwithstanding the provisions of this subsection, the following powers do]~~ ***Any authority, power or right granted to any person other than the settlor under the terms of the trust instrument or by law, including, without limitation, the power or right to amend the trust, does*** not ***render or*** make a trust revocable ***.*** ~~[:~~

~~(a) Power of appointment;~~

~~(b) Power to add or remove beneficiaries;~~

~~(c) Power to appoint, remove or replace the trustee; or~~

~~(d) Power to make administrative amendments.]~~

3. Nothing in this section shall be construed to:

(a) Authorize the exculpation or indemnification of a fiduciary for the fiduciary's own willful misconduct or gross negligence; or

(b) Preclude a court of competent jurisdiction from removing a fiduciary because of the fiduciary's willful misconduct or gross negligence.

4. The rule that statutes in derogation of the common law are to be strictly construed has no application to this section. This section must be liberally construed to give maximum effect to the principle of freedom of disposition and to the enforceability of trust instruments.

Sec. 34. NRS 163.0095 is hereby amended to read as follows:

163.0095 1. An electronic trust is a trust instrument that:

(a) Is created and maintained in an electronic record in such a manner that any alteration thereto is detectable;

(b) Contains the electronic signature of the settlor and the date and time thereof;

(c) Includes, without limitation, an authentication method which is attached to or logically associated with the trust instrument to identify the settlor or is electronically notarized in accordance with all applicable provisions of law;

(d) Is subject to the provisions of chapter 719 of NRS; and

(e) Meets the requirements set forth in this chapter for a valid trust.

2. Regardless of the physical location of the settlor, an electronic trust shall be deemed to be executed in this State and will be governed by the laws of this State and subject to the jurisdiction of the courts of this State if the electronic trust is:

(a) Transmitted to and maintained by a custodian designated in the trust instrument at the custodian's place of business in this State or at the custodian's residence in this State; or

(b) Maintained by the settlor at the settlor's place of business in this State or at the settlor's residence in this State, or by the trustee at the trustee's place of business in this State or at the trustee's residence in this State.

3. Notwithstanding the provisions of subsection 2, the validity of a notarial act performed by an electronic notary public must be determined by applying the laws of the jurisdiction in which the electronic notary public is commissioned or appointed.

4. The provisions of this section do not apply to a testamentary trust.

5. ***The custodian of an electronic trust may convert the electronic trust into a certified paper original of the electronic trust under the following circumstances:***

(a) At the direction of the settlor or the trustee; or

(b) Except as otherwise provided in subsection 8, with 30 days' written notice, delivered to the last known address of the settlor or

trustee, that the custodian intends to convert the electronic trust into a certified paper original.

6. An electronic trust may be converted into a certified paper original by creating a tangible document that contains the following:

(a) The text of the electronic trust; and

(b) An affidavit of the custodian or an employee of the custodian stating:

(1) That the electronic record was created at the time the settlor executed the electronic trust;

(2) The identities of all custodians who have had custody of the electronic record since the execution of the electronic trust;

(3) That the certified paper original is a true, correct and complete tangible manifestation of the electronic trust; and

(4) That the electronic record of the electronic trust is presently in the custody of the custodian.

7. The custodian of an electronic trust may destroy the electronic record of the electronic trust after converting the electronic trust into a certified paper original if the custodian:

(a) Provides 30 days' written notice, delivered to the last known address of the settlor or trustee, that the custodian intends to destroy the record and the settlor or trustee does not object within the 30-day period; and

(b) Makes a reasonable effort to provide the electronic record to the settlor or trustee before destroying the electronic record.

8. Before the expiration of the 30 days after the custodian gives notice to the settlor or trustee pursuant to paragraph (b) of subsection 5, if the settlor or trustee objects to the conversion of the electronic trust into a certified paper original and agrees to take custody of the electronic trust, the custodian shall not convert the electronic trust into a certified paper original and shall deliver the electronic record of the electronic trust to the settlor or trustee or to such other person as the settlor or trustee may direct.

9. As used in this section:

(a) "Authentication characteristic" has the meaning ascribed to it in NRS 133.085.

(b) "Authentication method" means a method of identification using any applicable method authorized or required by law, including, without limitation, a digital certificate using a public key or a physical device, including, without limitation, a smart card, flash drive or other type of token, an authentication characteristic or another commercially reasonable method.

(c) ***"Certified paper original" means a tangible document that contains the text of an electronic trust.***

(d) "Public key" has the meaning ascribed to it in NRS 720.110.

Sec. 35. NRS 163.025 is hereby amended to read as follows:

163.025 1. Except as otherwise provided by the terms of the trust instrument, a trustee may combine two or more trusts into a single trust or divide a trust into two or more separate trusts if the combination or division does not:

(a) Impair the rights of any beneficiary;

(b) Substantially affect the accomplishment of the purposes of the trust or trusts; or

(c) Violate the rule against perpetuities applicable to the trust or trusts.

2. ~~[The]~~ ***If the terms of the trust instrument do not expressly authorize the combination or division of trusts, then the*** combination or division of trusts must be made ~~[only]~~ ***by court order or*** after giving notice of the proposed action and following the procedure set forth in NRS 164.725. The notice of the proposed action must include a summary of the anticipated tax consequences, if any, of the proposed combination or division.

Sec. 36. NRS 163.553 is hereby amended to read as follows:

163.553 As used in NRS 163.553 to 163.556, inclusive, ***and section 31 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 163.5533 to 163.5547, inclusive, have the meanings ascribed to them in those sections.

Sec. 37. NRS 163.5557 is hereby amended to read as follows:

163.5557 1. An instrument may provide for the appointment of a person to act as an investment trust adviser or a distribution trust adviser with regard to investment decisions or discretionary distributions.

2. An investment trust adviser may exercise the powers provided to the investment trust adviser in the instrument in the best interests of the trust. The powers exercised by an investment trust adviser are at the sole discretion of the investment trust adviser and are binding on all other persons. The powers granted to an investment trust adviser may include, without limitation, the power to:

(a) Direct the trustee with respect to the retention, purchase, sale or encumbrance of trust property and the investment and reinvestment of principal and income of the trust.

(b) Vote proxies for securities held in trust.

(c) Select one or more investment advisers, managers or counselors, including the trustee, and delegate to such persons any of the powers of the investment trust adviser.

(d) Value non-publicly traded investments held in trust that are subject to the investment management authority of the investment trust adviser.

3. A distribution trust adviser may exercise the powers provided to the distribution trust adviser in the instrument in the best interests of the trust. The powers exercised by a distribution trust adviser are at the sole discretion of the distribution trust adviser and are binding on all other persons. Except as otherwise provided in the instrument, the distribution trust adviser shall direct the trustee with regard to all discretionary distributions to a beneficiary.

Sec. 38. NRS 163.5559 is hereby amended to read as follows:

163.5559 1. Except as otherwise provided in subsection 2, a creditor of a settlor may not seek to satisfy a claim against the settlor from the assets of a trust ~~[if the settlor's sole interest in the trust is]~~ ***because of*** the existence of ~~[a]~~ ***:***

(a) A discretionary power granted to a person other than the settlor by the terms of the trust or by operation of law or to reimburse the settlor for any tax on trust income or principal which is payable by the settlor under the law imposing such tax ~~[.]~~ ***;***

(b) A power allowing the settlor to reacquire the trust corpus by substituting other property of an equivalent value; or

(c) A power allowing the settlor to borrow trust corpus or income, directly or indirectly, without adequate interest or without adequate security.

2. The provisions of subsection 1 do not ~~[apply to]~~ ***preclude a creditor from seeking to satisfy a claim against the settlor of a spendthrift trust from*** trust property transferred by the settlor to the extent ~~[a]~~ ***the*** creditor can prove ***by clear and convincing evidence that*** the transfer was fraudulent ***as to that creditor*** pursuant to chapter 112 of NRS or ~~[was otherwise wrongful as to]~~ ***violates a legal obligation owed to that creditor under a contract or a valid court order that is legally enforceable by*** that creditor.

3. For purposes of this section, a beneficiary of a trust shall be deemed to not be a settlor of a trust because of a lapse, waiver or release of the beneficiary's right to withdraw part or all of the trust property if the value of the property which could have been withdrawn by exercising the right of withdrawal in any calendar year does not, at the time of the lapse, waiver or release, exceed the greater of the amount provided in 26 U.S.C. § 2041(b)(2), 26 U.S.C. § 2503(b) or 26 U.S.C. § 2514(e), as amended, or any successor provision.

Sec. 39. NRS 163.556 is hereby amended to read as follows:

163.556 1. Except as otherwise provided in this section, unless the terms of a testamentary instrument or irrevocable trust provide otherwise, a trustee with discretion or authority to distribute trust income or principal to or for a beneficiary of the trust ***, whether acting in the trustee's own discretion or at the direction or with the consent of another party pursuant to the terms of the trust***

instrument, may exercise such discretion or authority by appointing the property subject to such discretion or authority in favor of a second trust as provided in this section.

2. The second trust to which a trustee appoints property of the original trust may only have as beneficiaries one or more of the beneficiaries of the original trust:

(a) To or for whom a distribution of income or principal may be made from the original trust;

(b) To or for whom a distribution of income or principal may be made in the future from the original trust at a time or upon the happening of an event specified under the original trust; or

(c) Both paragraphs (a) and (b).

➥ For purposes of this subsection, a permissible appointee of a power of appointment exercised by a beneficiary of the second trust is not considered a beneficiary of the second trust.

3. A trustee may not appoint property of the original trust to a second trust if:

(a) Appointing the property will reduce any income interest of any income beneficiary of the original trust if the original trust is:

(1) A trust for which a marital deduction has been taken for federal or state income, gift or estate tax purposes;

(2) A trust for which a charitable deduction has been taken for federal or state income, gift or estate tax purposes; or

(3) A grantor-retained annuity trust or unitrust under 26 C.F.R. § 25.2702-3(b) and (c).

➥ As used in this paragraph, "unitrust" has the meaning ascribed to it in NRS 164.700.

(b) The property to be appointed is subject to a power of withdrawal which is held by a beneficiary of the original trust and may be executed at the time of the proposed appointment, unless after the exercise of such appointment, the beneficiary of the original trust's power of withdrawal is unchanged with respect to the trust property.

(c) ~~[Property specifically allocated for one beneficiary of the original trust is no longer allocated for that beneficiary under either or both trusts, unless the beneficiary consents in writing.~~

~~(d)]~~ A contribution made to the original trust qualified for a gift tax exclusion as described in section 2503(b) of the Internal Revenue Code, 26 U.S.C. § 2503(b), by reason of the application of section 2503(c) of the Internal Revenue Code, 26 U.S.C. § 2503(c), unless the second trust provides that the beneficiary's remainder interest must vest not later than the date upon which such interest would have vested under the terms of the original trust.

4. A trustee who is a beneficiary of the original trust may not exercise the authority to appoint property of the original trust to a second trust if:

(a) Under the terms of the original trust or pursuant to law governing the administration of the original trust:

(1) The trustee does not have discretion to make distributions to himself or herself;

(2) The trustee's discretion to make distributions to himself or herself is limited by an ascertainable standard, and under the terms of the second trust, the trustee's discretion to make distributions to himself or herself is not limited by the same ascertainable standard; or

(3) The trustee's discretion to make distributions to himself or herself can only be exercised with the consent of a cotrustee or a person holding an adverse interest and under the terms of the second trust the trustee's discretion to make distributions to himself or herself is not limited by an ascertainable standard and may be exercised without consent; or

(b) Under the terms of the original trust or pursuant to law governing the administration of the original trust, the trustee of the original trust does not have discretion to make distributions that will discharge the trustee's legal support obligations but under the second trust the trustee's discretion is not limited.

5. Notwithstanding the provisions of subsection 1, a trustee who may be removed by the beneficiary or beneficiaries of the original trust and replaced with a trustee that is related to or subordinate, as described in section 672 of the Internal Revenue Code, 26 U.S.C. § 672(c), to a beneficiary, may not exercise the authority to appoint property of the original trust to a second trust to the extent that the exercise of the authority by such trustee would have the effect of increasing the distributions that can be made from the second trust to such beneficiary or group of beneficiaries that held the power to remove the trustee of the original trust and replace such trustee with a related or subordinate person, unless the distributions that may be made from the second trust to such beneficiary or group of beneficiaries described in paragraph (a) of subsection 4 are limited by an ascertainable standard.

6. The provisions of subsections 4 and 5 do not prohibit a trustee who is not a beneficiary of the original trust or who may not be removed by the beneficiary or beneficiaries and replaced with a trustee that is related to or subordinate to a beneficiary from exercising the authority to appoint property of the original trust to a second trust pursuant to the provisions of subsection 1.

7. Before appointing property pursuant to subsection 1, a trustee may give notice of a proposed action pursuant to

NRS 164.725 or may petition a court for approval pursuant to NRS 153.031, 164.015 or 164.725. Any notice of a proposed action or a petition for a court's approval must include the trustee's opinion of how the appointment of property will affect the trustee's compensation and the administration of other trust expenses.

8. The trust instrument of the second trust may:

(a) Grant a general or limited power of appointment to one or more of the beneficiaries of the second trust who are beneficiaries of the original trust.

(b) Provide that, at a time or occurrence of an event specified in the trust instrument, the remaining trust assets in the second trust must be held for the beneficiaries of the original trust upon terms and conditions that are substantially identical to the terms and conditions of the original trust.

9. The power to appoint the property of the original trust pursuant to subsection 1 must be exercised by a writing, signed by the trustee and filed with the records of the trust.

10. The exercise of the power to invade principal of the original trust pursuant to subsection 1 is considered the exercise of a power of appointment, other than power to appoint the property to the trustee, the trustee's creditors, the trustee's estate or the creditors of the trustee's estate and the provisions of NRS 111.1031 apply to such power of appointment.

11. The provisions of this section do not abridge the right of any trustee who has the power to appoint property which arises under any other law ~~[.]~~ ***or under the terms of the original trust.***

12. The provisions of this section do not impose upon a trustee a duty to exercise the power to appoint property pursuant to subsection 1.

13. The power to appoint property to another trust pursuant to subsection 1 is not a power to amend the trust and a trustee is not prohibited from appointing property to another trust pursuant to subsection 1 if the original trust is irrevocable or provides that it may not be amended.

14. A trustee's power to appoint property to another trust pursuant to subsection 1 is not limited by the existence of a spendthrift provision in the original trust.

15. A trustee exercising any power granted pursuant to this section may designate himself or herself or any other person permitted to act as a trustee as the trustee of the second trust.

16. The trustee of a second trust, resulting from the exercise of the power to appoint property to another trust pursuant to subsection 1, may also exercise the powers granted pursuant to this section with respect to the second trust.

17. ~~[This]~~ ***Except as otherwise provided under the terms of the trust, the power of a trustee to appoint property to another trust is in addition to any other powers conferred by the terms of the trust or under the laws of this State. This section does not expand, restrict, eliminate or otherwise alter any power that, with respect to a trust, a person holds in a nonfiduciary capacity.***

18. The power of a trustee to appoint property to another trust is an administrative act under this section and, therefore, regardless of whether a trust applies the laws of this State for construction or validity issues, this section applies to a trust that is governed by, situsedin or administered under the laws of this State, whether the trust is initially governed by, situsedin or administered under the laws of this State pursuant to the terms of the trust instrument or whether the governing law, situs or administration of the trust is moved to this State from another state or foreign jurisdiction.

~~[18.]~~ ***19.*** The power to appoint ***property*** to a second trust pursuant to this section may be exercised to appoint ***property*** to a second trust that is a special needs trust, pooled trust or third-party trust.

~~[19.]~~ ***20.*** As used in this section:

(a) "Ascertainable standard" means a standard relating to a person's health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury promulgated thereunder.

(b) "Pooled trust" means a trust described in 42 U.S.C. § 1396p(d)(4)(C) that meets the requirements for such a trust under any law or regulation of this State relating to the treatment of trusts for purposes of eligibility for Medicaid or other needs-based public assistance.

(c) "Second trust" means an irrevocable trust that receives trust income or principal appointed by the trustee of the original trust, and may be established by any person, including, without limitation, a new trust created by the trustee, acting in that capacity, of the original trust. If the trustee of the original trust establishes the second trust, then for purposes of creating the new second trust, the requirement of NRS 163.008 that the instrument be signed by the settlor shall be deemed to be satisfied by the signature of the trustee of the original trust. The second trust may be a trust created under:

(1) The original trust instrument, as modified after an appointment of property made pursuant to this section; or

(2) A different trust instrument.

(d) "Special needs trust" means a trust under 42 U.S.C. § 1396p(d)(4)(A) that meets the requirements for such a trust under any law or regulation of this State relating to the treatment of trusts for purposes of eligibility for Medicaid or other needs-based public assistance.

(e) "Third-party trust" means a trust that is:

(1) Established by a third party with the assets of the third party to provide for the supplemental needs of a person who is eligible for needs-based public assistance at or after the time of the creation of the trust; and

(2) Exempt from the provisions of any law or regulation of this State relating to the treatment of trusts for purposes of eligibility for Medicaid.

Sec. 40. NRS 164.021 is hereby amended to read as follows:

164.021 1. When a revocable trust becomes irrevocable because of the death of a settlor or by the express terms of the trust, the trustee may, after the trust becomes irrevocable, provide notice to any beneficiary of the irrevocable trust, any heir of the settlor or to any other interested person.

2. The notice provided by the trustee must contain:

(a) The identity of the settlor of the trust and the date of execution of the trust instrument;

(b) The name, mailing address and telephone number of any trustee of the trust;

(c) Any provision of the trust instrument which pertains to the beneficiary or notice that the heir or interested person is not a beneficiary under the trust;

(d) Any information required to be included in the notice expressly provided by the trust instrument; and

(e) A statement set forth in a separate paragraph, in 12-point boldface type or an equivalent type which states: "You may not bring an action to contest the trust more than 120 days from the date this notice is ~~[served upon]~~ ***provided to*** you."

3. The trustee shall ~~[serve the]~~ ***cause*** notice pursuant to ***this section to be provided in accordance with*** the provisions of NRS 155.010.

4. No person upon whom notice is ~~[served]~~ ***provided*** pursuant to this section may bring an action to contest the validity of the trust more than 120 days from the date the notice ***pursuant to this section is provided, regardless of whether a petition under NRS 164.010*** is ***subsequently*** served upon the person ~~[,]~~ ***after the notice is provided,*** unless the person proves that he or she ~~[did]~~ ***was*** not ~~[receive actual]~~ ***provided*** notice ~~[.]~~ ***in accordance with this section.***

Sec. 41. NRS 164.025 is hereby amended to read as follows:

164.025 1. ~~[The]~~ ***Regardless of the filing of a petition under NRS 164.010, the*** trustee of a nontestamentary trust may after the death of the settlor of the trust cause to be published a notice in the manner specified in paragraph (b) of subsection 1 of NRS 155.020 and mail a copy of the notice to known or readily ascertainable creditors.

2. The notice must be in substantially the following form:

(a) For a claim against the settlor:

NOTICE TO CREDITORS

Notice is hereby given that the undersigned is the duly appointed and qualified trustee of the ..... trust. ....., the settlor of that trust died on ..... A creditor having a claim against the settlor must file a claim with the undersigned at the address given below within 90 days after the first publication of this notice.

Dated .....

.....
Trustee

.....
Address

(b) For a claim against the trust:

NOTICE TO CREDITORS

Notice is hereby given that the undersigned is the duly appointed and qualified trustee of the ..... trust. ....., the settlor of that trust died on ..... A creditor having a claim against the trust estate must file a claim with the undersigned at the address given below within 90 days after the first publication of this notice.

Dated .....

.....
Trustee

.....
Address

(c) For a claim against the settlor and the trust:

NOTICE TO CREDITORS

Notice is hereby given that the undersigned is the duly appointed and qualified trustee of the ..... trust. ....., the settlor of that trust died on ..... A creditor having a claim against the settlor and against the trust estate must file a claim with the undersigned at the address given below within 90 days after the first publication of this notice.

Dated.....

.....
Trustee
.....
Address

3. ~~[A]~~ ***Except as otherwise provided in subsection 4, a*** person having a claim, due or to become due, against a settlor or the trust, as applicable, must file the claim with the trustee within 90 days after the mailing, for those required to be mailed, or 90 days after publication of the first notice to creditors. ***A claim filed within the applicable period is presumed timely filed if it contains on the first page of the claim a title stating it is a "Claim Pursuant to NRS 164.025" in a minimum 12-point bold type and it is mailed to the trustee at the address set forth in the notice with a return receipt or the creditor obtains written confirmation of receipt signed by the trustee or trustee's counsel.*** Any claim against a settlor or the trust estate, as applicable, ***that is*** not ***timely*** filed ~~[within that time]~~ is forever barred. After the expiration of the time to file a claim as provided in this ~~[section,]~~ ***subsection or, if applicable, subsection 4,*** the trustee may distribute the assets of the trust to its beneficiaries without personal liability for any claim which has not been timely filed with the trustee. ***A claim not complying with the requirements of this subsection is rebuttably presumed to be untimely.***

4. ***Notwithstanding the provisions of subsection 3, if the existence of an additional creditor who was not known or readily ascertainable at the time of the first publication of the notice to creditors is discovered by the trustee before the last day that creditors who were provided such notice may file a claim with the trustee pursuant to subsection 3, the trustee may immediately mail a copy of the notice to the additional creditor, who must file a claim with the trustee in accordance with the provisions of subsection 3 within the applicable time period set forth in***

subsection 3 or 30 days from the date the trustee mailed such subsequent notice to the creditor, whichever is later.

5. If the trustee knows or has reason to believe that the settlor received public assistance during the lifetime of the settlor, the trustee shall, whether or not the trustee gives notice to other creditors, give notice within 30 days after the death to the Department of Health and Human Services in the manner provided in NRS 155.010. If notice to the Department is required by this subsection but is not given, the trust estate and any assets transferred to a beneficiary remain subject to the right of the Department to recover public assistance received.

~~[5.]~~ ***6.*** If a claim is rejected by the trustee, in whole or in part, the trustee must, within 10 days after the rejection, notify the claimant of the rejection by written notice forwarded by registered or certified mail to the mailing address of the claimant. The claimant must bring suit in the proper court against the trustee within 60 days after the notice is given, whether the claim is due or not, or the claim is barred forever and the trustee may distribute the assets of the trust to its beneficiaries without personal liability to any creditor whose claim is barred forever.

~~[6.]~~ ***7.*** As used in this section, "nontestamentary trust" has the meaning ascribed to it in NRS 163.0016.

Sec. 42. NRS 164.038 is hereby amended to read as follows:

164.038 1. Unless otherwise represented by counsel, a minor, incapacitated person, unborn person or person whose identity or location is unknown and not reasonably ascertainable may be represented by another person who has a substantially similar interest with respect to the question or dispute.

2. A person may only be represented by another person pursuant to subsection 1 if there is no material conflict of interest between the person and the representative with respect to the question or dispute for which the person is being represented. If a person is represented pursuant to subsection 1, the results of that representation in the question or dispute will be binding on the person.

3. A presumptive remainder beneficiary may represent and bind a beneficiary with a contingent remainder for the same purpose, in the same circumstance and to the same extent as an ascertainable beneficiary may bind a minor, incapacitated person, unborn person or person who cannot be ascertained.

4. A powerholder may represent and bind a person who is a permissible appointee or taker in default of appointment.

5. If a trust has a minor or incapacitated beneficiary who may not be represented by another person pursuant to this section, ~~[the]~~ ***a*** custodial parent or ***the*** guardian of the estate of the minor or

incapacitated beneficiary may represent the minor or incapacitated beneficiary in any judicial proceeding or nonjudicial matter pertaining to the trust. A minor or incapacitated beneficiary may only be represented by a parent or guardian if there is no material conflict of interest between the minor or incapacitated beneficiary and the parent or guardian with respect to the question or dispute. If a minor or incapacitated beneficiary is represented pursuant to this subsection, the results of that representation will be binding on the minor or incapacitated beneficiary. The representation of a minor or incapacitated beneficiary pursuant to this subsection is binding on an unborn person or a person who cannot be ascertained if:

(a) The unborn person or a person who cannot be ascertained has an interest substantially similar to the minor or incapacitated person; and

(b) There is no material conflict of interest between the unborn person or a person who cannot be ascertained and the minor or incapacitated person with respect to the question or dispute.

6. As used in this section:

(a) "Permissible appointee" has the meaning ascribed to it in NRS 162B.065.

(b) "Powerholder" has the meaning ascribed to it in NRS 162B.080.

(c) "Presumptive remainder beneficiary" means:

(1) A beneficiary who would receive income or principal of the trust if the trust were to terminate as of that date, regardless of the exercise of a power of appointment; or

(2) A beneficiary who, if the trust does not provide for termination, would receive or be eligible to receive distributions of income or principal of the trust if all beneficiaries of the trust who were receiving or eligible to receive distributions were deceased.

(d) "Taker in default of appointment" has the meaning ascribed to it in NRS 162B.095.

Sec. 43. Chapter 239A of NRS is hereby amended by adding thereto the provisions set forth as sections 44 and 45 of this act.

Sec. 44. ***Upon presentation of a death certificate, affidavit of death or other proof of death, a lender, trustee or assignee of an encumbrance against real property shall provide the Director of the Department of Health and Human Services or a public administrator or a person employed or contracted with pursuant to NRS 253.125, as applicable, with a statement which sets forth the identifying number and account balance of any encumbrance against real property on which the name of the deceased person appears. A lender, trustee or assignee may charge a reasonable fee, not to exceed $2, to provide a public administrator or a person employed or contracted with pursuant to NRS 253.125, as***

applicable, with a statement pursuant to the provisions of this section.

Sec. 45. ***Upon presentation of a death certificate, affidavit of death or other proof of death, a financial institution shall provide a public administrator or a person employed or contracted with pursuant to NRS 253.125, as applicable, with access to a safe deposit box rented in the sole name of the decedent, or jointly owned with a predeceased person for whom proof of death has been provided, for the purpose of the inspection and removal of any will or instructions for disposition of the remains of the decedent. The estate of the decedent is responsible for any costs and expenses incurred by drilling or forcing open a safe deposit box.***

Sec. 46. NRS 440.250 is hereby amended to read as follows:

440.250 1. Not later than the fifth day of each month, deputy county health officers shall file with the county health officer all original birth and death certificates executed by them.

2. Within 5 days after receipt of the original death certificates, the county health officer shall file with the public administrator or a person employed or contracted with pursuant to NRS 253.125, as applicable, a written list of the names ***,*** ~~[and]~~ social security numbers ***and residential addresses*** of all deceased persons and the names of their next of kin as those names appear on the certificates.

Sec. 47. 1. The amendatory provisions of section 4 of this act apply to any power of attorney, will or other estate planning document that is executed on or after January 1, 2020.

2. The amendatory provisions of section 33 of this act apply to any trust created or amended before, on or after October 1, 2021.

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