

SENATE BILL NO. 347—SENATORS WIENER, WASHINGTON, CARE, AMODEI,
COFFIN, JAMES, MATHEWS, MCGINNESS, PORTER, SCHNEIDER, SHAFFER
AND TITUS

MARCH 10, 1999

Referred to Committee on Judiciary

SUMMARY—Revises provisions regarding appointment and replacement of guardian of minor.
(BDR 13-1168)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to guardianships; requiring a court to consider certain factors in determining whether a parent is qualified and suitable to act as guardian of a minor; requiring a court to consider certain factors in determining the best interests of a minor when asked to remove the guardian of the minor; and providing other matters properly relating thereto.

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

1 **Section 1.** NRS 159.061 is hereby amended to read as follows:
2 159.061 1. The parents of a minor, or either parent, if qualified and
3 suitable, are preferred over all others for appointment as guardian for the
4 minor. *In determining whether the parents of a minor, or either parent, is*
5 *qualified and suitable, the court shall consider, without limitation:*
6 *(a) Which parent has physical custody of the minor;*
7 *(b) The ability of the parents or parent to provide for the basic needs*
8 *of the child, including, without limitation, food, shelter, clothing and*
9 *medical care;*
10 *(c) Whether the parents or parent has engaged in the habitual use of*
11 *alcohol or any controlled substance during the previous 6 months; and*
12 *(d) Whether the parents or parent has been convicted of a crime of*
13 *moral turpitude, a crime involving domestic violence or a crime involving*
14 *the exploitation of a child.*

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

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

(a) Any request for the appointment as guardian for an incompetent contained in a written instrument executed by the incompetent while competent.

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

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

(d) The relationship by blood or marriage of the proposed guardian to the proposed ward.

(e) Any recommendation made by a special master pursuant to NRS 159.0615.

Sec. 2. NRS 159.186 is hereby amended to read as follows:

159.186 1. Notwithstanding any other provision of law, if a guardian is appointed for a minor, except as otherwise provided in subsection ~~2~~ 3, the court shall not remove the guardian or appoint another person as guardian unless the court finds that removal of the guardian or appointment of another person as guardian is in the best interests of the minor.

2. *For the purposes of this section in determining the best interests of the minor, the court shall consider, without limitation:*

(a) The ability of the present guardian to provide for the basic needs of the minor, including, without limitation, food, shelter, clothing and medical care;

(b) The safety of the home in which the minor is residing;

(c) The length of time that the minor has been in the care of the present guardian;

(d) The current well being of the minor, including whether the minor is prospering in the environment being provided by the present guardian;

(e) The emotional bond existing between the present guardian and the minor;

(f) If the person petitioning the court to replace the present guardian was previously removed from the care, custody or guardianship of the minor:

(1) The level of participation before the petition was filed by the petitioner in the welfare of the minor; and

(2) If applicable, whether the petitioner has received instruction in parenting, participated in a program of rehabilitation or undergone counseling for any problem or conduct that the court, in appointing the

1 *present guardian, considered as an indication of the previous unfitness*
2 *of the petitioner; and*

3 *(g) The mental and physical health of the present guardian.*

4 3. The court may remove the guardian of a minor or appoint another
5 person as guardian if the guardian files a petition to resign his position as
6 guardian.

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