

SENATE BILL NO. 359—COMMITTEE ON JUDICIARY

MARCH 10, 1999

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to appointment of temporary guardians. (BDR 13-1653)

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 ~~omitted material~~ is material to be omitted.

AN ACT relating to guardianship; requiring under certain circumstances that a petition for the appointment of a temporary guardian must include a certificate from a physician or psychologist evidencing certain facts; 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 159.052 is hereby amended to read as follows:
2 159.052 1. A petitioner may request the court to appoint a temporary
3 guardian. To support the request, the petitioner must set forth in a petition
4 and present to the court under oath:
5 (a) Facts which show that the proposed ward:
6 (1) Faces a substantial and immediate risk of financial loss or physical
7 harm or needs immediate medical attention; and
8 (2) Lacks capacity to respond to the risk of loss or harm or to obtain
9 the necessary medical attention; and
10 (b) Facts which show that:
11 (1) The petitioner has tried in good faith to notify the persons entitled
12 to notice pursuant to NRS 159.047; or
13 (2) The proposed ward would be exposed to an immediate risk of
14 financial loss or physical harm if the petitioner were to provide notice to
15 the persons entitled to notice pursuant to NRS 159.047 before the court
16 determines whether to appoint a temporary guardian.

2. *If a petition presented to the court pursuant to subsection 1 alleges that the proposed ward:*

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

(b) *Lacks capacity to respond to the risk of harm or to obtain the necessary medical attention, the petition must be accompanied by a certificate signed by a physician or psychologist who is licensed to practice in this state which states that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention.*

3. If the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of financial loss or physical harm or to a need for immediate medical attention; and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1,

the court may appoint a temporary guardian to serve for 10 days. The court shall limit the temporary guardian's powers to those necessary to assist in the emergency.

~~{3,}~~ 4. Except as otherwise provided in subsection ~~{4,}~~ 5, after the appointment of a temporary guardian, the petitioner shall make a good faith effort to notify the persons entitled to notice pursuant to NRS 159.047. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

~~{4,}~~ 5. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 not later than 24 hours after the appointment of the temporary guardian. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

~~{5,}~~ 6. Within 10 days after the appointment of a temporary guardian pursuant to subsection ~~{2,}~~ 3, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsection ~~{6,}~~ 7, if the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss or physical harm or to a need for immediate medical attention, the court may extend the temporary guardianship until a general or special guardian is appointed, but not for more than 30 days. The court shall limit the temporary guardian's powers to those necessary to assist in the emergency.

- 1 ~~6.~~ 7. The court may not extend a temporary guardianship pursuant to
2 subsection ~~5~~ 6 beyond the initial period of 10 days unless the petitioner
3 demonstrates that:
- 4 (a) The provisions of NRS 159.0475 have been satisfied; or
 - 5 (b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being
6 undertaken.

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