

SENATE BILL NO. 472—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF WASHOE COUNTY)

MARCH 18, 1999

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to provisions governing public administrators.
(BDR 20-554)

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 public administrators; increasing the value of estates that may be administered by a public administrator by affidavit; authorizing the destruction of the property of a ward or decedent without giving notice to the next of kin, under certain circumstances; revising the circumstances under which a public administrator is required to petition a court for appointment as guardian of a ward; authorizing a public administrator or a deputy designated by him to obtain the name and address of a customer of a public utility; 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 253.040 is hereby amended to read as follows:
2 253.040 1. Public administrators ~~are authorized to~~ **may** administer
3 on the estates of any deceased persons in any cases where by law they are
4 entitled to administer by virtue of their office. Except as otherwise provided
5 in NRS 253.0403 ~~H~~ **and 253.0425**, public administrators are required to
6 make formal application for letters of administration.
7 2. In counties whose population is 100,000 or more, the public
8 administrator shall execute a bond to the State of Nevada in the amount of
9 \$100,000, conditioned that the public administrator will faithfully execute
10 the duties of the trust according to law.
11 3. In counties whose population is less than 100,000, the official bond
12 given pursuant to NRS 253.020 may secure the faithful execution of the
13 public administrator's duties for all estates for which he has been issued

1 letters of administration, and all estates administered pursuant to NRS
2 253.0403, if the aggregate value of all the estates does not exceed the
3 amount of his bond.

4 **Sec. 2.** NRS 253.0403 is hereby amended to read as follows:

5 253.0403 1. When the gross value of a decedent's property situated
6 in this state does not exceed ~~[\$2,500;]~~ **\$5,000**, a public administrator may,
7 without procuring letters of administration, administer the estate of that
8 person upon filing with the court an affidavit of his right to do so.

9 2. The affidavit must provide:

10 (a) The public administrator's name and address, and his attestation that
11 he is entitled by law to administer the estate;

12 (b) The decedent's place of residence at the time of his death;

13 (c) That the gross value of the decedent's property in this state does not
14 exceed ~~[\$2,500;]~~ **\$5,000;**

15 (d) That at least 40 days have elapsed since the death of the decedent;

16 (e) That no application or petition for the appointment of a personal
17 representative is pending or has been granted in this state;

18 (f) A description of the personal property of the decedent;

19 (g) Whether there are any heirs or next of kin known to the affiant, and
20 if known, the name and address of each such person;

21 (h) If heirs or next of kin are known to the affiant, a description of the
22 method of service he used to provide to each of them notice of the affidavit
23 and that at least 10 days have elapsed since the notice was provided;

24 (i) That all debts of the decedent, including funeral and burial expenses,
25 have been paid or provided for; and

26 (j) The name of each person to whom the affiant intends to distribute the
27 decedent's property.

28 3. Before filing the affidavit with the court, the public administrator
29 shall take reasonable steps to ascertain whether any of the decedent's heirs
30 or next of kin exist. If the administrator determines that heirs or next of kin
31 exist, he shall serve each of them with a copy of the affidavit. Service must
32 be made personally or by certified mail.

33 4. If the affiant:

34 (a) Submits an affidavit which does not meet the requirements of
35 subsection 2 or which contains statements which are not entirely true, any
36 money or property he receives or distributes is subject to all debts of the
37 decedent, based on the priority for payment of debts and charges specified
38 in NRS 150.220.

39 (b) Fails to give notice to heirs or next of kin as required by subsection
40 3, any money or property he holds or distributes to others shall be deemed
41 to be held in trust for those heirs and next of kin who did not receive notice
42 and have an interest in the property.

1 5. A person who receives an affidavit containing the information
2 required by subsection 2 is entitled to rely upon such information, and if he
3 relies in good faith, he is immune from civil liability for actions based on
4 that reliance.

5 6. Upon receiving proof of the death of the decedent, an affidavit
6 containing the information required by this section and the written approval
7 of the public administrator to do so:

8 (a) A transfer agent of any security shall change the registered
9 ownership of the security claimed from the decedent to the person claiming
10 to succeed to ownership of that security.

11 (b) A governmental agency required to issue certificates of ownership or
12 registration to personal property shall issue a new certificate of ownership
13 or registration to the person claiming to succeed to ownership of the
14 property.

15 **Sec. 3.** NRS 253.0405 is hereby amended to read as follows:

16 253.0405 Before the issuance of the letters of administration for an
17 estate, ~~for~~ before filing an affidavit to administer an estate pursuant to
18 NRS 253.0403 ~~or~~ *or before petitioning to have an estate set aside*
19 *pursuant to NRS 253.0425*, the public administrator may secure the
20 property of a deceased person if he finds that:

21 1. There are no relatives of the deceased who are able to protect the
22 property; and

23 2. Failure to do so could endanger the property.

24 **Sec. 4.** NRS 253.0407 is hereby amended to read as follows:

25 253.0407 ~~1A~~ *1. Except as otherwise provided in subsection 2, a*
26 public administrator, with regard to the personal property of the estate of a
27 ward or a decedent, may donate property that has a value of less than \$250
28 to a nonprofit organization, or destroy property that has a value of less than
29 \$100, if:

30 ~~1A~~ *(a)* The property, if that of a ward, is not necessary for the care or
31 comfort of the ward; and

32 ~~1B~~ *(b)* A notice of intent to donate or destroy the property is:

33 ~~1A~~ *(1)* Mailed by certified mail to the ward's or decedent's next of kin
34 at his last known home address; or

35 ~~1B~~ *(2)* Personally delivered to him,
36 and that person fails to claim the property within 15 days.

37 *2. A public administrator may authorize the immediate destruction of*
38 *the property of a ward or decedent, without giving notice to the next of*
39 *kin, if:*

40 *(a) The administrator determines that the property has been*
41 *contaminated by vermin or biological or chemical agents;*

42 *(b) The expenses related to the decontamination of the property cause*
43 *salvage to be impractical;*

1 (c) *The property constitutes an immediate threat to public health or*
2 *safety;*

3 (d) *The handling, transfer or storage of the property may endanger*
4 *public health or safety or exacerbate contamination; and*

5 (e) *The value of the property is less than \$250 or, if the value of the*
6 *property is \$250 or more, a state or local health officer has endorsed the*
7 *destruction of the property.*

8 **Sec. 5.** NRS 253.0415 is hereby amended to read as follows:

9 253.0415 The public administrator shall:

10 1. Investigate:

11 (a) The financial status of any proposed ward ~~H~~ for whom he has been
12 requested to serve as guardian ~~H~~ to determine whether he is eligible to
13 serve in that capacity.

14 (b) *The financial status of any decedent for whom he has been*
15 *requested to serve as administrator to determine the assets and liabilities*
16 *of the estate.*

17 (c) Whether there is any qualified person ~~H~~ who is willing and able to
18 serve as guardian for a ward or administrator of the estate of an intestate
19 decedent ~~H~~ to determine whether he is eligible to serve in that capacity.

20 2. Petition the court for appointment as guardian of the person and
21 estate of any ward if, after investigation, the public administrator finds that
22 he is eligible to serve. ~~{This petition for appointment as guardian must be~~
23 ~~made by the public administrator regardless of the amount of assets in the~~
24 ~~guardianship estate if no other qualified person having a prior right is~~
25 ~~willing and able to serve.}~~

26 3. Except as otherwise provided in NRS 253.0403 ~~H~~ and 253.0425,
27 petition the court for letters of administration of the estate of a person dying
28 intestate if, after investigation, the public administrator finds that there is no
29 other qualified person having a prior right who is willing and able to serve .
30 ~~{, and the estate does not exceed \$25,000 in gross value.}~~

31 4. Upon court order, act as:

32 (a) Guardian of the person and estate of an adult ward; or

33 (b) Administrator of the estate of a person dying intestate,
34 regardless of the amount of assets in the estate of the ward or decedent if no
35 other qualified person is willing and able to serve.

36 **Sec. 6.** NRS 253.0425 is hereby amended to read as follows:

37 253.0425 1. If the public administrator finds that there is no qualified
38 person willing and able to administer the estate of a particular decedent, he
39 shall investigate further to estimate its gross value.

40 2. If the estate appears to have a gross value of ~~[\$25,000]~~ \$50,000 or
41 less, he

shall:

1 (a) Assist a proper person to petition to have it set aside without
2 administration or directly receive the assets from a custodian, as the facts
3 may warrant;

4 (b) Himself petition to have the estate set aside without administration
5 and properly distributed; or

6 (c) Administer the estate pursuant to NRS 253.0403.

7 3. If the estate appears to have a gross value of more than ~~[\$25,000:]~~
8 **\$50,000:**

9 (a) He shall proceed with summary or full administration as the value of
10 the estate requires.

11 (b) He may retain an attorney to assist him, rotating this employment in
12 successive estates among the attorneys practicing in the county who are
13 qualified by experience and willing to serve. The attorney's fee is a charge
14 upon the estate.

15 **Sec. 7.** NRS 253.044 is hereby amended to read as follows:

16 253.044 In a county whose population is less than 100,000, the board
17 of county commissioners may, after reviewing each case, direct the public
18 administrator or any other suitable person to:

19 1. Investigate:

20 (a) The financial status of any proposed ward for whom a request to
21 serve as guardian has been received to determine whether there is a need
22 for a guardian to be appointed and whether the public administrator or
23 other suitable person designated by the board is able and eligible to serve in
24 that capacity.

25 (b) Whether there is any qualified person who is willing and able to
26 serve as guardian for a ward or administrator of the estate of an intestate
27 decedent, and to determine whether there is a need for a guardian or an
28 administrator and whether the public administrator or other suitable person
29 designated by the board is eligible to serve in that capacity.

30 2. Petition the court for appointment as guardian of the person or as
31 guardian of the person and estate of any ward if, after investigation, the
32 public administrator or other suitable person designated by the board finds
33 that there is a need for such an appointment and that he is able and eligible
34 to serve. ~~[If no other qualified person having a prior right is willing and~~
35 ~~able to serve, the public administrator or other suitable person designated~~
36 ~~by the board shall petition for appointment as guardian regardless of the~~
37 ~~amount of assets in the estate of the proposed ward.]~~

38 3. Petition the court for letters of administration of the estate of a
39 person dying intestate if, after investigation, the public administrator or
40 other suitable person designated by the board finds that there is no other
41 qualified person having a prior right who is willing and able to serve. ~~;~~
42 ~~and the estate does not exceed \$10,000 in gross value.]~~

1 4. File an affidavit pursuant to NRS 253.0403 to administer the estate
2 if, after investigation, the public administrator or other suitable person
3 designated by the board finds that the gross value of the decedent's
4 property situated in this state does not exceed ~~[\$2,500.]~~ **\$5,000.**

5 5. Act, upon order of a court, as:

6 (a) Guardian of the person and estate of an adult ward; or

7 (b) Administrator of the estate of a person dying intestate,
8 regardless of the amount of assets in the estate of the ward or decedent if no
9 other qualified person is willing and able to serve.

10 **Sec. 8.** Chapter 704 of NRS is hereby amended by adding thereto a
11 new section to read as follows:

12 ***1. To assist a public administrator in carrying out his duties***
13 ***pursuant to chapter 253 of NRS, a public administrator or a deputy***
14 ***designated by him may submit a written request to a public utility for the***
15 ***name and address of a person listed in the records of the customers of***
16 ***the public utility.***

17 ***2. Upon receipt of a written request pursuant to subsection 1, a***
18 ***public utility shall disclose the name and address of the person listed in***
19 ***the records of customers of the public utility to the public administrator***
20 ***or a deputy designated by him.***

21 ***3. A disclosure made in good faith pursuant to subsection 1 does not***
22 ***give rise to any action for damages for the disclosure of the name and***
23 ***address of a customer by a public utility.***

24 **Sec. 9.** This act becomes effective upon passage and approval.