

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 and public guardians. (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; prohibiting certain public administrators from acting as guardians of proposed wards; revising the circumstances under which a public administrator is required to petition a court for letters of administration; allowing the appointment of a public guardian for a person who is under 60 years of age; 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 ~~and~~ **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.

3. In counties whose population is less than 100,000, the official bond given pursuant to NRS 253.020 may secure the faithful execution of the public administrator's duties for all estates for which he has been issued letters of administration, and all estates administered pursuant to NRS 253.0403, if the aggregate value of all the estates does not exceed the amount of his bond.

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

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

2. The affidavit must provide:

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

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

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

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

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

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

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

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

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

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

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

4. If the affiant:

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

(b) Fails to give notice to heirs or next of kin as required by subsection

3, any money or property he holds or distributes to others shall be deemed

1 to be held in trust for those heirs and next of kin who did not receive notice
2 and have an interest in the property.

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

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

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

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

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

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

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

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

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

27 253.0407 ~~1A~~ *1. Except as otherwise provided in subsection 2, a*
28 public administrator, with regard to the personal property of the estate of a
29 ward or a decedent, may donate property that has a value of less than \$250
30 to a nonprofit organization, or destroy property that has a value of less than
31 \$100, if:

32 ~~1A~~ *(a)* The property, if that of a ward, is not necessary for the care or
33 comfort of the ward; and

34 ~~1B~~ *(b)* A notice of intent to donate or destroy the property is:

35 ~~1A~~ *(1)* Mailed by certified mail to the ward's or decedent's next of kin
36 at his last known home address; or

37 ~~1B~~ *(2)* Personally delivered to him,
38 and that person fails to claim the property within 15 days.

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

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

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

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

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

7 *(e) The value of the property is less than \$100 or, if the value of the*
8 *property is \$100 or more, a state or local health officer has endorsed the*
9 *destruction of the property.*

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

11 253.0415 **1.** The public administrator shall:

12 ~~{1.—Investigate:}~~

13 (a) **Investigate:**

14 **(1)** The financial status of any proposed ward ~~{H}~~ for whom he has
15 been requested to serve as guardian ~~{H}~~ to determine whether he is eligible
16 to serve in that capacity.

17 ~~{(b)}~~ **(2) The financial status of any decedent for whom he has been**
18 **requested to serve as administrator to determine the assets and liabilities**
19 **of the estate.**

20 **(3)** Whether there is any qualified person ~~{H}~~ who is willing and able
21 to serve as guardian for a ward or administrator of the estate of an intestate
22 decedent ~~{H}~~ to determine whether he is eligible to serve in that capacity.

23 ~~{2.}~~ **(b)** Petition the court for appointment as guardian of the person and
24 estate of any ward if, after investigation, the public administrator finds that
25 he is eligible to serve. ~~{This}~~ **Except as otherwise provided in subsection**
26 **2, this** petition for appointment as guardian must be made by the public
27 administrator regardless of the amount of assets in the guardianship estate if
28 no other qualified person having a prior right is willing and able to serve.

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

34 ~~—4.}~~ **(d)** Upon court order, act as:

35 ~~{(a)}~~ **(1)** Guardian of the person and estate of an adult ward; or

36 ~~{(b)}~~ **(2)** Administrator of the estate of a person dying intestate,
37 regardless of the amount of assets in the estate of the ward or decedent if no
38 other qualified person is willing and able to serve.

39 **2. The public administrator is not eligible to serve as a guardian of**
40 **the person and estate of a ward if the board of county commissioners of**
41 **his county has established the office of public guardian pursuant to NRS**
42 **253.150, unless the board has designated the public administrator as ex**
43 **officio public guardian.**

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

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

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

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

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

(c) Administer the estate pursuant to NRS 253.0403.

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

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

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

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

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

1. Investigate:

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

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

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

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

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

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

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

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

15 **Sec. 8.** NRS 253.200 is hereby amended to read as follows:

16 253.200 1. A resident of Nevada ~~[who is 60 years of age or older]~~ is
17 eligible to have the public guardian appointed as his individual guardian if
18 he:

19 (a) Has no relative or friend able and willing to serve as his guardian; or

20 (b) Lacks sufficient assets to provide the requisite compensation to a
21 private guardian.

22 2. A person so qualified, or anyone on his behalf, may petition the
23 district court of the county in which he resides to make the appointment.

24 **Sec. 9.** Chapter 704 of NRS is hereby amended by adding thereto a
25 new section to read as follows:

26 ***1. A public administrator or deputy designated by him may submit a***
27 ***written request to a public utility for the name and address of a person***
28 ***listed in the records of the public utility if the information is necessary to***
29 ***assist the public administrator in carrying out his duties pursuant to***
30 ***chapter 253 of NRS.***

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

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

38 **Sec. 10.** This act becomes effective upon passage and approval.