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A.B. 365

Sec. 62. NRS 159.0485 is hereby amended to read as follows:

159.0485 1. If an adult ward or proposed adult ward is unable to retain legal counsel and requests the appointment of counsel, at any stage ~~[of a proceeding for guardianship]~~ *in a guardianship proceeding* and whether or not the adult ward or proposed adult ward lacks or appears to lack capacity, the court shall, at or before the time of the next hearing, appoint an attorney who works for legal aid services, if available, or a private attorney to represent the adult ward or proposed adult ward. The appointed attorney must represent the adult ward or proposed adult ward until relieved of the duty by court order.

2. *Subject to the court's discretion and approval*, [t]he attorney for the adult ward or proposed adult ward is entitled to reasonable compensation which must be paid from the estate of the adult ward or proposed adult ward and is subject to the approval of the court. If the court finds that a person has unnecessarily or unreasonably caused the appointment of an attorney, the court may order the person to pay to the estate of the adult ward or proposed adult ward all or part of the expenses associated with the appointment of the attorney.

A.B. 365

Sec. 107. NRS 159.183 is hereby amended to read as follows:

- 159.183 1. *Subject to the court's discretion and approval,*
[a] guardian must be allowed:
- (a) Reasonable compensation for the guardian's services;
 - (b) Necessary and reasonable expenses incurred in exercising the authority and performing the duties of a guardian; and
 - (c) Reasonable expenses incurred in retaining accountants, attorneys, appraisers or other professional services.
2. Reasonable compensation and services:
- (a) [m]ust be based upon similar services performed for persons who are not under a legal disability; and
 - ~~[(b) Are subject to the approval of the court.].~~

A.B. 365

Sec. 72. NRS 159.061 is hereby amended to read as follows:

159.061 1. The parents of a minor, or either parent, if qualified and suitable, are preferred over all others for appointment as guardian of the minor. The appointment of a parent as a guardian of the person must not conflict with a valid order for custody of the minor. In determining whether the parents of a minor, or either parent, is qualified and suitable, the court shall consider, without limitation:

- (a) Which parent has physical custody of the minor;**
- (b) The ability of the parents or parent to provide for the basic needs of the child, including, without limitation, food, shelter, clothing and medical care;**
- (c) Whether the parents or parent has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS; and**
- (d) Whether the parents or parent has been convicted of a crime of moral turpitude, a crime involving domestic violence or a crime involving 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 a 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, adoption or marriage of the proposed guardian to the proposed ward. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood. The court may consider relatives in the following order of preference:

- (1) Spouse.
- (2) Adult child.
- (3) Parent.
- (4) Adult sibling.
- (5) Grandparent or adult grandchild.
- (6) Uncle, aunt, adult niece or adult nephew.

(e) Any recommendation made by a master of the court or special master pursuant to NRS 159.0615.

(f) Any request for the appointment of any other interested person that the court deems appropriate.

4. If the court finds that there is no suitable person to appoint as guardian pursuant to subsection 3, the court *may* appoint as guardian:

(a) The public guardian of the county where the ward resides, if:

(1) There is a public guardian in the county where the ward resides; and

(2) The proposed ward qualifies for a public guardian pursuant to chapter 253 of NRS; or

(b) A private fiduciary who may obtain a bond in this state and who is a resident of this state, if:

~~(1) There is not a public guardian in the county where the ward resides;~~

~~(2) The proposed ward does not qualify for a public guardian; or~~

~~(3) The court finds that the interests of the ward will not be served appropriately by the appointment of a public~~

guardian.]

(1) The court finds that the interests of the ward will be served appropriately by the appointment of a private fiduciary.