

## Amendment No. 61

Senate Amendment to Senate Bill No. 129

(BDR 13-1109)

**Proposed by:** Senate Committee on Judiciary**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

DY/BAW



Date: 4/4/2007

S.B. No. 129—Makes various changes to provisions relating to guardianships.  
(BDR 13-1109)



## SENATE BILL NO. 129—COMMITTEE ON JUDICIARY

FEBRUARY 21, 2007

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions relating to guardianships.  
(BDR 13-1109)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: 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 guardianships; extending the time in which certain information must be provided to the court for the appointment of a guardian; revising ~~[the information that must be set forth in a petition to appoint a temporary guardian for certain wards; revising]~~ the provisions relating to the extension of temporary guardianships; revising *the information that must be set forth in a petition to appoint a temporary guardian for certain wards; revising* provisions relating to petitions by guardians to the court; revising provisions relating to the treatment or commitment of a ward; extending the time in which a guardian must wind up the affairs of the guardianship; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Section 1** of this bill extends the time in which information required in a petition for the appointment of a guardian must be provided to the court after the appointment of the guardian, if the information was not initially included in the petition, from 60 days to 120 days. (NRS 159.044)

~~[Sections 2 and 3]~~ **Section 2** of this bill ~~[revises]~~ *revises* existing law by providing that a petition which seeks to appoint a temporary guardian for a ward who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention ~~[must set forth facts showing]~~ *may be granted by a court if the court finds reasonable cause to believe* that the proposed ward is unable to respond to such harm or to a need for medical attention rather than ~~[facts showing]~~ *reasonable cause to believe* that the proposed ward ~~[actually faces]~~ *may suffer* such harm or ~~[need for]~~ *actually needs* medical attention. (NRS 159.052) ~~[, 159.0522]~~

**Section 4** of this bill revises existing law by providing that a petition which seeks to appoint a guardian for a ward who is unable to respond to a substantial and immediate risk of financial loss must set forth facts showing that the proposed ward is unable to respond to such risk rather than facts showing that the proposed ward actually faces such risk. (NRS 159.0525) **Sections 2-4** also eliminate the restriction that a court may not extend a temporary guardianship for more than two 30-day periods, and instead ~~[gives discretion to]~~ *allows* the court ~~[in granting extensions of]~~ *to extend a* temporary guardianship ~~[for not more than three successive 60-day periods.]~~

Existing law requires a guardian to petition the court for an order authorizing the guardian to change the designation of a beneficiary in a will, trust, insurance policy, bank account or any other type of asset of the ward which includes the designation of a beneficiary. (NRS 159.078) **Section 5** of this bill provides circumstances under which a guardian is not required to petition the court for ~~such~~ an order allowing the guardian to utilize such assets.

Existing law provides that a guardian must obtain authority from the court before consenting to the commitment of a ward to a mental health facility. (NRS 159.0805) **Section 6** of this bill removes the requirement that a guardian must obtain such authority to consent to the commitment of a ward to a mental health facility.

**Section 7** of this bill ~~removes the requirement~~ provides that a guardian is not required to petition the court for authority before obtaining advice, instructions and approval of any proposed act of the guardian relating to the ward's property or taking any other action which the guardian deems would be in the best interests of the ward unless otherwise ordered by the court. (NRS 159.113)

Existing law establishes the times during which a guardian is entitled to possession of the ward's property and is authorized to perform his duties to wind up the affairs of the guardianship. (NRS 159.193) **Section 8** of this bill extends the time during which a guardian retains such authority after a personal representative of the estate of a deceased ward is appointed or if the guardian is awaiting certification acknowledging that he has no further tax liabilities on the ward's estate, from 90 days to 180 days.

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

**Section 1.** NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed ward.

(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

➤ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than ~~60~~ 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver's license number;
- (4) A valid identification card number; or
- (5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation may include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State stating the need for a guardian;

(2) A letter signed by any governmental agency in this State which conducts investigations stating the need for a guardian; or

(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating the need for a guardian.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) The relationship, if any, of the petitioner to the proposed ward and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) Whether the guardianship is sought as the result of an investigation of a report of abuse or neglect that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services. As used in this paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(q) Whether the proposed ward is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

1       **Sec. 2.** 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 for a ward who is a minor and who is unable to respond to a substantial  
4 and immediate risk of physical harm or to a need for immediate medical attention.  
5 To support the request, the petitioner must set forth in a petition and present to the  
6 court under oath:

7       (a) Facts which show that the proposed ward ~~faces [is unable to respond to]~~ a  
8 substantial and immediate risk of physical harm or ~~needs [to a need for]~~ immediate  
9 medical attention; and

10       (b) Facts which show that:

11       (1) The petitioner has tried in good faith to notify the persons entitled to  
12 notice pursuant to NRS 159.047 by telephone or in writing before the filing of the  
13 petition;

14       (2) The proposed ward would be exposed to an immediate risk of physical  
15 harm if the petitioner were to provide notice to the persons entitled to notice  
16 pursuant to NRS 159.047 before the court determines whether to appoint a  
17 temporary guardian; or

18       (3) Giving notice to the persons entitled to notice pursuant to NRS 159.047  
19 is not feasible under the circumstances.

20       2. The court may appoint a temporary guardian to serve for 10 days if the  
21 court:

22       (a) Finds reasonable cause to believe that the proposed ward ~~[may suffer]~~ **is**  
23 **unable to respond to** a substantial and immediate risk of physical harm or ~~[needs]~~  
24 **to a need for** immediate medical attention; and

25       (b) Is satisfied that the petitioner has tried in good faith to notify the persons  
26 entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is  
27 not feasible under the circumstances, or determines that such notice is not required  
28 pursuant to subparagraph (2) of paragraph (b) of subsection 1.

29       3. Except as otherwise provided in subsection 4, after the appointment of a  
30 temporary guardian, the petitioner shall attempt in good faith to notify the persons  
31 entitled to notice pursuant to NRS 159.047, including, without limitation, notice of  
32 any hearing to extend the temporary guardianship. If the petitioner fails to make  
33 such an effort, the court may terminate the temporary guardianship.

34       4. If, before the appointment of a temporary guardian, the court determined  
35 that advance notice was not required pursuant to subparagraph (2) of paragraph (b)  
36 of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to  
37 NRS 159.047 without undue delay, but not later than 48 hours after the  
38 appointment of the temporary guardian or not later than 48 hours after the petitioner  
39 discovers the existence, identity and location of the persons entitled to notice  
40 pursuant to that section. If the petitioner fails to provide such notice, the court may  
41 terminate the temporary guardianship.

42       5. Not later than 10 days after the date of the appointment of a temporary  
43 guardian pursuant to subsection 2, the court shall hold a hearing to determine the  
44 need to extend the temporary guardianship. Except as otherwise provided in  
45 subsections 7 and 8, if the court finds by clear and convincing evidence that the  
46 proposed ward is unable to respond to a substantial and immediate risk of physical  
47 harm or to a need for immediate medical attention, the court may extend the  
48 temporary guardianship until a general or special guardian is appointed, but not for  
49 more than 30 days.

50       6. If the court appoints a temporary guardian or extends the temporary  
51 guardianship pursuant to this section, the court shall limit the powers of the  
52 temporary guardian to those necessary to respond to the substantial and immediate  
53 risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. In addition to any other extension granted pursuant to this section, the court may extend the temporary guardianship, for good cause shown, for not more than ~~two 30-day~~ three successive 60-day periods ~~for for a longer period as fixed by the court.~~

**Sec. 3.** NRS 159.0523 is hereby amended to read as follows:

159.0523 1. A petitioner may request the court to appoint a temporary guardian for a ward who is an adult and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Facts which show that the proposed ward :

(1) Faces ~~is unable to respond to~~ a substantial and immediate risk of physical harm or ~~needs (to a need for)~~ immediate medical attention; and

(2) Lacks capacity to respond to the risk of harm or to obtain the necessary medical attention; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe 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;

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

(c) Finds that the petition required pursuant to subsection 1 is accompanied by:

(1) A certificate signed by a physician 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; or

(2) The affidavit of the petitioner which explains the reasons why the certificate described in subparagraph (1) is not immediately obtainable.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. 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

1 NRS 159.047 without undue delay, but not later than 48 hours after the  
2 appointment of the temporary guardian or not later than 48 hours after the petitioner  
3 discovers the existence, identity and location of the persons entitled to notice  
4 pursuant to that section. If the petitioner fails to provide such notice, the court may  
5 terminate the temporary guardianship.

6 5. Not later than 10 days after the date of the appointment of a temporary  
7 guardian pursuant to subsection 2, the court shall hold a hearing to determine the  
8 need to extend the temporary guardianship. Except as otherwise provided in  
9 subsections 7 and 8, the court may extend the temporary guardianship until a  
10 general or special guardian is appointed, but not for more than 30 days, if:

11 (a) The certificate required by subsection 2 has been filed and the court finds  
12 by clear and convincing evidence that the proposed ward is unable to respond to a  
13 substantial and immediate risk of physical harm or to a need for immediate medical  
14 attention; or

15 (b) The certificate required by subsection 2 has not been filed and the court  
16 finds by clear and convincing evidence that:

17 (1) The proposed ward is unable to respond to a substantial and immediate  
18 risk of physical harm or to a need for immediate medical attention;

19 (2) Circumstances have prevented the petitioner or temporary guardian  
20 from obtaining the certificate required pursuant to subsection 2; and

21 (3) The extension of the temporary guardianship is necessary and in the  
22 best interests of the proposed ward.

23 6. If the court appoints a temporary guardian or extends the temporary  
24 guardianship pursuant to this section, the court shall limit the powers of the  
25 temporary guardian to those necessary to respond to the substantial and immediate  
26 risk of physical harm or to a need for immediate medical attention.

27 7. The court may not extend a temporary guardianship pursuant to subsection  
28 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

29 (a) The provisions of NRS 159.0475 have been satisfied; or

30 (b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being  
31 undertaken.

32 8. In addition to any other extension granted pursuant to this section, the court  
33 may extend the temporary guardianship, for good cause shown, for not more than  
34 two 30-day three successive 60-day periods for for a longer period as fixed by  
35 the court.

36 **Sec. 4.** NRS 159.0525 is hereby amended to read as follows:

37 159.0525 1. A petitioner may request the court to appoint a temporary  
38 guardian for a ward who is unable to respond to a substantial and immediate risk of  
39 financial loss. To support the request, the petitioner must set forth in a petition and  
40 present to the court under oath:

41 (a) Facts which show that the proposed ward ~~is~~:

42 ~~(1) Faces~~ ~~the~~;

43 (1) Is unable to respond to a substantial and immediate risk of financial  
44 loss; and

45 (2) Lacks capacity to respond to the risk of loss; and

46 (b) Facts which show that:

47 (1) The petitioner has tried in good faith to notify the persons entitled to  
48 notice pursuant to NRS 159.047 by telephone or in writing before the filing of the  
49 petition;

50 (2) The proposed ward would be exposed to an immediate risk of financial  
51 loss if the petitioner were to provide notice to the persons entitled to notice pursuant  
52 to NRS 159.047 before the court determines whether to appoint a temporary  
53 guardian; or

1 (3) Giving notice to the persons entitled to notice pursuant to NRS 159.047  
2 is not feasible under the circumstances.

3 2. The court may appoint a temporary guardian to serve for 10 days if the  
4 court:

5 (a) Finds reasonable cause to believe that the proposed ward is unable to  
6 respond to a substantial and immediate risk of financial loss;

7 (b) Is satisfied that the petitioner has tried in good faith to notify the persons  
8 entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is  
9 not feasible under the circumstances, or determines that such notice is not required  
10 pursuant to subparagraph (2) of paragraph (b) of subsection 1; and

11 (c) For a proposed ward who is an adult, finds that the petition required  
12 pursuant to subsection 1 is accompanied by:

13 (1) A certificate signed by a physician who is licensed to practice in this  
14 State which states that the proposed ward is unable to respond to a substantial and  
15 immediate risk of financial loss; or

16 (2) The affidavit of the petitioner which explains the reasons why the  
17 certificate described in subparagraph (1) is not immediately obtainable.

18 3. Except as otherwise provided in subsection 4, after the appointment of a  
19 temporary guardian, the petitioner shall attempt in good faith to notify the persons  
20 entitled to notice pursuant to NRS 159.047, including, without limitation, notice of  
21 any hearing to extend the temporary guardianship. If the petitioner fails to make  
22 such an effort, the court may terminate the temporary guardianship.

23 4. If, before the appointment of a temporary guardian, the court determined  
24 that advance notice was not required pursuant to subparagraph (2) of paragraph (b)  
25 of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to  
26 NRS 159.047 without undue delay, but not later than 48 hours after the  
27 appointment of the temporary guardian or not later than 48 hours after the petitioner  
28 discovers the existence, identity and location of the persons entitled to notice  
29 pursuant to that section. If the petitioner fails to provide such notice, the court may  
30 terminate the temporary guardianship.

31 5. Not later than 10 days after the date of the appointment of a temporary  
32 guardian pursuant to subsection 2, the court shall hold a hearing to determine the  
33 need to extend the temporary guardianship. Except as otherwise provided in  
34 subsections 7 and 8, if the proposed ward is a minor and the court finds by clear and  
35 convincing evidence that the proposed ward is unable to respond to a substantial  
36 and immediate risk of financial loss, the court may extend the temporary  
37 guardianship until a general or special guardian is appointed, but not for more than  
38 30 days. Except as otherwise provided in subsection 7, if the proposed ward is an  
39 adult, the court may extend the temporary guardianship until a general or special  
40 guardian is appointed, but not for more than 30 days, if:

41 (a) The certificate required by subsection 2 has been filed and the court finds  
42 by clear and convincing evidence that the proposed ward is unable to respond to a  
43 substantial and immediate risk of financial loss; or

44 (b) The certificate required by subsection 2 has not been filed and the court  
45 finds by clear and convincing evidence that:

46 (1) The proposed ward is unable to respond to a substantial and immediate  
47 risk of financial loss;

48 (2) Circumstances have prevented the petitioner or temporary guardian  
49 from obtaining the certificate required pursuant to subsection 2; and

50 (3) The extension of the temporary guardianship is necessary and in the  
51 best interests of the proposed ward.

52 6. If the court appoints a temporary guardian or extends the temporary  
53 guardianship pursuant to this section, the court shall limit the powers of the



temporary guardian to those necessary to respond to the substantial and immediate risk of financial loss.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or  
(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. In addition to any other extension granted pursuant to this section, the court may extend the temporary guardianship, for good cause shown, for not more than ~~two 30 day~~ three successive 60-day periods ~~for for a longer period as fixed by the court.~~

**Sec. 5.** NRS 159.078 is hereby amended to read as follows:

159.078 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Make or change the last will and testament of the ward.  
(b) ~~Make~~ Except as otherwise provided in this paragraph, make or change the designation of a beneficiary in a will, trust, insurance policy, bank account or any other type of asset of the ward which includes the designation of a beneficiary. The guardian is not required to petition the court for an order authorizing the guardian to make or change the designation of a beneficiary in such assets; utilize an asset which has a designated beneficiary, including the closure or discontinuance of the asset, for the benefit of a ward if:

*(1) The asset is the only liquid asset available with which to pay for the proper care, maintenance, education and support of the ward;*

*(2) The asset, or the aggregate amount of all the assets if there is more than one type of asset, has a value that does not exceed \$5,000; or*

*(3) The asset is a bank account, investment fund or insurance policy and is required to be closed or discontinued in order for the ward to qualify for a federal program of public assistance.*

(c) Create for the benefit of the ward or others a revocable or irrevocable trust of the property of the estate.

(d) Except as otherwise provided in this paragraph, exercise the right of the ward to revoke or modify a revocable trust or to surrender the right to revoke or modify a revocable trust. The court shall not authorize or require the guardian to exercise the right to revoke or modify a revocable trust if the instrument governing the trust:

(1) Evidences an intent of the ward to reserve the right of revocation or modification exclusively to the ward;

(2) Provides expressly that a guardian may not revoke or modify the trust; or

(3) Otherwise evidences an intent that would be inconsistent with authorizing or requiring the guardian to exercise the right to revoke or modify the trust.

2. The court may authorize the guardian to take any action described in subsection 1 if, after notice to any person who is adversely affected by the proposed action and an opportunity for a hearing, the guardian proves by clear and convincing evidence that:

(a) A person has committed or is about to commit any act, practice or course of conduct which operates or would operate as a fraud or act of exploitation upon the ward or estate of the ward and that person:

(1) Is designated as a beneficiary in or otherwise stands to gain from an instrument which was executed by or on behalf of the ward; or

(2) Will benefit from the lack of such an instrument; and

(b) A reasonably prudent person or the ward, if competent, would take the proposed action.

3. The petition must be signed by the guardian and contain:

(a) The name, date of birth and current address of the ward;

(b) A concise statement as to the condition of the ward's estate; and

(c) A concise statement as to the necessity for the proposed action.

4. As used in this section:

(a) "Exploitation" means any act taken by a person who has the trust and confidence of a ward or any use of the power of attorney of a ward to:

(1) Obtain control, through deception, intimidation or undue influence, over the money, assets or property of the ward with the intention of permanently depriving the ward of the ownership, use, benefit or possession of the ward's money, assets or property.

(2) Convert money, assets or property of the ward with the intention of permanently depriving the ward of the ownership, use, benefit or possession of his money, assets or property.

As used in this paragraph, "undue influence" does not include the normal influence that one member of a family has over another.

(b) "Fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the person with the intent to deprive the ward of the ward's rights or property or to otherwise injure the ward.

**Sec. 6.** NRS 159.0805 is hereby amended to read as follows:

159.0805 1. Except as otherwise provided in subsection 2, a guardian shall not consent to:

(a) The experimental ~~{} or~~ medical, biomedical or behavioral treatment of a ward;

(b) The sterilization of a ward; *or*

(c) The participation of a ward in any biomedical or behavioral experiment. ~~{} or~~

~~or~~

~~—(d) The commitment of a ward to a mental health facility.~~

2. The guardian may consent to and commence any treatment ~~{} or~~ *or* experiment ~~{for commitment}~~ described in subsection 1 if the guardian applies to and obtains from the court authority to consent to and commence the treatment ~~{} or~~ *or* experiment. ~~{for commitment}~~

3. The court may authorize the guardian to consent to and commence any treatment ~~{} or~~ *or* experiment ~~{for commitment}~~ described in subsection 1 only if the treatment ~~{} or~~ *or* experiment: ~~{for commitment}~~

(a) Is of direct benefit to, and intended to preserve the life of or prevent serious impairment to the mental or physical health of, the ward; or

(b) Is intended to assist the ward to develop or regain the ward's abilities.

**Sec. 7.** NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward ~~{} pursuant to NRS 159.117.~~

(b) Continue the business of the ward ~~{} pursuant to NRS 159.119.~~

(c) Borrow money for the ward ~~{} pursuant to NRS 159.121.~~

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward ~~{} pursuant to NRS 159.123.~~

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives ~~{} pursuant to NRS 159.125.~~

(f) Sell, lease ~~{} or~~ *or* place ~~{into any type of} in~~ trust ~~{for surrender}~~ any property of the ward ~~{} pursuant to NRS 159.127.~~

(g) Exchange or partition the ward's property ~~{} or~~

~~(h) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.~~

~~(i) pursuant to NRS 159.175.~~

**(h)** Release the power of the ward as trustee, personal representative, custodian for a minor or guardian.

~~(j)~~ **(i)** Exercise or release the power of the ward as a donee of a power of appointment.

~~(k)~~ **(j)** Change the state of residence or domicile of the ward.

~~(l)~~ **(k)** Exercise the right of the ward to take under or against a will.

~~(m)~~ **(l)** Transfer to a trust created by the ward any property unintentionally omitted from the trust.

~~(n)~~ **(m)** Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

~~(o) Take any other action which the guardian deems would be in the best interests of the ward.~~

**2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:**

**(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.**

**(b) Take any other action which the guardian deems would be in the best interests of the ward.**

**3. The petition must be signed by the guardian and contain:**

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

~~3.4.~~ **4.** Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

~~4.5.~~ **5.** A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward ~~or~~ **or** complete contracts of the ward.

**Sec. 8.** NRS 159.193 is hereby amended to read as follows:

159.193 1. The guardian of the estate is entitled to possession of the ward's property and is authorized to perform the duties of the guardian to wind up the affairs of the guardianship:

(a) For a period that is reasonable and necessary after the termination of the guardianship;

(b) Except as otherwise provided in paragraph (c), for not more than ~~90~~ **180** days after the date of the appointment of a personal representative of the estate of a deceased ward; or

(c) Upon approval of the court, for more than ~~90~~ **180** days if the guardian is awaiting certification from the appropriate authority acknowledging that the guardian has no further liability for taxes on the estate.

- 1           2. To wind up the affairs of the guardianship, the guardian shall:
- 2           (a) Pay all expenses of administration of the guardianship estate, including
- 3 those incurred in winding up the affairs of the guardianship.
- 4           (b) Complete the performance of any contractual obligations incurred by the
- 5 guardianship estate.
- 6           (c) With prior approval of the court, continue any activity that:
- 7               (1) The guardian believes is appropriate and necessary; or
- 8               (2) Was commenced before the termination of the guardianship.
- 9           (d) If the guardianship is terminated for a reason other than the death of the
- 10 ward, examine and allow and pay, or reject, all claims presented to the guardian
- 11 prior to the termination of the guardianship for obligations incurred prior to the
- 12 termination.
- 13       **Sec. 9.** This act becomes effective on July 1, 2007.