

SENATE BILL NO. 194—SENATORS MATHEWS; CARE,
LEE, MCGINNESS, RAGGIO AND RHOADS

MARCH 10, 2009

JOINT SPONSORS: ASSEMBLYMEN ANDERSON,
GOICOECHEA; GRADY AND LESLIE

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the appointment and duties of public administrators and guardians. (BDR 20-181)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 certain public officials; making the district attorney of Humboldt County the ex officio public administrator of Humboldt County; revising certain provisions regarding the administration of certain estates; revising certain provisions regarding the appointment of public guardians; repealing certain provisions relating to public administrators; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill amends a number of provisions governing public administrators who are public officials that administer the estates of decedents having no qualified person willing and able to do so. **Sections 2 and 9** of this bill provide for the district attorney of Humboldt County to serve, ex officio, as the public administrator of the county, as the district attorneys for Lander, Lincoln and White Pine counties do currently. (NRS 253.010, 253.050) **Section 2** also authorizes the board of county commissioners in any county with an elected public administrator to appoint the public administrator if the office becomes vacant.

Under existing law, a public administrator may secure the property of a decedent if the public administrator finds that the decedent has no relatives able to protect the property and that failure to do so could endanger the property. (NRS 253.0405) **Section 3** of this bill authorizes a public administrator to secure the property of a decedent if either, not both, of those conditions exist. **Section 4** of this



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bill revises the notice requirements before a public administrator may donate or destroy certain property. (NRS 253.0407) **Sections 5 and 6** of this bill require and authorize a public administrator to conduct certain investigations. (NRS 253.0415, 253.042) **Section 7** of this bill increases the maximum value of an estate that may be set aside without administration. (NRS 253.0425)

Under existing law, certain powers and duties of public administrators are limited so as to be applicable only to public administrators in counties whose population is 100,000 or more (currently Clark and Washoe Counties). (NRS 253.041, 253.0415-253.0435) **Section 14** of this bill repeals NRS 253.041 so that the powers and duties set forth in NRS 253.0415 to 253.0435, inclusive, apply to public administrators in all counties. Conversely, existing law also sets forth that certain powers and duties of public administrators are limited so as to be applicable only to public administrators in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties). (NRS 253.044, 253.0445, 253.045) **Section 14** repeals those provisions.

This bill also amends provisions governing public guardians. **Section 10** of this bill requires a public guardian to retain records relating to guardianships for at least 7 years. (NRS 253.190) **Section 11** of this bill adds to the requirements for a resident of Nevada to be eligible to have a county public guardian appointed as his permanent or general individual guardian. (NRS 253.200)

Currently, a public guardian may demand certain information from a proposed ward—a person for whom proceedings for the appointment of a guardian have begun—or from the spouse, parent, child or other kindred of a proposed ward, but not from a person for whom a guardian has been appointed. (NRS 253.220) **Section 12** of this bill revises that provision so that the information can be demanded from or about a ward but not a proposed ward.

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

Section 1. NRS 250.160 is hereby amended to read as follows:
250.160 1. A county assessor may provide confidential information for use:

(a) By any governmental entity, including, without limitation, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, without limitation, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders or pursuant to an order of a federal or state court.

(c) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use authorized pursuant to this section.

(d) In connection with an investigation conducted pursuant to NRS 253.0415 ~~[, 253.044]~~ or 253.220.



(e) In activities relating to research and the production of statistical reports, if the address or information will not be published or otherwise disclosed or used to contact any person.

(f) In the bulk distribution of surveys, marketing material or solicitations, if the assessor has adopted policies and procedures to ensure that the information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations.

(g) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station.

2. Except for a reporter or editorial employee described in paragraph (g) of subsection 1, a person who obtains information pursuant to this section and sells or discloses that information shall keep and maintain for at least 5 years a record of:

(a) Each person to whom the information is sold or disclosed; and

(b) The purpose for which that person will use the information.

Sec. 2. NRS 253.010 is hereby amended to read as follows:

253.010 1. Except as otherwise provided in ~~subsection 4,~~ *subsections 4 and 5*, public administrators must be elected by the qualified electors of their respective counties.

2. Public administrators must be chosen by the electors of their respective counties at the general election in 1922 and at the general election every 4 years thereafter, and shall enter upon the duties of their office on the first Monday of January after their election.

3. The public administrator of a county must:

(a) Be a qualified elector of the county;

(b) Be at least 21 years of age on the date he will take office;

(c) Not have been convicted of a felony for which his civil rights have not been restored by a court of competent jurisdiction; and

(d) Not have been found liable in a civil action involving a finding of fraud, misrepresentation, material omission, misappropriation, theft or conversion.

4. The district attorneys of *Humboldt*, Lander, Lincoln and White Pine Counties are ex officio public administrators of *Humboldt County*, Lander County, Lincoln County and White Pine County, respectively. The Clerk of Carson City shall serve as Public Administrator of Carson City.

5. In a county other than Carson City and Humboldt, Lander, Lincoln and White Pine Counties, if, for any reason, the office of public administrator becomes vacant, the board of county commissioners may appoint a public administrator for the remainder of the unexpired term.



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

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

1. There are no relatives of the deceased who are able to protect the property; ~~and~~ *or*

2. Failure to do so could endanger the property.

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

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

~~—(a) The property, if that of a ward, is not necessary for the care or comfort of the ward; and~~

~~—(b) A~~ *a* notice of intent to donate or destroy the property is ~~:~~

~~—(1) Mailed~~ *mailed* by certified mail *or delivered personally* to the ~~ward's or~~ decedent's next of kin ~~[at his last known home address; or~~

~~—(2) Personally delivered to him,~~

~~and that person fails to claim]~~ *and* the property *is not claimed* within 15 days.

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

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

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

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

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

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

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

253.0415 1. The public administrator shall:

(a) Investigate:

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



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(2) Whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent to determine whether he is eligible to serve in that capacity.

(3) Whether there are beneficiaries named on any asset of the estate or whether any deed upon death executed pursuant to NRS 111.109 is on file with the county recorder.

(b) Except as otherwise provided in NRS 253.0403 and 253.0425, petition the court for letters of administration of the estate of ~~[a person dying]~~ *an intestate decedent* if, after investigation, the public administrator finds that there is no other qualified person having a prior right who is willing and able to serve.

(c) Upon court order, act as administrator of the estate of ~~[a person dying intestate.]~~ *an intestate decedent*, regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.

2. ~~[The public administrator is not eligible to serve as a guardian of the person and estate of a ward unless the board of county commissioners has designated the public administrator as ex officio public guardian.]~~ *The public administrator shall not administer any estate:*

(a) Held in joint tenancy unless all joint tenants are deceased;

(b) For which a beneficiary form has been registered pursuant to NRS 111.480 to 111.650, inclusive; or

(c) For which a deed upon death has been executed pursuant to NRS 111.109.

3. *As used in this section, "intestate decedent" means a person who has died without leaving a valid will, trust or other estate plan.*

Sec. 6. NRS 253.042 is hereby amended to read as follows:

253.042 In connection with an investigation conducted pursuant to subsection 1 of NRS 253.0415, a public administrator may:

1. Require any spouse, parent, child or other kindred of the decedent to give any information and to execute any written requests or authorizations necessary to provide the public administrator with access to records, otherwise confidential, needed to evaluate the public administrator's eligibility to serve.

2. Obtain information from the public records in any office of the State or any of its agencies or subdivisions upon request and without payment of any fee.

3. *Investigate the assets and personal and family history of any decedent for whom he has been requested to serve as administrator, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS.*



Sec. 7. 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 ~~[\$50,000]~~ **\$100,000** 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 ~~[\$50,000-]~~ **\$100,000:**

(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. 8. NRS 253.0447 is hereby amended to read as follows:

253.0447 A public administrator ~~[- or other suitable person designated by the board of county commissioners, who is authorized to perform the duties set forth in NRS 253.044,]~~ may file with the board **of county commissioners** a request for payment for expenses incurred in the performance of such duties. The amount to be paid as expenses must be determined by the board . ~~[of county commissioners.]~~ Payment must be made from the general fund of the county if the board ~~[of county commissioners]~~ approves the request and determines that there is sufficient money in the fund to pay the public administrator or other suitable person designated by the board to perform those duties. This section does not require the board ~~[of county commissioners]~~ to authorize payment of any expense that can be paid from the assets of a person or an estate . ~~[subject to NRS 253.044.]~~

Sec. 9. NRS 253.050 is hereby amended to read as follows:

253.050 1. For the administration of the estates of deceased persons, public administrators are entitled to be paid as other administrators or executors are paid, subject to the provisions of NRS 245.043.

2. The district attorneys of **Humboldt**, Lander, Lincoln and White Pine counties as ex officio public administrators and the clerk of Carson City serving as public administrator of Carson City may



1 retain all fees provided by law received by them as public
2 administrators.

3 3. The public administrator is entitled to compensation from
4 the estate or from beneficiaries for the reasonable value of his
5 services performed in preserving the property of an estate of a
6 deceased person before the appointment of an administrator.
7 Compensation must be set by the board of county commissioners.

8 **Sec. 10.** NRS 253.190 is hereby amended to read as follows:

9 253.190 A public guardian shall ~~[keep]~~ :

10 1. *Keep* financial and other appropriate records concerning all
11 cases in which he is appointed as an individual guardian ~~[]~~; *and*

12 2. *Retain*:

13 (a) *All such financial records for each case for at least 7 years*
14 *after the date of the transaction that is recorded in the record; and*

15 (b) *All other records for each case for at least 7 years after the*
16 *termination of the guardianship pursuant to chapter 159 of NRS.*

17 **Sec. 11.** NRS 253.200 is hereby amended to read as follows:

18 253.200 1. A resident of Nevada is eligible to have the public
19 guardian of the county in which he resides appointed as his
20 temporary individual guardian pursuant to NRS 159.0523 or
21 159.0525.

22 2. A resident of Nevada is eligible to have the public guardian
23 of a county appointed as his permanent or general individual
24 guardian if ~~[he:~~

25 ~~—(a) Has]~~ :

26 (a) *The proposed ward has* no relative or friend ~~[able]~~ *suitable*
27 *and willing to serve as his guardian; [and*

28 ~~—(b) Is]~~

29 (b) *The proposed ward is* a resident of that county ~~[]~~ ;

30 (c) *The public guardian is able to identify a source to pay for*
31 *the care of the proposed ward; and*

32 (d) *The public guardian is able to establish a case plan for the*
33 *guardianship.*

34 3. A person qualified pursuant to subsection 1 or 2, or anyone
35 on his behalf, may petition the district court of the county in which
36 he resides to make the appointment.

37 4. Before a petition for the appointment of the public guardian
38 as a guardian may be filed pursuant to subsection 3, a copy of the
39 petition and copies of all accompanying documents to be filed must
40 be delivered to the public guardian or a deputy public guardian.

41 5. Any petition for the appointment of the public guardian as a
42 guardian filed pursuant to subsection 3 must include a statement
43 signed by the public guardian or deputy public guardian and in
44 substantially the following form:



1 The undersigned is the Public Guardian or a Deputy
2 Public Guardian of County. The undersigned
3 certifies that he has received a copy of this petition and all
4 accompanying documents to be filed with the court.
5

6 6. A petition for the appointment of the public guardian as
7 permanent or general guardian must be filed separately from a
8 petition for the appointment of a temporary guardian.

9 7. If a person other than the public guardian served as
10 temporary guardian ~~prior to~~ before the appointment of the public
11 guardian as permanent or general guardian, the temporary guardian
12 must file an accounting and report with the court in which the
13 petition for the appointment of a public guardian was filed within 30
14 days of the appointment of the public guardian as permanent or
15 general guardian.

16 8. For the purposes of this section:

17 (a) Except as otherwise provided in paragraph (b), the county of
18 residence of a person is the county to which the person moved with
19 the intent to reside for an indefinite period.

20 (b) The county of residence of a person placed in institutional
21 care is the county that was the county of residence of the person
22 before the person was placed in institutional care by a guardian or
23 agency or under power of attorney.

24 **Sec. 12.** NRS 253.220 is hereby amended to read as follows:

25 253.220 A public guardian may investigate the financial status,
26 assets and personal and family history of any person for whom the
27 public guardian has been appointed as guardian, without hiring or
28 being licensed as a private investigator pursuant to chapter 648 of
29 NRS. In connection with the investigation, the public guardian may
30 require any ~~proposed~~ ward or any spouse, parent, child or other
31 kindred of the ~~proposed~~ ward to give any information and to
32 execute and deliver any written requests or authorizations necessary
33 to provide the public guardian with access to records, otherwise
34 confidential, which are needed by the public guardian. The public
35 guardian may obtain information from any public record office of
36 the State or any of its agencies or subdivisions upon request and
37 without payment of any fees.

38 **Sec. 13.** NRS 481.063 is hereby amended to read as follows:

39 481.063 1. The Director may charge and collect reasonable
40 fees for official publications of the Department and from persons
41 making use of files and records of the Department or its various
42 divisions for a private purpose. All money so collected must be
43 deposited in the State Treasury for credit to the Motor Vehicle Fund.

44 2. Except as otherwise provided in subsection 5, the Director
45 may release personal information, except a photograph, from a file



1 or record relating to the driver's license, identification card, or title
2 or registration of a vehicle of a person if the requester submits a
3 written release from the person who holds a lien on the vehicle, or
4 an agent of that person, or the person about whom the information is
5 requested which is dated not more than 90 days before the date of
6 the request. The written release must be in a form required by the
7 Director.

8 3. Except as otherwise provided in subsection 2, the Director
9 shall not release to any person who is not a representative of the
10 Division of Welfare and Supportive Services of the Department of
11 Health and Human Services or an officer, employee or agent of a
12 law enforcement agency, an agent of the public defender's office or
13 an agency of a local government which collects fines imposed for
14 parking violations, who is not conducting an investigation pursuant
15 to NRS 253.0415 ~~[-253.044]~~ or 253.220, who is not authorized to
16 transact insurance pursuant to chapter 680A of NRS or who is not
17 licensed as a private investigator pursuant to chapter 648 of NRS
18 and conducting an investigation of an insurance claim:

19 (a) A list which includes license plate numbers combined with
20 any other information in the records or files of the Department;

21 (b) The social security number of any person, if it is requested to
22 facilitate the solicitation of that person to purchase a product or
23 service; or

24 (c) The name, address, telephone number or any other
25 personally identifiable information if the information is requested by
26 the presentation of a license plate number.

27 ➤ When such personally identifiable information is requested of a
28 law enforcement agency by the presentation of a license plate
29 number, the law enforcement agency shall conduct an investigation
30 regarding the person about whom information is being requested or,
31 as soon as practicable, provide the requester with the requested
32 information if the requester officially reports that the motor vehicle
33 bearing that license plate was used in a violation of NRS 205.240,
34 205.345, 205.380 or 205.445.

35 4. Except as otherwise provided in subsections 2 and 5, the
36 Director shall not release any personal information from a file or
37 record relating to a driver's license, identification card, or title or
38 registration of a vehicle.

39 5. Except as otherwise provided in paragraph (a) and
40 subsection 6, if a person or governmental entity provides a
41 description of the information requested and its proposed use and
42 signs an affidavit to that effect, the Director may release any
43 personal information, except a photograph, from a file or record
44 relating to a driver's license, identification card, or title or
45 registration of a vehicle for use:



(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

- (1) The safety of drivers of motor vehicles;
- (2) Safety and thefts of motor vehicles;
- (3) Emissions from motor vehicles;
- (4) Alterations of products related to motor vehicles;
- (5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;
- (6) Monitoring the performance of motor vehicles;
- (7) Parts or accessories of motor vehicles;
- (8) Dealers of motor vehicles; or
- (9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.



(i) In connection with an investigation conducted pursuant to NRS 253.0415 ~~[, 253.044]~~ or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

➤ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if he reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the database created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that database.

9. The Director shall adopt such regulations as he deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate his ability to request information electronically or by written request if he has submitted to the Department proof of his employment or licensure, as applicable, and a signed and notarized affidavit acknowledging:

(a) That he has read and fully understands the current laws and regulations regarding the manner in which information from the



1 Department's files and records may be obtained and the limited uses
2 which are permitted;

3 (b) That he understands that any sale or disclosure of
4 information so obtained must be in accordance with the provisions
5 of this section;

6 (c) That he understands that a record will be maintained by the
7 Department of any information he requests; and

8 (d) That he understands that a violation of the provisions of this
9 section is a criminal offense.

10 10. It is unlawful for any person to:

11 (a) Make a false representation to obtain any information from
12 the files or records of the Department.

13 (b) Knowingly obtain or disclose any information from the files
14 or records of the Department for any use not permitted by the
15 provisions of this chapter.

16 11. As used in this section, "personal information" means
17 information that reveals the identity of a person, including, without
18 limitation, his photograph, social security number, driver's license
19 number, identification card number, name, address, telephone
20 number or information regarding a medical condition or disability.
21 The term does not include the zip code of a person when separate
22 from his full address, information regarding vehicular accidents or
23 driving violations in which he has been involved or other
24 information otherwise affecting his status as a driver.

25 **Sec. 14.** NRS 253.030, 253.041, 253.044, 253.0445 and
26 253.045 are hereby repealed.

27 **Sec. 15.** Notwithstanding any other provision of this act, the
28 term of office of the person who holds the office of Public
29 Administrator of Humboldt County on July 1, 2009, does not expire
30 until that term would ordinarily expire pursuant to subsection 2 of
31 NRS 253.010.

32 **Sec. 16.** 1. This section and sections 2, 9 and 15 of this act
33 become effective on July 1, 2009.

34 2. Sections 1, 3 to 8, inclusive, and 10 to 14, inclusive, of this
35 act become effective on October 1, 2009.

LEADLINES OF REPEALED SECTIONS

**253.030 Vacancy: Applicable law governing appointment;
qualification of appointee.**

**253.041 County whose population is 100,000 or more:
Applicability of NRS 253.041 to 253.0435, inclusive.**



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**253.044 County whose population is less than 100,000:
Service as administrator of estate of intestate decedent.**

**253.0445 County whose population is less than 100,000:
Access to information.**

**253.045 Additional duties in county whose population is
less than 100,000.**

