

Senate Bill No. 313—Senators Mathews,
Horsford, Care; and Lee

Joint Sponsors: Assemblymen Anderson; and Mortenson

CHAPTER.....

AN ACT relating to guardianship; providing that a court may sanction certain persons who are vexatious litigants; requiring a guardian to maintain certain records for certain periods of time; adopting in part the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act; revising certain notice requirements for guardianship proceedings; revising certain procedural requirements for the appointment of a guardian; revising the authority of certain guardians in certain circumstances; making various other changes relating to guardianships; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the procedures for the appointment of a guardian for a ward, the powers and duties of a guardian and the termination of a guardianship. (Chapter 159 of NRS) This bill: (1) amends various provisions relating to a guardianship; and (2) adopts, in part, the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act promulgated by the Uniform Law Commission.

Section 4 of this bill provides that a court may determine that a petitioner is a vexatious litigant if the petitioner files a petition that is without merit more than once, and may impose sanctions against the petitioner.

Section 5 of this bill requires a guardian to keep records related to the guardianship, including financial records, for a period of 7 years.

Section 6 of this bill provides that if a ward resides with a care provider which is an institution or facility, the care provider shall furnish itemized accountings of all financial activity pertaining to the ward on a quarterly basis and as requested by the guardian.

Sections 7-20 of this bill adopt in part the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, which was promulgated by the Uniform Law Commission in 2007. According to the Uniform Law Commission, because of increasing population mobility, cases involving simultaneous and conflicting jurisdiction over guardianship are increasing, and even when all parties agree, steps such as transferring a guardianship to another state can require that the parties start over anew in the second state. Obtaining recognition of a guardian's authority in another state in order to sell property or to arrange for a residential placement is often impossible. The Uniform Act is intended to address those problems concerning jurisdictional issues. The Uniform Act contains five articles, which are incorporated into **sections 7-20** and which address the following topics: (1) Article 1 contains definitions and provisions designed to facilitate cooperation between courts in different states; (2) Article 2 specifies which court has jurisdiction to appoint a guardian, with the objective being to locate jurisdiction in one, and only one, state except in cases of emergency or in situations where an individual owns property located in multiple states; (3) Article 3 specifies a procedure for



transferring proceedings from one state to another; (4) Article 4 addresses enforcement of orders in other states; and (5) Article 5 contains boilerplate provisions common to all uniform acts. However, **sections 7-20** do not contain, or revise, certain provisions of the Uniform Act.

Sections 25 and 42 of this bill revise the provisions relating to the persons who must receive notice of a guardianship petition. (NRS 159.034, 159.115) **Section 29** of this bill revises the information contained in a notice for petition for guardianship to include certain findings about the ward's competence. (NRS 159.044) **Sections 26-28 and 30** of this bill amend certain provisions concerning venue and jurisdiction for guardianship proceedings. (NRS 159.037, 159.039, 159.041, 159.0487) **Sections 32-34** of this bill revise the requirements concerning the supporting documentation necessary for certain petitions. (NRS 159.052, 159.0523, 159.0525) **Sections 37-41 and 43** of this bill revise the authority of a guardian to manage the estate and affairs of a ward. (NRS 159.0755, 159.076, 159.079, 159.0895, 159.113, 159.117) **Sections 44-52** of this bill revise certain provisions concerning the sale of property of a ward. (NRS 159.123, 159.134, 159.1425, 159.1435, 159.144, 159.1455, 159.1535, 159.154)

Section 55 of this bill exempts certain guardianship property from a presumption of abandonment for the purposes of the statutory provisions relating to unclaimed property. (NRS 120A.500)

Section 57 of this bill revises the provisions relating to possession of the assets held by a guardian of a decedent. (NRS 143.030)

Section 58 of this bill revises the provisions governing responsibility for the repayment of certain expenses of a ward paid for by a county. (NRS 428.070)

Sections 61-64 of this bill revise provisions concerning the release of a ward who was involuntarily committed to provide that: (1) the facility must notify the guardian before the ward is released; (2) the guardian has discretion to determine where to release the ward; and (3) if the guardian does not determine where to release the ward within a certain period, the facility will release the ward according to its own plan. (NRS 433A.220, 433A.380-433A.400)

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

Section 1. Chapter 159 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 20, inclusive, of this act.

Sec. 2. *“Home state” means the state in which the proposed ward was physically present for at least 6 consecutive months, including any temporary absence from the state, immediately before the filing of a petition for the appointment of a guardian.*

Sec. 3. *“State” means any state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.*

Sec. 4. 1. *A court may find that a petitioner is a vexatious litigant if a person, other than the ward:*



(a) Files a petition which is without merit or intended to harass or annoy the guardian; and

(b) Has previously filed pleadings in a guardianship proceeding that were without merit or intended to harass or annoy the guardian.

2. If a court finds a person is a vexatious litigant pursuant to subsection 1, the court may impose sanctions on the petitioner in an amount sufficient to reimburse the estate of the ward for all or part of the expenses incurred by the estate of the ward to defend the petition, to respond to the petition and for any other pecuniary losses which are associated with the petition.

Sec. 5. A guardian shall maintain all records and documents for each ward whom the guardian has authority over for a period of not less than 7 years after the court terminates the guardianship and shall maintain all financial records related to the guardianship for a period of not less than 7 years after the date of the last financial transaction.

Sec. 6. If a ward resides with a care provider that is an institution or facility, the care provider shall furnish to the guardian an itemized accounting of all financial activity pertaining to the ward:

1. On a quarterly basis; and

2. At any other time, upon the request of the guardian.

Sec. 7. Sections 7 to 20, inclusive, of this act may be cited as the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

Sec. 8. A court of this State may treat a foreign country as if it were a state for the purpose of applying sections 7 to 20, inclusive, of this act.

Sec. 9. 1. A court of this State may communicate with a court of another state concerning a proceeding arising under sections 7 to 20, inclusive, of this act. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection 2, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

2. Courts may communicate concerning schedules, calendars, court records and other administrative matters without making a record.

Sec. 10. 1. In a guardianship proceeding in this State, a court of this State may request the appropriate court of another state to do any of the following:

(a) Hold an evidentiary hearing;



(b) Order a person in that state to produce evidence or give testimony pursuant to the procedures of that state;

(c) Order that an evaluation or assessment be made of the ward;

(d) Order any appropriate investigation of a person involved in a proceeding;

(e) Forward to the court of this State a certified copy of the transcript or other record of a hearing under paragraph (a) or any other proceeding, any evidence otherwise produced under paragraph (b), and any evaluation or assessment prepared in compliance with an order under paragraph (c) or (d);

(f) Issue any order necessary to ensure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the proposed ward, the ward or the incompetent; and

(g) Issue an order authorizing the release of medical, financial, criminal or other relevant information in that state relating to the ward or proposed ward, including protected health information as defined in 45 C.F.R. § 160.103.

2. If a court of another state in which a guardianship or conservatorship proceeding is pending requests assistance of the kind provided in subsection 1, a court of this State has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

Sec. 11. *1. In a guardianship proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this State for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.*

2. In a guardianship proceeding, a court of this State may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this State shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

3. Documentary evidence transmitted from a court of another state to a court of this State by technological means that do not produce an original writing may not be excluded from evidence on an objection based on NRS 52.235.

Sec. 12. *1. A court of this State has jurisdiction to appoint a guardian if:*



- (a) *This State is the proposed ward's home state;*
 - (b) *The proposed ward holds property within this State and a court of the proposed ward's home state has declined to exercise jurisdiction because this State is a more appropriate forum;*
 - (c) *The proposed ward has a significant connection with this State and a court of the proposed ward's home state has declined to exercise jurisdiction because this State is a more appropriate forum; or*
 - (d) *The proposed ward does not have a home state.*
2. *A court of this State lacking jurisdiction under subsection 1 has special jurisdiction to appoint a temporary guardian for a ward:*

- (a) *To facilitate transfer of the guardianship proceedings from another state pursuant to sections 7 to 20, inclusive, of this act.*
- (b) *In an emergency if the ward is physically present in this State, and such temporary guardianship will be terminated at the request of a court of the ward's home state before or after the emergency appointment.*

3. *Except as otherwise provided in this section, a court that has appointed a guardian consistent with sections 7 to 20, inclusive, of this act has exclusive and continuing jurisdiction over the proceedings until it is terminated by the court pursuant to NRS 159.1905 or 159.191.*

Sec. 13. 1. *A court of this State having jurisdiction to appoint a guardian may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.*

2. *If a court of this State declines to exercise its jurisdiction under subsection 1, it shall either dismiss or stay the proceedings. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian be filed promptly in another state.*

3. *In determining whether it is an appropriate forum, the court shall consider all relevant factors, including, without limitation:*

- (a) *Any expressed preference of the ward;*
- (b) *Whether abuse, neglect or exploitation of the ward has occurred or is likely to occur and which state could best protect the ward from the abuse, neglect or exploitation;*
- (c) *The length of time the ward was physically present in or was a legal resident of this State or another state;*
- (d) *The distance of the ward from the court in each state;*
- (e) *The financial circumstances of the ward's estate;*



- (f) *The nature and location of the evidence;*
- (g) *The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;*
- (h) *The familiarity of the court of each state with the facts and issues in the proceeding; and*
- (i) *If an appointment were made, the court's ability to monitor the conduct of the guardian.*

Sec. 14. *1. If at any time a court of this State determines that it acquired jurisdiction to appoint a guardian because of unjustifiable conduct by the guardian or the petitioner, the court may:*

- (a) *Decline to exercise jurisdiction;*
- (b) *Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety and welfare of the ward or the protection of the ward's property or to prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian is filed in a court of another state having jurisdiction; or*
- (c) *Continue to exercise jurisdiction after considering:*
 - (1) *The extent to which the ward and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;*
 - (2) *Whether it is a more appropriate forum than the court of any other state; and*
 - (3) *Whether the court of any other state would have jurisdiction under factual circumstance in substantial conformity with the jurisdictional standard.*

2. If a court of this State determines that it acquired jurisdiction to appoint a guardian because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, the court may assess against that party necessary and reasonable expenses, including, without limitation, attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses.

Sec. 15. *Except for a petition for the appointment of a guardian in an emergency, if a petition for the appointment of a guardian is filed in this State and in another state and neither petition has been dismissed or withdrawn, the following rules apply:*

1. If the court of this State has jurisdiction under sections 7 to 20, inclusive, of this act, it may proceed with the case unless a court of another state acquires jurisdiction under provisions



similar to sections 7 to 20, inclusive, of this act before the appointment.

2. If the court of this State does not have jurisdiction under sections 7 to 20, inclusive, of this act, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court of the other state. If the court of the other state has jurisdiction, the court of this State shall dismiss the petition unless the court of the other state determines that the court of this State is a more appropriate forum.

Sec. 16. *1. A guardian appointed in this State may petition the court to transfer the jurisdiction of the guardianship to another state. Notice of the petition must be given to the persons that would be entitled to notice of a petition in this State for the appointment of a guardian.*

2. The court shall issue an order provisionally granting the petition to transfer a guardianship and shall direct the guardian or other interested party to petition for guardianship in the other state if the court finds that:

(a) The ward is physically present in, or is reasonably expected to move permanently to, the other state;

(b) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the ward; and

(c) The plans for care and services for the ward in the other state are reasonable and sufficient.

3. The court shall issue a final order confirming the transfer and terminating the guardianship upon a petition for termination pursuant to NRS 159.1905 or 159.191 and filing of a provisional order accepting the proceeding from the court to which the proceeding is to be transferred.

Sec. 17. *1. To transfer jurisdiction of a guardianship or conservatorship to this State, the guardian, conservator or other interested party must petition the court of this State for guardianship pursuant to sections 7 to 20, inclusive, of this act to accept guardianship in this State. The petition must include a certified copy of the other state's provisional order of transfer and proof that the ward is physically present in, or is reasonably expected to move permanently to, this State.*

2. The court shall issue a provisional order granting a petition filed under subsection 1, unless:



(a) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the ward; or

(b) The guardian or petitioner is not qualified for appointment as a guardian in this State pursuant to NRS 159.059.

3. The court shall issue a final order granting guardianship upon filing of a final order issued by the other state terminating proceedings in that state and transferring the proceedings to this State.

4. Not later than 90 days after the issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the laws of this State.

5. In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the ward's incapacity and the appointment of the guardian or conservator.

Sec. 18. *If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this State, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register and the reason for registration, may register the guardianship order in this State by filing as a foreign judgment in a court, in any appropriate county of this State:*

1. Certified copies of the order and letters of office; and

2. A copy of the guardian's driver's license, passport or other valid photo identification card in a sealed envelope.

Sec. 19. *1. Upon registration of a guardianship, the guardian may exercise in this State all powers authorized in the order of appointment except as prohibited under the laws of this State, including maintaining actions and proceedings in this State and, if the guardian is not a resident of this State, subject to any conditions imposed upon nonresident parties.*

2. A court of this State may grant any relief available under sections 7 to 20, inclusive, of this act and other law of this State to enforce a registered order.

Sec. 20. *The Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act must be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.*

Sec. 21. *NRS 159.013 is hereby amended to read as follows:*

159.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 159.014 to 159.027,



inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 22. NRS 159.017 is hereby amended to read as follows:

159.017 “Guardian” means any person appointed under this chapter as guardian of the person, of the estate, or of the person and estate for any other person, and includes an organization under NRS 662.245 and joint appointees. The term includes , *without limitation*, a special guardian ~~[]~~ *or, if the context so requires, a person appointed in another state who serves in the same capacity as a guardian in this State.*

Sec. 23. NRS 159.024 is hereby amended to read as follows:

159.024 “Private professional guardian” means a person who receives compensation for services as a guardian to three or more wards who are not related to the ~~[person]~~ *guardian* by blood or marriage. The term does not include:

1. A governmental agency.
2. A public guardian appointed or designated pursuant to the provisions of chapter 253 of NRS.
- ~~[3. A banking corporation, as defined in NRS 657.016, or an organization permitted to act as fiduciary pursuant to NRS 662.245 if it is appointed as guardian of an estate only.~~
- ~~—4. A trust company, as defined in NRS 669.070.~~
- ~~—5. A court appointed attorney licensed to practice law in this State.]~~

Sec. 24. NRS 159.025 is hereby amended to read as follows:

159.025 “Proposed ward” means any person for whom proceedings for the appointment of a guardian have been initiated ~~[]~~ *in this State or, if the context so requires, for whom similar proceedings have been initiated in another state.*

Sec. 25. NRS 159.034 is hereby amended to read as follows:

159.034 1. Except as otherwise provided in this section, by specific statute or as ordered by the court, a petitioner in a guardianship proceeding shall give notice of the time and place of the hearing on the petition to:

(a) Each interested person or the attorney of the interested person;

(b) Any person entitled to notice pursuant to this chapter or his attorney; ~~[and]~~

(c) Any other person who has filed a request for notice in the guardianship proceedings ~~[]~~;

(d) The proposed guardian, if the petitioner is not the proposed guardian; and



(e) Those persons entitled to notice if a proceeding were brought in the proposed ward's home state.

2. The petitioner shall give notice not later than 10 days before the date set for the hearing:

(a) By mailing a copy of the notice by certified, registered or ordinary first-class mail to the residence, office or post office address of each person required to be notified pursuant to this section;

(b) By personal service; or

(c) In any other manner ordered by the court, upon a showing of good cause.

3. If the address or identity of a person required to be notified of a hearing on a petition pursuant to this section is not known and cannot be ascertained with reasonable diligence, notice must be given:

(a) By publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held at least once every 7 days for 21 consecutive days, the last publication of which must occur not later than 10 days before the date set for the hearing; or

(b) In any other manner ordered by the court, upon a showing of good cause.

4. For good cause shown, the court may waive the requirement of giving notice.

5. A person entitled to notice pursuant to this section may waive such notice. Such a waiver must be in writing and filed with the court.

6. On or before the date set for the hearing, the petitioner shall file with the court proof of giving notice to each person entitled to notice pursuant to this section.

Sec. 26. NRS 159.037 is hereby amended to read as follows:

159.037 1. The venue for the appointment of a guardian *when the ward's home state is this State* must be ~~the~~:

~~—(a) The~~ *the* county where the proposed ward resides. ~~the or~~

~~—(b) If the proposed ward does not reside in this state, any county in which any property of the proposed ward is located, or any county in which the proposed ward is physically present.]~~

2. If the proper venue may be in two or more counties, the county in which the proceeding is first commenced is the proper county in which to continue the proceedings.

3. Upon the filing of a petition showing that the proper venue is inconvenient, a venue other than that provided in subsection 1 may accept the proceeding.



Sec. 27. NRS 159.039 is hereby amended to read as follows:

159.039 1. If proceedings for the appointment of a guardian for the same proposed ward are commenced in more than one county ~~in~~ *in this State, and the ward's home state is this State*, they shall be stayed, except in the county where first commenced, until final determination of venue in that county. If the proper venue is finally determined to be in another county, the court shall cause a transcript of the proceedings and all original papers filed therein, all certified by the clerk of the court, to be sent to the clerk of the court of the proper county.

2. A proceeding is considered commenced by the filing of a petition.

3. The proceedings first legally commenced for the appointment of a guardian of the estate or of the person and estate extends to all the property of the proposed ward which is in this state.

Sec. 28. NRS 159.041 is hereby amended to read as follows:

159.041 A court having before it any guardianship matter *for a ward whose home state is this State* may transfer the matter to another county in the interest of the ward or, if not contrary to the interest of the ward, for the convenience of the guardian. A petition for the transfer, setting forth the reasons therefor, may be filed in the guardianship proceeding. If the court is satisfied that the transfer is in the interest of the ward or, if not contrary to the interest of the ward, for the convenience of the guardian, the court shall make an order of transfer and cause a transcript of the proceedings in the matter, all original papers filed in such proceedings and the original bond filed by the guardian, to be certified by the clerk of the court originally hearing the matter and sent to the clerk of the court of the other county. Upon receipt of the transcript, papers and bond, and the filing of them for record, the court of the other county has complete jurisdiction of the matter, and thereafter all proceedings shall be as though they were commenced in that court.

Sec. 29. 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 provided in NRS 239.0115 or 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 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 provided in NRS 239.0115 or 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~~ **must** include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State **or who is employed by the Department of Veterans Affairs** stating ~~the~~ :

(I) **The** need for a guardian;

(II) **Whether the proposed ward presents a danger to himself or others;**

(III) **Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;**

(IV) **Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and**

(V) **Whether the proposed ward is capable of living independently with or without assistance;**

(2) A letter signed by any governmental agency in this State which conducts investigations stating ~~the~~ :

(I) **The** need for a guardian;

(II) **Whether the proposed ward presents a danger to himself or others;**

(III) **Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;**

(IV) **Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and**

(V) **Whether the proposed ward is capable of living independently with or without assistance; or**

(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating ~~the~~ :

(I) **The** need for a guardian ~~is~~;

(II) **Whether the proposed ward presents a danger to himself or others;**

(III) **Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;**

(IV) **Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and**

(V) **Whether the proposed ward is capable of living independently with or without assistance.**

(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]~~ *If the petitioner is not the spouse or natural child of the proposed ward, a declaration explaining the relationship ~~[, if any,]~~ of the petitioner to the proposed ward or to the proposed ward's family or friends, if any, 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]~~ *If 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.]~~ or exploitation of the proposed ward, whether the referral was from a law enforcement agency or a state or county agency.*

(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.

Sec. 30. NRS 159.0487 is hereby amended to read as follows:

159.0487 Any court of competent jurisdiction may appoint:

1. Guardians of the person, of the estate, or of the person and estate for ~~[resident]~~ incompetents or ~~[resident]~~ minors ~~[.]~~ *whose home state is this State.*

2. Guardians of the person or of the person and estate for incompetents or minors who, although not residents of this State, are physically present in this State and whose welfare requires such an appointment.

3. Guardians of the estate for nonresident incompetents or nonresident minors who have property within this State.



4. ~~Guardians of the person, of the estate, or of the person and estate for incompetents or minors who previously have been appointed by the court of another state and who provide proof of the filing of an exemplified copy of the order from the court of the other state that appointed the guardian and a bond issued in this State as ordered by the court of the other state. As used in this subsection, "guardian" includes, without limitation, a conservator.~~

~~5.] Special guardians.~~

~~6.] 5. Guardians ad litem.~~

Sec. 31. NRS 159.049 is hereby amended to read as follows:

159.049 The court may, without issuing a citation, appoint a guardian for the proposed ward if the ~~;~~

~~1. Petitioner]~~ *petitioner* is a parent who has sole legal and physical custody of the proposed ward as evidenced by a valid court order or birth certificate and who is seeking the appointment of a guardian for the minor child of the parent. If the proposed ward is a minor who is 14 years of age or older:

~~(a)] 1.~~ The petition must be accompanied by the written consent of the minor to the appointment of the guardian; or

~~(b)] 2.~~ The minor must consent to the appointment of the guardian in open court.

~~[2. Petitioner is a foreign guardian of a nonresident proposed ward, and the petition is accompanied by:~~

~~(a) An exemplified copy of the record of the appointment of the foreign guardian; and~~

~~(b) Evidence of the existing authority of the foreign guardian.]~~

Sec. 32. NRS 159.052 is hereby amended to read as follows:

159.052 1. A petitioner may request the court to appoint a temporary guardian for a ward who is a minor 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 faces a substantial and immediate risk of physical harm or needs immediate medical attention;]~~ *Documentation which shows that the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs or*



a letter signed by any governmental agency in this State which conducts investigations indicating:

(1) 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;

(2) Whether the proposed ward presents a danger to himself or others; and

(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation; 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; and

(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.

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 NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the



petitioner fails to provide such notice, the court may terminate the temporary guardianship.

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

6. If the court appoints a temporary guardian or extends the temporary 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 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]~~ *The* court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 33. 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 a substantial and immediate risk of physical harm or needs immediate medical attention; and~~

~~— (2) Lacks capacity to respond to the risk of harm or to obtain the necessary medical attention;]~~ *Documentation which shows the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to*



respond to the risk of harm or obtain the necessary medical attention. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs or a letter signed by any governmental agency in this State which conducts investigations indicating:

(1) 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;

(2) Whether the proposed ward presents a danger to himself or others; and

(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation; 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; *and*

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

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

(a) ~~The [certificate required by subsection 2 has been filed and the]~~ court finds by clear and convincing evidence 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]~~ *and*

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

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

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

~~—— (3)]~~ The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary 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 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~~ *The* court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 34. NRS 159.0525 is hereby amended to read as follows:

159.0525 1. A petitioner may request the court to appoint a temporary guardian for a ward who is unable to respond to a substantial and immediate risk of financial loss. 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) Is unable to respond to a substantial and immediate risk of financial loss; and~~

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

~~—— (b)}~~ *Documentation which shows that the proposed ward faces a substantial and immediate risk of financial loss and lacks capacity to respond to the risk of loss. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs or a letter signed by any governmental agency in this State which conducts investigations indicating:*

(1) That the proposed ward is unable to respond to a substantial and immediate risk of financial loss;

(2) Whether the proposed ward can live independently with or without assistance or services; and

(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation;

(b) A detailed explanation of what risks the proposed ward faces, including, without limitation, termination of utilities or other services because of nonpayment, initiation of eviction or foreclosure proceedings, exploitation or loss of assets as the result of fraud, coercion or undue influence; and

(c) 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 financial loss 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 financial loss; *and*

(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)]~~ (c) of subsection 1. ~~[-and~~

~~—(c) For a proposed ward who is an adult, 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 financial loss; 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)]~~ (c) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the



petitioner fails to provide such notice, the court may terminate the temporary guardianship.

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

(a) The ~~[certificate required by subsection 2 has been filed and the]~~ court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; ~~for]~~ *and*

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

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

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

——— ~~(3)]~~ The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary 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 ~~[]~~, *specifically limiting the temporary guardian's authority to take possession of, close or have access to any accounts of the ward or to sell or dispose of tangible personal property of the ward to only that authority as needed to provide for the ward's basic living expenses until a general or special guardian can be appointed. The court may freeze any or all of the ward's accounts to protect such accounts from 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}~~ **The** court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 35. NRS 159.059 is hereby amended to read as follows:

159.059 Except as otherwise provided in NRS 159.0595, any qualified person or entity that the court finds suitable may serve as a guardian. A person is not qualified to serve as a guardian who:

1. Is an incompetent.
2. Is a minor.
3. Has been convicted of a felony relating to the position of a guardian, unless the court finds that it is in the best interests of the ward to appoint the convicted felon as the guardian of the ward.
4. Has been suspended for misconduct or disbarred from:
 - (a) The practice of law;
 - (b) The practice of accounting; or
 - (c) Any other profession which:
 - (1) Involves or may involve the management or sale of money, investments, securities or real property; and
 - (2) Requires licensure in this State or any other state,

↪ during the period of the suspension or disbarment.
5. Is a nonresident of this State and:
 - (a) ~~{Is not a foreign guardian of a nonresident proposed ward pursuant to subsection 2 of NRS 159.049;~~
~~—(b)}~~ Has not associated as a coguardian, a resident of this State or a banking corporation whose principal place of business is in this State; and
 - ~~{(e)}~~ **(b)** Is not a petitioner in the guardianship proceeding.
6. Has been judicially determined, by clear and convincing evidence, to have committed abuse, neglect or exploitation of a child, spouse, parent or other adult, unless the court finds that it is in the best interests of the ward to appoint the person as the guardian of the ward.

Sec. 36. NRS 159.0595 is hereby amended to read as follows:

159.0595 1. A private professional guardian, if a person, must be qualified to serve as a guardian pursuant to NRS 159.059 and must be a ~~{registered guardian or master guardian unless a hearing is held and the court finds that good cause exists to waive~~



~~the requirement that the private professional guardian be a registered guardian or master}~~ **certified** guardian.

2. A private professional guardian, if an entity, must be qualified to serve as a guardian pursuant to NRS 159.059 and must have a ~~[registered guardian or master]~~ **certified** guardian involved in the day-to-day operation or management of the entity . ~~[unless a hearing is held and the court finds that good cause exists to waive the requirement that the private professional guardian have a registered guardian or master guardian involved in the day-to-day operation or management of the entity.]~~

3. As used in this section:

(a) ***“Certified guardian” means a person who is certified by the Center for Guardianship Certification or any successor organization.***

(b) “Entity” includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.

~~[(b) “Master guardian” means a person who is certified by the National Guardianship Foundation or any successor organization as a master guardian.]~~

(c) “Person” means a natural person.

~~[(d) “Registered guardian” means a person who is certified by the National Guardianship Foundation or any successor organization as a registered guardian.]~~

Sec. 37. NRS 159.0755 is hereby amended to read as follows:

159.0755 If, at the time of the appointment of the guardian or thereafter, the estate of a ward consists of personal property having a value not exceeding by more than ~~[\$5,000]~~ **\$10,000** the aggregate amount of unpaid expenses of administration of the guardianship estate and claims against the estate, the guardian of the estate, with prior approval of the court by order, may pay those expenses and claims from the estate and deliver all the remaining personal property to such person as the court may designate in the order, to be held, invested or used as ordered by the court. The recipient of the property so delivered shall give a receipt therefor to the guardian. The receipt is a release and acquittance to the guardian as to the property so delivered. The guardian shall file in the proceeding proper receipts or other evidence satisfactory to the court showing the delivery, and the guardian is released from his trust and his bond exonerated.

Sec. 38. NRS 159.076 is hereby amended to read as follows:

159.076 1. The court may grant a summary administration if, at any time, it appears to the court that after payment of all claims



and expenses of the guardianship the value of the ward's property does not exceed ~~[\$5,000.]~~ **\$10,000.**

2. If the court grants a summary administration, the court may:

(a) Authorize the guardian of the estate or special guardian who is authorized to manage the ward's property to convert the property to cash and sell any of the property, with or without notice, as the court may direct. After the payment of all claims and the expenses of the guardianship, the guardian shall deposit the money in savings accounts or invest the money as provided in NRS 159.117, and hold the investment and all interest, issues, dividends and profits for the benefit of the ward. The court may dispense with annual accountings and all other proceedings required by this chapter.

(b) If the ward is a minor, terminate the guardianship of the estate and direct the guardian to deliver the ward's property to the custodial parent or parents, guardian or custodian of the minor to hold, invest or use as the court may order.

3. Whether the court grants a summary administration at the time the guardianship is established or at any other time, the guardian shall file an inventory and record of value with the court.

4. If, at any time, the net value of the estate of the ward exceeds ~~[\$5,000.]~~ **\$10,000:**

(a) The guardian shall file an amended inventory and accounting with the court;

(b) The guardian shall file annual accountings; and

(c) The court may require the guardian to post a bond.

Sec. 39. NRS 159.079 is hereby amended to read as follows:

159.079 1. Except as otherwise ordered by the court, a guardian of the person has the care, custody and control of the person of the ward, and has the authority and, subject to subsection 2, shall perform the duties necessary for the proper care, maintenance, education and support of the ward, including , *without limitation*, the following:

(a) Supplying the ward with food, clothing, shelter and all incidental necessities ~~[-]~~ , *including locating an appropriate residence for the ward.*

(b) Authorizing medical, surgical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the ward.

(c) Seeing that the ward is properly trained and educated and that the ward has the opportunity to learn a trade, occupation or profession.

2. In the performance of the duties enumerated in subsection 1 by a guardian of the person, due regard must be given to the extent



of the estate of the ward. A guardian of the person is not required to incur expenses on behalf of the ward except to the extent that the estate of the ward is sufficient to reimburse the guardian.

3. *A guardian of the person is the ward's personal representative for purposes of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any applicable regulations. The guardian of the person has authority to obtain information from any government agency, medical provider, business, creditor or third party who may have information pertaining to the ward's health care or health insurance.*

4. *A guardian of the person may establish and change the residence of the ward at any place within this State without the permission of the court. The guardian shall select the least restrictive appropriate residence which is available and necessary to meet the needs of the ward and which is financially feasible.*

5. *A guardian of the person shall petition the court for an order authorizing the guardian to change the residence of the ward to a location outside of this State. The guardian must show that the placement outside of this State is in the best interest of the ward or that there is no appropriate residence available for the ward in this State. The court shall retain jurisdiction over the guardianship unless the guardian files for termination of the guardianship pursuant to NRS 159.1905 or 159.191 or the jurisdiction of the guardianship is transferred to the other state.*

6. This section does not relieve a parent or other person of any duty required by law to provide for the care, support and maintenance of any dependent.

Sec. 40. NRS 159.0895 is hereby amended to read as follows:

159.0895 1. The guardian may retain assets for the anticipated expense of the ward's funeral and the disposal of his remains. Of the amount so retained, ~~[\$1,500]~~ **\$3,000** is exempt from all claims, including those of this state.

2. The guardian may place assets so retained in a pooled account or trust. If the assets are invested in a savings account or other financial account, they are not subject to disposition as unclaimed property during the lifetime of the ward.

3. Assets so retained may be disbursed for the ward's funeral or the disposal of his remains without prior authorization of the court. An amount not so disbursed becomes part of the ward's estate.



Sec. 41. NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian *of the estate* 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 place in trust any property of the ward pursuant to NRS 159.127.

(g) Exchange or partition the ward's property pursuant to NRS 159.175.

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

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

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

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

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

~~(m)~~ (l) 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.

~~(m)~~ (m) Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.

(n) Transfer money in a minor ward's blocked account to the Nevada Higher Education Prepaid Tuition Trust Fund created pursuant to NRS 353B.140.

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.

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.

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 complete contracts of the ward.

Sec. 42. NRS 159.115 is hereby amended to read as follows:

159.115 1. Upon the filing of any petition under NRS 159.078 or 159.113, or any account, notice must be given:

(a) At least 10 days before the date set for the hearing, by mailing a copy of the notice by regular mail to the residence, office or post office address of each person required to be notified pursuant to subsection 3;

(b) At least 10 days before the date set for the hearing, by personal service;

(c) If the address or identity of the person is not known and cannot be ascertained with reasonable diligence, by publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held, the last publication of which must be published at least 10 days before the date set for the hearing; or

(d) In any other manner ordered by the court, for good cause shown.

2. The notice must:

(a) Give the name of the ward.

(b) Give the name of the petitioner.

(c) Give the date, time and place of the hearing.

(d) State the nature of the petition.



(e) Refer to the petition for further particulars, and notify all persons interested to appear at the time and place mentioned in the notice and show cause why the court order should not be made.

3. At least 10 days before the date set for the hearing, the petitioner shall cause a copy of the notice to be mailed to the following:

(a) Any minor ward who is 14 years of age or older or the parent or legal guardian of any minor ward who is less than 14 years of age.

(b) The spouse of the ward and other heirs of the ward who are related within the second degree of consanguinity so far as known to the petitioner.

(c) The guardian of the person of the ward, if the guardian is not the petitioner.

(d) Any person or care provider ~~having the care, custody or control of~~ *who is providing care for* the ward ~~[-]~~, *except that if the person or care provider is not related to the ward, such person or provider must not be given copies of any inventory or accounting.*

(e) Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.

(f) The Director of the Department of Health and Human Services if the ward has received or is receiving any benefits from Medicaid.

(g) Any other interested person or his attorney who has filed a request for notice in the guardianship proceeding and served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request, and his name and address, or that of his attorney. If the notice so requests, copies of all petitions and accounts must be mailed to the interested person or his attorney.

4. An interested person who is entitled to notice pursuant to subsection 3 may, in writing, waive notice of the hearing of a petition.

5. Proof of giving notice must be:

(a) Made on or before the date set for the hearing; and

(b) Filed in the guardianship proceeding.

Sec. 43. NRS 159.117 is hereby amended to read as follows:

159.117 1. Upon approval of the court by order, a guardian of the estate may:

(a) Invest the property of the ward, make loans and accept security therefor, in the manner and to the extent authorized by the court.



(b) Exercise options of the ward to purchase or exchange securities or other property.

2. A guardian of the estate may, without securing the prior approval of the court, invest the property of the ward in the following:

(a) Savings accounts in any bank, credit union or savings and loan association in this State, to the extent that the deposits are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

(b) Interest-bearing obligations of or fully guaranteed by the United States.

(c) Interest-bearing obligations of the United States Postal Service.

(d) Interest-bearing obligations of the Federal National Mortgage Association.

(e) Interest-bearing general obligations of this State.

(f) Interest-bearing general obligations of any county, city or school district of this State.

(g) Money market mutual funds which are invested only in those instruments listed in paragraphs (a) to (f), inclusive.

3. A guardian of the estate for two or more wards may invest the property of two or more of the wards in property in which each ward whose property is so invested has an undivided interest. The guardian shall keep a separate record showing the interest of each ward in the investment and in the income, profits or proceeds therefrom.

4. Upon approval of the court, for a period authorized by the court, a guardian of the estate may maintain the assets of the ward in the manner in which the ward had invested the assets before the ward's incapacity.

5. A guardian of the estate may access or manage a guardianship account via the Internet on a secured website established by the bank, credit union or broker holding the account.

Sec. 44. NRS 159.123 is hereby amended to read as follows:

159.123 If a ward for whom a guardian of the estate is appointed was, at the time of the appointment, a party to a contract which has not been fully performed, and which was made by the ward while not under any legal disability, the guardian of the estate, with prior approval of the court by order, may complete the performance of such contract. If such contract requires the conveyance of any real or personal property, or any interest in such



property, the court may authorize the guardian to convey the interest and estate of the ward in the property, and the effect of such conveyance shall be the same as though made by the ward while not under legal disability. *If the contract requires a sale, no notice of sale is required under this section unless otherwise ordered by the court.*

Sec. 45. NRS 159.134 is hereby amended to read as follows:

159.134 1. All sales of real property of a ward must be:

(a) Reported to the court; and

(b) Confirmed by the court before the title to the real property passes to the purchaser.

2. The report and a petition for confirmation of the sale must be filed with the court not later than 30 days after the date of each sale.

3. The court shall set the date of the hearing and give notice of the hearing in the manner required pursuant to NRS 159.115 or as the court may order.

4. An interested person may file written objections to the confirmation of the sale. If such objections are filed, the court shall conduct a hearing regarding those objections during which the interested person may offer witnesses in support of the objections.

5. Before the court confirms a sale, the court must find that notice of the sale was given in the manner required pursuant to NRS 159.1425, 159.1435 and 159.144 ~~H~~, *unless the sale was exempt from notice pursuant to NRS 159.123.*

Sec. 46. NRS 159.1425 is hereby amended to read as follows:

159.1425 1. Except as otherwise provided in this section and except for a sale pursuant to NRS *159.123 or* 159.142, a guardian may sell the real property of a ward only after notice of the sale is published in:

(a) A newspaper that is published in the county in which the property, or some portion of the property, is located; or

(b) If a newspaper is not published in that county:

(1) In a newspaper of general circulation in the county; or

(2) In such other newspaper as the court orders.

2. Except as otherwise provided in this section and except for a sale of real property pursuant to NRS *159.123 or* 159.142:

(a) The notice of a public auction for the sale of real property must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.

(b) The notice of a private sale must be published not less than three times before the date on which offers will be accepted, over a period of 14 days and 7 days apart.



3. For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

4. The court may waive the requirement of publication pursuant to this section if:

(a) The guardian is the sole devisee or heir of the estate; or

(b) All devisees or heirs of the estate consent to the waiver in writing.

5. Publication for the sale of real property is not required pursuant to this section if the property to be sold is reasonably believed to have a value of ~~[\$5,000]~~ \$10,000 or less. In lieu of publication, the guardian shall post notice of the sale in three of the most public places in the county in which the property, or some portion of the property, is located for at least 14 days before:

(a) The date of the sale at public auction; or

(b) The date on which offers will be accepted for a private sale.

6. Any notice published or posted pursuant to this section must include, without limitation:

(a) For a public auction:

(1) A description of the real property which reasonably identifies the property to be sold; and

(2) The date, time and location of the auction.

(b) For a private sale:

(1) A description of the real property which reasonably identifies the property to be sold; and

(2) The date, time and location that offers will be accepted.

Sec. 47. NRS 159.1435 is hereby amended to read as follows:

159.1435 1. Except for a sale pursuant to NRS ~~159.123~~ *159.123 or* 159.142, a public auction for the sale of real property must be held:

(a) In the county in which the property is located or, if the real property is located in two or more counties, in either county;

(b) Between the hours of 9 a.m. and 5 p.m.; and

(c) On the date specified in the notice, unless the sale is postponed.

2. If, on or before the date and time set for the public auction, the guardian determines that the auction should be postponed:

(a) The auction may be postponed for not more than 3 months after the date first set for the auction; and

(b) Notice of the postponement must be given by a public declaration at the place first set for the sale on the date and time that was set for the sale.



Sec. 48. NRS 159.144 is hereby amended to read as follows:

159.144 1. Except for the sale of real property pursuant to NRS **159.123** or 159.142, a sale of real property of a guardianship estate at a private sale:

(a) Must not occur before the date stated in the notice.

(b) Except as otherwise provided in this paragraph, must not occur sooner than 14 days after the date of the first publication or posting of the notice. For good cause shown, the court may shorten the time in which the sale may occur to not sooner than 8 days after the date of the first publication or posting of the notice. If the court so orders, the notice of the sale and the sale may be made to correspond with the court order.

(c) Must occur not later than 1 year after the date stated in the notice.

2. The offers made in a private sale:

(a) Must be in writing; and

(b) May be delivered to the place designated in the notice or to the guardian at any time:

(1) After the date of the first publication or posting of the notice; and

(2) Before the date on which the sale is to occur.

Sec. 49. NRS 159.1455 is hereby amended to read as follows:

159.1455 1. Except as otherwise provided in subsection 2, the court shall not confirm a sale of real property of a guardianship estate at a private sale unless:

(a) The court is satisfied that the amount offered represents the fair market value of the property to be sold; and

(b) ~~The~~ ***Except for a sale of real property pursuant to NRS 159.123, the*** real property has been appraised within 1 year before the date of the sale. If the real property has not been appraised within this period, a new appraisal must be conducted pursuant to NRS 159.086 and 159.0865 at any time before the sale or confirmation by the court of the sale.

2. The court may waive the requirement of an appraisal and allow the guardian to rely on the assessed value of the real property for purposes of taxation in obtaining confirmation by the court of the sale.

Sec. 50. (Deleted by amendment.)

Sec. 51. NRS 159.1535 is hereby amended to read as follows:

159.1535 1. Except as otherwise provided in NRS 159.1515 and 159.152, a guardian may sell the personal property of the ward only after notice of the sale is published in:



(a) A newspaper that is published in the county in which the property, or some portion of the property, is located; or

(b) If a newspaper is not published in that county:

- (1) In a newspaper of general circulation in the county; or
- (2) In such other newspaper as the court orders.

2. Except as otherwise provided in this section:

(a) The notice of a public sale must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.

(b) The notice of a private sale must be published not less than three times before the date on which offers will be accepted, over a period of 14 days and 7 days apart.

3. For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

4. The notice must include, without limitation:

(a) For a public sale:

- (1) A description of the personal property to be sold; and
- (2) The date, time and location of the sale.

(b) For a private sale:

- (1) A description of the personal property to be sold; and
- (2) The date, time and location that offers will be accepted.

(c) For a sale on an appropriate auction website on the Internet:

(1) A description of the personal property to be sold;

(2) The date the personal property will be listed; and

(3) The Internet address of the website on which the sale will be posted.

Sec. 52. NRS 159.154 is hereby amended to read as follows:

159.154 1. The guardian may sell the personal property of a ward by public sale at:

(a) The residence of the ward; *or*

(b) ~~the courthouse door; or~~

~~—(c)—~~ Any other location designated by the guardian.

2. The guardian may sell the personal property by public sale only if the property is made available for inspection at the time of the sale ~~[, unless the court orders otherwise.]~~ *or photographs of the personal property are posted on an appropriate auction website on the Internet.*

3. Personal property may be sold at a public or private sale for cash or upon credit.

Secs. 53 and 54. (Deleted by amendment.)



Sec. 55. NRS 120A.500 is hereby amended to read as follows:

120A.500 1. ~~Property~~ *Except as otherwise provided in subsection 6, property* is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

- (a) A traveler's check, 15 years after issuance;
- (b) A money order, 7 years after issuance;
- (c) Any stock or other equity interest in a business association or financial organization, including a security entitlement under NRS 104.8101 to 104.8511, inclusive, 3 years after the earlier of the date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner, or the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;
- (d) Any debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 3 years after the date of the most recent interest payment unclaimed by the apparent owner;
- (e) A demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;
- (f) Except as otherwise provided in NRS 120A.520, any money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;
- (g) Any amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;
- (h) Any property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;
- (i) Any property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;



(j) Except as otherwise provided in NRS 607.170 and 703.375, any property held by a court, government, governmental subdivision, agency or instrumentality, 1 year after the property becomes distributable;

(k) Any wages or other compensation for personal services, 1 year after the compensation becomes payable;

(l) A deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;

(m) Any property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and

(n) All other property, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

2. At the time that an interest is presumed abandoned under subsection 1, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

3. Property is unclaimed if, for the applicable period set forth in subsection 1, the apparent owner has not communicated, in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

4. An indication of an owner's interest in property includes:

(a) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(b) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;



(c) The making of a deposit to or withdrawal from a bank account; and

(d) The payment of a premium with respect to a property interest in an insurance policy, but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

5. Property is payable or distributable for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

6. The following property clearly designated as such must not be presumed abandoned because of inactivity or failure to make a demand:

- (a) An account or asset managed through a guardianship;***
- (b) An account blocked at the direction of a court;***
- (c) A trust account established to address a special need;***
- (d) A qualified income trust account;***
- (e) A trust account established for tuition purposes;***
- (f) A trust account established on behalf of a client; and***
- (g) An account or fund established to meet the costs of burial.***

Sec. 56. NRS 143.020 is hereby amended to read as follows:

143.020 Except as otherwise provided in NRS ***143.030 and 146.010***, a personal representative has a right to the possession of all the real, as well as personal, property of the decedent and may receive the rents and profits of the property until the estate is settled, or until delivered over by order of the court to the heirs or devisees, and shall make a reasonable effort to keep in good tenantable repair all houses, buildings and appurtenances thereon which are under the control of the personal representative.

Sec. 57. NRS 143.030 is hereby amended to read as follows:

143.030 1. A personal representative shall take into possession all the estate of the decedent, real and personal, except that exempted as provided in this title, and shall collect all receivables due the decedent or the estate.

2. For the purpose of bringing actions to quiet title or for partition of the estate, the possession of the personal representative shall be deemed the possession of the heirs or devisees. The possession of heirs or devisees is subject, however, to the possession of the personal representative for all other purposes.



3. A personal representative shall not take into possession any assets held by a guardian of the decedent pursuant to chapter 159 of NRS until the guardianship is terminated according to the provisions of NRS 159.1905 or 159.191 and the guardian is ordered to distribute the assets to the personal representative.

Sec. 58. NRS 428.070 is hereby amended to read as follows:

428.070 1. The father ~~[.]~~ or mother ~~[, children, brothers or sisters,]~~ of sufficient financial ability so to do ~~[.]~~ shall pay to the county which has extended county hospitalization to any ~~[person]~~ *natural child* under the provisions of NRS 428.030 ~~[.]~~ the amount granted to such ~~[person.]~~ *natural child.*

2. *The child of a natural parent receiving county hospitalization pursuant to NRS 428.030 is not liable for the amount paid by the county for that parent, except where the natural child promised to support his natural parent in writing, has access to and control of his natural parent's assets or income and has sufficient financial ability to support his natural parent.*

3. A recipient of aid under the provisions of NRS 428.030 who later acquires sufficient financial ability so to do shall reimburse the county which extended county hospitalization to him for any unpaid portion of the aid granted. Action against the relatives of such person is not a condition precedent to action against him.

~~[3.]~~ 4. *The father, mother or child of sufficient financial ability, as appropriate, shall pay to the county the amount the county paid for the burial, entombment or cremation of a natural child or a natural parent.*

5. The board of county commissioners shall advise the Attorney General of the failure of a responsible person to pay such amount and the Attorney General shall cause appropriate legal action to be taken to enforce the collection of all or part of such amount. If suit is filed to enforce the collection, the court shall determine the question of the sufficiency of the financial ability of the person against whom such action is filed, but the board of county commissioners shall determine the responsible person to be sued, and failure of an action against one such person shall not preclude subsequent or concurrent actions against others.

6. *In determining the amount to be ordered for support pursuant to subsections 2 and 4, the court shall consider the circumstances of each party, including:*

- (a) The earning capacity and needs of each party;*
- (b) The obligations and assets of each party;*
- (c) The age and health of each party;*
- (d) The relationship between the parties; and*



(e) Any other factor which the court deems just and equitable.

Sec. 59. NRS 433.504 is hereby amended to read as follows:

433.504 1. A client *or his legal guardian* must be:

(a) Permitted to inspect ~~his~~ *the client's* records; and

(b) Informed of ~~his~~ *the client's* clinical status and progress at reasonable intervals of no longer than 3 months in a manner appropriate to his clinical condition.

2. Unless a psychiatrist has made a specific entry to the contrary in a client's records, a client *or his legal guardian* is entitled to obtain a copy of his records at any time upon notice to the administrative officer of the facility and payment of the cost of reproducing the records.

Sec. 60. NRS 433A.190 is hereby amended to read as follows:

433A.190 Within 24 hours of a person's admission under emergency admission, the administrative officer of a public or private mental health facility shall give notice of such admission *in person, by telephone or facsimile and* by certified mail to the spouse or legal guardian of that person.

Sec. 61. NRS 433A.220 is hereby amended to read as follows:

433A.220 1. Immediately after he receives any petition filed pursuant to NRS 433A.200 or 433A.210, the clerk of the district court shall transmit the petition to the appropriate district judge, who shall set a time, date and place for its hearing. The date must be within 5 judicial days after the date on which the petition is received by the clerk.

2. The court shall give notice of the petition and of the time, date and place of any proceedings thereon to the subject of the petition, his attorney, if known, *the person's legal guardian*, the petitioner, the district attorney of the county in which the court has its principal office, the local office of an agency or organization that receives money from the Federal Government pursuant to 42 U.S.C. §§ 10801 et seq., to protect and advocate the rights of persons with mental illness and the administrative office of any public or private mental health facility in which the subject of the petition is detained.

3. The provisions of this section do not preclude a facility from discharging a person before the time set pursuant to this section for the hearing concerning the person, if appropriate. *If the person has a legal guardian, the facility shall notify the guardian prior to discharging the person from the facility. The guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the person will be released within 3 days after the date of*



notification, the facility shall discharge the person according to its proposed discharge plan.

Sec. 62. NRS 433A.380 is hereby amended to read as follows:

433A.380 1. Except as otherwise provided in subsection 4, any person involuntarily admitted by a court may be conditionally released from a public or private mental health facility when, in the judgment of the medical director of the facility, the conditional release is in the best interest of the person and will not be detrimental to the public welfare. The medical director or his designee of the facility shall prescribe the period for which the conditional release is effective. The period must not extend beyond the last day of the court-ordered period of treatment pursuant to NRS 433A.310. *If the person has a legal guardian, the facility shall notify the guardian before discharging the person from the facility. The guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.*

2. When a person is conditionally released pursuant to subsection 1, the State or any of its agents or employees are not liable for any debts or contractual obligations, medical or otherwise, incurred or damages caused by the actions of the person.

3. When a person who has been adjudicated by a court to be incompetent is conditionally released from a mental health facility, the administrative officer of the mental health facility shall petition the court for restoration of full civil and legal rights as deemed necessary to facilitate the incompetent person's rehabilitation. *If the person has a legal guardian, the petition must be filed with the court having jurisdiction over the guardianship.*

4. A person who was involuntarily admitted by a court because he was likely to harm others if allowed to remain at liberty may be conditionally released only if, at the time of the release, written notice is given to the court which admitted him, *to the person's legal guardian* and to the district attorney of the county in which the proceedings for admission were held.

5. Except as otherwise provided in subsection 7, the administrative officer of a public or private mental health facility or his designee shall order a person who is conditionally released from that facility pursuant to this section to return to the facility if a psychiatrist and a member of that person's treatment team who is professionally qualified in the field of psychiatric mental health



determine, pursuant to NRS 433A.115, that the conditional release is no longer appropriate because that person presents a clear and present danger of harm to himself or others. Except as otherwise provided in this subsection, the administrative officer or his designee shall, at least 3 days before the issuance of the order to return, give written notice of the order to the court that admitted the person to the facility **and to the person's legal guardian**. If an emergency exists in which the person presents an imminent threat of danger of harm to himself or others, the order must be submitted to the court **and the legal guardian** not later than 1 business day after the order is issued.

6. The court shall review an order submitted pursuant to subsection 5 and the current condition of the person who was ordered to return to the facility at its next regularly scheduled hearing for the review of petitions for involuntary court-ordered admissions, but in no event later than 5 judicial days after the person is returned to the facility. The administrative officer or his designee shall give written notice to the person who was ordered to return to the facility **, to the person's legal guardian** and to his attorney, if known, of the time, date and place of the hearing and of the facts necessitating that person's return to the facility.

7. The provisions of subsection 5 do not apply if the period of conditional release has expired.

Sec. 63. NRS 433A.390 is hereby amended to read as follows:

433A.390 1. When a client, involuntarily admitted to a mental health facility by court order, is released at the end of the time specified pursuant to NRS 433A.310, written notice must be given to the admitting court **and to the client's legal guardian** at least 10 days before the release of the client. The client may then be released without requiring further orders of the court. ***If the client has a legal guardian, the facility shall notify the guardian before discharging the client from the facility. The guardian has discretion to determine where the client will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the client will be released within 3 days after the date of notification, the facility shall discharge the client according to its proposed discharge plan.***

2. An involuntarily court-admitted client may be unconditionally released before the period specified in NRS 433A.310 when:

(a) An evaluation team established under NRS 433A.250 or two persons professionally qualified in the field of psychiatric mental



health, at least one of them being a physician, determines that the client has recovered from his mental illness or has improved to such an extent that he is no longer considered to present a clear and present danger of harm to himself or others; and

(b) Under advisement from the evaluation team or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, the medical director of the mental health facility authorizes the release and gives written notice to the admitting court *and to the client's legal guardian* at least 10 days before the release of the client. *If the client has a legal guardian, the facility shall notify the guardian before discharging the client from the facility. The guardian has discretion to determine where the client will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the client will be released within 3 days after the date of notification, the facility shall discharge the client according to its proposed discharge plan.*

Sec. 64. NRS 433A.400 is hereby amended to read as follows:

433A.400 1. An indigent resident of this state discharged as having recovered from his mental illness, but having a residual medical or surgical disability which prevents him from obtaining or holding remunerative employment, ~~[shall]~~ *must* be returned to the county of his last residence ~~[.]~~ , *except as otherwise provided pursuant to subsection 2.* A nonresident indigent with such disabilities ~~[shall]~~ *must* be returned to the county from which he was involuntarily court-admitted ~~[.]~~ , *except as otherwise provided in subsection 2.* The administrative officer of the mental health facility shall first give notice in writing, not less than 10 days ~~[prior to]~~ *before* discharge, to the board of county commissioners of the county to which the person will be returned ~~[.]~~ *and to the person's legal guardian.*

2. Delivery of the indigent ~~[resident defined in subsection 1 shall]~~ *person must* be made to an individual or agency authorized to provide further care. *If the person has a legal guardian, the facility shall notify the guardian before discharging the person from the facility. The guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.*



3. This section does not authorize the release of any person held upon an order of a court or judge having criminal jurisdiction arising out of a criminal offense.

Sec. 65. NRS 159.0365 is hereby repealed.

Sec. 66. (Deleted by amendment.)

20 ~~~~~ 09

