

SENATE BILL NO. 128—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR  
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

PREFILED FEBRUARY 4, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing guardianships.  
(BDR 13-156)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to guardianships; revising provisions governing the appointment, powers and duties of guardians; requiring certain guardians to submit to a background investigation as a condition of their appointment; requiring the Aging and Disability Services Division of the Department of Health and Human Services to adopt certain regulations; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law governs the appointment, powers and duties of guardians. (Chapter 159 of NRS) **Section 2** of this bill authorizes the court, as a condition of the appointment of a guardian, to require the guardian to complete any available training concerning guardianships. **Section 3** of this bill requires a guardian to present certain documentation to a bank or other financial institution before the guardian may access an account or other asset of a ward that is held by the bank or other financial institution. **Section 4** of this bill revises the provisions governing the qualifications, appointment, powers and duties of a guardian ad litem, including a requirement that a guardian ad litem who is not an attorney submit to a background investigation as a condition of his or her appointment. **Section 5** of this bill revises the provisions governing payment of the compensation and expenses of an attorney who is appointed to represent an adult ward or proposed adult ward, including a requirement that generally such compensation and expenses be paid from the estate of the ward or proposed ward. **Section 6** of this bill requires the Aging and Disability Services Division of the Department of Health and Human Services to adopt regulations prescribing certain forms that must be used when a proposed ward is unable to attend the hearing for the appointment of a guardian. **Section 7** of



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18 this bill requires that a private professional guardian agree to comply with certain  
19 standards of practice and ethics and requires that such a guardian who is not an  
20 attorney submit to a background investigation as a condition of his or her  
21 appointment. **Section 8** of this bill requires every guardian to file a verified  
22 acknowledgment of the duties and responsibilities of a guardian before performing  
23 any duties as a guardian. **Section 13** of this bill prohibits the removal of a guardian  
24 by the court if the sole reason for removal is the lack of money to pay the  
25 compensation and expenses of the guardian.

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

1 **Section 1.** Chapter 159 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *As a condition of the appointment of a guardian, the*  
4 *court may require the guardian to complete any available training*  
5 *concerning guardianships that the court determines appropriate.*

6 **Sec. 3.** 1. *A guardian must present a certified copy of the*  
7 *court order appointing the guardian and letters of guardianship to*  
8 *a bank or other financial institution that holds any account or*  
9 *other asset of the ward before the guardian accesses the account*  
10 *or other asset.*

11 2. *The bank or other financial institution shall accept the*  
12 *certified copy of the order and letters of guardianship as proof of*  
13 *guardianship and allow the guardian access to the account or*  
14 *other asset of the ward, subject to any limitations set forth in the*  
15 *order.*

16 3. *Unless the bank or other financial institution is a party to*  
17 *the guardianship, the bank or other financial institution is not*  
18 *entitled to a copy of:*

19 (a) *Any competency evaluation of the ward or any other*  
20 *confidential information concerning the medical condition or*  
21 *placement of the ward; or*

22 (b) *An inventory or accounting of the estate of the ward.*

23 **Sec. 4.** NRS 159.0455 is hereby amended to read as follows:

24 159.0455 1. On or after the date of the filing of a petition to  
25 appoint a guardian ~~;~~

26 ~~—(a) The~~, *if the ward has not requested, been appointed or*  
27 *retained legal counsel, the* court may appoint a person to represent  
28 the ward or proposed ward as a guardian ad litem. ~~;~~ **and**

29 ~~—(b) 2.~~ The guardian ad litem ~~must~~ **shall** represent the ward  
30 or proposed ward as a guardian ad litem until relieved of that duty  
31 by court order.

32 ~~[2. Upon the appointment of the guardian ad litem, the court~~  
33 ~~shall set forth in the order of appointment the duties of the guardian~~  
34 ~~ad litem.]~~



1       3. ~~[The]~~ A guardian ad litem may be appointed to represent  
2 more than one ward or interest so long as any such representation  
3 is not precluded by a conflict of interest.

4       4. A person appointed as a guardian ad litem:

5       (a) Must be an attorney, a social worker, a medical  
6 professional or a person who has received a bachelor's degree,  
7 master's degree or doctoral degree from an accredited college or  
8 university in a field approved by the court; and

9       (b) Must not be a party or a representative of a party, or be  
10 related by blood, marriage or adoption to a party, to the  
11 proceedings.

12       5. Before a person who is not an attorney may be appointed  
13 as a guardian ad litem, the person seeking appointment as a  
14 guardian ad litem must submit to the court completed fingerprint  
15 cards and a form authorizing an investigation of the person's  
16 background and the submission of a complete set of the person's  
17 fingerprints to the Central Repository for Nevada Records of  
18 Criminal History for submission to the Federal Bureau of  
19 Investigation for its report. The fingerprint cards and  
20 authorization form submitted must be those which are provided to  
21 the person by the court. The person's fingerprints must be taken  
22 by an agency of law enforcement.

23       6. The person seeking appointment as a guardian ad litem  
24 shall pay the cost of a background investigation required by  
25 subsection 5 and, except as otherwise provided in NRS 239.0115,  
26 the court shall keep the results of the investigation confidential.

27       7. The guardian ad litem shall report to the court all findings  
28 of any investigation conducted by the guardian ad litem and shall  
29 advocate on behalf of the best interests of the ward, considering  
30 the preferences, needs and financial status of the ward.

31       8. The court may set forth in the order of appointment of the  
32 guardian ad litem such additional duties as the court finds  
33 appropriate. The guardian ad litem may exercise only those duties  
34 that are authorized by a specific statute or the court.

35       9. Subject to the discretion and approval of the court, the  
36 guardian ad litem is entitled to reasonable compensation ~~[from the~~  
37 ~~estate of the ward or proposed ward. If the court finds that a person~~  
38 ~~has unnecessarily or unreasonably caused the appointment of a~~  
39 ~~guardian ad litem, the court may order the person to pay to the estate~~  
40 ~~of the ward or proposed ward all or part of the expenses associated~~  
41 ~~with the appointment of the guardian ad litem.]~~ and expenses.  
42 Unless the court determines that the ward or proposed ward does  
43 not have the ability to pay such compensation and expenses or the  
44 court shifts the responsibility of payment to a third party,  
45 the compensation and expenses must be paid from the estate of the



1 *ward or proposed ward. The court shall issue an order which*  
2 *includes a finding concerning the ability of the ward or proposed*  
3 *ward to pay such compensation and expenses. In evaluating the*  
4 *ability of the ward or proposed ward to pay such compensation*  
5 *and expenses:*

6 (a) *The court shall consider:*

7 (1) *The nature, extent and liquidity of the known assets of*  
8 *the ward or proposed ward;*

9 (2) *The known disposable net income of the ward or*  
10 *proposed ward;*

11 (3) *Any foreseeable expenses that are likely to be incurred*  
12 *by the ward or proposed ward; and*

13 (4) *Any other factors that the court finds relevant; and*

14 (b) *The court shall give the needs of the ward or proposed*  
15 *ward priority over the payment of the compensation and expenses*  
16 *of the guardian ad litem.*

17 10. *Except as necessary to perform his or her duties as a*  
18 *guardian ad litem, the guardian ad litem shall not disclose any*  
19 *information or participate in the disclosure of any information*  
20 *relating to any case to which he or she has been appointed to any*  
21 *person who is not a party to the case.*

22 **Sec. 5.** NRS 159.0485 is hereby amended to read as follows:

23 159.0485 1. At the first hearing for the appointment of a  
24 guardian for a proposed adult ward, the court shall advise the  
25 proposed adult ward who is in attendance at the hearing or who is  
26 appearing by videoconference at the hearing of his or her right to  
27 counsel and determine whether the proposed adult ward wishes to  
28 be represented by counsel in the guardianship proceeding. If the  
29 proposed adult ward is not in attendance at the hearing because the  
30 proposed adult ward has been excused pursuant to NRS 159.0535  
31 and is not appearing by videoconference at the hearing, the ~~{person~~  
32 ~~who signs the certificate pursuant to NRS 159.0535 to excuse the~~  
33 ~~proposed adult ward from attending the hearing shall advise the}~~  
34 proposed adult ward must be advised of his or her right to counsel  
35 ~~{and determine whether the proposed adult ward wishes to be~~  
36 ~~represented by counsel in the guardianship proceeding.}~~ *in*  
37 *accordance with the requirements of subsection 2 of*  
38 *NRS 159.0535.*

39 2. If an adult ward or proposed adult ward is unable to retain  
40 legal counsel and requests the appointment of counsel ~~{}~~ at any  
41 stage in a guardianship proceeding and whether or not the adult  
42 ward or proposed adult ward lacks or appears to lack capacity, the  
43 court shall, at or before the time of the next hearing, appoint an  
44 attorney who works for legal aid services, if available, or a private  
45 attorney to represent the adult ward or proposed adult ward. The



1 appointed attorney ~~[must]~~ *shall* represent the adult ward or proposed  
2 adult ward until relieved of the duty by court order.

3 3. Subject to the discretion and approval of the court, the  
4 attorney for the adult ward or proposed adult ward is entitled to  
5 reasonable compensation ~~[which must be paid from the estate of the~~  
6 ~~adult ward or proposed adult ward.]~~ *and expenses.* If the court finds  
7 that a person has unnecessarily or unreasonably caused the  
8 appointment of an attorney, the court may order the person to pay to  
9 the estate of the adult ward or proposed adult ward all or part of the  
10 expenses associated with the appointment of the attorney. *Unless*  
11 *the court determines that the adult ward or proposed adult ward*  
12 *does not have the ability to pay such compensation and expenses*  
13 *or the court shifts the responsibility of payment to a third party,*  
14 *the compensation and expenses must be paid from the estate of the*  
15 *adult ward or proposed adult ward. The court shall issue an order*  
16 *which includes a finding concerning the ability of the adult ward*  
17 *or proposed adult ward to pay such compensation and expenses.*  
18 *In evaluating the ability of the adult ward or proposed adult ward*  
19 *to pay such compensation and expenses:*

20 (a) *The court shall consider:*

21 (1) *The nature, extent and liquidity of the known assets of*  
22 *the adult ward or proposed adult ward;*

23 (2) *The known disposable net income of the adult ward or*  
24 *proposed adult ward;*

25 (3) *Any foreseeable expenses that are likely to be incurred*  
26 *by the adult ward or proposed adult ward; and*

27 (4) *Any other factors that the court finds relevant; and*  
28 (b) *The court shall give the needs of the adult ward or*  
29 *proposed adult ward priority over the payment of the*  
30 *compensation and expenses of the attorney.*

31 **Sec. 6.** NRS 159.0535 is hereby amended to read as follows:

32 159.0535 1. A proposed ward who is found in this State must  
33 attend the hearing for the appointment of a guardian unless:

34 (a) A certificate signed by a physician who is licensed to  
35 practice in this State specifically states the condition of the proposed  
36 ward, the reasons why the proposed ward is unable to appear in  
37 court and whether the proposed ward's attendance at the hearing  
38 would be detrimental to the physical health of the proposed ward; or

39 (b) A certificate signed by any other person the court finds  
40 qualified to execute a certificate states the condition of the proposed  
41 ward, the reasons why the proposed ward is unable to appear in  
42 court and whether the proposed ward's attendance at the hearing  
43 would be detrimental to the physical health of the proposed ward.

44 2. A proposed ward found in this State who cannot attend the  
45 hearing for the appointment of a general or special guardian as set



1 forth in a certificate pursuant to subsection 1 may appear by  
2 videoconference. If the proposed ward is an adult and cannot attend  
3 by videoconference, the person who signs the certificate described  
4 in subsection 1 *or any other person the court finds qualified* shall:

5 (a) Inform the proposed adult ward that the petitioner is  
6 requesting that the court appoint a guardian for the proposed adult  
7 ward;

8 (b) Ask the proposed adult ward for a response to the  
9 guardianship petition;

10 (c) Inform the proposed adult ward of his or her right to counsel  
11 and ask whether the proposed adult ward wishes to be represented  
12 by counsel in the guardianship proceeding; ~~and~~

13 (d) Ask the preferences of the proposed adult ward for the  
14 appointment of a particular person as the guardian of the proposed  
15 adult ward ~~and~~; *and*

16 *(e) Provide the proposed adult ward with a form that describes*  
17 *the rights of the proposed adult ward relating to the guardianship*  
18 *process.*

19 3. If the proposed ward is an adult, the person who ~~signs the~~  
20 ~~certificate described in subsection 1~~ *informs the proposed adult*  
21 *ward of the rights of the proposed adult ward pursuant to*  
22 *subsection 2* shall state in ~~the~~ *a* certificate:

23 (a) That the proposed adult ward has been advised of his or her  
24 right to counsel and asked whether he or she wishes to be  
25 represented by counsel in the guardianship proceeding;

26 (b) The responses of the proposed adult ward to the questions  
27 asked pursuant to subsection 2; and

28 (c) Any conditions that the person believes may have limited the  
29 responses by the proposed adult ward.

30 4. The ~~court may prescribe the form in which the~~ *Aging and*  
31 *Disability Services Division of the Department of Health and*  
32 *Human Services shall adopt regulations prescribing:*

33 *(a) The form of each* certificate ~~must be filed~~ *required by this*  
34 *section.* If the certificate consists of separate parts, each part must be  
35 signed by ~~a~~ *the* person ~~identified in subsection 1~~ *who is*  
36 *required to sign the certificate.*

37 *(b) The form that must be provided to a proposed adult ward*  
38 *pursuant to subsection 2 which describes the rights of the*  
39 *proposed ward relating to the guardianship process.*

40 5. If the proposed ward is not in this State, the proposed ward  
41 must attend the hearing only if the court determines that the  
42 attendance of the proposed ward is necessary in the interests of  
43 justice.



**Sec. 7.** 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 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 certified guardian involved in the day-to-day operation or management of the entity.

3. *Before a person who is not an attorney may be appointed as a private professional guardian, the person seeking appointment as a private professional guardian must submit to the court completed fingerprint cards and a form authorizing an investigation of the person's background and the submission of a complete set of the person's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The fingerprint cards and authorization form submitted must be those which are provided to the person by the court. The person's fingerprints must be taken by an agency of law enforcement.*

4. *The person seeking appointment as a private professional guardian shall pay the cost of a background investigation required by subsection 3 and, except as otherwise provided in NRS 239.0115, the court shall keep the results of the investigation confidential.*

5. As used in this section:

(a) "Certified guardian" means a person who is certified by the Center for Guardianship Certification or any successor organization ~~and~~ *and who agrees to comply with the most recent version of the Standards of Practice for Guardians and the Model Code of Ethics for Guardians that have been adopted by the National Guardianship Association or its successor.*

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

(c) "Person" means a natural person.

**Sec. 8.** NRS 159.073 is hereby amended to read as follows:

159.073 1. Every guardian, ~~shall,~~ before entering upon his or her duties as guardian and before letters of guardianship may issue ~~and~~

~~and~~ *, shall:*

(a) Take and subscribe the official oath which must:

~~(a)~~ (1) Be endorsed on the letters of guardianship; and

~~(b)~~ (2) State that the guardian will well and faithfully perform the duties of guardian according to law.





~~(2)~~ (b) File in the proceeding the appropriate documents which include, without limitation, the full legal name of the guardian and the residence and post office addresses of the guardian.

(c) *Except as otherwise required in subsection 2, make and file in the proceeding a verified acknowledgment of the duties and responsibilities of a guardian. The acknowledgement must set forth:*

(1) *A summary of the duties, functions and responsibilities of a guardian, including, without limitation, the duty to act in the best interest of the ward at all times, to protect the interests of the ward above the interests of the guardian and to protect the ward from any foreseeable harm caused by any person;*

(2) *A summary of the statutes, regulations, rules and standards governing the management of the assets and income of the ward;*

(3) *A list of actions that require the prior approval of the court;*

(4) *A statement of the need for accurate recordkeeping and the filing of inventories, accountings and reports with the court;*

(5) *Any additional information required by the court; and*

(6) *A signature paragraph that is in substantially the following form:*

*I hereby certify that I have read and reviewed this acknowledgment of the duties and responsibilities of a guardian and that I understand the terms and conditions under which the guardianship must be managed. I agree to comply with the laws of the State of Nevada governing guardianships and understand that failure to comply with any such law or with any order of the court may result in my removal as guardian and may subject me to such penalties as provided by law.*

2. *The court may exempt a public guardian or private professional guardian from filing an acknowledgment in each case and, in lieu thereof, require the public guardian or private professional guardian to file a general acknowledgment covering all guardianships to which the guardian may be appointed by the court.*

**Sec. 9.** 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,



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1 maintenance, education and support of the ward, including, without  
2 limitation, the following:

3 (a) Supplying the ward with food, clothing, shelter and all  
4 incidental necessities, including locating an appropriate residence  
5 for the ward.

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

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

12 2. In the performance of the duties enumerated in subsection 1  
13 by a guardian of the person, due regard must be given to the extent  
14 of the estate of the ward. A guardian of the person is not required to  
15 incur expenses on behalf of the ward except to the extent that the  
16 estate of the ward is sufficient to reimburse the guardian.

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

24 4. ~~[A]~~ *Except as otherwise provided in subsection 7, a*  
25 guardian of the person may establish and change the residence of the  
26 ward at any place within this State without the permission of the  
27 court. The guardian shall select the least restrictive appropriate  
28 residence which is available and necessary to meet the needs of the  
29 ward and which is financially feasible.

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

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

42 7. *A guardian of the person must file a petition with the court*  
43 *requesting authorization to move or place a ward into a secured*  
44 *residential long-term care facility unless:*



1 (a) *The court has previously granted the guardian authority to*  
2 *move the ward to such a facility based on findings made when the*  
3 *court appointed the guardian; or*

4 (b) *The transfer is made pursuant to a written*  
5 *recommendation by a licensed physician, a physician employed by*  
6 *the Department of Veterans Affairs, a licensed social worker or an*  
7 *employee of a county or state office for protective services.*

8 8. *As used in this section, "protective services" has the*  
9 *meaning ascribed to it in NRS 200.5092.*

10 **Sec. 10.** NRS 159.095 is hereby amended to read as follows:

11 159.095 1. A guardian of the estate shall appear for and  
12 represent the ward in all actions, suits or proceedings to which the  
13 ward is a party ~~[, unless a guardian ad litem is appointed in the~~  
14 ~~action, suit or proceeding. If a guardian ad litem is appointed in~~  
15 ~~the action, suit or proceeding, the guardian of the estate shall notify~~  
16 ~~the court that the guardian ad litem has been appointed]~~ *unless the*  
17 *court finds that the interest of the guardian conflicts with the*  
18 *interest of the ward* in the action, suit or proceeding.

19 2. Upon final resolution of the action, suit or proceeding, the  
20 guardian of the estate shall notify the court of the outcome of the  
21 action, suit or proceeding.

22 3. If the person of the ward would be affected by the outcome  
23 of any action, suit or proceeding, the guardian of the person, if any,  
24 should be joined to represent the ward in the action, suit or  
25 proceeding.

26 **Sec. 11.** NRS 159.113 is hereby amended to read as follows:

27 159.113 1. Before taking any of the following actions, the  
28 guardian of the estate shall petition the court for an order  
29 authorizing the guardian to:

30 (a) Invest the property of the ward pursuant to NRS 159.117.

31 (b) Continue the business of the ward pursuant to NRS 159.119.

32 (c) Borrow money for the ward pursuant to NRS 159.121.

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

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

38 (f) Sell, lease or place in trust any property of the ward pursuant  
39 to NRS 159.127.

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

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

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



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

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

(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) 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.

~~[(o) Except as otherwise provided in subsection 6, move the ward into a secured residential long-term care facility.]~~

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.

~~[6. Without filing a petition pursuant to paragraph (o) of subsection 1, a guardian may move a ward into a secured residential long-term care facility if:~~



~~(a) The court has previously granted the guardian authority to move the ward to such a facility based on findings made when the court appointed the general or special guardian; or~~

~~(b) The transfer is made pursuant to a written recommendation by a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of a county's office for protective services.~~

~~7. As used in this section, "protective services" has the meaning ascribed to it in NRS 200.5092.]~~

**Sec. 12.** NRS 159.183 is hereby amended to read as follows:

159.183 1. Subject to the discretion and approval of the court and except as otherwise provided in subsection 4, a guardian must be allowed:

(a) Reasonable compensation for the guardian's services;

(b) Necessary and reasonable expenses incurred in exercising the authority and performing the duties of a guardian; and

(c) Reasonable expenses incurred in retaining accountants, attorneys, appraisers or other professional services.

2. Reasonable compensation and services must be based upon similar services performed for persons who are not under a legal disability. In determining whether compensation is reasonable, the court may consider:

(a) The nature of the guardianship;

(b) The type, duration and complexity of the services required; and

(c) Any other relevant factors.

3. In the absence of an order of the court pursuant to this chapter shifting the responsibility of the payment of compensation and expenses, the payment of compensation and expenses must be paid from the estate of the ward. In evaluating the ability of a ward to pay such compensation and expenses, the court may consider:

(a) The nature, extent and liquidity of the ward's assets;

(b) The disposable net income of the ward;

(c) Any foreseeable expenses; and

(d) Any other factors that are relevant to the duties of the guardian pursuant to NRS 159.079 or 159.083.

4. A private professional guardian is not allowed compensation or expenses for services incurred by the private professional guardian as a result of a petition to have him or her removed as guardian if the court removes the private professional guardian pursuant to the provisions of *paragraph (b), (d), (e), (f) or (h) of subsection [2, 4, 5, 6 or 8] 1* of NRS 159.185.

*5. The court shall give the needs of the ward priority over the payment of the compensation and expenses of the guardian.*



**Sec. 13.** NRS 159.185 is hereby amended to read as follows:

159.185 **1.** The court may remove a guardian if the court determines that:

~~[(1)]~~ **(a)** The guardian has become mentally incompetent, unsuitable or otherwise incapable of exercising the authority and performing the duties of a guardian as provided by law;

~~[(2)]~~ **(b)** The guardian is no longer qualified to act as a guardian pursuant to NRS 159.059;

~~[(3)]~~ **(c)** The guardian has filed for bankruptcy within the previous 5 years;

~~[(4)]~~ **(d)** The guardian of the estate has mismanaged the estate of the ward;

~~[(5)]~~ **(e)** The guardian has negligently failed to perform any duty as provided by law or by any order of the court and:

~~[(a)]~~ **(1)** The negligence resulted in injury to the ward or the estate of the ward; or

~~[(b)]~~ **(2)** There was a substantial likelihood that the negligence would result in injury to the ward or the estate of the ward;

~~[(6)]~~ **(f)** The guardian has intentionally failed to perform any duty as provided by law or by any lawful order of the court, regardless of injury;

~~[(7)]~~ **(g)** The best interests of the ward will be served by the appointment of another person as guardian; or

~~[(8)]~~ **(h)** The guardian is a private professional guardian who is no longer qualified as a private professional guardian pursuant to NRS 159.0595.

**2. A guardian may not be removed if the sole reason for removal is the lack of money to pay the compensation and expenses of the guardian.**

**Sec. 14.** The Aging and Disability Services Division of the Department of Health and Human Services shall, as soon as practicable after the passage and approval of this act, adopt regulations prescribing the forms required by NRS 159.0535, as amended by section 6 of this act.

**Sec. 15.** This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

