

Amendment No. 638

Assembly Amendment to Assembly Bill No. 325

(BDR 54-976)

Proposed by: Assemblywoman Seaman**Amendment Box:** Consistent with Amendment No. 373.**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 325 (§§ 18, 25, 28, 29, 32, 37, 40).

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

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

RAE/JRS



Date: 4/20/2015

A.B. No. 325—Enacts provisions governing persons engaged in the business of a private professional guardian. (BDR 54-976)



ASSEMBLY BILL NO. 325—ASSEMBLYMEN
SPRINKLE, KIRKPATRICK; AND O'NEILL

MARCH 16, 2015

Referred to Committee on Commerce and Labor

SUMMARY—Enacts provisions governing persons engaged in the business of a private professional guardian. (BDR 54-976)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

~

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

AN ACT relating to private professional guardians; requiring licensing for persons engaged in the business of a private professional guardian; establishing the requirements for the licensing and operation of a private professional guardian company; ***amending provisions related to the appointment of a guardian under certain circumstances***; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the court appointment of a private professional guardian to act as a fiduciary for a person or estate, but does not require the private professional guardian to be licensed. (NRS 159.0595) This bill requires the licensing of persons engaging in the business of a private professional guardian and authorizes the Commissioner of Financial Institutions to adopt regulations relating to the licensing of those persons.

Sections 15-17 of this bill make it unlawful for a person to act as a private professional guardian without being licensed. **Sections 18-26** of this bill establish the requirements and application process to obtain a license to transact the business of a private professional guardian. **Section 28** of this bill sets forth requirements relating to the change of ownership or transfer of assets of a private professional guardian company. **Section 29** of this bill establishes the process for the renewal of a license. **Section 30** of this bill establishes the process for surrender of a license.

Section 31 of this bill requires a licensee to keep a principal office in this State. **Section 32** of this bill establishes procedures for the Commissioner to approve an out-of-state office of a private professional guardian company. **Section 33** of this bill requires a licensee to maintain certain types and levels of bonds and insurance.

Section 35 of this bill establishes the rights and authority of a licensee. **Section 36** of this bill prohibits certain activities by a licensee. **Sections 37-41** of this bill establish requirements for accounting, reporting and auditing of a private professional guardian company and authorize the Commissioner or a designee to inspect certain records of a private professional guardian company.

Sections 42-46 of this bill establish procedures for the Commissioner to take administrative action against licensees. **Sections 47 and 48** of this bill establish procedures for handling a complaint against a private professional guardian company. **Sections 49 and 50** of

this bill provide administrative and criminal penalties for violating certain provisions of this bill.

Existing law requires that, subject to certain exceptions, a person must be a resident of this State to be appointed as a guardian. (NRS 159.059) Existing law also requires a court to appoint as guardian for an incompetent the qualified person who is most suitable and is willing to serve as a guardian. (NRS 159.061) Sections 50.5 and 51.5 of this bill require a court to appoint as guardian for an incompetent a person who, regardless of whether the person is a resident of this State, has been requested to be appointed as guardian in a written instrument executed by the incompetent while he or she was competent, if that person is willing to serve and is otherwise determined to be qualified and suitable.

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

Section 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 50, inclusive, of this act.

Sec. 2. *The Legislature finds and declares that:*

1. There exists in this State a need, in order to provide for the protection of the public interest, to regulate persons engaged in the business of private professional guardians.

2. Persons engaging in the business of private professional guardians must be licensed and regulated in such a manner as to promote advantages and convenience for the public while protecting the public interest.

3. It is the purpose of this chapter to bring under public supervision persons who are engaged in or who desire to engage in the business of a private professional guardian and to ensure that there is established in this State an adequate, efficient and competitive private professional guardian service available to the courts and the public at large.

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 11, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 4. *“Business of a private professional guardian” means the holding out by a person, through advertising, solicitation or other means, that the person is available to act for compensation as a private professional guardian.*

Sec. 5. *“Commissioner” means the Commissioner of Financial Institutions.*

Sec. 6. *“Director” means the Director of the Department of Business and Industry.*

Sec. 7. *“Division” means the Division of Financial Institutions of the Department of Business and Industry.*

Sec. 8. *“Fiduciary” means a person who has the power and authority to act for a beneficiary under circumstances requiring trust, good faith and honesty.*

Sec. 9. *“Private professional guardian” has the meaning ascribed to it in NRS 159.024.*

Sec. 10. *“Private professional guardian company” means a natural person or business entity, including, without limitation, a sole proprietorship, partnership, limited liability company or corporation, that is licensed pursuant to the provisions of this chapter to engage in the business of a private professional guardian, whether appointed by a court or hired by a private party.*

Sec. 11. *“Ward” has the meaning ascribed to it in NRS 159.027.*

1 Sec. 12. *This chapter does not apply to a person who:*

- 2 1. *Is a public guardian or administrator appointed by the court;*
- 3 2. *Is appointed as a fiduciary pursuant to NRS 662.245;*
- 4 3. *Is acting in the performance of his or her duties as an attorney at law;*
- 5 4. *Acts as a trustee under a deed of trust;*
- 6 5. *Acts as a fiduciary under a court trust; or*
- 7 6. *Acts as a fiduciary as an individual or a family member.*

8 Sec. 13. *The Commissioner shall administer and enforce the provisions of*
9 *this chapter subject to the administrative supervision of the Director.*

10 Sec. 14. *The Commissioner may adopt regulations to carry out the*
11 *provisions of this chapter.*

12 Sec. 15. *It is unlawful for any person to engage in the business of a private*
13 *professional guardian without having a license issued by the Commissioner*
14 *pursuant to this chapter.*

15 Sec. 16. *A person who does not have a license issued pursuant to this*
16 *chapter shall not:*

- 17 1. *Use the term "private professional guardian" or "guardianship services"*
18 *as a part of his or her business name.*
- 19 2. *Advertise or use any sign which includes the term "private professional*
20 *guardian."*

21 Sec. 17. 1. *The Commissioner shall conduct an investigation if he or she*
22 *receives a verified complaint that an unlicensed person is engaging in an activity*
23 *for which a license is required pursuant to this chapter.*

24 2. *If the Commissioner determines that an unlicensed person is engaged in*
25 *an activity for which a license is required pursuant to this chapter, the*
26 *Commissioner shall issue and serve on the person an order to cease and desist*
27 *from engaging in the activity until such time as the person obtains a license*
28 *issued by the Commissioner.*

29 3. *If a person upon whom an order to cease and desist is served pursuant to*
30 *subsection 2 does not comply with the order within 30 days after the service of the*
31 *order, the Commissioner shall, after providing to the person notice and an*
32 *opportunity for a hearing:*

33 (a) *Impose upon the person an administrative fine of \$10,000; or*

34 (b) *Enter into a written agreement with the person pursuant to which the*
35 *person agrees to cease and desist from engaging in any activity in this State for*
36 *which a license is required relating to the business of a private professional*
37 *guardian and impose upon the person an administrative fine of not less than*
38 *\$5,000 and not more than \$10,000.*

39 4. *The Commissioner shall bring suit in the name and on behalf of the State*
40 *of Nevada against a person upon whom an administrative fine is imposed*
41 *pursuant to subsection 3 to recover the amount of the administrative fine if:*

42 (a) *No petition for judicial review is filed pursuant to NRS 233B.130 and the*
43 *fine remains unpaid for at least 90 days after notice of the imposition of the fine;*
44 *or*

45 (b) *A petition for judicial review is filed pursuant to NRS 233B.130 and the*
46 *fine remains unpaid for at least 90 days after the exhaustion of any right of*
47 *appeal in the courts of this State resulting in a final determination that upholds*
48 *the imposition of the fine.*

49 5. *A person's liability for an administrative fine is in addition to any other*
50 *penalty provided for in this chapter.*

51 Sec. 18. 1. *A person wishing to engage in the business of a private*
52 *professional guardian in this State must file with the Commissioner an*

1 application on a form prescribed by the Commissioner, which must contain or be
2 accompanied by such information as is required.

3 2. A nonrefundable fee of not more than \$750 must accompany the
4 application. The applicant must also pay such reasonable additional expenses
5 incurred in the process of investigation as the Commissioner deems necessary.

6 3. The application must contain:

7 (a) The name of the applicant and the name under which the applicant does
8 business or expects to do business, if different.

9 (b) The complete business and residence addresses of the applicant.

10 (c) The character of the business sought to be carried on.

11 (d) The address of any location where business will be transacted.

12 (e) In the case of a firm or partnership, the full name and residence address
13 of each member or partner and the manager.

14 (f) In the case of a corporation or voluntary association, the name and
15 residence address of each director and officer and the manager.

16 (g) A statement, under penalty of perjury that the applicant has complied
17 with the provisions of NRS 159.059 and 159.0595.

18 (h) Any other information reasonably related to the applicant's
19 qualifications for the license which the Commissioner determines to be
20 necessary.

21 4. Each application for a license must have attached to it a financial
22 statement showing the assets, liabilities and net worth of the applicant.

23 5. In addition to any other requirements, each applicant or member,
24 partner, director, officer, manager or case manager of an applicant shall submit
25 to the Commissioner a complete set of fingerprints and written permission
26 authorizing the Division to forward the fingerprints to the Central Repository for
27 Nevada Records of Criminal History for submission to the Federal Bureau of
28 Investigation for its report.

29 6. If the applicant is a corporation or limited-liability company, the articles
30 of incorporation or articles of organization must contain:

31 (a) The name adopted by the private professional guardian company, which
32 must distinguish it from any other private professional guardian company formed
33 or incorporated in this State or engaged in the business of a private professional
34 guardian in this State; and

35 (b) The purpose for which it is formed.

36 7. The Commissioner shall deem an application to be withdrawn if the
37 Commissioner has not received all information and fees required to complete the
38 application within 6 months after the date the application is submitted to the
39 Commissioner. If an application is deemed to be withdrawn pursuant to this
40 subsection or if an applicant otherwise withdraws an application, the
41 Commissioner may not issue a license to the applicant unless the applicant
42 submits a new application and pays the required fees.

43 8. The Commissioner shall adopt regulations establishing the amount of the
44 fees required pursuant to this section, subject to the following limitations:

45 (a) An initial fee of not more than \$1,500 for a license to transact the
46 business of a private professional guardian; and

47 (b) A fee of not more than \$300 for each branch office that is authorized by
48 the Commissioner.

49 9. All money received by the Commissioner pursuant to this section must be
50 placed in the Investigative Account for Financial Institutions created by NRS
51 232.545.

52 **Sec. 19. 1. In addition to any other requirements set forth in this chapter:**

1 (a) An applicant for the issuance of a license to engage in the business of a
2 private professional guardian shall include the social security number of the
3 applicant or applicants in the application submitted to the Commissioner.

4 (b) An applicant for the issuance or renewal of a license to engage in the
5 business of a private professional guardian shall submit to the Commissioner the
6 statement prescribed by the Division of Welfare and Supportive Services of the
7 Department of Health and Human Services pursuant to NRS 425.520. The
8 statement must be completed and signed by the applicant.

9 2. The Commissioner shall include the statement required pursuant to
10 subsection 1 in:

11 (a) The application or any other forms that must be submitted for the
12 issuance or renewal of the license; or

13 (b) A separate form prescribed by the Commissioner.

14 3. A license may not be issued or renewed by the Commissioner if the
15 applicant:

16 (a) Fails to submit the statement required pursuant to subsection 1; or

17 (b) Indicates on the statement submitted pursuant to subsection 1 that the
18 applicant is subject to a court order for the support of a child and is not in
19 compliance with the order or a plan approved by the district attorney or other
20 public agency enforcing the order for the repayment of the amount owed
21 pursuant to the order.

22 4. If an applicant indicates on the statement submitted pursuant to
23 subsection 1 that the applicant is subject to a court order for the support of a
24 child and is not in compliance with the order or a plan approved by the district
25 attorney or other public agency enforcing the order for the repayment of the
26 amount owed pursuant to the order, the Commissioner shall advise the applicant
27 to contact the district attorney or other public agency enforcing the order to
28 determine the actions that the applicant may take to satisfy the arrearage.

29 Sec. 20. 1. In addition to any other requirements set forth in this chapter,
30 an applicant for the issuance or renewal of a license to engage in the business of
31 a private professional guardian shall submit to the Commissioner the statement
32 prescribed by the Division of Welfare and Supportive Services of the Department
33 of Health and Human Services pursuant to NRS 425.520. The statement must be
34 completed and signed by the applicant.

35 2. The Commissioner shall include the statement required pursuant to
36 subsection 1 in:

37 (a) The application or any other forms that must be submitted for the
38 issuance or renewal of the license; or

39 (b) A separate form prescribed by the Commissioner.

40 3. A license may not be issued or renewed by the Commissioner if the
41 applicant:

42 (a) Fails to submit the statement required pursuant to subsection 1; or

43 (b) Indicates on the statement submitted pursuant to subsection 1 that the
44 applicant is subject to a court order for the support of a child and is not in
45 compliance with the order or a plan approved by the district attorney or other
46 public agency enforcing the order for the repayment of the amount owed
47 pursuant to the order.

48 4. If an applicant indicates on the statement submitted pursuant to
49 subsection 1 that the applicant is subject to a court order for the support of a
50 child and is not in compliance with the order or a plan approved by the district
51 attorney or other public agency enforcing the order for the repayment of the
52 amount owed pursuant to the order, the Commissioner shall advise the applicant

1 *to contact the district attorney or other public agency enforcing the order to*
2 *determine the actions that the applicant may take to satisfy the arrearage.*

3 **Sec. 21.** 1. *If the Commissioner receives a copy of a court order issued*
4 *pursuant to NRS 425.540 that provides for the suspension of all professional,*
5 *occupational and recreational licenses, certificates and permits issued to a person*
6 *who is the holder of a license to engage in the business of a private professional*
7 *guardian, the Commissioner shall deem the license issued to that person to be*
8 *suspended at the end of the 30th day after the date on which the court order was*
9 *issued unless the Commissioner receives a letter issued to the holder of the*
10 *license by the district attorney or other public agency pursuant to NRS 425.550*
11 *stating that the holder of the license has complied with the subpoena or warrant*
12 *or has satisfied the arrearage pursuant to NRS 425.560.*

13 2. *The Commissioner shall reinstate a license that has been suspended by a*
14 *district court pursuant to NRS 425.540 if the Commissioner receives a letter*
15 *issued by the district attorney or other public agency pursuant to NRS 425.550 to*
16 *the person whose license was suspended stating that the person whose license was*
17 *suspended has complied with the subpoena or warrant or has satisfied the*
18 *arreage pursuant to NRS 425.560.*

19 **Sec. 22.** 1. *Within 90 days after the application for a license is filed, the*
20 *Commissioner shall investigate the facts of the application and the other*
21 *requirements of this chapter to determine:*

22 (a) *That each person who will serve as a sole proprietor, partner of a*
23 *partnership, member of a limited-liability company or director or officer of a*
24 *corporation, and any person acting in a managerial or case manager capacity, as*
25 *applicable:*

26 (1) *Has a good reputation for honesty, trustworthiness and integrity and*
27 *displays competence to engage in the business of a private professional guardian*
28 *in a manner which safeguards the interests of the general public. The applicant*
29 *must submit satisfactory proof of those qualifications, including, without*
30 *limitation, evidence that the applicant has passed an examination for private*
31 *professional guardians specified by the Commissioner.*

32 (2) *Has not been convicted of, or entered a plea of guilty or nolo*
33 *contendere to, a felony or any crime involving fraud, misrepresentation, material*
34 *omission, misappropriation, conversion or moral turpitude.*

35 (3) *Has not made a false statement of material fact on the application.*

36 (4) *Has not been a sole proprietor or an officer or member of the board*
37 *of directors for an entity whose license issued pursuant to the provisions of this*
38 *chapter was suspended or revoked within the 10 years immediately preceding the*
39 *date of the application if, in the reasonable judgment of the Commissioner, there*
40 *is evidence that the sole proprietor, officer or member materially contributed to*
41 *the actions resulting in the suspension or revocation of the license.*

42 (5) *Has not been a sole proprietor or an officer or member of the board*
43 *of directors for an entity whose license as a private professional guardian*
44 *company which was issued by any other state, district or territory of the United*
45 *States or any foreign country suspended or revoked within the 10 years*
46 *immediately preceding the date of the application if, in the reasonable judgment*
47 *of the Commissioner, there is evidence that the sole proprietor, officer or member*
48 *materially contributed to the actions resulting in the suspension or revocation of*
49 *the license.*

50 (6) *Has not violated any of the provisions of this chapter or any*
51 *regulations adopted pursuant thereto.*

52 (b) *That the financial status of each sole proprietor, partner, member or*
53 *director and officer of the corporation and person acting in a managerial or case*

1 *manager capacity indicates fiscal responsibility consistent with his or her*
2 *position.*

3 *(c) That the name of the proposed business complies with all applicable*
4 *statutes.*

5 *(d) That, except as otherwise provided in section 33 of this act, the initial*
6 *surety bond is not less than the amount required by NRS 159.065.*

7 *2. In rendering a decision on an application for a license, the*
8 *Commissioner shall consider, without limitation:*

9 *(a) The proposed markets to be served and, if they extend outside this State,*
10 *any exceptional risk, examination or supervision concerns associated with those*
11 *markets;*

12 *(b) Whether the proposed organizational and equity structure and the*
13 *amount of initial equity or fidelity and surety bonds of the applicant appear*
14 *adequate in relation to the proposed business and markets, including, without*
15 *limitation, the average level of assets under guardianship projected for each of*
16 *the first 3 years of operation; and*

17 *(c) Whether the applicant has planned suitable annual audits conducted by*
18 *qualified outside auditors of its books and records and its fiduciary activities*
19 *under applicable accounting rules and standards as well as suitable internal*
20 *audits.*

21 *Sec. 23. 1. After conducting an investigation pursuant to section 22 of*
22 *this act, if the Commissioner finds grounds for the denial of the application, the*
23 *Commissioner shall provide to the applicant written notice of such grounds by*
24 *personal service or certified mail.*

25 *2. The applicant may cure any defect or deficiency in the application and,*
26 *not more than 30 days after receipt of the notice pursuant to subsection 1,*
27 *resubmit the application for approval.*

28 *3. If an application is not approved, the Commissioner shall provide to the*
29 *applicant written notice of the denial by personal service or certified mail. The*
30 *applicant may request a hearing before the Commissioner, but if no such*
31 *application is made within 30 days after the entry of an order refusing a license*
32 *to any person, the Commissioner shall enter a final order.*

33 *4. The decision of the Commissioner is final for the purposes of judicial*
34 *review.*

35 *Sec. 24. The Commissioner shall approve the application for a license,*
36 *keeping on file his or her findings of fact pertaining thereto, if the Commissioner*
37 *finds that the applicant has met all the requirements of this chapter pertaining to*
38 *the applicant's qualifications and application.*

39 *Sec. 25. 1. If the Commissioner approves an application pursuant to*
40 *section 24 of this act and the applicant pays the required fees, the Commissioner*
41 *shall issue to the applicant a license to engage in the business of a private*
42 *professional guardian.*

43 *2. A license issued pursuant to subsection 1 must contain:*

44 *(a) The name of the licensee.*

45 *(b) The locations by street and number where the licensee is authorized to*
46 *engage in business.*

47 *(c) The number and the date of issuance of the license.*

48 *(d) That the license is issued pursuant to this chapter and that the licensee is*
49 *authorized to engage in the business of a private professional guardian under this*
50 *chapter.*

51 *(e) The expiration date of July 1 of the next year.*

52 *Sec. 26. 1. The Commissioner shall maintain in the Office of the*
53 *Commissioner, in a suitable record provided for that purpose, each application*

1 *for a license and all bonds required to be filed pursuant to this chapter. The*
2 *record must state the date of issuance or denial of the license and the date and*
3 *nature of any action taken relating to an application.*

4 *2. Each license issued by the Commissioner must be sufficiently identified*
5 *in the record.*

6 *3. Each renewal of a license must be recorded in the same manner as the*
7 *original license, and the number of the preceding license issued must be*
8 *recorded.*

9 *Sec. 27. Each license issued pursuant to this chapter must be*
10 *conspicuously displayed in the place of business designated in the license.*

11 *Sec. 28. 1. A license issued pursuant to this chapter is not transferable or*
12 *assignable, but upon the approval of the Commissioner and any applicable court*
13 *of jurisdiction, a licensee may merge or consolidate with, or transfer its assets*
14 *and control to, another person who holds a license pursuant to this chapter. In*
15 *determining whether to grant the approval, the Commissioner may consider the*
16 *factors set forth in section 22 of this act.*

17 *2. If a change in the control of a private professional guardian company*
18 *occurs, the chief executive officer or managing member of the company shall*
19 *report the change in control and the name of the person obtaining control to the*
20 *Commissioner within 5 business days after obtaining knowledge of the change.*

21 *3. A private professional guardian company shall, within 5 business days*
22 *after a change in the chief executive officer, managing member or a majority of*
23 *the directors or managing directors of the company occurs, report the change to*
24 *the Commissioner. The company shall include in its report to the Commissioner a*
25 *statement of the past and current business and professional affiliations of each*
26 *new chief executive officer, managing member, director or managing director. A*
27 *new chief executive officer, managing member, director or managing director*
28 *shall furnish to the Commissioner a complete financial statement on a form*
29 *prescribed by the Commissioner.*

30 *4. A person who intends to acquire control of a private professional*
31 *guardian company shall submit an application to the Commissioner. The*
32 *application must be submitted on a form prescribed by the Commissioner. The*
33 *Commissioner shall conduct an investigation pursuant to section 22 of this act to*
34 *determine whether the person has a good reputation for honesty, trustworthiness*
35 *and integrity and is competent to control the private professional guardian*
36 *company in a manner which protects the interests of the general public.*

37 *5. The private professional guardian company of which the applicant*
38 *intends to acquire control shall pay the nonrefundable cost of the investigation as*
39 *required by the Commissioner. If the Commissioner denies the application, the*
40 *Commissioner may prohibit or limit the applicant's participation in the business.*

41 *6. As used in this section, "control" means the possession, directly or*
42 *indirectly, of the authority to direct or cause the direction of the management and*
43 *policy of a private professional guardian company, or a change in the ownership*
44 *of at least 25 percent of the outstanding voting stock of, or participating*
45 *members' interest in, the company.*

46 *Sec. 29. 1. A private professional guardian company wishing to renew a*
47 *license to engage in the business of a private professional guardian shall file in*
48 *the Office of the Commissioner, on or before the June 1 of the year after the year*
49 *of the original issuance of the license, an application, which must contain,*
50 *without limitation, the number of the license being renewed. The application for*
51 *renewal must be accompanied by a renewal fee of not more than \$1,500 and all*
52 *information required to complete the application.*

2. The Commissioner shall issue a renewal license to the applicant, which must be dated July 1 next ensuing the date of the application, in form and text similar to the original except that, in addition, the renewal must include the date and number of the earliest license issued.

3. All requirements of this chapter with respect to original licenses and bonds apply to all renewal licenses and bonds, except as otherwise provided in this section.

4. The Commissioner shall refuse to renew a license if at the time of application a proceeding to revoke or suspend the license is pending.

5. The Commissioner shall adopt regulations establishing the amount of the fee required pursuant to this section. All money collected under the provisions of this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 30. If any private professional guardian company wishes to discontinue its business, the company shall furnish to the Commissioner satisfactory evidence of the release and discharge from all obligations which the company has assumed or which have been imposed by law. Thereafter, the Commissioner shall enter an order cancelling the license of the private professional guardian company.

Sec. 31. 1. A private professional guardian company licensed pursuant to this chapter shall maintain its principal office in this State.

2. To qualify as the principal office for the purposes of subsection 1, an office of the private professional guardian company must:

(a) Have a verifiable physical location in this State at which the private professional guardian company conducts such business operations in this State as are necessary to administer private professional guardianships in this State;

(b) Have available at the office a private professional guardian who is licensed pursuant to this chapter, a permanent resident of this State and at least 21 years of age;

(c) Have any license issued pursuant to this chapter conspicuously displayed;

(d) Have available at the office originals or true copies of all material business records and accounts of the private professional guardian company, which must be readily available to access and readily available for examination by the Division;

(e) Have available to the public written procedures for making claims against the surety bond required to be maintained pursuant to section 33 of this act;

(f) Have available all services to residents of this State which are consistent with the business plan of the private professional guardian company included with the application for a license; and

(g) Comply with any other requirements specified by the Commissioner.

Sec. 32. 1. It is unlawful for any person licensed pursuant to this chapter to engage in the business of a private professional guardian at any office outside this State without the prior approval of the Commissioner.

2. Before the Commissioner will approve a branch to be located outside this State, the private professional guardian must:

(a) Obtain from that state any required license as a private professional guardian; or

(b) Provide proof satisfactory to the Commissioner that the private professional guardian company has met all the requirements to engage in the business of a private professional guardian in that state pursuant to its laws, including, without limitation, written documentation from the appropriate court or state agency that the private professional guardian company is authorized to do business in that state.

3. For each branch location of a private professional guardian company organized under the laws of this State, and every branch location in this State of a foreign private professional guardian company authorized to do business in this State, a request for approval and licensing must be filed with the Commissioner on forms prescribed by the Commissioner. A nonrefundable fee of not more than \$500, as provided by the Commissioner, must accompany each request. In addition, a fee of not more than \$200, to be prorated on the basis of the licensing year as provided by the Commissioner, must be paid at the time of making the request. Money collected pursuant to this section must be deposited in the Investigative Account for Financial Institutions created by NRS 232.545.

4. A foreign corporation or limited-liability company wishing to engage in the business of a private professional guardian in this State must use a name that distinguishes it from any other private professional guardian in this State.

Sec. 33. 1. The Commissioner may require a private professional guardian company to maintain equity, fidelity and surety bonds in amounts that are more than the minimum required initially or at any subsequent time based on the Commissioner's assessment of the risks associated with the business plan of the private professional guardian or other information contained in the application, the Commissioner's investigation of the application or any examination of or filing by the private professional guardian company thereafter, including, without limitation, any examination before the opening of the business. In making such a determination, the Commissioner may consider, without limitation:

(a) The nature and type of business to be conducted by the private professional guardian company;

(b) The nature and liquidity of assets proposed to be held in the account of the private professional guardian company;

(c) The amount of fiduciary assets projected to be under the management or administration of the private professional guardian company;

(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;

(e) The complexity of the fiduciary duties and degree of discretion proposed to be undertaken by the private professional guardian company;

(f) The competence and experience of the proposed management of the private professional guardian company;

(g) The extent and adequacy of proposed internal controls;

(h) The proposed presence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;

(i) The reasonableness of business plans for retaining or acquiring additional equity capital;

(j) The adequacy of fidelity and surety bonds and any additional insurance proposed to be obtained by the private professional guardian company for the purpose of protecting its fiduciary assets;

(k) The success of the private professional guardian company in achieving the financial projections submitted with its application for a license; and

(l) The fulfillment by the private professional guardian company of its representations and its descriptions of its business structures and methods and management set forth in its application for a license.

2. The director or manager of a private professional guardian company shall require fidelity bonds in the amount of at least \$25,000 on the sole proprietor or each active officer, manager, member acting in a managerial or case manager capacity and employee, regardless of whether the person receives a

1 salary or other compensation from the private professional guardian company, to
2 indemnify the company against loss due to any dishonest, fraudulent or criminal
3 act or omission by a person upon whom a bond is required pursuant to this
4 section who acts alone or in combination with any other person. A bond required
5 pursuant to this section may be in any form and may be paid for by the private
6 professional guardian company.

7 3. A private professional guardian company shall obtain suitable insurance
8 against burglary, robbery, theft and other hazards to which it may be exposed in
9 the operation of its business.

10 4. A private professional guardian company shall obtain suitable surety
11 bonds in accordance with NRS 159.065, as applicable.

12 5. The surety bond obtained pursuant to subsection 4 must be in a form
13 approved by a court of competent jurisdiction and the Division and conditioned
14 that the applicant conduct his or her business in accordance with the
15 requirements of this chapter. The bond must be made and executed by the
16 principal and a surety company authorized to write bonds in this State.

17 6. A private professional guardian company shall at least annually
18 prescribe the amount or penal sum of the bonds or policies of the company and
19 designate the sureties and underwriters thereof, after considering all known
20 elements and factors constituting a risk or hazard. The action must be recorded
21 in the minutes kept by the private professional guardian company and reported to
22 the Commissioner.

23 7. The bond must cover all matters placed with the private professional
24 guardian company during the term of the license or a renewal thereof.

25 8. An action may not be brought upon any bond after 2 years from the
26 revocation or expiration of the license.

27 9. After 2 years, all liability of the surety or sureties upon the bond ceases if
28 no action is commenced upon the bond.

29 **Sec. 34.** The Commissioner shall revoke the license of a private
30 professional guardian company:

31 1. If the private professional guardian company fails to open for business
32 within 6 months after the date the license was issued, or within an additional 6-
33 month extension granted by the Commissioner upon written application and for
34 good cause shown; or

35 2. If the private professional guardian company fails for more than 30
36 consecutive days to maintain regular business hours or otherwise conduct the
37 business of a private professional guardian.

38 **Sec. 35.** Each private professional guardian company which is licensed
39 pursuant to this chapter may, in the conduct of its business activities, within and
40 outside this State, as applicable:

41 1. Act under the order or appointment of any court as guardian.

42 2. Accept and execute any activities and duties relating to the business of a
43 private professional guardian as permitted by any law.

44 3. Exercise the powers of a corporation, partnership or limited-liability
45 company organized or qualified as a foreign corporation, partnership or limited-
46 liability company under the laws of this State and any incidental powers that are
47 reasonably necessary to enable it to exercise, in accordance with commonly
48 accepted customs and usages, a power conferred by this chapter.

49 4. Perform any act authorized by this chapter and any other applicable laws
50 of this State.

51 **Sec. 36.** 1. The fiduciary relationship which exists between a private
52 professional guardian and the ward of the private professional guardian may not
53 be used for the private gain of the guardian other than the remuneration for fees

1 *and expenses. A private professional guardian may not incur any obligation on*
2 *behalf of the guardianship that conflicts with the discharge of the duties of the*
3 *private professional guardian.*

4 2. *Unless prior approval is obtained from a court of competent jurisdiction,*
5 *a private professional guardian shall not:*

6 (a) *Have any interest, financial or otherwise, direct or indirect, in any*
7 *business transaction or activity with the guardianship.*

8 (b) *Acquire an ownership, possessory, security or other pecuniary interest*
9 *adverse to the ward.*

10 (c) *Be knowingly designated as a beneficiary on any life insurance policy,*
11 *pension or benefit plan of the ward unless such designation was validly made by*
12 *the ward before the adjudication of the person's incapacity.*

13 (d) *Directly or indirectly purchase, rent, lease or sell any property or services*
14 *from or to any business entity in which the private professional guardian, or the*
15 *spouse or relative of the guardian, is an officer, partner, director, shareholder or*
16 *proprietor or in which such a person has any financial interest.*

17 3. *Any action taken by a private professional guardian which is prohibited*
18 *by this section may be voided during the term of the guardianship or by the*
19 *personal representative of the ward's estate. The private professional guardian is*
20 *subject to removal and to imposition of personal liability through a proceeding*
21 *for discharge, in addition to any other remedies otherwise available.*

22 4. *A court shall not appoint a private professional guardian that is not*
23 *licensed pursuant to this chapter as the guardian of a person or estate. The court*
24 *must review each guardianship involving a private professional guardian on the*
25 *anniversary date of the appointment of the private professional guardian. If a*
26 *private professional guardian does not hold a current license, the court must*
27 *replace the guardian until such time as the private professional guardian obtains*
28 *the necessary license.*

29 5. *The provisions of NRS 159.076 regarding summary administration do*
30 *not apply to a private professional guardian.*

31 6. *A licensee shall file any report required by the court in a timely manner.*

32 **Sec. 37. 1.** *Except as otherwise provided in NRS 159.076, a licensee shall*
33 *maintain a separate trust account for each ward into which all money received*
34 *for the benefit of the ward must be deposited. Each trust account must be*
35 *maintained in an insured bank or credit union located in this State, be held in a*
36 *name which is sufficient to distinguish it from the personal or general checking*
37 *account of the licensee and be designated as a trust account. Each trust account*
38 *must at all times account for all money received for the benefit of the ward and*
39 *account for all money dispersed for the benefit of the ward, and no disbursement*
40 *may be made from the account except for court authorized expenditures.*

41 2. *Each licensee shall keep a record of all money deposited in each trust*
42 *account maintained for a ward, which must clearly indicate the date and from*
43 *whom the money was received, the date the money was deposited, the dates of*
44 *withdrawals of money and other pertinent information concerning the*
45 *transactions. Records kept pursuant to this subsection must be maintained for at*
46 *least 6 years after the completion of the last transaction concerning the account.*
47 *The records must be maintained at the premises in this State at which the licensee*
48 *is authorized to conduct business.*

49 3. *The Commissioner or his or her designee shall conduct an examination*
50 *of the trust accounts and records relating to wards of each private professional*
51 *guardian company licensed pursuant to this chapter at least once each year.*

52 4. *During the first year a private professional guardian is licensed in this*
53 *State, the Commissioner or his or her designee may conduct any examinations*

1 *deemed necessary to ensure compliance with the provisions of this chapter and*
2 *chapter 159 of NRS.*

3 *5. If there is evidence that a private professional guardian company has*
4 *violated a provision of this chapter or chapter 159 of NRS, the Commissioner or*
5 *his or her designee may conduct additional examinations to determine whether a*
6 *violation has occurred.*

7 *6. Each licensee shall authorize the Commissioner or his or her designee to*
8 *examine all books, records, papers and effects of the private professional*
9 *guardian company.*

10 *7. If the Commissioner determines that the records of a licensee are not*
11 *maintained in accordance with subsections 1 and 2, the Commissioner may*
12 *require the licensee to submit, within 60 days, an audited financial statement*
13 *prepared from the records of the licensee by a certified public accountant who*
14 *holds a certificate to engage in the practice of public accounting in this State.*
15 *The Commissioner may grant a reasonable extension of time for the submission*
16 *of the financial statement if an extension is requested before the statement is due.*

17 *8. Upon the request of the Division, a licensee must provide to the Division*
18 *copies of any documents reviewed during an examination conducted by the*
19 *Commissioner or his or her designee pursuant to subsection 4, 5 or 6. If the*
20 *copies are not provided, the Commissioner may subpoena the documents.*

21 *9. For each examination of the books, papers, records and effects of a*
22 *private professional guardian company that is required or authorized pursuant to*
23 *this chapter, the Commissioner shall charge and collect from the private*
24 *professional guardian company a fee for conducting the examination and*
25 *preparing a report of the examination based upon the rate established by*
26 *regulation pursuant to NRS 658.101. Failure to pay the fee within 30 days after*
27 *receipt of the bill is grounds for revoking the license of the private professional*
28 *guardian company.*

29 *10. All money collected under this section must be deposited in the State*
30 *Treasury pursuant to the provisions of NRS 658.091.*

31 **Sec. 38.** *1. After an examination is conducted pursuant to section 37 of*
32 *this act, the person who conducted the examination shall prepare a written report*
33 *of the results of the examination which must be signed by the Commissioner or*
34 *his or her designee.*

35 *2. The written report must contain a true and detailed statement of the*
36 *financial condition of the private professional guardian company and, if*
37 *applicable, a full statement of any violations of the provisions of this chapter and*
38 *chapter 159 of NRS.*

39 **Sec. 39.** *1. The Commissioner shall provide a copy of a report prepared*
40 *pursuant to section 38 of this act to the president or secretary of the board of*
41 *directors of the private professional guardian company if the company is a*
42 *corporation, or to a manager or owner of the private professional guardian*
43 *company if the company is not a corporation, and may make a copy available to*
44 *each member of the board of directors or each manager or owner, as applicable.*
45 *If, in the judgment of the Commissioner, the report discloses any violation of the*
46 *provisions of this chapter or chapter 159 of NRS committed by the private*
47 *professional guardian company, or if it appears from the report that there are*
48 *certain conditions existing which should be corrected by the private professional*
49 *guardian company, the Commissioner may, in writing, call the matter to the*
50 *attention of each member of the board of directors or each manager or owner,*
51 *with instructions to correct the condition.*

1 2. Upon the preparation of the report as provided in section 38 of this act,
2 the Commissioner shall also serve a copy thereof to the court having jurisdiction
3 of each ward of the private professional guardian company.

4 Sec. 40. 1. The Commissioner may require a licensee to submit an annual
5 financial statement or an audited financial statement prepared by an independent
6 certified public accountant licensed to do business in this State, dependent upon
7 the size and complexity of the private professional guardian company.

8 2. If applicable, on or before the fourth Monday in January of each year,
9 each licensee shall submit to the Commissioner the stock ledger of stockholders
10 of the corporation required to be maintained pursuant to paragraph (c) of
11 subsection 1 of NRS 78.105 or the list of each member and manager required to
12 be maintained pursuant to paragraph (a) of subsection 1 of NRS 86.241, verified
13 by the president or a manager, as appropriate.

14 3. A list of each member and manager submitted pursuant to subsection 2
15 must include the percentage of each member's interest in the company, in
16 addition to the requirements set forth in NRS 86.241.

17 4. If a licensee fails to submit the ledger or list required pursuant to this
18 section within the prescribed period, the Commissioner may impose and collect a
19 fee of not more than \$10 for each day the report is late.

20 5. The Commissioner shall adopt regulations establishing the amount of the
21 fee that may be imposed pursuant to this section.

22 Sec. 41. Except as otherwise provided in NRS 239.0115, any application
23 and personal or financial records submitted to the Division pursuant to the
24 provisions of this chapter and any personal or financial records or other
25 documents obtained by the Division pursuant to an examination conducted by the
26 Commissioner or his or her designee or in response to a subpoena are
27 confidential and may be disclosed only to:

28 1. The Division, any authorized employee or representative of the Division
29 and any state or federal agency investigating the activities covered under the
30 provisions of this chapter; and

31 2. Any person if the Commissioner, in his or her discretion, determines that
32 the interests of the public that would be protected by disclosure outweigh the
33 interest of any person in the confidential information not being disclosed.

34 Sec. 42. 1. The Commissioner may require the immediate removal from
35 office of any officer, director, manager or employee of any private professional
36 guardian company doing business under this chapter who is found to be
37 dishonest, incompetent or reckless in the management of the affairs of the private
38 professional guardian company, or who persistently violates the laws of this State
39 or the lawful orders, instructions and regulations issued by the Commissioner.

40 2. An officer, director, manager or employee of a private professional
41 guardian company who is required to be removed from office pursuant to
42 subsection 1 may appeal his or her removal by filing a written request for a
43 hearing with the Commissioner within 10 days after the effective date of his or
44 her removal. The Commissioner shall conduct the hearing after providing at least
45 5 days' written notice to the private professional guardian company and the
46 officer, director, manager or employee who is appealing his or her removal from
47 office. Within 5 days after the conclusion of the hearing, the Commissioner shall
48 enter an order affirming or disaffirming the removal of the person from office.
49 An order of the Commissioner entered pursuant to this subsection is final for the
50 purposes of judicial review.

51 Sec. 43. 1. The Commissioner may take administrative action against a
52 licensee or initiate proceedings as provided in section 46 of this act to take

possession of the business and property of any private professional guardian company if the company:

(a) Has violated this chapter or any other state or federal laws applicable to the business of a private professional guardian.

(b) Is conducting the business in an unauthorized or unsafe manner.

(c) Is in an unsafe or unsound condition to transact business.

(d) Has an impairment of the surety bonds held by the company.

(e) Has an impairment of the fidelity bonds held by the company.

(f) Has become insolvent.

(g) Has neglected or refused to comply with the terms of a lawful order of the Commissioner.

(h) Has refused, upon proper demand, to submit its records, affairs and concerns for inspection and examination of an appointed or authorized examiner of the Commissioner.

(i) Has refused to provide copies to the Division upon request, and in cooperation with any investigation, inspection or examination, of any and all documents reviewed by the Division during any such investigation, inspection or examination.

(j) Has failed to pay any state or local taxes as required.

(k) Has materially and willfully breached its fiduciary duties to a ward.

(l) Has failed to properly disclose all fees, interest and other charges to the court and the public.

(m) Has willfully engaged in material conflicts of interest regarding a ward.

(n) Has made intentional material misrepresentations regarding any aspect of the services performed or proposed to be performed by the private professional guardian company.

2. The Commissioner also may initiate such proceedings to take possession of the business and property of any private professional guardian company if an officer, partner, member or sole proprietor of the private professional guardian company refuses to be examined upon oath regarding its affairs.

Sec. 44. 1. If the Commissioner has reason to believe that grounds for the revocation or suspension of a license exist, the Commissioner shall give at least 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.

2. At the conclusion of a hearing, the Commissioner shall:

(a) Enter a written order dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.

(b) Impose upon the licensee an administrative fine of not more than \$10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including investigative costs and attorney's fees.

3. The grounds for revocation or suspension of a license are that:

(a) The licensee has failed to pay the annual license fee;

(b) The licensee has violated any provision of this chapter or any regulation adopted pursuant thereto or any lawful order of the Commissioner;

(c) The licensee has failed to pay any applicable state or local tax as required;

1 (d) Any fact or condition exists which would have justified the Commissioner
2 in denying the original application for a license pursuant to the provisions of this
3 chapter; or

4 (e) The licensee:

5 (1) Failed to open an office for the conduct of the business authorized by
6 his or her license within 180 days after the date the license was issued; or

7 (2) Has failed to remain open for the conduct of the business for a period
8 of 30 consecutive days without good cause therefor.

9 4. An order suspending or revoking a license becomes effective 5 days after
10 being entered unless the order specifies otherwise or a stay is granted.

11 Sec. 45. If the Commissioner finds that probable cause for the revocation
12 of any license exists and that the public interest requires the immediate
13 suspension of the license pending an investigation, the Commissioner may, upon
14 5 days' written notice offering the opportunity for a hearing, enter an order
15 suspending the license for a period of not more than 20 days, pending a hearing
16 upon the revocation of the license unless the opportunity for a hearing is waived
17 by the licensee.

18 Sec. 46. 1. If the Commissioner has reasonable cause to believe that any
19 person is violating or is threatening to or intends to violate any provision of this
20 chapter, the Commissioner may, in addition to any action provided for in this
21 chapter and chapter 233B of NRS and without prejudice thereto, enter an order
22 requiring the person to cease and desist or to refrain from such violation.

23 2. The Commissioner may bring an action to enjoin a person from
24 engaging in or continuing a violation or from doing any act or acts in
25 furtherance thereof. In any such action, irreparable harm and lack of an
26 adequate remedy at law will be presumed and an order or judgment may be
27 entered awarding a preliminary or final injunction as may be deemed proper. The
28 findings of the Commissioner shall be deemed to be prima facie evidence and
29 sufficient grounds, in the discretion of the court, for the issuance ex parte of a
30 temporary restraining order.

31 3. In addition to all other means provided by law for the enforcement of a
32 restraining order or injunction, the court in which an action is brought may
33 impound, and appoint a receiver for, the property and business of the person,
34 including books, papers, documents and records pertaining thereto, or so much
35 thereof as a court may deem reasonably necessary to prevent violations of this
36 chapter through or by means of the use of property and business, whether such
37 books, papers, documents and records are in the possession of the person, a
38 registered agent acting on behalf of the person or any other person. If a receiver
39 is appointed and qualified, the receiver has such powers and duties relating to the
40 custody, collection, administration, winding up and liquidation of such property
41 and business as may be conferred upon the receiver by the court.

42 4. If a receiver is appointed pursuant to subsection 3, the receiver shall
43 remit to the owners, members or shareholders of the private professional
44 guardian company any amount of equity of the private professional guardian
45 company remaining after the discharge of the liabilities and payment of the
46 normal, prudent and reasonable expenses of the receivership.

47 Sec. 47. 1. Upon the filing with the Commissioner of a verified complaint
48 against a private professional guardian company, the Commissioner shall
49 investigate the alleged violation of the provisions of this chapter.

50 2. If the Commissioner determines that a complaint filed pursuant to
51 subsection 1 warrants further action, the Commissioner shall send a copy of the
52 complaint and notice of the date set for an informal hearing to the subject of the
53 complaint and the Attorney General.

3. The Commissioner may require the private professional guardian company that is the subject of a complaint to file a verified answer to the complaint within 10 days after receipt of the complaint unless, for good cause shown, the Commissioner extends the time required for filing an answer for a period not to exceed 60 days.

4. If at the hearing the complaint is not explained to the satisfaction of the Commissioner, the Commissioner may take such action against the private professional guardian company as authorized by the provisions of this chapter.

Sec. 48. 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Commissioner, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

2. The complaint or other documents filed by the Commissioner to initiate disciplinary action and all documents and information considered by the Commissioner when determining whether to impose discipline are public records.

Sec. 49. 1. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 per violation upon a person who violates any provision of this chapter or any regulation adopted pursuant thereto.

2. The maximum total fine that the Commissioner may impose on any person pursuant to this section with respect to the same or similar actions or series of actions which constitute the violations must not exceed the greater of \$250,000 or 125 percent of the monetary value of all losses incurred by the private professional guardian company and its wards as the direct or indirect result of such violations.

Sec. 50. 1. A licensee who knowingly or willfully neglects to perform any act or duty required by this chapter or other applicable law, or who knowingly or willfully fails to satisfy any material lawful requirement made by the Commissioner is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. If no other punishment is otherwise provided by law, a person who violates any provision of this chapter is guilty of a gross misdemeanor.

Sec. 50.5. 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, unless the court determines that such conviction should not disqualify the person from serving 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. ~~Has~~ Except as otherwise provided in subsection 2 of NRS 159.061, is a nonresident of this State and:

(a) 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

(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. 51. 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. A private professional guardian ~~shall, at his or her own cost and expense:~~
~~—(a) Undergo a background investigation which requires the submission of a complete set of his or her fingerprints to the Central Repository for Nevada Records of Criminal History and to the Federal Bureau of Investigation for their respective reports; and~~

~~—(b) Present the results of the background investigation to the court upon request; , regardless of whether the private professional guardian is a person or an entity, must be licensed pursuant to section 18 of this act.~~

4. 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.

(c) “Person” means a natural person.

Sec. 51.5. NRS 159.061 is hereby amended to read as follows:

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

(a) Which parent has physical custody of the minor;

(b) The ability of the parents or parent to provide for the basic needs of the child, including, without limitation, food, shelter, clothing and medical care;

(c) Whether the parents or parent has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS; and

(d) Whether the parents or parent has been convicted of a crime of moral turpitude, a crime involving domestic violence or a crime involving the exploitation of a child.

2. The court shall appoint as guardian for an incompetent any person, regardless of whether the person is a resident of this State, who has been requested to be appointed as guardian in a written instrument executed by the incompetent, while competent, if the person is willing to serve and is otherwise qualified and suitable

3. Subject to the preference set forth in subsection 1, ~~and~~ and except as otherwise provided in subsection 2, the court shall appoint as guardian for an incompetent, a person of limited capacity or minor the qualified person who is most suitable and is willing to serve.

~~4.~~ 4. In determining who is most suitable, the court shall give consideration, among other factors, to:

~~(a) Any request for the appointment as guardian for an incompetent contained in a written instrument executed by the incompetent while competent.~~

~~(b)~~ Any nomination of a guardian for an incompetent, minor or person of limited capacity contained in a will or other written instrument executed by a parent or spouse of the proposed ward.

~~(c)~~ (b) Any request for the appointment as guardian for a minor 14 years of age or older made by the minor.

~~(d)~~ (c) The relationship by blood, adoption or marriage of the proposed guardian to the proposed ward. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood. The court may consider relatives in the following order of preference:

(1) Spouse.

(2) Adult child.

(3) Parent.

(4) Adult sibling.

(5) Grandparent or adult grandchild.

(6) Uncle, aunt, adult niece or adult nephew.

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

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

~~4.4~~ 5. If the court finds that there is no suitable person to appoint as guardian pursuant to subsection ~~4.3~~ 4, the court may appoint as guardian:

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

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

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

(b) A private fiduciary who may obtain a bond in this State and who is a resident of this State, if the court finds that the interests of the ward will be served appropriately by the appointment of a private fiduciary; or

(c) A private professional guardian who meets the requirements of NRS 159.0595.

Sec. 52. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727,

348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240,
360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180,
372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275,
388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271,
392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295,
396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070,
422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205,
432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,
433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230,
442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545,
453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790,
467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800,
484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583,
584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210,
604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425,
622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185,
628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121,
632.125, 632A.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185,
635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485,
639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760,
640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189,
644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,
645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320,
645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228,
654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310,
671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152,
679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260,
681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190,
692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325,
706.1725, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of
Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and **sections 40
and 47 of this act and** unless otherwise declared by law to be confidential, all
public books and public records of a governmental entity must be open at all times
during office hours to inspection by any person, and may be fully copied or an
abstract or memorandum may be prepared from those public books and public
records. Any such copies, abstracts or memoranda may be used to supply the
general public with copies, abstracts or memoranda of the records or may be used
in any other way to the advantage of the governmental entity or of the general
public. This section does not supersede or in any manner affect the federal laws
governing copyrights or enlarge, diminish or affect in any other manner the rights
of a person in any written book or record which is copyrighted pursuant to federal
law.

2. A governmental entity may not reject a book or record which is
copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or
record shall not deny a request made pursuant to subsection 1 to inspect or copy or
receive a copy of a public book or record on the basis that the requested public
book or record contains information that is confidential if the governmental entity
can redact, delete, conceal or separate the confidential information from the
information included in the public book or record that is not otherwise confidential.

1 4. A person may request a copy of a public record in any medium in which
2 the public record is readily available. An officer, employee or agent of a
3 governmental entity who has legal custody or control of a public record:

4 (a) Shall not refuse to provide a copy of that public record in a readily
5 available medium because the officer, employee or agent has already prepared or
6 would prefer to provide the copy in a different medium.

7 (b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare
8 the copy of the public record and shall not require the person who has requested the
9 copy to prepare the copy himself or herself.

10 **Sec. 53.** 1. This section and sections 2 to 19, inclusive, and 21 to 52,
11 inclusive, of this act become effective:

12 (a) Upon passage and approval for the purposes of adopting any regulations
13 and performing any preparatory administrative tasks necessary to carry out the
14 provisions of this act; and

15 (b) On January 1, 2016, for all other purposes.

16 2. Section 19 of this act expires by limitation on the date on which the
17 provisions of 42 U.S.C. § 666 requiring each state to establish procedures under
18 which the state has authority to withhold or suspend, or to restrict the use of
19 professional, occupational and recreational licenses of persons who:

20 (a) Have failed to comply with a subpoena or warrant relating to a proceeding
21 to determine the paternity of a child or to establish or enforce an obligation for the
22 support of a child; or

23 (b) Are in arrears in the payment for the support of one or more children,
24 ➤ are repealed by the Congress of the United States.

25 3. Section 20 of this act becomes effective on the date on which the
26 provisions of 42 U.S.C. § 666 requiring each state to establish procedures under
27 which the state has authority to withhold or suspend, or to restrict the use of
28 professional, occupational and recreational licenses of persons who:

29 (a) Have failed to comply with a subpoena or warrant relating to a proceeding
30 to determine the paternity of a child or to establish or enforce an obligation for the
31 support of a child; or

32 (b) Are in arrears in the payment for the support of one or more children,
33 ➤ are repealed by the Congress of the United States.

34 4. Sections 20 and 21 of this act expire by limitation 2 years after the date on
35 which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures
36 under which the state has authority to withhold or suspend, or to restrict the use of
37 professional, occupational and recreational licenses of persons who:

38 (a) Have failed to comply with a subpoena or warrant relating to a proceeding
39 to determine the paternity of a child or to establish or enforce an obligation for the
40 support of a child; or

41 (b) Are in arrears in the payment for the support of one or more children,
42 ➤ are repealed by the Congress of the United States.