

Amendment No. 843

Senate Amendment to Assembly Bill No. 325 First Reprint (BDR 54-976)

Proposed by: Senate Committee on Judiciary

Amends: Summary: Yes 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 R1 (§§ 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.

KCP



Date: 5/21/2015

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, SEAMAN; AND O'NEILL

MARCH 16, 2015

Referred to Committee on Commerce and Labor

SUMMARY—Enacts and revises provisions ~~[governing persons engaged in the business of a private professional guardian.]~~ relating to guardians. (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.

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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 ~~[private professional]~~ guardians; requiring licensing for certain 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]~~ relating to the appointment of a guardian under certain circumstances; adding provisions governing the appointment of certain preferred persons as guardians for adult wards; revising provisions relating to the appointment of a guardian for a minor; 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 certain 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. Section 12 of this bill provides certain exceptions to the licensing and other regulatory requirements. **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 159.050) 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.~~ provides for the appointment, qualifications and duties of guardians for certain minor and adult wards. (Chapter 159 of NRS) Existing law prohibits a nonresident of Nevada from being appointed as a guardian for a minor or adult ward unless the person has associated a co-guardian who is a resident of Nevada or a banking corporation whose principal place of business is in Nevada. (NRS 159.059) Existing law also gives preference to certain persons to be appointed as a guardian for a minor ward but does not give preference to any persons to be appointed as a guardian for an adult ward. (NRS 159.061)

Sections 50.2 and 52.7 of this bill revise the circumstances under which a court is authorized to appoint a nonresident as a guardian for an adult ward. Section 52.5 eliminates existing limitations on the authority of a court to appoint a nonresident as a guardian for a minor ward. Section 50.2 also requires the court to give preference in appointing a guardian for an adult ward to the following persons in the following order, whether or not the person is a nonresident: (1) a nominated person, who is a person the adult ward specifically nominated or requested as a guardian in a will, trust or other written document executed by the adult ward while competent; or (2) a relative. If two or more nominated persons are qualified and suitable to be appointed as a guardian, section 50.2 authorizes the court to appoint two or more co-guardians or generally requires the court to give preference to the nominated person named in a will, trust or other written document that is part of the adult's established estate plan, but there are certain exceptions for extraordinary circumstances.

In selecting a guardian, section 50.2 does not allow the court to give preference to a resident over a nonresident if the court determines that the nonresident would be a more qualified and suitable guardian and the adult would receive continuing care and supervision under the guardianship of the nonresident. If the court selects a nonresident guardian, section 50.2 requires the court to order the nonresident guardian to designate a registered agent in this State.

Section 51.5 of this bill revises the existing list of persons who are preferred for appointment as a guardian to a minor to include any person recommended by: (1) an agency which provides child welfare services, an agency which provides child protective services or a similar agency; or (2) a guardian ad litem or court appointed special advocate who represents the minor.

Sections 51-51.9 and 52.5 of this bill make conforming changes to reflect the changes made by the other sections of this bill.

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

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

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

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

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

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

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

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

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

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

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

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

30 **Sec. 9.** 1. “Private professional guardian” has the meaning ascribed to it
31 in NRS 159.024.

32 2. For the purposes of this chapter, the term does not include a person who
33 serves as a private professional guardian but who is exempt pursuant to NRS
34 159.0595 or section 12 of this act from the requirement to have a license issued
35 pursuant to this chapter.

36 **Sec. 10.** 1. “Private professional guardian company” means a natural
37 person or business entity, including, without limitation, a sole proprietorship,
38 partnership, limited-liability company or corporation, that is licensed pursuant to
39 the provisions of this chapter to engage in the business of a private professional
40 guardian, whether appointed by a court or hired by a private party.

41 2. For the purposes of this chapter, the term does not include a natural
42 person or business entity which engages in the business of a private professional
43 guardian but which is exempt pursuant to NRS 159.0595 or section 12 of this act
44 from the requirement to have a license issued pursuant to this chapter.

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

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

47 1. *Is a public guardian or administrator appointed by the court;*

48 2. Is a banking corporation as defined in NRS 657.016;

1 3. ~~Is appointed~~ an organization permitted to act as a fiduciary pursuant to
2 NRS 662.245;

3 ~~4.~~ 4. Is a trust company as defined in NRS 669.070;

4 5. Is acting in the performance of his or her duties as an attorney at law;

5 ~~6.~~ 6. Acts as a trustee under a deed of trust;

6 ~~7.~~ 7. Acts as a fiduciary under a court trust; or

7 ~~8.~~ 8. 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~~ :*

27 (a) Issue and serve on the person an order to cease and desist from engaging
28 in the activity until such time as the person obtains a license issued by the
29 Commissioner ~~to~~ ; and

30 (b) Send a copy of the order to each district court in this State.

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

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

36 (b) *Enter into a written agreement with the person pursuant to which the*
37 *person agrees to cease and desist from engaging in any activity in this State for*
38 *which a license is required relating to the business of a private professional*
39 *guardian and impose upon the person an administrative fine of not less than*
40 *\$5,000 and not more than \$10,000.*

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

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

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

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

1 **Sec. 18. 1. A person wishing to engage in the business of a private**
2 **professional guardian in this State must file with the Commissioner an**
3 **application on a form prescribed by the Commissioner, which must contain or be**
4 **accompanied by such information as is required.**

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

8 **3. The application must contain:**

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

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

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

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

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

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

18 **(g) A statement ~~under penalty of perjury that~~ by the applicant ~~has~~**
19 **acknowledging that the applicant is required to comply with the**
20 **provisions of NRS ~~159.059 and~~ 159.0595 ~~if~~ if issued a license.**

21 **(h) Any other information reasonably related to the applicant's**
22 **qualifications for the license which the Commissioner determines to be**
23 **necessary.**

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

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

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

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

38 **(b) The purpose for which it is formed.**

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

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

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

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

1 9. *All money received by the Commissioner pursuant to this section must be*
2 *placed in the Investigative Account for Financial Institutions created by NRS*
3 *232.545.*

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

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

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

13 2. *The Commissioner shall include the statement required pursuant to*
14 *subsection 1 in:*

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

17 (b) *A separate form prescribed by the Commissioner.*

18 3. *A license may not be issued or renewed by the Commissioner if the*
19 *applicant:*

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

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

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

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

39 2. *The Commissioner shall include the statement required pursuant to*
40 *subsection 1 in:*

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

43 (b) *A separate form prescribed by the Commissioner.*

44 3. *A license may not be issued or renewed by the Commissioner if the*
45 *applicant:*

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

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

52 4. *If an applicant indicates on the statement submitted pursuant to*
53 *subsection 1 that the applicant is subject to a court order for the support of a*

1 *child and is not in compliance with the order or a plan approved by the district*
2 *attorney or other public agency enforcing the order for the repayment of the*
3 *amount owed pursuant to the order, the Commissioner shall advise the applicant*
4 *to contact the district attorney or other public agency enforcing the order to*
5 *determine the actions that the applicant may take to satisfy the arrearage.*

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

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

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

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

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

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

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

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

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

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

(b) That the financial status of each sole proprietor, partner, member or director and officer of the corporation and person acting in a managerial or case manager capacity indicates fiscal responsibility consistent with his or her position.

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

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

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

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

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

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

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

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

3. If an application is not approved, the Commissioner shall ~~provide~~ :

(a) Enter an order denying the application and provide to the applicant written notice of the denial by personal service or certified mail ~~the~~ ; and

(b) Send a copy of the order denying the application to each district court in each county where the applicant proposed to do business based on the information provided in the application.

4. If the Commissioner enters an order denying an application, the applicant may request a hearing before the Commissioner, but if no such ~~application~~ request is made within 30 days after the entry of ~~an~~ the order ~~refusing a license to any person,~~ denying the application, the Commissioner shall enter a final order.

~~4. The decision~~

5. A final order of the Commissioner denying an application is a final order for the purposes of judicial review.

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

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

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

(a) The name of the licensee.

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

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

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

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

Sec. 26. 1. The Commissioner shall maintain in the Office of the Commissioner, in a suitable record provided for that purpose, each application for a license and all bonds required to be filed pursuant to this chapter. The record must state the date of issuance or denial of the license and the date and nature of any action taken relating to an application.

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

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

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

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

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

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

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

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

6. As used in this section, "control" means the possession, directly or indirectly, of the authority to direct or cause the direction of the management and

1 policy of a private professional guardian company, or a change in the ownership
2 of at least 25 percent of the outstanding voting stock of, or participating
3 members' interest in, the company.

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

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

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

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

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

24 Sec. 30. 1. If any private professional guardian company wishes to
25 discontinue its business, the company shall furnish to the Commissioner
26 satisfactory evidence of the release and discharge from all obligations which the
27 company has assumed or which have been imposed by law. Thereafter, the
28 Commissioner shall enter an order cancelling the license of the private
29 professional guardian company.

30 2. If the Commissioner enters an order cancelling a license pursuant to this
31 section, the Commissioner shall send a copy of the order to each district court in
32 this State.

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

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

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

40 (b) Have available at the office a private professional guardian who is
41 licensed pursuant to this chapter, a permanent resident of this State and at least
42 21 years of age;

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

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

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

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

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

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

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

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

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

14 **3.** *For each branch location of a private professional guardian company*
15 *organized under the laws of this State, and every branch location in this State of*
16 *a foreign private professional guardian company authorized to do business in this*
17 *State, a request for approval and licensing must be filed with the Commissioner*
18 *on forms prescribed by the Commissioner. A nonrefundable fee of not more than*
19 *\$500, as provided by the Commissioner, must accompany each request. In*
20 *addition, a fee of not more than \$200, to be prorated on the basis of the licensing*
21 *year as provided by the Commissioner, must be paid at the time of making the*
22 *request. Money collected pursuant to this section must be deposited in the*
23 *Investigative Account for Financial Institutions created by NRS 232.545.*

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

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

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

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

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

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

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

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

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

50 *(h) The proposed presence of annual audits by an independent certified*
51 *public accountant, and the scope and frequency of such audits, whether they*
52 *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 salary or other compensation from the private professional guardian company, to indemnify the company against loss due to any dishonest, fraudulent or criminal act or omission by a person upon whom a bond is required pursuant to this section who acts alone or in combination with any other person. A bond required pursuant to this section may be in any form and may be paid for by the private professional guardian company.

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

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

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

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

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

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

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

Sec. 34. 1. The Commissioner shall revoke the license of a private professional guardian company ~~+~~

~~1. If the private professional guardian company fails :~~

(a) Fails to open for business within 6 months after the date the license was issued, or within an additional 6-month extension granted by the Commissioner upon written application and for good cause shown; or

~~2. If the private professional guardian company fails~~

(b) Fails for more than 30 consecutive days to maintain regular business hours or otherwise conduct the business of a private professional guardian.

2. If the Commissioner enters an order revoking a license pursuant to this section, the Commissioner shall send a copy of the order to each district court in this State.

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

- 1. Act under the order or appointment of any court as guardian.*
- 2. Accept and execute any activities and duties relating to the business of a private professional guardian as permitted by any law.*
- 3. Exercise the powers of a corporation, partnership or limited-liability company organized or qualified as a foreign corporation, partnership or limited-liability company under the laws of this State and any incidental powers that are reasonably necessary to enable it to exercise, in accordance with commonly accepted customs and usages, a power conferred by this chapter.*
- 4. Perform any act authorized by this chapter and any other applicable laws of this State.*

Sec. 36. 1. The fiduciary relationship which exists between a private professional guardian and the ward of the private professional guardian may not be used for the private gain of the guardian other than the remuneration for fees and expenses. A private professional guardian may not incur any obligation on behalf of the guardianship that conflicts with the discharge of the duties of the private professional guardian.

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

- (a) Have any interest, financial or otherwise, direct or indirect, in any business transaction or activity with the guardianship.*
- (b) Acquire an ownership, possessory, security or other pecuniary interest adverse to the ward.*
- (c) Be knowingly designated as a beneficiary on any life insurance policy, pension or benefit plan of the ward unless such designation was validly made by the ward before the adjudication of the person's incapacity.*
- (d) Directly or indirectly purchase, rent, lease or sell any property or services from or to any business entity in which the private professional guardian, or the spouse or relative of the guardian, is an officer, partner, director, shareholder or proprietor or in which such a person has any financial interest.*

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

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

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

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

Sec. 37. 1. Except as otherwise provided in NRS 159.076, a licensee shall maintain a separate guardianship account for each ward into which all money received for the benefit of the ward must be deposited. Each guardianship

1 *account must be maintained in an insured bank or credit union located in this*
2 *State, be held in a name which is sufficient to distinguish it from the personal or*
3 *general checking account of the licensee and be designated as a guardianship*
4 *account. Each guardianship account must at all times account for all money*
5 *received for the benefit of the ward and account for all money dispersed for the*
6 *benefit of the ward, and no disbursement may be made from the account except*
7 *as authorized under chapter 159 of NRS or as authorized by court order.*

8 *2. Each licensee shall keep a record of all money deposited in each*
9 *guardianship account maintained for a ward, which must clearly indicate the*
10 *date and from whom the money was received, the date the money was deposited,*
11 *the dates of withdrawals of money and other pertinent information concerning*
12 *the transactions. Records kept pursuant to this subsection must be maintained for*
13 *at least 6 years after the completion of the last transaction concerning the*
14 *account. The records must be maintained at the premises in this State at which*
15 *the licensee is authorized to conduct business.*

16 *3. The Commissioner or his or her designee may conduct an examination of*
17 *the guardianship accounts and records relating to wards of each private*
18 *professional guardian company licensed pursuant to this chapter at any time to*
19 *ensure compliance with the provisions of this chapter.*

20 *4. During the first year a private professional guardian is licensed in this*
21 *State, the Commissioner or his or her designee may conduct any examinations*
22 *deemed necessary to ensure compliance with the provisions of this chapter.*

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

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

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

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

40 *9. For each examination of the books, papers, records and effects of a*
41 *private professional guardian company that is required or authorized pursuant to*
42 *this chapter, the Commissioner shall charge and collect from the private*
43 *professional guardian company a fee for conducting the examination and*
44 *preparing a report of the examination based upon the rate established by*
45 *regulation pursuant to NRS 658.101. Failure to pay the fee within 30 days after*
46 *receipt of the bill is grounds for revoking the license of the private professional*
47 *guardian company.*

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

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

1 2. The written report must contain a true and detailed statement of the
2 financial condition of the private professional guardian company and, if
3 applicable, a full statement of any violations of the provisions of this chapter.

4 Sec. 39. 1. The Commissioner shall provide a copy of a report prepared
5 pursuant to section 38 of this act to the president or secretary of the board of
6 directors of the private professional guardian company if the company is a
7 corporation, or to a manager or owner of the private professional guardian
8 company if the company is not a corporation, and may make a copy available to
9 each member of the board of directors or each manager or owner, as applicable.
10 If, in the judgment of the Commissioner, the report discloses any violation of
11 the provisions of this chapter committed by the private professional guardian
12 company, or if it appears from the report that there are certain conditions
13 existing which should be corrected by the private professional guardian company,
14 the Commissioner may, in writing, call the matter to the attention of each
15 member of the board of directors or each manager or owner, with instructions to
16 correct the condition.

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

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

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

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

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

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

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

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

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

50 Sec. 42. 1. The Commissioner may require the immediate removal from
51 office of any officer, director, manager or employee of any private professional
52 guardian company doing business under this chapter who is found to be
53 dishonest, incompetent or reckless in the management of the affairs of the private

1 *professional guardian company, or who persistently violates the laws of this State*
2 *or the lawful orders, instructions and regulations issued by the Commissioner.*

3 2. *An officer, director, manager or employee of a private professional*
4 *guardian company who is required to be removed from office pursuant to*
5 *subsection 1 may appeal his or her removal by filing a written request for a*
6 *hearing with the Commissioner within 10 days after the effective date of his or*
7 *her removal. The Commissioner shall conduct the hearing after providing at least*
8 *5 days' written notice to the private professional guardian company and the*
9 *officer, director, manager or employee who is appealing his or her removal from*
10 *office. Within 5 days after the conclusion of the hearing, the Commissioner shall*
11 *enter an order affirming or disaffirming the removal of the person from office.*
12 *An order of the Commissioner entered pursuant to this subsection is final for the*
13 *purposes of judicial review.*

14 **Sec. 43. 1.** *The Commissioner may take administrative action against a*
15 *licensee, including, without limitation, revoking or suspending the license, or*
16 *initiate proceedings as provided in section 46 of this act if the company:*

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

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

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

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

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

23 (f) *Has become insolvent.*

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

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

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

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

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

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

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

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

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

45 **Sec. 44. 1.** *If the Commissioner has reason to believe that grounds for the*
46 *revocation or suspension of a license exist, the Commissioner shall give at least*
47 *20 days' written notice to the licensee stating the contemplated action and, in*
48 *general, the grounds therefor and set a date for a hearing.*

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

50 (a) *Enter a written order dismissing the charges, revoking the license or*
51 *suspending the license for a period of not more than 60 days, which period must*
52 *include any prior temporary suspension. The Commissioner shall send a copy of*
53 *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;

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

(e) The licensee:

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

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

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

5. If the Commissioner enters an order suspending or revoking a license pursuant to this section, the Commissioner shall send a copy of the order to each district court in this State.

Sec. 45. 1. If the Commissioner finds that probable cause for the revocation of any license exists and that the public interest requires the immediate suspension of the license pending an investigation, the Commissioner may, upon 5 days' written notice offering the opportunity for a hearing, enter an order suspending the license for a period of not more than 20 days, pending a hearing upon the revocation of the license unless the opportunity for a hearing is waived by the licensee.

2. If the Commissioner enters an order suspending a license pursuant to this section, the Commissioner shall send a copy of the order to each district court in this State.

Sec. 46. 1. If the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, the Commissioner may, in addition to any action provided for in this chapter and chapter 233B of NRS and without prejudice thereto, enter an order requiring the person to cease and desist or to refrain from such violation. If the Commissioner enters such an order pursuant to this subsection, the Commissioner shall send a copy of the order to each district court in this State.

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

3. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of the person,

1 including books, papers, documents and records pertaining thereto, or so much
2 thereof as a court may deem reasonably necessary to prevent violations of this
3 chapter through or by means of the use of property and business, whether such
4 books, papers, documents and records are in the possession of the person, a
5 registered agent acting on behalf of the person or any other person. If a receiver
6 is appointed and qualified, the receiver has such powers and duties relating to the
7 custody, collection, administration, winding up and liquidation of such property
8 and business as may be conferred upon the receiver by the court.

9
10 4. If a receiver is appointed pursuant to subsection 3, the receiver shall
11 remit to the owners, members or shareholders of the private professional
12 guardian company any amount of equity of the private professional guardian
13 company remaining after the discharge of the liabilities and payment of the
14 normal, prudent and reasonable expenses of the receivership.

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

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

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

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

30 Sec. 48. 1. Except as otherwise provided in this section and NRS
31 239.0115, a complaint filed with the Commissioner, all documents and other
32 information filed with the complaint and all documents and other information
33 compiled as a result of an investigation conducted to determine whether to
34 initiate disciplinary action are confidential.

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

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

42 2. The maximum total fine that the Commissioner may impose on any
43 person pursuant to this section with respect to the same or similar actions or
44 series of actions which constitute the violations must not exceed the greater of
45 \$250,000 or 125 percent of the monetary value of all losses incurred by the
46 private professional guardian company and its wards as the direct or indirect
47 result of such violations.

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

53 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.

1 Sec. 50.2. Chapter 159 of NRS is hereby amended by adding thereto a
2 new section to read as follows:

3 1. Except as otherwise provided in subsection 3, in a proceeding to appoint
4 a guardian for an adult, the court shall give preference to a nominated person or
5 relative, in that order of preference:

6 (a) Whether or not the nominated person or relative is a resident of this
7 State; and

8 (b) If the court determines that the nominated person or relative is qualified
9 and suitable to be appointed as guardian for the adult.

10 2. In determining whether any nominated person, relative or other person
11 listed in subsection 4 is qualified and suitable to be appointed as guardian for an
12 adult, the court shall consider, if applicable and without limitation:

13 (a) The ability of the nominated person, relative or other person to provide
14 for the basic needs of the adult, including, without limitation, food, shelter,
15 clothing and medical care;

16 (b) Whether the nominated person, relative or other person has engaged in
17 the habitual use of alcohol or any controlled substance during the previous 6
18 months, except the use of marijuana in accordance with the provisions of chapter
19 453A of NRS;

20 (c) Whether the nominated person, relative or other person has been
21 judicially determined to have committed abuse, neglect, exploitation, isolation or
22 abandonment of a child, his or her spouse, his or her parent or any other adult,
23 unless the court finds that it is in the best interests of the ward to appoint the
24 person as guardian for the adult;

25 (d) Whether the nominated person, relative or other person is incompetent or
26 has a disability; and

27 (e) Whether the nominated person, relative or other person has been
28 convicted in this State or any other jurisdiction of a felony, unless the court
29 determines that any such conviction should not disqualify the person from
30 serving as guardian for the adult.

31 3. If the court finds that two or more nominated persons are qualified and
32 suitable to be appointed as guardian for an adult, the court may appoint two or
33 more nominated persons as co-guardians or shall give preference among them in
34 the following order of preference:

35 (a) A person whom the adult nominated for the appointment as guardian for
36 the adult in a will, trust or other written instrument that is part of the adult's
37 established estate plan and was executed by the adult while competent.

38 (b) A person whom the adult requested for the appointment as guardian for
39 the adult in a written instrument that is not part of the adult's established estate
40 plan and was executed by the adult while competent.

41 4. Subject to the preferences set forth in subsections 1 and 3, the court shall
42 appoint as guardian the qualified person who is most suitable and is willing to
43 serve. In determining which qualified person is most suitable, the court shall, in
44 addition to considering any applicable factors set forth in subsection 2, give
45 consideration, among other factors, to:

46 (a) Any nomination or request for the appointment as guardian by the adult.

47 (b) Any nomination or request for the appointment as guardian by a relative.

48 (c) The relationship by blood, adoption, marriage or domestic partnership of
49 the proposed guardian to the adult. In considering preferences of appointment,
50 the court may consider relatives of the half blood equally with those of the whole
51 blood. The court may consider any relative in the following order of preference:

52 (1) A spouse or domestic partner.

53 (2) A child.

- 1 (3) A parent.
2 (4) Any relative with whom the adult has resided for more than 6 months
3 before the filing of the petition or any relative who has a power of attorney
4 executed by the adult while competent.
5 (5) Any relative currently acting as agent.
6 (6) A sibling.
7 (7) A grandparent or grandchild.
8 (8) An uncle, aunt, niece, nephew or cousin.
9 (9) Any other person recognized to be in a familial relationship with the
10 adult.
11 (d) Any recommendation made by a master of the court or special master
12 pursuant to NRS 159.0615.
13 (e) Any request for the appointment of any other interested person that the
14 court deems appropriate, including, without limitation, a person who is not a
15 relative and who has a power of attorney executed by the adult while competent.
16 5. The court may appoint as guardian any nominated person, relative or
17 other person listed in subsection 4 who is not a resident of this State. The court
18 shall not give preference to a resident of this State over a nonresident if the court
19 determines that:
20 (a) The nonresident is more qualified and suitable to serve as guardian; and
21 (b) The distance from the proposed guardian's place of residence and the
22 adult's place of residence will not affect the quality of the guardianship or the
23 ability of the proposed guardian to make decisions and respond quickly to the
24 needs of the adult because:
25 (1) A person or care provider in this State is providing continuing care
26 and supervision for the adult;
27 (2) The adult is in a secured residential long-term care facility in this
28 State; or
29 (3) Within 30 days after the appointment of the proposed guardian, the
30 proposed guardian will move to this State or the adult will move to the proposed
31 guardian's state of residence.
32 6. If the court appoints a nonresident as guardian for the adult:
33 (a) The jurisdictional requirements of NRS 159.1991 to 159.2029, inclusive,
34 must be met;
35 (b) The court shall order the guardian to designate a registered agent in this
36 State in the same manner as a represented entity pursuant to chapter 77 of NRS;
37 and
38 (c) The court may require the guardian to complete any available training
39 concerning guardianships pursuant to NRS 159.0592, in this State or in the state
40 of residence of the guardian, regarding:
41 (1) The legal duties and responsibilities of the guardian pursuant to this
42 chapter;
43 (2) The preparation of records and the filing of annual reports regarding
44 the finances and well-being of the adult required pursuant to NRS 159.073;
45 (3) The rights of the adult;
46 (4) The availability of local resources to aid the adult; and
47 (5) Any other matter the court deems necessary or prudent.
48 7. If the court finds that there is not any suitable nominated person, relative
49 or other person listed in subsection 4 to appoint as guardian, the court may
50 appoint as guardian:
51 (a) The public guardian of the county where the adult resides if:
52 (1) There is a public guardian in the county where the adult resides; and

(2) The adult 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 adult 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.

8. A person is not qualified to be appointed as guardian for an adult if the person has been suspended for misconduct or disbarred from any of the professions listed in this subsection, but the disqualification applies only during the period of the suspension or disbarment. This subsection applies to:

(a) The practice of law;

(b) The practice of accounting; or

(c) Any other profession that:

(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 in which the person practices his or her profession.

9. As used in this section:

(a) "Adult" means a person who is a ward or a proposed ward and who is not a minor.

(b) "Domestic partner" means a person in a domestic partnership.

(c) "Domestic partnership" means:

(1) A domestic partnership as defined in NRS 122A.040; or

(2) A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of whether it bears the name of a domestic partnership or is registered in this State.

(d) "Nominated person" means a person, whether or not a relative, whom an adult:

(1) Nominates for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult's established estate plan and was executed by the adult while competent.

(2) Requests for the appointment as guardian for the adult in a written instrument that is not part of the adult's established estate plan and was executed by the adult while competent.

(e) "Relative" means a person who is 18 years of age or older and who is related to the adult by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity.

Sec. 50.3. NRS 159.024 is hereby amended to read as follows:

159.024 1. "Private professional guardian" means a person who receives compensation for services as a guardian to three or more wards who are not related to the guardian by blood or marriage.

2. For the purposes of this chapter, the term includes:

(a) A person who serves as a private professional guardian and who is required to have a license issued pursuant to sections 2 to 50, inclusive, of this act.

(b) A person who serves as a private professional guardian but who is exempt pursuant to NRS 159.0595 or section 12 of this act from the requirement to have a license issued pursuant to sections 2 to 50, inclusive, of this act.

3. The term does not include:

++ (a) A governmental agency.

~~12~~ *(b)* A public guardian appointed or designated pursuant to the provisions of chapter 253 of NRS.

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. [Is] 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.] (Deleted by amendment.)~~

Sec. 51. NRS 159.0595 is hereby amended to read as follows:

159.0595 1. ~~[A]~~ In order for a person to serve as a private professional guardian, ~~[if a person,] the person~~ must be ~~[qualified]~~ :

(a) Qualified to serve as a guardian pursuant to ~~[NRS 159.059]~~ section 50.2 of this act if the ward is an adult or NRS 159.061 if the ward is a minor; and ~~[must be]~~

(b) A guardian who has a license issued pursuant to sections 2 to 50, inclusive, of this act or a **certified** guardian ~~[licensed]~~ who is not required to have such a license pursuant to ~~[section 18 of this act.]~~ subsection 3.

2. ~~[A]~~ In order for an entity to serve as a private professional guardian, ~~[if an entity,] the entity~~ must ~~[be]~~ :

(a) Be qualified to serve as a guardian pursuant to ~~[NRS 159.059]~~ section 50.2 of this act if the ward is an adult;

(b) Have a license issued pursuant to sections 2 to 50, inclusive, of this act, unless the entity is not required to have such a license pursuant to subsection 3; and ~~[must have]~~

(c) Have a guardian who has a license issued pursuant to sections 2 to 50, inclusive, of this act or a **certified** guardian ~~[licensed]~~ who is not required to have such a license pursuant to ~~[section 18 of this act.]~~ subsection 3 involved in the day-to-day operation or management of the entity.

3. ~~[A]~~ In order for a person or entity to serve as 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] the person or [an] entity; , must be licensed; is not required to have a license issued pursuant to [section 18] sections 2 to 50, inclusive, of this act; [if the person or entity is exempt from the requirement to have such a license pursuant to section 12 of this act and the person or entity;~~

(a) Is a banking corporation as defined in NRS 657.016;

(b) Is an organization permitted to act as a fiduciary pursuant to NRS 662.245;

(c) Is a trust company as defined in NRS 669.070;

(d) Is acting in the performance of his or her duties as an attorney at law;

(e) Acts as a trustee under a deed of trust; or

(f) Acts as a fiduciary under a court trust.

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 [a] for the [person] minor must not conflict with a valid order for custody of the minor.

2. In determining whether the parents of a minor, or either parent, or any other person who seeks appointment as guardian for the minor is qualified and suitable, the court shall consider, if applicable and without limitation:

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

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

(c) Whether the parents, [a] parent or other person 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, [a] parent or other person has been convicted of a crime of moral turpitude, a crime involving domestic violence or a crime involving the abuse, neglect, exploitation, isolation or abandonment of a child, [a], his or her spouse, his or her parent or any other adult; and

(e) Whether the parents, parent or other person has been convicted in this State or any other jurisdiction of a felony.

~~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 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.

~~3.4.~~ 4. In determining ~~who~~ which qualified person is most suitable, the court shall , in addition to considering any applicable factors set forth in subsection 2, 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, the minor for person of limited capacity, contained in a will or other written instrument executed by a parent for spouse of the proposed ward.~~

~~(c) minor.~~

~~(b)~~ (b) Any request ~~for the appointment as guardian for a~~ made by the minor, if he or she is 14 years of age or older ~~made by,~~ for the appointment of a person as guardian for the minor.

~~(d)~~ (c) The relationship by blood ~~or~~ or adoption ~~for marriage~~ of the proposed guardian to the ~~proposed ward,~~ minor. 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)~~ (2) Adult sibling.

~~(5)~~ (3) Grandparent, ~~for adult grandchild.~~

~~(6)~~ (4) Uncle, ~~or~~ or 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 recommendation made by:

(1) An agency which provides child welfare services, an agency which provides child protective services or a similar agency; or

(2) A guardian ad litem or court appointed special advocate who represents the minor.

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

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

5. As used in this section, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

Sec. 51.7. NRS 159.185 is hereby amended to read as follows:

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

(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;

(b) The guardian is no longer qualified to act as a guardian pursuant to ~~NRS 159.059,~~ section 50.2 of this act if the ward is an adult or NRS 159.061 if the ward is a minor;

(c) The guardian has filed for bankruptcy within the previous 5 years;
(d) The guardian of the estate has mismanaged the estate of the ward;
(e) The guardian has negligently failed to perform any duty as provided by law or by any order of the court and:

(1) The negligence resulted in injury to the ward or the estate of the ward;
or

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

(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;

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

(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. 51.9. NRS 159.2024 is hereby amended to read as follows:

159.2024 1. To transfer jurisdiction of a guardianship or conservatorship to this State, the guardian, conservator or other interested party must petition the court of this State for guardianship pursuant to NRS 159.1991 to 159.2029, inclusive, to accept guardianship in this State. The petition must include a certified copy of the other state's provisional order of transfer and proof that the ward is physically present in, or is reasonably expected to move permanently to, this State.

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

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

(b) The guardian or petitioner is not qualified for appointment as a guardian in this State pursuant to ~~NRS 159.059~~ **section 50.2 of this act if the ward is an adult or NRS 159.061 if the ward is a minor.**

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

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

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

Sec. 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, 449.280, 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, 632.405, 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.583,
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 41*
and 48 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.

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

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

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

Sec. 52.3. NRS 253.150 is hereby amended to read as follows:

253.150 1. The board of county commissioners of each county shall establish the office of public guardian.

2. The board of county commissioners shall:

(a) Appoint a public guardian, who serves at the pleasure of the board, for a term of 4 years from the day of appointment;

(b) Designate an elected or appointed county officer as ex officio public guardian;

(c) Pursuant to the mechanism set forth in NRS 244.1507, designate another county officer to execute the powers and duties of the public guardian;

(d) Except in a county whose population is 100,000 or more, contract with a private professional guardian to act as public guardian; or

(e) Contract with the board of county commissioners of a neighboring county in the same judicial district to designate as public guardian the public guardian of the neighboring county.

3. The compensation of a public guardian appointed or designated pursuant to subsection 2 must be fixed by the board of county commissioners and paid out of the county general fund.

4. As used in this section, "private professional guardian" ~~means a person who receives compensation for services as a guardian to three or more wards who are not related to the person by blood or marriage. The~~ has the meaning ascribed to it in NRS 159.024, except that the term does not include:

~~(a) A governmental agency.~~

~~(b)~~ A banking corporation, as defined in NRS 657.016, or an organization permitted to act as a fiduciary pursuant to NRS 662.245 if it is appointed as guardian of an estate only.

~~(c)~~ (b) A trust company, as defined in NRS 669.070.

~~(d)~~ (c) A court-appointed attorney licensed to practice law in this State.

(d) A trustee under a deed of trust.

(e) A fiduciary under a court trust.

Sec. 52.5. NRS 432B.4665 is hereby amended to read as follows:

432B.4665 1. The court may, upon the filing of a petition pursuant to NRS 432B.466, appoint a person as a guardian for a child if:

(a) The court finds:

(1) That the proposed guardian is suitable and is not disqualified from guardianship pursuant to NRS ~~159.059;~~ 159.061;

(2) That the child has been in the custody of the proposed guardian for 6 months or more pursuant to a determination by a court that the child was in need of protection, unless the court waives this requirement for good cause shown;

(3) ~~Except as otherwise provided in subsection 3, that~~ That the proposed guardian has complied with the requirements of chapter 159 of NRS; and

(4) That the burden of proof set forth in chapter 159 of NRS for the appointment of a guardian for a child has been satisfied;

(b) The child consents to the guardianship, if the child is 14 years of age or older; and

(c) The court determines that the requirements for filing a petition pursuant to NRS 432B.466 have been satisfied.

2. A guardianship established pursuant to this section:

(a) Provides the guardian with the powers and duties provided in NRS 159.079, and subjects the guardian to the limitations set forth in NRS 159.0805;

(b) Is subject to the provisions of NRS 159.065 to 159.076, inclusive, and 159.185 to 159.199, inclusive;

(c) Provides the guardian with sole legal and physical custody of the child;

(d) Does not result in the termination of parental rights of a parent of the child; and

(e) Does not affect any rights of the child to inheritance, a succession or any services or benefits provided by the Federal Government, this state or an agency or political subdivision of this state.

~~12. The court may appoint as a guardian for a child pursuant to this section for not more than 6 months a person who does not satisfy the residency requirement set forth in subsection 5 of NRS 159.059 if the court determines that appointing such a person is necessary to facilitate the permanent placement of the child.~~

Sec. 52.7. NRS 159.059 is hereby repealed.

Sec. 53. 1. This section and sections 2 to 19, inclusive, and 21 to ~~52.~~ 52.7, inclusive, of this act become effective:

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

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

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

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

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

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

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

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

4. Sections 20 and 21 of this act expire by limitation 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures

under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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

TEXT OF REPEALED SECTION

159.059 Qualifications of guardian. 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. 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.