

**Amendment No. 328**

Senate Amendment to Senate Bill No. 262 (BDR 13-643)

**Proposed by:** Senate Committee on Judiciary

**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

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.

WBD/NCA



Date: 4/19/2015

S.B. No. 262—Revises provisions relating to guardians. (BDR 13-643)



SENATE BILL NO. 262—SENATORS HARRIS, FARLEY, DENIS; GOICOECHEA, GUSTAVSON, LIPPARELLI, MANENDO, SEGERBLOM AND SETTELMEYER

MARCH 13, 2015

JOINT SPONSORS: ASSEMBLYMEN STEWART, NELSON, SILBERKRAUS; AND  
WOODBURY

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to guardians. (BDR 13-643)

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

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

AN ACT relating to guardians; adding provisions governing the appointment of certain preferred persons as guardians for adult wards; ~~providing an exception to the residency requirements for certain guardians under certain circumstances;~~ revising provisions relating to the appointment of a guardian for a minor; revising requirements governing eligibility to utilize a public guardian; ~~revising provisions concerning attorneys retained by a public guardian; revising provisions concerning reimbursement by a public guardian to the county for expenses relating to a ward;~~ and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law 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 1 and ~~4~~ 6.7** of this bill ~~follow the~~ revise the circumstances under which a court is authorized to appoint a nonresident as a guardian for an adult ward. ~~under certain circumstances.~~ Section 6.3 eliminates existing limitations on the authority of a court to appoint a nonresident as a guardian for a minor ward. **Section 1** 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 1** 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 1** does not allow the court to give preference to a nominated person or relative who is a resident over a nominated person or relative who is 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 1** requires the court to order the nonresident guardian to designate a registered agent in this State.

~~Under existing law, the board of county commissioners of each county must establish the office of public guardian to serve as the guardian for certain wards. (NRS 253.150-253.250) During the 74th Session of the Legislature in 2007, the Legislature passed Senate Bill No. 157 (S.B. 157), which made certain changes to the provisions governing the appointment and duties of public guardians. (Chapter 467, Statutes of Nevada 2007, p. 2485) Sections 3-6 of this bill reenact certain provisions governing public guardians that were removed by S.B. 157. Specifically, existing:~~

Sections 1 and 2.5 of this bill increase the frequency with which a guardian must file with the court a report regarding the finances and well-being of a ward from annually to semiannually.

Section 2.3 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 2.1-2.9 and 6.3 of this act make conforming changes to reflect the changes made by sections 1 and 6.7.

~~Existing law provides that a ward is eligible to have a public guardian appointed as his or her permanent or general individual guardian if: (1) there is no relative or friend able and willing to be appointed as a guardian for the ward; or (2) the court removes a private professional guardian previously appointed for the ward. (NRS 253.200) Section 3 of this bill reenacts a provision removed by S.B. 157 which provides that a ward is also eligible to have a public guardian appointed if the ward is unable to pay for a private guardian.~~

~~Existing law authorizes a public guardian to employ an attorney to assist the public guardian when necessary in the proper administration of a guardianship, and it also authorizes, but does not require, a public guardian to rotate this employment among the attorneys practicing in the county who are qualified and willing to accept such employment. (NRS 253.215) Section 4 of this bill reenacts a provision removed by S.B. 157 which requires a public guardian to rotate this employment among the attorneys practicing in the county who are qualified and willing to accept such employment.~~

~~Existing law provides that the reasonable value of a public guardian's services rendered without cost to a ward must be allowed as a claim against the estate of the ward upon the approval of the court while the ward is still living. (NRS 253.240) Existing law also allows a county to advance to a public guardian the necessary expenses incurred by the public guardian during a guardianship, and if a county provides such an advance, the public guardian must reimburse the county from the assets of the ward's estate as soon as the assets become available while the ward is still living. (NRS 253.242) Sections 5 and 6 of this bill reenact a provision removed by S.B. 157 which requires a public guardian to wait until after the ward's death to reimburse the county from the assets of the ward's estate.~~ provides for the appointment of a public guardian for an incompetent adult who failed to nominate a person for appointment as guardian while he or she was still competent or if the nominated person is not suitable or willing to serve as guardian.

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

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

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

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

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

*2. In determining whether a nominated person or relative is qualified and suitable to be appointed as guardian for an adult, the court shall consider, without limitation:*

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

*(b) Whether the nominated person or relative 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;*

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

*(d) Whether the nominated person or relative is incompetent or has a disability; and*

*(e) Whether the nominated person or relative has been convicted in this State or any other jurisdiction of a ~~felony of moral turpitude, a crime involving domestic violence, a crime involving the exploitation of a child or a crime against an older person or a vulnerable person,~~ felony, unless the court determines that any such conviction should not disqualify the person or relative from serving as guardian for the adult.*

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

*(a) A person whom the adult nominated 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.*

*(b) A person whom the adult requested 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. ~~Unless such a person presents clear and convincing evidence of extraordinary circumstances that he or she is more qualified and suitable to serve as guardian for the adult than a person described in paragraph (a).~~*

*4. Subject to the preferences set forth in subsections 1 and 3, the court shall appoint as guardian the qualified person who is most suitable and is willing to serve. In determining who is most suitable, the court shall give consideration, among other factors, to:*

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

(b) Any nomination or request for the appointment as guardian by a relative.  
(c) The relationship by blood, adoption, marriage or domestic partnership of the proposed guardian to the adult. 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 any relative in the following order of preference:

- (1) A spouse or domestic partner.
- (2) A child.
- (3) A parent.
- (4) Any relative with whom the adult has resided for more than 6 months before the filing of the petition or any relative who has a power of attorney executed by the adult while competent.

(5) Any relative currently acting as agent.

~~(6)~~ A sibling.

~~(6)~~ (7) A grandparent or grandchild.

~~(7)~~ (8) An uncle, aunt, niece, nephew or cousin.

~~(8)~~ (9) Any other person recognized to be in a familial relationship with the adult.

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

(e) Any request for the appointment of any other interested person that the court deems appropriate, including, without limitation, a person who is not a relative and who has a power of attorney executed by the adult while competent.

5. The court may appoint as guardian a nominated person or relative who ~~does not satisfy the residency requirement set forth in subsection 5 of NRS 159.059.~~ is not a resident of this State. The court shall not give preference to a resident of this State over a nonresident if the court determines that:

(a) The nonresident is more qualified and suitable to serve as guardian; and  
(b) The distance from the proposed guardian's place of residence and the adult's place of residence will not affect the quality of the guardianship or the ability of the proposed guardian to make decisions and respond quickly to the needs of the adult because:

(1) A person or care provider in this State is providing continuing care and supervision for the adult;

(2) The adult is in a secured residential long-term care facility in this State; or

(3) Within 30 days after the appointment of the proposed guardian, the proposed guardian will move to this State or the adult will move to the proposed guardian's state of residence.

6. If the court appoints a nonresident as guardian to the adult:

(a) The jurisdictional requirements of NRS 159.1991 to 159.2029, inclusive, must be met;

(b) The court shall order the guardian to designate a registered agent in this State in the same manner as a represented entity pursuant to chapter 77 of NRS; and

(c) The court may require the guardian to complete any available training concerning guardianships pursuant to NRS 159.0592, in this State or in the state of residence of the guardian, regarding:

(1) The legal duties and responsibilities of the guardian pursuant to this chapter;

(2) The preparation of records and the filing of ~~annual~~ semiannual reports regarding the finances and well-being of the adult required pursuant to NRS 159.073;

(3) The rights of the adult;

(4) The availability of local resources to aid the adult; and  
(5) Any other matter the court deems necessary or prudent.  
7. If the court finds that there is no suitable nominated person or relative to appoint as guardian, the court may appoint as guardian:  
(a) The public guardian of the county where the adult resides if:  
(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:

(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. 2. ~~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 section 1 of this act, 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. 2.1. NRS 159.0595 is hereby amended to read as follows:**

159.0595 1. A private professional guardian, if a person, must be qualified to serve as a guardian pursuant to ~~NRS 159.0591~~ **section 1 of this act if the ward is an adult or NRS 159.061 if the ward is a minor** and must be a certified guardian.

2. A private professional guardian, if an entity, must be qualified to serve as a guardian pursuant to ~~NRS 159.0591~~ **section 1 of this act if the ward is an adult** and must have a certified guardian involved in the day-to-day operation or management of the entity.

3. A private professional guardian shall, at his or her own cost and expense:

(a) Undergo a background investigation which requires the submission of a complete set of his or her fingerprints to the Central Repository for Nevada Records of Criminal History and to the Federal Bureau of Investigation for their respective reports; and

(b) Present the results of the background investigation to the court upon request.

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. 2.3. NRS 159.061 is hereby amended to read as follows:**

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

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

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

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

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

neglect or exploitation of a child ~~or~~, his or her spouse, his or her parent or any other adult; and

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

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

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

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

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

~~(d) (c)~~ The relationship by blood ~~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~~ aunt, ~~adult niece or adult nephew.~~

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

~~(e)~~ (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. ~~If the court finds that there is no suitable person to appoint as guardian pursuant to subsection 3, 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 459.0595.~~ As used in this section, "agency which provides child welfare services" has the meaning ascribed to it NRS 432B.030.

**Sec. 2.5. NRS 159.073 is hereby amended to read as follows:**

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

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

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



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

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

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

(1) A summary of the duties, functions and responsibilities of a guardian, including, without limitation, the duty to:

(I) Act in the best interest of the ward at all times.

(II) Provide the ward with medical, surgical, dental, psychiatric, psychological, hygienic or other care and treatment as needed, with adequate food and clothing and with safe and appropriate housing.

(III) Protect, preserve and manage the income, assets and estate of the ward and utilize the income, assets and estate of the ward solely for the benefit of the ward.

(IV) Maintain the assets of the ward in the name of the ward or the name of the guardianship. Except when the spouse of the ward is also his or her guardian, the assets of the ward must not be commingled with the assets of any third party.

(V) Notify the court, all interested parties, the trustee, and named executor or appointed personal representative of the estate of the ward of the death of the ward within 30 days after the death.

(2) A summary of the statutes, regulations, rules and standards governing the duties of a guardian.

(3) A list of actions regarding the ward that require the prior approval of the court.

(4) A statement of the need for accurate recordkeeping and the filing of ~~annual~~ semiannual reports with the court regarding the finances and well-being of the ward.

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

**Sec. 2.7. 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 1 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. 2.9. 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 1 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. 3. NRS 253.200 is hereby amended to read as follows:**

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

2. A resident of Nevada is eligible to have the public guardian of a county appointed as his or her permanent or general individual guardian if the proposed ward is a resident of that county and:

(a) The proposed ward has no **nominated person**, relative or friend suitable and willing to serve as his or her guardian; **or**

(b) ~~The proposed ward lacks sufficient assets to provide the requisite compensation to a private guardian or~~

~~(c)~~ The proposed ward has a guardian who the court determines must be removed pursuant to NRS 159.185.

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

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

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

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

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

7. If a person other than the public guardian served as temporary guardian before the appointment of the public guardian as permanent or general guardian, the temporary guardian must file an accounting and report with the court in which the petition for the appointment of a public guardian was filed within 30 days of the appointment of the public guardian as permanent or general guardian.

8. In addition to NRS 159.099, a county is not liable on any written or oral contract entered into by the public guardian of the county for or on behalf of a ward.

9. For the purposes of this section:

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

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

***10. As used in this section, "nominated person" has the meaning ascribed to it in section 1 of this act.***

**Sec. 4. [NRS 253.215 is hereby amended to read as follows:**

~~253.215 1. When necessary for the proper administration of a guardianship, a public guardian may:~~

~~(a) Retain an attorney to assist him or her if the attorney practices law in the county and is qualified by experience and willing to serve [or] and, if the public guardian retains an attorney for this purpose, the public guardian shall, in successive guardianships, rotate [this] his or her employment of an attorney among attorneys who practice law in the county and who are qualified by experience and willing to serve; or~~

~~(b) Upon approval of the board of county commissioners, obtain assistance from the office of the district attorney of the county.~~

~~2. Any attorney's fee must be paid from the assets of the ward.] (Deleted by amendment.)~~

**Sec. 5. [NRS 253.240 is hereby amended to read as follows:**

~~253.240 1. The reasonable value of a public guardian's services rendered without cost to a ward [shall] must be allowed as a claim against the estate of the ward only upon the [approval of the court.] death of the ward.~~

~~2. Money received in payment of a claim against the estate of the ward [shall] must be deposited by the public guardian to the credit of the county general fund or any other county fund, as determined by the board of county commissioners.] (Deleted by amendment.)~~

**Sec. 6. [NRS 253.243 is hereby amended to read as follows:**

~~253.243 1. A public guardian may file with the board of county commissioners a request for an advance of money to pay necessary expenses~~

1 incurred, or to be incurred, by the public guardian during a guardianship. The board  
2 may approve or deny the request. If the board approves the request, the board shall  
3 determine the amount to be advanced and advance that amount to the public  
4 guardian.

5 ~~2. The board of county commissioners of any county may establish a~~  
6 ~~revolving fund to be used to provide advances to the public guardian pursuant to~~  
7 ~~subsection 1. If the board has established a revolving fund pursuant to this~~  
8 ~~subsection, the board shall pay any advance approved pursuant to subsection 1 from~~  
9 ~~the revolving fund to the extent that there is sufficient money in the revolving fund~~  
10 ~~to pay the advance. After the money in the revolving fund has been exhausted, the~~  
11 ~~board shall pay any advance, or any part of an advance, approved by the board from~~  
12 ~~the general fund of the county. If the board has not established a revolving fund~~  
13 ~~pursuant to this subsection, the board shall pay any advance approved pursuant to~~  
14 ~~subsection 1 from the general fund of the county.~~

15 ~~3. The public guardian [must] shall reimburse the county for any advance~~  
16 ~~provided pursuant to subsection 1 from the assets of the estate of the ward as soon~~  
17 ~~as, and to the extent that, the assets become available [.] upon the death of the~~  
18 ~~ward. If the board of county commissioners has established a revolving fund~~  
19 ~~pursuant to subsection 2, the board shall deposit in the revolving fund the money~~  
20 ~~obtained from a reimbursement provided pursuant to this subsection. If the board~~  
21 ~~has not established a revolving fund pursuant to subsection 2, the board shall~~  
22 ~~deposit in the general fund of the county the money obtained from a reimbursement~~  
23 ~~provided pursuant to this subsection.] (Deleted by amendment.)~~

24 **Sec. 6.3. NRS 432B.4665 is hereby amended to read as follows:**

25 432B.4665 1. The court may, upon the filing of a petition pursuant to NRS  
26 432B.466, appoint a person as a guardian for a child if:

27 (a) The court finds:

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

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

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

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

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

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

41 2. A guardianship established pursuant to this section:

42 (a) Provides the guardian with the powers and duties provided in NRS  
43 159.079, and subjects the guardian to the limitations set forth in NRS 159.0805;

44 (b) Is subject to the provisions of NRS 159.065 to 159.076, inclusive, and  
45 159.185 to 159.199, inclusive;

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

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

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

52 ~~3. The court may appoint as a guardian for a child pursuant to this section for~~  
53 ~~not more than 6 months a person who does not satisfy the residency requirement set~~

1 ~~forth in subsection 5 of NRS 159.059 if the court determines that appointing such a~~  
2 ~~person is necessary to facilitate the permanent placement of the child.]~~

3 *Sec. 6.7. NRS 159.059 is hereby repealed.*

4 *Sec. 7. This act becomes effective on July 1, 2015.*

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### TEXT OF REPEALED SECTION

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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,
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.