

ASSEMBLY BILL NO. 314—COMMITTEE ON JUDICIARY

MARCH 17, 2017

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to estates.
(BDR 2-738)

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 estates; revising provisions relating to property exempt from a writ of execution; revising provisions relating to nonprobate transfers of property; establishing provisions relating to community property or separate property transferred into an irrevocable trust; revising certain definitions applicable to the administration of an estate; revising provisions relating to the revival of a will and the proving of a will as lost or destroyed; revising provisions concerning contests of wills; authorizing the extension of the period during which an agreement between an heir finder and apparent heir is void and unenforceable; revising provisions concerning special administrators and personal representatives; revising provisions relating to the filing of an inventory and appraisement or record of value of the assets of a decedent; revising provisions governing the presentation of claims against and the sale of real property of an estate; revising provisions relating to the period within which certain actions are performed; authorizing notice to be served by certified mail; revising provisions concerning fiduciaries; revising various provisions governing trusts and trustees; authorizing a person to provide for the burial or cremation of his or her remains in a will or durable power of attorney; and providing other matters properly relating thereto.



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Legislative Counsel's Digest:

Existing law provides that money not exceeding \$500,000 and nonexempt personal property not exceeding \$1,000 in value that is held in a certain manner is exempt from a writ of execution. (NRS 21.090) **Section 1** of this bill increases the amount of money to \$1,000,000, revises provisions relating to the manner in which such money is held and increases the amount of nonexempt personal property to \$10,000.

Existing law establishes provisions relating to nonprobate transfers of property. (NRS 111.700-111.815) **Section 2** of this bill revises the definition of the term "nonprobate transfer" to exclude certain property, and **section 3** of this bill revises provisions relating to: (1) the procedure to proceed against a nonprobate transferee if there are insufficient assets in the estate to pay a valid creditor; and (2) the property against which a creditor does not have a claim to include certain property transferred pursuant to a beneficiary designation by a decedent.

Section 4 of this bill authorizes a trust instrument to provide that community property or separate property transferred into an irrevocable trust of which both spouses are current permissible beneficiaries remains community property or separate property, as applicable, during the marriage, and **section 5** of this bill specifies that in granting a divorce, a court is required to make an equal distribution of community property transferred into such an irrevocable trust to the extent practicable.

Sections 6 and 7 of this bill revise the definitions of the terms "expenses of administration" and "fiduciary," respectively, for the purposes of the administration of an estate.

Section 8 of this bill revises provisions relating to the revival of a first will after the destruction, cancellation or revocation of a second will, and **section 9** of this bill revises provisions relating to the proving of a will as a lost or destroyed will.

Sections 10 and 41 of this bill revise: (1) provisions relating to no-contest clauses in a will or trust, respectively; and (2) the circumstances under which the share of a devisee or beneficiary, respectively, must not be reduced or eliminated. **Section 11** of this bill revises provisions relating to the issuance of a citation after a petition is filed that contests the admission of a will to probate or the validity of such a will.

Section 12 of this bill authorizes a court to extend the period during which an agreement between an heir finder and apparent heir is void and unenforceable.

Section 13 of this bill revises provisions relating to the appointment of a special administrator for the estate of a decedent. **Sections 14 and 15** of this bill revise provisions relating to the giving of a bond by a special administrator or personal representative, respectively.

Existing law establishes provisions governing the administration of estates by personal representatives. (NRS 143.010-143.210) **Sections 16-19** of this bill revise various provisions governing personal representatives. **Section 20** of this bill revises provisions relating to the issuance of a temporary order to restrain a personal representative from performing certain actions and the setting of a hearing on the matter.

Existing law establishes provisions relating to the filing by a personal representative of an inventory and appraisal or record of value of all the estate of the decedent that has come to the possession or knowledge of the personal representative. (Chapter 144 of NRS) **Section 21** of this bill extends the time within which a personal representative is required to file such documents and authorizes the filing of a redacted inventory in certain circumstances, and **section 22** of this bill authorizes the personal representative to file a verified record of value in lieu of the appraisal in certain circumstances. **Section 23** of this bill revises provisions relating to the satisfaction of the fees and costs incurred by a person seeking to enforce the filing of an inventory.



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Existing law establishes provisions governing the presentation of claims against the estate of a decedent. (NRS 147.010-147.190) **Section 24** of this bill authorizes any creditor of a decedent to petition the court for a determination of the validity of a rejected claim in lieu of bringing suit against the personal representative. **Section 25** of this bill authorizes the holder of any lien against the property of an estate to bring an action enforcing the lien against the property in certain circumstances.

Existing law establishes provisions governing the sale of real property of an estate. (NRS 148.220-148.320) **Sections 26-28** of this bill revise provisions relating to such a sale.

Sections 29-33 of this bill revise provisions relating to a court's jurisdiction over and trustees of a testamentary trust.

Section 34 of this bill provides that the specified period within which an act authorized or required to be performed pursuant to the provisions of law concerning notices, transfers, orders, procedure and appeals relating to the wills and estates of deceased persons may be extended in certain circumstances or the court may authorize a person to perform the act after the specified period expires if the failure to perform the action was the result of excusable neglect. **Section 35** of this bill authorizes notice to any person in the matter of an estate or testamentary trust to be served by certified mail.

Existing law establishes miscellaneous provisions relating to fiduciaries. (NRS 162.260-162.310) **Section 36** of this bill authorizes a fiduciary to withhold from the beneficiaries of an estate or trust any property that the fiduciary determines may be subject to claims of offset held by the fiduciary in his or her fiduciary capacity, and **section 37** of this bill authorizes a fiduciary to establish a trust for certain purposes.

Existing law establishes various provisions governing trusts. (Chapter 163 of NRS) **Section 39** of this bill authorizes a trust to be created for a noncharitable purpose without a definite ascertainable beneficiary or for a noncharitable but otherwise valid purpose. Under **section 39**, the noncharitable purpose must be stated with sufficient particularity in the trust instrument to enable a finder of fact to ascertain the noncharitable purpose for which the trust was created. **Section 40** of this bill establishes provisions relating to the effect of the divorce, annulment of the marriage or termination of the domestic partnership of the descendant of a settlor on the former spouse or domestic partner of the descendant. **Sections 42-44** of this bill revise provisions relating to the creation of a trust.

Section 46 of this bill authorizes a court to enter a temporary order restraining a trustee from performing specified acts in certain circumstances, and **section 47** of this bill provides that a trustee is entitled to be exonerated or reimbursed for a tort committed in the administration of a trust in certain circumstances. **Section 49** of this bill revises provisions relating to the power of a trustee to appoint property of one trust to a second trust. **Section 50** of this bill establishes the circumstances in which a trustee is authorized to include capital gains from the sale or exchange of capital assets in distributable net income for purposes of taxation. **Section 53** of this bill requires a trustee to provide a list of the assets of the trust estate to an interested person upon a written request in certain circumstances.

Sections 51 and 52 of this bill revise provisions governing jurisdiction over a trust.

Section 54 of this bill authorizes a person who is 18 years of age or older and who wishes to authorize another person to order the burial or cremation of his or her human remains in the event of his or her death to do so by including such an authorization in a validly executed will or durable power of attorney.



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

Section 1. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed \$12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed \$4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section ~~6(a)(1)~~ **206(a)(1)** of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.



(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed \$550,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.



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(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed ~~+\$500,000~~ *\$1,000,000* in present value, held in:

(1) An individual retirement arrangement which conforms with *or is maintained pursuant to* the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A ~~+~~, *including, without limitation, an inherited individual retirement arrangement;*

(2) A written simplified employee pension plan which conforms with *or is maintained pursuant to* the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408 ~~+~~, *including, without limitation, an inherited simplified employee pension plan;*

(3) A cash or deferred arrangement *plan* which is ~~+~~ qualified ~~plan~~ *and maintained* pursuant to the Internal Revenue Code ~~+~~, *including, without limitation, an inherited cash or deferred arrangement plan;*

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is ~~+~~ qualified ~~plan~~ *and maintained* pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the



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1 payment of such support and maintenance to which the former
2 spouse may be entitled.

3 (u) Payments, in an amount not to exceed \$16,150, received as
4 compensation for personal injury, not including compensation for
5 pain and suffering or actual pecuniary loss, by the judgment debtor
6 or by a person upon whom the judgment debtor is dependent at the
7 time the payment is received.

8 (v) Payments received as compensation for the wrongful death
9 of a person upon whom the judgment debtor was dependent at the
10 time of the wrongful death, to the extent reasonably necessary for
11 the support of the judgment debtor and any dependent of the
12 judgment debtor.

13 (w) Payments received as compensation for the loss of future
14 earnings of the judgment debtor or of a person upon whom the
15 judgment debtor is dependent at the time the payment is received, to
16 the extent reasonably necessary for the support of the judgment
17 debtor and any dependent of the judgment debtor.

18 (x) Payments received as restitution for a criminal act.

19 (y) Payments received pursuant to the federal Social Security
20 Act, including, without limitation, retirement and survivors'
21 benefits, supplemental security income benefits and disability
22 insurance benefits.

23 (z) Any personal property not otherwise exempt from execution
24 pursuant to this subsection belonging to the judgment debtor,
25 including, without limitation, the judgment debtor's equity in any
26 property, money, stocks, bonds or other funds on deposit with a
27 financial institution, not to exceed ~~\$1,000~~ \$10,000 in total value,
28 to be selected by the judgment debtor.

29 (aa) Any tax refund received by the judgment debtor that is
30 derived from the earned income credit described in section 32 of the
31 Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided
32 pursuant to a state law.

33 (bb) Stock of a corporation described in subsection 2 of NRS
34 78.746 except as set forth in that section.

35 (cc) Regardless of whether a trust contains a spendthrift
36 provision:

37 (1) A distribution interest in the trust as defined in NRS
38 163.4155 that is a contingent interest, if the contingency has not
39 been satisfied or removed;

40 (2) A distribution interest in the trust as defined in NRS
41 163.4155 that is a discretionary interest as described in NRS
42 163.4185, if the interest has not been distributed;

43 (3) A power of appointment in the trust as defined in NRS
44 163.4157 regardless of whether the power has been exercised;



(4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been exercised; and

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been exercised.

(dd) If a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a mandatory interest as described in NRS 163.4185, if the interest has not been distributed; and

(2) Notwithstanding a beneficiary's right to enforce a support interest, a distribution interest in the trust as defined in NRS 163.4155 that is a support interest as described in NRS 163.4185, if the interest has not been distributed.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291 and 422A.325.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 2. NRS 111.721 is hereby amended to read as follows:

111.721 1. "Nonprobate transfer" means a transfer of any property or interest in property from a decedent to one or more other persons by operation of law or by contract that is effective upon the death of the decedent and includes, without limitation:

(a) A transfer by right of survivorship, including a transfer pursuant to subsection 1 of NRS 115.060;



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(b) A transfer by deed upon death pursuant to NRS 111.655 to 111.699, inclusive; and

(c) A security registered as transferable on the death of a person.

2. The term does not include:

(a) Property that is subject to administration in probate of the estate of the decedent;

(b) Property that is set aside, without administration, pursuant to NRS 146.070; ~~and~~

(c) Property transferred pursuant to an affidavit as authorized by NRS 146.080 ~~and~~ ; and

(d) Property transferred from an estate or a trust pursuant to a power of appointment granted under a will or trust, as applicable.

Sec. 3. NRS 111.779 is hereby amended to read as follows:

111.779 1. Except as otherwise provided in NRS 21.090 and other applicable law, a transferee of a nonprobate transfer is liable to the probate estate of the decedent for allowed claims against that decedent's probate estate to the extent the estate is insufficient to satisfy those claims.

2. The liability of a nonprobate transferee may not exceed the value of nonprobate transfers received or controlled by that transferee.

3. Nonprobate transferees are liable for the insufficiency described in subsection 1 in the following order of priority:

(a) A transferee specified in the decedent's will or any other governing instrument as being liable for such an insufficiency, in the order of priority provided in the will or other governing instrument;

(b) The trustee of a trust serving as the principal nonprobate instrument in the decedent's estate plan as shown by its designation as devisee of the decedent's residuary estate or by other facts or circumstances, to the extent of the value of the nonprobate transfer received or controlled; and

(c) Other nonprobate transferees, in proportion to the values received.

4. Unless otherwise provided by the trust instrument, interests of beneficiaries in all trusts incurring liabilities under this section abate as necessary to satisfy the liability, as if all the trust instruments were a single will and the interests were devised under it.

5. If a nonprobate transferee is a spouse or a minor child, the nonprobate transferee may petition the court to be excluded from the liability imposed by this section as if the nonprobate property received by the spouse or minor child were part of the decedent's estate. Such a petition may be made pursuant to the applicable provisions of chapter 146 of NRS, including, without limitation, the



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1 provisions of NRS 146.010, NRS 146.020 without regard to the
2 filing of an inventory and subsection 2 of NRS 146.070.

3 6. A provision made in one instrument may direct the
4 apportionment of the liability among the nonprobate transferees
5 taking under that or any other governing instrument. If a provision
6 in one instrument conflicts with a provision in another, the later one
7 prevails.

8 7. Upon due notice to a nonprobate transferee, the liability
9 imposed by this section is enforceable in probate proceedings in this
10 State, whether or not the transferee is located in this State.

11 8. If a probate proceeding is pending ~~H~~ *at the time of filing*
12 *and it has been determined by a final order issued by the probate*
13 *court that there are insufficient assets to pay a valid creditor*, a
14 proceeding under this section may be commenced by *one of the*
15 *following persons:*

16 (a) *The personal representative of the decedent's estate . ~~for, if~~*
17 *~~the personal representative declines to do so, by a~~ A personal*
18 *representative who declines in good faith to commence a*
19 *proceeding incurs no personal liability for declining.*

20 (b) *A creditor ~~in the name~~ of the ~~decedent's~~ estate, if the*
21 *personal representative has declined or refused to commence an*
22 *action within 30 days after receiving a written demand by a*
23 *creditor. Such demand must identify the nonprobate transfers*
24 *known to the creditor. If the creditor is unaware of any*
25 *nonprobate transfers, in the probate proceeding, the creditor may,*
26 *pursuant to NRS 155.170, obtain discovery, perpetuate testimony*
27 *or conduct examinations in any manner authorized by law or by*
28 *the Nevada Rules of Civil Procedure to ascertain whether any*
29 *nonprobate transfers exist. If the creditor is unable to identify any*
30 *nonprobate transfers within a reasonable time after conducting*
31 *discovery, the creditor may not proceed under this section. If a*
32 *creditor commences an action under this section:*

33 (1) *The creditor must proceed* at the expense of the creditor
34 and not of the estate.

35 (2) If a creditor successfully establishes an entitlement to
36 payment under this section ~~H~~ *and collects nonprobate transfers*,
37 the court must order the reimbursement of the costs reasonably
38 incurred by the creditor, including attorney's fees, from the
39 transferee from whom the payment is to be made, subject to the
40 limitations of subsection 2, or from the estate as a cost of
41 administration, or partially from each, as the court deems just. ~~A~~
42 *personal representative who declines in good faith to commence a*
43 *requested proceeding incurs no personal liability for declining.*



9. If a probate proceeding is not pending, a proceeding under this section may be commenced as a civil action by a creditor at the expense of the creditor.

10. If a proceeding is commenced pursuant to this section, it must be commenced:

(a) ~~[As to a creditor whose claim was allowed after proceedings challenging disallowance of the claim by the personal representative.]~~ *If a probate proceeding is pending in which notice to creditors has been given at the time of filing a proceeding under this section:*

(1) As to a creditor whose claim was properly and timely filed, allowed by the personal representative or partially allowed by the personal representative, and accepted by the creditor pursuant to NRS 147.160, within 60 days after the probate court enters an order confirming the amount of payment of the approved claim that is final and no longer subject to reconsideration or appeal or within 1 year after the decedent's death, whichever is later.

(2) As to a creditor:

(I) Whose claim was rejected by the personal representative, partially allowed by the personal representative and rejected by the creditor pursuant to NRS 147.160, or deemed rejected by the personal representative pursuant to NRS 147.110;

(II) Who adjudicated the creditor's claims in the proper court or by a summary adjudication; and

(III) Who obtained a favorable final judgment on its claim from the proper court,

↳ within 60 days after the probate court enters an order confirming the amount of payment of the approved claim that is final and no longer subject to reconsideration or appeal or within 1 year after the decedent's death, whichever is later.

*(b) If an action had been commenced against the decedent before the decedent's death, the creditor receives a judgment against the decedent's estate and the creditor has filed a proper and timely creditor's claim against the estate, within 60 days after ~~[final allowance of the claim by]~~ the probate court *enters an order confirming the amount of payment of the adjudicated claim that is final and no longer subject to reconsideration or appeal* or within 1 year after the decedent's death, whichever is later.*

~~*(b) As to a creditor whose claim against the decedent is being adjudicated in a separate proceeding that is still pending 1 year after the decedent's death, within 60 days after the adjudication of the claim in favor of the creditor is final and no longer subject to reconsideration or appeal.]*~~

(c) As to the recovery of benefits paid for Medicaid, within 3 years after the decedent's death.



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(d) As to all other creditors, within 1 year after the decedent's death.

11. Unless a written notice asserting that a decedent's probate estate is nonexistent or insufficient to pay allowed claims and statutory allowances has been received from the decedent's personal representative, the following rules apply:

(a) Payment or delivery of assets by a financial institution, registrar or other obligor to a nonprobate transferee in accordance with the terms of the governing instrument controlling the transfer releases the obligor from all claims for amounts paid or assets delivered.

(b) A trustee receiving or controlling a nonprobate transfer is released from liability under this section with respect to any assets distributed to the trust's beneficiaries. Each beneficiary to the extent of the distribution received becomes liable for the amount of the trustee's liability attributable to assets received by the beneficiary.

12. Notwithstanding any provision of this section to the contrary:

(a) A creditor has no claim against ~~property~~ :

(1) Property transferred pursuant to a power of appointment exercised by a decedent unless it was exercisable in favor of the decedent or the decedent's estate.

(2) Property transferred pursuant to a beneficiary designation by a decedent which transfers money held by any of the following:

(I) An individual retirement arrangement which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A, including, without limitation, an inherited individual retirement arrangement;

(II) A written simplified employee pension plan which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408, including, without limitation, an inherited simplified employee pension plan;

(III) A cash or deferred arrangement plan which is qualified and maintained pursuant to the Internal Revenue Code, including, without limitation, an inherited cash or deferred arrangement plan;

(IV) A trust forming part of a stock bonus, pension or profit-sharing plan which is qualified and maintained pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and



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1 (V) *A trust forming part of a qualified tuition program*
2 *pursuant to chapter 353B of NRS, any applicable regulations*
3 *adopted pursuant to chapter 353B of NRS and section 529 of the*
4 *Internal Revenue Code, 26 U.S.C. § 529, unless the money is*
5 *deposited after the entry of a judgment against the purchaser or*
6 *account owner or the money will not be used by any beneficiary to*
7 *attend a college or university.*

8 (3) *Property transferred pursuant to a beneficiary*
9 *designation by a decedent which transfers money, benefits or*
10 *privileges that accrue in any manner out of life insurance.*

11 (4) *Proceeds of any wages of the decedent which were*
12 *exempt from execution during the decedent's lifetime pursuant to*
13 *paragraph (g) of subsection 1 of NRS 21.090.*

14 (5) *A trust, a beneficial interest of the decedent under a*
15 *trust or amount payable from a trust if the trust was created by*
16 *someone other than the decedent, except to enforce a valid*
17 *assignment of the decedent's beneficial interest under a trust that*
18 *is not a spendthrift trust.*

19 (6) *An irrevocable trust or amounts payable from a trust if*
20 *the trust was properly created as a valid spendthrift trust under*
21 *chapter 166 of NRS, except with respect to property transferred to*
22 *the trust by the decedent to the extent permitted under subsections*
23 *1, 2 and 3 of NRS 166.170.*

24 (b) A purchaser for value of property or a lender who acquires a
25 security interest in the property from a beneficiary of a nonprobate
26 transfer after the death of the owner, in good faith:

27 (1) Takes the property free of any claims or of liability to the
28 owner's estate, creditors of the owner's estate, persons claiming
29 rights as beneficiaries under the nonprobate transfer or heirs of the
30 owner's estate, in absence of actual knowledge that the transfer was
31 improper; and

32 (2) Has no duty to verify sworn information relating to the
33 nonprobate transfer. The protection provided by this subparagraph
34 applies to information that relates to the ownership interest of the
35 beneficiary in the property and the beneficiary's right to sell,
36 encumber and transfer good title to a purchaser or lender and does
37 not relieve a purchaser or lender from the notice imparted by
38 instruments of record respecting the property.

39 13. As used in this section, "devise" has the meaning ascribed
40 to it in NRS 132.095.

41 **Sec. 4.** Chapter 123 of NRS is hereby amended by adding
42 thereto a new section to read as follows:

43 **1. A trust instrument may provide that community property or**
44 **separate property transferred into an irrevocable trust of which**
45 **both spouses are current permissible beneficiaries remains**



1 *community property or separate property, as applicable, during the*
2 *marriage. Any community property or separate property,*
3 *including, without limitation, any income, appreciation and*
4 *proceeds thereof, that is distributed or withdrawn from a trust*
5 *instrument containing such a provision remains community*
6 *property or separate property, as applicable.*

7 *2. The provisions of this section do not affect the character of*
8 *community property or separate property that is transferred into a*
9 *trust in any manner other than as described in this section.*

10 **Sec. 5.** NRS 125.150 is hereby amended to read as follows:

11 125.150 Except as otherwise provided in NRS 125.155 and
12 125.165, and unless the action is contrary to a premarital agreement
13 between the parties which is enforceable pursuant to chapter 123A
14 of NRS:

15 1. In granting a divorce, the court:

16 (a) May award such alimony to the wife or to the husband, in a
17 specified principal sum or as specified periodic payments, as
18 appears just and equitable; and

19 (b) Shall, to the extent practicable, make an equal disposition of
20 the community property of the parties, *including, without*
21 *limitation, any community property transferred into an irrevocable*
22 *trust pursuant to section 4 of this act over which the court*
23 *acquires jurisdiction pursuant to NRS 164.010*, except that the
24 court may make an unequal disposition of the community property
25 in such proportions as it deems just if the court finds a compelling
26 reason to do so and sets forth in writing the reasons for making the
27 unequal disposition.

28 2. Except as otherwise provided in this subsection, in granting
29 a divorce, the court shall dispose of any property held in joint
30 tenancy in the manner set forth in subsection 1 for the disposition of
31 community property. If a party has made a contribution of separate
32 property to the acquisition or improvement of property held in joint
33 tenancy, the court may provide for the reimbursement of that party
34 for his or her contribution. The amount of reimbursement must not
35 exceed the amount of the contribution of separate property that can
36 be traced to the acquisition or improvement of property held in joint
37 tenancy, without interest or any adjustment because of an increase in
38 the value of the property held in joint tenancy. The amount of
39 reimbursement must not exceed the value, at the time of the
40 disposition, of the property held in joint tenancy for which the
41 contribution of separate property was made. In determining whether
42 to provide for the reimbursement, in whole or in part, of a party who
43 has contributed separate property, the court shall consider:

44 (a) The intention of the parties in placing the property in joint
45 tenancy;



(b) The length of the marriage; and

(c) Any other factor which the court deems relevant in making a just and equitable disposition of that property.

➤ As used in this subsection, "contribution" includes, without limitation, a down payment, a payment for the acquisition or improvement of property, and a payment reducing the principal of a loan used to finance the purchase or improvement of property. The term does not include a payment of interest on a loan used to finance the purchase or improvement of property, or a payment made for maintenance, insurance or taxes on property.

3. A party may file a postjudgment motion in any action for divorce, annulment or separate maintenance to obtain adjudication of any community property or liability omitted from the decree or judgment as the result of fraud or mistake. A motion pursuant to this subsection must be filed within 3 years after the discovery by the aggrieved party of the facts constituting the fraud or mistake. The court has continuing jurisdiction to hear such a motion and shall equally divide the omitted community property or liability between the parties unless the court finds that:

(a) The community property or liability was included in a prior equal disposition of the community property of the parties or in an unequal disposition of the community property of the parties which was made pursuant to written findings of a compelling reason for making that unequal disposition; or

(b) The court determines a compelling reason in the interests of justice to make an unequal disposition of the community property or liability and sets forth in writing the reasons for making the unequal disposition.

➤ If a motion pursuant to this subsection results in a judgment dividing a defined benefit pension plan, the judgment may not be enforced against an installment payment made by the plan more than 6 years after the installment payment.

4. Except as otherwise provided in NRS 125.141, whether or not application for suit money has been made under the provisions of NRS 125.040, the court may award a reasonable attorney's fee to either party to an action for divorce.

5. In granting a divorce, the court may also set apart such portion of the husband's separate property for the wife's support, the wife's separate property for the husband's support or the separate property of either spouse for the support of their children as is deemed just and equitable.

6. In the event of the death of either party or the subsequent remarriage of the spouse to whom specified periodic payments were to be made, all the payments required by the decree must cease, unless it was otherwise ordered by the court.



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7. If the court adjudicates the property rights of the parties, or an agreement by the parties settling their property rights has been approved by the court, whether or not the court has retained jurisdiction to modify them, the adjudication of property rights, and the agreements settling property rights, may nevertheless at any time thereafter be modified by the court upon written stipulation signed and acknowledged by the parties to the action, and in accordance with the terms thereof.

8. If a decree of divorce, or an agreement between the parties which was ratified, adopted or approved in a decree of divorce, provides for specified periodic payments of alimony, the decree or agreement is not subject to modification by the court as to accrued payments. Payments pursuant to a decree entered on or after July 1, 1975, which have not accrued at the time a motion for modification is filed may be modified upon a showing of changed circumstances, whether or not the court has expressly retained jurisdiction for the modification. In addition to any other factors the court considers relevant in determining whether to modify the order, the court shall consider whether the income of the spouse who is ordered to pay alimony, as indicated on the spouse's federal income tax return for the preceding calendar year, has been reduced to such a level that the spouse is financially unable to pay the amount of alimony the spouse has been ordered to pay.

9. In addition to any other factors the court considers relevant in determining whether to award alimony and the amount of such an award, the court shall consider:

- (a) The financial condition of each spouse;
- (b) The nature and value of the respective property of each spouse;
- (c) The contribution of each spouse to any property held by the spouses pursuant to NRS 123.030;
- (d) The duration of the marriage;
- (e) The income, earning capacity, age and health of each spouse;
- (f) The standard of living during the marriage;
- (g) The career before the marriage of the spouse who would receive the alimony;
- (h) The existence of specialized education or training or the level of marketable skills attained by each spouse during the marriage;
- (i) The contribution of either spouse as homemaker;
- (j) The award of property granted by the court in the divorce, other than child support and alimony, to the spouse who would receive the alimony; and
- (k) The physical and mental condition of each party as it relates to the financial condition, health and ability to work of that spouse.



10. In granting a divorce, the court shall consider the need to grant alimony to a spouse for the purpose of obtaining training or education relating to a job, career or profession. In addition to any other factors the court considers relevant in determining whether such alimony should be granted, the court shall consider:

(a) Whether the spouse who would pay such alimony has obtained greater job skills or education during the marriage; and

(b) Whether the spouse who would receive such alimony provided financial support while the other spouse obtained job skills or education.

11. If the court determines that alimony should be awarded pursuant to the provisions of subsection 10:

(a) The court, in its order, shall provide for the time within which the spouse who is the recipient of the alimony must commence the training or education relating to a job, career or profession.

(b) The spouse who is ordered to pay the alimony may, upon changed circumstances, file a motion to modify the order.

(c) The spouse who is the recipient of the alimony may be granted, in addition to any other alimony granted by the court, money to provide for:

(1) Testing of the recipient's skills relating to a job, career or profession;

(2) Evaluation of the recipient's abilities and goals relating to a job, career or profession;

(3) Guidance for the recipient in establishing a specific plan for training or education relating to a job, career or profession;

(4) Subsidization of an employer's costs incurred in training the recipient;

(5) Assisting the recipient to search for a job; or

(6) Payment of the costs of tuition, books and fees for:

(I) The equivalent of a high school diploma;

(II) College courses which are directly applicable to the recipient's goals for his or her career; or

(III) Courses of training in skills desirable for employment.

12. For the purposes of this section, a change of 20 percent or more in the gross monthly income of a spouse who is ordered to pay alimony shall be deemed to constitute changed circumstances requiring a review for modification of the payments of alimony. As used in this subsection, "gross monthly income" has the meaning ascribed to it in NRS 125B.070.

Sec. 6. NRS 132.135 is hereby amended to read as follows:

132.135 "Expenses of administration" means funeral expenses and expenses actually and properly incurred by a personal



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representative in the administration of an estate, *including, without limitation, expenses incurred for the maintenance or preservation of the assets of an estate*, plus the fees of the personal representative, any attorney retained by the personal representative and any other consultant engaged by him or her.

Sec. 7. NRS 132.145 is hereby amended to read as follows:

132.145 1. "Fiduciary" includes , *without limitation*, a personal representative, guardian , ~~and~~ trustee ~~under any trust, whether express, implied, resulting or constructive, bailee, conservator, curator, receiver or trustee in bankruptcy or an attorney in fact, assignee for the benefit of creditors or agent. The term does not include:~~

(a) *A trust protector or trust adviser, except under the terms and conditions expressly provided in the written instrument appointing the trust protector or trust adviser; or*

(b) *A holder of a power of appointment under the terms of a trust.*

2. *As used in this section:*

(a) *"Trust adviser" has the meaning ascribed to it in NRS 163.5545.*

(b) *"Trust protector" has the meaning ascribed to it in NRS 163.5547.*

Sec. 8. NRS 133.130 is hereby amended to read as follows:

133.130 If, after the making of any will, the testator executes a *valid* second will ~~that~~ *that includes provisions revoking the first will*, the destruction, cancellation or revocation of the second will does not revive the first will ~~unless~~ *unless* :

1. *It appears by the terms of the revocation or the manner in which the revocation occurred* that it was the intention to revive and give effect to the first will ; ~~that~~ or ~~unless, after~~

2. *After* the destruction, cancellation or revocation, the first will is reexecuted.

Sec. 9. NRS 136.240 is hereby amended to read as follows:

136.240 1. The petition for the probate of a lost or destroyed will must include a copy of the will, or if no copy is available state, or be accompanied by a written statement of, the testamentary words, or the substance thereof.

2. If offered for probate, a lost or destroyed will must be proved in the same manner as other wills are proved under this chapter.

3. In addition, no will may be proved as a lost or destroyed will unless *its provisions are clearly and distinctly proved by two or more credible witnesses and* it is ~~proved~~ :

(a) *Proved* to have been in *legal* existence at the death of the person whose will it is claimed to be ~~that~~ *and has not otherwise been*



1 *revoked or destroyed without the knowledge, consent or*
2 *ratification of such person; or ~~it is shown~~*

3 *(b) Shown* to have been fraudulently destroyed in the lifetime of
4 that person . ~~It nor unless its provisions are clearly and distinctly~~
5 ~~proved by at least two credible witnesses.~~

6 4. The testimony of each witness must be reduced to writing,
7 signed by the witness and filed, and is admissible in evidence in any
8 contest of the will if the witness has died or permanently moved
9 from the State.

10 5. Notwithstanding any provision of this section to the
11 contrary:

12 (a) The production of a person's lost or destroyed will, whose
13 primary beneficiary is a nontestamentary trust established by the
14 person and in existence at his or her death, creates a rebuttable
15 presumption that the will had not been revoked.

16 (b) If the proponent of a lost or destroyed will makes a prima
17 facie showing that it was more likely than not left unrevoked by the
18 person whose will it is claimed to be before his or her death, then
19 the will must be admitted to probate in absence of an objection. If
20 such prima facie showing has been made, the court shall accept a
21 copy of such a will as sufficient proof of the terms thereof without
22 requiring further evidence in the absence of any objection.

23 6. If the will is established, its provisions must be set forth
24 specifically in the order admitting it to probate, or a copy of the will
25 must be attached to the order.

26 **Sec. 10.** NRS 137.005 is hereby amended to read as follows:

27 137.005 1. Except as otherwise provided in subsections 3 and
28 4, a no-contest clause in a will must be enforced by the court ~~It~~
29 *because public policy favors enforcing the intent of the testator.*
30 *However, because public policy does not favor forfeitures, a no-*
31 *contest clause must be strictly construed by the court and must not*
32 *be extended beyond the plain meaning of the express provisions of*
33 *the will.*

34 2. A no-contest clause must be construed to carry out the
35 testator's intent ~~It. Except~~ to the extent ~~the will is vague or~~
36 ~~ambiguous.~~ *such intent is clear and unambiguous. No* extrinsic
37 evidence is ~~not~~ admissible to establish the testator's intent
38 concerning the no-contest clause. The provisions of this subsection
39 do not prohibit ~~such~~ *extrinsic* evidence from being admitted for
40 any other purpose authorized by law. Except as otherwise provided
41 in subsections 3 and 4, a devisee's share may be reduced or
42 eliminated under a no-contest clause based upon conduct that is set
43 forth by the testator in the will, including, without limitation, any
44 testamentary trust established in the will. Such conduct may include,
45 without limitation:



- 1 (a) Conduct other than formal court action; and
- 2 (b) Conduct which is unrelated to the will itself, including,
- 3 without limitation:
 - 4 (1) The commencement of civil litigation against the
 - 5 testator's probate estate or family members;
 - 6 (2) Interference with the administration of a trust or a
 - 7 business entity;
 - 8 (3) Efforts to frustrate the intent of the testator's power of
 - 9 attorney; and
 - 10 (4) Efforts to frustrate the designation of beneficiaries related
 - 11 to a nonprobate transfer by the testator.
- 12 3. Notwithstanding any provision to the contrary in the will, a
- 13 devisee's share must not be reduced or eliminated ~~if~~ *because of*
- 14 *any action taken by* the devisee ~~seeks~~ *seeking* only to:
 - 15 (a) Enforce the terms of the will or any document referenced in
 - 16 or affected by the will;
 - 17 (b) Enforce the devisee's legal rights in the probate proceeding;
 - 18 ~~or~~
 - 19 (c) Obtain ~~the~~ court ~~ruling~~ *instruction* with respect to the
 - 20 *proper administration of the estate or the* construction or legal
 - 21 effect of the will ~~or the provisions thereof; or~~
 - 22 *(d) Enforce the fiduciary duties of the personal representative.*
- 23 4. Notwithstanding any provision to the contrary in the will, a
- 24 devisee's share must not be reduced or eliminated under a no-
- 25 contest clause because the devisee institutes legal action seeking to
- 26 invalidate a will if the legal action is instituted *and maintained* in
- 27 good faith and based on probable cause that would have led a
- 28 reasonable person, properly informed and advised, to conclude that
- 29 the will is invalid.
- 30 5. *As to any testamentary trust, the testator is the settlor.*
- 31 *Unless the will expressly provides otherwise, a no-contest clause in*
- 32 *a will applies to a testamentary trust created under that will and*
- 33 *the provisions of NRS 163.00195 apply to that trust.*
- 34 6. As used in this section, "no-contest clause" means one or
- 35 more provisions in a will that express a directive to reduce or
- 36 eliminate the share allocated to a devisee or to reduce or eliminate
- 37 the distributions to be made to a devisee if the devisee takes action
- 38 to frustrate or defeat the testator's intent as expressed in the will.
- 39 **Sec. 11.** NRS 137.090 is hereby amended to read as follows:
 - 40 137.090 Upon filing ~~the~~ a petition ~~and within the time~~
 - 41 ~~allowed for filing the petition,~~ *pursuant to NRS 137.080, the court*
 - 42 *shall order the issuance of* a citation , ~~must be issued,~~
 - 43 the personal representative and to all the devisees mentioned in the
 - 44 will, and the heirs, so far as known to the petitioner, including
 - 45 minors and incapacitated persons, or the personal representative of



1 any such person who is dead, directing them to plead to the contest
2 within 30 days after service of the citation.

3 **Sec. 12.** NRS 139.135 is hereby amended to read as follows:

4 139.135 1. An agreement between an heir finder and an
5 apparent heir, the primary purpose of which is to locate, recover or
6 assist in the recovery of an estate for which the public administrator
7 has petitioned for letters of administration, is void and
8 unenforceable if the agreement is entered into during the period
9 beginning with the death of the person whose estate is in probate
10 until 90 days thereafter. *Upon a showing of good cause, the court*
11 *may extend such a period until 180 days after the death of the*
12 *person.*

13 2. As used in this section, "heir finder" means a person who,
14 for payment of a fee, assignment of a portion of any interest in a
15 decedent's estate or other consideration, provides information,
16 assistance, forensic genealogy research or other efforts related to
17 another person's right to or interest in a decedent's estate. The term
18 does not include:

19 (a) A person acting in the capacity of a personal representative
20 or guardian ad litem;

21 (b) A person appointed to perform services by a probate court in
22 which a proceeding in connection with a decedent's estate is
23 pending; or

24 (c) An attorney providing legal services to a decedent's family
25 member if the attorney has not agreed to pay to any other person a
26 portion of the fees received from the family member or the family
27 member's interest in the decedent's estate.

28 **Sec. 13.** NRS 140.010 is hereby amended to read as follows:

29 140.010 The court shall appoint a special administrator to
30 collect and take charge of the estate of the decedent, in whatever
31 county or counties the estate may be found, and to exercise such
32 other powers as may be necessary to preserve the estate ~~+~~ *or any*
33 *rights or privileges belonging to the decedent:*

34 1. If there is a delay in granting letters testamentary or letters of
35 administration, from any cause.

36 2. If letters are granted irregularly.

37 3. If no sufficient bond is filed as required by the court.

38 4. If no petition is filed for letters.

39 5. If an executor or administrator dies or is suspended or
40 removed, and the circumstances of the estate require the immediate
41 appointment of a personal representative.

42 6. If there may be no assets subject to administration but good
43 cause exists for the appointment of a personal representative of the
44 decedent.

45 7. In any other proper case.



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1 **Sec. 14.** NRS 140.030 is hereby amended to read as follows:

2 140.030 Before letters issue to a person as a special
3 administrator, the person must:

4 1. Give bond in such sum as the court directs, with sureties to
5 the satisfaction of the court, conditioned for the faithful performance
6 of the duties, unless the court waives bond ~~it~~, *with or without*
7 *conditions, or dispenses the bond and alternatively requires the*
8 *establishment of a blocked account;* and

9 2. Take the usual oath of office.

10 **Sec. 15.** NRS 142.020 is hereby amended to read as follows:

11 142.020 1. The requirement of a bond of a personal
12 representative is discretionary with the court. Whether a bond is
13 expressly required by the will or not, the court may:

14 (a) Require a bond if it determines a bond is desirable; or

15 (b) Dispense with the requirement of a bond if ~~it~~:

16 (1) *The court* determines a bond is unnecessary ~~it~~; or

17 (2) *The assets of the estate are deposited with a financial*
18 *institution pursuant to subsection 3.*

19 2. The bond must be conditioned so that the personal
20 representative will faithfully execute the duties of the office
21 according to law, and the bond must be filed by the clerk.

22 3. Personal assets of an estate may be deposited with a
23 domestic credit union or other domestic financial institution upon
24 such terms as may be prescribed by order of the court having
25 jurisdiction of the estate. The deposit is subject to the further order
26 of the court. ~~{The bond of the personal representative may be~~
27 ~~reduced accordingly.}~~ The personal representative shall file with the
28 clerk the acknowledgment of an authorized representative of the
29 financial institution that holds the assets deposited, which may be in
30 the following form:

31
32 **PROOF OF BLOCKED ACCOUNT**

33
34 The undersigned affirms that
35 as personal representative of the estate of
36 deceased, has established an account, number, entitled
37 ".....," in the amount of \$.....

38 The undersigned acknowledges that this account bears a
39 blocked/frozen designation, and that no money may be
40 removed without first presenting an order from the court
41 authorizing the withdrawal.

42 Dated on (date).

By:

Title:



4. During the pendency of the administration, any person, including a creditor, having an interest in an estate whose value exceeds \$10,000 may file a petition requesting that the personal representative submit additional bond. Upon the filing of the petition, the clerk shall set it for hearing, and the petitioner shall give notice for the period and in the manner provided in NRS 155.010. Upon hearing the petition, the court may require the personal representative to file additional bond in the amount of the claim of the petitioner, unless it determines that bond should be dispensed with or set in a different amount.

5. The amount of the bond is the estimated value of all personal property plus income for 1 year from both real and personal property, unless the amount of the bond is expressly mentioned in the will, changed by the court or required pursuant to subsection 4.

6. If a banking corporation, as defined in NRS 657.016, or trust company, as defined in NRS 669.070, doing business in this State is appointed the personal representative of the estate of a decedent, no bond is required unless otherwise specifically required by the court.

Sec. 16. NRS 143.020 is hereby amended to read as follows:

143.020 Except as otherwise provided in NRS 143.030 and 146.010, a personal representative has a right to the possession of all the real, as well as personal, property of the decedent and may receive the rents and profits of the property until the estate is settled, or until delivered over by order of the court to the heirs or devisees, and shall make a reasonable effort to ~~keep~~ *preserve and maintain all such property, including, without limitation, by keeping* in good tenantable repair all houses, buildings and appurtenances thereon which are under the control of the personal representative.

Sec. 17. NRS 143.035 is hereby amended to read as follows:

143.035 1. A personal representative shall use reasonable diligence in performing the duties of the personal representative and in pursuing the administration of the estate.

2. ~~IA~~ *In the absence of pending litigation or a contested proceeding involving the estate, a* personal representative in charge of an estate that has not been closed shall:

(a) Within 6 months after the personal representative's appointment, where no federal estate tax return is required to be filed for the estate; or

(b) Within ~~15~~ *18* months after the personal representative's appointment, where a federal estate tax return is required to be filed for the estate,

➤ file with the court a report explaining why the estate has not been closed.



3. Upon receiving the report, the clerk shall set a time and place for a hearing of the report. The personal representative shall send a copy of the report and shall give notice of the hearing, for the period and in the manner provided in NRS 155.010, to:

(a) Each person whose interest is affected as an heir or devisee; and

(b) The Department of Health and Human Services, if the Department has filed a claim against the estate.

4. At the hearing, the court shall determine whether or not the personal representative has used reasonable diligence in the administration of the estate, and if the personal representative has not, the court may:

(a) Subject to the provisions of NRS 143.037:

(1) Prescribe the time within which the estate must be closed;

or

(2) Allow the personal representative additional time for closing and order a subsequent report; or

(b) Revoke the letters of the personal representative, appoint a successor and prescribe a reasonable time within which the successor shall close the estate.

Sec. 18. NRS 143.037 is hereby amended to read as follows:

143.037 1. Except as otherwise provided in this section, a personal representative shall close an estate within 18 months after appointment.

2. If ~~that~~ *an estate is not closed within 18 months after the appointment of a personal representative and:*

(a) A claim against the estate is in litigation or in summary determination pursuant to subsection 5 of NRS 145.060 ~~that~~, *a petition for determination of the validity of the claim has been filed pursuant to* subsection 2 of NRS 147.130 or the amount of federal estate tax has not been determined, ~~the court, upon petition of~~ a devisee, creditor or heir ~~shall~~ *may file a petition seeking an* order that:

~~(a)~~ (I) A certain amount of money, or certain other assets, be retained by the personal representative to:

~~(1)~~ (I) Satisfy the claim or tax; and

~~(2)~~ (II) Pay any fees or costs related to the claim or tax, including fees for appraisals, attorney's fees and court costs; and

~~(b)~~ (2) The remainder of the estate be distributed.

~~3. If a~~

(b) A contest of the will or a proceeding to determine heirship is pending, *a devisee, creditor or heir may file a petition requesting* the court which appointed the personal representative ~~to~~

~~(a) Shall~~ *to* order that ~~that~~:



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1 (1) *A* certain amount of money, or certain other assets, be
2 retained and the remainder of the estate distributed; or

3 ~~[(b) May, for good cause shown, order that the]~~

4 (2) *The* entire distributable estate be retained pending
5 disposition of the contest or proceeding.

6 3. *A court shall not enter an order distributing the assets of*
7 *an estate pursuant to this section if such a distribution will result*
8 *in there being insufficient assets to enable the personal*
9 *representative to discharge any tax liability, claims of creditors,*
10 *administrative expenses or any other just obligation of the estate.*

11 Sec. 19. NRS 143.050 is hereby amended to read as follows:

12 143.050 1. Except as otherwise provided in NRS 143.520,
13 after notice given as provided in NRS 155.010 or in such other
14 manner as the court directs, the court may authorize the personal
15 representative to continue the operation of the decedent's business
16 to such an extent and subject to such restrictions as may seem to the
17 court to be for the best interest of the estate and any interested
18 persons.

19 2. *The provisions of subsection 1 do not apply to passive*
20 *investments or the exercise of any shareholder or membership*
21 *rights to which the personal representative has succeeded.*

22 3. *Unless specifically authorized by the will or by the court,*
23 *the personal representative may not receive any separate*
24 *compensation for continuing the operation of the decedent's*
25 *business pursuant to this section.*

26 Sec. 20. NRS 143.165 is hereby amended to read as follows:

27 143.165 1. On petition *or ex parte application* of an
28 interested person, the court by temporary order *, with or without*
29 *bond*, may restrain a personal representative from performing
30 specified acts of administration, disbursement or distribution, or
31 exercising any powers or discharging any duties of the office, or
32 enter any other order to secure proper performance of the duties of
33 the office. ~~[(b) Notwithstanding any other provision of law,~~ if it
34 appears to the court that the personal representative otherwise may
35 take some action that would jeopardize unreasonably the interest of
36 the petitioner or of some other interested person ~~[(b) or the estate, the~~
37 *court may enter the temporary order.* A person with whom the
38 personal representative may transact business may be made a party
39 to the temporary order.

40 2. The matter must be set for hearing within 10 days after entry
41 of the temporary order *, unless the parties otherwise agree [(b) , or on*
42 *a date the court otherwise determines is in the best interest of the*
43 *estate.* Notice as the court directs must be given by the petitioner to
44 the personal representative and the attorney of record of the personal



representative, if any, and to any other party named as a party in the temporary order.

Sec. 21. NRS 144.010 is hereby amended to read as follows:

144.010 1. Except as otherwise provided in this ~~subsection,~~
section, every personal representative shall ~~make~~ *prepare* and file with the clerk ~~1. a true inventory and appraisal or record of value of all the assets of the decedent that have come to the possession or knowledge of the personal representative,~~ within ~~60~~ 120 days after ~~appointment,~~ *the issuance of letters of administration*, unless the court extends the time ~~1. a true inventory and appraisal or record of value of all the estate of the decedent that has come to the possession or knowledge of the personal representative,~~ *for good cause shown.* The requirement of *preparing and* filing an inventory or ~~the requirement of filing~~ an appraisal or *a* verified record of value, or both, may be waived by the unanimous written consent of all interested persons.

2. ~~The~~ *Notwithstanding the provisions of this subsection, an interested person may provide a written request to the personal representative at any time 60 days or more after the issuance of letters of administration which seeks a list of the assets of the estate known to the personal representative. The personal representative shall provide such information to the requesting interested party within 10 days after receipt of the written request.*

3. *Unless an interested heir requested and was provided a list of assets pursuant to subsection 2, the personal representative, within 10 days after filing the inventory with the clerk, shall mail a copy to all the interested heirs of an intestate estate, or to the devisees of a testate estate, or to both interested heirs and devisees, if a contest of the will of the decedent is pending. Proof of the mailing of the copies must be made and filed in the proceeding.*

4. *Notwithstanding the requirements set forth in this section, a personal representative may file a redacted inventory to protect the decedent or his or her estate or an interested person. Such an inventory may redact any account numbers, social security numbers and values. Upon request by the court or an interested person, the personal representative shall make the full inventory without redaction available for inspection.*

5. *This section must not be construed to interfere with the authority of a court to order a personal representative to provide the court with information sufficient to identify the assets of an estate and the value thereof that is subject to probate administration, including, without limitation, requiring the personal representative to submit an inventory to the court in camera, as the court deems necessary and appropriate.*



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Sec. 22. NRS 144.020 is hereby amended to read as follows:

144.020 1. A personal representative may engage a qualified and disinterested appraiser to ascertain the fair market value, as of the decedent's death, of any asset the value of which is subject to reasonable doubt. Different persons may be engaged to appraise different kinds of assets included in the estate.

2. Any such appraiser is entitled to a reasonable compensation for the appraisal and may be paid the compensation by the personal representative out of the estate at any time after completion of the appraisal.

3. Except as otherwise provided in NRS 144.010, if there is no reasonable doubt as to the value of assets, such as money, deposits in banks or credit unions, bonds, policies of life insurance, or securities for money or evidence of indebtedness, and the asset is equal in value to cash, the personal representative shall file a verified record of value in lieu of the appraisal.

4. If it appears beyond reasonable doubt that there will be no need to sell assets of the estate to pay the debts of the estate or expenses of administration, or to divide assets for distribution in kind to the devisees or heirs, the personal representative may petition the court for an order allowing a verified record of value to be filed in lieu of the appraisal or, if no interested person is prejudiced thereby, an order waiving the requirement for filing an appraisal or verified record of value, and the court may enter such an order with or without notice.

5. If the personal representative reasonably believes that the value of the household furniture and furnishings of the estate is less than \$30,000, the personal representative may file a verified record of value in lieu of the appraisal. Notwithstanding the provisions of this subsection, any interested person may petition the court to require the personal representative to obtain an appraisal on some or all of such household furniture and furnishings. Upon a showing of good cause, the court shall order the appraisal.

Sec. 23. NRS 144.080 is hereby amended to read as follows:

144.080 If a personal representative neglects or refuses to file the inventory within the time prescribed by law or extended by the court, the court may, upon such notice as it deems appropriate ~~to~~ **revoke** :

1. **Revoke** the letters of the personal representative ~~and~~ ;

2. *Order that the fees and costs incurred by the interested person seeking to enforce the provisions of this subsection be satisfied by the bond of the personal representative or, in the absence of a bond, be paid personally by the personal representative; or*



* A B 3 1 4 R 1 *

1 **3. Hold** the personal representative ~~is~~ liable on the bond of
2 the personal representative for any injuries sustained by the estate
3 through his or her ~~neglect~~ **gross negligence or willful**
4 **misconduct.**

5 **Sec. 24.** NRS 147.130 is hereby amended to read as follows:

6 147.130 1. If a claim is rejected by the personal
7 representative or the court, in whole or in part, the claimant must be
8 immediately notified by the personal representative, and the
9 claimant must bring suit in the proper court against the personal
10 representative within 60 days after the notice or file a timely petition
11 for ~~summary~~ **determination of the validity of the claim** pursuant to
12 subsection 2, whether the claim is due or not, or the claim is forever
13 barred. A claimant must be informed of the rejection of the claim by
14 written notice forwarded to the claimant's mailing address by
15 registered or certified mail.

16 2. If a claim ~~filed by the Department of Health and Human~~
17 ~~Services~~ is rejected by the personal representative, ~~the Director of~~
18 ~~the Department~~ **a creditor** may, within 20 days after receipt of the
19 written notice of rejection, petition the court for ~~summary~~
20 **determination of the validity of the claim** ~~in lieu of bringing suit~~
21 **against the personal representative pursuant to subsection 1.** A
22 petition for ~~summary~~ **determination of the validity of the claim**
23 must be filed with the clerk, who shall set the petition for hearing,
24 and notice must be given for the period and in the manner required
25 by NRS 155.010. Allowance of the claim by the court is sufficient
26 evidence of its correctness, and it must be paid as if previously
27 allowed by the personal representative.

28 3. In any action brought upon a claim rejected in whole or in
29 part by the personal representative, if the personal representative
30 resides out of the State or has departed from the State, or cannot,
31 after due diligence, be found within the State, or conceals himself or
32 herself to avoid the service of summons, the summons, together
33 with a copy of the complaint, must be mailed directly to the last
34 address given by the personal representative, with a copy to the
35 attorney for the estate, and proof of the mailing must be filed with
36 the clerk where the administration of the estate is pending. This
37 service is the equivalent of personal service upon the personal
38 representative, but he or she has 30 days from the date of service
39 within which to answer.

40 4. If the personal representative defaults after such service, the
41 default is sufficient grounds for his or her removal as personal
42 representative by the court without notice. Upon petition and notice,
43 in the manner provided for an application for letters of
44 administration, an administrator or an administrator with the will
45 annexed must be appointed by the court and, upon his or her



* A B 3 1 4 R 1 *

1 qualification as such, letters of administration or letters of
2 administration with the will annexed must be issued.

3 **Sec. 25.** NRS 147.150 is hereby amended to read as follows:

4 147.150 No holder of a claim against an estate may maintain
5 an action thereon unless the claim is first filed with the clerk and the
6 claim is rejected in whole or in part, except in the following case:
7 An action may be brought by the holder of a *lien or* mortgage to
8 enforce the *lien or* mortgage against the property of the estate
9 subject thereto if all recourse against any other property of the estate
10 is expressly waived in the complaint.

11 **Sec. 26.** NRS 148.220 is hereby amended to read as follows:

12 148.220 1. Notice of the time and place of sale of real
13 property must be published in a newspaper published in the county
14 in which the property, or some portion of the property, is located, if
15 there is one so published, and if not, then in such paper as the court
16 directs, for 2 weeks, being three publications, 1 week apart, before
17 the day of sale or, in the case of a private sale, before the day on or
18 after which the sale is to be made. For good cause shown, the court
19 may decrease the number of publications to one and shorten the time
20 for publication to a period not less than 8 days.

21 2. ~~If the~~ *The court may waive the requirement of*
22 *publication if:*

23 (a) *The personal representative is the sole devisee or heir of the*
24 *estate, or if all devisees or heirs of the estate consent in writing* ~~the~~
25 ~~court may waive the requirement of publication.~~ ;

26 (b) *The personal representative provides proof that the*
27 *property has been publicly listed in a public property listing service*
28 *for a period of not less than 30 days; or*

29 (c) *The estate is subject to a lien or mortgage on the property*
30 *in excess of the value of the real property and the estate has*
31 *entered into an agreement with the holder of the lien or mortgage*
32 *to waive the deficiency and accept the net sales proceeds.*

33 3. If it appears from the inventory and appraisalment that the
34 value of the property to be sold does not exceed \$5,000, the personal
35 representative may waive the requirement of publication and, in lieu
36 thereof, post a notice of the time and place of sale in three of the
37 most public places in the county in which the property, or some
38 portion of the property, is located, for 2 weeks before the day of the
39 sale or, in the case of a private sale, before the day on or after which
40 the sale is to be made.

41 4. The property proposed to be sold must be described with
42 common certainty in the notice.

43 **Sec. 27.** NRS 148.260 is hereby amended to read as follows:

44 148.260 1. Except as otherwise provided in subsection 2,
45 ~~no~~ a sale of real property at a private sale ~~may~~ *must not* be



1 confirmed by the court unless the court is satisfied that the sum
2 offered represents the fair market value of the property sold ~~to, nor~~
3 ~~unless~~ and the real property has been appraised within 1 year
4 before the time of sale. If ~~it~~ the property has not been appraised, a
5 new appraisement must be ~~had,~~ performed, as in the case of an
6 original appraisement of an estate, ~~to, This may be done~~ at any time
7 before the sale or confirmation ~~thereof~~ of the property.

8 2. *The court may waive the requirement of an appraisement:*

9 (a) *For good cause shown; or*

10 (b) If the personal representative is the sole devisee or heir of
11 the estate, or if all devisees or heirs consent in writing to sale
12 without an appraisal, ~~the requirement of an appraisal may be~~
13 ~~dispensed with and~~, in which case the personal representative may
14 rely on the assessed value of the property for taxation in obtaining
15 confirmation of the sale.

16 **Sec. 28.** NRS 148.270 is hereby amended to read as follows:

17 148.270 1. At the hearing, the court shall consider the
18 necessity for the sale, or the advantage, benefit and interest of
19 the estate in having the sale made, and must examine the return and
20 the evidence in relation to the sale.

21 2. If it appears to the court that good reason existed for the
22 sale, that the sale was legally made and fairly conducted, and
23 complied with the requirements of NRS 148.260, that the sum bid is
24 not disproportionate to the value, and it does not appear that a sum
25 exceeding the bid by at least 5 percent if the bid is not more than
26 \$100,000, or by at least \$5,000 if the bid is \$100,000 or more, may
27 be obtained, the court shall enter an order confirming the sale and
28 directing conveyances to be executed. Otherwise, it shall vacate the
29 sale. If the court directs that the property be resold, notice must be
30 given and the sale in all respects conducted as if no previous sale
31 had taken place.

32 3. If a written offer of 5 percent or \$5,000 more in amount than
33 that named in the return is made to the court by a responsible
34 person, as provided in subsection 2, and the bid complies with all
35 provisions of the law, the court may accept the offer and confirm the
36 sale to that person, order a new sale or conduct a public auction in
37 open court.

38 4. If a higher bid is received at the time of a hearing to confirm
39 the sale, the court may continue the hearing if it finds that the
40 original bidder was not notified of the hearing and might desire to
41 increase his or her bid, but failure to notify the original bidder or to
42 continue the hearing is not grounds to void an order confirming a
43 sale.

44 5. *If the court accepts a higher bid at the time of a hearing to*
45 *confirm the sale, the court shall confirm the original purchase*



1 *contract and include in the order confirming the sale the*
2 *substitution of the new sale price and purchaser. The order*
3 *confirming the sale is a sufficient addendum to the original*
4 *contract to allow escrow to close.*

5 *6. Notwithstanding the provisions of this section, if the estate*
6 *is subject to a lien or mortgage that exceeds the value of the*
7 *property and the estate has entered into an agreement with the*
8 *holder of the lien or mortgage to waive any deficiency as to other*
9 *estate property and accept the net sales proceeds as full*
10 *satisfaction of the lien or mortgage, the court shall confirm the*
11 *sale without accepting bids on the property.*

12 **Sec. 29.** NRS 153.020 is hereby amended to read as follows:

13 153.020 1. If a ~~trust~~ life estate or estate for years is created
14 by or under any will to continue after distribution ~~of the estate,~~
15 the court does not lose jurisdiction of the estate, *life estate or estate*
16 *for years* by final distribution ~~of the estate,~~ but retains
17 jurisdiction of it until the distribution of the residue *of the life estate*
18 *or estate for years* to those entitled to it ~~the~~ *is complete. Proof*
19 *of distribution of the residue* may be made upon petition of ~~the~~
20 ~~trustee, his or her successor in interest or of~~ any person entitled to
21 share in the distribution ~~of the life estate or estate for years,~~
22 *which terminates the jurisdiction of the court upon decree of the*
23 *court. The court does not retain jurisdiction over a testamentary*
24 *trust created by or under a will after distribution of that portion of*
25 *the estate to such a testamentary trust.*

26 2. *Notwithstanding the provisions of subsection 1, before the*
27 *entry of an order granting final distribution of the estate, the court*
28 *may consider a petition filed by the trustee or any beneficiary of*
29 *the testamentary trust requesting the court to retain jurisdiction of*
30 *the testamentary trust and, upon good cause shown, the court may*
31 *order such continued jurisdiction. Such a petition must be filed*
32 *with the clerk of the court before the hearing on the petition for*
33 *final distribution of the estate and must be served on all interested*
34 *persons in accordance with NRS 155.010.*

35 3. *This section must not be construed to limit the ability of an*
36 *interested person to subsequently seek submission of a*
37 *testamentary trust to the jurisdiction of the court pursuant to*
38 *NRS 164.010.*

39 **Sec. 30.** NRS 153.031 is hereby amended to read as follows:

40 153.031 1. A trustee or beneficiary may petition the court
41 regarding any aspect of the affairs of the trust, including:

- 42 (a) Determining the existence of the trust;
43 (b) Determining the construction of the trust instrument;
44 (c) Determining the existence of an immunity, power, privilege,
45 right or duty;



- (d) Determining the validity of a provision of the trust;
 - (e) Ascertaining beneficiaries and determining to whom property is to pass or be delivered upon final or partial termination of the trust, to the extent not provided in the trust instrument;
 - (f) Settling the accounts and reviewing the acts of the trustee, including the exercise of discretionary powers;
 - (g) Instructing the trustee;
 - (h) ~~Compelling~~ *Subject to the requirements of chapter 165 of NRS, compelling* the trustee to report information about the trust or account, to the beneficiary;
 - (i) Granting powers to the trustee;
 - (j) Fixing or allowing payment of the trustee's compensation, or reviewing the reasonableness of the trustee's compensation;
 - (k) Appointing or removing a trustee;
 - (l) Accepting the resignation of a trustee;
 - (m) Compelling redress of a breach of the trust;
 - (n) Approving or directing the modification or termination of the trust;
 - (o) Approving or directing the combination or division of trusts;
 - (p) Amending or conforming the trust instrument in the manner required to qualify the estate of a decedent for the charitable estate tax deduction under federal law, including the addition of mandatory requirements for a charitable-remainder trust;
 - (q) Compelling compliance with the terms of the trust or other applicable law; and
 - (r) Permitting the division or allocation of the aggregate value of community property assets in a manner other than on a pro rata basis.
2. A petition under this section must state the grounds of the petition and the name and address of each interested person, including the Attorney General if the petition relates to a charitable trust, and the relief sought by the petition. Except as otherwise provided in this chapter, the clerk shall set the petition for hearing and the petitioner shall give notice for the period and in the manner provided in NRS 155.010. The court may order such further notice to be given as may be proper.
3. If the court grants any relief to the petitioner, the court may, in its discretion, order any or all of the following additional relief if the court determines that such additional relief is appropriate to redress or avoid an injustice:
- (a) Order a reduction in the trustee's compensation.
 - (b) Order the trustee to pay to the petitioner or any other party all reasonable costs incurred by the party to adjudicate the affairs of the trust pursuant to this section, including, without limitation, reasonable attorney's fees. The trustee may not be held personally



1 liable for the payment of such costs unless the court determines that
2 the trustee was negligent in the performance of or breached his or
3 her fiduciary duties.

4 **Sec. 31.** NRS 153.041 is hereby amended to read as follows:

5 153.041 The trustee ~~{may, upon petition of a beneficiary or the~~
6 ~~guardian of a beneficiary, be ordered to appear at a hearing and~~
7 ~~render an account. The trustee must be served with a citation}~~ *of a*
8 *testamentary trust shall account in accordance with the provisions*
9 *of chapter 165 of NRS. This section must not be interpreted to*
10 *abridge the authority of a court having jurisdiction over a*
11 *testamentary trust pursuant to NRS 153.020 or 164.010 to order a*
12 *trustee of a testamentary trust to account, upon good cause, to the*
13 *persons and* in the manner ~~{provided in NRS 155.050. Unless~~
14 ~~otherwise}~~ ordered by the court . ~~{, the citation must be served at~~
15 ~~least 30 days before the day of the hearing. The petition may not be~~
16 ~~denied unless an account has been filed with the court within 1 year~~
17 ~~before the petition is filed.}~~

18 **Sec. 32.** NRS 153.070 is hereby amended to read as follows:

19 153.070 ~~{On the settlement of each account}~~ *The expenses and*
20 *compensation of a trustee { } of a testamentary trust must initially*
21 *be governed by the terms of the will which created the*
22 *testamentary trust or as otherwise ordered by the court at the time*
23 *the testamentary trust is established. Thereafter, subject to any*
24 *contrary terms of the testamentary trust or an order of the court,*
25 the court shall allow the trustee his or her proper expenses and such
26 compensation for services as ~~{the court may deem}~~ *are* just and
27 reasonable. Where there are several trustees, ~~{it shall apportion the}~~
28 compensation *must be apportioned* among ~~{them}~~ *the trustees*
29 according to the respective services rendered ~~{. It}~~ , and such
30 compensation may ~~{fix}~~ *be* a *fixed* yearly compensation for each
31 trustee, ~~{in}~~ a set amount *for the term of service, an hourly rate for*
32 *services rendered* or pursuant to a standard schedule of fees . ~~{to~~
33 ~~continue as long as the}~~ *The provisions of this section must not be*
34 *interpreted to abridge the authority of a court {may deem proper.}*
35 *having jurisdiction over a testamentary trust pursuant to NRS*
36 *153.020 or 164.010 to review and settle the expenses and*
37 *compensation of the trustee of a testamentary trust upon the*
38 *petition of any interested person.*

39 **Sec. 33.** NRS 153.090 is hereby amended to read as follows:

40 153.090 1. A person named or designated as a trustee *of a*
41 *testamentary trust* in a will may, at any time before distribution of
42 any of the estate to the person, decline to act as trustee, and an order
43 of court must be entered accepting the resignation, but the
44 declination of any person who has qualified as trustee may not be
45 accepted by the court unless *the testamentary trust is subject to*



1 *ongoing court jurisdiction pursuant to NRS 153.020 and* a petition
2 to accept the declination is filed in the proceeding for administration
3 of the ~~estate~~ *testamentary trust*. Upon the filing of the petition,
4 the clerk shall set it for hearing and the petitioner shall give notice to
5 all interested persons for the period and in the manner provided in
6 NRS 155.010.

7 2. *A person named or designated as a trustee of a*
8 *testamentary trust in a will that is no longer subject to ongoing*
9 *court jurisdiction may resign as trustee in accordance with the*
10 *terms of the testamentary trust or will which created the*
11 *testamentary trust or, if the testamentary trust or will is silent on*
12 *the matter, may seek court approval of such resignation in*
13 *conjunction with a petition under NRS 164.010 or 164.030.*

14 3. In accepting a declination ~~or~~ *resignation*, the court may
15 enter and enforce any order which may be necessary for the
16 preservation of the estate.

17 **Sec. 34.** Chapter 155 of NRS is hereby amended by adding
18 thereto a new section to read as follows:

19 *Notwithstanding any provision in this title, if an act is*
20 *authorized or required to be performed at or within a specified*
21 *period pursuant to this chapter:*

22 1. *The period may be extended upon the agreement of all*
23 *interested persons, by written stipulation of counsel filed in the*
24 *action; or*

25 2. *The court, for good cause shown, may at any time:*

26 (a) *Regardless of whether there has been a motion, petition or*
27 *notice, order that the period be extended if a request for the*
28 *extension is made before the expiration of the specified period as*
29 *originally prescribed or as extended by a previous order; or*

30 (b) *Upon a motion made after the expiration of the specified*
31 *period, authorize a person to perform the act if the failure to*
32 *perform the act in a timely manner was the result of excusable*
33 *neglect.*

34 **Sec. 35.** NRS 155.050 is hereby amended to read as follows:

35 155.050 1. The citation described in NRS 155.040 ~~is to~~
36 *must be served in the same manner as the personal* by:

37 (a) *Certified mail, with a return receipt requested, on each*
38 *person required to be served; or*

39 (b) *Personal service* ~~of summons~~ *in the manner provided*
40 *pursuant to Rule 4(d) of the Nevada Rules of Civil Procedure.*

41 2. If ~~personal~~, after due diligence, service cannot be made
42 upon the person to be served, *service of the citation may be* ~~served~~
43 *made by publication in the manner provided by Rule 4(e) of the*
44 *Nevada Rules of Civil Procedure*, by leaving a copy with the



1 person's attorney of record or in such other manner as the court may
2 direct.

3 **Sec. 36.** NRS 162.280 is hereby amended to read as follows:

4 162.280 At the time for distribution of any property of an
5 estate or trust, the fiduciary may withhold any part or all of the
6 property from the beneficiaries if the fiduciary determines that the
7 property may be subject to *claims of offset held by the fiduciary in*
8 *his or her fiduciary capacity*, conflicting claims, tax deficiencies or
9 other liabilities, contingent or otherwise, relating to the estate or
10 trust.

11 **Sec. 37.** NRS 162.300 is hereby amended to read as follows:

12 162.300 1. A fiduciary may *establish a trust or* form a
13 corporation, limited-liability company or other entity, and transfer,
14 assign and convey to the *trust*, corporation, limited-liability
15 company or entity all or any part of an estate or of any trust property
16 in exchange for the stock, securities or obligations of the *trust*,
17 corporation, limited-liability company or entity, and continue to
18 hold the stock and securities and obligations.

19 2. A *trust established or a* corporation, limited-liability
20 company or other entity incorporated, organized or registered under
21 the laws of this State that acts as a fiduciary or trustee of an estate or
22 trust administered under the laws of this State may be owned or
23 controlled by the trust if the trust instrument authorizes the trust to
24 own an affiliate.

25 3. As used in this section, "affiliate" has the meaning ascribed
26 to it in NRS 163.020.

27 **Sec. 38.** Chapter 163 of NRS is hereby amended by adding
28 thereto the provisions set forth as sections 39 and 40 of this act.

29 **Sec. 39.** *Except as otherwise provided in NRS 163.0075 or*
30 *another provision of law:*

31 1. *A trust may be created for a noncharitable purpose without*
32 *a definite ascertainable beneficiary or for a noncharitable but*
33 *otherwise valid purpose. The noncharitable purpose for which a*
34 *trust is created must be stated with sufficient particularity in the*
35 *trust instrument as to be ascertainable by a finder of fact.*

36 2. *A trust authorized by this section may be enforced by a*
37 *trustee, trust adviser, trust protector or person appointed under the*
38 *terms of the trust or, if no such person is appointed, by the court.*

39 3. *Except to the extent the court determines that the value of*
40 *the trust property exceeds the amount required for the intended*
41 *use, property of a trust authorized by this section may be applied*
42 *only to its intended use, including, without limitation, appointing*
43 *trust property to or for the benefit of an existing or new trust*
44 *whose purposes are limited to one or more purposes of the original*
45 *trust. Except as otherwise provided by the terms of the trust,*



1 *property not required for the intended use must be distributed to*
2 *the settlor, if living, or otherwise to the settlor's successors in*
3 *interest.*

4 4. *As used in this section:*

5 (a) *"Trust adviser" has the meaning ascribed to it in*
6 *NRS 163.5545.*

7 (b) *"Trust protector" has the meaning ascribed to it in*
8 *NRS 163.5547.*

9 (c) *"Valid purpose" means any purpose that is not illegal or*
10 *against public policy.*

11 **Sec. 40.** *Unless otherwise ordered or provided for in a*
12 *property or separation agreement approved by the court in a*
13 *proceeding for a divorce or annulment, the divorce, annulment of*
14 *the marriage or termination of the domestic partnership of the*
15 *descendant of a settlor revokes:*

16 1. *Every devise, beneficial interest or designation to serve as*
17 *trustee that was given by the settlor to the former spouse or*
18 *domestic partner of the descendant in a revocable inter vivos trust*
19 *executed before the entry of the decree of divorce or annulment or*
20 *the termination of the domestic partnership, unless otherwise*
21 *provided in the trust instrument, and the provisions of the trust*
22 *take effect in the same manner as if the spouse or domestic*
23 *partner of the descendant predeceased the settlor; and*

24 2. *The appointment of the spouse or domestic partner of the*
25 *descendant as a trust protector, trust adviser or consultant.*

26 **Sec. 41.** NRS 163.00195 is hereby amended to read as
27 follows:

28 163.00195 1. Except as otherwise provided in subsections 3
29 and 4, a no-contest clause in a trust must be enforced by the court ~~if~~
30 *because public policy favors enforcing the intent of the settlor.*
31 *However, because public policy does not favor forfeitures, a no-*
32 *contest clause must be strictly construed by the court and must not*
33 *be extended beyond the plain meaning of the express provisions of*
34 *the trust.*

35 2. A no-contest clause must be construed to carry out the
36 settlor's intent ~~[. Except]~~ to the extent ~~[the no-contest clause in the~~
37 ~~trust is vague or ambiguous.]~~ *such intent is clear and*
38 *unambiguous. No* extrinsic evidence is ~~not~~ admissible to establish
39 the settlor's intent concerning the no-contest clause. The provisions
40 of this subsection do not prohibit ~~[such]~~ *extrinsic* evidence from
41 being admitted for any other purpose authorized by law. Except as
42 otherwise provided in subsections 3 and 4, a beneficiary's share may
43 be reduced or eliminated under a no-contest clause based upon
44 conduct that is set forth by the settlor in the trust. Such conduct may
45 include, without limitation:



- 1 (a) Conduct other than formal court action; and
- 2 (b) Conduct which is unrelated to the trust itself, including,
- 3 without limitation:
 - 4 (1) The commencement of civil litigation against the settlor's
 - 5 probate estate or family members;
 - 6 (2) Interference with the administration of another trust or a
 - 7 business entity;
 - 8 (3) Efforts to frustrate the intent of the settlor's power of
 - 9 attorney; and
 - 10 (4) Efforts to frustrate the designation of beneficiaries related
 - 11 to a nonprobate transfer by the settlor.
- 12 3. Notwithstanding any provision to the contrary in the trust, a
- 13 beneficiary's share must not be reduced or eliminated ~~if~~ *because*
- 14 *of any action taken by* the beneficiary ~~seeks~~ *seeking* only to:
 - 15 (a) Enforce the terms of the trust, any document referenced in or
 - 16 affected by the trust, or any other trust-related instrument;
 - 17 (b) Enforce the beneficiary's legal rights related to the trust, any
 - 18 document referenced in or affected by the trust, or any trust-related
 - 19 instrument; ~~for~~
 - 20 (c) Obtain ~~the~~ court ~~ruling~~ *instruction* with respect to the
 - 21 *proper administration of the trust or the* construction or legal effect
 - 22 of the trust, *the provisions thereof or* any document referenced in or
 - 23 affected by the trust, or any other trust-related instrument ~~it~~ *; or*
 - 24 *(d) Enforce the fiduciary duties of the trustee.*
- 25 4. Notwithstanding any provision to the contrary in the trust, a
- 26 beneficiary's share must not be reduced or eliminated under a no-
- 27 contest clause in a trust because the beneficiary institutes legal
- 28 action seeking to invalidate a trust, any document referenced in or
- 29 affected by the trust, or any other trust-related instrument if the legal
- 30 action is instituted *and maintained* in good faith and based on
- 31 probable cause that would have led a reasonable person, properly
- 32 informed and advised, to conclude that the trust, any document
- 33 referenced in or affected by the trust, or other trust-related
- 34 instrument is invalid.
- 35 5. *Unless the trust expressly provides otherwise, a no-contest*
- 36 *clause must not be applied to a settlor who is also a beneficiary of*
- 37 *the trust.*
- 38 6. As used in this section:
- 39 (a) "No-contest clause" means one or more provisions in a trust
- 40 that express a directive to reduce or eliminate the share allocated to
- 41 a beneficiary or to reduce or eliminate the distributions to be made
- 42 to a beneficiary if the beneficiary takes action to frustrate or defeat
- 43 the settlor's intent as expressed in the trust or in a trust-related
- 44 instrument.



(b) "Trust" means the original trust instrument and each amendment made pursuant to the terms of the original trust instrument.

(c) "Trust-related instrument" means any document purporting to transfer property to or from the trust or any document made pursuant to the terms of the trust purporting to direct the distribution of trust assets or to affect the management of trust assets, including, without limitation, documents that attempt to exercise a power of appointment.

Sec. 42. NRS 163.002 is hereby amended to read as follows:

163.002 **1.** Except as otherwise provided by specific statute, a trust may be created by any of the following methods:

~~(1)~~ **(a)** A declaration by the owner of property that he or she *or another person* holds the property as trustee. In the absence of a contrary declaration by the owner of the property or of a transfer of the property to a third party and regardless of formal title to the property:

~~(a)~~ **(1)** Property declared to be trust property, together with all income therefrom and the reinvestment thereof, must remain trust property; and

~~(b)~~ **(2)** If the property declared to be trust property includes an account, contract, certificate, note, judgment, business interest, contents of a safe deposit box or other property interest that is subject to additions or contributions, all subsequent additions and contributions to the property are also trust property.

~~(2)~~ **(b)** A transfer of property by the owner during his or her lifetime to another person as trustee.

~~(3)~~ **(c)** A testamentary transfer of property by the owner to another person as trustee.

~~(4)~~ **(d)** An exercise of a power of appointment in trust.

~~(5)~~ **(e)** An enforceable promise to create a trust.

2. *A declaration pursuant to paragraph (a) of subsection 1 may include a schedule or list of trust assets that is signed by the owner of the property or that is incorporated by reference into a document that is signed by the owner of the property.*

Sec. 43. NRS 163.006 is hereby amended to read as follows:

163.006 A trust is created only if there is a beneficiary. This requirement is satisfied if the trust instrument provides for:

1. A beneficiary or class of beneficiaries that is ascertainable with reasonable certainty or that is sufficiently described so that it can be determined whether a person meets the description or is within the class;

2. A grant of power to the trustee or some other person to select the beneficiary based on a standard or in the discretion of the trustee or other person;



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1 3. A charitable trust as defined in NRS 163.460;
2 4. A trust for the care of one or more animals created pursuant
3 to NRS 163.0075; ~~for~~

4 5. A public benefit trust as defined in NRS 163.551 ~~for~~; or
5 **6. A noncharitable trust without an ascertainable beneficiary**
6 **pursuant to section 39 of this act.**

7 **Sec. 44.** NRS 163.008 is hereby amended to read as follows:

8 163.008 1. A trust created in relation to real property is not
9 valid unless it is created by operation of law or is evidenced by:

10 (a) A written instrument signed by the trustee, or by the agent of
11 the trustee if the agent is authorized in writing to do so; or

12 (b) A written instrument, including, without limitation, an
13 electronic trust, conveying the trust property and signed by the
14 settlor, or by the agent of the settlor if the agent is authorized in
15 writing to do so.

16 2. Such a trust may be recorded in the office of the county
17 recorder in the county where all or a portion of the real property is
18 located.

19 **3. This section must not be construed to require a declaration**
20 **by an owner of property pursuant to NRS 163.002 that specifically**
21 **identified real property is held in trust to be in writing. As used in**
22 **this subsection, "specifically identified real property" includes**
23 **property that is identified by legal description, street address or the**
24 **applicable assessor's parcel number.**

25 **Sec. 45.** NRS 163.027 is hereby amended to read as follows:

26 163.027 1. Except as otherwise provided in subsection 2 or in
27 the trust, a trustee may distribute property and money:

28 (a) In divided or undivided interests; and

29 (b) With or without proration.

30 2. Each affected beneficiary must consent before property or
31 money is distributed without proration ~~for~~ unless the trust
32 specifically authorizes the trustee to make that distribution ~~for~~ **or the**
33 **distribution is otherwise authorized by law.**

34 **Sec. 46.** NRS 163.115 is hereby amended to read as follows:

35 163.115 1. If a trustee commits or threatens to commit a
36 breach of trust, a beneficiary or cotrustee of the trust may maintain a
37 proceeding for any of the following purposes that is appropriate:

38 (a) To compel the trustee to perform his or her duties.

39 (b) To enjoin the trustee from committing the breach of trust.

40 (c) To compel the trustee to redress the breach of trust by
41 payment of money or otherwise.

42 (d) To appoint a receiver or temporary trustee to take possession
43 of the trust property and administer the trust.

44 (e) To remove the trustee.

45 (f) To set aside acts of the trustee.



1 (g) To reduce or deny compensation of the trustee.
2 (h) To impose an equitable lien or a constructive trust on trust
3 property.

4 (i) To trace trust property that has been wrongfully disposed of
5 and recover the property or its proceeds.

6 2. *On petition or ex parte application of a beneficiary or*
7 *trustee, the court by temporary order, with or without bond, may*
8 *restrain a trustee from performing specified acts of*
9 *administration, disbursement or distribution, or exercising any*
10 *powers or discharging any duties of the office, or enter any other*
11 *order to secure proper performance of the duties of the office.*
12 *Notwithstanding any other provision of law governing temporary*
13 *injunctions, if it appears to the court that the trustee otherwise*
14 *may take some action that would jeopardize unreasonably the*
15 *interest of the petitioner, another beneficiary or the trust, the court*
16 *may enter the temporary order. A person with whom the trustee*
17 *may transact business may be made a party to the temporary*
18 *order.*

19 3. *Any temporary order entered pursuant to subsection 2*
20 *must be set for hearing within 10 days after entry of the temporary*
21 *order, unless the parties otherwise agree, or on a date the court*
22 *otherwise determines is in the best interests of the trust. Notice of*
23 *entry of the temporary order must be given by the petitioner to the*
24 *trustee and the attorney of record of the trustee, if any, to any*
25 *other party named as a party in the temporary order and as*
26 *otherwise directed by the court.*

27 4. The provision of remedies in ~~subsection 1~~ *this section* does
28 not preclude resort to any other appropriate remedy provided by
29 statute or common law.

30 ~~13-1~~ 5. A proceeding under this section must be commenced by
31 filing *or bringing in conjunction with the filing of* a petition under
32 NRS 164.010 and 164.015.

33 **Sec. 47.** NRS 163.130 is hereby amended to read as follows:

34 163.130 1. A trustee who has incurred personal liability for a
35 tort committed in the administration of the trust is entitled to
36 exoneration therefor from the trust property if the trustee has not
37 discharged the claim, or to be reimbursed therefor out of trust funds
38 if the trustee has paid the claim, if:

39 (a) The tort was a common incident of the kind of business
40 activity in which the trustee was properly engaged for the trust; ~~to~~

41 (b) Although the tort was not a common incident of such
42 activity, neither the trustee nor any officer or employee of the
43 trustee was guilty of personal fault in incurring the liability ~~to~~; *or*



1 (c) *The trust instrument authorizes the exoneration or*
2 *reimbursement of a trustee and the actions of the trustee did not*
3 *constitute willful misconduct or gross negligence.*

4 2. If a trustee commits a tort which increases the value of the
5 trust property, the trustee shall be entitled to exoneration or
6 reimbursement with respect thereto to the extent of such increase in
7 value, even though the trustee would not otherwise be entitled to
8 exoneration or reimbursement.

9 3. Nothing in this section shall be construed to change the
10 existing law with regard to the liability of trustees of charitable
11 trusts for torts of themselves or their employees.

12 **Sec. 48.** NRS 163.4185 is hereby amended to read as follows:

13 163.4185 1. A distribution interest may be classified as:

14 (a) A mandatory interest if the trustee has no discretion to
15 determine whether a distribution should be made, when a
16 distribution should be made or the amount of the distribution.

17 (b) A support interest if the ~~{distribution of a support interest~~
18 ~~contains a standard for distribution for the support of a person which~~
19 ~~may be interpreted by the trustee or a court, as necessary. A~~
20 ~~provision in a trust which provides a support interest may contain~~
21 ~~mandatory language which a} trustee {must follow.} *is required to*~~
22 *make distributions to the beneficiary pursuant to an ascertainable*
23 *standard.*

24 (c) A discretionary interest if the trustee has discretion to
25 determine whether a distribution should be made, when a
26 distribution should be made and the amount of the distribution.

27 2. If a trust contains a combination of a mandatory interest, a
28 support interest or a discretionary interest, the trust must be
29 separated as:

30 (a) A mandatory interest only to the extent of the mandatory
31 language provided in the trust;

32 (b) A support interest only to the extent of the support language
33 provided in the trust; and

34 (c) A discretionary interest for any remaining trust property.

35 3. If a trust provides for a support interest that also includes
36 mandatory language but the mandatory language is qualified by
37 discretionary language, the support interest must be classified and
38 separated as a discretionary interest.

39 4. *As used in this section, "ascertainable standard" means a*
40 *standard relating to a person's health, education, support or*
41 *maintenance within the meaning of section 2041(b)(1)(A) or*
42 *2514(c)(1) of the Internal Revenue Code, 26 U.S.C. §*
43 *2041(b)(1)(A) or 2514(c)(1), and any regulations of the United*
44 *States Treasury promulgated thereunder.*



Sec. 49. NRS 163.556 is hereby amended to read as follows:

163.556 1. Except as otherwise provided in this section, unless the terms of a testamentary instrument or irrevocable trust provide otherwise, a trustee with discretion or authority to distribute trust income or principal to or for a beneficiary of the trust may exercise such discretion or authority by appointing the property subject to such discretion or authority in favor of a second trust as provided in this section.

2. The second trust to which a trustee appoints property of the first trust may only have as beneficiaries one or more of the beneficiaries of the original trust:

(a) To or for whom a distribution of income or principal may be made from the original trust;

(b) To or for whom a distribution of income or principal may be made in the future from the original trust at a time or upon the happening of an event specified under the first trust; or

(c) Both paragraphs (a) and (b).

➤ For purposes of this subsection, a permissible appointee of a power of appointment exercised by a beneficiary of the second trust is not considered a beneficiary of the second trust.

3. A trustee may not appoint property of the original trust to a second trust if:

(a) Appointing the property will reduce any income interest of any income beneficiary of the original trust if the original trust is:

(1) A trust for which a marital deduction has been taken for federal or state income, gift or estate tax purposes;

(2) A trust for which a charitable deduction has been taken for federal or state income, gift or estate tax purposes; or

(3) A grantor-retained annuity trust or unitrust under ~~1274~~ 26 C.F.R. § 25.2702-3(b) and (c).

➤ As used in this paragraph, "unitrust" has the meaning ascribed to it in NRS 164.700.

(b) The property to be appointed is subject to a power of withdrawal which is held by a beneficiary of the original trust and may be executed at the time of the proposed appointment, unless after the exercise of such appointment, the beneficiary of the original trust's power of withdrawal is unchanged with respect to the trust property.

(c) Property specifically allocated for one beneficiary of the original trust is no longer allocated for that beneficiary under either or both trusts, unless the beneficiary consents in writing.

(d) Property held for the benefit of one or more beneficiaries under both the original and the second trust has a lower value than the value of the property held for the benefit of the same beneficiaries under only the original trust, unless:



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(1) The benefit provided is limited to a specific amount or periodic payments of a specific amount; and

(2) The value of the property held in either or both trusts for the benefit of one or more beneficiaries is actuarially adequate to provide the benefit.

(e) A contribution made to the original trust qualified for a gift tax exclusion as described in section 2503(b) of the Internal Revenue Code, 26 U.S.C. § 2503(b), by reason of the application of section 2503(c) of the Internal Revenue Code, 26 U.S.C. § 2503(c), unless the second trust provides that the beneficiary's remainder interest must vest not later than the date upon which such interest would have vested under the terms of the original trust.

4. A trustee who is a beneficiary of the original trust may not exercise the authority to appoint property of the original trust to a second trust if:

(a) Under the terms of the original trust or pursuant to law governing the administration of the original trust:

(1) The trustee does not have discretion to make distributions to himself or herself;

(2) The trustee's discretion to make distributions to himself or herself is limited by an ascertainable standard, and under the terms of the second trust, the trustee's discretion to make distributions to himself or herself is not limited by the same ascertainable standard; or

(3) The trustee's discretion to make distributions to himself or herself can only be exercised with the consent of a cotrustee or a person holding an adverse interest and under the terms of the second trust the trustee's discretion to make distributions to himself or herself is not limited by an ascertainable standard and may be exercised without consent; or

(b) Under the terms of the original trust or pursuant to law governing the administration of the original trust, the trustee of the original trust does not have discretion to make distributions that will discharge the trustee's legal support obligations but under the second trust the trustee's discretion is not limited.

5. Notwithstanding the provisions of subsection 1, a trustee who may be removed by the beneficiary or beneficiaries of the original trust and replaced with a trustee that is related to or subordinate, as described in section 672 of the Internal Revenue Code, 26 U.S.C. § 672(c), to a beneficiary, may not exercise the authority to appoint property of the original trust to a second trust to the extent that the exercise of the authority by such trustee would have the effect of increasing the distributions that can be made from the second trust to such beneficiary or group of beneficiaries that held the power to remove the trustee of the original trust and replace



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1 such trustee with a related or subordinate person, unless the
2 distributions that may be made from the second trust to such
3 beneficiary or group of beneficiaries described in paragraph (a) of
4 subsection 4 are limited by an ascertainable standard.

5 6. The provisions of subsections 4 and 5 do not prohibit a
6 trustee who is not a beneficiary of the original trust or who may not
7 be removed by the beneficiary or beneficiaries and replaced with a
8 trustee that is related to or subordinate to a beneficiary from
9 exercising the authority to appoint property of the original trust to a
10 second trust pursuant to the provisions of subsection 1.

11 7. Before appointing property pursuant to subsection 1, a
12 trustee may give notice of a proposed action pursuant to NRS
13 164.725 or may petition a court for approval pursuant to NRS
14 153.031, 164.015 or 164.725. Any notice of a proposed action or a
15 petition for a court's approval must include the trustee's opinion of
16 how the appointment of property will affect the trustee's
17 compensation and the administration of other trust expenses.

18 8. The trust instrument of the second trust may:

19 (a) Grant a general or limited power of appointment to one or
20 more of the beneficiaries of the second trust who are beneficiaries of
21 the original trust.

22 (b) Provide that, at a time or occurrence of an event specified in
23 the trust instrument, the remaining trust assets in the second trust
24 must be held for the beneficiaries of the original trust upon terms
25 and conditions that are substantially identical to the terms and
26 conditions of the original trust.

27 9. The power to appoint the property of the original trust
28 pursuant to subsection 1 must be exercised by a writing, signed by
29 the trustee and filed with the records of the trust.

30 10. The exercise of the power to invade principal of the
31 original trust pursuant to subsection 1 is considered the exercise of a
32 power of appointment, other than power to appoint the property to
33 the trustee, the trustee's creditors, the trustee's estate or the creditors
34 of the trustee's estate and the provisions of NRS 111.1031 apply to
35 such power of appointment.

36 11. The provisions of this section do not abridge the right of
37 any trustee who has the power to appoint property which arises
38 under any other law.

39 12. The provisions of this section do not impose upon a trustee
40 a duty to exercise the power to appoint property pursuant to
41 subsection 1.

42 13. The power to appoint property to another trust pursuant to
43 subsection 1 is not a power to amend the trust and a trustee is not
44 prohibited from appointing property to another trust pursuant to



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subsection 1 if the original trust is irrevocable or provides that it may not be amended.

14. A trustee's power to appoint property to another trust pursuant to subsection 1 is not limited by the existence of a spendthrift provision in the original trust.

15. A trustee exercising any power granted pursuant to this section may designate himself or herself or any other person permitted to act as a trustee as the trustee of the second trust.

16. The trustee of a second trust, resulting from the exercise of the power to appoint property to another trust pursuant to subsection 1, may also exercise the powers granted pursuant to this section with respect to the second trust.

~~17. For the purposes of this section, "second trust" means an irrevocable trust that receives trust income or principal appointed by the trustee of the original trust, and may be established by any person, including, without limitation, a new trust created by the trustee, acting in that capacity, of the original trust. If the trustee of the original trust establishes the second trust, then for purposes of creating the new second trust, the requirement of NRS 163.008 that the instrument be signed by the settlor shall be deemed to be satisfied by the signature of the trustee of the second original trust. The second trust may be a trust created under the same trust instrument as the original trust or under a different trust instrument.~~

~~18. As used in this section, "ascertainable standard" means a standard relating to an individual's health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury promulgated thereunder.~~

~~19.~~ This section applies to a trust that is governed by, sitused in or administered under the laws of this State, whether the trust is initially governed by, sitused in or administered under the laws of this State pursuant to the terms of the trust instrument or whether the governing law, situs or administration of the trust is moved to this State from another state or foreign jurisdiction.

18. The power to appoint to a second trust pursuant to this section may be exercised to appoint to a second trust that is a special needs trust, pooled trust or third-party trust.

19. As used in this section:

(a) "Ascertainable standard" means a standard relating to a person's health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury promulgated thereunder.



(b) "Pooled trust" means a trust described in 42 U.S.C. § 1396p(d)(4)(C) that meets the requirements for such a trust under any law or regulation of this State relating to the treatment of trusts for purposes of eligibility for Medicaid or other needs-based public assistance.

(c) "Second trust" means an irrevocable trust that receives trust income or principal appointed by the trustee of the original trust, and may be established by any person, including, without limitation, a new trust created by the trustee, acting in that capacity, of the original trust. If the trustee of the original trust establishes the second trust, then for purposes of creating the new second trust, the requirement of NRS 163.008 that the instrument be signed by the settlor shall be deemed to be satisfied by the signature of the trustee of the second original trust. The second trust may be a trust created under the same trust instrument as the original trust or under a different trust instrument.

(d) "Special needs trust" means a trust under 42 U.S.C. § 1396p(d)(4)(A) that meets the requirements for such a trust under any law or regulation of this State relating to the treatment of trusts for purposes of eligibility for Medicaid or other needs-based public assistance.

(e) "Third-party trust" means a trust that is:

(1) Established by a third party with the assets of the third party to provide for the supplemental needs of a person who is eligible for needs-based public assistance at or after the time of the creation of the trust; and

(2) Exempt from the provisions of any law or regulation of this State relating to the treatment of trusts for purposes of eligibility for Medicaid.

Sec. 50. NRS 163.610 is hereby amended to read as follows:

163.610 ~~{A fiduciary}~~ Unless otherwise provided by the trust instrument, a trustee may ~~{take such actions as are necessary to cause}~~ include capital gains from the sale or exchange of ~~{trust assets, as determined for federal income tax purposes, to be taxed for federal income tax purposes as part of a distribution of income, including, without limitation, income which has been increased by an adjustment from principal to income under NRS 164.795, a unitrust distribution or a distribution of principal}~~ capital assets in distributable net income to the extent the gains are, in a reasonable and impartial exercise of discretion by the trustee, allocated to:

1. Income pursuant to the power of the trustee to adjust between principal and income pursuant to NRS 164.795;



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2. *Principal and treated consistently by the trustee in the books, records and tax returns of the trust as part of the distribution to a beneficiary; or*

3. *Principal but distributed to a beneficiary or utilized by the trustee in determining the amount that is distributed or required to be distributed to a beneficiary.*

Sec. 51. NRS 164.010 is hereby amended to read as follows:

164.010 1. Upon petition of any person appointed as trustee of an express trust by any written instrument other than a will, or upon petition of a settlor or beneficiary of the trust, the district court of the county in which ~~the~~ *any* trustee resides or conducts business ~~at the time of the filing of the petition~~ *as of the time of the filing of the petition* or in which the trust has been domiciled ~~at the time of the filing of the petition~~ *as of the time of the filing of the petition* shall ~~consider the application to~~ assume jurisdiction of the trust as a proceeding in rem ~~unless another court has properly assumed continuing jurisdiction in rem in accordance with the laws of that jurisdiction and the district court determines that it is not appropriate for the district court to assume jurisdiction under the circumstances.~~

2. ~~For the purposes of this section, a trust is domiciled in this State notwithstanding that the trustee neither resides nor conducts business in this State if:~~

(a) *The trust instrument expressly provides that the situs of the trust is in this State or that a court in this State has jurisdiction over the trust;*

(b) *A person has designated for the trust that this State is the situs or has jurisdiction, if such person made the designation at a time during which he or she held the power to make such a designation under the express terms of the trust instrument;*

(c) *The trust owns an interest in real property located in this State;*

(d) *The trust owns personal property, wherever situated, if the trustee is:*

(1) *Incorporated or authorized to do business in this State;*

(2) *A trust company licensed under chapter 669 of NRS;*

(3) *A family trust company, as defined in NRS 669A.080;*

or

(4) *A national association having an office in this State;*

(e) *One or more beneficiaries of the trust reside in this State;*
or

(f) *At least part of the administration of the trust occurs in this State.*

3. *Notwithstanding the provisions of this section, if a court of a jurisdiction other than this State has jurisdiction over a trust and grants an order authorizing a transfer of jurisdiction over that*



1 *trust to this State, the district court has the power to assume*
2 *jurisdiction over the trust and to otherwise supervise the*
3 *administration of that trust in accordance with the procedures set*
4 *forth in this title.*

5 4. *For the purposes of determining venue, preference is given*
6 *in the following order:*

7 (a) *To the county in which the situs or domicile was most*
8 *recently declared by a person granted the power to make such a*
9 *declaration under the terms of the trust instrument at the time of*
10 *the filing of the petition;*

11 (b) *To the county in which the situs or domicile is declared in*
12 *the trust instrument; and*

13 (c) *To the county in which the situs or domicile is declared by*
14 *the trustee at the time of the filing of the petition in a certification*
15 *of the trust which complies with subsection 2 of NRS 164.400 and*
16 *subsection 2 of NRS 164.410 and which contains a declaration of*
17 *the trust's situs or domicile as authorized in subsection 1 of*
18 *NRS 164.410.*

19 5. When the court ~~{grants the petition,}~~ *assumes jurisdiction*
20 *pursuant to this section,* the court:

21 (a) Has jurisdiction of the trust as a proceeding in rem ~~{}~~ *as of*
22 *the date of the filing of the petition;*

23 (b) Shall be deemed to have personal jurisdiction over *any*
24 *trustee confirmed by the court and* any person ~~{pursuant to NRS~~
25 ~~164.045;}~~ *appearing in the matter, unless such an appearance is*
26 *made solely for the purpose of objecting to the jurisdiction of the*
27 *court;*

28 (c) May confirm at the same time the appointment of the trustee
29 and specify the manner in which the trustee must qualify; and

30 (d) May consider at the same time granting orders on other
31 matters relating to the trust, including, without limitation, matters
32 that might be addressed in a declaratory judgment relating to the
33 trust under subsection 2 of NRS 30.040 or petitions filed pursuant to
34 NRS 153.031 or 164.015 whether such matters are raised in the
35 petition to assume jurisdiction pursuant to this section or in one or
36 more separate petitions that are filed concurrently with the petition
37 to assume jurisdiction.

38 ~~{}~~ 6. At any time, the trustee may petition the court for
39 removal of the trust from continuing jurisdiction of the court.

40 ~~{4. For the purposes of this section, a trust is domiciled:~~

41 ~~—(a) In this State if there is a clear and sufficient nexus between~~
42 ~~the trust and this State pursuant to subsection 4 of NRS 164.045.~~

43 ~~—(b) In a county of this State that provides the nexus required~~
44 ~~pursuant to paragraph (a) giving preference:~~



~~—— (1) First, to the situs or domicile most recently declared by a person granted the power to make such a declaration under the terms of the trust instrument;~~

~~—— (2) Second, to the situs or domicile declared in the trust instrument; and~~

~~—— (3) Finally, to the situs or domicile declared by the trustee in a certification of the trust which complies with subsection 2 of NRS 164.400 and subsection 2 of NRS 164.410 and which contains a declaration of the trust's situs or domicile as authorized in subsection 1 of NRS 164.410.~~

~~5.†~~ 7. As used in this section, "written instrument" includes, without limitation, an electronic trust as defined in NRS 163.0015.

Sec. 52. NRS 164.045 is hereby amended to read as follows:

164.045 1. The laws of this State govern the validity and construction of a trust if:

(a) The trust instrument so provides;

(b) Designated by a person who, under the terms of the trust instrument, has the right to designate the laws that govern the validity and construction of the trust, at the time the designation is made; or

(c) The trust instrument does not provide for the law that governs the validity and construction of the trust, a person designated under the terms of the trust instrument to designate the law that governs the validity and construction of the trust, if any, has not made such a designation and the settlor or the trustee of the trust was a resident of this State at the time the trust was created or at the time the trust became irrevocable.

↪ A trust instrument or designation cannot extend the duration of the trust beyond the rule against perpetuities otherwise applicable to the trust at the time of its creation.

2. A person not domiciled in this State may have the right to designate the laws that govern the validity and construction of a trust if properly designated under the trust instrument.

3. ~~If the district court, as defined in NRS 132.116, determines that there is a clear and sufficient nexus between a trust and this State, the court may assume jurisdiction during a proceeding conducted pursuant to NRS 164.010 unless:~~

~~—— (a) Another court has properly assumed jurisdiction in accordance with the laws of that jurisdiction;~~

~~—— (b) The trust instrument expressly provides that the situs of the trust is outside of this State or that a court of a jurisdiction other than this State has jurisdiction over the trust; or~~

~~—— (c) A person has designated for the trust a situs or jurisdiction other than this State, if such person made the designation at a time~~



1 ~~during which he or she held the power to make such a designation~~
2 ~~under the express terms of the trust instrument.~~

3 ~~— 4. For the purposes of this section, there is a clear and~~
4 ~~sufficient nexus between a trust and this State if:~~

5 ~~— (a) The trust owns an interest in real property located in this~~
6 ~~State;~~

7 ~~— (b) The trust owns personal property, wherever situated, if the~~
8 ~~trustee or cotrustee is:~~

9 ~~— (1) A resident of this State;~~

10 ~~— (2) Incorporated or authorized to do business in this State;~~

11 ~~— (3) A trust company licensed under chapter 669 of NRS;~~

12 ~~— (4) A family trust company, as defined in NRS 669A.080;~~
13 ~~or~~

14 ~~— (5) A national association having an office in this State;~~

15 ~~— (c) One or more beneficiaries of the trust reside in this State; or~~

16 ~~— (d) At least part of the administration of the trust occurs in this~~
17 ~~State.~~

18 ~~— 5. For paragraphs (c) and (d) of subsection 4 to apply with~~
19 ~~respect to a cotrustee, such cotrustee must have the authority to~~
20 ~~maintain records for the trust and to prepare income tax returns for~~
21 ~~the trust, even if such authority may also be exercised by another~~
22 ~~cotrustee.~~

23 ~~— 6. Notwithstanding the provisions of this section, if a court of a~~
24 ~~jurisdiction other than this State has jurisdiction over a trust and~~
25 ~~grants an order authorizing a transfer of jurisdiction over the trust to~~
26 ~~this State, the district court has the power to assume jurisdiction~~
27 ~~over that trust and to otherwise supervise the administration of that~~
28 ~~trust in accordance with the procedures set forth in this title if the~~
29 ~~requirements of subsection 4 are satisfied.~~

30 ~~— 7.† A trust, the situs of which is outside this State, that~~
31 ~~moves its situs to this State is valid whether or not the trust complies~~
32 ~~with the laws of this State at the time of its creation or after its~~
33 ~~creation.~~

34 **Sec. 53.** NRS 165.030 is hereby amended to read as
35 follows:

36 165.030 ~~[Within 75]~~ *An interested person to whom a trustee is*
37 *required to account pursuant to this chapter may provide a written*
38 *request to the trustee at any time 60 days or more after [a] the*
39 *appointment of the trustee [receives possession of trust property;*
40 *the trustee shall serve a copy of an inventory setting forth all the*
41 *trust property which has come into the possession or knowledge of]*
42 *which seeks a list of the assets of the trust estate known to the*
43 *trustee. The trustee shall serve the [notice] information to the*
44 *requesting interested party in the same manner required for notice,*
45 *as set forth in NRS 155.010 [to each interested person and*



~~beneficiary to whom the trustee is required to account pursuant to this chapter.~~ *within 15 days after receipt of the written request.*

Sec. 54. NRS 451.024 is hereby amended to read as follows:

451.024 1. The following persons, in the following order of priority, may order the burial or cremation of human remains of a deceased person:

(a) A person designated as the person with authority to order the burial or cremation of the human remains of the decedent in a legally valid document or in an affidavit executed in accordance with subsection 9;

(b) If the decedent was, at the time of death, on active duty as a member of the Armed Forces of the United States, a reserve component thereof or the National Guard, a person designated by the decedent in the United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form, as the person authorized to direct disposition of the human remains of the decedent;

(c) The spouse of the decedent;

(d) An adult son or daughter of the decedent;

(e) Either parent of the decedent;

(f) An adult brother or sister of the decedent;

(g) A grandparent of the decedent;

(h) A guardian of the person of the decedent at the time of death; and

(i) A person who meets the requirements of subsection 2.

2. Any other person may order the burial or cremation of the human remains of the decedent if the person:

(a) Is at least 18 years of age; and

(b) Executes an affidavit affirming:

(1) That he or she knew the decedent;

(2) The length of time that he or she knew the decedent;

(3) That he or she does not know the whereabouts of any of the persons specified in paragraphs (a) to (h), inclusive, of subsection 1; and

(4) That he or she willingly accepts legal and financial responsibility for the burial or cremation of the human remains of the decedent.

3. If a person with authority to order the burial or cremation of the human remains of a decedent pursuant to paragraphs (c) to (h), inclusive, of subsection 1 has been arrested for or charged with murder, as defined in NRS 200.010, or voluntary manslaughter, as defined in NRS 200.050, in connection with the death of the decedent, the authority of the person to order the disposition of the human remains of the decedent is automatically relinquished and



* A B 3 1 4 R 1 *

1 passes to the next person in order of priority pursuant to
2 subsection 1.

3 4. If there is more than one person authorized to order the
4 burial or cremation of the human remains of a decedent within a
5 particular priority class pursuant to paragraphs (d) to (h), inclusive,
6 of subsection 1, a funeral establishment or direct cremation facility
7 may require a majority of the members of the priority class to agree
8 upon a disposition of the remains of the decedent.

9 5. A person who accepts legal and financial responsibility for
10 the burial or cremation of the human remains of a decedent as
11 described in subparagraph (4) of paragraph (b) of subsection 2 does
12 not have a claim against the estate of the decedent or against any
13 other person for the cost of the burial or cremation.

14 6. If the deceased person was an indigent or other person for
15 whom the final disposition of the decedent's remains is a
16 responsibility of a county or the State, the appropriate public officer
17 may order the burial or cremation of the remains and provide for the
18 respectful disposition of the remains.

19 7. If the deceased person donated his or her body for scientific
20 research or, before the person's death, a medical facility was made
21 responsible for the final disposition of the person, a representative of
22 the scientific institution or medical facility may order the burial or
23 cremation of his or her remains.

24 8. A living person may order the burial or cremation of human
25 remains removed from his or her body or the burial or cremation of
26 his or her body after death. In the latter case, any person acting
27 pursuant to his or her instructions is an authorized agent.

28 9. A person 18 years of age or older wishing to authorize
29 another person to order the burial or cremation of his or her human
30 remains in the event of the person's death *may include such an*
31 *authorization in a validly executed will or durable power of*
32 *attorney or* may execute an affidavit before a notary public in
33 substantially the following form:

34
35 State of Nevada }
36 } ss
37 County of }

(Date)

39 I,, (person authorizing another person
40 to order the burial or cremation of his or her human remains
41 in the event of his or her death) do hereby designate
42 (person who is being authorized to order
43 the burial or cremation of the human remains of a person in
44 the event of his or her death) to order the disposition of my
45 human remains upon my death.



Subscribed and sworn to before me this
day of the month of of the year
.....
(Notary Public)

10. If the authorized person is not reasonably available or is unable to act as the authorized person, the right of the person to be the authorized person shall pass to the next person or category of persons in the order of priority pursuant to subsection 1.
11. It shall be presumed that an authorized person is not reasonably available to act as an authorized person in accordance with subsection 10 if the crematory, cemetery, funeral establishment or direct cremation facility, after exercising due diligence, has been unable to contact the person, or if the person has been unwilling or unable to make final arrangements for the burial or cremation of the human remains of the decedent, within 30 days after the initial contact or attempt to contact by the crematory, cemetery, funeral establishment or direct cremation facility.
12. If a person with a lower authorization priority than another person pursuant to subsection 1 has been authorized to order the burial or cremation of the human remains of a decedent and, subsequently, a person with a higher authorization priority makes an initial contact with the crematory, cemetery, funeral establishment or direct cremation facility and is available to perform the duties of an authorized person pursuant to this section before the final disposition of the decedent, the person with the higher authorization priority is the authorized person to order the burial or cremation of the human remains of the decedent.

