

ASSEMBLY BILL NO. 318--ASSEMBLYWOMAN MARZOLA

MARCH 17, 2021

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to estates. (BDR 3-805)

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 certain declaratory relief; exempting certain fiduciaries from the requirement to provide a residential disclosure form in certain circumstances; revising provisions relating to electronic wills; establishing and revising various provisions governing the administration of estates; revising provisions concerning the distribution of small estates; revising provisions relating to the compensation of attorneys for personal representatives; revising the definition of the term “independent attorney”; revising provisions relating to the nomination of a guardian; authorizing a trustee to reimburse a settlor for the payment of tax on trust income or principal; revising various provisions concerning trusts and the administration of trusts; requiring that public administrators or similar persons be given certain information relating to a decedent and access to the safe deposit box of a decedent in certain circumstances; authorizing certain entities to charge a reasonable fee for providing certain information to public administrators or similar persons; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes certain persons to obtain declaratory relief under a deed, written
2 contract or testamentary instrument or with respect to the administration of a trust or certain
3 estates for certain purposes. (NRS 30.040, 30.060) **Sections 1 and 2** of this bill authorize a
4 principal or person granted authority to act for a principal under a power of attorney to obtain
5 declaratory relief under the power of attorney.
6 Existing law generally requires a seller of residential property to provide a disclosure
7 form to the purchaser of the property, but provides that such a requirement does not apply in
8 certain circumstances. (NRS 113.130) **Section 3** of this bill exempts from such a requirement
9 certain fiduciaries who take temporary possession or control of or title to residential property
10 solely to facilitate the sale of the property on behalf of a person who is deceased or
11 incapacitated.
12 **Sections 4-14** of this bill revise various provisions governing electronic wills. **Section 9**
13 of this bill revises provisions governing the revocation of an electronic will. **Section 11** of this
14 bill revises provisions relating to a qualified custodian of an electronic will ceasing to serve in
15 that capacity and the appointment of a successor qualified custodian. **Section 13** of this bill

16 revises provisions concerning the destruction of the electronic record of an electronic will.
17 **Section 14** of this bill establishes provisions relating to the conversion of: (1) an electronic
18 will into a certified paper original of the electronic will; and (2) an electronic revocation of a
19 will into a certification of revocation.

20 Existing law authorizes the administration of an estate to be granted to one or more
21 qualified persons not otherwise entitled to serve as an administrator if a qualified person who
22 is entitled to serve as an administrator files a written request with the court. (NRS 139.050)
23 **Section 15** of this bill requires the requester to provide his or her current address and
24 telephone number in the written request and provides that failure to provide such information
25 voids the written request. Existing law requires a petition for letters of administration to
26 include certain information. (NRS 139.090) **Section 16** of this bill additionally requires such a
27 petition to include the names and addresses of the proposed appointed administrators and any
28 associated coadministrator. Existing law also requires notice of the hearing on the petition
29 to be given to the heirs of the decedent and the Director of the Department of Health and
30 Human Services. (NRS 139.100) Section 16.5 of this bill additionally provides that if the
31 petitioner is not the surviving spouse or certain kindred or nominated by the surviving
32 spouse or such kindred, notice must be given to the public administrator of the county or
33 a similar person.

34 **Section 18** of this bill establishes the circumstances in which a person is required to
35 accept or not accept certified letters of administration or letters testamentary and provides that
36 a person who unlawfully refuses to accept such certified letters is subject to a court order
37 requiring acceptance of the certified letters and liability for reasonable attorney's fees and
38 costs incurred in an action or proceeding confirming the validity or mandating the acceptance
39 of the certified letters. **Section 18** authorizes a person, after accepting certified letters of
40 administration or letters testamentary, to subsequently request newly certified letters after a
41 certain period for the purpose of validating the continued authority of the personal
42 representative.

43 **Section 19** of this bill authorizes a person holding property of a decedent to request the
44 presentation of only certain items as a prerequisite to transferring such property in accordance
45 with a court order providing to whom such property is to be transferred. **Section 19** requires
46 the person to accept and comply with such a court order not later than 10 ~~[business]~~ days after
47 the presentation of all requested items unless certain circumstances exist ~~[and]~~ or, if the
48 person does not request the presentation of any items, not later than 10 days after being
49 presented with such a court order. Section 19 provides that a person who unlawfully
50 refuses to accept and comply with such a court order is subject to a court order requiring
51 acceptance of the order, liability for reasonable attorney's fees and costs incurred in an action
52 or proceeding confirming the validity of the court order and any damages resulting from the
53 delay.

54 Existing law establishes provisions concerning the effect of the absence or disability of a
55 personal representative on acts taken by one or more other personal representatives when
56 more than one personal representative has been appointed. (NRS 143.010) **Section 20** of this
57 bill provides that if there are two personal representatives, one of whom has a conflict of
58 interest, the acts of the other personal representative alone are valid, and if there are more than
59 two personal representatives, the acts of a majority of the personal representatives are
60 sufficient.

61 Existing law establishes provisions concerning the continuation of the operation of a
62 decedent's business by a personal representative. (NRS 143.050, 143.520) **Sections 21 and 26**
63 of this bill make various changes to such provisions.

64 Existing law authorizes a court to require a person to post a bond when obtaining an ex
65 parte order that restrains a personal representative from performing certain actions, exercising
66 any powers or discharging any duties of the office, or any other order to secure proper
67 performance of the duties of the office. (NRS 143.165) **Section 22** of this bill provides that a
68 public administrator or similar person must not be required to post a bond for obtaining any
69 such order.

70 Existing law requires the notice of a hearing on a petition filed by a personal
71 representative for full or limited authority to administer an estate to be given to certain
72 persons in certain circumstances. (NRS 143.345) Existing law generally requires the court to
73 grant the authority requested unless an interested person timely objects and shows good cause
74 why the authority should not be granted. (NRS 143.350) **Section 24** of this bill requires notice

75 to be given to the public administrator of the county or a similar person in certain
76 circumstances, and **section 25** of this bill provides that a person who receives notice is an
77 interested person for purposes of having the ability to object to the granting of authority.
78 Section 25 also authorizes, instead of requires, the court to grant the requested
79 authority.

80 Existing law generally authorizes a personal representative who has been granted
81 full authority to administer an estate to sell property of the estate for such a price and
82 upon such terms and conditions as he or she determines. (NRS 143.380) Section 25.5 of
83 this bill provides that if the personal representative determines that the sale of real
84 property of the estate will be less than 90 percent of the appraised value: (1) all
85 interested persons must consent in writing to the sale; and (2) the sale must be confirmed
86 by the court.

87 Existing law authorizes a decedent's estate to be set aside without administration if the
88 value of the estate does not exceed \$100,000. (NRS 146.070) **Section 27** of this bill
89 additionally authorizes all or part of a decedent's estate to be set aside without administration
90 if the decedent's will directs that such portion be distributed to the trustee of a
91 nontestamentary trust established by the decedent and in existence at the decedent's death, and
92 provides that the portion of the estate that is set aside is generally subject to creditors of the
93 estate.

94 Existing law entitles an attorney for a personal representative to reasonable compensation
95 for his or her services, paid from a decedent's estate, and sets forth the calculation for
96 determining the allowable compensation in certain circumstances. (NRS 150.060) **Section 28**
97 of this bill requires a court to allow the compensation of the attorney in the amount calculated.

98 Existing law provides that the transfer of property for less than fair market value is
99 generally presumed to be void if the transfer is made to certain transferees, including the
100 person who drafted the transfer instrument, and establishes the circumstances in which such a
101 presumption does not apply, including if a transfer instrument is reviewed by an independent
102 attorney who takes certain actions. (NRS 155.097, 155.0975) **Section 29** of this bill revises
103 the definition of the term "independent attorney" to include the drafting attorney representing
104 the transferor in preparation of the transfer instrument if the drafting attorney is not otherwise
105 disqualified from being an independent attorney.

106 Existing law authorizes any person requesting to nominate another person to be appointed
107 as his or her guardian to complete a form requesting to nominate a guardian. (NRS 159.0753)
108 Existing law also authorizes the nomination of a guardian of the estate in a power of attorney
109 and a guardian of the person in a power of attorney for health care in certain circumstances.
110 (NRS 162A.250, 162A.800) **Section 30** of this bill revises provisions concerning a form
111 requesting to nominate a guardian to reference the nomination of a guardian in any such
112 power of attorney.

113 **Section 31** of this bill allows a governing trust instrument to authorize a trustee to
114 reimburse a settlor for all or a portion of tax on trust income or principal that is to be paid by
115 the settlor and authorizes the trustee to pay the settlor directly or pay the appropriate taxing
116 authority on behalf of the settlor. **Section 31** also provides that the ~~authority~~ power of a
117 trustee to make such a payment or ~~a determination by~~ the decision of a trustee to exercise
118 such ~~authority~~ power in favor of the settlor ~~does not make~~ must not cause the settlor ~~to be~~
119 treated as a beneficiary for the purposes of Nevada law.

120 Existing law authorizes a trust to be created by a declaration by the owner of property that
121 he or she or another person holds the property as trustee. (NRS 163.002) **Section 32** of this
122 bill provides that a declaration by the owner of property that he or she or another person holds
123 all the property of the declarant in trust is sufficient to create a trust over all the property of
124 the declarant that is reliably identified as belonging to the declarant at the time of his or her
125 death.

126 Existing law provides that: (1) a trust is irrevocable unless a right to amend or revoke the
127 trust is expressly reserved by the settlor or granted to one or more other persons under the
128 terms of the trust instrument; and (2) the power of appointment or power to add or remove
129 beneficiaries, appoint, remove or replace the trustee or make administrative amendments does
130 not make a trust revocable. (NRS 163.004) **Section 33** of this bill instead provides that a trust
131 is irrevocable unless a right to revoke the trust is expressly reserved by the settlor under the
132 terms of the trust instrument, and that any authority, power or right granted to any person
133 other than the settlor under the terms of the trust instrument or by law, including the power or

134 right to amend the trust, does not render or make a trust revocable. **Section 47** of this bill
135 provides that such provisions apply to any trust created or amended before, on or after
136 October 1, 2021.

137 **Section 34** of this bill establishes the circumstances in which the custodian of an
138 electronic trust may convert the electronic trust into a certified paper original of the electronic
139 trust and the method by which an electronic trust may be converted into a certified paper
140 original. **Section 34** also authorizes the custodian to destroy the electronic record of the
141 electronic trust after converting the electronic trust into a certified paper original if the
142 custodian first takes certain actions.

143 Existing law generally authorizes a trustee to combine two or more trusts into a single
144 trust or divide a trust into two or more separate trusts in certain circumstances after giving
145 notice to certain persons. (NRS 163.025) **Section 35** of this bill provides that if the terms of
146 the trust instrument do not expressly authorize such a combination or division of trusts, the
147 combination or division is required to be made by court order or after giving such notice.

148 Existing law provides that a trust instrument may grant certain powers to an investment
149 trust adviser. (NRS 163.5557) **Section 37** of this bill provides that the power to value non-
150 publicly traded investments held in trust that are subject to the investment management
151 authority of the investment trust adviser may also be granted to an investment trust adviser.

152 Existing law prohibits a creditor of a settlor from seeking to satisfy a claim against the
153 settlor from the assets of a trust in certain circumstances unless the creditor can prove that
154 trust property transferred by the settlor was transferred fraudulently or was otherwise
155 wrongful as to the creditor. (NRS 163.5559) **Section 38** of this bill establishes additional
156 circumstances that generally prohibit a creditor from seeking to satisfy a claim against the
157 settlor from the assets of the trust and provides that such a prohibition does not preclude a
158 creditor from seeking to satisfy a claim against the settlor of a spendthrift trust if the creditor
159 can prove by clear and convincing evidence that trust property transferred by the settlor was
160 fraudulent as to the creditor or violates a legal obligation owed to the creditor under a contract
161 or valid court order.

162 **Section 39** of this bill provides that a trustee may act at the direction or with the consent
163 of another party pursuant to the terms of a trust instrument to appoint property of one trust to
164 another trust and revises other provisions relating to the appointment of such property.
165 **Section 39 also revises the definition of the term “second trust” for the purposes of the**
166 **appointment of such property.**

167 Existing law authorizes a trustee to provide notice to certain persons after a revocable
168 trust becomes irrevocable and generally prohibits any person who is provided notice from
169 bringing an action to contest the validity of the trust more than 120 days after notice is served.
170 (NRS 164.021) **Section 40** of this bill provides that such a prohibition exists regardless of
171 whether a petition for the assumption of jurisdiction of a trust by a court is served upon the
172 person after such notice is provided.

173 Existing law authorizes a trustee of a nontestamentary trust to provide notice to creditors
174 after the death of the settlor, establishes forms for a claim against the settlor or the trust and
175 requires a creditor to file a claim with the trustee within a certain period or the claim is barred.
176 (NRS 164.025) **Section 41** of this bill establishes a form for a claim against the settlor and the
177 trust and provides that a claim filed with the trustee is presumed to be timely filed if it meets
178 certain requirements. **Section 41** also establishes provisions concerning the discovery of the
179 existence of an additional creditor after the initial notice to creditors is provided.

180 Existing law provides that if a trust has an unrepresented minor or incapacitated
181 beneficiary, the custodial parent or guardian of the estate of the minor or incapacitated
182 beneficiary is authorized to provide representation in any judicial proceeding or nonjudicial
183 matter pertaining to the trust. (NRS 164.038) **Section 42** of this bill instead provides that any
184 custodial parent or the guardian of the estate can provide such representation.

185 **Section 44** of this bill requires a lender, trustee or assignee of an encumbrance against
186 real property to provide to the Director of the Department of Health and Human Services or a
187 public administrator or similar person a statement containing the identifying number and
188 account balance of any encumbrance against real property on which the name of a decedent
189 appears and authorizes a reasonable fee to be charged for providing such a statement to a
190 public administrator or similar person. **Section 45** of this bill requires a financial institution to
191 provide a public administrator or similar person with access to a safe deposit box of a
192 decedent for the purpose of inspecting and removing any will or instructions for disposition of

193 the remains of the decedent. **Section 46** of this bill requires county health officers to include
 194 the residential addresses of all deceased persons in a written list filed with a public
 195 administrator or similar person.

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

1 **Section 1.** NRS 30.040 is hereby amended to read as follows:

2 30.040 1. Any person interested under a deed, written contract or other
 3 writings constituting a contract, or whose rights, status or other legal relations are
 4 affected by a statute, municipal ordinance, contract or franchise, may have
 5 determined any question of construction or validity arising under the instrument,
 6 statute, ordinance, contract or franchise and obtain a declaration of rights, status or
 7 other legal relations thereunder.

8 2. A maker or legal representative of a maker of a will, trust or other writings
 9 constituting a testamentary instrument may have determined any question of
 10 construction or validity arising under the instrument and obtain a declaration of
 11 rights, status or other legal relations thereunder. Any action for declaratory relief
 12 under this subsection may only be made in a proceeding commenced pursuant to
 13 the provisions of title 12 or 13 of NRS, as appropriate.

14 3. *A principal or a person granted authority to act for a principal under*
 15 *power of attorney, whether denominated an agent, attorney-in-fact or otherwise,*
 16 *may have determined any question of construction or validity arising under the*
 17 *instrument and obtain a declaration of rights, status or other legal relations*
 18 *thereunder. Any action for declaratory relief under this subsection may only be*
 19 *made in a proceeding commenced pursuant to the provisions of title 12 or 13 of*
 20 *NRS, as appropriate.*

21 **Sec. 2.** NRS 30.060 is hereby amended to read as follows:

22 30.060 1. Any person interested as or through an executor, administrator,
 23 trustee, guardian, ~~or~~ other fiduciary, *including, without limitation, a person*
 24 *granted authority to act for a principal under a power of attorney, whether*
 25 *denominated an agent, attorney-in-fact or otherwise,* creditor, devisee, legatee,
 26 heir, next of kin or cestui que trust, in the administration of a trust ~~or~~ ~~or~~ the
 27 estate of a decedent, an infant, lunatic or insolvent, *or in the actions taken*
 28 *pursuant to a power of attorney,* may have a declaration of rights or legal relations
 29 in respect thereto:

30 (a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or
 31 others;

32 (b) To direct ~~the executors, administrators or trustees~~ *an executor,*
 33 *administrator, trustee or person granted authority to act for a principal under a*
 34 *power of attorney, whether denominated an agent, attorney-in-fact or otherwise,*
 35 to do or abstain from doing any particular act in ~~their~~ *his or her* fiduciary
 36 capacity; or

37 (c) To determine any question arising in the administration of the estate or
 38 trust, including questions of construction of wills, trusts and other writings.

39 2. Any action for declaratory relief under this section may only be made in a
 40 proceeding commenced pursuant to the provisions of title 12 or 13 of NRS, as
 41 appropriate.

42 **Sec. 3.** NRS 113.130 is hereby amended to read as follows:

43 113.130 1. Except as otherwise provided in subsection 2:

44 (a) At least 10 days before residential property is conveyed to a purchaser:

1 (1) The seller shall complete a disclosure form regarding the residential
2 property; and

3 (2) The seller or the seller's agent shall serve the purchaser or the
4 purchaser's agent with the completed disclosure form.

5 (b) If, after service of the completed disclosure form but before conveyance of
6 the property to the purchaser, a seller or the seller's agent discovers a new defect in
7 the residential property that was not identified on the completed disclosure form or
8 discovers that a defect identified on the completed disclosure form has become
9 worse than was indicated on the form, the seller or the seller's agent shall inform
10 the purchaser or the purchaser's agent of that fact, in writing, as soon as practicable
11 after the discovery of that fact but in no event later than the conveyance of the
12 property to the purchaser. If the seller does not agree to repair or replace the defect,
13 the purchaser may:

14 (1) Rescind the agreement to purchase the property; or

15 (2) Close escrow and accept the property with the defect as revealed by the
16 seller or the seller's agent without further recourse.

17 2. Subsection 1 does not apply to a sale or intended sale of residential
18 property:

19 (a) By foreclosure pursuant to chapter 107 of NRS.

20 (b) Between any co-owners of the property, spouses or persons related within
21 the third degree of consanguinity.

22 (c) Which is the first sale of a residence that was constructed by a licensed
23 contractor.

24 (d) By a person who takes temporary possession or control of or title to the
25 property solely to facilitate the sale of the property on behalf of a person who
26 relocates to another county, state or country before title to the property is
27 transferred to a purchaser.

28 *(e) By a fiduciary under title 12 or 13 of NRS, including, without limitation,*
29 *a personal representative, guardian, trustee or person acting under a power of*
30 *attorney, who takes temporary possession or control of or title to the property*
31 *solely to facilitate the sale of the property on behalf of a person who is deceased*
32 *or incapacitated.*

33 3. A purchaser of residential property may not waive any of the requirements
34 of subsection 1. A seller of residential property may not require a purchaser to
35 waive any of the requirements of subsection 1 as a condition of sale or for any other
36 purpose.

37 4. If a sale or intended sale of residential property is exempted from the
38 requirements of subsection 1 pursuant to paragraph (a) of subsection 2, the trustee
39 and the beneficiary of the deed of trust shall, not later than at the time of the
40 conveyance of the property to the purchaser of the residential property, or upon the
41 request of the purchaser of the residential property, provide:

42 (a) Written notice to the purchaser of any defects in the property of which the
43 trustee or beneficiary, respectively, is aware; and

44 (b) If any defects are repaired or replaced or attempted to be repaired or
45 replaced, the contact information of any asset management company who provided
46 asset management services for the property. The asset management company shall
47 provide a service report to the purchaser upon request.

48 5. As used in this section:

49 (a) "Seller" includes, without limitation, a client as defined in NRS 645H.060.

50 (b) "Service report" has the meaning ascribed to it in NRS 645H.150.

1 **Sec. 4.** Chapter 132 of NRS is hereby amended by adding thereto a new
2 section to read as follows:

3 1. *For the purposes of this title, being “in the presence” of a testator,*
4 *settlor, principal or witness includes, without limitation, being in the same*
5 *location at the same time or appearing in the same location at the same time by*
6 *means of audio-video communication.*

7 2. *As used in this section, “audio-video communication” has the meaning*
8 *ascribed to it in paragraph (b) of subsection 3 of NRS 133.088.*

9 **Sec. 5.** NRS 132.117 is hereby amended to read as follows:

10 132.117 “Electronic record” ~~[means a record created, generated, sent,~~
11 ~~communicated, received or stored by electronic means.]~~ *has the meaning ascribed*
12 *to it in NRS 719.090.*

13 **Sec. 6.** NRS 132.118 is hereby amended to read as follows:

14 132.118 “Electronic signature” ~~[means an electronic sound, symbol or~~
15 ~~process attached to or logically associated with a record and executed or adopted by~~
16 ~~a person with the intent to sign the record.]~~ *has the meaning ascribed to it in NRS*
17 *719.100.*

18 **Sec. 7.** NRS 132.119 is hereby amended to read as follows:

19 132.119 “Electronic will” means ~~[an instrument, including, without~~
20 ~~limitation, a codicil, that is executed by a person in accordance with the~~
21 ~~requirements of NRS 133.085 and which disposes of the property of the person~~
22 ~~upon or after his or her death.]~~ *a will that is created and maintained in an*
23 *electronic record.*

24 **Sec. 8.** NRS 133.086 is hereby amended to read as follows:

25 133.086 1. An electronic will is self-proving if:

26 (a) The declarations or affidavits of the attesting witnesses are incorporated as
27 part of, attached to or logically associated with the electronic will, as described in
28 NRS 133.050;

29 (b) The electronic will designates a qualified custodian to maintain custody of
30 the electronic record of the electronic will; and

31 (c) Before ~~[being offered for probate or]~~ being reduced to a certified paper
32 original, ~~[that is offered for probate,]~~ the electronic will was at all times under the
33 custody of a qualified custodian.

34 2. A declaration or affidavit of an attesting witness made pursuant to NRS
35 133.050 and an affidavit of a person made pursuant to NRS 133.340 must be
36 accepted by a court as if made before the court.

37 **Sec. 9.** NRS 133.120 is hereby amended to read as follows:

38 133.120 1. A written will other than an electronic will may ~~[only]~~ be
39 revoked by:

40 (a) Burning, tearing, cancelling or obliterating the will, with the intention of
41 revoking it, by the testator, or by some person in the presence and at the direction of
42 the testator;

43 (b) Another will or codicil in writing, executed as prescribed in this chapter;
44 ~~[or]~~

45 (c) An electronic will, executed as prescribed in this chapter ~~[;]~~ *or*

46 (d) *An electronic revocation that meets the electronic requirements set forth*
47 *in paragraphs (a) and (b) of subsection 1 of NRS 133.085.*

48 2. An electronic will may ~~[only]~~ be revoked by:

49 (a) ~~[Another]~~ *A subsequent* will, codicil, electronic will or other writing,
50 executed as prescribed in this chapter ~~[; or]~~, *that revokes all or part of the*
51 *electronic will expressly or by inconsistency;*

52 (b) ~~[Cancelling, rendering unreadable]~~ *If the electronic will has been*
53 *converted to a certified paper original, burning, tearing, cancelling or obliterating*

1 the ~~will~~ *certified paper original*, with the intention of revoking ~~it;~~ *the electronic*
 2 *will*, by ~~it~~:

3 ~~(1) The~~ *the* testator , or ~~it~~ *by some* person in the presence and at the
 4 direction of the testator; or

5 ~~(2) If the will is in the custody of a qualified custodian, the qualified~~
 6 ~~custodian at the direction of a testator in an electronic will.]~~

7 *(c) An electronic revocation that meets the electronic requirements set forth*
 8 *in paragraphs (a) and (b) of subsection 1 of NRS 133.085.*

9 3. This section does not prevent the revocation implied by law from
 10 subsequent changes in the condition or circumstances of the testator.

11 **Sec. 10.** NRS 133.300 is hereby amended to read as follows:

12 133.300 1. A person must execute a written statement affirmatively
 13 agreeing to serve as the qualified custodian of an electronic will before he or she
 14 may serve in such a capacity.

15 2. ~~Except as otherwise provided in paragraph (a) of subsection 1 of NRS~~
 16 ~~133.310, a] A qualified custodian may not cease serving in such a capacity until [a~~
 17 ~~successor qualified custodian executes the written statement required by subsection~~
 18 ~~1.] the requirements of NRS 133.310 have been met.~~

19 **Sec. 11.** NRS 133.310 is hereby amended to read as follows:

20 133.310 1. A qualified custodian may cease serving in such a capacity by:

21 (a) ~~[If not designating a successor qualified custodian, providing to the testator:~~

22 ~~(1) Thirty days' written notice that the qualified custodian has decided to~~
 23 ~~cease serving in such a capacity; and~~

24 ~~(2)] The conversion of an electronic will into a certified paper original [of,~~
 25 ~~and all records concerning, the electronic will.] in accordance with NRS 133.340;~~

26 (b) ~~[If designating] The conversion of an electronic revocation into a~~
 27 ~~certification of revocation of the electronic will in accordance with subsection 7~~
 28 ~~of NRS 133.340; or~~

29 (c) ~~The appointment of a successor qualified custodian [:~~

30 ~~(1) Providing] in accordance with subsection 2.~~

31 2. A successor qualified custodian may be appointed as follows:

32 (a) *The successor qualified custodian is designated by:*

33 (1) *The testator; or*

34 (2) *Except as otherwise provided in subsection 4, the qualified custodian,*
 35 *by providing the testator* 30 days' written notice that the qualified custodian has
 36 decided to cease serving in such a capacity ~~to:~~

37 ~~(I) The testator; and~~

38 ~~(II) The designated] and designating the~~ successor qualified custodian
 39 ~~;~~ and

40 ~~(2) Providing];~~

41 (b) *The qualified custodian provides* to the successor qualified custodian the
 42 electronic record of the electronic will and an affidavit which states:

43 ~~[(I)] (I)~~ That the qualified custodian ceasing to act in such a capacity
 44 is eligible to act as a qualified custodian in this State and is the qualified custodian
 45 designated by the testator in the electronic will or was designated to act in such a
 46 capacity by another qualified custodian pursuant to this ~~[paragraph;~~

47 ~~(II)] subsection;~~

48 (2) That an electronic record was created at the time the testator executed
 49 the electronic will;

50 ~~[(III)] (3)~~ That the electronic record has been in the custody of one or
 51 more qualified custodians since the execution of the electronic will and has not
 52 been altered since the time it was created; and

1 ~~[(IV)] (4) The identity of all qualified custodians who have had~~
 2 ~~custody of the electronic record since the execution of the electronic will~~ ~~[-~~
 3 ~~2. For purposes of making the affidavit pursuant to subparagraph (2) of~~
 4 ~~paragraph (b) of subsection 1, a qualified custodian is entitled to rely conclusively~~
 5 ~~on any affidavits provided by a predecessor qualified custodian if all such affidavits~~
 6 ~~are provided to the]; and~~

7 ~~(c) The successor qualified custodian [-] executes a written statement~~
 8 ~~pursuant to subsection 1 of NRS 133.300.~~

9 3. ~~[Subject to the provisions of NRS 133.300, if the testator designates a~~
 10 ~~successor] If the qualified custodian [in a writing executed with the same~~
 11 ~~formalities required for the execution] has custody of the testator's electronic~~
 12 ~~revocation of [an] the electronic will, [a] the qualified custodian shall [cease~~
 13 ~~servicing in such a capacity and] provide to the [designated] successor qualified~~
 14 ~~custodian [-] the electronic record of the electronic revocation and an affidavit~~
 15 ~~stating:~~

16 (a) ~~[-] That an electronic record [- and] was created at the time the testator~~
 17 ~~revoked the will;~~

18 (b) ~~[-] The affidavit described in subparagraph (2) of paragraph (b) of subsection~~
 19 ~~[-] That the electronic record has been in the custody of one or more qualified~~
 20 ~~custodians since the execution of the electronic revocation and has not been~~
 21 ~~altered since the time it was created; and~~

22 (c) ~~The identity of all qualified custodians who have had custody of the~~
 23 ~~electronic record since the execution of the electronic revocation.~~

24 4. ~~[-] Before the expiration of the 30 days after the qualified custodian~~
 25 ~~gives notice designating a successor qualified custodian pursuant to~~
 26 ~~subparagraph (2) of paragraph (a) of subsection 2, if the testator designates a~~
 27 ~~different successor qualified custodian, [is an entity, an affidavit of a duly~~
 28 ~~authorized officer or agent of such entity constitutes the affidavit of] the successor~~
 29 ~~qualified custodian [-] whom the testator designates must be the appointed~~
 30 ~~successor qualified custodian.~~

31 **Sec. 12.** NRS 133.320 is hereby amended to read as follows:

32 133.320 A qualified custodian of an electronic will:

33 1. Must not be an heir of the testator or a beneficiary or devisee under the
 34 electronic will.

35 2. Shall consistently employ, and store electronic records of electronic wills
 36 in, a system that protects electronic records from destruction, alteration or
 37 unauthorized access and detects any change to an electronic record.

38 3. Shall store in the electronic record of an electronic will each of the
 39 following:

40 (a) A photograph or other visual record of the testator and the attesting
 41 witnesses that was taken contemporaneously with the execution of the electronic
 42 will;

43 (b) A photocopy, photograph, facsimile or other visual record of any
 44 documentation that was taken contemporaneously with the execution of the
 45 electronic will and provides satisfactory evidence of the identities of the testator
 46 and the attesting witnesses, including, without limitation, documentation of the
 47 methods of identification used pursuant to subsection 4 of NRS 240.1655; and

48 (c) An audio and video recording of the testator, attesting witnesses and notary
 49 public, as applicable, taken at the time the testator, each attesting witness and
 50 notary public, as applicable, placed his or her electronic signature on the electronic
 51 will, as required pursuant to paragraph (b) of subsection 1 of NRS 133.085.

52 4. Shall provide to any court that is hearing a matter involving an electronic
 53 will which is currently or was previously stored by the qualified custodian any

1 information requested by the court pertaining to the qualifications of the qualified
 2 custodian and the policies and practices of the qualified custodian concerning the
 3 maintenance, storage and production of electronic wills.

4 *5. For the purposes of this title, if a qualified custodian or other person is*
 5 *required to provide written notice to a testator, notice shall be deemed to be*
 6 *provided if the qualified custodian or other person delivers written notice to the*
 7 *last known address of the testator.*

8 *6. Except as otherwise provided by law, the requirements governing an*
 9 *electronic will also govern an electronic codicil and electronic revocation of a*
 10 *will.*

11 **Sec. 13.** NRS 133.330 is hereby amended to read as follows:

12 133.330 1. With regard to an electronic record of an electronic will, a
 13 qualified custodian ~~;~~

14 ~~— (a) Shall~~ *shall* provide access to or information concerning the electronic will
 15 or the certified paper original of the electronic will only to:

16 ~~[(1)]~~ *(a)* The testator or another person as directed by the written
 17 instructions of the testator; and

18 ~~[(2)]~~ *(b)* After the death of the testator, the nominated personal
 19 representative of the testator or any interested person . ~~;~~ ~~and~~

20 ~~— (b) May;~~

21 *2. A qualified custodian may*, in the absolute discretion of the qualified
 22 custodian, destroy the electronic record *of an electronic will* at any ~~time:~~

23 ~~— (1) Five or more years] of the following times:~~

24 *(a) One year* after ~~the admission]~~ *notice of entry of an order admitting* any
 25 will ~~of the testator]~~ to probate;

26 ~~[(2) Five or more years after the revocation of the electronic will;~~

27 ~~— (3) Five or more years after]~~

28 *(b) After* ceasing to serve as the qualified custodian of the electronic record of
 29 the electronic will *upon the appointment of a successor qualified custodian*
 30 pursuant to NRS 133.310;

31 ~~[(4) Ten or more years after the death of the testator; or~~

32 ~~— (5) One hundred and fifty years after the execution of the electronic will.~~

33 ~~— 2. At]~~

34 *(c) If the electronic will has been converted to a certified paper original in*
 35 *accordance with NRS 133.340 and the qualified custodian complies with*
 36 *subsection 4, after 30 days' written notice to the testator;*

37 *(d) If a certification of revocation has been created in accordance with*
 38 *subsection 7 of NRS 133.340 and the qualified custodian complies with*
 39 *subsection 4, after 30 days' written notice to the testator;*

40 *(e) Pursuant* to the direction of a testator in a writing executed with the same
 41 formalities required for the execution of *a will or an electronic will* ~~;~~ ~~or~~

42 *(f) Upon court order authorizing the destruction of the electronic will.*

43 *3. Subject to the provisions of subsection 4, if a certification of revocation*
 44 *has been created pursuant to subsection 7 of NRS 133.340, a qualified custodian*
 45 *[shall cancel, render unreadable or obliterate] may, in the absolute discretion of the*
 46 *qualified custodian, destroy the electronic record* ~~;~~ ~~of an electronic revocation at~~
 47 *any of the following times:*

48 *(a) One year after notice of entry of an order admitting any will to probate;*

49 *(b) If the requirements of subsection 3 of NRS 133.310 are met, after ceasing*
 50 *to serve as the qualified custodian of the electronic will upon the appointment of*
 51 *a successor qualified custodian pursuant to NRS 133.310;*

52 *(c) Pursuant to the direction of a testator in a writing executed with the same*
 53 *formalities required for the execution of a will or an electronic will;*

1 (d) After 30 days' written notice to the testator; or
 2 (e) Upon court order authorizing the destruction of the electronic record of
 3 the electronic will.

4 4. Before destroying an electronic will or an electronic revocation, the
 5 qualified custodian shall make reasonable efforts to provide to the testator the
 6 electronic record of the electronic will and electronic revocation.

7 **Sec. 14.** NRS 133.340 is hereby amended to read as follows:

8 133.340 1. ~~Upon the creation of~~ A qualified custodian may cause an
 9 electronic will to be converted into a certified paper original of ~~an~~ the electronic
 10 will ~~is~~ under the following circumstances:

11 (a) ~~is~~ At the direction of the testator; or

12 (b) Except as otherwise provided in subsection 9, with 30 days' written notice
 13 to the testator that the qualified custodian intends to convert the electronic will
 14 ~~has always been in the custody of a qualified custodian, the qualified custodian~~
 15 ~~shall state in an~~ into a certified paper original.

16 2. An electronic will may be converted into a certified paper original by
 17 creating a tangible document that contains the following:

18 (a) The text of the electronic will; and

19 (b) An affidavit ~~is~~

20 ~~is~~ (1) That ~~the~~ satisfying the requirements of subsections 3, 4 and 5, as
 21 applicable.

22 3. A qualified custodian ~~is eligible to act as a~~ converting an electronic will
 23 into a certified paper original shall state all of the following in an affidavit:

24 (a) That the qualified custodian ~~is in this State;~~

25 ~~is~~ (2) is not a person described in subsection 1 of NRS 133.320;

26 (b) That the qualified custodian is the qualified custodian designated by the
 27 testator in the electronic will or was designated to act in such a capacity pursuant to
 28 ~~paragraph (b) of~~ subsection ~~is~~ 2 or 4 of NRS 133.310;

29 ~~is~~ (3) (c) That an electronic record was created at the time the testator
 30 executed the electronic will;

31 ~~is~~ (4) (d) That the electronic record has been in the custody of one or more
 32 qualified custodians since the execution of the electronic will, and has not been
 33 altered since the time it was created;

34 ~~is~~ (5) (e) The identity of all qualified custodians who have had custody of
 35 the electronic record since the execution of the electronic will;

36 ~~is~~ (6) (f) That the certified paper original is a true, correct and complete
 37 tangible manifestation of the electronic will; and

38 ~~is~~ (7) (g) That the records described in subsection 3 of NRS 133.320 are in
 39 the custody of the qualified custodian.

40 ~~is~~ 4. In addition to the statements required pursuant to subsection 3, a
 41 qualified custodian converting a self-proving electronic will to a certified paper
 42 original shall state all of the following in the affidavit:

43 (a) That the declaration or affidavits of the attesting witnesses satisfying the
 44 requirements of NRS 133.050 were created at the time the testator executed the
 45 electronic will and were incorporated as part of, attached to or logically
 46 associated with the electronic will as required pursuant to NRS 133.086;

47 (b) That the declarations or affidavits of the attesting witnesses have been in
 48 the possession of a qualified custodian since the execution of the electronic will
 49 and have not been altered since the time they were created;

50 (c) The identity of all qualified custodians who have had possession of the
 51 declarations or affidavits of the attesting witnesses since their creation; and

1 (d) *That the certified paper original contains a true, correct and complete*
2 *tangible manifestation of the original declarations or affidavits of the attesting*
3 *witnesses.*

4 5. If the electronic will has not always been under the custody of a qualified
5 custodian, the person who discovered the electronic will ~~and the person who~~
6 ~~reduced~~ *may cause* the electronic will to ~~the~~ *be converted into a* certified paper
7 original ~~shall each state in an affidavit~~ *by creating a tangible document that*
8 *contains* the following ~~information~~ *:*

9 (a) *The text of the electronic will; and*

10 (b) *An affidavit that states, to the best of their knowledge:*

11 (1) When the electronic will was created, if not indicated in the electronic
12 will;

13 (2) When, how and by whom the electronic will was discovered;

14 (3) The identities of each person who has had access to the electronic will;

15 (4) The method in which the electronic will was stored and the safeguards
16 in place to prevent alterations to the electronic will;

17 (5) Whether the electronic will has been altered since its execution; and

18 (6) That the certified paper original is a true, correct and complete tangible
19 manifestation of the electronic will.

20 ~~2.~~ 6. For purposes of making an affidavit pursuant to ~~paragraph (a) of~~
21 subsection ~~1.~~ 3, 4 or 5, the qualified custodian may rely conclusively on any
22 affidavits delivered by a predecessor qualified custodian.

23 7. *If a testator has revoked a will through an electronic record, the qualified*
24 *custodian may convert the electronic revocation into a certification of revocation*
25 *by creating:*

26 (a) *A certified paper original of the electronic will; and*

27 (b) *A tangible document that contains the following:*

28 (1) *The text of the electronic revocation; and*

29 (2) *An affidavit stating:*

30 (I) *That an electronic record was created at the time the testator*
31 *revoked the will;*

32 (II) *That the electronic record has been in the custody of one or more*
33 *qualified custodians since the execution of the electronic revocation, and has not*
34 *been altered since the time it was created;*

35 (III) *The identity of all qualified custodians who have had custody of*
36 *the electronic record since the execution of the electronic revocation;*

37 (IV) *That the certified paper original is a true, correct and complete*
38 *tangible manifestation of the electronic revocation; and*

39 (V) *That the records described in subsection 3 of NRS 133.320*
40 *pertaining to the electronic revocation are presently in the custody of the*
41 *qualified custodian.*

42 8. *A certified paper original of an electronic will satisfying the requirements*
43 *of subsection 2 or 5, as applicable, may be offered for and admitted into probate*
44 *in the same manner as if it were an original will. A certified paper original of an*
45 *electronic will is presumed to be valid and, absent any objection, must be*
46 *admitted to probate expeditiously without requiring further proof of validity.*

47 9. *Before the expiration of the 30 days after the qualified custodian gives*
48 *notice to the testator of the qualified custodian's intent to convert the electronic*
49 *will into a certified paper original pursuant to paragraph (b) of subsection 1, if*
50 *the testator objects to the conversion and designates a successor qualified*
51 *custodian in accordance with NRS 133.310, the qualified custodian shall not*
52 *convert the electronic will into a certified paper original and shall instead comply*
53 *with paragraph (b) of subsection 2 of NRS 133.310.*

1 **Sec. 15.** NRS 139.050 is hereby amended to read as follows:

2 139.050 Administration may be granted upon petition to one or more
3 qualified persons, although not otherwise entitled to serve, at the written request of
4 the person entitled, filed in the court. *The qualified person making the written*
5 *request must provide his or her current address and phone number in the written*
6 *request. Failure to provide such information voids the written request.*

7 **Sec. 16.** NRS 139.090 is hereby amended to read as follows:

8 139.090 1. A petition for letters of administration must be in writing, signed
9 by the petitioner or the attorney for the petitioner and filed with the clerk of the
10 court, and must state:

11 (a) The jurisdictional facts;

12 (b) The names and addresses of the heirs of the decedent and their relationship
13 to the decedent, so far as known to the petitioner, and the age of any who is a
14 minor;

15 (c) The character and estimated value of the property of the estate; ~~and~~

16 (d) *The names and personal addresses of the proposed appointed*
17 *administrators and the name and personal address of any associated*
18 *coadministrator under paragraph (a) of subsection 2 of NRS 139.040 or, if the*
19 *coadministrator is an attorney who is licensed in this State or a banking*
20 *corporation authorized to do business in this State, the business address of the*
21 *coadministrator; and*

22 (e) Whether the person to be appointed as administrator has been convicted of
23 a felony.

24 2. No defect of form or in the statement of jurisdictional facts actually
25 existing voids an order appointing an administrator or any of the subsequent
26 proceedings.

27 **Sec. 16.5.** NRS 139.100 is hereby amended to read as follows:

28 139.100 The clerk shall set the petition for hearing, and notice must be given
29 to the heirs of the decedent, ~~and to~~ the Director of the Department of Health and
30 Human Services as provided in NRS 155.020 ~~and~~ and, if the petitioner is not the
31 surviving spouse or any kindred specified in NRS 139.040 or nominated by the
32 surviving spouse or any such kindred, the public administrator of the county or a
33 person employed or contracted with pursuant to NRS 253.125, as applicable. The
34 notice must state the filing of the petition, the object and the time for hearing.

35 **Sec. 17.** Chapter 143 of NRS is hereby amended by adding thereto the
36 provisions set forth as sections 18 and 19 of this act.

37 **Sec. 18.** 1. *Except as otherwise provided in subsection 2:*

38 (a) *A person shall either accept letters of administration or letters*
39 *testamentary that have been certified within 60 days after presentation of the*
40 *certified letters of administration or letters testamentary for acceptance, or*
41 *request a translation or an opinion of counsel, not later than 10 ~~business~~ days*
42 *after such presentation;*

43 (b) *If a person requests a translation or an opinion of counsel, the person*
44 *shall accept the certified letters of administration or letters testamentary not later*
45 *than 5 ~~business~~ days after receipt of the translation or opinion of counsel; and*

46 (c) *A person may not require an additional or different form of certified*
47 *letters of administration or letters testamentary for authority granted in the letters*
48 *presented.*

49 2. *A person is not required to accept certified letters of administration or*
50 *letters testamentary if:*

51 (a) *The person is not otherwise required to engage in a transaction with the*
52 *personal representative in the same circumstances;*

1 (b) Engaging in a transaction with the personal representative in the same
2 circumstances would be inconsistent with federal law;

3 (c) The person has actual knowledge of the termination of the personal
4 representative's authority before the exercise of authority; or

5 (d) A request for a translation or an opinion of counsel is refused.

6 3. A person who refuses to accept certified letters of administration or
7 letters testamentary in violation of this section is subject to:

8 (a) A court order mandating acceptance of the certified letters of
9 administration or letters testamentary; and

10 (b) Liability for reasonable attorney's fees and costs incurred in any action
11 or proceeding that confirms the validity of the certified letters of administration
12 or letters testamentary or mandates acceptance of the certified letters of
13 administration or letters testamentary.

14 4. After accepting certified letters of administration or letters testamentary,
15 a person may request newly certified letters of administration or letters
16 testamentary any time after the 6-month period following the date of the previous
17 acceptance of certified letters of administration or letters testamentary for the
18 purpose of validating the continued authority of the personal representative.

19 **Sec. 19. 1.** A person holding property that is attributable to a decedent
20 may only request the presentation of the following items before transferring such
21 property in accordance with a court order providing to whom such property is to
22 be transferred:

23 (a) A certified copy of the court order providing to whom such property is to
24 be transferred;

25 (b) A certified copy of letters of administration or letters testamentary;

26 (c) The identification and contact information of the personal representative;

27 (d) Tax information, if necessary; and

28 (e) Documents evidencing the death of the decedent.

29 2. Except as otherwise provided in subsection 3, if a person holding
30 property that is attributable to a decedent ~~requests~~ :

31 (a) Requests the presentation of any of the items set forth in subsection 1, the
32 person must accept and comply with the court order providing to whom such
33 property is to be transferred not later than 10 ~~business~~ days after the
34 presentation of all items requested pursuant to subsection 1.

35 (b) Does not request the presentation of any of the items set forth in
36 subsection 1, the person must accept and comply with the court order providing to
37 whom such property is to be transferred not later than 10 days after being
38 presented with the court order.

39 3. A person holding property that is attributable to a decedent is not
40 required to transfer such property if:

41 (a) The certification of the court order, letters of administration or letters
42 testamentary presented is older than 180 days;

43 (b) The court order is inconsistent with federal law; or

44 (c) The person has actual knowledge that the person presenting the court
45 order is not a personal representative of the estate of the decedent.

46 4. The lack of legal or actual notice of the court proceeding resulting in the
47 issuance of the court order providing to whom property is to be transferred is not
48 a defense to not complying with the order unless an actual dispute exists over title
49 to the property.

50 5. A person who timely complies with a court order in accordance with this
51 section shall be held harmless.

52 6. A person who refuses to accept and comply with a court order in
53 violation of this section is subject to:

1 (a) *A court order requiring acceptance of the order; and*
2 (b) *Liability for reasonable attorney's fees and costs incurred in an action or*
3 *proceeding confirming the validity of the court order, and any damages resulting*
4 *from the delay beginning on the day of the presentation of all items requested*
5 *pursuant to subsection 1.*

6 **Sec. 20.** NRS 143.010 is hereby amended to read as follows:

7 143.010 If there are two personal representatives, the acts of one alone are
8 valid if the other is absent from the state, or for any cause is laboring under any
9 legal disability ~~[]~~ *or conflict of interest*, and if there are more than two, the acts of
10 a majority are sufficient.

11 **Sec. 21.** NRS 143.050 is hereby amended to read as follows:

12 143.050 1. Except as otherwise provided in *subsection 2*, NRS 143.520 ~~[]~~
13 *or the decedent's will*, after notice given as provided in NRS 155.010 or in such
14 other manner as the court directs ~~[, the court may authorize]~~ :

15 (a) *Subject to the partnership agreement and the applicable provisions of*
16 *chapter 87, 87A or 88 of NRS*, the personal representative ~~[to] may~~ continue ~~[the~~
17 ~~operation of the decedent's business to such an extent and subject to such~~
18 ~~restrictions as may seem to the court to be for the best interest of the estate and any~~
19 ~~interested persons.] as a general partner in any partnership in which the decedent~~
20 *was a general partner at the time of death;*

21 (b) *Subject to the operating agreement and the applicable provisions of*
22 *chapter 86 of NRS*, the personal representative may continue as a manager or
23 managing member in any limited-liability company in which the decedent was a
24 manager or managing member at the time of death;

25 (c) *The personal representative may continue operation of any of the*
26 *following:*

27 (1) *An unincorporated business or joint venture in which the decedent*
28 *was engaged at the time of death; or*

29 (2) *An unincorporated business or joint venture which was wholly or*
30 *partly owned by the decedent at the time of death; and*

31 (d) *The personal representative may continue to exercise any shareholder,*
32 *partnership or membership rights owned by the decedent at the time of death to*
33 *which the personal representative has succeeded during the administration of the*
34 *estate.*

35 2. The ~~[provisions of] court may~~, upon its own motion or upon the petition
36 *of an interested person*, restrict the actions of the personal representative set forth
37 in subsection 1 ~~[do not apply to passive investments or the exercise of any~~
38 ~~shareholder or membership rights to which the personal representative has~~
39 ~~succeeded.] as the court determines to be in the best interest of the estate and any~~
40 *interested persons.*

41 3. Unless specifically authorized by the will or by the court, the personal
42 representative may not receive any separate compensation for continuing the
43 operation of the decedent's business pursuant to this section.

44 **Sec. 22.** NRS 143.165 is hereby amended to read as follows:

45 143.165 1. ~~[On] Except as otherwise provided in subsection 6~~, on petition
46 or ex parte application of an interested person, the court, with or without bond, may
47 enter an ex parte order restraining a personal representative from performing
48 specified acts of administration, disbursement or distribution, or exercising any
49 powers or discharging any duties of the office, or enter any other order to secure
50 proper performance of the duties of the office to be effective until further order of
51 the court. Notwithstanding any other provision of law, if it appears to the court that
52 the personal representative otherwise may take action that would jeopardize
53 unreasonably the interest of the petitioner, of some other interested person or the

1 estate, the court may enter the ex parte order. A person with whom the personal
2 representative may transact business may be made a party to the ex parte order.

3 2. Any ex parte orders entered pursuant to subsection 1 must be set for hearing
4 within 10 days after entry of the ex parte order, unless the parties otherwise agree,
5 or on a date the court otherwise determines is in the best interest of the estate.

6 3. Notice of entry of the ex parte order entered pursuant to subsection 1 must
7 be given by the petitioner or applicant to the personal representative and the
8 attorney of record of the personal representative, if any, to any other party named as
9 a party in the ex parte order and as otherwise directed by the court.

10 4. The court may impose a fine on an interested person who obtains an ex
11 parte order pursuant to this section without probable cause.

12 5. The court may, at any time, terminate an ex parte order entered pursuant to
13 subsection 1 on its own motion or upon petition of the personal representative if it
14 no longer appears to the court that the personal representative otherwise may take
15 action that would jeopardize unreasonably the interest of the petitioner, of some
16 other interested person or the estate.

17 **6. *A public administrator or a person employed or contracted with pursuant***
18 ***to NRS 253.125, as applicable, must not be required to post a bond for obtaining***
19 ***any order pursuant to this section.***

20 **Sec. 23.** NRS 143.305 is hereby amended to read as follows:

21 143.305 As used in NRS 143.300 to 143.815, inclusive, ***and section 19 of***
22 ***this act***, unless the context otherwise requires, the words and terms defined in NRS
23 143.310, 143.315 and 143.320 have the meanings ascribed to them in those
24 sections.

25 **Sec. 24.** NRS 143.345 is hereby amended to read as follows:

26 143.345 1. If the authority to administer the estate pursuant to NRS 143.300
27 to 143.815, inclusive, ***and section 19 of this act*** is requested in a petition for
28 appointment of the personal representative, notice of the hearing on the petition
29 must be given for the period and in the manner applicable to the petition for
30 appointment.

31 2. Where proceedings for the administration of the estate are pending at the
32 time a petition is filed pursuant to NRS 143.340, notice of the hearing on the
33 petition must be given for the period and in the manner provided in NRS 155.010 to
34 all the following persons:

35 (a) Each person specified in NRS 155.010;

36 (b) Each known heir whose interest in the estate would be affected by the
37 petition;

38 (c) Each known devisee whose interest in the estate would be affected by the
39 petition; ~~and~~

40 (d) Each person named as personal representative in the will of the decedent ~~;~~
41 ***; and***

42 (e) ***The public administrator of the county or a person employed or***
43 ***contracted with pursuant to NRS 253.125, as applicable, if the decedent died***
44 ***intestate and the petitioner is not the surviving spouse or kindred under NRS***
45 ***139.040, regardless of any nomination by an heir.***

46 3. The notice of hearing of the petition for authority to administer the estate
47 pursuant to NRS 143.300 to 143.815, inclusive, ***and section 19 of this act***, whether
48 included in the petition for appointment or in a separate petition, must include a
49 statement in substantially the following form:

50
51 The petition requests authority to administer the estate under the
52 Independent Administration of Estates Act. This will avoid the need to
53 obtain court approval for many actions taken in connection with the estate.

1 However, before taking certain actions, the personal representative will be
2 required to give notice to interested persons unless they have waived notice
3 or have consented to the proposed action. Independent administration
4 authority will be granted unless good cause is shown why it should not be.

5 **Sec. 25.** NRS 143.350 is hereby amended to read as follows:

6 143.350 1. Except as otherwise provided in subsection 2, unless an
7 interested person, *including, without limitation, a person who receives notice*
8 *under NRS 143.345*, objects in writing at or before the hearing to the granting of
9 authority to administer the estate pursuant to NRS 143.300 to 143.815, inclusive,
10 *and section 19 of this act* and the court determines that the interested person has
11 shown good cause why the authority to administer the estate under those provisions
12 should not be granted, the court ~~shall~~ *may* grant the requested authority.

13 2. If the interested person has shown good cause why only limited authority
14 should be granted, the court ~~shall~~ *may* grant limited authority.

15 **Sec. 25.5.** NRS 143.380 is hereby amended to read as follows:

16 143.380 1. ~~Subject~~ Except as otherwise provided in subsection 4, and
17 subject to the limitations and requirements of NRS 143.370, when the personal
18 representative exercises the authority to sell property of the estate after being
19 granted full authority pursuant to NRS 143.300 to 143.815, inclusive, the personal
20 representative may sell the property at public auction or private sale, and with or
21 without notice, for cash or on credit, for such price and upon such terms and
22 conditions as the personal representative may determine.

23 2. The requirements applicable to court confirmation of sales of real property
24 referenced in subsection 1 include, without limitation:

25 (a) Publication of the notice of sale;

26 (b) Court approval of agents' and brokers' commissions;

27 (c) The sale being not less than 90 percent of appraised value of the real
28 property;

29 (d) An examination by the court into the necessity for the sale of the real
30 property, including, without limitation, any advantage to the estate and benefit to
31 interested persons; and

32 (e) The efforts of the personal representative to obtain the highest and best
33 price for the property reasonably attainable.

34 3. The requirements applicable to court confirmation of sales of real property
35 and sales of personal property do not apply to a sale pursuant to this section.

36 4. If the personal representative determines that the sale of real property
37 pursuant to this section will be less than 90 percent of the appraised value of the
38 real property:

39 (a) All interested persons must consent in writing to the sale before the
40 personal representative may proceed with the sale; and

41 (b) The sale must be confirmed by the court pursuant to NRS 148.060.

42 **Sec. 26.** NRS 143.520 is hereby amended to read as follows:

43 143.520 1. Subject to the partnership agreement, ~~and~~ the applicable
44 provisions of chapter 87, *87A or 88* of NRS ~~and~~ *and the decedent's will*, the
45 personal representative who has limited authority or full authority has the power to
46 continue as a general partner in any partnership in which the decedent was a general
47 partner at the time of death.

48 2. *Subject to the operating agreement, the applicable provisions of chapter*
49 *86 of NRS and the decedent's will, the personal representative who has limited*
50 *authority or full authority has the power to continue as a manager or managing*
51 *member in any limited-liability company in which the decedent was a manager or*
52 *managing member at the time of death.*

1 3. The personal representative who has limited authority or full authority has
2 the power to continue operation of any of the following:

3 (a) An unincorporated business or joint venture in which the decedent was
4 engaged at the time of ~~the decedent's~~ death.

5 (b) An unincorporated business or joint venture which was wholly or partly
6 owned by the decedent at the time of ~~the decedent's~~ death.

7 ~~3.~~ **4. *The personal representative who has limited authority or full***
8 ***authority has the power to continue to exercise any shareholder, partnership or***
9 ***membership rights owned by the decedent at the time of death to which the***
10 ***personal representative has succeeded during the administration of the estate.***

11 5. Except as otherwise provided in subsection ~~4.~~ 6, the personal
12 representative may exercise the powers described in subsections 1 ~~and 2~~ to 4,
13 **inclusive**, without giving notice of the proposed action pursuant to NRS 143.700 to
14 143.760, inclusive.

15 ~~4.~~ 6. The personal representative shall give notice of a proposed action
16 pursuant to NRS 143.700 to 143.760, inclusive, if the personal representative
17 continues as a general partner under subsection 1 ~~or~~ **or a manager or managing**
18 **member under subsection 2** or continues the operation of any unincorporated
19 business or joint venture under subsection ~~2.~~ 3, for a period of more than 6
20 months after the date on which letters are first issued to a personal representative.

21 **Sec. 27.** NRS 146.070 is hereby amended to read as follows:

22 146.070 1. ***All or part of the estate of a decedent may be set aside without***
23 ***administration by the order of the court as follows:***

24 (a) If the value of a decedent's estate does not exceed \$100,000, the estate may
25 be set aside without administration by the order of the court ~~or~~; **or**

26 ***(b) If a decedent's will directs that all or part of the decedent's estate is to be***
27 ***distributed to the trustee of a nontestamentary trust established by the decedent***
28 ***and in existence at the decedent's death, the portion of the estate subject to such***
29 ***direction may be set aside without administration. Any portion of a decedent's***
30 ***estate set aside to the nontestamentary trust pursuant to this paragraph is subject***
31 ***to creditors of the estate unless the petitioner provides proof to the court that the***
32 ***trustee has published or mailed the requisite notice to such creditors on behalf of***
33 ***the nontestamentary trust and settlor pursuant to NRS 164.025.***

34 2. Except as otherwise provided in subsection 3, the whole estate ***set aside***
35 ***pursuant to paragraph (a) of subsection 1*** must be assigned and set apart in the
36 following order:

37 (a) To the payment of the petitioner's attorney's fees and costs incurred
38 relative to the proceeding under this section;

39 (b) To the payment of funeral expenses, expenses of last illness, money owed
40 to the Department of Health and Human Services as a result of payment of benefits
41 for Medicaid and creditors, if there are any;

42 (c) To the payment of other creditors, if any; and

43 (d) Any balance remaining to the claimant or claimants entitled thereto
44 pursuant to a valid will of the decedent, and if there is no valid will, pursuant to
45 intestate succession in accordance with chapter 134 of NRS.

46 3. If ***the value of the estate does not exceed \$100,000 and*** the decedent is
47 survived by a spouse or one or more minor children, the court must set aside the
48 estate for the benefit of the surviving spouse or the minor child or minor children of
49 the decedent, subject to any reduction made pursuant to subsection 4 or 5. The court
50 may allocate the entire estate to the surviving spouse, the entire amount to the
51 minor child or minor children, or may divide the estate among the surviving spouse
52 and minor child or minor children.

1 4. As to any amount set aside to or for the benefit of the surviving spouse or
2 minor child or minor children of the decedent pursuant to subsection 3, the court
3 must set aside the estate without the payment of creditors except as the court finds
4 necessary to prevent a manifest injustice.

5 5. To prevent an injustice to creditors when there are nonprobate transfers that
6 already benefit the surviving spouse or minor child or minor children of the
7 decedent, the court has the discretion to reduce the amount set aside under
8 subsection 3 to the extent that the value of the estate, when combined with the value
9 of nonprobate transfers, as defined in NRS 111.721, from the decedent to or for the
10 benefit of the surviving spouse or minor child or minor children of the decedent
11 exceeds \$100,000.

12 6. In exercising the discretion granted in this section, the court shall consider
13 the needs and resources of the surviving spouse and minor child or minor children,
14 including any assets received by or for the benefit of the surviving spouse or minor
15 child or minor children from the decedent by nonprobate transfers.

16 7. For the purpose of this section, a nonprobate transfer from the decedent to
17 one or more trusts or custodial accounts for the benefit of the surviving spouse or
18 minor child or minor children shall be considered a transfer for the benefit of such
19 spouse or minor child or minor children.

20 8. Proceedings taken under this section must not begin until at least 30 days
21 after the death of the decedent and must be originated by a petition containing:

22 (a) A specific description of all property in the decedent's estate;

23 (b) A list of all known liens and encumbrances against estate property at the
24 date of the decedent's death, with a description of any that the petitioner believes
25 may be unenforceable;

26 (c) An estimate of the value of the property, together with an explanation of
27 how the estimated value was determined;

28 (d) A statement of the debts of the decedent so far as known to the petitioner;

29 (e) The names and residences of the heirs and devisees of the decedent and the
30 age of any who is a minor and the relationship of the heirs and devisees to the
31 decedent, so far as known to the petitioner; and

32 (f) If the decedent left a will, a statement concerning all evidence known to the
33 petitioner that tends to prove that the will is valid.

34 9. If the petition seeks to have the estate set aside for the benefit of the
35 decedent's surviving spouse or minor child or minor children without payment to
36 creditors, the petition must also contain:

37 (a) A specific description and estimated value of property passing by one or
38 more nonprobate transfers from the decedent to the surviving spouse or minor child
39 or minor children; or

40 (b) An allegation that the estimated value of the property sought to be set aside,
41 combined with the value of all nonprobate transfers from the decedent to the
42 surviving spouse or minor child or minor children who are seeking to receive
43 property pursuant to this section, is less than \$100,000.

44 10. When property is distributed pursuant to an order granted under this
45 section, the court may allocate the property on a pro rata basis or a non-pro rata
46 basis.

47 11. The clerk shall set the petition for hearing and the petitioner shall give
48 notice of the petition and hearing in the manner provided in NRS 155.010 to the
49 decedent's heirs and devisees and to the Director of the Department of Health and
50 Human Services. If a complete copy of the petition is not enclosed with the notice,
51 the notice must include a statement setting forth to whom the estate is being set
52 aside.

1 12. No court or clerk's fees may be charged for the filing of any petition in, or
2 order of court thereon, or for any certified copy of the petition or order in an estate
3 not exceeding \$2,500 in value.

4 13. At the hearing on a petition under this section, the court may require such
5 additional evidence as the court deems necessary to make the findings required
6 under subsection 14.

7 14. The order granting the petition shall include:

8 (a) The court's finding as to the validity of any will presented;

9 (b) The court's finding as to the value of the estate and, if relevant for the
10 purposes of subsection 5, the value of any property subject to nonprobate transfers;

11 (c) The court's determination of any property set aside under subsection 2;

12 (d) The court's determination of any property set aside under subsection 3,
13 including, without limitation, the court's determination as to any reduction made
14 pursuant to subsection 4 or 5; and

15 (e) The name of each distributee and the property to be distributed to the
16 distributee.

17 15. As to the distribution of the share of a minor child set aside pursuant to
18 this section, the court may direct the manner in which the money may be used for
19 the benefit of the minor child as is deemed in the court's discretion to be in the best
20 interests of the minor child, and the distribution of the minor child's share shall be
21 made as permitted for the minor child's share under the terms of the decedent's will
22 or to one or more of the following:

23 (a) A parent of such minor child, with or without the filing of any bond;

24 (b) A custodian under chapter 167 of NRS; or

25 (c) A court-appointed guardian of the estate, with or without bond.

26 16. For the purposes of this section, the value of property must be the fair
27 market value of that property, reduced by the value of all enforceable liens and
28 encumbrances. Property values and the values of liens and encumbrances must be
29 determined as of the date of the decedent's death.

30 **Sec. 28.** NRS 150.060 is hereby amended to read as follows:

31 150.060 1. An attorney for a personal representative is entitled to reasonable
32 compensation for the attorney's services, to be paid out of the decedent's estate.

33 2. An attorney for a personal representative may be compensated based on:

34 (a) The applicable hourly rate of the attorney;

35 (b) The value of the estate accounted for by the personal representative;

36 (c) An agreement as set forth in subsection 4 of NRS 150.061; or

37 (d) Any other method preapproved by the court pursuant to a request in the
38 initial petition for the appointment of the personal representative.

39 3. If the attorney is requesting compensation based on the hourly rate of the
40 attorney, he or she may include, as part of that compensation for ordinary services,
41 a charge for legal services or paralegal services performed by a person under the
42 direction and supervision of the attorney.

43 4. If the attorney is requesting compensation based on the value of the estate
44 accounted for by the personal representative, the ~~allowable~~ **court shall allow**
45 compensation of the attorney for ordinary services ~~[must be determined]~~ as follows:

46 (a) For the first \$100,000, at the rate of 4 percent;

47 (b) For the next \$100,000, at the rate of 3 percent;

48 (c) For the next \$800,000, at the rate of 2 percent;

49 (d) For the next \$9,000,000, at the rate of 1 percent;

50 (e) For the next \$15,000,000, at the rate of 0.5 percent; and

51 (f) For all amounts above \$25,000,000, a reasonable amount to be determined
52 by the court.

1 5. Before an attorney may receive compensation based on the value of the
2 estate accounted for by the personal representative, the personal representative must
3 sign a written agreement as required by subsection 8. The agreement must be
4 prepared by the attorney and must include detailed information, concerning,
5 without limitation:

6 (a) The schedule of fees to be charged by the attorney;

7 (b) The manner in which compensation for extraordinary services may be
8 charged by the attorney; and

9 (c) The fact that the court is required to approve the compensation of the
10 attorney pursuant to subsection 8 before the personal representative pays any such
11 compensation to the attorney.

12 6. For the purposes of determining the compensation of an attorney pursuant
13 to subsection 4, the value of the estate accounted for by the personal representative:

14 (a) Is the total amount of the appraisal of property in the inventory, plus:

15 (1) The gains over the appraisal value on sales; and

16 (2) The receipts, less losses from the appraisal value on sales; and

17 (b) Does not include encumbrances or other obligations on the property of the
18 estate.

19 7. In addition to the compensation for ordinary services of an attorney set
20 forth in this section, an attorney may also be entitled to receive compensation for
21 extraordinary services as set forth in NRS 150.061.

22 8. The compensation of the attorney must be fixed by written agreement
23 between the personal representative and the attorney, and is subject to approval by
24 the court, after petition, notice and hearing as provided in this section. If the
25 personal representative and the attorney fail to reach agreement, or if the attorney is
26 also the personal representative, the amount must be determined and allowed by the
27 court. The petition requesting approval of the compensation of the attorney must
28 contain specific and detailed information supporting the entitlement to
29 compensation, including:

30 (a) If the attorney is requesting compensation based upon the value of the
31 estate accounted for by the personal representative, the attorney must provide the
32 manner of calculating the compensation in the petition; and

33 (b) If the attorney is requesting compensation based on an hourly basis, or is
34 requesting compensation for extraordinary services, the attorney must provide the
35 following information to the court:

36 (1) Reference to time and hours;

37 (2) The nature and extent of services rendered;

38 (3) Claimed ordinary and extraordinary services;

39 (4) The complexity of the work required; and

40 (5) Other information considered to be relevant to a determination of
41 entitlement.

42 9. The clerk shall set the petition for hearing, and the petitioner shall give
43 notice of the petition to the personal representative if he or she is not the petitioner
44 and to all known heirs in an intestacy proceeding and devisees in a will proceeding.
45 The notice must be given for the period and in the manner provided in NRS
46 155.010. If a complete copy of the petition is not attached to the notice, the notice
47 must include a statement of the amount of the fee which the court will be requested
48 to approve or allow.

49 10. On similar petition, notice and hearing, the court may make an allowance
50 to an attorney for services rendered up to a certain time during the proceedings. If
51 the attorney is requesting compensation based upon the value of the estate as
52 accounted for by the personal representative, the court may apportion the

1 compensation as it deems appropriate given the amount of work remaining to close
2 the estate.

3 11. An heir or devisee may file objections to a petition filed pursuant to this
4 section, and the objections must be considered at the hearing.

5 12. Except as otherwise provided in this subsection, an attorney for minor,
6 absent, unborn, incapacitated or nonresident heirs is entitled to compensation
7 primarily out of the estate of the distributee so represented by the attorney in those
8 cases and to such extent as may be determined by the court. If the court finds that
9 all or any part of the services performed by the attorney for the minor, absent,
10 unborn, incapacitated or nonresident heirs was of value to the decedent's entire
11 estate as such and not of value only to those heirs, the court shall order that all or
12 part of the attorney's fee be paid to the attorney out of the money of the decedent's
13 entire estate as a general administrative expense of the estate. The amount of these
14 fees must be determined in the same manner as the other attorney's fees provided
15 for in this section.

16 **Sec. 29.** NRS 155.094 is hereby amended to read as follows:

17 155.094 1. "Independent attorney" means an attorney, other than an
18 attorney who:

19 ~~(1)~~ (a) Is a transferee described in subsection 2 of NRS 155.097; or

20 ~~(2)~~ (b) Served as an attorney for a person who is described in subsection 2 of
21 NRS 155.097 at the time of the execution of the transfer instrument.

22 **2. The term includes, without limitation, the drafting attorney representing**
23 **the transferor in preparation of the transfer instrument if the drafting attorney is**
24 **not a person described in paragraph (a) or (b) of subsection 1.**

25 **Sec. 30.** NRS 159.0753 is hereby amended to read as follows:

26 159.0753 1. Any person who wishes to request to nominate another person
27 to be appointed as his or her guardian may do so ~~by~~:

28 (a) **If nominating a guardian of the estate, pursuant to NRS 162A.250;**

29 (b) **If nominating a guardian of the person, pursuant to NRS 162A.800; or**

30 (c) **By** completing a form requesting to nominate a guardian in accordance with
31 this section.

32 2. A form requesting to nominate a guardian **pursuant to this section** must
33 be:

34 (a) Signed by the person requesting to nominate a guardian;

35 (b) Signed by two impartial adult witnesses who have no interest, financial or
36 otherwise, in the estate of the person requesting to nominate a guardian and who
37 attest that the person has the mental capacity to understand and execute the form;
38 and

39 (c) Notarized.

40 3. A request to nominate a guardian **pursuant to this section** may be in
41 substantially the following form, and must be witnessed and executed in the same
42 manner as the following form:

43
44 **REQUEST TO NOMINATE GUARDIAN**

45
46 I, (insert your name), residing at (insert your
47 address), am executing this notarized document as my written declaration
48 and request for the person(s) designated below to be appointed as my
49 guardian should it become necessary. I am advising the court and all
50 persons and entities as follows:

51 1. As of the date I am executing this request to nominate a guardian, I
52 have the mental capacity to understand and execute this request.

2. This request pertains to a (circle one): (guardian of the person)/(guardian of the estate)/(guardian of the person and estate).

3. Should the need arise, I request that the court give my preference to the person(s) designated below to serve as my appointed guardian.

4. I request that my (insert relation), (insert name), serve as my appointed guardian.

5. If (insert name) is unable or unwilling to serve as my appointed guardian, then I request that my (insert relation), (insert name), serve as my appointed guardian.

6. I do not, under any circumstances, desire to have any private, for-profit guardian serve as my appointed guardian.

(YOU MUST DATE AND SIGN THIS DOCUMENT)

I sign my name to this document on (date)

.....

(Signature)

(YOU MUST HAVE TWO QUALIFIED ADULT WITNESSES DATE AND SIGN THIS DOCUMENT)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed this request to nominate a guardian in my presence, that the principal appears to be of sound mind, has the mental capacity to understand and execute this document and is under no duress, fraud or undue influence, and that I have no interest, financial or otherwise, in the estate of the principal.

.....

(Signature of first witness)

.....

(Print name)

.....

(Date)

.....

(Signature of second witness)

.....

(Print name)

.....

(Date)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

State of Nevada }

County of }

On this day of, in the year, before me, (insert name of notary public), personally appeared (insert name of principal), (insert name of first witness) and (insert name of second witness), personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to this instrument, and acknowledged that they have signed this instrument.

.....
(Signature of notarial officer)
(Seal, if any)

4. The Secretary of State shall make the form established in subsection 3 available on the Internet website of the Secretary of State.

5. The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.

Sec. 31. Chapter 163 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A governing trust instrument may authorize the trustee, in the sole discretion of the trustee or at the direction or with the consent of a directing trust adviser, to reimburse a settlor for all or a portion of tax on trust income or principal that is payable by the settlor under the law imposing such tax. In the sole discretion of the trustee, the trustee may pay such amount to the settlor directly or to an appropriate taxing authority on behalf of the settlor.

2. A trustee or directing trust adviser is not liable to any person ~~as a result of determining whether~~ in exercising such discretion to reimburse or not reimburse a settlor for ~~all or a portion of~~ tax payable by the settlor on trust income or principal ~~that is payable by the settlor~~ pursuant to subsection 1.

3. The ~~authority~~ power of a trustee to make a payment to or for the benefit of a settlor ~~for a determination by the trustee to exercise such authority in favor of the settlor~~ in accordance with subsection 1 ~~does not make~~ or the decision of a trustee to exercise such power in favor of the settlor must not cause the settlor to be treated as a beneficiary for purposes of the laws of this State. As used in this subsection, "beneficiary" has the meaning ascribed to it in NRS 163.4147.

Sec. 32. NRS 163.002 is hereby amended to read as follows:

163.002 1. Except as otherwise provided by specific statute ~~§~~ or any regulatory or contractual restrictions, a trust may be created by any of the following methods:

(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:

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

(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.

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

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

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

(e) An enforceable promise to create a trust.

2. A declaration pursuant to paragraph (a) of subsection 1 may, *but is not required, to* 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.

3. A declaration by the owner of property pursuant to paragraph (a) of subsection 1 that he or she or another person holds all the property of the declarant in trust is sufficient to create a trust over all the property of the

1 *declarant that is reliably identified through the use of extrinsic evidence as*
 2 *belonging to the declarant at the time of his or her death.*

3 **Sec. 33.** NRS 163.004 is hereby amended to read as follows:

4 163.004 1. Except as otherwise provided by law, the terms of a trust
 5 instrument may expand, restrict, eliminate or otherwise vary the rights and interests
 6 of beneficiaries in any manner that is not illegal or against public policy, including,
 7 without limitation:

- 8 (a) The right to be informed of the beneficiary's interest for a period of time;
- 9 (b) The grounds for the removal of a fiduciary;
- 10 (c) The circumstances, if any, in which the fiduciary must diversify
 11 investments;
- 12 (d) A fiduciary's powers, duties, standards of care, rights of indemnification
 13 and liability to persons whose interests arise from the trust instrument; and
- 14 (e) The provisions of general applicability to trusts and trust administration.

15 2. A trust is irrevocable except to the extent that ~~fa right to amend the trust or~~
 16 ~~a right to revoke the trust is expressly reserved by the settlor for is granted to one or~~
 17 ~~more other persons} under the terms of the trust instrument. ~~[Notwithstanding the~~
 18 ~~provisions of this subsection, the following powers do} Any authority, power or~~
 19 ~~right granted to any person other than the settlor under the terms of the trust~~
 20 ~~instrument or by law, including, without limitation, the power or right to amend~~
 21 ~~the trust, does not render or make a trust revocable. †;~~~~

- 22 ~~—(a) Power of appointment;~~
- 23 ~~—(b) Power to add or remove beneficiaries;~~
- 24 ~~—(c) Power to appoint, remove or replace the trustee; or~~
- 25 ~~—(d) Power to make administrative amendments.]~~

26 3. Nothing in this section shall be construed to:

- 27 (a) Authorize the exculpation or indemnification of a fiduciary for the
 28 fiduciary's own willful misconduct or gross negligence; or
- 29 (b) Preclude a court of competent jurisdiction from removing a fiduciary
 30 because of the fiduciary's willful misconduct or gross negligence.

31 4. The rule that statutes in derogation of the common law are to be strictly
 32 construed has no application to this section. This section must be liberally
 33 construed to give maximum effect to the principle of freedom of disposition and to
 34 the enforceability of trust instruments.

35 **Sec. 34.** NRS 163.0095 is hereby amended to read as follows:

36 163.0095 1. An electronic trust is a trust instrument that:

- 37 (a) Is created and maintained in an electronic record in such a manner that any
 38 alteration thereto is detectable;
- 39 (b) Contains the electronic signature of the settlor and the date and time
 40 thereof;
- 41 (c) Includes, without limitation, an authentication method which is attached to
 42 or logically associated with the trust instrument to identify the settlor or is
 43 electronically notarized in accordance with all applicable provisions of law;
- 44 (d) Is subject to the provisions of chapter 719 of NRS; and
- 45 (e) Meets the requirements set forth in this chapter for a valid trust.

46 2. Regardless of the physical location of the settlor, an electronic trust shall be
 47 deemed to be executed in this State and will be governed by the laws of this State
 48 and subject to the jurisdiction of the courts of this State if the electronic trust is:

- 49 (a) Transmitted to and maintained by a custodian designated in the trust
 50 instrument at the custodian's place of business in this State or at the custodian's
 51 residence in this State; or

1 (b) Maintained by the settlor at the settlor's place of business in this State or at
2 the settlor's residence in this State, or by the trustee at the trustee's place of
3 business in this State or at the trustee's residence in this State.

4 3. Notwithstanding the provisions of subsection 2, the validity of a notarial
5 act performed by an electronic notary public must be determined by applying the
6 laws of the jurisdiction in which the electronic notary public is commissioned or
7 appointed.

8 4. The provisions of this section do not apply to a testamentary trust.

9 5. *The custodian of an electronic trust may convert the electronic trust into
10 a certified paper original of the electronic trust under the following
11 circumstances:*

12 (a) *At the direction of the settlor or the trustee; or*

13 (b) *Except as otherwise provided in subsection 8, with 30 days' written
14 notice, delivered to the last known address of the settlor or trustee, that the
15 custodian intends to convert the electronic trust into a certified paper original.*

16 6. *An electronic trust may be converted into a certified paper original by
17 creating a tangible document that contains the following:*

18 (a) *The text of the electronic trust; and*

19 (b) *An affidavit of the custodian or an employee of the custodian stating:*

20 (1) *That the electronic record was created at the time the settlor executed
21 the electronic trust;*

22 (2) *The identities of all custodians who have had custody of the
23 electronic record since the execution of the electronic trust;*

24 (3) *That the certified paper original is a true, correct and complete
25 tangible manifestation of the electronic trust; and*

26 (4) *That the electronic record of the electronic trust is presently in the
27 custody of the custodian.*

28 7. *The custodian of an electronic trust may destroy the electronic record of
29 the electronic trust after converting the electronic trust into a certified paper
30 original if the custodian:*

31 (a) *Provides 30 days' written notice, delivered to the last known address of
32 the settlor or trustee, that the custodian intends to destroy the record and the
33 settlor or trustee does not object within the 30-day period; and*

34 (b) *Makes a reasonable effort to provide the electronic record to the settlor or
35 trustee before destroying the electronic record.*

36 8. *Before the expiration of the 30 days after the custodian gives notice to the
37 settlor or trustee pursuant to paragraph (b) of subsection 5, if the settlor or
38 trustee objects to the conversion of the electronic trust into a certified paper
39 original and agrees to take custody of the electronic trust, the custodian shall not
40 convert the electronic trust into a certified paper original and shall deliver the
41 electronic record of the electronic trust to the settlor or trustee or to such other
42 person as the settlor or trustee may direct.*

43 9. As used in this section:

44 (a) "Authentication characteristic" has the meaning ascribed to it in NRS
45 133.085.

46 (b) "Authentication method" means a method of identification using any
47 applicable method authorized or required by law, including, without limitation, a
48 digital certificate using a public key or a physical device, including, without
49 limitation, a smart card, flash drive or other type of token, an authentication
50 characteristic or another commercially reasonable method.

51 (c) "*Certified paper original*" means a tangible document that contains the
52 text of an electronic trust.

53 (d) "Public key" has the meaning ascribed to it in NRS 720.110.

1 **Sec. 35.** NRS 163.025 is hereby amended to read as follows:

2 163.025 1. Except as otherwise provided by the terms of the trust
3 instrument, a trustee may combine two or more trusts into a single trust or divide a
4 trust into two or more separate trusts if the combination or division does not:

5 (a) Impair the rights of any beneficiary;

6 (b) Substantially affect the accomplishment of the purposes of the trust or
7 trusts; or

8 (c) Violate the rule against perpetuities applicable to the trust or trusts.

9 2. ~~[(The)]~~ *If the terms of the trust instrument do not expressly authorize the*
10 *combination or division of trusts, then the* combination or division of trusts must
11 be made ~~[only]~~ *by court order or* after giving notice of the proposed action and
12 following the procedure set forth in NRS 164.725. The notice of the proposed
13 action must include a summary of the anticipated tax consequences, if any, of the
14 proposed combination or division.

15 **Sec. 36.** NRS 163.553 is hereby amended to read as follows:

16 163.553 As used in NRS 163.553 to 163.556, inclusive, *and section 31 of*
17 *this act*, unless the context otherwise requires, the words and terms defined in NRS
18 163.5533 to 163.5547, inclusive, have the meanings ascribed to them in those
19 sections.

20 **Sec. 37.** NRS 163.5557 is hereby amended to read as follows:

21 163.5557 1. An instrument may provide for the appointment of a person to
22 act as an investment trust adviser or a distribution trust adviser with regard to
23 investment decisions or discretionary distributions.

24 2. An investment trust adviser may exercise the powers provided to the
25 investment trust adviser in the instrument in the best interests of the trust. The
26 powers exercised by an investment trust adviser are at the sole discretion of the
27 investment trust adviser and are binding on all other persons. The powers granted to
28 an investment trust adviser may include, without limitation, the power to:

29 (a) Direct the trustee with respect to the retention, purchase, sale or
30 encumbrance of trust property and the investment and reinvestment of principal and
31 income of the trust.

32 (b) Vote proxies for securities held in trust.

33 (c) Select one or more investment advisers, managers or counselors, including
34 the trustee, and delegate to such persons any of the powers of the investment trust
35 adviser.

36 (d) *Value non-publicly traded investments held in trust that are subject to the*
37 *investment management authority of the investment trust adviser.*

38 3. A distribution trust adviser may exercise the powers provided to the
39 distribution trust adviser in the instrument in the best interests of the trust. The
40 powers exercised by a distribution trust adviser are at the sole discretion of the
41 distribution trust adviser and are binding on all other persons. Except as otherwise
42 provided in the instrument, the distribution trust adviser shall direct the trustee with
43 regard to all discretionary distributions to a beneficiary.

44 **Sec. 38.** NRS 163.5559 is hereby amended to read as follows:

45 163.5559 1. Except as otherwise provided in subsection 2, a creditor of a
46 settlor may not seek to satisfy a claim against the settlor from the assets of a trust ~~[(if~~
47 ~~the settlor's sole interest in the trust is)]~~ *because of* the existence of ~~[(a)]~~ :

48 (a) A discretionary power granted to a person other than the settlor by the
49 terms of the trust or by operation of law or to reimburse the settlor for any tax on
50 trust income or principal which is payable by the settlor under the law imposing
51 such tax ~~[(;)]~~ ;

52 (b) *A power allowing the settlor to reacquire the trust corpus by substituting*
53 *other property of an equivalent value; or*

1 (c) *A power allowing the settlor to borrow trust corpus or income, directly or*
2 *indirectly, without adequate interest or without adequate security.*

3 2. The provisions of subsection 1 do not ~~apply to~~ *preclude a creditor from*
4 *seeking to satisfy a claim against the settlor of a spendthrift trust from* trust
5 property transferred by the settlor to the extent ~~that~~ *the creditor can prove by clear*
6 *and convincing evidence that* the transfer was fraudulent *as to that creditor*
7 pursuant to chapter 112 of NRS or ~~was otherwise wrongful as to~~ *violates a legal*
8 *obligation owed to that creditor under a contract or a valid court order that is*
9 *legally enforceable by* that creditor.

10 3. For purposes of this section, a beneficiary of a trust shall be deemed to not
11 be a settlor of a trust because of a lapse, waiver or release of the beneficiary's right
12 to withdraw part or all of the trust property if the value of the property which could
13 have been withdrawn by exercising the right of withdrawal in any calendar year
14 does not, at the time of the lapse, waiver or release, exceed the greater of the
15 amount provided in 26 U.S.C. § 2041(b)(2), 26 U.S.C. § 2503(b) or 26 U.S.C. §
16 2514(e), as amended, or any successor provision.

17 **Sec. 39.** NRS 163.556 is hereby amended to read as follows:

18 163.556 1. Except as otherwise provided in this section, unless the terms of
19 a testamentary instrument or irrevocable trust provide otherwise, a trustee with
20 discretion or authority to distribute trust income or principal to or for a beneficiary
21 of the trust *, whether acting in the trustee's own discretion or at the direction or*
22 *with the consent of another party pursuant to the terms of the trust instrument,*
23 may exercise such discretion or authority by appointing the property subject to such
24 discretion or authority in favor of a second trust as provided in this section.

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

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

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

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

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

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

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

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

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

43 (3) A grantor-retained annuity trust or unitrust under 26 C.F.R. § 25.2702-
44 3(b) and (c).

45 ➤ As used in this paragraph, "unitrust" has the meaning ascribed to it in NRS
46 164.700.

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

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

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

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

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

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

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

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

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

29 5. Notwithstanding the provisions of subsection 1, a trustee who may be
30 removed by the beneficiary or beneficiaries of the original trust and replaced with a
31 trustee that is related to or subordinate, as described in section 672 of the Internal
32 Revenue Code, 26 U.S.C. § 672(c), to a beneficiary, may not exercise the authority
33 to appoint property of the original trust to a second trust to the extent that the
34 exercise of the authority by such trustee would have the effect of increasing the
35 distributions that can be made from the second trust to such beneficiary or group of
36 beneficiaries that held the power to remove the trustee of the original trust and
37 replace such trustee with a related or subordinate person, unless the distributions
38 that may be made from the second trust to such beneficiary or group of
39 beneficiaries described in paragraph (a) of subsection 4 are limited by an
40 ascertainable standard.

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

46 7. Before appointing property pursuant to subsection 1, a trustee may give
47 notice of a proposed action pursuant to NRS 164.725 or may petition a court for
48 approval pursuant to NRS 153.031, 164.015 or 164.725. Any notice of a proposed
49 action or a petition for a court's approval must include the trustee's opinion of how
50 the appointment of property will affect the trustee's compensation and the
51 administration of other trust expenses.

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

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

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

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

10 10. The exercise of the power to invade principal of the original trust pursuant
11 to subsection 1 is considered the exercise of a power of appointment, other than
12 power to appoint the property to the trustee, the trustee's creditors, the trustee's
13 estate or the creditors of the trustee's estate and the provisions of NRS 111.1031
14 apply to such power of appointment.

15 11. The provisions of this section do not abridge the right of any trustee who
16 has the power to appoint property which arises under any other law ~~or~~ **or under the**
17 **terms of the original trust.**

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

20 13. The power to appoint property to another trust pursuant to subsection 1 is
21 not a power to amend the trust and a trustee is not prohibited from appointing
22 property to another trust pursuant to subsection 1 if the original trust is irrevocable
23 or provides that it may not be amended.

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

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

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

33 17. ~~This~~ **Except as otherwise provided under the terms of the trust, the**
34 **power of a trustee to appoint property to another trust is in addition to any other**
35 **powers conferred by the terms of the trust or under the laws of this State. This**
36 **section does not expand, restrict, eliminate or otherwise alter any power that, with**
37 **respect to a trust, a person holds in a nonfiduciary capacity.**

38 18. **The power of a trustee to appoint property to another trust is an**
39 **administrative act under this section and, therefore, regardless of whether a trust**
40 **applies the laws of this State for construction or validity issues, this** section
41 applies to a trust that is governed by, situated in or administered under the laws of
42 this State, whether the trust is initially governed by, situated in or administered
43 under the laws of this State pursuant to the terms of the trust instrument or whether
44 the governing law, situs or administration of the trust is moved to this State from
45 another state or foreign jurisdiction.

46 ~~18.~~ 19. The power to appoint **property** to a second trust pursuant to this
47 section may be exercised to appoint **property** to a second trust that is a special
48 needs trust, pooled trust or third-party trust.

49 ~~19.~~ 20. As used in this section:

50 (a) "Ascertainable standard" means a standard relating to a person's health,
51 education, support or maintenance within the meaning of section 2041(b)(1)(A) or
52 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1),
53 and any regulations of the United States Treasury promulgated thereunder.

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

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

13 ~~(1) The~~ the original trust instrument, as modified after an appointment of
 14 property made pursuant to this section, ~~§~~ or ~~§~~

15 ~~(2) A~~ a different trust instrument. *If the second trust is created under the*
 16 *original trust instrument, as modified after an appointment of property made*
 17 *pursuant to this section, and is therefore the modified original trust, a trustee*
 18 *may exercise the power to appoint the trust property from the original trust to the*
 19 *second trust without an actual distribution of the property subject to the*
 20 *appointment.*

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

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

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

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

31 **Sec. 40.** NRS 164.021 is hereby amended to read as follows:

32 164.021 1. When a revocable trust becomes irrevocable because of the
 33 death of a settlor or by the express terms of the trust, the trustee may, after the trust
 34 becomes irrevocable, provide notice to any beneficiary of the irrevocable trust, any
 35 heir of the settlor or to any other interested person.

36 2. The notice provided by the trustee must contain:

37 (a) The identity of the settlor of the trust and the date of execution of the trust
 38 instrument;

39 (b) The name, mailing address and telephone number of any trustee of the
 40 trust;

41 (c) Any provision of the trust instrument which pertains to the beneficiary or
 42 notice that the heir or interested person is not a beneficiary under the trust;

43 (d) Any information required to be included in the notice expressly provided
 44 by the trust instrument; and

45 (e) A statement set forth in a separate paragraph, in 12-point boldface type or
 46 an equivalent type which states: "You may not bring an action to contest the trust
 47 more than 120 days from the date this notice is ~~§~~ provided to you."

48 3. The trustee shall ~~serve the~~ cause notice pursuant to this section to be
 49 provided in accordance with the provisions of NRS 155.010.

50 4. No person upon whom notice is ~~§~~ provided pursuant to this section
 51 may bring an action to contest the validity of the trust more than 120 days from the
 52 date the notice pursuant to this section is provided, regardless of whether a
 53 petition under NRS 164.010 is subsequently served upon the person ~~§~~ after the

1 *notice is provided*, unless the person proves that he or she ~~[did]~~ was not ~~[receive~~
2 ~~actual]~~ *provided* notice ~~[]~~ *in accordance with this section*.

3 **Sec. 41.** NRS 164.025 is hereby amended to read as follows:

4 164.025 1. ~~[The]~~ *Regardless of the filing of a petition under NRS 164.010,*
5 *the* trustee of a nontestamentary trust may after the death of the settlor of the trust
6 cause to be published a notice in the manner specified in paragraph (b) of
7 subsection 1 of NRS 155.020 and mail a copy of the notice to known or readily
8 ascertainable creditors.

9 2. The notice must be in substantially the following form:

10 (a) For a claim against the settlor:

11 **NOTICE TO CREDITORS**

12 Notice is hereby given that the undersigned is the duly appointed and
13 qualified trustee of the trust., the settlor of that trust
14 died on A creditor having a claim against the settlor must file a
15 claim with the undersigned at the address given below within 90 days after
16 the first publication of this notice.
17

18 Dated

19
20 Trustee

21
22 Address

23 (b) For a claim against the trust:

24 **NOTICE TO CREDITORS**

25 Notice is hereby given that the undersigned is the duly appointed and
26 qualified trustee of the trust., the settlor of that trust
27 died on A creditor having a claim against the trust estate must
28 file a claim with the undersigned at the address given below within 90 days
29 after the first publication of this notice.
30

31 Dated

32
33 Trustee

34
35 Address

36 (c) *For a claim against the settlor and the trust:*

37 **NOTICE TO CREDITORS**

38 *Notice is hereby given that the undersigned is the duly appointed and*
39 *qualified trustee of the trust., the settlor of that trust*
40 *died on A creditor having a claim against the settlor and*
41 *against the trust estate must file a claim with the undersigned at the*
42 *address given below within 90 days after the first publication of this*
43 *notice.*
44
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53

Dated.....

.....
Trustee

.....
Address

3. ~~[A]~~ *Except as otherwise provided in subsection 4, a person having a claim, due or to become due, against a settlor or the trust, as applicable, must file the claim with the trustee within 90 days after the mailing, for those required to be mailed, or 90 days after publication of the first notice to creditors. A claim filed within the applicable period is presumed timely filed if it contains on the first page of the claim a title stating it is a "Claim Pursuant to NRS 164.025" in a minimum 12-point bold type and it is mailed to the trustee at the address set forth in the notice with a return receipt or the creditor obtains written confirmation of receipt signed by the trustee or trustee's counsel.* Any claim against a settlor or the trust estate, as applicable, *that is not timely filed* ~~[within that time]~~ is forever barred. After the expiration of the time to file a claim as provided in this ~~[section,]~~ *subsection or, if applicable, subsection 4,* the trustee may distribute the assets of the trust to its beneficiaries without personal liability for any claim which has not been timely filed with the trustee. *A claim not complying with the requirements of this subsection is rebuttably presumed to be untimely.*

4. *Notwithstanding the provisions of subsection 3, if the existence of an additional creditor who was not known or readily ascertainable at the time of the first publication of the notice to creditors is discovered by the trustee before the last day that creditors who were provided such notice may file a claim with the trustee pursuant to subsection 3, the trustee ~~[may]~~ shall immediately mail a copy of the notice to the additional creditor, who must file a claim with the trustee in accordance with the provisions of subsection 3 within the applicable time period set forth in subsection 3 or 30 days from the date the trustee mailed such subsequent notice to the creditor, whichever is later.*

5. If the trustee knows or has reason to believe that the settlor received public assistance during the lifetime of the settlor, the trustee shall, whether or not the trustee gives notice to other creditors, give notice within 30 days after the death to the Department of Health and Human Services in the manner provided in NRS 155.010. If notice to the Department is required by this subsection but is not given, the trust estate and any assets transferred to a beneficiary remain subject to the right of the Department to recover public assistance received.

~~[5.]~~ 6. If a claim is rejected by the trustee, in whole or in part, the trustee must, within 10 days after the rejection, notify the claimant of the rejection by written notice forwarded by registered or certified mail to the mailing address of the claimant. The claimant must bring suit in the proper court against the trustee within 60 days after the notice is given, whether the claim is due or not, or the claim is barred forever and the trustee may distribute the assets of the trust to its beneficiaries without personal liability to any creditor whose claim is barred forever.

~~[6.]~~ 7. As used in this section, "nontestamentary trust" has the meaning ascribed to it in NRS 163.0016.

Sec. 42. NRS 164.038 is hereby amended to read as follows:

164.038 1. Unless otherwise represented by counsel, a minor, incapacitated person, unborn person or person whose identity or location is unknown and not reasonably ascertainable may be represented by another person who has a substantially similar interest with respect to the question or dispute.

1 2. A person may only be represented by another person pursuant to subsection
2 1 if there is no material conflict of interest between the person and the
3 representative with respect to the question or dispute for which the person is being
4 represented. If a person is represented pursuant to subsection 1, the results of that
5 representation in the question or dispute will be binding on the person.

6 3. A presumptive remainder beneficiary may represent and bind a beneficiary
7 with a contingent remainder for the same purpose, in the same circumstance and to
8 the same extent as an ascertainable beneficiary may bind a minor, incapacitated
9 person, unborn person or person who cannot be ascertained.

10 4. A powerholder may represent and bind a person who is a permissible
11 appointee or taker in default of appointment.

12 5. If a trust has a minor or incapacitated beneficiary who may not be
13 represented by another person pursuant to this section, ~~the~~ a custodial parent or
14 *the* guardian of the estate of the minor or incapacitated beneficiary may represent
15 the minor or incapacitated beneficiary in any judicial proceeding or nonjudicial
16 matter pertaining to the trust. A minor or incapacitated beneficiary may only be
17 represented by a parent or guardian if there is no material conflict of interest
18 between the minor or incapacitated beneficiary and the parent or guardian with
19 respect to the question or dispute. If a minor or incapacitated beneficiary is
20 represented pursuant to this subsection, the results of that representation will be
21 binding on the minor or incapacitated beneficiary. The representation of a minor or
22 incapacitated beneficiary pursuant to this subsection is binding on an unborn person
23 or a person who cannot be ascertained if:

24 (a) The unborn person or a person who cannot be ascertained has an interest
25 substantially similar to the minor or incapacitated person; and

26 (b) There is no material conflict of interest between the unborn person or a
27 person who cannot be ascertained and the minor or incapacitated person with
28 respect to the question or dispute.

29 6. As used in this section:

30 (a) "Permissible appointee" has the meaning ascribed to it in NRS 162B.065.

31 (b) "Powerholder" has the meaning ascribed to it in NRS 162B.080.

32 (c) "Presumptive remainder beneficiary" means:

33 (1) A beneficiary who would receive income or principal of the trust if the
34 trust were to terminate as of that date, regardless of the exercise of a power of
35 appointment; or

36 (2) A beneficiary who, if the trust does not provide for termination, would
37 receive or be eligible to receive distributions of income or principal of the trust if
38 all beneficiaries of the trust who were receiving or eligible to receive distributions
39 were deceased.

40 (d) "Taker in default of appointment" has the meaning ascribed to it in NRS
41 162B.095.

42 **Sec. 43.** Chapter 239A of NRS is hereby amended by adding thereto the
43 provisions set forth as sections 44 and 45 of this act.

44 **Sec. 44.** *Upon presentation of a death certificate, affidavit of death or other*
45 *proof of death, a lender, trustee or assignee of an encumbrance against real*
46 *property shall provide the Director of the Department of Health and Human*
47 *Services or a public administrator or a person employed or contracted with*
48 *pursuant to NRS 253.125, as applicable, with a statement which sets forth the*
49 *identifying number and account balance of any encumbrance against real*
50 *property on which the name of the deceased person appears. A lender, trustee or*
51 *assignee may charge a reasonable fee, not to exceed \$2, to provide a public*
52 *administrator or a person employed or contracted with pursuant to NRS 253.125,*
53 *as applicable, with a statement pursuant to the provisions of this section.*

1 **Sec. 45.** *Upon presentation of a death certificate, affidavit of death or other*
2 *proof of death, a financial institution shall provide a public administrator or a*
3 *person employed or contracted with pursuant to NRS 253.125, as applicable, with*
4 *access to a safe deposit box rented in the sole name of the decedent, or jointly*
5 *owned with a predeceased person for whom proof of death has been provided, for*
6 *the purpose of the inspection and removal of any will or instructions for*
7 *disposition of the remains of the decedent. The estate of the decedent is*
8 *responsible for any costs and expenses incurred by drilling or forcing open a safe*
9 *deposit box.*

10 **Sec. 46.** NRS 440.250 is hereby amended to read as follows:

11 440.250 1. Not later than the fifth day of each month, deputy county health
12 officers shall file with the county health officer all original birth and death
13 certificates executed by them.

14 2. Within 5 days after receipt of the original death certificates, the county
15 health officer shall file with the public administrator or a person employed or
16 contracted with pursuant to NRS 253.125, as applicable, a written list of the names ,
17 ~~and~~ social security numbers *and residential addresses* of all deceased persons and
18 the names of their next of kin as those names appear on the certificates.

19 **Sec. 47.** 1. The amendatory provisions of section 4 of this act apply to any
20 power of attorney, will or other estate planning document that is executed on or
21 after January 1, 2020.

22 2. The amendatory provisions of section 33 of this act apply to any trust
23 created or amended before, on or after October 1, 2021.