

Amendment No. 338

Assembly Amendment to Assembly Bill No. 381	(BDR 13-302)
<b>Proposed by:</b> Assembly Committee on Judiciary	
<b>Amends:</b> Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

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

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





## ASSEMBLY BILL NO. 381—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR CITIZENS, VETERANS AND  
ADULTS WITH SPECIAL NEEDS)

MARCH 22, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing guardianship. (BDR 13-302)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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

AN ACT relating to guardianship; revising various provisions relating to certain petitions regarding guardianships; revising various provisions relating to a guardian ad litem; authorizing a protected person or proposed protected person to object to certain petitions; revising provisions relating to the termination or modification of a guardianship; revising provisions relating to the rights of a protected person; making various other changes relating to guardianships; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law: (1) authorizes a proposed protected person, a governmental agency, a nonprofit organization or any interested person to petition the court for the appointment of a guardian; and (2) requires a petition for the appointment of a guardian to include certain information. (NRS 159.044) **Section 1** of this bill requires a petition for the appointment of a guardian to contain certain additional information, including the telephone number and electronic mail address of certain persons. ~~[Section 1 also makes a technical change to reorganize certain requirements relating to the information and documentation that must be filed with a petition.]~~

Existing law authorizes a court to appoint a person to represent a protected person or proposed protected person as a guardian ad litem if the court believes that the protected person or proposed protected person will benefit from the appointment and the services of the guardian ad litem will be beneficial in determining the best interests of the protected person or proposed protected person. Existing law requires the guardian ad litem to represent the protected person or proposed protected person until relieved of that duty by court order. Existing law further authorizes a court to appoint a person who is not an attorney as a guardian ad litem to represent a protected person or proposed protected person if a court-approved volunteer advocate program for guardians ad litem has been established in the judicial district. (NRS 159.0455)

**Section 2** of this bill: (1) requires a court to set forth with specificity in the order of appointment the scope and the duties of the guardian ad litem; (2) authorizes the protected person or proposed protected person to object to the appointment and to have a hearing on the objection before the guardian ad litem commences performing services; (3) ~~requires, rather~~

than authorizes, a court to appoint a person who is not an attorney as a guardian ad litem to represent a protected person or proposed protected person if a court-approved volunteer advocate program for guardians ad litem has been established in the judicial district; (4)) clarifies that the appointment of a guardian ad litem does not relieve the court of its obligation to appoint counsel to represent the protected person or proposed protected person; ~~((5))~~ (4) requires the court, in the order of appointment, to set the hourly rate of compensation for the guardian ad litem ~~((4))~~ and **, unless the guardian ad litem is a volunteer; ~~((6))~~ (5)** provides that if the guardian ad litem is an attorney, the hourly rate of compensation set by the court must not exceed the customary hourly rate of compensation for a guardian ad litem who is not an attorney.

Existing law: (1) authorizes a petitioner to request that the court appoint a temporary guardian for a proposed protected person; and (2) requires the petitioner to support such a request with documentation that shows the proposed protected person faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. (NRS 159.0523) **Section 3** of this bill: (1) requires the petitioner to set forth in the petition and present under oath a detailed explanation of the substantial and immediate risk of physical harm the proposed protected person faces or the immediate medical attention the proposed protected person needs ~~((but))~~ **and** lacks capacity to respond to the risk of harm or obtain the necessary medical attention; and (2) provides that if the court appoints a temporary guardian, the court must limit the authority of the temporary guardian to that which is necessary to respond to a specific risk of harm or to a specific need for immediate medical attention identified in the petition.

Existing law authorizes a petitioner to request that the court appoint a temporary guardian for a protected person who is unable to respond to a substantial and immediate risk of financial loss. (NRS 159.0525) **Section 4** of this bill provides that any court order for the appointment of a temporary guardian or to extend a temporary guardianship must state the specific substantial and immediate risk of financial loss, the powers of the temporary guardian and the reasons that the powers of the temporary guardian are necessary to address the specific substantial and immediate risk of financial loss.

Existing law requires the court to: (1) dismiss a petition for the appointment of a guardian if the court finds that the proposed protected person is not incapacitated and is not in need of a guardian; and (2) appoint a guardian if the court finds that appointment of a guardian is required. (NRS 159.054) **Section 5** of this bill requires the court to: (1) dismiss a petition if the court finds that either the proposed protected person is not incapacitated and is not in need of a guardian or that there are less restrictive alternatives to guardianship available to the proposed protected person; and (2) appoint a guardian if the court finds that there are no less restrictive alternatives to guardianship available to the proposed protected person and the proposed protected person is in need of a guardian.

Existing law requires the court to include certain information in an order appointing a guardian. (NRS 159.055) **Section 6** of this bill requires that an order of appointment must state that there are no less restrictive alternatives to guardianship available to the proposed protected person and that the proposed protected person is in need of a guardian.

Existing law provides that subject to the discretion and approval of the court, a guardian must be allowed reasonable compensation for his or her services and reasonable expenses incurred in retaining accountants, attorneys, appraisers or other professional services. Existing law authorizes the court to consider certain factors in determining whether the compensation is reasonable. (NRS 159.183) **Section 7** of this bill: (1) provides that a guardian is not allowed reasonable expenses incurred for retaining attorneys to represent a petitioner or guardian in the guardianship proceeding; and (2) requires, rather than authorizes, the court to consider certain factors in determining whether the compensation is reasonable.

Existing law authorizes a protected person, the guardian or another person to petition the court for the termination or modification of a guardianship. Existing law provides that for such a petition to be granted, the petitioner has the burden of proof to show by clear and convincing evidence that the termination or modification of the guardianship is in the best interests of the protected person. (NRS 159.1905) **Section 8** of this bill instead requires: (1) the petitioner to present prima facie evidence showing that the guardianship is no longer necessary or in the best interests of the protected person and should be terminated or that the needs of the protected person have changed such that the powers of the guardian should be modified; and (2) the court to terminate the guardianship if it is shown by clear and

convincing evidence that the guardianship is no longer necessary or in the best interests of the protected person or to modify the guardianship if it is shown by clear and convincing evidence that the needs of the protected person have changed such that the powers of the guardian should be modified. If the petitioner meets the burden of proof, **section 8** requires the court to enter an order: (1) terminating the guardianship unless it is proven by clear and convincing evidence that continuation of the guardianship is in the best interests of the protected person; or (2) modifying the guardianship unless it is shown that the needs of the protected person have changed such that the powers of the guardian should be modified. **Section 8** additionally requires the court, in ruling on a petition to terminate a guardianship, to consider whether less restrictive alternatives to a guardianship are available to the protected person. Finally, **section 8** authorizes ~~[-(1)]~~ the protected person to seek reasonable attorney's fees from any person who opposed the petition ~~[if the protected person prevails on a petition for termination or modification; and (2) the court to impose sanctions on the objector in an amount sufficient to reimburse the estate of the protected person for expenses and any other losses incurred as the result of the objection.]~~ under certain circumstances.

Existing law establishes the Protected Persons' Bill of Rights, which sets forth certain specific rights of each protected person. (NRS 159.327, 159.328) Existing law authorizes, for good cause, a guardian to petition a court to issue an order restricting the ability of a relative or person of natural affection to communicate, visit or interact with the protected person. (NRS 159.333) **Section 9** of this bill: (1) clarifies that the right of a protected person to communicate, visit and interact with other persons includes, without limitation, the right to have regular contact through telephone calls and personal mail and have visitors, unless his or her guardian and the court determine the particular communications or interactions or a particular visitor will cause harm to the protected person; and (2) adds the right to deny communication, visitation or interaction with another person. **Section 10** of this bill: (1) prohibits a court, under any circumstances, from issuing an order requiring a protected person to communicate, visit or interact with a relative or a person ~~[-] of natural affection;~~ and (2) requires the court to appoint an attorney for a protected person after a petition is filed by a guardian to restrict communication, unless an attorney has already been appointed for the protected person or the protected person has already retained an attorney. **Section 11** of this bill places the burden of proof on the guardian if he or she opposes a petition filed by the protected person to modify or restrict an order restricting communication, visitation or interaction between a protected person and a relative or person of natural affection.

Existing law authorizes a person who is liable for attorney's fees and costs incurred for retaining an attorney to represent a party in a guardianship proceeding to petition the court for an order authorizing payment for such fees and costs from the estate of a protected person. Existing law sets forth a list of factors that the court may consider in determining whether attorney's fees are just, reasonable and necessary. (NRS 159.344) **Section 12** of this bill: (1) requires, rather than authorizes, the court to consider the list of factors; (2) ~~[prohibits the court from awarding compensation for time spent performing tasks that could be performed by a different type of professional; (3) clarifies certain provisions in the list of factors; (4)]~~ requires the court, regardless of whether or not the court orders the payment of attorney's fees, to include in its order written findings on the list of factors; ~~[and (5)]~~ (3) provides that a guardian is not allowed attorney's fees for services incurred by the guardian as a result of a petition to have him or her removed as guardian if the court removes the guardian ~~[-]; and (4) prohibits the award of attorney's fees if the person who petitions the court for attorney's fees failed to file the required written notice.~~

Existing law lists certain court orders that may be appealed. (NRS 159.375) **Section 13** of this bill adds to that list an order: (1) restricting communication, visitation or interaction between a protected person and a relative or person of natural affection; (2) ordering or authorizing a guardian to move a protected person from this State to another state; or (3) ordering or authorizing a guardian to consent to experimental medical, biomedical or behavioral treatment of a protected person, the participation of a protected person in any biomedical or behavioral experiment or the sterilization of a protected person.

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

**Section 1.** NRS 159.044 is hereby amended to read as follows:

159.044 1. A proposed protected person, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name, ~~and~~ address, *telephone number and electronic mail address* of the petitioner.

(b) The name, date of birth, ~~and~~ current address, *telephone number and electronic mail address* of the proposed protected person.

(c) A copy of one of the following forms of identification of the proposed protected person which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver's license number;
- (4) A valid identification card number;
- (5) A valid passport number;
- (6) A valid permanent resident card number; or
- (7) A valid tribal identification card number.

➤ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) Whether the proposed protected person is a resident or nonresident of this State.

(e) The names, ~~and~~ addresses, *telephone numbers and electronic mail addresses* of the spouse of the proposed protected person and the relatives of the proposed protected person who are within the second degree of consanguinity.

(f) The name, date of birth, ~~and~~ current address, *telephone number and electronic mail address* of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595 or 159A.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one protected person who is not related to the person by blood or marriage. As used in this paragraph, "protected person" includes a protected minor.

(g) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver's license number;
- (4) A valid identification card number;
- (5) A valid passport number;
- (6) A valid permanent resident card number; or
- (7) A valid tribal identification card number.

(h) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which the proposed guardian was convicted and whether the proposed guardian was placed on probation or parole.

(i) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation must include, without limitation:

(I) A certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs, a letter signed by any governmental agency in this State which conducts investigations or a certificate signed by any other person whom the court finds qualified to execute a certificate, stating:

(I) The need for a guardian;

(II) Whether the proposed protected person presents a danger to himself or herself or others;

(III) Whether the attendance of the proposed protected person at a hearing would be detrimental to the proposed protected person;

(IV) Whether the proposed protected person would comprehend the reason for a hearing or contribute to the proceeding; and

(V) Whether the proposed protected person is capable of living independently with or without assistance; and

(2) If the proposed protected person is determined to have the limited capacity to consent to the appointment of a special guardian, a written consent to the appointment of a special guardian from the protected person.

(j) Whether the appointment of a general or a special guardian is sought.

(k) A general description and the probable value of the property of the proposed protected person and any income to which the proposed protected person is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed protected person by the United States through the Department of Veterans Affairs, the petition must so state.

(l) The name, ~~land~~ address *and telephone number* of any person or care provider having the care, custody or control of the proposed protected person.

(m) If the petitioner is not the spouse or natural child of the proposed protected person, a declaration explaining the relationship of the petitioner to the proposed protected person or to the family or friends of the proposed protected person, if any, and the interest, if any, of the petitioner in the appointment.

(n) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(o) If the guardianship is sought as the result of an investigation of a report of abuse, neglect, exploitation, isolation or abandonment of the proposed protected person, whether the referral was from a law enforcement agency or a state or county agency.

(p) Whether the proposed protected person or the proposed guardian is a party to any pending criminal or civil litigation.

(q) Whether the guardianship is sought for the purpose of initiating litigation.

(r) Whether the proposed protected person has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

(s) Whether the proposed guardian has filed for or received protection under the federal bankruptcy laws within the immediately preceding 7 years.

3. Before the court makes a finding pursuant to NRS 159.054, a petitioner seeking a guardian for a proposed protected person must provide the court with an assessment of the needs of the proposed protected person completed by a licensed physician which identifies the limitations of capacity of the proposed protected person and how such limitations affect the ability of the proposed protected person to maintain his or her safety and basic needs. The court may prescribe the form in which the assessment of the needs of the proposed protected person must be filed.

~~[A petition pursuant to this section must include a summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation must be attached to the petition. The documentation must include, without limitation:~~

~~— (a) An assessment of the needs of the proposed protected person completed by a licensed physician, psychologist or psychiatrist who identifies the limitations of capacity of the proposed protected person and how such limitations affect the ability of the proposed protected person to maintain his or her safety and basic needs; and~~

~~— (b) A certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs, a letter signed by any governmental agency in this State which conducts investigations or a certificate signed by any other person whom the court finds qualified to execute a certificate, stating:~~

~~— (1) The need for a guardian;~~

~~— (2) Whether the proposed protected person presents a danger to himself or herself or others;~~

~~— (3) Whether the attendance of the proposed protected person at a hearing would be detrimental to the proposed protected person;~~

~~— (4) Whether the proposed protected person would comprehend the reason for a hearing or contribute to the proceedings; and~~

~~— (5) Whether the proposed protected person is capable of living independently with or without assistance.]~~

**Sec. 2.** NRS 159.0455 is hereby amended to read as follows:

159.0455 1. On or after the date of the filing of a petition to appoint a guardian:

(a) The court may, in any proceeding, appoint a person to represent the protected person or proposed protected person as a guardian ad litem if the court believes that the protected person or proposed protected person will benefit from the appointment and the services of the guardian ad litem will be beneficial in determining the best interests of the protected person or proposed protected person; and

(b) The guardian ad litem must represent the protected person or proposed protected person as a guardian ad litem, in accordance with the scope and duties of the guardian ad litem set forth in the order of appointment pursuant to subsection 2, until relieved of that duty by court order.

2. The order of appointment must set forth with specificity the scope and duties of the guardian ad litem. The guardian ad litem shall not commence performing any services until authorized to do so as provided in subsection 3.

3. Upon the appointment of the guardian ad litem, the ~~court shall set forth in~~ clerk shall provide notice to the protected person or proposed protected person of the order of appointment ~~[the duties of]~~ to allow the protected person or proposed protected person the opportunity to object to the appointment before the guardian ad litem commences performing any services. If the protected person or proposed protected person does not file an objection within ~~24~~ 10 days after receiving notice of the appointment, the guardian ad litem ~~is~~ may commence performing



1 *services. If the protected person or proposed protected person files an objection*  
2 *within ~~24~~ 10 days after receiving notice of the appointment, the matter must be*  
3 *set for a hearing and the guardian ad litem shall not commence performing*  
4 *services unless and until the court enters an order overruling the objection and*  
5 *confirming the order of appointment.*

6 ~~3.4~~ 4. If a court-approved volunteer advocate program for guardians ad litem  
7 has been established in a judicial district, a court ~~may~~ *shall* appoint a person who  
8 is not an attorney to represent a protected person or proposed protected person as a  
9 guardian ad litem. If such a program has been established, all volunteers  
10 participating in the program must complete appropriate training, as determined by  
11 relevant national or state sources or as approved by the Supreme Court or the  
12 district court in the judicial district, before being appointed to represent a protected  
13 person or proposed protected person.

14 ~~4.4~~ 5. A guardian ad litem appointed pursuant to this section is an officer of  
15 the court and is not a party to the case. A guardian ad litem appointed pursuant to  
16 this section shall not offer legal advice to the protected person or proposed  
17 protected person but shall:

18 (a) Advocate for the best interests of the protected person or proposed  
19 protected person in a manner that will enable the court to determine the action that  
20 will be the least restrictive and in the best interests of the protected person or  
21 proposed protected person; and

22 (b) Provide any information required by the court.

23 6. *The appointment of a guardian ad litem pursuant to this section does not*  
24 *affect the obligation to appoint counsel to represent a protected person or*  
25 *proposed protected person pursuant to NRS 159.0485.*

26 7. *The court shall, in the order of appointment, set the hourly rate of*  
27 *compensation for the guardian ad litem. If the guardian ad litem is an attorney,*  
28 *the hourly rate set by the court must not exceed the customary hourly rate of*  
29 *compensation for a guardian ad litem who is not an attorney. The provisions of*  
30 *this subsection do not apply if a court appoints a volunteer as a guardian ad*  
31 *litem.*

32 **Sec. 3.** NRS 159.0523 is hereby amended to read as follows:

33 159.0523 1. A petitioner may request the court to appoint a temporary  
34 guardian for a proposed protected person who is unable to respond to a substantial  
35 and immediate risk of physical harm or to a need for immediate medical attention.  
36 To support the request, the petitioner must set forth in a petition and present to the  
37 court under oath:

38 (a) Documentation which shows the proposed protected person faces a  
39 substantial and immediate risk of physical harm or needs immediate medical  
40 attention and lacks capacity to respond to the risk of harm or obtain the necessary  
41 medical attention. Such documentation must include, without limitation, a  
42 certificate signed by a physician who is licensed to practice medicine in this State  
43 or who is employed by the Department of Veterans Affairs, a letter signed by any  
44 governmental agency in this State which conducts investigations or a police report  
45 indicating:

46 (1) That the proposed protected person is unable to respond to a substantial  
47 and immediate risk of physical harm or to a need for immediate medical attention;

48 (2) Whether the proposed protected person presents a danger to himself or  
49 herself or others; and

50 (3) Whether the proposed protected person is or has been subjected to  
51 abuse, neglect, exploitation, isolation or abandonment; ~~and~~

52 (b) *A detailed explanation of the substantial and immediate risk of physical*  
53 *harm the proposed protected person faces or the immediate medical attention the*

*proposed protected person needs ~~but~~ and lacks capacity to respond to the risk of harm or obtain the necessary medical attention; and*

(c) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed protected person would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days *only* if the court:

(a) Finds reasonable cause to believe that the proposed protected person is unable to respond to a *specific* substantial and immediate risk of physical harm *identified in the petition* or to a *specific* need for immediate medical attention ~~(c) identified in the petition;~~ and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph ~~(b)~~ (c) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph ~~(b)~~ (c) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsection ~~(7)~~ 8, the court may extend the temporary guardianship until a general or special guardian is appointed pursuant to subsection ~~(8)~~ 9 if:

(a) The court finds by clear and convincing evidence that the proposed protected person is unable to respond to a *specific* substantial and immediate risk of physical harm or to a *specific* need for immediate medical attention ~~(c) identified in the petition;~~ and

(b) The extension of the temporary guardianship is necessary and in the best interests of the proposed protected person.

6. *If the court appoints a temporary guardian pursuant to this section, the court shall limit the authority of the temporary guardian to that which is necessary to respond to a specific substantial and immediate risk of physical harm or to a specific need for immediate medical attention identified in the petition.*

7. If the court ~~[appoints a temporary guardian or]~~ extends the temporary guardianship pursuant to this section, the court shall limit the authority of the

temporary guardian to that which is necessary to perform any actions required to ensure the health, safety or care of a proposed protected person, including, without limitation:

(a) Responding to ~~the~~ *a specific* substantial and immediate risk of physical harm or to a *specific* need for immediate medical attention ~~that~~ *identified in the petition*; and

(b) Applying for Medicaid or other appropriate assistance, coverage or support for the proposed protected person for the purpose of providing adequate care for and ensuring the appropriate placement of the proposed protected person.

~~7.8.1~~ 8. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to the Nevada Rules of Civil Procedure is currently being undertaken.

~~7.8.2~~ 9. The court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

~~7.8.3~~ 10. If a court is making a determination regarding the extension of a temporary guardianship or the issuance of any ex parte or emergency order, the court may consider the actions taken by a temporary guardian to carry out any requested activities for the benefit of a proposed protected person during the temporary guardianship.

**Sec. 4.** NRS 159.0525 is hereby amended to read as follows:

159.0525 1. A petitioner may request the court to appoint a temporary guardian for a protected person who is unable to respond to a substantial and immediate risk of financial loss. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Documentation which shows that the proposed protected person faces a substantial and immediate risk of financial loss and lacks capacity to respond to the risk of loss. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs, a letter signed by any governmental agency in this State which conducts investigations or a police report indicating:

(1) That the proposed protected person is unable to respond to a substantial and immediate risk of financial loss;

(2) Whether the proposed protected person can live independently with or without assistance or services; and

(3) Whether the proposed protected person is or has been subjected to abuse, neglect, exploitation, isolation or abandonment;

(b) A detailed explanation of what risks the proposed protected person faces, including, without limitation, termination of utilities or other services because of nonpayment, initiation of eviction or foreclosure proceedings, exploitation or loss of assets as the result of fraud, coercion or undue influence; and

(c) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed protected person would be exposed to an immediate risk of financial loss if the petitioner were to provide notice to the persons entitled to

notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days *only* if the court:

(a) Finds reasonable cause to believe that the proposed protected person is unable to respond to a *specific* substantial and immediate risk of financial loss ~~that is~~ *identified in the petition*; and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (c) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (c) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsection 7, the court may extend the temporary guardianship until a general or special guardian is appointed pursuant to subsection 8 if:

(a) The court finds by clear and convincing evidence that the proposed protected person is unable to respond to a *specific* substantial and immediate risk of financial loss ~~that is~~ *identified in the petition*; and

(b) The extension of the temporary guardianship is necessary and in the best interests of the proposed protected person.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to ~~that~~ *a specific* substantial and immediate risk of financial loss ~~that is~~ *identified in the petition*, specifically limiting the temporary guardian's authority to take possession of, close or have access to any accounts of the protected person or to sell or dispose of tangible personal property of the protected person to only that authority as needed to provide for the basic living expenses of the protected person until a general or special guardian can be appointed. The court may freeze any or all of the accounts of the protected person to protect such accounts from loss.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to the Nevada Rules of Civil Procedure is currently being undertaken.

8. The court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not

1 cause the temporary guardianship to continue longer than 5 months unless  
2 extraordinary circumstances are shown.

3 *9. Any court order issued pursuant to this section for the appointment of a*  
4 *temporary guardian or to extend the temporary guardianship must state a specific*  
5 *substantial and immediate risk of financial loss, the powers of the temporary*  
6 *guardian and the reasons that the powers of the temporary guardian are*  
7 *necessary to address a specific substantial and immediate risk of financial loss.*

8 **Sec. 5.** NRS 159.054 is hereby amended to read as follows:

9 159.054 1. If the court finds that ~~the~~ :

10 (a) *The proposed protected person is not incapacitated and is not in need of a*  
11 *guardian* ~~;~~ *or*

12 (b) *There are less restrictive alternatives to guardianship available to the*  
13 *proposed protected person,*

14 *the court shall dismiss the petition.*

15 2. If the court finds that the proposed protected person is of limited capacity  
16 and is in need of a special guardian, the court shall enter an order accordingly and  
17 specify the powers and duties of the special guardian.

18 3. If the court finds that ~~an appointment of a general guardian is required,~~ :

19 (a) *There are no less restrictive alternatives to guardianship available to the*  
20 *proposed protected person; and*

21 (b) *The proposed protected person is in need of a guardian,*

22 *the court shall appoint a general guardian of the person, estate, or person and*  
23 *estate of the proposed protected person.*

24 **Sec. 6.** NRS 159.055 is hereby amended to read as follows:

25 159.055 1. The petitioner has the burden of proving by clear and convincing  
26 evidence that the appointment of a guardian of the person, of the estate, or of the  
27 person and estate is necessary.

28 2. If it appears to the court that the allegations of the petition are sufficient  
29 and that a guardian should be appointed for the proposed protected person, the court  
30 shall enter an order appointing a guardian. The order must:

31 (a) *State that there are no less restrictive alternatives to guardianship*  
32 *available to the proposed protected person and that the proposed protected person*  
33 *is in need of a guardian;*

34 (b) Specify whether the guardian appointed is a guardian of the person, of the  
35 estate, of the person and estate or a special guardian;

36 ~~(b)~~ (c) Specify whether the proposed protected person is a resident or  
37 nonresident of this State;

38 ~~(c)~~ (d) Specify the amount of the bond to be executed and filed by the  
39 guardian; and

40 ~~(d)~~ (e) Designate the names and addresses, so far as may be determined, of:

41 (1) The relatives of the proposed protected person upon whom notice must  
42 be served pursuant to NRS 159.047; and

43 (2) Any other interested person.

44 3. A notice of entry of the court order must be sent to:

45 (a) The relatives of the proposed protected person upon whom notice must be  
46 served pursuant to NRS 159.047; and

47 (b) Any other interested person.

48 **Sec. 7.** NRS 159.183 is hereby amended to read as follows:

49 159.183 1. Subject to the discretion and approval of the court and except as  
50 otherwise provided in subsection 5, a guardian must be allowed:

51 (a) Reasonable compensation for the guardian's services;

52 (b) Necessary and reasonable expenses incurred in exercising the authority and  
53 performing the duties of a guardian; and

1 (c) Reasonable expenses incurred in retaining accountants, attorneys ~~[ ]~~ *other*  
2 *than attorneys retained to represent a petitioner or guardian in the guardianship*  
3 *proceeding*, appraisers or other professional services.

4 2. Reasonable compensation and services must be based upon similar services  
5 performed for persons who are not under a legal disability. In determining whether  
6 compensation is reasonable, the court ~~[may]~~ *shall* consider:

- 7 (a) The nature of the guardianship;  
8 (b) The type, duration and complexity of the services required; and  
9 (c) Any other relevant factors.

10 3. In the absence of an order of the court pursuant to this chapter shifting the  
11 responsibility of the payment of compensation and expenses, the payment of  
12 compensation and expenses must be paid from the estate of the protected person. In  
13 evaluating the ability of a protected person to pay such compensation and expenses,  
14 the court may consider:

- 15 (a) The nature, extent and liquidity of the assets of the protected person;  
16 (b) The disposable net income of the protected person;  
17 (c) Any foreseeable expenses; and  
18 (d) Any other factors that are relevant to the duties of the guardian pursuant to  
19 NRS 159.079 or 159.083.

20 4. Any compensation or expenses ~~[, including, without limitation, attorney's~~  
21 ~~fees,]~~ must not be paid from the estate of the protected person unless and until the  
22 payment of such fees is approved by the court pursuant to this section . ~~[or NRS~~  
23 ~~159.344, as applicable.]~~

24 5. A guardian is not allowed compensation or expenses ~~[, including, without~~  
25 ~~limitation, attorney's fees,]~~ for services incurred by the guardian as a result of a  
26 petition to have him or her removed as guardian if the court removes the guardian.

27 **Sec. 8.** NRS 159.1905 is hereby amended to read as follows:

28 159.1905 1. A protected person, the guardian or another person may  
29 petition the court for the termination or modification of a guardianship. The petition  
30 must state or contain:

- 31 (a) The name and address of the petitioner.  
32 (b) The relationship of the petitioner to the protected person.  
33 (c) The name, age and address of the protected person, if the protected person  
34 is not the petitioner, or the date of death of the protected person if the protected  
35 person is deceased.  
36 (d) The name and address of the guardian, if the guardian is not the petitioner.  
37 (e) The reason for termination or modification.  
38 (f) Whether the termination or modification is sought for a guardianship of the  
39 person, of the estate, or of the person and estate.  
40 (g) A general description and the value of the remaining property of the  
41 protected person and the proposed disposition of that property.

42 2. Upon the filing of the petition, the court shall appoint an attorney to  
43 represent the protected person if:

- 44 (a) The protected person is unable to retain an attorney; or  
45 (b) The court determines that the appointment is necessary to protect the  
46 interests of the protected person.

47 3. The petitioner ~~[has the burden of proof to show by clear and convincing~~  
48 ~~evidence that the termination or modification of the guardianship of the person, of~~  
49 ~~the estate, or of the person and estate is in the best interests of the protected person.]~~  
50 *must present prima facie evidence showing that:*

51 *(a) The guardianship is no longer necessary or in the best interests of the*  
52 *protected person such that the guardianship should be terminated; or*

1       (b) *The needs of the protected person have changed such that the powers of*  
2 *the guardian should be modified.*

3       4. *If the petitioner presents prima facie evidence showing that:*

4       (a) *The guardianship is no longer necessary or in the best interests of the*  
5 *protected person, the court shall enter an order terminating the guardianship*  
6 *unless it is proven by clear and convincing evidence that continuation of the*  
7 *guardianship is in the best interests of the protected person. In ruling on a*  
8 *petition pursuant to this paragraph, the court shall consider whether less*  
9 *restrictive alternatives to a guardianship are available to the protected person to*  
10 *meet the current needs of the protected person.*

11       (b) *The needs of the protected person have changed such that the powers of*  
12 *the guardian should be modified, the court shall enter an order modifying the*  
13 *guardianship unless it is proven by clear and convincing evidence that*  
14 *continuation of the guardianship without modification is in the best interests of*  
15 *the protected person.*

16       5. The court shall issue a citation to the guardian and all interested persons  
17 requiring them to appear and show cause why termination or modification of the  
18 guardianship should not be granted.

19       ~~5.6.~~ 6. If the court finds that the petitioner *or an objector* did not file a petition  
20 for termination or modification *or an objection thereto* in good faith or in  
21 furtherance of the best interests of the protected person, the court may:

22       (a) Disallow the petitioner from petitioning the court for attorney's fees from  
23 the estate of the protected person; and

24       (b) Impose sanctions on the petitioner *or an objector* in an amount sufficient to  
25 reimburse the estate of the protected person for all or part of the expenses and for  
26 any other pecuniary losses which are incurred by the estate of the protected person  
27 and associated with the petition ~~5.6.~~ *or objection.*

28       7. *If the protected person prevails on a petition for termination or*  
29 *modification, the protected person is entitled to seek reasonable attorney's fees*  
30 *from any person who opposed the petition of the protected person ~~5.6.~~ unless the*  
31 *court finds that the objector filed an objection to the petition in good faith or in*  
32 *furtherance of the best interests of the protected person.*

33       **Sec. 9.** NRS 159.328 is hereby amended to read as follows:

34       159.328 1. The Legislature hereby declares that, except as otherwise  
35 specifically provided by law, each proposed protected person has the right to have  
36 an attorney before a guardianship is imposed to ask the court for relief, and each  
37 protected person has the right to:

38       (a) Have an attorney at any time during a guardianship to ask the court for  
39 relief.

40       (b) Receive notice of all guardianship proceedings and all proceedings relating  
41 to a determination of capacity unless the court determines that the protected person  
42 lacks the capacity to comprehend such notice.

43       (c) Receive a copy of all documents filed in a guardianship proceeding.

44       (d) Have a family member, an interested party, a person of natural affection, an  
45 advocate for the protected person or a medical provider speak or raise any issues of  
46 concern on behalf of the protected person during a court hearing, either orally or in  
47 writing, including, without limitation, issues relating to a conflict with a guardian.

48       (e) Be educated about guardianships and ask questions and express concerns  
49 and complaints about a guardian and the actions of a guardian, either orally or in  
50 writing.

51       (f) Participate in developing a plan for his or her care, including, without  
52 limitation, managing his or her assets and personal property and determining his or  
53 her residence and the manner in which he or she will receive services.



(g) Have due consideration given to his or her current and previously stated personal desires, preferences for health care and medical treatment and religious and moral beliefs.

(h) Remain as independent as possible, including, without limitation, to have his or her preference honored regarding his or her residence and standard of living, either as expressed or demonstrated before a determination was made relating to capacity or as currently expressed, if the preference is reasonable under the circumstances.

(i) Be granted the greatest degree of freedom possible, consistent with the reasons for a guardianship, and exercise control of all aspects of his or her life that are not delegated to a guardian specifically by a court order.

(j) Engage in any activity that the court has not expressly reserved for a guardian, including, without limitation, voting, marrying or entering into a domestic partnership, traveling, working and having a driver's license.

(k) Be treated with respect and dignity.

(l) Be treated fairly by his or her guardian.

(m) Maintain privacy and confidentiality in personal matters.

(n) ~~Receive~~ *Communicate, visit and interact with other persons, including, without limitation, have regular contact through* telephone calls and personal mail and have visitors, unless his or her guardian and the court determine that particular ~~correspondence~~ *communications or interactions* or a particular visitor will cause harm to the protected person.

(o) *Deny communication, visitation or interaction with other persons.*

(p) Receive timely, effective and appropriate health care and medical treatment that does not violate his or her rights.

~~(q)~~ (q) Have all services provided by a guardian at a reasonable rate of compensation and have a court review any requests for payment to avoid excessive or unnecessary fees or duplicative billing.

~~(r)~~ (r) Receive prudent financial management of his or her property and regular detailed reports of financial accounting, including, without limitation, reports on any investments or trusts that are held for his or her benefit and any expenditures or fees charged to his or her estate.

~~(s)~~ (s) Receive and control his or her salary, maintain a bank account and manage his or her personal money.

~~(t)~~ (t) Ask the court to:

(1) Review the management activity of a guardian if a dispute cannot be resolved.

(2) Continually review the need for a guardianship or modify or terminate a guardianship.

(3) Replace the guardian.

(4) Enter an order restoring his or her capacity at the earliest possible time.

2. The rights of a protected person set forth in subsection 1 do not abrogate any remedies provided by law. All such rights may be addressed in a guardianship proceeding or be enforced through a private right of action.

**Sec. 10.** NRS 159.333 is hereby amended to read as follows:

159.333 1. *A court shall not, under any circumstances, issue an order requiring a protected person to communicate, visit or interact with ~~another~~ a relative or person ~~of~~ of natural affection.*

2. For good cause, a guardian may petition a court to issue an order restricting the ability of a relative or person of natural affection to communicate, visit or interact with a protected person.

~~2.~~ 3. After a petition is filed by a guardian pursuant to subsection ~~1.~~ 2, a court:



(a) ~~[May]~~ *Shall* appoint ~~[a person to meet with]~~ *an attorney for* the protected person ~~[to determine his or her wishes regarding communication, visitation or interaction with the relative or person of natural affection;]~~, *unless an attorney has already been appointed for the protected person or the protected person has already retained an attorney;*

(b) Shall give notice and an opportunity to be heard to the guardian, the protected person and the relative or person of natural affection;

(c) Shall preserve the right of the protected person to be present at the hearing on the petition; and

(d) May order supervised communication, visitation or interaction between the protected person and the relative or person of natural affection ~~[before]~~ *until* the hearing on the petition.

~~[3.]~~ **4.** Upon a showing of good cause by a guardian, a court may issue an order restricting the communication, visitation or interaction between a protected person and a relative or person of natural affection pursuant to this section. When determining whether to issue an order, a court shall consider the following factors:

(a) Whether any protective order has been issued to protect the protected person from the relative or person of natural affection;

(b) Whether the relative or person of natural affection has been charged with abuse, neglect or financial exploitation of the protected person;

(c) Whether the protected person has expressed ~~[to the court or to the guardian and at least one other independent witness who is not affiliated with or related to the guardian or the protected person a desire to or]~~ a desire not to communicate, visit or interact with the relative or person of natural affection;

(d) If the protected person is unable to communicate, whether a properly executed living will, durable power of attorney or other written instrument contains a preference by the protected person regarding his or her communication, visitation or interaction with the relative or person of natural affection; and

(e) Any other factor deemed relevant by the court.

~~[4.]~~ **5.** If a protected person is unable to communicate verbally, the guardian shall provide the court with documentation of any physical reactions or manifestations of agitation, distress or combative or overly emotional behavior by the protected person during or following any contact with a relative or person of natural affection or any opposition by the protected person to any communication, visitation or interaction with a relative or person of natural affection for the purpose of allowing the court to consider whether the protected person has expressed a desire not to communicate, visit or interact with the relative or person of natural affection, as set forth in paragraph (c) of subsection ~~[3.]~~ **4.** Such documentation may include, without limitation, any nursing notes, caregiver records, medical records or testimony of witnesses.

~~[5.]~~ **6.** A guardian, protected person, relative or person of natural affection may petition the court to modify or rescind any order issued pursuant to this section.

**Sec. 11.** NRS 159.337 is hereby amended to read as follows:

159.337 In a proceeding held pursuant to NRS 159.331 to 159.338, inclusive:

1. The guardian has the burden of proof if he or she:

(a) Petitions the court to restrict the ability of a relative or person of natural affection to communicate, visit or interact with a protected person pursuant to subsection ~~[1]~~ **2** of NRS 159.333;

(b) Petitions the court to modify or rescind an order pursuant to subsection ~~[5]~~ **6** of NRS 159.333; ~~[or]~~

(c) *Opposes a petition filed by the protected person pursuant to subsection 6 of NRS 159.333; or*

1 (d) Opposes a petition filed pursuant to NRS 159.335.

2 2. A relative or person of natural affection has the burden of proof if he or she  
3 petitions the court to modify or rescind an order pursuant to subsection ~~5~~ 6 of  
4 NRS 159.333.

5 **Sec. 12.** NRS 159.344 is hereby amended to read as follows:

6 159.344 1. Any person, including, without limitation, a guardian or  
7 proposed guardian, who retains an attorney for the purposes of representing a party  
8 in a guardianship proceeding is personally liable for any attorney's fees and costs  
9 incurred as a result of such representation.

10 2. Notwithstanding the provisions of subsection 1 and except as otherwise  
11 provided in subsection ~~5 of NRS 159.183~~ 9, a person who is personally liable for  
12 attorney's fees and costs may petition the court for an order authorizing such  
13 attorney's fees and costs to be paid from the estate of the protected person in  
14 accordance with this section. Any such attorney's fees and costs must not be paid  
15 from the guardianship estate unless and until the court authorizes the payment  
16 pursuant to this section.

17 3. When a person who intends to petition the court for payment of attorney's  
18 fees and costs from the guardianship estate first appears in the guardianship  
19 proceeding, the person must file written notice of his or her intent to seek payment  
20 of attorney's fees and costs from the guardianship estate. The written notice:

21 (a) Must provide a general explanation of the compensation arrangement and  
22 how compensation will be computed;

23 (b) Must include the hourly billing rates of all timekeepers, including, without  
24 limitation, attorneys, law clerks and paralegals;

25 (c) Must provide a general ~~and~~ explanation of the reasons why the services of  
26 the attorney are necessary to further the best interests of the protected person;

27 (d) Must be served by the person on all persons entitled to notice pursuant to  
28 NRS 159.034 and 159.047; and

29 (e) Is subject to approval by the court after a hearing.

30 4. If written notice was filed and approved by the court pursuant to subsection  
31 3, a person may file with the court a petition requesting payment of attorney's fees  
32 and costs from the guardianship estate. Such a petition must include the following  
33 information:

34 (a) A detailed statement as to the nature and extent of the services performed  
35 by the attorney;

36 (b) An itemization of each task performed by the attorney, with reference to the  
37 time spent on each task in an increment to the nearest one-tenth of an hour and with  
38 no minimum billing unit in excess of one-tenth of an hour;

39 (c) An indication of whether any time billed, including, without limitation, any  
40 time spent traveling or waiting, benefited any clients of the attorney other than the  
41 protected person and, if so, how many other clients benefited from such time; and

42 (d) Any other information considered relevant to a determination of whether  
43 attorney's fees are just, reasonable and necessary.

44 Absent approval from all parties who have appeared in the proceeding, any  
45 supplemental requests for the payment of attorney's fees and costs cannot be  
46 augmented in open court and must be properly noticed in the same manner as the  
47 underlying petition requesting payment.

48 5. In determining whether attorney's fees are just, reasonable and necessary,  
49 the court ~~may~~ shall consider all the following factors:

50 (a) The written notice approved by the court pursuant to subsection 3.

51 (b) Whether the services conferred any actual benefit upon the protected  
52 person or attempted to advance the best interests of the protected person.

(c) The qualities of the attorney, including, without limitation, his or her ability, training, education, experience, professional standing and skill.

(d) The character of the work performed, including, without limitation, the difficulty, intricacy and importance of the work, the time and skill required to complete the work, the responsibility imposed and the nature of the proceedings.

(e) The work actually performed by the attorney, including, without limitation, the skill, time and attention given to the work.

(f) The result of the work, including, without limitation, whether the attorney was successful and any benefits that were derived.

(g) The usual and customary fees charged in the relevant professional communities for each task performed, regardless of who actually performed the task. The court may only award:

(1) Compensation at an attorney rate for time spent performing services that require an attorney;

(2) Compensation at a paralegal rate for time spent performing paralegal services; ~~and~~

(3) Compensation at a fiduciary rate for time spent performing fiduciary services ~~;~~ and

(4) No

~~compensation for time spent performing secretarial or clerical services, for tasks that could be performed by a different type of professional at a lower rate.~~

(h) The appropriate apportionment among multiple clients of any billed time that benefited multiple clients of the attorney.

(i) The extent to which the services were provided in a reasonable, efficient and cost-effective manner, including, without limitation, whether there was appropriate and prudent delegation of services to others.

(j) The ability of the estate of the protected person to pay, including, without limitation:

(1) The value of the estate;

(2) The nature, extent and liquidity of the assets of the estate;

(3) The disposable net income of the estate;

(4) The anticipated future needs of the protected person; and

(5) Any other foreseeable expenses.

(k) The efforts made by the person and attorney to reduce and minimize any issues.

(l) Any actions by the person or attorney that unnecessarily expanded issues or delayed or hindered the efficient administration of the estate ~~;~~ ~~including, without limitation, errors that necessitate additional time spent on tasks.~~

(m) Whether any actions taken by the person or attorney were taken for the purpose of advancing or protecting the interests of the person as opposed to the interests of the protected person.

(n) Any other factor that is relevant in determining whether attorney's fees are just, reasonable and necessary, including, without limitation, any other factor that is relevant in determining whether the person was acting in good faith and was actually pursuing the best interests of the protected person.

***Regardless of whether or not the court orders the payment of attorney's fees pursuant to this section, the court shall include in its order written findings on the factors set forth in this subsection.***

6. The court shall not approve compensation for an attorney for:

(a) Time spent on internal business activities of the attorney, including, without limitation, clerical or secretarial support; or

(b) Time reported as a total amount of time spent on multiple tasks, rather than an itemization of the time spent on each task.

7. Any fees paid by a third party, including, without limitation, a trust of which the estate is a beneficiary, must be disclosed to ~~the court~~ and ~~may only be approved by the court after consideration of the factors listed in subsection 5.~~

8. In addition to any payment provided to a person pursuant to this section for the services of an attorney, a person may receive payment for ordinary costs and expenses incurred in the scope of the attorney's representation.

9. *A guardian is not allowed attorney's fees for services incurred by the guardian as a result of a petition to have him or her removed as guardian if the court removes the guardian. If a court grants a petition for removal of a guardian, any person who objected to the petition must not be awarded attorney's fees if the court finds that the person did not file the objection to the petition for removal in good faith or in furtherance of the best interests of the protected person.*

10. If two or more parties in a guardianship proceeding file competing petitions for the appointment of a guardian or otherwise litigate any contested issue in the guardianship proceeding, only the prevailing party may petition the court for payment of attorney's fees and costs from the guardianship estate pursuant to this section. If the court determines that there is no prevailing party, the court may authorize a portion of each party's attorney's fees and costs to be paid from the guardianship estate if the court determines that such fees and costs are just, reasonable and necessary given the nature of any issues in dispute.

~~10.~~ 11. If an attorney is appointed by the court in a guardianship proceeding, he or she may petition the court for compensation for his or her services from the guardianship estate in accordance with the procedure set forth in this section.

12. *If a person fails to file the written notice required pursuant to subsection 3, the court shall dismiss any petition filed by the person for an award of attorney's fees from the estate of the protected person.*

13. *As used in this section, "secretarial or clerical services" means:*

(a) *Those tasks that are clerical and not legally substantive in nature, including, without limitation, preparing cover sheets, drafting notices, filling out and printing form documents, drafting certificates of service, preparing summons and affidavits, filing documents with the court, organizing files, calendaring, scheduling, transmitting documents and performing other similar tasks that are clerical in nature; and*

(b) *Time spent by an attorney reviewing work that is clerical in nature performed by other persons.*

**Sec. 13.** NRS 159.375 is hereby amended to read as follows:

159.375 In addition to any order from which an appeal is expressly authorized pursuant to this chapter, an appeal may be taken to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution within 30 days after its notice of entry from an order:

1. Granting or revoking letters of guardianship.
2. Directing or authorizing the sale or conveyance, or confirming the sale, of property of the estate of a protected person.
3. Settling an account.
4. Ordering or authorizing a guardian to act pursuant to NRS 159.113.
5. Ordering or authorizing the payment of a debt, claim, devise, guardian's fees or attorney's fees.
6. Determining ownership interests in property.

1           7. Granting or denying a petition to enforce the liability of a surety.

2           8. Granting or denying a petition for modification or termination of a  
3 guardianship.

4           9. Granting or denying a petition for removal of a guardian or appointment of  
5 a successor guardian.

6           ***10. Restricting communication, visitation or interaction between the***  
7 ***protected person and a relative or person of natural affection pursuant to NRS***  
8 ***159.333.***

9           ***11. Ordering or authorizing a guardian to move the protected person from***  
10 ***this State to another state.***

11           ***12. Ordering or authorizing a guardian to act pursuant to NRS 159.0805 or***  
12 ***159.0806.***

13           **Sec. 14.** The amendatory provisions of this act apply to any proceeding or  
14 matter commenced on or after July 1, 2023.

15           **Sec. 15.** This act becomes effective on July 1, 2023.