

SENATE BILL NO. 407—SENATOR OHRENSCHALL

MARCH 27, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to personal financial administration. (BDR 12-959)

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 personal financial administration; revising provisions that govern estates of deceased persons; revising provisions governing the notice of sale of certain property; authorizing a petitioner to submit a notice through an electronic filing system pursuant to the Nevada Electronic Filing and Conversion Rules; making certain information concerning trusts confidential; revising provisions governing the classification of distribution of interests; revising the powers exercisable by the protector of a trust; revising provisions relating to the jurisdiction and venue of a trust; clarifying provisions relating to a notice provided by the trustee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the estate of a decedent may be settled by the district court of any county in which any part of the estate is located or where the decedent was a resident at the time of death. (NRS 136.010) **Section 1** of this bill provides that the jurisdiction of the settlement of the estate of a decedent may be assumed in the district court of any county in this State if: (1) the decedent was a resident of this State at the time of death; or (2) any part of the estate is located in this State. Existing law further provides that, if a decedent was a resident of this State at his or her time of death, the district court of any county in this State may assume jurisdiction of the settlement of the estate only after considering the convenience of the forum to certain parties. (NRS 136.010) **Section 1** removes such provisions of law and instead provides that: (1) the venue of the settlement of the estate of the decedent is proper in any district court in this State; and (2) if an interested person objects to the venue on the basis of convenience, the court may determine the



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appropriate venue only after considering the convenience of the forum in relation to where the decedent died or owned property or the preferences of certain parties.

Existing law provides that if a homestead was selected by the spouses and recorded while both were living, the homestead, upon the death of either spouse, vests absolutely in the survivor. If no homestead was selected, existing law provides that the homestead may be set apart by the court to the surviving spouse, minor child or minor children of the decedent for a limited period if the court deems it advisable after considering, among other things, the needs and resources of the family. (NRS 146.050) **Section 2** of this bill clarifies that the court must consider the needs and resources of the surviving spouse, minor child or minor children of the decedent.

If the value of an estate does not exceed \$100,000, existing law authorizes the estate of the decedent to be set aside and assigned in a certain order without administration. (NRS 146.070) **Section 3** of this bill authorizes the court to: (1) upon request, order any asset assigned and set apart to be distributed to a designated person who resides in this State; (2) order the designated person to distribute the assets to the persons entitled thereto; and (3) retain jurisdiction of the estate to enforce the orders of the court until the designated person can prove that all sums of money due and all property of the estate has been distributed properly.

Existing law requires a notice of the time and place of sale of real property to be published in a certain manner before the sale is made. Under existing law, the court may waive the requirement of publication if, among other things, the personal representative is the sole devisee or heir of the estate or if all devisees or heirs of the estate consent in writing. (NRS 148.220) **Section 4** of this bill provides that the court may waive the requirement of publication if the following persons consent in writing: (1) the personal representative, if he or she is the sole devisee or heir of the estate; (2) all devisees to whom the property is devised if the property is specifically devised in the decedent's will; (3) all residuary devisees if the property is not specifically devised in the decedent's will; or (4) in the case of an intestate estate, all heirs of the estate.

Existing law requires that before the court can confirm a sale of real property at a private sale, the court must first, among other things, determine that the real property has been appraised within 1 year before the time of sale. Under existing law, the court can waive the requirement of an appraisal: (1) for good cause shown; or (2) if the personal representative is the sole devisee or heir of the estate, or if all devisees or heirs consent in writing to sale without an appraisal. (NRS 148.260) **Section 5** of this bill authorizes the court to waive the requirement of an appraisal if the following people consent in writing to sale without an appraisal: (1) the personal representative, if he or she is the sole devisee or heir of the estate; (2) all devisees to whom the property is devised, if the property is specifically devised in the will of the decedent; (3) all residuary devisees, if the property is not specifically devised in the will of the decedent; and (4) in the case of an intestate estate, all heirs to the estate.

Existing law requires a petitioner to provide notice of the time and place of the hearing of a petition to certain interested persons by: (1) mailing a copy by registered or ordinary first-class mail addressed to the person being notified; and (2) publishing a copy of the notice in certain newspapers under certain circumstances. (NRS 155.010) If the court has established an electronic filing system pursuant to the Nevada Electronic Filing and Conversion Rules, **section 6** of this bill authorizes a petitioner to provide such notice to certain interested persons by submitting a copy of the notice through the electronic filing system of the court or through any other electronic means.

Existing law authorizes the maker or legal representative of a maker of a will, trust or testamentary instrument to obtain declaratory relief under the testamentary instrument or with respect to the administration of the trust or certain estates for



certain purposes. (NRS 30.040) **Section 7** of this bill additionally authorizes an interested person or the legal representative of an interested person to obtain declaratory relief under the same circumstances.

Section 9 of this bill provides that a settlor of a trust may use a method set forth in a trust instrument for determining whether the settlor or trustee is incapacitated. **Section 16** of this bill authorizes a trustee presenting a certification of trust to include a declaration that the incapacity of the former trustee has been established pursuant to **section 9** and that the current acting trustee has succeeded to the office of trustee. (NRS 164.410)

Section 13 of this bill provides that certain information concerning trusts in pleadings and filings is confidential. **Section 18** of this bill makes a conforming change to reflect that certain information concerning trusts in pleadings and filings is made confidential pursuant to **section 13**.

Existing law classifies a distribution interest, among other classifications, as a support interest if the trustee is required to make distributions to the beneficiary pursuant to an ascertainable standard. (NRS 163.4185) **Section 11** of this bill revises the circumstances under which a distribution interest is classified as a support interest.

Existing law prescribes the powers and duties of a protector of a trust. (NRS 163.5553) **Section 12** of this bill provides that, unless otherwise provided in the trust instrument: (1) the powers of a protector of a trust are fiduciary in nature; and (2) the trust instrument may define the scope and extent of the fiduciary standard applicable to the exercise of any of the powers and duties of a protector of a trust.

Existing law provides that under certain circumstances, the district court is required to assume jurisdiction of a trust as a proceeding in rem. If the trustee does not reside or conduct business in this State, existing law provides that jurisdiction is proper in this State if, among other requirements: (1) the trust expressly provides that the trust originated in this State or that a court in this State has jurisdiction; (2) under certain circumstances, a person has designated that the trust originated in this State or that this State has jurisdiction; or (3) one or more beneficiaries of the trust reside in this State. (NRS 164.010) **Section 14** of this bill: (1) provides that jurisdiction of a trust is proper in this State if the trust or a certain person expressly provides or designates that the trust originated in a county located in this State; (2) removes the requirement that one or more beneficiaries of the trust reside in this State; and (3) provides that jurisdiction is proper if any trustee resides or conducts business in this State.

Existing law also provides that, for the purposes of determining venue, the court must consider the preference of counties in a certain order. (NRS 164.010) **Section 14** specifies that for the purposes of determining venue in this State, the following preferences apply: (1) a county in which venue was most recently declared; (2) a county in which venue is declared in the trust instrument; (3) a county in which the situs or domicile of the trust is declared in a certification of trust; (4) a county in which any trustee resides or conducts business at the time of the filing of the petition; (5) a county in which any real property interest owned by the trust is located; and (6) a county in which any beneficiary resides.

Existing law authorizes a trustee to provide notice to certain persons after a revocable trust becomes irrevocable and generally prohibits any person who is provided notice from bringing an action to contest the validity of the trust more than 120 days after notice is served. (NRS 164.021) **Section 15** of this bill clarifies that the notice must contain the dispositive provisions of the trust instrument that pertain to the beneficiary or a complete copy of the trust instrument. **Section 15** also authorizes a person to consent in writing to a period shorter than 120 days in which to bring an action to contest the validity of the trust.



Section 17 of this bill makes a technical correction to a provision relating to the liability of a trustee or disinterested person who, in good faith, fails to take certain actions. (NRS 164.796)

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

Section 1. NRS 136.010 is hereby amended to read as follows:
136.010 1. ~~{The}~~ *Jurisdiction of the settlement of the* estate
of a decedent may be ~~{settled by}~~ *assumed in* the district court of
any county in this State ~~{:} if:~~

(a) ~~{In which any part of the estate is located;}~~ *The decedent
was a resident of this State at the time of death;* or

(b) ~~{Where the decedent was a resident at the time of death.}~~
Any part of the estate of the decedent is located in this State.

2. ~~{If the decedent was a resident of this State at the time of
death, the district court of any county in this State, whether death
occurred in that county or elsewhere, may assume jurisdiction}~~
Venue of the settlement of the estate of ~~{the}~~ *a* decedent *is proper in
any district court in this State. If an interested person objects to
the venue on the basis of convenience, the court may determine
the appropriate venue* only after ~~{taking into consideration}~~
considering, in order of priority, the convenience of the forum to:

(a) *Where the decedent resided at the time of death;*

(b) *Where the decedent owned real property;*

(c) *The preference of the* person named as personal
representative or trustee in the will; and

~~{(b)}~~ (d) *The preference of the* heirs, devisees, interested
persons or beneficiaries to the decedent or estate and their legal
counsel.

3. After a properly noticed hearing is held, the district court
that first assumes jurisdiction of the settlement of an estate has
exclusive jurisdiction of the settlement of that estate, including,
without limitation:

(a) The proving of wills;

(b) The granting of letters; and

(c) The administration of the estate.

Sec. 2. NRS 146.050 is hereby amended to read as follows:

146.050 1. If the homestead was selected by the spouses, or
either of them, during their marriage, and recorded while both were
living, as provided in chapter 115 of NRS, it vests, on the death of
either spouse, absolutely in the survivor, unless vesting is otherwise
required pursuant to subsection 2 of NRS 115.060.

2. If no homestead was so selected, a homestead may be set
apart by the court to the surviving spouse, minor child or minor



children of the decedent for a limited period if deemed advisable considering the needs and resources of the ~~family~~ *surviving spouse, minor child or minor children of the decedent* and the nature, character and obligations of the estate. The duration of the homestead must be designated in the order setting it apart and may not extend beyond the lifetime of the surviving spouse or the minority of any child of the decedent, whichever is longer. A homestead so set apart then vests, subject to the setting apart:

(a) If set apart from the separate property of the decedent, in the heirs or devisees of the decedent.

(b) If set apart from community property, one-half in the surviving spouse and one-half in the devisees of the decedent, or if no disposition is made, then entirely in the surviving spouse.

3. In either case referred to in subsection 1 or 2, the homestead is not subject to the payment of any debt or liability existing against the spouses, or either of them, at the time of death of either, unless the debt or liability is secured by a mortgage or lien.

Sec. 3. NRS 146.070 is hereby amended to read as follows:

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

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

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

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

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

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

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

(d) Any balance remaining to the claimant or claimants entitled thereto pursuant to a valid will of the decedent, and if there is no



valid will, pursuant to intestate succession in accordance with chapter 134 of NRS.

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

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

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

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

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

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

- (a) A specific description of all property in the decedent's estate;
- (b) A list of all known liens and encumbrances against estate property at the date of the decedent's death, with a description of any that the petitioner believes may be unenforceable;
- (c) An estimate of the value of the property, together with an explanation of how the estimated value was determined;
- (d) A statement of the debts of the decedent so far as known to the petitioner;



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

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

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

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

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

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

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

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

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

14. The order granting the petition shall include:

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

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

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

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



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

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

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

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

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

16. *The court, upon request of a petitioner under this section and upon such terms and conditions the court deems advisable to protect any interested person of the estate:*

(a) May order that any asset assigned and set apart pursuant to subsection 2 be distributed first to a designated person who resides in this State and is otherwise qualified pursuant to NRS 139.010;

(b) May order the designated person to distribute the assets to the person or persons entitled thereto; and

(c) Shall retain jurisdiction to enforce its orders until the designated person demonstrates to the court, by the production of satisfactory receipts, that all sums of money due and all the property of the estate has been distributed to the persons entitled thereto and all acts lawfully required have been performed.

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

Sec. 4. NRS 148.220 is hereby amended to read as follows:

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

2. The court may waive the requirement of publication if:



(a) The ~~personal representative is the sole devisee or heir of the estate, or if all devisees or heirs of the estate~~ following persons consent in writing ~~to~~ :

(1) The personal representative, if he or she is the sole devisee or heir of the estate;

(2) If the property is specifically devised in the will of the decedent, all devisees to whom the property is devised;

(3) If the property is not specifically devised in the will of the decedent, all residuary devisees; or

(4) In the case of an intestate estate, all heirs of the estate.

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

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

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

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

Sec. 5. NRS 148.260 is hereby amended to read as follows:

148.260 1. Except as otherwise provided in subsection 2, a sale of real property at a private sale must not be confirmed by the court unless the court is satisfied that the sum offered represents the fair market value of the property sold and the real property has been appraised within 1 year before the time of sale. If the property has not been appraised, a new appraisal must be performed, as in the case of an original appraisal of an estate, at any time before the sale or confirmation of the property.

2. The court may waive the requirement of an appraisal:

(a) For good cause shown; ~~for~~

(b) ~~If the~~ The personal representative, if he or she is the sole devisee or heir of the estate ~~, or if all devisees or heirs~~ ;

(c) If the property is specifically devised in the will of the decedent, all devisees to whom the property is devised consent in writing to sale without an appraisal;



(d) *If the property is not specifically devised in the will of the decedent, all residuary devisees consent in writing to sale without an appraisal; or*

(e) *In the case of an intestate estate, all heirs to the estate consent in writing to the sale without an appraisal,*

↳ in which case the personal representative may rely on the assessed value of the property for taxation in obtaining confirmation of the sale.

Sec. 6. NRS 155.010 is hereby amended to read as follows:

155.010 1. Except as otherwise provided in this section or a specific statute relating to the kind of notice required or otherwise ordered by the court in a particular instance, a petitioner shall cause notice of the time and place of the hearing of a petition to be given to each interested person and to every other person entitled to notice pursuant to this title or his or her attorney if the person has appeared by attorney or requested that notice be sent to his or her attorney. Notice must be given:

(a) By mailing a copy thereof at least 10 days before the time set for the hearing by certified, registered or ordinary first-class mail addressed to the person being notified at the post office address given in the person's demand for notice, if any, or at his or her office or place of residence, if known, or by personally delivering a copy thereof to the person being notified at least 10 days before the time set for the hearing; ~~or~~

(b) *By submitting a copy thereof through an electronic filing system, if the court establishes such a system pursuant to the Nevada Electronic Filing and Conversion Rules or by any other electronic means if the interested person or person entitled to notice consents in writing; or*

(c) If the address or identity of the person is not known and cannot be ascertained with reasonable diligence, by publishing at least once a week for 3 consecutive weeks a copy thereof in a newspaper having general circulation in the county where the hearing is to be held, the last publication of which must be at least 10 days before the date set for the hearing.

2. A person who, for the purposes of the matter to be considered at a hearing, is not an interested person is not entitled to notice of that hearing.

3. The court, for good cause shown, may provide for a different method or time of giving notice for any hearing, or may dispense with the notice otherwise required to be given to a person under this title.

4. Proof of the giving of notice must be made on or before the hearing and filed in the proceeding.



5. A person entitled to notice may, in writing, waive notice of the hearing of a petition.

6. Notice given pursuant to paragraph (b) or (c) of subsection 1 is complete upon electronic submission of any kind, unless the petitioner is notified pursuant to the Nevada Electronic Filing and Conversion Rules that the service was not effectuated on the person intended to be served by such electronic means.

Sec. 7. NRS 30.040 is hereby amended to read as follows:

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

2. ~~1A1~~ *Any interested person or legal representative of an interested person of, or a* maker or legal representative of a maker of , a will, trust or other writings constituting a testamentary instrument may have determined any question of construction or validity arising under the instrument and obtain a declaration of rights, status or other legal relations thereunder. Any action for declaratory relief under this subsection may only be made in a proceeding commenced pursuant to the provisions of title 12 or 13 of NRS, as appropriate.

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

Sec. 8. Chapter 163 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 and 10 of this act.

Sec. 9. 1. *A person determined pursuant to this section to lack capacity or to be incapacitated shall be deemed to no longer have the authority to serve as a trustee, and the person having priority to serve as or to appoint the successor trustee upon resignation, death or incapacity of the trustee under the trust instrument shall immediately assume such authority.*

2. A person who would have authority to serve as the trustee but for the fact that he or she has been determined to be incapacitated pursuant to subsection 3 and who later regains capacity as determined in accordance with subsection 7 is immediately restored to such authority.



3. A person serving as a trustee is incapacitated for purposes of this section if the person:

(a) Is determined to lack capacity pursuant to subsection 4; or

(b) Is:

(1) Missing; or

(2) Detained, including, without limitation, incarcerated.

4. The incapacity of a person serving as a trustee may be established by:

(a) A method provided in the trust instrument of the person, including, without limitation, a method that does not require a physician or a court to determine incapacity;

(b) A licensed physician who has personally examined the person, unless the trust instrument provides otherwise; or

(c) A court of competent jurisdiction.

5. The successor trustee may certify under penalty of perjury that the incapacity of a person has been determined pursuant to this section by a signed affidavit that is acknowledged by all the currently acting trustees of the trust other than the incapacitated trustee. A person who acts in reliance upon such a certification of incapacity without knowledge that the representations contained therein are incorrect is not liable to any person for so acting and may assume without inquiry that the person who has been certified as incapacitated lacks capacity.

6. Any interested person may petition a court of competent jurisdiction pursuant to NRS 164.015 for an order declaring a person serving as a trustee to lack capacity within the meaning of this section and for the removal as a trustee.

7. A person who would have priority to serve as the trustee but for the fact that he or she has been determined to be incapacitated, who later regains capacity, may establish his or her capacity by:

(a) Using a method in the trust instrument to establish the capacity of the trustee;

(b) If the person is incapacitated pursuant to paragraph (b) of subsection 3, a signed affidavit acknowledged by the person that the individual is no longer incapacitated and that is delivered to the currently acting trustees of the trust; or

(c) Petitioning a court of competent jurisdiction under NRS 164.015 for an order declaring that the person is not incapacitated.

8. A written determination of the successor trustee or licensed physician provided pursuant to paragraph (a) or (b) of subsection 4 must be provided under penalty of perjury.

9. Incapacity pursuant to paragraph (c) of subsection 4 must be established by a preponderance of the evidence.



Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 163.4185 is hereby amended to read as follows:

163.4185 1. A distribution interest may be classified as:

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

(b) A support interest if the trustee is *mandatorily* required to make distributions to the beneficiary ~~[pursuant to an]~~ *upon the determination of the trustee that the distribution will satisfy a defined ascertainable standard [H] set forth in the instrument and, upon such a determination, the trust instrument does not otherwise condition such distribution authority on the further discretion of the trustee.*

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

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

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

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

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

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

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

Sec. 12. NRS 163.5553 is hereby amended to read as follows:

163.5553 1. A trust protector may exercise the powers provided to the trust protector in the instrument ~~[in the best interests of the trust.]~~ *subject to the terms and provisions in the instrument.*

The powers exercised by a trust protector are at the sole discretion of the trust protector and are binding on all other persons. The powers granted to a trust protector may include, without limitation, the power to:

(a) Modify or amend the instrument to achieve a more favorable tax status or to respond to changes in federal or state law.



(b) Modify or amend the instrument to take advantage of changes in the rule against perpetuities, restraints on alienation or other state laws restricting the terms of a trust, the distribution of trust property or the administration of the trust.

(c) Increase or decrease the interests of any beneficiary under the trust.

(d) Modify the terms of any power of appointment granted by the trust. A modification or amendment may not grant a beneficial interest to a person which was not specifically provided for under the trust instrument.

(e) Remove and appoint a trustee, trust adviser, investment committee member or distribution committee member.

(f) Terminate the trust.

(g) Direct or veto trust distributions.

(h) Change the location or governing law of the trust.

(i) Appoint a successor trust protector or trust adviser.

(j) Interpret terms of the instrument at the request of the trustee.

(k) Advise the trustee on matters concerning a beneficiary.

(l) Review and approve a trustee's reports or accounting.

2. The powers provided pursuant to subsection 1 may be incorporated by reference to this section at the time a testator executes a will or a settlor signs a trust instrument. The powers provided pursuant to subsection 1 may be incorporated in whole or in part.

3. Unless otherwise provided in the trust instrument, the powers of the trust protector shall be considered fiduciary in nature. The trust instrument may define the scope and extent of a fiduciary standard applicable to the exercise of any power of the trust protector, including, without limitation, reducing or relieving the trust protector of a fiduciary duty.

Sec. 13. Chapter 164 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Confidential information relating to trusts that is contained in petitions and subsequent related findings under this title or title 12 of NRS may be redacted and filed under seal without a prior court order so long as the unredacted and complete copies of such petitions and filings are promptly provided to the court in camera and to all persons entitled to notice thereto.

2. Unless the court orders otherwise, confidential information once redacted or filed under seal must be redacted and filed under seal without a prior court order in all subsequent filings and orders in the matter relating to the petition, and unredacted and complete copies of such filings and orders must be promptly provided in camera to the court and to all persons entitled to copies thereto, as appropriate.



3. Nothing in this section shall be construed to abridge the power of any court of competent jurisdiction to order the production of unredacted and complete copies of petitions, filings and orders that have been redacted or filed under seal to an interested person, as defined in NRS 132.185, or to other persons for cause shown.

4. As used in this section, "confidential information" includes:

- (a) Trust instruments, inventories, accountings and reports;
- (b) The names and addresses of trust settlors and beneficiaries;
- (c) Trust dispositive terms, including, without limitation:
 - (1) The identity and amount of distributions or gifts; and
 - (2) Powers of appointments;
- (d) Corporate and company records relating to trusts;
- (e) Personally identifying information, including, without limitation, social security numbers and dates of birth; and
- (f) Any other information ordered by the court.

Sec. 14. NRS 164.010 is hereby amended to read as follows:

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

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

- (a) The trust instrument expressly provides that ~~[the]~~ :
 - (1) **The** situs of the trust is in this State **or a county located in this State;** or ~~[that a]~~
 - (2) **A** court in this State has jurisdiction over the trust;
- (b) A person has designated for the trust that this State **or a county located in this State** is the situs or has jurisdiction, if such person made the designation at a time during which he or she held the power to make such a designation under the express terms of the trust instrument;
- (c) The trust owns an interest in real property located in this State;



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

- (1) Incorporated or authorized to do business in this State;
- (2) A trust company licensed under chapter 669 of NRS;
- (3) A family trust company, as defined in NRS 669A.080; or
- (4) A national association having an office in this State;

(e) ~~One or more beneficiaries of the trust reside~~ *Any trustee resides or conducts business* in this State; or

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

3. Notwithstanding the provisions of this section, if a court of a jurisdiction other than this State has jurisdiction over a trust and grants an order authorizing a transfer of jurisdiction over that trust to this State, the district court has the power to assume jurisdiction over the trust and to otherwise supervise the administration of that trust in accordance with the procedures set forth in this title.

4. For the purposes of determining venue ~~is~~ *within this State*, preference is given in the following order:

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

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

(c) To the county in which the situs or domicile is declared by the trustee at the time of the filing of the petition in a certification of the trust which complies with subsection 2 of NRS 164.400 and subsection 2 of NRS 164.410 and which contains a declaration of the trust's situs or domicile as authorized in subsection 1 of NRS 164.410 ~~is~~;

(d) To a county in which any trustee resides or conducts business at the time of the filing of the petition;

(e) To a county in which any real property interest owned by the trust is located; and

(f) To a county in which any beneficiary of the trust resides.

5. When the court assumes jurisdiction pursuant to this section, the court:

(a) Has jurisdiction of the trust as a proceeding in rem as of the date of the filing of the petition;

(b) Shall be deemed to have personal jurisdiction over any trustee confirmed by the court and any person appearing in the matter, unless such an appearance is made solely for the purpose of objecting to the jurisdiction of the court;

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



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

6. At any time, ~~the~~ a trustee may petition the court for removal of the trust from continuing jurisdiction of the court.

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

Sec. 15. NRS 164.021 is hereby amended to read as follows:

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

2. The notice provided by the trustee must contain:

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

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

(c) ~~[Any provision]~~ *The dispositive provisions* of the trust instrument which ~~[pertains]~~ *pertain* to the beneficiary, *a complete copy of the trust instrument* or notice that the heir or interested person is not a beneficiary under the trust;

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

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

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

4. ~~[No]~~ *Except as otherwise provided in this subsection, no* person upon whom notice is provided pursuant to this section may bring an action to contest the validity of the trust more than 120 days from the date the notice ~~[pursuant to this section is provided, regardless of whether a petition under NRS 164.010 is subsequently]~~ *is* served upon the person, ~~[after the notice is provided,]~~ unless the person proves that he or she ~~[was not provided]~~ *did not receive actual* notice. ~~[in accordance with this section.]~~ *A person upon whom notice is provided pursuant to this section may provide consent in writing to a period of less than 120*



days in which the person may bring an action to contest the validity of the trust.

5. For the purposes of paragraph (c) of subsection 2, a copy of the trust instrument shall be considered complete if it includes all amendments and restatements to the trust instrument the trustee has determined to be in effect at the time of the death of the settlor after the trustee has exercised due diligence.

6. A trustee is not liable in providing information pursuant to paragraph (c) of subsection 2 to any person whom the trustee has determined, after the exercise of due diligence, to be a beneficiary, heir or interested person.

Sec. 16. NRS 164.410 is hereby amended to read as follows:

164.410 1. A certification of trust may confirm the following facts or contain the following information:

(a) The existence of the trust and date of execution of any trust instrument;

(b) The identity of the settlor and each currently acting trustee;

(c) The powers of the trustee and any restrictions imposed upon the trustee in dealing with assets of the trust;

(d) The revocability or irrevocability of the trust and the identity of any person holding a power to revoke it;

(e) If there is more than one trustee, whether all of the currently acting trustees must or less than all may act to exercise identified powers of the trustee;

(f) A declaration regarding the situs or domicile of the trust and regarding the law that governs the validity, construction and administration of the trust; ~~and~~

(g) The form in which title to assets of the trust is to be taken ~~and~~ ; and

(h) A declaration that:

(1) The incapacity of the former trustee of the trust, including a settlor serving as the former trustee, has been determined pursuant to subsection 3, 4 or 6 of section 9 of this act; and

(2) The current acting trustee succeeded to the office of trustee pursuant to subsection 1 of section 9 of this act.

2. The certification must contain a statement that the trust has not been revoked or amended to make any representations contained in the certification incorrect, and that the signatures are those of all the currently acting trustees.

Sec. 17. NRS 164.796 is hereby amended to read as follows:

164.796 1. Unless expressly prohibited by the trust instrument, a trustee may convert a trust into a unitrust if:



(a) The trustee determines conversion to a unitrust will better enable the trustee to carry out the intent of the settlor and the purpose of the trust;

(b) The trustee gives written notice of his or her intention to convert the trust to a unitrust, including how the unitrust will operate, the income distributions rate established pursuant to subsection 3 of NRS 164.797 and subsection 1 of NRS 164.799, and what initial decisions the trustee will make pursuant to this section, to all beneficiaries who:

(1) Are presently eligible to receive income from the trust;

(2) Would be eligible, if a power of appointment were not exercised, to receive income from the trust if the interest of any beneficiary eligible to receive income terminated immediately before the trustee gives notice; and

(3) Would receive, if a power of appointment were not exercised, a distribution of principal if the trust terminated immediately before the trustee gives notice;

(c) There is at least one beneficiary who meets the requirements of subparagraph (1) of paragraph (b) and at least one beneficiary who meets the requirements of subparagraph (2) of paragraph (b); and

(d) No beneficiary objects, in writing and delivered to the trustee within 60 days of the mailing of the notice, to the conversion of the trust to a unitrust.

2. If a beneficiary timely objects to converting a trust into a unitrust, or if there are no beneficiaries under either subparagraph (1) or (3) of paragraph (b) of subsection 1, the trustee may petition the court to approve the conversion of the trust into a unitrust. The court shall approve the conversion if the court concludes that the conversion will enable the trustee to better carry out the intent of the settlor and the purpose of the trust.

3. A beneficiary may request that a trustee convert a trust into a unitrust. If the trustee does not convert the trust, the beneficiary may petition the court to order the conversion. The court shall direct the conversion if the court concludes that the conversion will enable the trustee to better carry out the intent of the settlor and the purpose of the trust.

4. A trustee, in determining whether and to what extent to convert a trust to a unitrust pursuant to subsection 1, shall consider all factors relevant to the trust and to the beneficiaries, including the factors set forth in subsection 2 of NRS 164.795, as applicable.

5. A conversion of a trust to a unitrust does not affect a term of the trust directing or authorizing the trustee to distribute principal or authorizing a beneficiary to withdraw all or a portion of the principal.



6. A trustee may not convert a trust into a unitrust in any circumstance set forth in subsection 3 of NRS 164.795.

7. If a trustee is prevented from converting a trust because a provision of paragraph (e), (f), (g) or (h) of subsection 3 of NRS 164.795 applies to the trustee and if there is a cotrustee to whom such provisions do not apply, the cotrustee may convert the trust unless the exercise of the power by the remaining trustee is not permitted by the terms of the trust. If all trustees are prevented from converting a trust because a provision of paragraph (e), (f), (g) or (h) of subsection 3 of NRS 164.795 applies to all of the trustees, the trustees may petition the court to direct a conversion.

8. A trustee may permanently, or for a specified period, including a period measured by the life of a person, release the power to convert a trust pursuant to subsection 1 if:

(a) The trustee is uncertain about whether possessing or exercising the power of conversion will cause a result described in paragraphs (a) to (f), inclusive, or (h) of subsection 3 of NRS 164.795; or

(b) The trustee determines that possessing or exercising the power of conversion may or will deprive the trust of a tax benefit or impose a tax burden not described in subsection 3 of NRS 164.795.

9. A trustee or disinterested person who, in good faith, *takes or* fails to take any action under this section is not liable to any person affected by such action or inaction, regardless of whether the affected person received notice as provided in this section or was under a legal disability at the time of delivery of notice. An affected person's exclusive remedy is to petition the court for an order directing the trustee to convert the trust into a unitrust, to reconvert a unitrust into a trust or to change the percentage used to calculate the unitrust amount.

10. This section shall be construed to pertain to the administration of a trust, and the provisions of this section are available to any trust administered in this State or that is governed by the laws of this State, unless:

(a) The terms of the trust instrument show an intent that a beneficiary is to receive an amount other than a reasonable current return from the trust;

(b) The trust:

(1) Has a guaranteed annuity interest or fixed percentage interest as described in section 170(f)(2)(B) of the Internal Revenue Code;

(2) Is a charitable remainder trust within the meaning of section 664(d) of the Internal Revenue Code;

(3) Is a qualified subchapter S trust within the meaning of section 1361(c) of the Internal Revenue Code;



(4) Is a personal residence trust within the meaning of section 2702(a)(3)(A) of the Internal Revenue Code; or

(5) Is a trust in which one or more settlors retain a qualified interest within the meaning of section 2702(b) of the Internal Revenue Code;

(c) One or more persons to whom the trustee could distribute income have a power of withdrawal over the trust that is not subject to an ascertainable standard or that can be exercised to discharge a duty of support; or

(d) The terms of the trust instrument expressly prohibit the use of the provisions of this section through reference to this section or the trust instrument expressly states the settlor's intent that net income is not calculated as a unitrust amount.

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

Sec. 18. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.640, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 224.240, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 232.1369, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.026, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755,



1 281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438,
2 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,
3 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910,
4 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,
5 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420,
6 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
7 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242,
8 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080,
9 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830,
10 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503,
11 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035,
12 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271,
13 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045,
14 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465,
15 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525,
16 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888,
17 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305,
18 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028,
19 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407,
20 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534,
21 433A.360, 439.4941, 439.4988, 439.840, 439.914, 439A.116,
22 439A.124, 439B.420, 439B.754, 439B.760, 439B.845, 440.170,
23 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,
24 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209,
25 449.245, 449.4315, 449A.112, 450.140, 450B.188, 450B.805,
26 453.164, 453.720, 458.055, 458.280, 459.050, 459.3866, 459.555,
27 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
28 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940,
29 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340,
30 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830,
31 484B.833, 484E.070, 485.316, 501.344, 503.452, 522.040,
32 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098,
33 598A.110, 598A.420, 599B.090, 603.070, 603A.210, 604A.303,
34 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
35 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110,
36 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,
37 628B.760, 629.047, 629.069, 630.133, 630.2671, 630.2672,
38 630.2673, 630.30665, 630.336, 630A.327, 630A.555, 631.332,
39 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405, 633.283,
40 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055,
41 634.1303, 634.214, 634A.169, 634A.185, 635.111, 635.158,
42 636.262, 636.342, 637.085, 637.145, 637B.192, 637B.288, 638.087,
43 638.089, 639.183, 639.2485, 639.570, 640.075, 640.152, 640A.185,
44 640A.220, 640B.405, 640B.730, 640C.580, 640C.600, 640C.620,
45 640C.745, 640C.760, 640D.135, 640D.190, 640E.225, 640E.340,



1 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217,
2 641A.262, 641B.170, 641B.281, 641B.282, 641C.455, 641C.760,
3 641D.260, 641D.320, 642.524, 643.189, 644A.870, 645.180,
4 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,
5 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,
6 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126,
7 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130,
8 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480,
9 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710,
10 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190,
11 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410,
12 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306,
13 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480,
14 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536,
15 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550,
16 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159,
17 711.600, *and section 13 of this act*, sections 35, 38 and 41 of
18 chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391,
19 Statutes of Nevada 2013 and unless otherwise declared by law to be
20 confidential, all public books and public records of a governmental
21 entity must be open at all times during office hours to inspection by
22 any person, and may be fully copied or an abstract or memorandum
23 may be prepared from those public books and public records. Any
24 such copies, abstracts or memoranda may be used to supply the
25 general public with copies, abstracts or memoranda of the records or
26 may be used in any other way to the advantage of the governmental
27 entity or of the general public. This section does not supersede or in
28 any manner affect the federal laws governing copyrights or enlarge,
29 diminish or affect in any other manner the rights of a person in any
30 written book or record which is copyrighted pursuant to federal law.

31 2. A governmental entity may not reject a book or record
32 which is copyrighted solely because it is copyrighted.

33 3. A governmental entity that has legal custody or control of a
34 public book or record shall not deny a request made pursuant to
35 subsection 1 to inspect or copy or receive a copy of a public book or
36 record on the basis that the requested public book or record contains
37 information that is confidential if the governmental entity can
38 redact, delete, conceal or separate, including, without limitation,
39 electronically, the confidential information from the information
40 included in the public book or record that is not otherwise
41 confidential.

42 4. If requested, a governmental entity shall provide a copy of a
43 public record in an electronic format by means of an electronic
44 medium. Nothing in this subsection requires a governmental entity



1 to provide a copy of a public record in an electronic format or by
2 means of an electronic medium if:

3 (a) The public record:

4 (1) Was not created or prepared in an electronic format; and

5 (2) Is not available in an electronic format; or

6 (b) Providing the public record in an electronic format or by
7 means of an electronic medium would:

8 (1) Give access to proprietary software; or

9 (2) Require the production of information that is confidential
10 and that cannot be redacted, deleted, concealed or separated from
11 information that is not otherwise confidential.

12 5. An officer, employee or agent of a governmental entity who
13 has legal custody or control of a public record:

14 (a) Shall not refuse to provide a copy of that public record in the
15 medium that is requested because the officer, employee or agent has
16 already prepared or would prefer to provide the copy in a different
17 medium.

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

22 **Sec. 19.** This act becomes effective on July 1, 2023.

