

Offered by: Legislative Committee of the Probate and Trust Section of the State Bar of Nevada,
Michaelle D. Rafferty, Co-Chair;
Jeffrey P. Luszeck, Co-Chair;
Date: 4/4/2025

Overview: This Executive Summary is intended to provide additional detail over and beyond the Legislative Counsel's Digest.

This bill primarily amends Titles 12 and 13 of the Nevada Revised Statutes - Nevada's laws pertaining to the administration of trusts and estates. This bill is intended to: (1) clarify laws relating to trust and estates; (2) adopt new laws to remain current as one of the top three leading jurisdictions for trust and estates in the United States; and (3) streamline the probate and trust administration process while including safeguards to prevent abuse.

The bill text was compiled by the Legislative Committee of the Probate and Trust Section of the State Bar of Nevada. We are asking that the bill be approved by the State Bar Board of Governors for submission as a State Bar Probate and Trust Section sponsored bill.

Section 1: Amends NRS 11.190 to confirm that a breach of fiduciary claim not involving fraud or intentional misrepresentation by assigning a two-year statute of limitations period. the declaratory relief statutes (NRS 30.040 and 30.060) to make clear that an "interested person" may request declaratory relief, under the declaratory relief statutes as to the validity or construction of a testamentary instrument.

Sections 2: Amends NRS 21.090 to reference the exemption amount outlined in NRS 115, so that this Section is not required to be updated in the future if there are any inflationary or other adjustments to the homestead exemption.

Section 3: Amends NRS 132.115 to confirm that the definition of "distributee" includes not only an interested person who has received property, but also a person who "has the right to receive" property.

Section 4: Current version of NRS 136.150 allows a witness to a last will and testament submit an affidavit to court, ex parte, showing that the will was executed in all particulars required by law. The amendment would require the affidavit to be filed.

Section 5: Amends NRS 139.040 to provide that the decedent's grandchildren and other issue should have a higher priority than the decedent's parents or siblings to serve as administrator, which matches the intestate succession law regarding priority to inherent under NRS 134. Also confirms a custodial parent, legal guardian, guardian or equivalent fiduciary has the same priority for appointment as a minor or incapacitated person.

Section 6: Current law allows a qualified person who is otherwise not entitled to serve at the request of a person entitled, so long as the qualified person provides certain information, including his/her telephone number. This Section amends NRS 139.050 by removing the requirement of a qualified person to provide a telephone number.

Section 7: Repeals NRS 139.060, which gave a relative of whole blood preference over those of half-blood when determining entitlement to administration.

Section 8: Amends NRS 139.070 to confirm that when there are several persons equally entitled to be appointed as personal representative the court may appoint one or more them, or an independent personal representative.

Sections 9: Amends NRS 139.110 to clarify that a person contesting the appointment of an administrator may contemporaneously request that letters be issued the contestant or the contestant's nominee.

Section 10: Amends NRS 144.010 to confirm that an inventory is due for all personal representatives not just who have been issued letters of administration.

Sections 11: Corrects NRS 145.030 to confirm that any petition for probate, irrespective of whether the petition seeks to have a will probated, requires that notice be provided under NRS 155.020.

Section 12: Increases the conditions for special administration from \$300,000 to \$500,000 to account for a rise in inflation, particularly with respect to housing prices in Nevada.

Sections 13 & 16: Increases the threshold for an estate to be set aside without administration from \$100,000 to \$150,000.

Sections 14 & 18: Current law requires that a petition to set aside without administration to a trust include a statement of value of the assets as part of the moving petition. These proposed amendments would eliminate that requirement.

Section 15: Increases the affidavit of entitlement for a surviving spouse from \$100,000 to \$150,000 to account for a rise in inflation and for consistency with proposed changes to NRS 146.070.

Section 18: During the 2023 Legislative Session, AB 414 was approved and deleted the prior statutory form for the Durable Power of Attorney for Healthcare and replacing it with a draft from the Uniform Law Commissioner. This proposed amendment would adopt an alternative form that retains some of the prior statutory form that was well-received by the medical providers and clients, along with some of the beneficial provisions of AB 414.

Section 19: This amendment clarifies language relating to exemption of property from creditor claims that is subject to a general power of appointment.

Section 20: This new statute would allow for a trustee to make an outright distribution to a beneficiary who would be immediately entitled to an outright distribution of the trust assets from a trust without the trustee being required to create a new trust share even in circumstances when

the trust instrument provides for the establishment of a new trust share to then immediately make an outright distribution to the beneficiary.

Section 21: NRS 163.557 currently provides that a trust instrument may grant a trustee the power to reimburse the settlor for tax payments. This amendment would provide a reimbursement power in the statute itself, thereby making discretionary reimbursement a default power under any Nevada grantor trust that does not provide otherwise.

Section 22: This amendment would clarify documentation that must be provided to beneficiaries under NRS 164.021, which would otherwise limit a beneficiary's ability to contest the validity of a trust.

Section 23: This amendment provides specific criteria as to when Nevada law will govern the administration of a trust, and as to when a trust is considered administrated in Nevada absent a direct or indirect provision in the trust document.

Section 24: This amendment clarifies the effect of an approved-and-final accounting by adding an express exculpation provision, which appears to have been unintentionally omitted from NRS 165.1214.