

# **Nevada Supreme Court**

## **Commission to Study the Administration of Guardianships in Nevada's Courts**



**July 15, 2015, Meeting Materials**

**Chief Justice James W. Hardesty, Chair**

Supreme Court of Nevada  
ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET  
Director and  
State Court Administrator



RICHARD A. STEFANI  
Deputy Director  
Information Technology

JOHN MCCORMICK  
Assistant Court Administrator  
Judicial Programs and Services

VERISE V. CAMPBELL  
Deputy Director  
Foreclosure Mediation

**MEETING NOTICE AND AGENDA**

Name of Organization:

**Supreme Court Commission to Study the Creation and Administration of Guardianships**

**Date and Time of Meeting:** July 15, 2015, 1:30 p.m. to 4:30 p.m.

**Place of Meeting:** Regional Justice Center  
200 Lewis Avenue  
17<sup>th</sup> Floor, Courtroom  
Las Vegas, Nevada

**AGENDA**

- I. Call to Order
- II. Welcome and Introduction of Commission Members
  - Administrative Docket 507 (*pages 4-17*)
- III. Public Comment

*Because of time considerations, the period for public comment by each speaker may be limited to 3 minutes, and speakers are urged to avoid repetition of comments made by previous speakers.*
- IV. Scope of Commission
  - A. Commission Members Feedback
    - Goals/Objectives
  - B. Background
    1. [Nevada Revised Statute Chapter 159](#)
    2. 2015 Legislation
      - a. Assembly Bill 325 (*pages 18-58*)
      - b. Senate Bill 262 (*pages 59-71*)
  - C. General Discussion - National Best Practices and Related Resources (for possible action)
    - a. *National Guardianship Association – Standards of Practice*  
[http://www.guardianship.org/guardianship\\_standards.htm](http://www.guardianship.org/guardianship_standards.htm)
    - b. *University of Louisville®, School of Medicine, Third National Guardianship Summit, Standards and Recommendations*

Supreme Court Building ♦ 201 South Carson Street, Suite 250 ♦ Carson City, Nevada 89701 ♦ (775) 684-1700 • Fax (775) 684-1723

Regional Justice Center ♦ 200 Lewis Avenue, 17<sup>th</sup> floor ♦ Las Vegas, Nevada 89101

[www.napsa-now.org/wp-content/uploads/2012/11/307.pdf](http://www.napsa-now.org/wp-content/uploads/2012/11/307.pdf)

- c. *National Probate Court Standards*  
<http://tinyurl.com/oxa7ko9>
- d. *State Adult Guardianship Legislation: Directions of Reform – 2014*  
[http://www.americanbar.org/content/dam/aba/administrative/law\\_aging/2014\\_final\\_guardianship\\_legislative\\_update.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/law_aging/2014_final_guardianship_legislative_update.authcheckdam.pdf)
- e. *American Bar Association – Guardianship Law & Practice*  
[http://www.americanbar.org/groups/law\\_aging/resources/guardianship\\_law\\_practice.html](http://www.americanbar.org/groups/law_aging/resources/guardianship_law_practice.html)
- f. *State Replication Guide for Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS) - 2014*  
[Wings Tips: State Replication Guide for Working Interdisciplinary Networks of Guardianship Stakeholders.](http://www.wings-tips.org/Wings_Tips_State_Replication_Guide_for_Working_Interdisciplinary_Networks_of_Guardianship_Stakeholders.pdf)

V. General Discussion (for possible action)

- A. Procedures Used to Provide Notice and Evidence Required to Create Guardianships
- B. Training and Appointment of Guardians
- C. Protections Needed for Wards and their Family Members
- D. Accountability and Performance Required of Guardians and Expected of Courts
- E. Use of Technology to Assist in Documenting, Tracking, and Monitoring Guardianships
  - Case Management and IT Systems
- F. Identification of Resources Necessary to Assist Court System to Meet Required Objectives
  1. Court Budgets
  2. Staffing
    - a. Administrative Support
    - b. Investigatory
    - c. Third Party Resources

VI. Appointment of Subcommittees (Working Groups) (for possible action)

VII. Other Business

VIII. Future Meeting Dates/Agenda Items (for possible action)

- Overview of Court Process from District Court Judges

IX. Public Comment

*Because of time considerations, the period for public comment by each speaker may be limited to 3 minutes, and speakers are urged to avoid repetition of comments made by previous speakers.*

X. Adjournment

- Action items are noted by (for possible action) and typically include review, approval, denial, and/or postponement of specific items. Certain items may be referred to a subcommittee for additional review and action.
- Agenda items may be taken out of order at the discretion of the Chair in order to accommodate persons appearing before the Commission and/or to aid in the time efficiency of the meeting.
- If members of the public participate in the meeting, they must identify themselves when requested. Public comment is welcomed by the Commission but may be limited to three minutes per person at the discretion of the Chair.
- The Commission is pleased to provide reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If assistance is required, please notify Commission staff by phone or by email no later than two working days prior to the meeting, as follows: Stephanie Heying, (775) 687-9815 - email: [sheying@nvcourts.nv.gov](mailto:sheying@nvcourts.nv.gov)
- This meeting is exempt from the Nevada Open Meeting Law (NRS 241.030 (4)(a))
- At the discretion of the Chair, topics related to the administration of justice, judicial personnel, and judicial matters that are of a confidential nature may be closed to the public.
- **Notice of this meeting was posted in the following locations:** Nevada Supreme Court website: [www.nevadajudiciary.us](http://www.nevadajudiciary.us); Carson City: Supreme Court Building, Administrative Office of the Courts, 201 South Carson Street; Las Vegas: Regional Justice Center, 200 Lewis Avenue, 17<sup>th</sup> Floor.

## **ADKT 507**

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE CREATION  
OF A COMMISSION TO STUDY THE  
CREATION AND ADMINISTRATION  
OF GUARDIANSHIPS.

ADKT 0507

**FILED**

MAY 21 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY Angela  
CHIEF DEPUTY CLERK

**PETITION**

COMES NOW the Honorable James W. Hardesty, Chief Justice of the Nevada Supreme Court, the Honorable David Barker, Chief Judge of the Eighth Judicial District Court, and the Honorable David A. Hardy, Chief Judge of the Second Judicial District Court, and petition the Nevada Supreme Court on its administrative docket to consider the creation of a Commission to Study the Creation and Administration of Guardianships in Nevada's Courts. In support of the petition, Chief Justice Hardesty and Chief Judges Barker and Hardy allege that:

1. The Guardianship process is a "legal proceeding in which a person is divested of legal autonomy and subjugated to the control of another person or entity."<sup>1</sup> Guardianships occur when a judge has determined that elderly and other vulnerable citizens in our society can no longer act for themselves.

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<sup>1</sup>David A. Hardy, *Who is Guarding the Guardians? A Localized Call for Improved Guardianship Systems and Monitoring*, 4 Nat'l Acad. of Elder L. Attorneys J., no.1, 2008, at 1, 7.

2. Guardianship proceedings necessarily require strict adherence to procedural safeguards and a thorough assessment of the evidence before being ordered. Thereafter, courts must be diligent in their oversight and monitoring of the ward's health, welfare and property, and the guardian's adherence to fiduciary duties in the protection of the ward.

3. Nevada's statutory scheme for the creation and supervision of guardianships in Nevada is contained in Nevada Revised Statutes Chapter 159. These statutes generally provide the procedure to commence a guardianship, the process to appoint and supervise a guardian, the requirements for administration, management, and accounting of the estate of the ward, and the conditions and timing for removal or termination of the guardian or guardianship.

4. Currently, the Eighth Judicial District Court has 8,737 open Adult Guardianship cases with an average of 66 new filings per month and 6,741 Minor Guardianship cases with an average of 66 new filings per month. The Second Judicial District Court has 892 open Adult Guardianship cases with an average of 15 new filings per month and 1,095 Minor Guardianship cases with an average of 14 new filings per month.

5. The number of elderly and vulnerable persons in Nevada is expected to increase which is likely to cause more guardianship cases in need of supervision and administration.

6. A Joint Task Force of the Conference of Chief Justices and Conference of State Court Administrators on Elders and the Courts identified several critical problems facing courts as a result of the increase in the number of elderly and vulnerable persons in need of guardianships or conservatorships, including, among others, the lack of adequate systems to account for and manage the number of cases filed, pending and

concluded each year; the adequacy of programs, training and materials to support family members who might serve as a guardian; the sufficiency in numbers and qualifications for public and/or professional guardians in many states; and the adequacy and training of judges and court staff to supervise and oversee guardianships and guardians.

7. The Joint Task Force made 8 recommendations to address the most critical problems based on promising practices being placed in use to improve the monitoring and supervision of Guardianships.

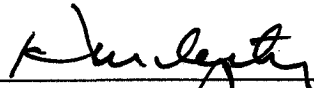
8. The Conference of Chief Justices unanimously adopted Resolution 14 endorsing the Report of the Joint Task Force and urging each state to implement the Task Force's recommendations.


9. Petitioners believe that a statewide Commission, composed of stakeholders in the public and private guardianship system, can study and make appropriate recommendations for statewide policies and procedures concerning the creation and administration of guardianships, including, but not limited to, the procedures used to provide notice and the evidence required to create guardianships, the training and appointment of guardians, the protections needed for wards and their family members, the accountability and performance required of guardians and expected of courts, the use of technology to assist in documenting, tracking and monitoring guardianships, and the identification of resources necessary to assist the court system to meet required objectives. Petitioners believe that the Commission should be required to provide its report and recommendations no later than December 31, 2015.

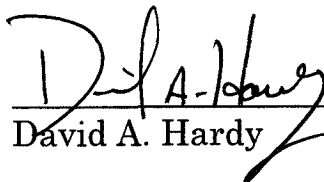
Accordingly, petitioners request that the Nevada Supreme Court place this issue on its administrative docket and proceed as it deems

appropriate to create the Nevada Supreme Court's Commission to Study  
the Administration of Guardianships in Nevada's Courts.

Respectfully submitted,

  
\_\_\_\_\_, C.J.  
Hardesty

  
\_\_\_\_\_, D.J.  
David Barker

  
\_\_\_\_\_, D.J.  
David A. Hardy



IN THE SUPREME COURT OF THE STATE OF NEVADA

**FILED**

IN THE MATTER OF THE CREATION  
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CREATION AND ADMINISTRATION  
OF GUARDIANSHIPS.

ADKT 0507

JUN 08 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

**ORDER**

On May 21, 2015, the Honorable James Hardesty, Chief Justice, the Honorable, David Hardy, Chief Judge of the Second Judicial District Court, and the Honorable David Barker, Chief Judge of the Eighth Judicial District Court filed a petition seeking the creation of a statewide commission, composed of stakeholders in the public and private guardianship system, to study and make appropriate recommendations for statewide policies and procedures concerning the creation and administration of guardianships, including, but not limited to, the procedures used to provide notice and the evidence required to create guardianships, the training and appointment of guardians, the protections needed for wards and their family members, the accountability and performance required of guardians and expected of courts, the use of technology to assist in documenting, tracking and monitoring guardianships, and the identification of resources necessary to assist the court system to meet required objectives.

Having considered the petition, this court has concluded that such a commission should be appointed and should file a report with this court on its findings and recommendations by December 31, 2015.

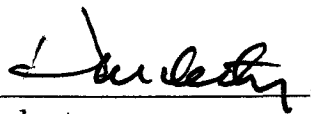
Accordingly, the chief justice shall appoint and chair a commission of no more than 20 members, including:

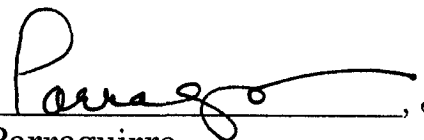
- a District Judge from the Second Judicial District and the Eighth Judicial District who are responsible for the guardianship docket in those districts;

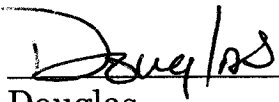
- a District Judge from one of the other 9 judicial districts;
- at least one member each from the Nevada Senate and Assembly;
- a representative from the State of Nevada, Aging and Disability Services Division;
- at least one representative from the Senior Law Project, Legal Aid of Southern Nevada, Washoe Legal Services, or Nevada Legal Services;
- at least two lawyers who regularly practice in the guardianship field;
- a member of the press who has reported on guardianship issues;
- at least one individual that regularly serves as a public guardian;
- at least one representative of the private guardianship industry; and
- two representatives from facilities that regularly provide assisted care to wards under the supervision of a court appointed guardian

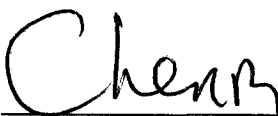
The remainder of the members will be determined by the chief justice.

It is so ORDERED.


  
\_\_\_\_\_, C.J.  
Hardesty

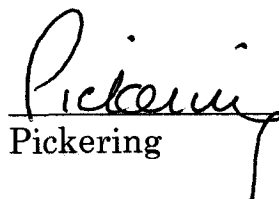
  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Pickering

cc: **All District Court Judges**  
**Kimberly F. Farmer, Executive Director, State Bar of Nevada**  
**Administrative Office of the Courts**

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE CREATION  
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ADKT 0507

**FILED**

JUN 25 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY: *Angela*  
CHIEF DEPUTY CLERK

**ORDER**

On June 8, 2015, this court created a statewide commission to study the creation and administration of guardianships. This court further authorized the chief justice to appoint a commission of no more than 20 members. Upon further review, the court has determined that expansion of the commission is warranted. Accordingly, the chief justice is hereby authorized to appoint and chair a commission of no more than 30 members.

It is so ORDERED.

*Hardesty*, C.J.  
Hardesty

*Parraguirre*, J.  
Parraguirre

*Douglas*, J.  
Douglas

*Cherry*, J.  
Cherry

*Saitta*, J.  
Saitta

*Gibbons*, J.  
Gibbons

*Pickering*, J.  
Pickering

cc: All District Court Judges  
Kimberly F. Farmer, Executive Director, State Bar of Nevada  
Administrative Office of the Courts

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE CREATION  
OF A COMMISSION TO STUDY THE  
CREATION AND ADMINISTRATION  
OF GUARDIANSHIPS.

ADKT 0507

**FILED**

JUN 26 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Tracie K. Lindeman*  
CHIEF DEPUTY CLERK

**ORDER APPOINTING COMMISSION MEMBERS**

On June 8, 2015, this court created the Commission to Study the Creation and Administration of Guardianships and authorized the chief justice to appoint the members of the Commission. Accordingly,

IT IS HEREBY ORDERED that the individuals listed in Exhibit A are appointed to the Commission.

Dated this 26<sup>th</sup> day of June, 2015.

*J. Sanders*, C.J.

cc: All Commission Members  
Administrative Office of the Courts

Exhibit A

**NEVADA SUPREME COURT COMMISSION ON GUARDIANSHIP  
 MEMBERSHIP**

<b>POSITION</b>	<b>APPOINTEE</b>
<b>COMMISSION CHAIR</b>	<ul style="list-style-type: none"> <li>The Honorable James W. Hardesty, Chief Justice, Nevada Supreme Court</li> </ul>
<b>COURT OF APPEALS REPRESENTATIVE</b>	<ul style="list-style-type: none"> <li>The Honorable Michael Gibbons, Chief Judge, Nevada Court of Appeals</li> </ul>
<b>DISTRICT JUDGE SECOND JUDICIAL DISTRICT</b> Responsible for adult guardianship docket	<ul style="list-style-type: none"> <li>The Honorable Frances Doherty, Second Judicial District Court, Department 12</li> </ul>
<b>DISTRICT JUDGE EIGHTH JUDICIAL DISTRICT</b> Responsible for adult guardianship docket	<ul style="list-style-type: none"> <li>The Honorable Cynthia Dianne Steel, Eighth Judicial District Court, Department G</li> </ul>
<b>DISTRICT JUDGE SECOND JUDICIAL DISTRICT</b> Responsible for juvenile guardianship docket	<ul style="list-style-type: none"> <li>The Honorable Egan Walker, Second Judicial District Court, Department 2</li> </ul>
<b>DISTRICT JUDGE EIGHTH JUDICIAL DISTRICT</b> Responsible for juvenile guardianship docket	<ul style="list-style-type: none"> <li>The Honorable William Voy, Eighth Judicial District Court, Department A</li> </ul>
<b>DISTRICT JUDGE FROM ONE OF THE OTHER JUDICIAL DISTRICTS</b>	<ul style="list-style-type: none"> <li>The Honorable Nancy Porter, Fourth Judicial District, Department 1</li> </ul>

**Exhibit A**

<b>POSITION</b>	<b>APPOINTEE</b>
AT LEAST (1) MEMBER FROM NV ASSEMBLY	<ul style="list-style-type: none"> <li>• Assemblyman Glenn E. Trowbridge, Nevada Legislature</li> <li>• Assemblyman Michael C. Sprinkle, Nevada Legislature</li> </ul>
AT LEAST (1) MEMBER FROM NV SENATE	<ul style="list-style-type: none"> <li>• Senator Becky Harris, Nevada Legislature</li> </ul>
A REPRESENTATIVE FROM STATE OF NV, AGING & DISABILITY SERVICES DIVISION	<ul style="list-style-type: none"> <li>• Sally Ramm, State of Nevada Aging and Disability Services Division</li> </ul>
AT LEAST (1) REP FROM <ul style="list-style-type: none"> <li>• SENIOR LAW PROJECT</li> <li>• LEGAL AID OF SOUTHERN NV</li> <li>• WASHOE LEGAL SERVICES</li> <li>• NV LEGAL SERVICES</li> </ul>	<ul style="list-style-type: none"> <li>• Deborah Bookout, Legal Aid of Southern Nevada</li> <li>• Julie Arnold, Southern Nevada Senior Law Program</li> <li>• David Spitzer, Washoe Legal Services</li> </ul>
AT LEAST (2) LAWYERS WHO REGULARLY PRACTICE IN THE GUARDIANSHIP FIELD	<ul style="list-style-type: none"> <li>• Elyse Tyrell, Private Attorney</li> <li>• Timothy Sutton, Nye County District Attorney's Office</li> </ul>
A MEMBER OF THE PRESS	<ul style="list-style-type: none"> <li>• Rana Goodman, The Vegas Voice</li> <li>• Terri Russell, KOLO Channel 8</li> </ul>
AT LEAST (1) INDIVIDUAL THAT REGULARLY SERVES AS A PUBLIC GUARDIAN	<ul style="list-style-type: none"> <li>• Kathleen Buchanan, Clark County Public Guardian</li> </ul>
AT LEAST (1) REPRESENTATIVE OF THE PRIVATE GUARDIANSHIP INDUSTRY	<ul style="list-style-type: none"> <li>• Susan Hoy, National Guardian Services, LLC.</li> <li>• Kim Spoon, Guardianship Services of Nevada, Inc.</li> </ul>



**Exhibit A**

<b>POSITION</b>	<b>APPOINTEE</b>
(2) REPRESENTATIVES FROM FACILITIES THAT REGULARLY PROVIDE ASSISTED CARE TO WARDS UNDER THE SUPERVISION OF A COURT APPOINTED GUARDIAN	<ul style="list-style-type: none"> <li>• Trudy Andrews, Pacifica Senior Living</li> <li>• Kim Rowe, Maupin, Cox and Legoy</li> </ul>
REPRESENTATIVE FROM THE CLARK COUNTY DISTRICT ATTORNEY'S OFFICE	<ul style="list-style-type: none"> <li>• Jay P. Raman, Clark County District Attorney's Office</li> </ul>
VICTIM'S ADVOCATE	<ul style="list-style-type: none"> <li>• Susan Sweikert</li> </ul>
EX OFFICIO MEMBER	<ul style="list-style-type: none"> <li>• Christine Smith, University of Nevada, Las Vegas, William S. Boyd School of Law</li> </ul>

## **Assembly Bill 325**

CHAPTER.....

AN ACT relating to guardians; requiring licensing for certain persons engaged in the business of a private professional guardian; establishing the requirements for the licensing and operation of a private professional guardian company; amending provisions relating to the appointment of a guardian under certain circumstances; adding provisions governing the appointment of certain preferred persons as guardians for adult wards; revising provisions relating to the appointment of a guardian for a minor; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides for the court appointment of a private professional guardian to act as a fiduciary for a person or estate, but does not require the private professional guardian to be licensed. (NRS 159.0595) This bill requires the licensing of certain persons engaging in the business of a private professional guardian and authorizes the Commissioner of Financial Institutions to adopt regulations relating to the licensing of those persons.

**Sections 15-17** of this bill make it unlawful for a person to act as a private professional guardian without being licensed. **Section 12** of this bill provides certain exceptions to the licensing and other regulatory requirements. **Sections 18-26** of this bill establish the requirements and application process to obtain a license to transact the business of a private professional guardian. **Section 28** of this bill sets forth requirements relating to the change of ownership or transfer of assets of a private professional guardian company. **Section 29** of this bill establishes the process for the renewal of a license. **Section 30** of this bill establishes the process for surrender of a license.

**Section 31** of this bill requires a licensee to keep a principal office in this State. **Section 32** of this bill establishes procedures for the Commissioner to approve an out-of-state office of a private professional guardian company. **Section 33** of this bill requires a licensee to maintain certain types and levels of bonds and insurance.

**Section 35** of this bill establishes the rights and authority of a licensee. **Section 36** of this bill prohibits certain activities by a licensee. **Sections 37-41** of this bill establish requirements for accounting, reporting and auditing of a private professional guardian company and authorize the Commissioner or a designee to inspect certain records of a private professional guardian company.

**Sections 42-46** of this bill establish procedures for the Commissioner to take administrative action against licensees. **Sections 47 and 48** of this bill establish procedures for handling a complaint against a private professional guardian company. **Sections 49 and 50** of this bill provide administrative and criminal penalties for violating certain provisions of this bill.

Existing law provides for the appointment, qualifications and duties of guardians for certain minor and adult wards. (Chapter 159 of NRS) Existing law prohibits a nonresident of Nevada from being appointed as a guardian for a minor or adult ward unless the person has associated a co-guardian who is a resident of Nevada or a banking corporation whose principal place of business is in Nevada. (NRS 159.059) Existing law also gives preference to certain persons to be



appointed as a guardian for a minor ward but does not give preference to any persons to be appointed as a guardian for an adult ward. (NRS 159.061)

**Sections 50.2 and 52.7** of this bill revise the circumstances under which a court is authorized to appoint a nonresident as a guardian for an adult ward. **Section 52.5** eliminates existing limitations on the authority of a court to appoint a nonresident as a guardian for a minor ward. **Section 50.2** also requires the court to give preference in appointing a guardian for an adult ward to the following persons in the following order, whether or not the person is a nonresident: (1) a nominated person, who is a person the adult ward specifically nominated or requested as a guardian in a will, trust or other written document executed by the adult ward while competent; or (2) a relative. If two or more nominated persons are qualified and suitable to be appointed as a guardian, **section 50.2** authorizes the court to appoint two or more co-guardians or generally requires the court to give preference to the nominated person named in a will, trust or other written document that is part of the adult's established estate plan, but there are certain exceptions for extraordinary circumstances.

In selecting a guardian, **section 50.2** does not allow the court to give preference to a resident over a nonresident if the court determines that the nonresident would be a more qualified and suitable guardian and the adult would receive continuing care and supervision under the guardianship of the nonresident. If the court selects a nonresident guardian, **section 50.2** requires the court to order the nonresident guardian to designate a registered agent in this State.

**Section 51.5** of this bill revises the existing list of persons who are preferred for appointment as a guardian to a minor to include any person recommended by: (1) an agency which provides child welfare services, an agency which provides child protective services or a similar agency; or (2) a guardian ad litem or court appointed special advocate who represents the minor.

**Sections 51-51.9 and 52.5** of this bill make conforming changes to reflect the changes made by the other sections of this bill.

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

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

**Section 1.** Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 50, inclusive, of this act.

**Sec. 2.** *The Legislature finds and declares that:*

*1. There exists in this State a need, in order to provide for the protection of the public interest, to regulate persons engaged in the business of private professional guardians.*

*2. Persons engaging in the business of private professional guardians must be licensed and regulated in such a manner as to promote advantages and convenience for the public while protecting the public interest.*

*3. It is the purpose of this chapter to bring under public supervision persons who are engaged in or who desire to engage*



*in the business of a private professional guardian and to ensure that there is established in this State an adequate, efficient and competitive private professional guardian service available to the courts and the public at large.*

**Sec. 3.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 11, inclusive, of this act, have the meanings ascribed to them in those sections.*

**Sec. 4.** *“Business of a private professional guardian” means the holding out by a person, through advertising, solicitation or other means, that the person is available to act for compensation as a private professional guardian.*

**Sec. 5.** *“Commissioner” means the Commissioner of Financial Institutions.*

**Sec. 6.** *“Director” means the Director of the Department of Business and Industry.*

**Sec. 7.** *“Division” means the Division of Financial Institutions of the Department of Business and Industry.*

**Sec. 8.** *“Fiduciary” means a person who has the power and authority to act for a beneficiary under circumstances requiring trust, good faith and honesty.*

**Sec. 9. 1.** *“Private professional guardian” has the meaning ascribed to it in NRS 159.024.*

*2. For the purposes of this chapter, the term does not include a person who serves as a private professional guardian but who is exempt pursuant to NRS 159.0595 or section 12 of this act from the requirement to have a license issued pursuant to this chapter.*

**Sec. 10. 1.** *“Private professional guardian company” means a natural person or business entity, including, without limitation, a sole proprietorship, partnership, limited-liability company or corporation, that is licensed pursuant to the provisions of this chapter to engage in the business of a private professional guardian, whether appointed by a court or hired by a private party.*

*2. For the purposes of this chapter, the term does not include a natural person or business entity which engages in the business of a private professional guardian but which is exempt pursuant to NRS 159.0595 or section 12 of this act from the requirement to have a license issued pursuant to this chapter.*

**Sec. 11.** *“Ward” has the meaning ascribed to it in NRS 159.027.*

**Sec. 12.** *This chapter does not apply to a person who:*



1. *Is a public guardian or administrator appointed by the court;*
2. *Is a banking corporation as defined in NRS 657.016;*
3. *Is an organization permitted to act as a fiduciary pursuant to NRS 662.245;*
4. *Is a trust company as defined in NRS 669.070;*
5. *Is acting in the performance of his or her duties as an attorney at law;*
6. *Acts as a trustee under a deed of trust;*
7. *Acts as a fiduciary under a court trust; or*
8. *Acts as a fiduciary as an individual or a family member.*

**Sec. 13.** *The Commissioner shall administer and enforce the provisions of this chapter subject to the administrative supervision of the Director.*

**Sec. 14.** *The Commissioner may adopt regulations to carry out the provisions of this chapter.*

**Sec. 15.** *It is unlawful for any person to engage in the business of a private professional guardian without having a license issued by the Commissioner pursuant to this chapter.*

**Sec. 16.** *A person who does not have a license issued pursuant to this chapter shall not:*

1. *Use the term "private professional guardian" or "guardianship services" as a part of his or her business name.*
2. *Advertise or use any sign which includes the term "private professional guardian."*

**Sec. 17. 1.** *The Commissioner shall conduct an investigation if he or she receives a verified complaint that an unlicensed person is engaging in an activity for which a license is required pursuant to this chapter.*

2. *If the Commissioner determines that an unlicensed person is engaged in an activity for which a license is required pursuant to this chapter, the Commissioner shall:*

(a) *Issue and serve on the person an order to cease and desist from engaging in the activity until such time as the person obtains a license issued by the Commissioner; and*

(b) *Send a copy of the order to each district court in this State.*

3. *If a person upon whom an order to cease and desist is served pursuant to subsection 2 does not comply with the order within 30 days after the service of the order, the Commissioner shall, after providing to the person notice and an opportunity for a hearing:*

(a) *Impose upon the person an administrative fine of \$10,000;*  
*or*



*(b) Enter into a written agreement with the person pursuant to which the person agrees to cease and desist from engaging in any activity in this State for which a license is required relating to the business of a private professional guardian and impose upon the person an administrative fine of not less than \$5,000 and not more than \$10,000.*

*4. The Commissioner shall bring suit in the name and on behalf of the State of Nevada against a person upon whom an administrative fine is imposed pursuant to subsection 3 to recover the amount of the administrative fine if:*

*(a) No petition for judicial review is filed pursuant to NRS 233B.130 and the fine remains unpaid for at least 90 days after notice of the imposition of the fine; or*

*(b) A petition for judicial review is filed pursuant to NRS 233B.130 and the fine remains unpaid for at least 90 days after the exhaustion of any right of appeal in the courts of this State resulting in a final determination that upholds the imposition of the fine.*

*5. A person's liability for an administrative fine is in addition to any other penalty provided for in this chapter.*

**Sec. 18.** *1. A person wishing to engage in the business of a private professional guardian in this State must file with the Commissioner an application on a form prescribed by the Commissioner, which must contain or be accompanied by such information as is required.*

*2. A nonrefundable fee of not more than \$750 must accompany the application. The applicant must also pay such reasonable additional expenses incurred in the process of investigation as the Commissioner deems necessary.*

*3. The application must contain:*

*(a) The name of the applicant and the name under which the applicant does business or expects to do business, if different.*

*(b) The complete business and residence addresses of the applicant.*

*(c) The character of the business sought to be carried on.*

*(d) The address of any location where business will be transacted.*

*(e) In the case of a firm or partnership, the full name and residence address of each member or partner and the manager.*

*(f) In the case of a corporation or voluntary association, the name and residence address of each director and officer and the manager.*



*(g) A statement by the applicant acknowledging that the applicant is required to comply with the provisions of NRS 159.0595 if issued a license.*

*(h) Any other information reasonably related to the applicant's qualifications for the license which the Commissioner determines to be necessary.*

*4. Each application for a license must have attached to it a financial statement showing the assets, liabilities and net worth of the applicant.*

*5. In addition to any other requirements, each applicant or member, partner, director, officer, manager or case manager of an applicant shall submit to the Commissioner a complete set of fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.*

*6. If the applicant is a corporation or limited-liability company, the articles of incorporation or articles of organization must contain:*

*(a) The name adopted by the private professional guardian company, which must distinguish it from any other private professional guardian company formed or incorporated in this State or engaged in the business of a private professional guardian in this State; and*

*(b) The purpose for which it is formed.*

*7. The Commissioner shall deem an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is submitted to the Commissioner. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner may not issue a license to the applicant unless the applicant submits a new application and pays the required fees.*

*8. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section, subject to the following limitations:*

*(a) An initial fee of not more than \$1,500 for a license to transact the business of a private professional guardian; and*

*(b) A fee of not more than \$300 for each branch office that is authorized by the Commissioner.*





*9. All money received by the Commissioner pursuant to this section must be placed in the Investigative Account for Financial Institutions created by NRS 232.545.*

*Sec. 19. 1. In addition to any other requirements set forth in this chapter:*

*(a) An applicant for the issuance of a license to engage in the business of a private professional guardian shall include the social security number of the applicant or applicants in the application submitted to the Commissioner.*

*(b) An applicant for the issuance or renewal of a license to engage in the business of a private professional guardian shall submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

*2. The Commissioner shall include the statement required pursuant to subsection 1 in:*

*(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or*

*(b) A separate form prescribed by the Commissioner.*

*3. A license may not be issued or renewed by the Commissioner if the applicant:*

*(a) Fails to submit the statement required pursuant to subsection 1; or*

*(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.*

*4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

*Sec. 20. 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license to engage in the business of a private professional guardian shall submit to the Commissioner the statement*



*prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

*2. The Commissioner shall include the statement required pursuant to subsection 1 in:*

*(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or*

*(b) A separate form prescribed by the Commissioner.*

*3. A license may not be issued or renewed by the Commissioner if the applicant:*

*(a) Fails to submit the statement required pursuant to subsection 1; or*

*(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.*

*4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

**Sec. 21.** *1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license to engage in the business of a private professional guardian, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*2. The Commissioner shall reinstate a license that has been suspended by a district court pursuant to NRS 425.540 if the*



*Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

**Sec. 22. 1.** *Within 90 days after the application for a license is filed, the Commissioner shall investigate the facts of the application and the other requirements of this chapter to determine:*

*(a) That each person who will serve as a sole proprietor, partner of a partnership, member of a limited-liability company or director or officer of a corporation, and any person acting in a managerial or case manager capacity, as applicable:*

*(1) Has a good reputation for honesty, trustworthiness and integrity and displays competence to engage in the business of a private professional guardian in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of those qualifications, including, without limitation, evidence that the applicant has passed an examination for private professional guardians specified by the Commissioner.*

*(2) Has not been convicted of, or entered a plea of guilty or nolo contendere to, a felony or any crime involving fraud, misrepresentation, material omission, misappropriation, conversion or moral turpitude.*

*(3) Has not made a false statement of material fact on the application.*

*(4) Has not been a sole proprietor or an officer or member of the board of directors for an entity whose license issued pursuant to the provisions of this chapter was suspended or revoked within the 10 years immediately preceding the date of the application if, in the reasonable judgment of the Commissioner, there is evidence that the sole proprietor, officer or member materially contributed to the actions resulting in the suspension or revocation of the license.*

*(5) Has not been a sole proprietor or an officer or member of the board of directors for an entity whose license as a private professional guardian company which was issued by any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of the application if, in the reasonable judgment of the Commissioner, there is evidence that the sole proprietor, officer or member materially contributed to the actions resulting in the suspension or revocation of the license.*



*(6) Has not violated any of the provisions of this chapter or any regulations adopted pursuant thereto.*

*(b) That the financial status of each sole proprietor, partner, member or director and officer of the corporation and person acting in a managerial or case manager capacity indicates fiscal responsibility consistent with his or her position.*

*(c) That the name of the proposed business complies with all applicable statutes.*

*(d) That, except as otherwise provided in section 33 of this act, the initial surety bond is not less than the amount required by NRS 159.065.*

*2. In rendering a decision on an application for a license, the Commissioner shall consider, without limitation:*

*(a) The proposed markets to be served and, if they extend outside this State, any exceptional risk, examination or supervision concerns associated with those markets;*

*(b) Whether the proposed organizational and equity structure and the amount of initial equity or fidelity and surety bonds of the applicant appear adequate in relation to the proposed business and markets, including, without limitation, the average level of assets under guardianship projected for each of the first 3 years of operation; and*

*(c) Whether the applicant has planned suitable annual audits conducted by qualified outside auditors of its books and records and its fiduciary activities under applicable accounting rules and standards as well as suitable internal audits.*

**Sec. 23.** *1. After conducting an investigation pursuant to section 22 of this act, if the Commissioner finds grounds for the denial of the application, the Commissioner shall provide to the applicant written notice of such grounds by personal service or certified mail.*

*2. The applicant may cure any defect or deficiency in the application and, not more than 30 days after receipt of the notice pursuant to subsection 1, resubmit the application for approval.*

*3. If an application is not approved, the Commissioner shall:*

*(a) Enter an order denying the application and provide to the applicant written notice of the denial by personal service or certified mail; and*

*(b) Send a copy of the order denying the application to each district court in each county where the applicant proposed to do business based on the information provided in the application.*

*4. If the Commissioner enters an order denying an application, the applicant may request a hearing before the*



*Commissioner, but if no such request is made within 30 days after the entry of the order denying the application, the Commissioner shall enter a final order.*

*5. A final order of the Commissioner denying an application is a final order for the purposes of judicial review.*

*Sec. 24. The Commissioner shall approve the application for a license, keeping on file his or her findings of fact pertaining thereto, if the Commissioner finds that the applicant has met all the requirements of this chapter pertaining to the applicant's qualifications and application.*

*Sec. 25. 1. If the Commissioner approves an application pursuant to section 24 of this act and the applicant pays the required fees, the Commissioner shall issue to the applicant a license to engage in the business of a private professional guardian.*

*2. A license issued pursuant to subsection 1 must contain:*

*(a) The name of the licensee.*

*(b) The locations by street and number where the licensee is authorized to engage in business.*

*(c) The number and the date of issuance of the license.*

*(d) That the license is issued pursuant to this chapter and that the licensee is authorized to engage in the business of a private professional guardian under this chapter.*

*(e) The expiration date of July 1 of the next year.*

*Sec. 26. 1. The Commissioner shall maintain in the Office of the Commissioner, in a suitable record provided for that purpose, each application for a license and all bonds required to be filed pursuant to this chapter. The record must state the date of issuance or denial of the license and the date and nature of any action taken relating to an application.*

*2. Each license issued by the Commissioner must be sufficiently identified in the record.*

*3. Each renewal of a license must be recorded in the same manner as the original license, and the number of the preceding license issued must be recorded.*

*Sec. 27. Each license issued pursuant to this chapter must be conspicuously displayed in the place of business designated in the license.*

*Sec. 28. 1. A license issued pursuant to this chapter is not transferable or assignable, but upon the approval of the Commissioner and any applicable court of jurisdiction, a licensee may merge or consolidate with, or transfer its assets and control to, another person who holds a license pursuant to this chapter. In*



*determining whether to grant the approval, the Commissioner may consider the factors set forth in section 22 of this act.*

*2. If a change in the control of a private professional guardian company occurs, the chief executive officer or managing member of the company shall report the change in control and the name of the person obtaining control to the Commissioner within 5 business days after obtaining knowledge of the change.*

*3. A private professional guardian company shall, within 5 business days after a change in the chief executive officer, managing member or a majority of the directors or managing directors of the company occurs, report the change to the Commissioner. The company shall include in its report to the Commissioner a statement of the past and current business and professional affiliations of each new chief executive officer, managing member, director or managing director. A new chief executive officer, managing member, director or managing director shall furnish to the Commissioner a complete financial statement on a form prescribed by the Commissioner.*

*4. A person who intends to acquire control of a private professional guardian company shall submit an application to the Commissioner. The application must be submitted on a form prescribed by the Commissioner. The Commissioner shall conduct an investigation pursuant to section 22 of this act to determine whether the person has a good reputation for honesty, trustworthiness and integrity and is competent to control the private professional guardian company in a manner which protects the interests of the general public.*

*5. The private professional guardian company of which the applicant intends to acquire control shall pay the nonrefundable cost of the investigation as required by the Commissioner. If the Commissioner denies the application, the Commissioner may prohibit or limit the applicant's participation in the business.*

*6. As used in this section, "control" means the possession, directly or indirectly, of the authority to direct or cause the direction of the management and policy of a private professional guardian company, or a change in the ownership of at least 25 percent of the outstanding voting stock of, or participating members' interest in, the company.*

**Sec. 29. 1. A private professional guardian company wishing to renew a license to engage in the business of a private professional guardian shall file in the Office of the Commissioner, on or before the June 1 of the year after the year of the original issuance of the license, an application, which must contain,**



*without limitation, the number of the license being renewed. The application for renewal must be accompanied by a renewal fee of not more than \$1,500 and all information required to complete the application.*

*2. The Commissioner shall issue a renewal license to the applicant, which must be dated July 1 next ensuing the date of the application, in form and text similar to the original except that, in addition, the renewal must include the date and number of the earliest license issued.*

*3. All requirements of this chapter with respect to original licenses and bonds apply to all renewal licenses and bonds, except as otherwise provided in this section.*

*4. The Commissioner shall refuse to renew a license if at the time of application a proceeding to revoke or suspend the license is pending.*

*5. The Commissioner shall adopt regulations establishing the amount of the fee required pursuant to this section. All money collected under the provisions of this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.*

**Sec. 30.** *1. If any private professional guardian company wishes to discontinue its business, the company shall furnish to the Commissioner satisfactory evidence of the release and discharge from all obligations which the company has assumed or which have been imposed by law. Thereafter, the Commissioner shall enter an order cancelling the license of the private professional guardian company.*

*2. If the Commissioner enters an order cancelling a license pursuant to this section, the Commissioner shall send a copy of the order to each district court in this State.*

**Sec. 31.** *1. A private professional guardian company licensed pursuant to this chapter shall maintain its principal office in this State.*

*2. To qualify as the principal office for the purposes of subsection 1, an office of the private professional guardian company must:*

*(a) Have a verifiable physical location in this State at which the private professional guardian company conducts such business operations in this State as are necessary to administer private professional guardianships in this State;*

*(b) Have available at the office a private professional guardian who is licensed pursuant to this chapter, a permanent resident of this State and at least 21 years of age;*



*(c) Have any license issued pursuant to this chapter conspicuously displayed;*

*(d) Have available at the office originals or true copies of all material business records and accounts of the private professional guardian company, which must be readily available to access and readily available for examination by the Division;*

*(e) Have available to the public written procedures for making claims against the surety bond required to be maintained pursuant to section 33 of this act;*

*(f) Have available all services to residents of this State which are consistent with the business plan of the private professional guardian company included with the application for a license; and*

*(g) Comply with any other requirements specified by the Commissioner.*

**Sec. 32. 1.** *It is unlawful for any person licensed pursuant to this chapter to engage in the business of a private professional guardian at any office outside this State without the prior approval of the Commissioner.*

*2. Before the Commissioner will approve a branch to be located outside this State, the private professional guardian must:*

*(a) Obtain from that state any required license as a private professional guardian; or*

*(b) Provide proof satisfactory to the Commissioner that the private professional guardian company has met all the requirements to engage in the business of a private professional guardian in that state pursuant to its laws, including, without limitation, written documentation from the appropriate court or state agency that the private professional guardian company is authorized to do business in that state.*

*3. For each branch location of a private professional guardian company organized under the laws of this State, and every branch location in this State of a foreign private professional guardian company authorized to do business in this State, a request for approval and licensing must be filed with the Commissioner on forms prescribed by the Commissioner. A nonrefundable fee of not more than \$500, as provided by the Commissioner, must accompany each request. In addition, a fee of not more than \$200, to be prorated on the basis of the licensing year as provided by the Commissioner, must be paid at the time of making the request. Money collected pursuant to this section must be deposited in the Investigative Account for Financial Institutions created by NRS 232.545.*





*4. A foreign corporation or limited-liability company wishing to engage in the business of a private professional guardian in this State must use a name that distinguishes it from any other private professional guardian in this State.*

*Sec. 33. 1. The Commissioner may require a private professional guardian company to maintain equity, fidelity and surety bonds in amounts that are more than the minimum required initially or at any subsequent time based on the Commissioner's assessment of the risks associated with the business plan of the private professional guardian or other information contained in the application, the Commissioner's investigation of the application or any examination of or filing by the private professional guardian company thereafter, including, without limitation, any examination before the opening of the business. In making such a determination, the Commissioner may consider, without limitation:*

*(a) The nature and type of business to be conducted by the private professional guardian company;*

*(b) The nature and liquidity of assets proposed to be held in the account of the private professional guardian company;*

*(c) The amount of fiduciary assets projected to be under the management or administration of the private professional guardian company;*

*(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;*

*(e) The complexity of the fiduciary duties and degree of discretion proposed to be undertaken by the private professional guardian company;*

*(f) The competence and experience of the proposed management of the private professional guardian company;*

*(g) The extent and adequacy of proposed internal controls;*

*(h) The proposed presence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;*

*(i) The reasonableness of business plans for retaining or acquiring additional equity capital;*

*(j) The adequacy of fidelity and surety bonds and any additional insurance proposed to be obtained by the private professional guardian company for the purpose of protecting its fiduciary assets;*



*(k) The success of the private professional guardian company in achieving the financial projections submitted with its application for a license; and*

*(l) The fulfillment by the private professional guardian company of its representations and its descriptions of its business structures and methods and management set forth in its application for a license.*

*2. The director or manager of a private professional guardian company shall require fidelity bonds in the amount of at least \$25,000 on the sole proprietor or each active officer, manager, member acting in a managerial or case manager capacity and employee, regardless of whether the person receives a salary or other compensation from the private professional guardian company, to indemnify the company against loss due to any dishonest, fraudulent or criminal act or omission by a person upon whom a bond is required pursuant to this section who acts alone or in combination with any other person. A bond required pursuant to this section may be in any form and may be paid for by the private professional guardian company.*

*3. A private professional guardian company shall obtain suitable insurance against burglary, robbery, theft and other hazards to which it may be exposed in the operation of its business.*

*4. A private professional guardian company shall obtain suitable surety bonds in accordance with NRS 159.065, as applicable.*

*5. The surety bond obtained pursuant to subsection 4 must be in a form approved by a court of competent jurisdiction and the Division and conditioned that the applicant conduct his or her business in accordance with the requirements of this chapter. The bond must be made and executed by the principal and a surety company authorized to write bonds in this State.*

*6. A private professional guardian company shall at least annually prescribe the amount or penal sum of the bonds or policies of the company and designate the sureties and underwriters thereof, after considering all known elements and factors constituting a risk or hazard. The action must be recorded in the minutes kept by the private professional guardian company and reported to the Commissioner.*

*7. The bond must cover all matters placed with the private professional guardian company during the term of the license or a renewal thereof.*



8. *An action may not be brought upon any bond after 2 years from the revocation or expiration of the license.*

9. *After 2 years, all liability of the surety or sureties upon the bond ceases if no action is commenced upon the bond.*

**Sec. 34.** 1. *The Commissioner shall revoke the license of a private professional guardian company if the company:*

(a) *Fails to open for business within 6 months after the date the license was issued, or within an additional 6-month extension granted by the Commissioner upon written application and for good cause shown; or*

(b) *Fails for more than 30 consecutive days to maintain regular business hours or otherwise conduct the business of a private professional guardian.*

2. *If the Commissioner enters an order revoking a license pursuant to this section, the Commissioner shall send a copy of the order to each district court in this State.*

**Sec. 35.** *Each private professional guardian company which is licensed pursuant to this chapter may, in the conduct of its business activities, within and outside this State, as applicable:*

1. *Act under the order or appointment of any court as guardian.*

2. *Accept and execute any activities and duties relating to the business of a private professional guardian as permitted by any law.*

3. *Exercise the powers of a corporation, partnership or limited-liability company organized or qualified as a foreign corporation, partnership or limited-liability company under the laws of this State and any incidental powers that are reasonably necessary to enable it to exercise, in accordance with commonly accepted customs and usages, a power conferred by this chapter.*

4. *Perform any act authorized by this chapter and any other applicable laws of this State.*

**Sec. 36.** 1. *The fiduciary relationship which exists between a private professional guardian and the ward of the private professional guardian may not be used for the private gain of the guardian other than the remuneration for fees and expenses. A private professional guardian may not incur any obligation on behalf of the guardianship that conflicts with the discharge of the duties of the private professional guardian.*

2. *Unless prior approval is obtained from a court of competent jurisdiction, a private professional guardian shall not:*

(a) *Have any interest, financial or otherwise, direct or indirect, in any business transaction or activity with the guardianship.*



*(b) Acquire an ownership, possessory, security or other pecuniary interest adverse to the ward.*

*(c) Be knowingly designated as a beneficiary on any life insurance policy, pension or benefit plan of the ward unless such designation was validly made by the ward before the adjudication of the person's incapacity.*

*(d) Directly or indirectly purchase, rent, lease or sell any property or services from or to any business entity in which the private professional guardian, or the spouse or relative of the guardian, is an officer, partner, director, shareholder or proprietor or in which such a person has any financial interest.*

*3. Any action taken by a private professional guardian which is prohibited by this section may be voided during the term of the guardianship or by the personal representative of the ward's estate. The private professional guardian is subject to removal and to imposition of personal liability through a proceeding for discharge, in addition to any other remedies otherwise available.*

*4. A court shall not appoint a private professional guardian that is not licensed pursuant to this chapter as the guardian of a person or estate. The court must review each guardianship involving a private professional guardian on the anniversary date of the appointment of the private professional guardian. If a private professional guardian does not hold a current license, the court must replace the guardian until such time as the private professional guardian obtains the necessary license.*

*5. The provisions of NRS 159.076 regarding summary administration do not apply to a private professional guardian.*

*6. A licensee shall file any report required by the court in a timely manner.*

**Sec. 37. 1.** *Except as otherwise provided in NRS 159.076, a licensee shall maintain a separate guardianship account for each ward into which all money received for the benefit of the ward must be deposited. Each guardianship account must be maintained in an insured bank or credit union located in this State, be held in a name which is sufficient to distinguish it from the personal or general checking account of the licensee and be designated as a guardianship account. Each guardianship account must at all times account for all money received for the benefit of the ward and account for all money dispersed for the benefit of the ward, and no disbursement may be made from the account except as authorized under chapter 159 of NRS or as authorized by court order.*



2. *Each licensee shall keep a record of all money deposited in each guardianship account maintained for a ward, which must clearly indicate the date and from whom the money was received, the date the money was deposited, the dates of withdrawals of money and other pertinent information concerning the transactions. Records kept pursuant to this subsection must be maintained for at least 6 years after the completion of the last transaction concerning the account. The records must be maintained at the premises in this State at which the licensee is authorized to conduct business.*

3. *The Commissioner or his or her designee may conduct an examination of the guardianship accounts and records relating to wards of each private professional guardian company licensed pursuant to this chapter at any time to ensure compliance with the provisions of this chapter.*

4. *During the first year a private professional guardian is licensed in this State, the Commissioner or his or her designee may conduct any examinations deemed necessary to ensure compliance with the provisions of this chapter.*

5. *If there is evidence that a private professional guardian company has violated a provision of this chapter, the Commissioner or his or her designee may conduct additional examinations to determine whether a violation has occurred.*

6. *Each licensee shall authorize the Commissioner or his or her designee to examine all books, records, papers and effects of the private professional guardian company.*

7. *If the Commissioner determines that the records of a licensee are not maintained in accordance with subsections 1 and 2, the Commissioner may require the licensee to submit, within 60 days, an audited financial statement prepared from the records of the licensee by a certified public accountant who holds a certificate to engage in the practice of public accounting in this State. The Commissioner may grant a reasonable extension of time for the submission of the financial statement if an extension is requested before the statement is due.*

8. *Upon the request of the Division, a licensee must provide to the Division copies of any documents reviewed during an examination conducted by the Commissioner or his or her designee pursuant to subsection 4, 5 or 6. If the copies are not provided, the Commissioner may subpoena the documents.*

9. *For each examination of the books, papers, records and effects of a private professional guardian company that is required or authorized pursuant to this chapter, the Commissioner shall*



*charge and collect from the private professional guardian company a fee for conducting the examination and preparing a report of the examination based upon the rate established by regulation pursuant to NRS 658.101. Failure to pay the fee within 30 days after receipt of the bill is grounds for revoking the license of the private professional guardian company.*

*10. All money collected under this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.*

*Sec. 38. 1. After an examination is conducted pursuant to section 37 of this act, the person who conducted the examination shall prepare a written report of the results of the examination which must be signed by the Commissioner or his or her designee.*

*2. The written report must contain a true and detailed statement of the financial condition of the private professional guardian company and, if applicable, a full statement of any violations of the provisions of this chapter.*

*Sec. 39. 1. The Commissioner shall provide a copy of a report prepared pursuant to section 38 of this act to the president or secretary of the board of directors of the private professional guardian company if the company is a corporation, or to a manager or owner of the private professional guardian company if the company is not a corporation, and may make a copy available to each member of the board of directors or each manager or owner, as applicable. If, in the judgment of the Commissioner, the report discloses any violation of the provisions of this chapter committed by the private professional guardian company, or if it appears from the report that there are certain conditions existing which should be corrected by the private professional guardian company, the Commissioner may, in writing, call the matter to the attention of each member of the board of directors or each manager or owner, with instructions to correct the condition.*

*2. Upon the preparation of the report as provided in section 38 of this act, the Commissioner shall also serve a copy thereof to the court having jurisdiction of each ward of the private professional guardian company.*

*Sec. 40. 1. The Commissioner may require a licensee to submit an annual financial statement or an audited financial statement prepared by an independent certified public accountant licensed to do business in this State, dependent upon the size and complexity of the private professional guardian company.*

*2. If applicable, on or before the fourth Monday in January of each year, each licensee shall submit to the Commissioner the stock ledger of stockholders of the corporation required to be*



*maintained pursuant to paragraph (c) of subsection 1 of NRS 78.105 or the list of each member and manager required to be maintained pursuant to paragraph (a) of subsection 1 of NRS 86.241, verified by the president or a manager, as appropriate.*

*3. A list of each member and manager submitted pursuant to subsection 2 must include the percentage of each member's interest in the company, in addition to the requirements set forth in NRS 86.241.*

*4. If a licensee fails to submit the ledger or list required pursuant to this section within the prescribed period, the Commissioner may impose and collect a fee of not more than \$10 for each day the report is late.*

*5. The Commissioner shall adopt regulations establishing the amount of the fee that may be imposed pursuant to this section.*

**Sec. 41.** *Except as otherwise provided in NRS 239.0115, any application and personal or financial records submitted to the Division pursuant to the provisions of this chapter and any personal or financial records or other documents obtained by the Division pursuant to an examination conducted by the Commissioner or his or her designee or in response to a subpoena are confidential and may be disclosed only to:*

*1. The Division, any authorized employee or representative of the Division and any state or federal agency investigating the activities covered under the provisions of this chapter; and*

*2. Any person if the Commissioner, in his or her discretion, determines that the interests of the public that would be protected by disclosure outweigh the interest of any person in the confidential information not being disclosed.*

**Sec. 42.** *1. The Commissioner may require the immediate removal from office of any officer, director, manager or employee of any private professional guardian company doing business under this chapter who is found to be dishonest, incompetent or reckless in the management of the affairs of the private professional guardian company, or who persistently violates the laws of this State or the lawful orders, instructions and regulations issued by the Commissioner.*

*2. An officer, director, manager or employee of a private professional guardian company who is required to be removed from office pursuant to subsection 1 may appeal his or her removal by filing a written request for a hearing with the Commissioner within 10 days after the effective date of his or her removal. The Commissioner shall conduct the hearing after providing at least 5 days' written notice to the private professional*



*guardian company and the officer, director, manager or employee who is appealing his or her removal from office. Within 5 days after the conclusion of the hearing, the Commissioner shall enter an order affirming or disaffirming the removal of the person from office. An order of the Commissioner entered pursuant to this subsection is final for the purposes of judicial review.*

**Sec. 43. 1.** *The Commissioner may take administrative action against a licensee, including, without limitation, revoking or suspending the license, or initiate proceedings as provided in section 46 of this act if the company:*

*(a) Has violated this chapter or any other state or federal laws applicable to the business of a private professional guardian.*

*(b) Is conducting the business in an unauthorized or unsafe manner.*

*(c) Is in an unsafe or unsound condition to transact business.*

*(d) Has an impairment of the surety bonds held by the company.*

*(e) Has an impairment of the fidelity bonds held by the company.*

*(f) Has become insolvent.*

*(g) Has neglected or refused to comply with the terms of a lawful order of the Commissioner.*

*(h) Has refused, upon proper demand, to submit its records, affairs and concerns for inspection and examination of an appointed or authorized examiner of the Commissioner.*

*(i) Has refused to provide copies to the Division upon request, and in cooperation with any investigation, inspection or examination, of any and all documents reviewed by the Division during any such investigation, inspection or examination.*

*(j) Has failed to pay any state or local taxes as required.*

*(k) Has materially and willfully breached its fiduciary duties to a ward.*

*(l) Has failed to properly disclose all fees, interest and other charges to the court and the public.*

*(m) Has willfully engaged in material conflicts of interest regarding a ward.*

*(n) Has made intentional material misrepresentations regarding any aspect of the services performed or proposed to be performed by the private professional guardian company.*

**2.** *The Commissioner also may initiate such proceedings to take possession of the business and property of any private professional guardian company if an officer, partner, member or*





*sole proprietor of the private professional guardian company refuses to be examined upon oath regarding its affairs.*

**Sec. 44. 1.** *If the Commissioner has reason to believe that grounds for the revocation or suspension of a license exist, the Commissioner shall give at least 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.*

**2.** *At the conclusion of a hearing, the Commissioner shall:*

**(a)** *Enter a written order dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.*

**(b)** *Impose upon the licensee an administrative fine of not more than \$10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.*

**(c)** *If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including investigative costs and attorney's fees.*

**3.** *The grounds for revocation or suspension of a license are that:*

**(a)** *The licensee has failed to pay the annual license fee;*

**(b)** *The licensee has violated any provision of this chapter or any regulation adopted pursuant thereto or any lawful order of the Commissioner;*

**(c)** *The licensee has failed to pay any applicable state or local tax as required;*

**(d)** *Any fact or condition exists which would have justified the Commissioner in denying the original application for a license pursuant to the provisions of this chapter; or*

**(e)** *The licensee:*

**(1)** *Failed to open an office for the conduct of the business authorized by his or her license within 180 days after the date the license was issued; or*

**(2)** *Has failed to remain open for the conduct of the business for a period of 30 consecutive days without good cause therefor.*

**4.** *An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.*



*5. If the Commissioner enters an order suspending or revoking a license pursuant to this section, the Commissioner shall send a copy of the order to each district court in this State.*

*Sec. 45. 1. If the Commissioner finds that probable cause for the revocation of any license exists and that the public interest requires the immediate suspension of the license pending an investigation, the Commissioner may, upon 5 days' written notice offering the opportunity for a hearing, enter an order suspending the license for a period of not more than 20 days, pending a hearing upon the revocation of the license unless the opportunity for a hearing is waived by the licensee.*

*2. If the Commissioner enters an order suspending a license pursuant to this section, the Commissioner shall send a copy of the order to each district court in this State.*

*Sec. 46. 1. If the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, the Commissioner may, in addition to any action provided for in this chapter and chapter 233B of NRS and without prejudice thereto, enter an order requiring the person to cease and desist or to refrain from such violation. If the Commissioner enters such an order pursuant to this subsection, the Commissioner shall send a copy of the order to each district court in this State.*

*2. The Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, irreparable harm and lack of an adequate remedy at law will be presumed and an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper. The findings of the Commissioner shall be deemed to be prima facie evidence and sufficient grounds, in the discretion of the court, for the issuance ex parte of a temporary restraining order.*

*3. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of the person, including books, papers, documents and records pertaining thereto, or so much thereof as a court may deem reasonably necessary to prevent violations of this chapter through or by means of the use of property and business, whether such books, papers, documents and records are in the possession of the person, a registered agent acting on behalf of the person or any other person. If a receiver is appointed and qualified, the receiver has such powers and duties*



*relating to the custody, collection, administration, winding up and liquidation of such property and business as may be conferred upon the receiver by the court.*

*4. If a receiver is appointed pursuant to subsection 3, the receiver shall remit to the owners, members or shareholders of the private professional guardian company any amount of equity of the private professional guardian company remaining after the discharge of the liabilities and payment of the normal, prudent and reasonable expenses of the receivership.*

**Sec. 47.** *1. Upon the filing with the Commissioner of a verified complaint against a private professional guardian company, the Commissioner shall investigate the alleged violation of the provisions of this chapter.*

*2. If the Commissioner determines that a complaint filed pursuant to subsection 1 warrants further action, the Commissioner shall send a copy of the complaint and notice of the date set for an informal hearing to the subject of the complaint and the Attorney General.*

*3. The Commissioner may require the private professional guardian company that is the subject of a complaint to file a verified answer to the complaint within 10 days after receipt of the complaint unless, for good cause shown, the Commissioner extends the time required for filing an answer for a period not to exceed 60 days.*

*4. If at the hearing the complaint is not explained to the satisfaction of the Commissioner, the Commissioner may take such action against the private professional guardian company as authorized by the provisions of this chapter.*

**Sec. 48.** *1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Commissioner, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.*

*2. The complaint or other documents filed by the Commissioner to initiate disciplinary action and all documents and information considered by the Commissioner when determining whether to impose discipline are public records.*

**Sec. 49.** *1. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 per violation upon a person who violates any provision of this chapter or any regulation adopted pursuant thereto.*



*2. The maximum total fine that the Commissioner may impose on any person pursuant to this section with respect to the same or similar actions or series of actions which constitute the violations must not exceed the greater of \$250,000 or 125 percent of the monetary value of all losses incurred by the private professional guardian company and its wards as the direct or indirect result of such violations.*

*Sec. 50. 1. A licensee who knowingly or willfully neglects to perform any act or duty required by this chapter or other applicable law, or who knowingly or willfully fails to satisfy any material lawful requirement made by the Commissioner is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

*2. If no other punishment is otherwise provided by law, a person who violates any provision of this chapter is guilty of a gross misdemeanor.*

**Sec. 50.2.** Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 3, in a proceeding to appoint a guardian for an adult, the court shall give preference to a nominated person or relative, in that order of preference:*

*(a) Whether or not the nominated person or relative is a resident of this State; and*

*(b) If the court determines that the nominated person or relative is qualified and suitable to be appointed as guardian for the adult.*

*2. In determining whether any nominated person, relative or other person listed in subsection 4 is qualified and suitable to be appointed as guardian for an adult, the court shall consider, if applicable and without limitation:*

*(a) The ability of the nominated person, relative or other person to provide for the basic needs of the adult, including, without limitation, food, shelter, clothing and medical care;*

*(b) Whether the nominated person, relative or other person has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS;*

*(c) Whether the nominated person, relative or other person has been judicially determined to have committed abuse, neglect, exploitation, isolation or abandonment of a child, his or her spouse, his or her parent or any other adult, unless the court finds*



*that it is in the best interests of the ward to appoint the person as guardian for the adult;*

*(d) Whether the nominated person, relative or other person is incompetent or has a disability; and*

*(e) Whether the nominated person, relative or other person has been convicted in this State or any other jurisdiction of a felony, unless the court determines that any such conviction should not disqualify the person from serving as guardian for the adult.*

*3. If the court finds that two or more nominated persons are qualified and suitable to be appointed as guardian for an adult, the court may appoint two or more nominated persons as co-guardians or shall give preference among them in the following order of preference:*

*(a) A person whom the adult nominated for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult's established estate plan and was executed by the adult while competent.*

*(b) A person whom the adult requested for the appointment as guardian for the adult in a written instrument that is not part of the adult's established estate plan and was executed by the adult while competent.*

*4. Subject to the preferences set forth in subsections 1 and 3, the court shall appoint as guardian the qualified person who is most suitable and is willing to serve. In determining which qualified person is most suitable, the court shall, in addition to considering any applicable factors set forth in subsection 2, give consideration, among other factors, to:*

*(a) Any nomination or request for the appointment as guardian by the adult.*

*(b) Any nomination or request for the appointment as guardian by a relative.*

*(c) The relationship by blood, adoption, marriage or domestic partnership of the proposed guardian to the adult. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood. The court may consider any relative in the following order of preference:*

*(1) A spouse or domestic partner.*

*(2) A child.*

*(3) A parent.*

*(4) Any relative with whom the adult has resided for more than 6 months before the filing of the petition or any relative who has a power of attorney executed by the adult while competent.*

*(5) Any relative currently acting as agent.*



*(6) A sibling.*

*(7) A grandparent or grandchild.*

*(8) An uncle, aunt, niece, nephew or cousin.*

*(9) Any other person recognized to be in a familial relationship with the adult.*

*(d) Any recommendation made by a master of the court or special master pursuant to NRS 159.0615.*

*(e) Any request for the appointment of any other interested person that the court deems appropriate, including, without limitation, a person who is not a relative and who has a power of attorney executed by the adult while competent.*

*5. The court may appoint as guardian any nominated person, relative or other person listed in subsection 4 who is not a resident of this State. The court shall not give preference to a resident of this State over a nonresident if the court determines that:*

*(a) The nonresident is more qualified and suitable to serve as guardian; and*

*(b) The distance from the proposed guardian's place of residence and the adult's place of residence will not affect the quality of the guardianship or the ability of the proposed guardian to make decisions and respond quickly to the needs of the adult because:*

*(1) A person or care provider in this State is providing continuing care and supervision for the adult;*

*(2) The adult is in a secured residential long-term care facility in this State; or*

*(3) Within 30 days after the appointment of the proposed guardian, the proposed guardian will move to this State or the adult will move to the proposed guardian's state of residence.*

*6. If the court appoints a nonresident as guardian for the adult:*

*(a) The jurisdictional requirements of NRS 159.1991 to 159.2029, inclusive, must be met;*

*(b) The court shall order the guardian to designate a registered agent in this State in the same manner as a represented entity pursuant to chapter 77 of NRS; and*

*(c) The court may require the guardian to complete any available training concerning guardianships pursuant to NRS 159.0592, in this State or in the state of residence of the guardian, regarding:*

*(1) The legal duties and responsibilities of the guardian pursuant to this chapter;*



*(2) The preparation of records and the filing of annual reports regarding the finances and well-being of the adult required pursuant to NRS 159.073;*

*(3) The rights of the adult;*

*(4) The availability of local resources to aid the adult; and*

*(5) Any other matter the court deems necessary or prudent.*

*7. If the court finds that there is not any suitable nominated person, relative or other person listed in subsection 4 to appoint as guardian, the court may appoint as guardian:*

*(a) The public guardian of the county where the adult resides if:*

*(1) There is a public guardian in the county where the adult resides; and*

*(2) The adult qualifies for a public guardian pursuant to chapter 253 of NRS;*

*(b) A private fiduciary who may obtain a bond in this State and who is a resident of this State, if the court finds that the interests of the adult will be served appropriately by the appointment of a private fiduciary; or*

*(c) A private professional guardian who meets the requirements of NRS 159.0595.*

*8. A person is not qualified to be appointed as guardian for an adult if the person has been suspended for misconduct or disbarred from any of the professions listed in this subsection, but the disqualification applies only during the period of the suspension or disbarment. This subsection applies to:*

*(a) The practice of law;*

*(b) The practice of accounting; or*

*(c) Any other profession that:*

*(1) Involves or may involve the management or sale of money, investments, securities or real property; and*

*(2) Requires licensure in this State or any other state in which the person practices his or her profession.*

*9. As used in this section:*

*(a) "Adult" means a person who is a ward or a proposed ward and who is not a minor.*

*(b) "Domestic partner" means a person in a domestic partnership.*

*(c) "Domestic partnership" means:*

*(1) A domestic partnership as defined in NRS 122A.040; or*

*(2) A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of*



*whether it bears the name of a domestic partnership or is registered in this State.*

*(d) "Nominated person" means a person, whether or not a relative, whom an adult:*

*(1) Nominates for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult's established estate plan and was executed by the adult while competent.*

*(2) Requests for the appointment as guardian for the adult in a written instrument that is not part of the adult's established estate plan and was executed by the adult while competent.*

*(e) "Relative" means a person who is 18 years of age or older and who is related to the adult by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity.*

**Sec. 50.3.** NRS 159.024 is hereby amended to read as follows:

159.024 **1.** "Private professional guardian" means a person who receives compensation for services as a guardian to three or more wards who are not related to the guardian by blood or marriage.

**2.** *For the purposes of this chapter, the term includes:*

*(a) A person who serves as a private professional guardian and who is required to have a license issued pursuant to sections 2 to 50, inclusive, of this act.*

*(b) A person who serves as a private professional guardian but who is exempt pursuant to NRS 159.0595 or section 12 of this act from the requirement to have a license issued pursuant to sections 2 to 50, inclusive, of this act.*

**3.** The term does not include:

~~1-1~~ *(a) A governmental agency.*

~~1-2~~ *(b) A public guardian appointed or designated pursuant to the provisions of chapter 253 of NRS.*

**Sec. 50.5.** (Deleted by amendment.)

**Sec. 51.** NRS 159.0595 is hereby amended to read as follows:

159.0595 **1.** ~~[A]~~ *In order for a person to serve as a private professional guardian, ~~[if a person,] the person~~ must be ~~[qualified] :~~*

*(a) Qualified to serve as a guardian pursuant to ~~[NRS 159.059]~~ section 50.2 of this act if the ward is an adult or NRS 159.061 if the ward is a minor; and ~~[must be]~~*

*(b) A guardian who has a license issued pursuant to sections 2 to 50, inclusive, of this act or a certified guardian ~~[ ]~~ who is not required to have such a license pursuant to subsection 3.*





2. ~~[A]~~ *In order for an entity to serve as a private professional guardian, ~~if an entity,~~ the entity must ~~be~~:*

*(a) Be qualified to serve as a guardian pursuant to ~~NRS 159.059~~ section 50.2 of this act if the ward is an adult;*

*(b) Have a license issued pursuant to sections 2 to 50, inclusive, of this act, unless the entity is not required to have such a license pursuant to subsection 3; and ~~must have~~*

*(c) Have a guardian who has a license issued pursuant to sections 2 to 50, inclusive, of this act or a certified guardian who is not required to have such a license pursuant to subsection 3 involved in the day-to-day operation or management of the entity.*

3. ~~[A]~~ *In order for a person or entity to serve as a private professional guardian ~~shall, at his or her own cost and expense:~~*

~~*(a) Undergo a background investigation which requires the submission of a complete set of his or her fingerprints to the Central Repository for Nevada Records of Criminal History and to the Federal Bureau of Investigation for their respective reports; and*~~

~~*(b) Present the results of the background investigation to the court upon request*~~, *the person or entity is not required to have a license issued pursuant to sections 2 to 50, inclusive, of this act if the person or entity is exempt from the requirement to have such a license pursuant to section 12 of this act and the person or entity:*

*(a) Is a banking corporation as defined in NRS 657.016;*

*(b) Is an organization permitted to act as a fiduciary pursuant to NRS 662.245;*

*(c) Is a trust company as defined in NRS 669.070;*

*(d) Is acting in the performance of his or her duties as an attorney at law;*

*(e) Acts as a trustee under a deed of trust; or*

*(f) Acts as a fiduciary under a court trust.*

4. As used in this section:

(a) "Certified guardian" means a person who is certified by the Center for Guardianship Certification or any successor organization.

(b) "Entity" includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.

(c) "Person" means a natural person.

**Sec. 51.5.** NRS 159.061 is hereby amended to read as follows:

159.061 1. The parents of a minor, or either parent, if qualified and suitable, are preferred over all others for appointment as guardian for the minor. The appointment of a parent as ~~the~~ guardian ~~of~~ for the ~~person~~ minor must not conflict with a valid order for custody of the minor.



2. In determining whether the parents of a minor, or either parent, *or any other person who seeks appointment as guardian for the minor* is qualified and suitable, the court shall consider, *if applicable and* without limitation:

(a) Which parent has physical custody of the minor;

(b) The ability of the parents, ~~or~~ parent *or other person* to provide for the basic needs of the ~~child,~~ *minor*, including, without limitation, food, shelter, clothing and medical care;

(c) Whether the parents, ~~or~~ parent *or other person* has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS; ~~and~~

(d) Whether the parents, ~~or~~ parent *or other person* has been convicted of a crime of moral turpitude, a crime involving domestic violence or a crime involving the *abuse, neglect, exploitation, isolation or abandonment* of a child ~~or~~, *his or her spouse, his or her parent or any other adult; and*

(e) *Whether the parents, parent or other person has been convicted in this State or any other jurisdiction of a felony.*

~~2-3~~ 3. Subject to the preference set forth in subsection 1, the court shall appoint as guardian ~~for an incompetent, a person of limited capacity or minor~~ the qualified person who is most suitable and is willing to serve.

~~3-3~~ 4. In determining ~~who~~ *which qualified person* is most suitable, the court shall, *in addition to considering any applicable factors set forth in subsection 2*, give consideration, among other factors, to:

(a) ~~Any request for the appointment as guardian for an incompetent contained in a written instrument executed by the incompetent while competent.~~

~~(b)~~ Any nomination of a guardian for ~~an incompetent,~~ *the* minor ~~or person of limited capacity~~ contained in a will or other written instrument executed by a parent ~~or spouse~~ of the ~~proposed ward.~~

~~(c)~~ *minor.*

(b) Any request ~~for the appointment as guardian for a~~ *made by* the minor, *if he or she is* 14 years of age or older ~~made by~~, *for the appointment of a person as guardian for* the minor.

~~(d)~~ (c) The relationship by blood ~~or~~ adoption ~~or marriage~~ of the proposed guardian to the ~~proposed ward,~~ *minor.* In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood.



The court may consider relatives in the following order of preference:

- ~~(1) Spouse.~~
- ~~(2) Adult child.~~
- ~~(3) Parent.~~
- ~~(4) (2) Adult sibling.~~
- ~~(5) (3) Grandparent. [or adult grandchild.]~~
- ~~(6) (4) Uncle [or aunt. ], adult niece or adult nephew.~~
- ~~(e) (d) Any recommendation made by a master of the court or special master pursuant to NRS 159.0615.~~

~~(f) (e) Any recommendation made by:~~

~~(1) An agency which provides child welfare services, an agency which provides child protective services or a similar agency; or~~

~~(2) A guardian ad litem or court appointed special advocate who represents the minor.~~

~~(f) Any request for the appointment of any other interested person that the court deems appropriate.~~

~~4. If the court finds that there is no suitable person to appoint as guardian pursuant to subsection 3, the court may appoint as guardian:~~

~~(a) The public guardian of the county where the ward resides, if:~~

~~(1) There is a public guardian in the county where the ward resides; and~~

~~(2) The proposed ward qualifies for a public guardian pursuant to chapter 253 of NRS;~~

~~(b) A private fiduciary who may obtain a bond in this State and who is a resident of this State, if the court finds that the interests of the ward will be served appropriately by the appointment of a private fiduciary; or~~

~~(c) A private professional guardian who meets the requirements of NRS 159.0595.]~~

~~5. As used in this section, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.~~

**Sec. 51.7.** NRS 159.185 is hereby amended to read as follows:

159.185 1. The court may remove a guardian if the court determines that:

(a) The guardian has become mentally incompetent, unsuitable or otherwise incapable of exercising the authority and performing the duties of a guardian as provided by law;

(b) The guardian is no longer qualified to act as a guardian pursuant to ~~NRS 159.059;~~ **section 50.2 of this act if the ward is an adult or NRS 159.061 if the ward is a minor;**



(c) The guardian has filed for bankruptcy within the previous 5 years;

(d) The guardian of the estate has mismanaged the estate of the ward;

(e) The guardian has negligently failed to perform any duty as provided by law or by any order of the court and:

(1) The negligence resulted in injury to the ward or the estate of the ward; or

(2) There was a substantial likelihood that the negligence would result in injury to the ward or the estate of the ward;

(f) The guardian has intentionally failed to perform any duty as provided by law or by any lawful order of the court, regardless of injury;

(g) The best interests of the ward will be served by the appointment of another person as guardian; or

(h) The guardian is a private professional guardian who is no longer qualified as a private professional guardian pursuant to NRS 159.0595.

2. A guardian may not be removed if the sole reason for removal is the lack of money to pay the compensation and expenses of the guardian.

**Sec. 51.9.** NRS 159.2024 is hereby amended to read as follows:

159.2024 1. To transfer jurisdiction of a guardianship or conservatorship to this State, the guardian, conservator or other interested party must petition the court of this State for guardianship pursuant to NRS 159.1991 to 159.2029, inclusive, to accept guardianship in this State. The petition must include a certified copy of the other state's provisional order of transfer and proof that the ward is physically present in, or is reasonably expected to move permanently to, this State.

2. The court shall issue a provisional order granting a petition filed under subsection 1, unless:

(a) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the ward; or

(b) The guardian or petitioner is not qualified for appointment as a guardian in this State pursuant to ~~NRS 159.059~~ *section 50.2 of this act if the ward is an adult or NRS 159.061 if the ward is a minor.*

3. The court shall issue a final order granting guardianship upon filing of a final order issued by the other state terminating



proceedings in that state and transferring the proceedings to this State.

4. Not later than 90 days after the issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the laws of this State.

5. In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the ward's incapacity and the appointment of the guardian or conservator.

**Sec. 52.** NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 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, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 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, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320,



422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and *sections 41 and 48 of this act and* unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge,



diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

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

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

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

**Sec. 52.3.** NRS 253.150 is hereby amended to read as follows:

253.150 1. The board of county commissioners of each county shall establish the office of public guardian.

2. The board of county commissioners shall:

(a) Appoint a public guardian, who serves at the pleasure of the board, for a term of 4 years from the day of appointment;

(b) Designate an elected or appointed county officer as ex officio public guardian;

(c) Pursuant to the mechanism set forth in NRS 244.1507, designate another county officer to execute the powers and duties of the public guardian;

(d) Except in a county whose population is 100,000 or more, contract with a private professional guardian to act as public guardian; or

(e) Contract with the board of county commissioners of a neighboring county in the same judicial district to designate as public guardian the public guardian of the neighboring county.



3. The compensation of a public guardian appointed or designated pursuant to subsection 2 must be fixed by the board of county commissioners and paid out of the county general fund.

4. As used in this section, “private professional guardian” ~~means a person who receives compensation for services as a guardian to three or more wards who are not related to the person by blood or marriage. The~~ *has the meaning ascribed to it in NRS 159.024, except that the* term does not include:

(a) ~~A governmental agency.~~

~~(b)~~ A banking corporation, as defined in NRS 657.016, or an organization permitted to act as a fiduciary pursuant to NRS 662.245 if it is appointed as guardian of an estate only.

~~(c)~~ (b) A trust company, as defined in NRS 669.070.

~~(d)~~ (c) A court-appointed attorney licensed to practice law in this State.

(d) *A trustee under a deed of trust.*

(e) *A fiduciary under a court trust.*

**Sec. 52.5.** NRS 432B.4665 is hereby amended to read as follows:

432B.4665 1. The court may, upon the filing of a petition pursuant to NRS 432B.466, appoint a person as a guardian for a child if:

(a) The court finds:

(1) That the proposed guardian is suitable and is not disqualified from guardianship pursuant to NRS ~~159.059;~~ *159.061;*

(2) That the child has been in the custody of the proposed guardian for 6 months or more pursuant to a determination by a court that the child was in need of protection, unless the court waives this requirement for good cause shown;

(3) ~~Except as otherwise provided in subsection 3, that~~ *That* the proposed guardian has complied with the requirements of chapter 159 of NRS; and

(4) That the burden of proof set forth in chapter 159 of NRS for the appointment of a guardian for a child has been satisfied;

(b) The child consents to the guardianship, if the child is 14 years of age or older; and

(c) The court determines that the requirements for filing a petition pursuant to NRS 432B.466 have been satisfied.

2. A guardianship established pursuant to this section:

(a) Provides the guardian with the powers and duties provided in NRS 159.079, and subjects the guardian to the limitations set forth in NRS 159.0805;





(b) Is subject to the provisions of NRS 159.065 to 159.076, inclusive, and 159.185 to 159.199, inclusive;

(c) Provides the guardian with sole legal and physical custody of the child;

(d) Does not result in the termination of parental rights of a parent of the child; and

(e) Does not affect any rights of the child to inheritance, a succession or any services or benefits provided by the Federal Government, this state or an agency or political subdivision of this state.

~~3. The court may appoint as a guardian for a child pursuant to this section for not more than 6 months a person who does not satisfy the residency requirement set forth in subsection 5 of NRS 159.059 if the court determines that appointing such a person is necessary to facilitate the permanent placement of the child.~~

**Sec. 52.7.** NRS 159.059 is hereby repealed.

**Sec. 53.** 1. This section and sections 2 to 19, inclusive, and 21 to 52.7, inclusive, of this act become effective:

(a) Upon passage and approval for the purposes of adopting any regulations and performing any preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On January 1, 2016, for all other purposes.

2. Section 19 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

are repealed by the Congress of the United States.

3. Section 20 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,



↪ are repealed by the Congress of the United States.

4. Sections 20 and 21 of this act expire by limitation 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.



## **Senate Bill 262**

Senate Bill No. 262—Senators Harris, Farrey, Denis; Goicoechea, Gustavson, Lipparelli, Manendo, Segerblom and Settlemeyer

Joint Sponsors: Assemblymen Stewart, Nelson, Silberkraus, O’Neill, Seaman; Elliot Anderson, Fiore, Gardner, Jones and Woodbury

CHAPTER.....

AN ACT relating to guardians; adding provisions governing the appointment of certain preferred persons as guardians for adult wards; revising provisions relating to the appointment of a guardian for a minor; revising requirements governing eligibility to utilize a public guardian; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law provides for the appointment, qualifications and duties of guardians for certain minor and adult wards. (Chapter 159 of NRS) Existing law prohibits a nonresident of Nevada from being appointed as a guardian for a minor or adult ward unless the person has associated a co-guardian who is a resident of Nevada or a banking corporation whose principal place of business is in Nevada. (NRS 159.059) Existing law also gives preference to certain persons to be appointed as a guardian for a minor ward but does not give preference to any persons to be appointed as a guardian for an adult ward. (NRS 159.061)

**Sections 1 and 6.7** of this bill revise the circumstances under which a court is authorized to appoint a nonresident as a guardian for an adult ward. **Section 6.3** eliminates existing limitations on the authority of a court to appoint a nonresident as a guardian for a minor ward. **Section 1** also requires the court to give preference in appointing a guardian for an adult ward to the following persons in the following order, whether or not the person is a nonresident: (1) a nominated person, who is a person the adult ward specifically nominated or requested as a guardian in a will, trust or other written document executed by the adult ward while competent; or (2) a relative. If two or more nominated persons are qualified and suitable to be appointed as a guardian, **section 1** authorizes the court to appoint two or more co-guardians or generally requires the court to give preference to the nominated person named in a will, trust or other written document that is part of the adult’s established estate plan, but there are certain exceptions for extraordinary circumstances.

In selecting a guardian, **section 1** does not allow the court to give preference to a resident over a nonresident if the court determines that the nonresident would be a more qualified and suitable guardian and the adult would receive continuing care and supervision under the guardianship of the nonresident. If the court selects a nonresident guardian, **section 1** requires the court to order the nonresident guardian to designate a registered agent in this State.

**Section 2.3** of this bill revises the existing list of persons who are preferred for appointment as a guardian to a minor to include any person recommended by: (1) an agency which provides child welfare services, an agency which provides child protective services or a similar agency; or (2) a guardian ad litem or court appointed special advocate who represents the minor.



**Sections 2.1-2.9 and 6.3** of this bill make conforming changes to reflect the changes made by the other sections of this bill.

Existing law provides that a ward is eligible to have a public guardian appointed as his or her permanent or general individual guardian if: (1) there is no relative or friend able and willing to be appointed as a guardian for the ward; or (2) the court removes a private professional guardian previously appointed for the ward. (NRS 253.200) **Section 3** of this bill provides for the appointment of a public guardian for an incompetent adult who failed to nominate a person for appointment as guardian while he or she was still competent or if the nominated person is not suitable or willing to serve as guardian.

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

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

**Section 1.** Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 3, in a proceeding to appoint a guardian for an adult, the court shall give preference to a nominated person or relative, in that order of preference:*

*(a) Whether or not the nominated person or relative is a resident of this State; and*

*(b) If the court determines that the nominated person or relative is qualified and suitable to be appointed as guardian for the adult.*

*2. In determining whether any nominated person, relative or other person listed in subsection 4 is qualified and suitable to be appointed as guardian for an adult, the court shall consider, if applicable and without limitation:*

*(a) The ability of the nominated person, relative or other person to provide for the basic needs of the adult, including, without limitation, food, shelter, clothing and medical care;*

*(b) Whether the nominated person, relative or other person has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS;*

*(c) Whether the nominated person, relative or other person has been judicially determined to have committed abuse, neglect, exploitation, isolation or abandonment of a child, his or her spouse, his or her parent or any other adult, unless the court finds that it is in the best interests of the ward to appoint the person as guardian for the adult;*



*(d) Whether the nominated person, relative or other person is incompetent or has a disability; and*

*(e) Whether the nominated person, relative or other person has been convicted in this State or any other jurisdiction of a felony, unless the court determines that any such conviction should not disqualify the person from serving as guardian for the adult.*

*3. If the court finds that two or more nominated persons are qualified and suitable to be appointed as guardian for an adult, the court may appoint two or more nominated persons as co-guardians or shall give preference among them in the following order of preference:*

*(a) A person whom the adult nominated for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult's established estate plan and was executed by the adult while competent.*

*(b) A person whom the adult requested for the appointment as guardian for the adult in a written instrument that is not part of the adult's established estate plan and was executed by the adult while competent.*

*4. Subject to the preferences set forth in subsections 1 and 3, the court shall appoint as guardian the qualified person who is most suitable and is willing to serve. In determining which qualified person is most suitable, the court shall, in addition to considering any applicable factors set forth in subsection 2, give consideration, among other factors, to:*

*(a) Any nomination or request for the appointment as guardian by the adult.*

*(b) Any nomination or request for the appointment as guardian by a relative.*

*(c) The relationship by blood, adoption, marriage or domestic partnership of the proposed guardian to the adult. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood. The court may consider any relative in the following order of preference:*

*(1) A spouse or domestic partner.*

*(2) A child.*

*(3) A parent.*

*(4) Any relative with whom the adult has resided for more than 6 months before the filing of the petition or any relative who has a power of attorney executed by the adult while competent.*

*(5) Any relative currently acting as agent.*

*(6) A sibling.*

*(7) A grandparent or grandchild.*



*(8) An uncle, aunt, niece, nephew or cousin.*

*(9) Any other person recognized to be in a familial relationship with the adult.*

*(d) Any recommendation made by a master of the court or special master pursuant to NRS 159.0615.*

*(e) Any request for the appointment of any other interested person that the court deems appropriate, including, without limitation, a person who is not a relative and who has a power of attorney executed by the adult while competent.*

*5. The court may appoint as guardian any nominated person, relative or other person listed in subsection 4 who is not a resident of this State. The court shall not give preference to a resident of this State over a nonresident if the court determines that:*

*(a) The nonresident is more qualified and suitable to serve as guardian; and*

*(b) The distance from the proposed guardian's place of residence and the adult's place of residence will not affect the quality of the guardianship or the ability of the proposed guardian to make decisions and respond quickly to the needs of the adult because:*

*(1) A person or care provider in this State is providing continuing care and supervision for the adult;*

*(2) The adult is in a secured residential long-term care facility in this State; or*

*(3) Within 30 days after the appointment of the proposed guardian, the proposed guardian will move to this State or the adult will move to the proposed guardian's state of residence.*

*6. If the court appoints a nonresident as guardian for the adult:*

*(a) The jurisdictional requirements of NRS 159.1991 to 159.2029, inclusive, must be met;*

*(b) The court shall order the guardian to designate a registered agent in this State in the same manner as a represented entity pursuant to chapter 77 of NRS; and*

*(c) The court may require the guardian to complete any available training concerning guardianships pursuant to NRS 159.0592, in this State or in the state of residence of the guardian, regarding:*

*(1) The legal duties and responsibilities of the guardian pursuant to this chapter;*

*(2) The preparation of records and the filing of annual reports regarding the finances and well-being of the adult required pursuant to NRS 159.073;*



- (3) The rights of the adult;*
- (4) The availability of local resources to aid the adult; and*
- (5) Any other matter the court deems necessary or prudent.*
- 7. If the court finds that there is not any suitable nominated person, relative or other person listed in subsection 4 to appoint as guardian, the court may appoint as guardian:*
  - (a) The public guardian of the county where the adult resides if:*
    - (1) There is a public guardian in the county where the adult resides; and*
    - (2) The adult qualifies for a public guardian pursuant to chapter 253 of NRS;*
  - (b) A private fiduciary who may obtain a bond in this State and who is a resident of this State, if the court finds that the interests of the adult will be served appropriately by the appointment of a private fiduciary; or*
  - (c) A private professional guardian who meets the requirements of NRS 159.0595.*
- 8. A person is not qualified to be appointed as guardian for an adult if the person has been suspended for misconduct or disbarred from any of the professions listed in this subsection, but the disqualification applies only during the period of the suspension or disbarment. This subsection applies to:*
  - (a) The practice of law;*
  - (b) The practice of accounting; or*
  - (c) Any other profession that:*
    - (1) Involves or may involve the management or sale of money, investments, securities or real property; and*
    - (2) Requires licensure in this State or any other state in which the person practices his or her profession.*
- 9. As used in this section:*
  - (a) "Adult" means a person who is a ward or a proposed ward and who is not a minor.*
  - (b) "Domestic partner" means a person in a domestic partnership.*
  - (c) "Domestic partnership" means:*
    - (1) A domestic partnership as defined in NRS 122A.040; or*
    - (2) A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of whether it bears the name of a domestic partnership or is registered in this State.*





*(d) "Nominated person" means a person, whether or not a relative, whom an adult:*

*(1) Nominates for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult's established estate plan and was executed by the adult while competent.*

*(2) Requests for the appointment as guardian for the adult in a written instrument that is not part of the adult's established estate plan and was executed by the adult while competent.*

*(e) "Relative" means a person who is 18 years of age or older and who is related to the adult by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity.*

**Sec. 2.** (Deleted by amendment.)

**Sec. 2.1.** NRS 159.0595 is hereby amended to read as follows:

159.0595 1. ~~{A}~~ *In order for a person to serve as a* private professional guardian, ~~{if a person,}~~ *the person* must be ~~{qualified}~~ :

*(a) Qualified* to serve as a guardian pursuant to ~~{NRS 159.059}~~ *section 1 of this act if the ward is an adult or NRS 159.061 if the ward is a minor; and* ~~{must be a}~~

*(b) A* certified guardian.

2. ~~{A}~~ *In order for an entity to serve as a* private professional guardian, ~~{if an entity,}~~ *the entity* must ~~{be}~~ :

*(a) Be* qualified to serve as a guardian pursuant to ~~{NRS 159.059}~~ *section 1 of this act if the ward is an adult; and* ~~{must have}~~

*(b) Have* a certified guardian involved in the day-to-day operation or management of the entity.

3. A private professional guardian shall, at his or her own cost and expense:

*(a) Undergo* a background investigation which requires the submission of a complete set of his or her fingerprints to the Central Repository for Nevada Records of Criminal History and to the Federal Bureau of Investigation for their respective reports; and

*(b) Present* the results of the background investigation to the court upon request.

4. As used in this section:

*(a) "Certified guardian"* means a person who is certified by the Center for Guardianship Certification or any successor organization.

*(b) "Entity"* includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.

*(c) "Person"* means a natural person.



**Sec. 2.3.** NRS 159.061 is hereby amended to read as follows:

159.061 1. The parents of a minor, or either parent, if qualified and suitable, are preferred over all others for appointment as guardian for the minor. The appointment of a parent as ~~the~~ guardian ~~for~~ the ~~person~~ *minor* must not conflict with a valid order for custody of the minor.

2. In determining whether the parents of a minor, or either parent, *or any other person who seeks appointment as guardian for the minor* is qualified and suitable, the court shall consider, *if applicable and* without limitation:

(a) Which parent has physical custody of the minor;

(b) The ability of the parents, ~~or~~ parent *or other person* to provide for the basic needs of the ~~child,~~ *minor*, including, without limitation, food, shelter, clothing and medical care;

(c) Whether the parents, ~~or~~ parent *or other person* has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS; ~~and~~

(d) Whether the parents, ~~or~~ parent *or other person* has been convicted of a crime of moral turpitude, a crime involving domestic violence or a crime involving the *abuse, neglect, exploitation, isolation or abandonment* of a child ~~or~~, *his or her spouse, his or her parent or any other adult; and*

*(e) Whether the parents, parent or other person has been convicted in this State or any other jurisdiction of a felony.*

~~2-~~ 3. Subject to the preference set forth in subsection 1, the court shall appoint as guardian ~~for an incompetent, a person of limited capacity or minor~~ the qualified person who is most suitable and is willing to serve.

~~3-~~ 4. In determining ~~who~~ *which qualified person* is most suitable, the court shall, *in addition to considering any applicable factors set forth in subsection 2,* give consideration, among other factors, to:

(a) ~~Any request for the appointment as guardian for an incompetent contained in a written instrument executed by the incompetent while competent.~~

~~(b)~~ Any nomination of a guardian for ~~an incompetent,~~ *the* minor ~~for person of limited capacity~~ contained in a will or other written instrument executed by a parent ~~or spouse~~ of the ~~proposed~~ *ward.*

~~(c)~~ *minor.*



~~(b)~~ Any request ~~for the appointment as guardian for a~~ *made by the minor, if he or she is 14 years of age or older* ~~made by~~, *for the appointment of a person as guardian for* the minor.

~~(d)~~ *(c)* The relationship by blood ~~or~~ adoption ~~for marriage~~ of the proposed guardian to the ~~proposed ward~~ *minor*. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood. The court may consider relatives in the following order of preference:

- ~~(1)~~ ~~Spouse.~~
- ~~(2)~~ ~~Adult child.~~
- ~~(3)~~ Parent.
- ~~(4)~~ *(2)* Adult sibling.
- ~~(5)~~ *(3)* Grandparent. ~~for adult grandchild.~~
- ~~(6)~~ *(4)* Uncle ~~or~~ aunt. ~~adult niece or adult nephew.~~

~~(e)~~ *(d)* Any recommendation made by a master of the court or special master pursuant to NRS 159.0615.

~~(f)~~ *(e)* Any recommendation made by:

*(1) An agency which provides child welfare services, an agency which provides child protective services or a similar agency; or*

*(2) A guardian ad litem or court appointed special advocate who represents the minor.*

*(f)* Any request for the appointment of any other interested person that the court deems appropriate.

~~4. If the court finds that there is no suitable person to appoint as guardian pursuant to subsection 3, the court may appoint as guardian:~~

- ~~(a) The public guardian of the county where the ward resides, if:
  - ~~(1) There is a public guardian in the county where the ward resides; and~~
  - ~~(2) The proposed ward qualifies for a public guardian pursuant to chapter 253 of NRS;~~~~
- ~~(b) A private fiduciary who may obtain a bond in this State and who is a resident of this State, if the court finds that the interests of the ward will be served appropriately by the appointment of a private fiduciary; or~~
- ~~(c) A private professional guardian who meets the requirements of NRS 159.0595.~~

*5. As used in this section, "agency which provides child welfare services" has the meaning ascribed to it NRS 432B.030.*

Sec. 2.5. (Deleted by amendment.)



**Sec. 2.7.** NRS 159.185 is hereby amended to read as follows:

159.185 1. The court may remove a guardian if the court determines that:

(a) The guardian has become mentally incompetent, unsuitable or otherwise incapable of exercising the authority and performing the duties of a guardian as provided by law;

(b) The guardian is no longer qualified to act as a guardian pursuant to ~~NRS 159.059;~~ *section 1 of this act if the ward is an adult or NRS 159.061 if the ward is a minor;*

(c) The guardian has filed for bankruptcy within the previous 5 years;

(d) The guardian of the estate has mismanaged the estate of the ward;

(e) The guardian has negligently failed to perform any duty as provided by law or by any order of the court and:

(1) The negligence resulted in injury to the ward or the estate of the ward; or

(2) There was a substantial likelihood that the negligence would result in injury to the ward or the estate of the ward;

(f) The guardian has intentionally failed to perform any duty as provided by law or by any lawful order of the court, regardless of injury;

(g) The best interests of the ward will be served by the appointment of another person as guardian; or

(h) The guardian is a private professional guardian who is no longer qualified as a private professional guardian pursuant to NRS 159.0595.

2. A guardian may not be removed if the sole reason for removal is the lack of money to pay the compensation and expenses of the guardian.

**Sec. 2.9.** NRS 159.2024 is hereby amended to read as follows:

159.2024 1. To transfer jurisdiction of a guardianship or conservatorship to this State, the guardian, conservator or other interested party must petition the court of this State for guardianship pursuant to NRS 159.1991 to 159.2029, inclusive, to accept guardianship in this State. The petition must include a certified copy of the other state's provisional order of transfer and proof that the ward is physically present in, or is reasonably expected to move permanently to, this State.

2. The court shall issue a provisional order granting a petition filed under subsection 1, unless:



(a) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the ward; or

(b) The guardian or petitioner is not qualified for appointment as a guardian in this State pursuant to ~~NRS 159.059~~ ***section 1 of this act if the ward is an adult or NRS 159.061 if the ward is a minor.***

3. The court shall issue a final order granting guardianship upon filing of a final order issued by the other state terminating proceedings in that state and transferring the proceedings to this State.

4. Not later than 90 days after the issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the laws of this State.

5. In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the ward's incapacity and the appointment of the guardian or conservator.

**Sec. 3.** NRS 253.200 is hereby amended to read as follows:

253.200 1. A resident of Nevada is eligible to have the public guardian of the county in which he or she resides appointed as his or her temporary individual guardian pursuant to NRS 159.0523 or 159.0525.

2. A resident of Nevada is eligible to have the public guardian of a county appointed as his or her permanent or general individual guardian if the proposed ward is a resident of that county and:

(a) The proposed ward has no ***nominated person***, relative or friend suitable and willing to serve as his or her guardian; or

(b) The proposed ward has a guardian who the court determines must be removed pursuant to NRS 159.185.

3. A person qualified pursuant to subsection 1 or 2, or anyone on his or her behalf, may petition the district court of the county in which he or she resides to make the appointment.

4. Before a petition for the appointment of the public guardian as a guardian may be filed pursuant to subsection 3, a copy of the petition and copies of all accompanying documents to be filed must be delivered to the public guardian or a deputy public guardian.

5. Any petition for the appointment of the public guardian as a guardian filed pursuant to subsection 3 must include a statement signed by the public guardian or deputy public guardian and in substantially the following form:



The undersigned is the Public Guardian or a Deputy Public Guardian of ..... County. The undersigned certifies that he or she has received a copy of this petition and all accompanying documents to be filed with the court.

6. A petition for the appointment of the public guardian as permanent or general guardian must be filed separately from a petition for the appointment of a temporary guardian.

7. If a person other than the public guardian served as temporary guardian before the appointment of the public guardian as permanent or general guardian, the temporary guardian must file an accounting and report with the court in which the petition for the appointment of a public guardian was filed within 30 days of the appointment of the public guardian as permanent or general guardian.

8. In addition to NRS 159.099, a county is not liable on any written or oral contract entered into by the public guardian of the county for or on behalf of a ward.

9. For the purposes of this section:

(a) Except as otherwise provided in paragraph (b), the county of residence of a person is the county to which the person moved with the intent to reside for an indefinite period.

(b) The county of residence of a person placed in institutional care is the county that was the county of residence of the person before the person was placed in institutional care by a guardian or agency or under power of attorney.

***10. As used in this section, "nominated person" has the meaning ascribed to it in section 1 of this act.***

**Secs. 4-6.** (Deleted by amendment.)

**Sec. 6.3.** NRS 432B.4665 is hereby amended to read as follows:

432B.4665 1. The court may, upon the filing of a petition pursuant to NRS 432B.466, appoint a person as a guardian for a child if:

(a) The court finds:

(1) That the proposed guardian is suitable and is not disqualified from guardianship pursuant to NRS ~~159.059;~~ ***159.061;***

(2) That the child has been in the custody of the proposed guardian for 6 months or more pursuant to a determination by a court that the child was in need of protection, unless the court waives this requirement for good cause shown;



(3) ~~Except as otherwise provided in subsection 3, that~~ *That* the proposed guardian has complied with the requirements of chapter 159 of NRS; and

(4) That the burden of proof set forth in chapter 159 of NRS for the appointment of a guardian for a child has been satisfied;

(b) The child consents to the guardianship, if the child is 14 years of age or older; and

(c) The court determines that the requirements for filing a petition pursuant to NRS 432B.466 have been satisfied.

2. A guardianship established pursuant to this section:

(a) Provides the guardian with the powers and duties provided in NRS 159.079, and subjects the guardian to the limitations set forth in NRS 159.0805;

(b) Is subject to the provisions of NRS 159.065 to 159.076, inclusive, and 159.185 to 159.199, inclusive;

(c) Provides the guardian with sole legal and physical custody of the child;

(d) Does not result in the termination of parental rights of a parent of the child; and

(e) Does not affect any rights of the child to inheritance, a succession or any services or benefits provided by the Federal Government, this state or an agency or political subdivision of this state.

~~3. The court may appoint as a guardian for a child pursuant to this section for not more than 6 months a person who does not satisfy the residency requirement set forth in subsection 5 of NRS 159.059 if the court determines that appointing such a person is necessary to facilitate the permanent placement of the child.~~

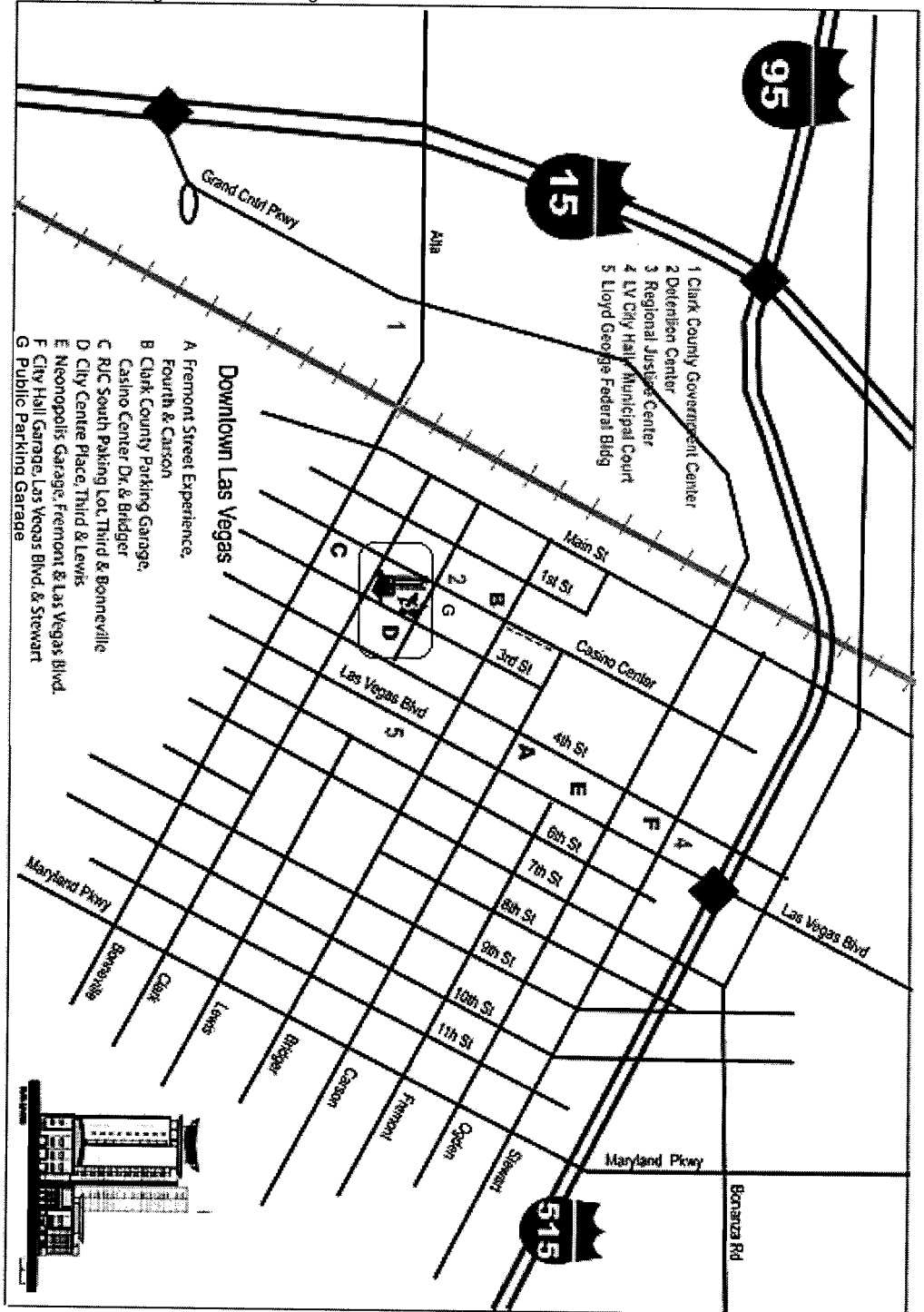
**Sec. 6.7.** NRS 159.059 is hereby repealed.

**Sec. 7.** This act becomes effective on July 1, 2015.



## **RJC Map**





**REGIONAL JUSTICE  
 CENTER  
 MAP**

200 Lewis Avenue  
 Las Vegas, Nevada 89101

Please use these tips and the map for an easier experience when visiting the Regional Justice Center:

Parking at the RJC can be difficult. Supreme Court visitors need to allow enough time when parking in public areas. Visitors can park at the Clark County Parking Garage located at 300 S. Casino Center Dr. and Bridger Avenue. Vehicles should enter off Casino Center. The distance between the garage entrance and the northwest entrance of the RJC is about 700 feet. Public parking spaces in the Clark County Parking Garage are limited. Additional public parking areas are listed on the map above. All public parking areas charge an hourly fee.

Allow extra time for elevator access. Peak hours at the Regional Justice Center are approximately 8:00 am to 10:00 am and lunch time. A line of 20-30 people at the public elevators can occur during the peak hours.

All visitors will have to pass through security at the main entrances into the Regional Justice Center. Peak hours generally have lines 20-30 people as well. Any meeting participants without a badge should add additional time.

Visitors to the Supreme Court must register with the Capitol Police on the 17th Floor of the RJC to obtain a visitors badge.