

Nevada Supreme Court

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



February 26, 2016, Meeting Materials

Justice James W. Hardesty, Chair

AGENDA

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
In Nevada's Courts**

Date and Time of Meeting: February 26, 2016, 1 p.m. to 4:30 p.m.

Place of Meeting:

LAS VEGAS	CARSON CITY	ELKO
Regional Justice Center Nevada Supreme Court 200 Lewis Ave., 17 th Floor, Courtroom	Nevada Supreme Court 201 S. Carson Street Law Library, Room 107	Fourth Judicial District 571 Idaho Street Dept. 2

AGENDA

- I. Call to Order
 - a. Call of Roll and Determination of Quorum
 - b. Approval of Meeting Summary from January 22, 2016 (*pages 5-19*) (for possible action)
- II. Public Comment
Because of time considerations, the period for public comment by each speaker will be limited to 3 minutes, and speakers are urged to avoid repetition of comments made by previous speakers.
- III. Presentation
 - a. Second Judicial District's Data Collection Process (*Judge Doherty, Judge Walker, Craig Franden, Craig Smith, Holly Lujan*)
 - b. Eighth Judicial District's Data Collection Process (*Mike Doan, Judge Steel*)
- IV. Discussion on Subject Matter Recommendations (General Policy Questions 14, 16 - 29) (*pages 20-21*) (for possible action)

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, 17th floor ♦ Las Vegas, Nevada 89101

- V. Updates(for possible action)
- a. CAP Technical Assistance Award (*Riley Wilson*)
 - b. Compliance - AB 325 (*Susan Hoy and Kim Spoon*)
 - c. Minor Guardianship Statute (*Judge Walker*)
 - d. Data/IT Subcommittee (*Stephanie Heying for Hans Jessup*) (pages 23-24)
 - e. Guardianship Filing Fees (*Stephanie Heying*) (pages 26-40)
 - f. Eighth and Second Judicial District Working Groups (*Judge Steel & Judge Doherty*)
- VI. Subcommittee Appointments (*Justice Hardesty*)
- a. Bill of Rights Subcommittee
 - b. Legal Representation Subcommittee
 - c. GAL Subcommittee
 - d. Physician's Certificate and Definitions/Terms
- VII. Other Business
- a. Lock Boxes Nominated Guardian (*Rana Goodman*)
- VIII. Future Meeting Dates
- a. April 1, 2016
 - b. April 22, 2016
 - c. May 20, 2016
- IX. 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
- 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; Carson City: Supreme Court Building, Administrative Office of the Courts, 201 South Carson Street; Las Vegas: Regional Justice Center, 200 Lewis Avenue, 17th Floor.

MEETING SUMMARY

ADMINISTRATIVE OFFICE OF THE COURTS

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MEETING SUMMARY

*Prepared by Stephanie Heying and Raquel Rodriguez
Administrative Office of the Courts*

**Supreme Court Commission to Study the Creation and Administration of
Guardianships in Nevada's Courts**

Date and Time of Meeting: January 22, 2016, 1:00 p.m. to 4:30 p.m.

Place of Meeting:

<i>Carson City</i>	<i>Las Vegas</i>	<i>Elko</i>
Nevada Supreme Court 201 South Carson St. Law Library, Room 107	Regional Justice Center 200 Lewis Ave. 17 th Floor, Courtroom	Fourth Judicial District Court 571 Idaho Street, Dept. 2

Members Present:

Chief Justice James W. Hardesty, chair
Chief Judge Michael Gibbons
Judge Frances Doherty
Judge Nancy Porter
Judge Cynthia Dianne Steel
Judge Egan Walker
Senator Becky Harris
Assemblyman Michael C. Sprinkle
Assemblyman Glenn E. Trowbridge
Trudy Andrews
Julie Arnold
Debra Bookout
Kathleen Buchanan
Rana Goodman
Susan Hoy

Jay P. Raman
Sally Ramm
Kim Rowe
Terry Russell
Christine Smith
David Spitzer
Kim Spoon
Timothy Sutton
Susan Sweikert
Elyse Tyrell

AOC Staff

Stephanie Heying
Hans Jessup
Raquel Rodriguez

I. Call to Order

a. Call of Roll and Determination of Quorum

Chairman Hardesty called the Commission to Study the Creation and Administration of Guardianships (Commission) to order at 1 p.m. A quorum was present.

b. Approval of Meeting Summary from December 15, 2015, meeting.

The December 15, 2015, meeting summary was unanimously approved.

II. Public Comment

Public Comments were transcribed verbatim and are included as a separate attachment to the meeting summary.

III. Updates

Complaints/Reports

Mr. Jay Raman has been working closely with Las Vegas Metropolitan Police Department's (LVMPD) Abuse and Neglect Division. Meeting materials included an email that was sent to law enforcement support technicians, patrol service representatives, and patrol officers by Lieutenant James Weiskopf, Special Victims Section, LVMPD. The email restates people who take reports at the station do need to take the report and if they have questions about the nature of the complaint, they should contact the Abuse and Neglect Detail for further guidance. People have a duty to be mandatory reporters and if someone is not willing to take that report then they are not able to fulfill their legal obligations. Additionally, if someone sees or notices that someone is being exploited or abused, whether they are under guardianship or not, they need to report the exploitation and/or abuse. Mr. Raman would continue to work with law enforcement. This is an ongoing process and this was a positive step in the right direction.

Conservatorship Accountability Project (CAP) Award

Mr. Riley Wilson reported the Eighth Judicial District Court, with the approval of the Nevada Supreme Court, applied for and was awarded a technical assistance grant through the National Center for State Courts (NCSC). The grant allows the District to become a pilot state for the Conservatorship Accountability Project (CAP). Minnesota, along with NCSC, developed CAP, which includes an application via a website that allows guardians to enter inventories and accountings. Online training, including YouTube videos, is available to help educate those filling out the applications. The software is open source so any changes the District might make would be shared with other states and vice versa. The District's IT Department is working on the licensing agreement and the implementation of the software. The purpose of the software is to modernize the collection of information and allows inventories and accountings to be filed into the case electronically. The software allows the court to put all inventories and accountings into the same format, making auditing easier and standardizing the process. A copy of the award letter and news release was sent to members prior to the meeting.

Assembly Bill 325 – Licensure Private Professional Guardians

The Financial Institutions Division (FID) held a workshop in December, allowing Private Professional Guardians (PPG) a forum to list their issues/concerns regarding draft regulations for the licensing requirements of PPG's pursuant to the passing of Assembly Bill 325. Ms. Spoon reported FID listened to the concerns expressed by the PPGs and have made some good changes in the second draft, including reducing the licensing fee to \$500. The PPGs are uncertain how much other fees, such as auditing, will cost. The PPGs were pleased FID listened to their concerns and they are working together in good faith. There are still some issues that might need to be addressed through legislation and the PPGs would be reaching out to their legislators.

Ms. Susan Hoy has been working with several insurance and bond companies to meet the bond requirements pursuant to the licensure. Ms. Hoy noted they have had a difficult time finding a company in Nevada that would issue a bond to meet the requirements. Senator Becky Harris asked Ms. Hoy to provide additional information on the bond issue. Senator Harris noted the bonding component of AB 325 was critical and it is important that PPGs are bonded and she is concerned there is only one company that will issue this type of bond. Ms. Hoy explained that under section 33 of AB 325 there were two bonding components. (1) Bonding as it applies to NRS 159 and (2) bonding as it applies to the business and the employees of the business. There were no issues with the bond as it applied to NRS 159. The issue was with the bond for the business and employees due to the liability. Many of the bond companies requested that a form be provided from the state. Ms. Hoy contacted FID about the form and FID told her they did not have a form; Ms. Hoy needed to let the insurance company know she needed a fidelity bond. The insurance companies said they needed the form to determine risk. Ms. Hoy's office was able to locate an insurance company out of Missouri that would write the bond, covering up to 10 employees. Ms. Hoy noted the main issue is how the statute reads, is it one bond covering all employees or is a bond required for each employee. There are questions as to where the \$25,000 figure came from, and where the state form is.

Senate Bill 362 – Resident and Nonresident Agent

Justice Hardesty has had several meetings with the Secretary of States' Office (SOS) to discuss the provisions of Senate Bill 262 (SB 262) and how it is being implemented and the challenges associated with the bill. Justice Hardesty asked Mr. Jeff Landerfelt, Deputy Secretary of State for Commercial Recordings, to discuss SB 262 and the challenges that have been raised.

Mr. Jeff Landerfelt thanked Justice Hardesty for the opportunity to present to the Commission. Mr. Landerfelt stated, pursuant to SB 262(1)6(b), a Court-Appointed Nonresident Guardian of an adult must appoint a registered agent "in the same manner as a represented entity pursuant to NRS 77" through a filing with the SOS Office. While this is generally straightforward, it does present some issues in application simply because NRS 77 addresses the appointment of registered agents only in a business context, which does not fit squarely with the appointment of registered agents in a Ward/Guardian context.

The basic requirements of registered agents, as specified in NRS Chapter 77 and NAC Chapter 77, are minimal. In order to serve as a registered agent in Nevada, one must be at least 18 years of age, willing and able to accept service of process, and must physically reside in or have a physical location in Nevada where process may be served. An individual or business entity becomes a registered agent by signing and filing a Registered Agent Acceptance form with our office, which includes an acknowledgement stating that they are accepting appointment as registered agent for the named entity, in this case the Nonresident Guardian.

In filling out the Registered Agent Acceptance form, the registered agent must provide his or her name and street address. The named location must:

1. Be an actual physical address in this State (post office boxes, mail drops, mail forwarding or other mail service companies are prohibited);
2. Be open during normal working hours;
3. Be staffed by at least one natural person who is of suitable age and discretion to receive service of legal process and any demand or notice authorized by law; and
4. Have operations sufficient to allow for proper service of all legal process and any demand or notice authorized by law to be served upon the entity represented by the agent.

The basic statutory duties of registered agents are as follows:

1. To forward to the represented entity at the address most recently supplied to the agent by the entity any process, notice or demand that is served on the agent;
2. To provide the notices sent by the SOS to the entity;

The obligations of Registered Agents when resigning could present a problem in the Ward/Guardian context. A registered agent for a business entity has a duty to notify the entity upon resignation with the SOS, and the resigning Registered Agent's duties cease 30 days after filing for resignation, or earlier if a reappointment has occurred. The same resignation process in the Ward/Guardian context could leave the Nonresident Guardian without a Registered Agent if the resigning Registered Agent failed in this duty to notify the Nonresident Guardian, and the court would not, in any case, be aware of a resignation and reassignment. Currently, an appointment of a Registered Agent for a non-registered entity, which is how we are currently treating appointments related to Ward/Guardians, expires in 5 years.

Currently, on a form developed for this purpose, the following information is collected:

- Name of the Ward
- Name, address, and signature of the Nonresident Guardian
- Name, address, and signature of acceptance of appointment, of the registered agent

A fee of \$60 is collected with the filing. After entry into the database, the information above is searchable on the Business Entity Search by the Ward's name. SOS requires a copy of the court order with the filing, although SOS have only recently begun doing so. Those who did not provide a copy of the court order are being contacted to do so.

NRS 77 gives our office broad regulatory authority related to the appointment of Registered Agents. While we are not familiar with the nonresident guardian process, SOS welcomes any guidance from the Commission as we develop processes related to the appointment of registered agents for Court-Appointed Nonresident Guardians of Adults. It may be that additional specific requirements are needed to address the unique circumstances surrounding the appointment of Registered Agents of Court-Appointed Nonresident Guardians. In particular, the court may wish to address the following:

- Does the Commission wish to have additional qualifications for Registered Agents representing Court-Appointed Nonresident Guardians?
- Are the staffing and hours requirements necessary in the Ward/Guardian context?

- Does the Commission foresee a “Commercial Registered Agent” equivalent in the Ward/Guardian context?
- Does the Commission envision different or additional duties to apply to Registered Agents of Court-Appointed Nonresident Guardians?
- Would the Commission require certain record retention duties of Registered Agents of Court-Appointed Nonresident Guardians?
- Would the Commission prefer a provision related to resignation of the Registered Agent whereby the court is notified at the time of resignation and subsequent reassignment?
- Would it be best to not apply the 5-year expiration to appointments related to Ward/Guardians?

The Commission may also wish to address the penalties, as outlined in NRS 77.447, associated with violations of Registered Agents, and perhaps the notification associated with alleged violations, to include notification to the court, which ordered the appointment and the represented nonresident guardian. Currently, only the Registered Agent must be notified.

Justice Hardesty noted the SOS has regulatory authority to handle some of the questions posed but some might need to be addressed legislatively. There needs to be coordination between the courts and the SOS office to make sure this important compliance piece is being addressed. This is not as simple as it seems and there is a lot to do. The questions would be distributed to members for their review and this would be added as an agenda item for the next Commission meeting. Justice Hardesty requested the lawyers on the Commission and requested Judge Doherty and Judge Steel to go back to their Bench Bars and discuss this issue. The issues need to be vetted and the orders entered by the court appointing nonresident guardians need to be furnished to the SOS Office and the SOS Office needs to notify the court if someone resigns.

Data/IT Subcommittee Update

Mr. Hans Jessup provided a report from the Data/IT Subcommittee. The Subcommittee discussed how to best count and measure guardianship cases, specifically the performance measures. One of the areas identified was Nevada Revised Statute (NRS) 159.057. NRS 159.057 states, if the appointment of guardian is sought for two or more proposed wards who are children of a common parent, parent and child or husband and wife, it is not necessary that separate petitions bonds and other papers be filed with respect to each proposed ward or wards. This could create an issue in determining court performance measures. For example, if there are multiple wards one of the wards might age out or pass away and the other ward does not, so the case might be arbitrarily extended. In this case, there would not be one-to-one measurements for performance measures. The Subcommittee reviewed whether cases could be filed under A, B, C designation as well as how this might affect court administration. The Subcommittee recommends creating a court rule that cases are filed under separate petitions for individual Wards or subjects of guardianship. If necessary, the NRS could be amended at the next legislative session.

The Commission had discussed the reason for filing one petition with multiple wards was to avoid additional filing fees. Many of the minor guardianship cases do not have filing fees because there is no estate value and under NRS Chapter 19, no filing fees would be associated with the case. The Subcommittee reviewed and provided a list of the filing fees charged throughout the state. There could be an impact, depending on the estate value, if multiple petitions had to be filed. The chart provided indicates filing fees vary from county to county depending on the value of the estate. Mr. Jessup stated the Subcommittee wanted to bring the filing fees to the Commission's attention and suggested the Commission review the filing fees.

The Commission discussed the inconsistency among the districts and that the interpretation of the statutes providing filing fees creates some uncertainty about what fees should be charged and under what circumstances. The Commission discussed filing fees are tied to the estate value, and in most of the guardianship cases, the estate value would not be known at the time of the filing of the petition for guardianship. In addition, the court may never take jurisdiction of over the estate in a guardianship case yet the filing fee is based on the estate value. Additionally, NRS 19.020 subparagraph 2 states, "at the commencement of any proceeding in any district court for the purpose of procuring an appointment of administration upon the estate of any deceased person, or procuring an appointment as guardian, the party instituting the proceeding shall pay the clerk of the court the sum of \$1.50. Subparagraph 4 states, the several fees provided for in this section are designated as court fees, and no such action may be deemed commenced, proceedings instituted, nor appeal perfected until the court fees are paid." The chart indicates counties are not charging any fee for guardianship estates valued at \$0 to \$2500 and some do not charge a filing fee for estates valued at \$2500 - \$20000. Does this render those guardianships invalid? This is an interesting legal question. It was suggested the Commission might look into a flat filing fee or no filing fee at all. This would be included as an item for discussion at the next Commission meeting.

IV. General Policy Questions and Recommendations

The Commission reviewed questions 1-8 at the December 15 meeting. The Commission began to review the remaining general policy questions beginning with question 9.

Question 9: Does the Commission support a recommendation to adopt Supportive Living Agreements similar to the approach taken in Texas?

Texas had adopted a practice/program where an individual could enter into a Supportive Living Agreement (SLA). Justice Hardesty noted, as a matter of policy, while a SLA seems like a good idea there are no real protections for the Ward that comes from such a document. If this were a less restrictive or less intrusive invasion of a Ward's rights, it seems there would need to be some accountability to reduce the risk of abuse and elder or Ward exploitation.

Discussion

Commission members expressed concern that there might not be oversight or monitoring of an SLA.

Judge Doherty stated the Second Judicial District's Task Force (Task Force) has discussed this concept. The Task Force thinks a SLA would address the avoidance of life-long guardianship oversight for some young adult persons whom might otherwise be subject to a guardianship but have wraparound supports in place. The SLA might not be any riskier than the many power of attorneys that are signed and authorized by individuals who are seeking avoidance of guardianship courts. Judge Doherty noted the Commission does not have the advanced thought or substance on this type of agreement at this time. There is only the idea. The SLA has been included in the Second Judicial District's draft pro per guardianship petition as a listed entity to avoid or reduce the need for guardianship. The Task Force recognizes the need for statewide consensus. Judge Doherty encouraged the Commission to not take this off the table and allow the Task Force time to develop this concept. The Task Force would provide the Commission more information, including the potential for court oversight or recommending against court oversight.

The Commission discussed court oversight and/or approval of SLAs and if there would be a reason not to include requirements for inventories and accountings under a SLA. Judge Doherty thought this could go either way depending on the Commission's preference. Many young adults and seniors have the challenge of accessing and coordinating services. A SLA is about coordinating a plan and authorizing people, who are otherwise there to support the person, to pull a plan together and have some designated agency authority to interact with the service providers.

Judge Walker is supportive of Judge Doherty's comments and suggested tying a SLA with the Bill of Rights. This would provide protections for the Ward and the SLA could be bolstered by the Bill of Rights, demonstrating the substantive rights that Wards or persons subject to SLAs could have.

The Commission discussed freedom of contract. If the person has the freedom of contract, at least under normal legal standards that would be expected of enforceable agreements, then the person might not be subject to a guardianship in any event. That is what Texas was attempting to address. Judge Doherty stated the court receives a high volume of cases that are referred by the school district once a child turns 18 (Individualized Education Programs (IEPs)). This does not necessarily encompass the need for a guardianship from the court's point of view but might encompass the need from the school district's point of view, and other adult service providers for some coordinated planning. As Judge Walker is saying, tie it to the Bill of Rights we can put the Bill of Rights in statute, reference that, and incorporate the Bill of Rights into any agreement that might ultimately be approved as an alternative plan.

Ms. Arnold is concerned that if someone were exploited under a SLA the person would not have the means to bring the civil suit and enforce their Bill of Rights. The SLA could be introducing a person to potential exploiters.

Justice Hardesty noted his concern is the concept of SLAs is people could enter into the agreement through any contract of their own free will, so if there is no court or similar type of oversight it would be difficult to know how many SLAs are out there. Justice Hardesty is not sure how Texas plans to capture this information but it would help to understand if this concept is working. Justice Hardesty suggested the Task Force consider this issue as well. How does one determine how SLAs are working?

Judge Doherty noted she is having a hard time distinguishing why there is a greater level of concern for SLAs then there exists for power of attorneys or durable powers of attorneys. Individuals who have the capacity can enter into those agreements now and whether a person has the capacity to enter into those agreements is not reviewed by the courts. Judge Doherty asked why the Commission is distinguishing between alternative methods of creating a plan for an adult who is presumed to have capacity and whom we may facilitate more support services for to maintain their independence but we do not have that same worry about more potential authority that is given under a durable power of attorney.

Judge Doherty would bring information back to the Task Force and ask the representatives from Texas to provide additional information on their processes. Judge Steel suggested asking the Task Force to focus on if there is a SLA does the court have to authorize the SLA. If so, does that give the supporting persons or the wraparound persons rights with vendors in the community, and do the vendors have to provide the same respect they would under a guardianship. How would this differ? Judge Doherty would bring this to the Task Force and report to the Commission at the next meeting.

Question 10: Should every hearing involving a Ward require the Ward's presence, which can only be exempted upon medical showing or some other good cause approved by the court?

Discussion

The Commission discussed the requirement of having a Ward present at all hearings. Commission members noted there are times a Ward will say they do not want to attend the hearing. A Ward might not be able to attend or it might be laborious task for them to attend due to physical or emotional reasons. Some Wards might not want to attend because they are angry or upset. Commission members have experienced the Ward being fearful that if they go to court that means they would be arrested. There might be medical reasons why a Ward could not attend a

hearing. Rural areas might have a difficult time getting the Ward to attend hearings in person because the Ward is in a facility in another area e.g., the Ward may be in acute care in Reno because that is the level of care required and the rural community does not have an acute care facility. Lack of transportation is not a reason for not attending.

The Commission discussed allowing a Ward to participate via video or teleconference. It was suggested that if current statute does not allow for this type of participation it could be added to the language. Judge Porter stated the Fourth Judicial District has video CourtCall® available. Judge Doherty noted if the Ward does not want to attend the hearing and their attorney says they do not want to attend, the court would honor their right to refuse. The Second Judicial District would try to talk to the Ward via teleconference or through other efforts.

Mr. Rowe noted question 10 contemplates Wards attending every hearing, not just the initial hearing. The statute already requires the Ward to attend the initial hearing, so the question is do we go beyond that and require the Ward to attend every hearing. There has been emphasis placed, in Washoe County, on the Ward attending the hearings in person unless they are excused. As a practitioner, Mr. Rowe tries to address the attendance of future hearings at the initial hearing and evaluate whether a Ward should be required to attend each hearing on an individual basis. Mr. Rowe does not have any problem saying the Ward should be present at every hearing, since every hearing affects the Ward's life. The court's oversight and ability to gauge and judge for themselves whether the guardianship is appropriate or if the scope of the guardianship is appropriate is beneficial. If there is an appropriate reason to excuse the Ward then they should be excused.

Judge Doherty said the Second Judicial District has a high percentage of Wards that attend the hearings and the court encourages their attendance. If the Ward is not in attendance, the first question the court asks is why. If counsel waives because they conferred with the person that is sufficient for the court but that rarely happens. The person also might not attend in person due to a medical excuse.

Mr. Rowe stated the vast majority of people subject to the guardianship want to be at the court hearings if they can physically be there, or participate by phone or through other methods. Only 5 – 10% are too physically feeble or have medical reasons why they cannot attend. Washoe County is fortunate because the person subject to the guardianship has legal representation who can speak for them. If there is no one to speak for the person subject to the guardianship then it is imperative for the judges to make a face-to-face evaluation.

Commission members conveyed the importance of Wards attending the hearings in person. It is imperative that a person subject to guardianship be in attendance at the initial hearing whether they are represented by counsel or not, unless they are medically unable to attend. The discretion should be left with the court as to whether the person subject to guardianship's appearance is required. It is important that the judge is able to see the Ward and the Ward has a right to hear what is being said about them and the right to respond.

Ms. Hoy and Ms. Spoon stated they work very hard to make sure the Wards are in court. It is very important for the person who is subject to the guardianship to attend the initial hearing as well as the hearings thereafter, even if the Ward has an appointed attorney.

Mr. Raman suggested as a workaround, since it is very important that the judge lays eyes on the Ward, maybe the judge, attorney, and any other appropriate parties could go to the Ward. This may be for rare situations.

Judge Steel asked if a Ward refuses to come to court and the judge cannot identify a reason why the Ward should be excused, would the court not make a decision that is before them on that day. If the judge does make a decision, is that decision going to be viable because the Ward did not attend the hearing? Judge Steel expressed concern if the

first time she was meeting a Ward was over the phone. How would the judge know that was the Ward on the phone? Judge Steel would prefer meeting the person subject to the guardianship face-to-face at the initial hearing. She did like the idea of visiting the Ward. Someone could visit the Ward and provide an affidavit that the Ward states they will not attend the hearing. If the Ward does not want to attend the hearing it would be perceived as forcing them to attend. The Commission has been all about the proceedings not forcing the Wards to do things they do not want and to be less intrusive in their life, but now if the Ward does not want to attend the hearing the courts are going to force them to attend. Judge Steel would like the Commission to think about these concerns before making a hard and fast rule that Wards have to attend every single hearing. Judge Steel thinks it is very valuable for the Wards to attend and she learns a lot by meeting with the Ward and it provides the opportunity to talk with them, which is helpful. She is concerned that making a hard and fast rule on some of these things might be detrimental.

Senator Harris said we want to be sensitive to each person's proclivities to come to court or not, but if there is no requirement to have some kind of video or court presence then the Commission is losing sight of the accountability. Senator Harris is concerned that the court would go right back to the possibility of abuses that the Commission has been working so hard to overcome. The Commission needs to make certain it is doing its due diligence in the investigation and making sure those Wards truly require a guardianship and that circumstances have not changed and our accountability measure in that process. Judge Steel responded it might be helpful to have an investigator that the court could send to visit with the Ward and report to the court that they visited the Ward to make sure they were ok.

Ms. Arnold stated if the Commission achieves one of its earlier goals of each Ward having legal representation then the attorney could visit with the Ward, in person, and represent the Ward in court. The Ward's legal representation could let the judge know they have seen the Ward and the Ward does not want to attend the hearing. There might also be Wards who would be physically dangerous because they are combative or mentally impaired and could attack someone. Ms. Arnold thinks this concept is aspirational. It would be beneficial to see the Wards at every hearing, but there should be an escape clause for situations where there is a medical or emotional reason or there is an attorney or investigator who could report they have seen the Ward and explained what is going on in court and that the Ward does not wish to attend the hearing. Ms. Arnold thinks the Commission could achieve those ends without making it a statutory requirement to show up in court. Justice Hardesty asked if the exemption for some other good cause covers that. Mr. Arnold responded she would hope so. Ms. Arnold wants it understood that these are types of situations that could fall under good cause.

Judge Doherty moved that question 10, as written or slightly modified, encompass every single person's comments today and that good cause findings be incorporated into the reference of good cause approved by the court. Judge Doherty added she thinks all of the Commission's concerns are addressed in question 10 as it is written.

Judge Walker does not disagree with the comments about attendance of the proposed Ward. Judge Walker stated in Washoe County there are more minor guardianships than adult guardianships and this conversation assumes the Commission is only talking about adult guardianships. Judge Walker oversees foster care cases and would not want a young child to see dad, who has been removed from the home for battering mom, for example, at the courthouse at the first hearing or any hearings. Judge Walker used that example, not to oppose the assumptions behind question 10 or the comments, but to argue that we need to consider a subchapter or a different way of handling this for minors because their needs are fundamentally different from adults.

Judge Doherty agreed with Judge Walker and suggested question 10 only applies to adult Wards. Judge Steel seconded the motion.

Additional Discussion

Mr. Tim Sutton would be opposed to the exclusion of minors. Justice Hardesty stated question 10 would apply to adults and the issue of minors would be addressed separately. Judge Walker agrees that minors should not be excluded. One of the challenges Judge Walker has with the law as it is written is a proposed Ward in this state MUST attend the hearing for the appointment of guardian. That includes ALL proposed Wards right now. Judge Walker would have infants and young children in court who are seeing their parents for whom they have been removed. Judge Walker is suggesting this should be nuanced. Mr. Sutton agreed with the concerns Judge Walker raised and would be ok with the motion as long as minors would be addressed separately. Justice Hardesty stated yes.

Ms. Heying took a roll call vote. Yea 25; Nay 0; Excused/Absent 1.

Question 11: Should the notice requirements in Chapter 159 be amended and if so how?

Justice Hardesty stated the threshold questions are:

- What are the present requirements under NRS Chapter 159 for notice of guardianship initially?
- Who must receive notice?
- How is notice proven?
- How is notice documented?
- What rulings does the judge make about notice before starting into the merits of the proceedings?

Judge Doherty explained the Second Judicial District looks for notice at the initial filing and reviews to see if notice is provided to persons identified within the 2nd degree of consanguinity. The court recognizes that not everyone is known at the time of the petition. Judge Doherty stated the weakness in the statute is not necessarily the upfront filing and notice components, although they could be bolstered some, but there is no language of notice with respect to inventories. The statute includes heavy upfront notice requirements for the petition, and there is a notice requirement for accounting but nothing for the inventory. This could be improved and Judge Doherty suggested refining the method of identifying interested persons. There might be interested persons who are not within the 2nd degree of consanguinity. Judge Doherty suggested formally acknowledging or contemplating a protocol by which someone identifies them as a person of interest requesting ongoing notice and somehow reviewing that request. Judge Doherty explained the court verifies notice of the Ward in the same manner as notice on every other entity. The court requires notice be personally delivered to the Ward. The older practice was that notice was sent to the administrator of the skilled facility or group home. This is still required but that is not notice on the Ward and the district has made that clear. The court requires independent direct notice to the person who is going to face the guardianship. Judge Doherty does not know if that is efficiently defined in the statute. Mr. Rowe and Justice Hardesty stated they did not think it was.

Judge Porter requires personal notice to the Ward. Judge Porter has many pro pers who do not know how to provide the required notice to the persons. If the pro per does provide notice they do not know how to file proof that they have given notice, which has been a real struggle in her district. Judge Porter does not proceed if she does not feel a sufficient number of people have been notified.

Judge Steel commented the Eighth Judicial District handles notice the same as the Second and Fourth Judicial Districts. The court requires the Ward to be noticed by return receipt requested on initial filing and by certificate of mailing on the other filings. Judge Steel suggested evaluating the tools that are available now to provide notice and

see if we could create a registry somewhere that would allow someone to check to see if their loved one is on the registry.

The Commission discussed having to rely on the clients to provide names, address, and relationships. Mr. Spitzer noted Washoe Legal Services interviews the proposed Ward to identify persons within the 2nd degree of consanguinity. If they receive anything that differs from the notice given in the petition, they will bring it to the attention of the court and other parties. Access to accurate information is limited to the Wards ability to provide the information.

Mr. Rowe agrees with Judge Doherty about the inventory and other ancillary matters. He has always thought it was odd that the statute (NRS 159.034) list the 2nd degree of consanguinity but the statute does not call for notice to the Ward in that statute. The statute talks about providing notice to any person or care provider who is taking care of the Ward but the statute does not specifically identify the Ward. Mr. Rowe noted this is more of a local rule issue where the proposed Ward would be a party and you need to provide notice to the party. Mr. Rowe was not sure if the statute was amended this last legislative session to include this language but the current statute does not specifically require notice to the proposed Ward. Mr. Rowe thought the statute should be clarified and it could clean up the language post guardianship.

Judge Steel noted court hearings are not required with some of the documents, e.g., the inventory or report of person. Judge Steel said the Commission would need to review whether the court would be required to monitor whether someone has received notice when there could be years between granting the guardianship, filing the inventory (if the inventory is for summary adjudication no accounting would be filed and there would be no notice of accounting). The Commission would need to review if the court would be required to file every single year the notice of person and do a certificate of mailing. Judge Steel has cases that are estate only so there is no report of person. The IT Department might be able to assist the court to make sure that the follow up document is filed.

Mr. Rowe said NRS 159.047 does talk about the issuance of the citation that has to be served on a proposed Ward who is 14 years or older. The reference to NRS 159.034 comes back from the estate side, which you have provide notice. The Ward is referenced in the context of who gets a copy of a citation, indicating there is going to be a hearing. The question the Bench Bar Committee in Washoe County has been debating is do you actually have to serve a copy of the petition along with the citation. Judge Doherty noted the Bench Bar Committee also noticed the orders do not necessarily contain the list of individuals who are entitled to notice. There is a guardianship order where the statute contemplates all those individuals being in the original guardianship order are listed so the person under guardianship is aware of that as well. They have just started to do this in Washoe County. The Task Force recognized there are quite a few deficits and inconsistencies that should be addressed.

Mr. Raman was concerned that the investigation would stop with asking the Ward who their family is. Mr. Raman suggested having a private investigator or Elder Protective Services (EPS) identify if there are additional family members. Mr. Spoon agreed with Mr. Raman and noted her office tries to reach out to as many people as possible in their investigation to identify family members. This is a part of their standard practice. Ms. Spoon noted there are times when the proposed Ward does not want a particular family member identified. Maybe they have a sibling they have not talked to in 40 years and they do not want them to know they might be going under a guardianship. The proposed Ward might be upset or mortified that certain family members are to be notified. Ms. Spoon is not sure that anything could be done in these situations but she wanted to make the Commission members aware of this issue because it can be very difficult on the propose Ward.

Justice Hardesty asked the Bench Bar Committees in the north and south to review this topic (question 11) further and provide recommendations to the Commission regarding notice. The Commission would review the possibility of a more expansive recommendation as to how specifically the notice requirement in NRS Chapter 159 could be implemented, and what it should be extended to.

Question 12: Does the Commission favor the idea of limited guardianships in circumstances in which the capacity of the individual may not place them in a position where a full guardianship is warranted?

Question 12 is conceptual. Materials had been received from Mr. Hank Cavallera expressing a reservation about the use of limited guardianships. Question 12 was written with the approach initiated in Texas in mind. Justice Hardesty suggested the Commission review question 13 prior to question 12.

Question 13: Does the Commission favor so called “person-centered planning” and determinations by the Court that guardianships are approved only for “least restrictive alternatives?”

Discussion

- Ms. Goodman noted seniors might have a problem in a specific area of their life, e.g., paying bills, but are able to function in all other areas and live on their own. Ms. Goodman thought a limited guardianship would be ideal and could allow a person to stay in their home.
- Ms. Buchanan noted the Clark County Public Guardian’s office already does this. Ms. Buchanan provided an example of when a limited guardianship would work well. Example, a mental health client who is on their medication and they suddenly go off their medication. The order states that while the person is in a good cognitive state, where they can handle their affairs, the office does not have a guardianship. The minute the person goes off their medications the office would step in for that limited purpose of getting the person back on their medication or whatever medical resources they need and then the guardianship would go away.
- Ms. Arnold suggested questions 9, 12, and 13 were intertwined. Each question approaches the problem of losing capacity at different rates and different areas. Ms. Arnold thought limited guardianships were a good idea.
- Ms. Hoy said the “person-centered planning” approach begins at the initial hearing with the Ward participating in the process. This should not end there. It should go on to where that person wants to live, what is the least restrictive setting, what is their ability to have access to their own monies, etc. The National Organizations want guardians to take the “person-centered planning” approach. How much of the day-to-day tasks and decision-making can that client or Ward participate? If they are making decisions that are not causing harm to themselves or others then their role is to be supportive of those decisions so they are providing the least restrict settings and providing them with a sense of dignity. The Commission should consider this important area.
- Mr. Sutton suggested this be included in the certificate that would support a petition and should include an analysis of the least restrictive means. The Commission discussed modification to that form at its last meeting and Mr. Sutton thinks the form should be required to address this. The statute might already require this to be addressed.
- Ms. Spoon stated Nevada has a statute called a special guardianship of limited capacity. A guardianship of limited capacity could be established where someone might need help in some areas but not in others. Ms. Spoon provided an area of concern. If a person is suffering from some type of dementia/progressive disease, e.g., Alzheimer’s, where the person might be fine in one area one day and not the next and there is a limited guardianship, the guardian might have to keep going back to court to address areas of the limited

guardianship as the person's disease progresses. Ms. Spoon said the PPG have learned in a general guardianship, even though there are some areas where this person might be able to make good decisions for them, a good guardian should allow that to happen. All guardianships should be limited and guardians should allow their clients to make decisions if they are able to make them. If they cannot make a decision then the guardian would step in to protect them. This is a very individual thing and she thinks the Commission needs to consider those situations.

Justice Hardesty said whatever approach is taken in the guardianship it is intended to address that person's particular needs. Justice Hardesty was looking at this from the standpoint of least restrictive alternatives. Judges were asked if they currently make findings as a part of their orders when they approve guardianships that there are no other least restrictive alternatives to guardianship.

Judge Doherty responded their court addresses this issue more significantly than they have done in the past. Judge Doherty has not encountered the same experiences as Mr. Cavallera and Ms. Spoon. Since Judge Doherty began handling guardianship cases three years ago, the majority of the guardianships were guardianship of the person and the estate. As the court began collecting data, particularly in the last year, the court's data is reflecting what is going on in the courtrooms. The court is reducing the necessity of guardianship of the estate when the person is impoverished and their only source of income is from Supplemental Security Income (SSI). There is already a system in place through the Social Security Administration to handle and monitor that person's funds. A similar program exists for veterans through the Veteran's Administration. As a standard protocol, the court has begun not issuing guardianships of the estate and person where there is an insignificant estate. The court has begun using the special guardianship for limited purpose for those individuals who have limited areas where they truly have challenges addressing their needs. An attorney advocate is a part of this process. The court's data shows that those types of guardianships are increasing. Additionally, the court is talking about "what" the alternatives are. The proposed pro per guardianship petition has affirmative statements being made as to what the alternatives are and why those alternatives did not work. The court is trying to poise itself for the anticipated requirement that courts would be expected to address those findings by statute. If that does not happen the court still thinks it is good public policy to address those issues and the statute contemplates this should be done now. Woven into our statute is the expectation of least restrictive alternatives and woven into our statute is the "person-centered planning" concept. The Commission should crystalize this with more specificity if it is going to have all Wards, litigants, and attorneys talking on the same page.

Justice Hardesty asked Judge Doherty her thoughts on question 15, which is another way of address question 13.

Question 15: Should the Court be required to make specific findings in any order appointing a guardian that includes a conclusion that no other least restrictive means are available to address the needs of the proposed wards?

Judge Doherty said this is a state of art and the court should be making those findings. Judge Doherty would argue that Nevada statute has some level of expectation of specific findings and the Commission should make this clearer. The nature of the conversations in the court hearings and the nature of the pleading often fail to mention alternative documents, e.g., power of attorney, that may exists that could provide alternatives or provide additional insight. The Commission should identify best practices and it would be appropriate to include the best practices in statute or in some form of policy protocol. The hearings are so short that making these findings are insignificant if you add the responsibility on the court of making additional findings. The courts should be doing that now so it is not terrifically adding to the burden of any player to address those issues.

Judge Walker moved that the Commission acknowledge the purposes and tenets behind questions 13 and 15 because they are interrelated. Justice Hardesty confirmed Judge Walker moved to approve questions 13 and 15. Judge Walker responded yes. Ms. Terry Russell seconded the motion.

Additional discussion

Judge Steel wants to be sure the Commission understands what the parameters are, what least restrictive means is, and what it is not. Some of the people utilizing the court's services will be pro per as guardians and might not be able to communicate the difference between something that is least restrictive or not. If they do not provide the court with this information then the court has not made a good decision. Are they now going to be reliable for not giving the court all the information because they had no idea? Justice Hardesty said the approach in Texas was to force the judge to ask the question, to press even the pro per litigants and the litigants with lawyers. Have you explored other alternatives? What investigation did you make to the availability of other alternatives? Press this issue before the court makes those findings. Judge Walker added the court has to make these very findings in foster care cases and the court should make these findings in guardianship cases.

Ms. Heying took a roll call vote. Yea 21; Nay 0; Abstain 1; Excused/Absent 4.

Wrap up

Commission members were asked to review General Policy Questions 16-23 prior to the next meeting. Commission members should be prepared to discuss and vote on those questions at the next meeting. The objective is to review all 29 questions by the April 1 meeting so the Commission could begin to get into the specifics. The February meeting agenda would include a discussion about the filing fees, an update on the private professional licensing process, and a discussion on the issues identified by the Secretary of States' office on SB 262. A summary of the meeting, which will include the questions posed by Mr. Landerfelt, will be sent to Commission members.

V. Future Meeting Dates

The next meeting will be held on February 26, 2016.

VI. Adjournment

The meeting was adjourned at 4:20 p.m.

GENERAL POLICY QUESTIONS

General policy questions:

1. Should the Nevada Supreme Court establish a permanent Commission to address issues of concern to the elderly, including continue review of Guardianship Rules/processes in Nevada?
2. Does the Commission favor a recommendation to adopt a Bill of Rights for Wards?
3. Does the Commission recommend the idea that every Ward, regardless of means, is entitled to legal counsel? How and under what circumstances should an attorney be appointed?
4. Does the Commission favor a Guardian Ad Litem program similar to Virginia or under some other model? How and under what circumstances should a GAL be appointed?
5. Does the Commission recommend the use, where available of volunteers or programs similar to SAFE to assist proposed wards and the Court in a guardianship proceeding?
6. Does the Commission favor the idea of changing definitions or terminology? Should the Commission recommend changes to the Physician Certificate and if so how?
7. Does the Commission wish to make recommendations concerning the confidentiality of all or some of the proceedings in guardianship cases?
8. Does the Commission recommend changes to the process for the appointment of temporary guardianships? If so, how should that process be modified?
9. Does the Commission support a recommendation to adopt Supportive Living Agreements similar to the approach taken in Texas?
10. Should every hearing involving a Ward require the Ward's presence, which can only be exempted upon a medical showing or some other good cause approved by the court?
11. Should the notice requirements in Chapter 159 be amended and if so how?
12. Does the Commission favor the idea of limited guardianships in circumstances in which the capacity of the individual may not place them in a position where a full guardianship is warranted?
13. Does the Commission favor so called "person-centered planning" and determinations by the Court that guardianships are approved only for "least restrictive alternatives"?
14. Does the Commission wish to make recommendations concerning the use, timing, scope, process and participants in mediation in guardianship proceedings?
15. Should the Court be required to make specific findings in any order appointing a guardian that includes a conclusion that no other least restrictive means are available to address the needs of the proposed ward?
16. Does the Commission recommend rules to evaluate Court supervision of guardianships including training, staffing, scheduling and caseload limits?
17. Does the Commission favor the use of Elder Protective Services (EPS) or some other entity independent of the court system to conduct investigations as necessary?
18. Does the Commission favor the use of auditors independent of the Court system to evaluate financial records, fee requests and other petitions/motions raising financial issues concerning the ward?
19. Does the Commission favor recommendations concerning the training, licensure or other matters pertaining to the practice of private professional guardians?

20. Does the Commission wish to make recommendations concerning the use, timing, training, or caseloads of the Public Guardians?
21. Does the Commission wish to make recommendations concerning the use and appointment of private professional guardians?
22. Does the Commission wish to make recommendations concerning the fee structure to compensate guardians and others they hire?
23. Does the Commission wish to make recommendations concerning the process, notice and findings required for the approval of fees to guardians and others they hire?
24. Does the Commission wish to make recommendations concerning the process and timing for filing and evaluating an inventory for the ward?
25. Does the Commission wish to make recommendations concerning the process, timing, notice and findings the Court must make concerning accountings of the ward's estate?
26. Does the Commission wish to make any recommendations in the use of bonds and the allocation of costs for bonds in guardianship appointments?
27. Does the Commission wish to make recommendations concerning the management/administration of the wards estate including the process and notice requirements to sell estate assets?
28. Does the Commission wish to make recommendations concerning the data used to manage guardianship cases?
29. Does the Commission wish to make recommendations concerning the use of forms in guardianship proceedings?

DATA/IT WORKGROUP REPORT

ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET
Director and
State Court Administrator

JOHN MCCORMICK
Assistant Court Administrator
Judicial Programs and Services



RICHARD A. STEFANI
Deputy Director
Information Technology

VERISE V. CAMPBELL
Deputy Director
Foreclosure Mediation

MEMORANDUM

TO: Guardianship Commission

FROM: Guardianship Data and Technology Workgroup

DATE: February 18, 2016

SUBJECT: Report and Recommendations of the Guardianship Data and Technology Workgroup

The Guardianship Data and Technology Workgroup (GDT) met in December 2015 and January 2016. During these meetings the GDT discussed the implementation of the Commission approved recommendations of Court Performance Measures (CPM) and utilization of a Guardianship Data Information Sheet, and how best to facilitate the implementation of these recommendations.

When reviewing how to implement Court Performance Measures, the GDT determined that current Nevada law concerning guardianship matters complicates the implementation of Age of Active Pending Case and Time to Disposition performance measurements due to how cases are to be filed, tracked, and adjudicated. For instance, NRS 159.057 allows for, but does not require, multiple proposed wards to be filed under a single petition. A case filed with multiple wards therefore cannot be tracked individually and complicates when a case is closed, reopened, and adjudicated. Further, CPM cannot be uniformly applied to guardianship matters since some cases reflect multiple wards and other cases reflect single wards. To address this issue, the GDT recommended to the Guardianship Commission that a court rule be established directing that guardianship cases be filed with a single petition for a single ward. Members of the Commission expressed concern over the impact of imposing filing fees for each individual considering multiple parties can currently file under a single petition. At the request of the Commission, this issue was tabled until it could be further researched by the GDT and AOC staff, including if a remedy existed for waiving filing fees.

At the next Commission meeting, the GDT presented their findings on filings fees and waivers. The GDT presented that filing fees are being assessed inconsistently in the State. In addition, the GDT explained the impact of a court rule requiring separate petitions for separate wards would not cause a significant fiscal impact for minor guardianships, as they typically have no filing fees associated with them due to not having estate values. For adult guardianships the fiscal impact would also be minimal, as it appears most adult guardianship matters generally only have one ward per petition. Upon reviewing the applicability of fee waivers on guardianship matters, the GDT could find no additional mechanism for waiving filing fees other than a request to proceed in *forma pauperis*.

The GDT has discussed the implementation of CPM in all District Courts. Since the GDT workgroup was created, the Judicial Council of the State of the Nevada, Court Administration Committee created the USJR Phase III Working Group which is currently formulating CPM for Age of Active Pending Case and Time to Disposition for all case types, including guardianship matters. The GDT, which has several members on the USJR Phase III working group, is taking into consideration the Phase III model and methodology being created and standardized to ensure consistent statewide CPM.

In addition to the discussions of CPM, the GDT has drafted and disseminated a draft of the Guardianship Information Sheet to the GDT members' courts for consideration and feedback. The draft Guardianship Information Sheet was created by combining three currently used guardianship information sheets, as well as by adding additional information required by NRS and additional items discussed in the GDT and Commission meetings. Once the information sheet is reviewed, the GDT will submit it to the Commission and seek permission to disseminate it statewide for review and comment.

Finally, the GDT has discussed and is following the implementation of various court applications being utilized by GDT members in the effort to track post adjudicatory proceedings in guardianship matters. This information sharing is enabling new ideas and the development of best practices to improve the management of guardianship matters in Nevada.

GUARDIANSHIP FILING FEES

GUARDIANSHIP FEES			
STATE	PURPOSE	FEE	CITATION/NOTES
Arizona	Petition for Temporary Appoint of Guardian / Conservator	\$213	
	Petition to Appoint Guardian / Conservator	\$213	
	Petition to Appoint Successor	\$213	
	Petition to Terminate Guardian – If filed by appointed guardian	No Fee	
	Severance Petition / Terminate Parental Rights	No Fee	
	Clerk's Fee / Court Controlled Funds	\$27.00	(Note: Created 10/23/98; Do Not Use 912 for this event. Change per QTR, per Case for action performed)
California	Petition for appointment of conservator, guardian of the estate or guardian of the person and estate or opposition to these petitions other than competing petition for appointment	\$435	GC 70653(a),(b) 70602.5, 70602.6 California Government Code
	Opposition to petition for appointment of conservator, guardian of the estate or guardian of the person and estate filed by or on behalf of conservatee or proposed ward or a parent of the proposed ward	No Fee	GC 70653(f)
	Petition for appointment of guardian of the person only or opposition to petition other than competing petition for appointment	\$225	GC 70654(a),(b), 70602.5
	Opposition to petition by the proposed ward or the parent of the proposed ward	No Fee	GC 70654 (e)
	Petition or opposition filed after issuance of letters of guardianship or temporary guardianship, in guardianship of the person only	No Fee	GC 70657 (e)
	First of subsequent petition for temporary letters of conservatorship or guardianship	\$60	GC 70657(a)(4)
Colorado	Petition for Appointment of Guardian for Adult	\$164	
	Petition Requesting Colorado accept guardianship from sending state	\$164	
	Registration and recognition of guardianship orders from other states and sworn statement	\$164	

Delaware	Petition or application to appoint guardian for minor (inclusive of all initial filing fees)	\$125	
	Petition or application to appoint guardian for a disabled person (inclusive of all filing fees)	\$125	
	Petition or application in connection with tort settlement (inclusive of all initial filing fees)	\$125	
	For a rule to show cause in a pending action	\$50	
	Petition or application to remove a guardian	\$50	
	Petition or application to appoint a successor guardian	\$50	
	Petition or appointment to expend	\$35	
	Petition or application to initiate or increase monthly allotment	\$35	
	Petition or application to reinvest	\$35	
	Petition or application to sell real estate	\$50	
	Petition or application to accept foreign guardianship	\$50	
	Petition or application to transfer guardianship	\$50	
	Promissory note for guardian borrowing from account	\$25	
	Transfer of funds	\$15	
	Third party certification of compliance with order	\$3	
	Filing an exception to guardianship accounting	\$100	
Florida	Formal administration, guardianship, ancillary, curatorship, or conservatorship	\$400	
	Guardianship of person only	\$235	
	Veteran's Administration guardianship	\$235	
	Petition for determination of incapacity	\$231	
	Opening any estate of one document or more, including but not limited to: Petitions and orders to approve settlement of minor's claims; open safe deposit box; to enter rooms and places; determine heirs (if not formal administration); foreign guardian to manage property of nonresident. Not for issuance of letters or orders of summary administration	\$231	
	Caveat	\$41	
	Exemplified certificates	\$7	
	Guardianship audit fee, initial inventory, above \$25,000	\$85	
	Guardianship audit fee, annual financial return:		

	<ul style="list-style-type: none"> • For estates valued at \$25,000 or less • For estates valued at \$25,000 to \$100,000 • For estates valued at \$100,000 to \$500,000 • For estates valued at more than \$500,000 	\$20	
		\$85	
		\$170	
		\$250	
Hawaii	Guardianship Initial Filing Fee (\$100) Surcharge (\$65) Computer System Surcharge (\$50)	\$215 Motions no fee	
Idaho	Petition for appointment of guardian or receipt and acceptance of foreign guardianship	\$118	
	Consent to testamentary appointment as guardian without petition	\$118	
	Status Reports	\$25	
Iowa - Kane County 16th Circuit	Guardian – Disabled person	\$167	
	Guardian – Estate of disabled person	\$167	
	Guardian – Person and estate of disabled person	\$167	
	Guardian – Minor DCFS case	\$167	
	Guardian – Minor person	\$167	
	Guardian – Person and estate of minor person	\$167	
	Guardian – Small Estate – Real estate and person not exceeding \$15,000	\$132	
	Guardian – When letters issued in estate to guardian of person, but not estate	\$112	
	Guardian – Collection of judgment or settlement of claim for wrongful death with no other administration and does not exceed \$5,000	\$112	
	Guardian – Collection of judgment or settlement of claim for wrongful death with no other administration	\$142	
Mass.	Appointment of a Guardian Petition	No Fee	Note: There is no separate fee for the initial appointment bond of a fiduciary or the initial Letters of appointment.
	Expand, modify, limit powers of a guardian, petition	No Fee	
	Resignation of Conservator or Guardian, petition	No Fee	
	Termination of Conservator or Guardian, petition	No Fee	

Michigan	Request for Notice of Guardianship Orders – No proceeding pending	\$150	MCL 700.5104 , MCL 600.880a(1)
	Request for Notice of Guardianship Orders – Proceeding pending	\$20 ¹	MCL 600.880b(1)
	Petition for Full or Limited Guardianship, including request for Temporary Guardianship on same petition.	\$150	MCL 600.880a(1) , MCR 2.119(G)(2)
	Annual report on condition of ward	No Fee	
	Account ² For each account filed if ordered by the court pursuant to MCR 5.409(C) (1) MCL 600.880b(1)	\$20 ³	
	Petition by Court-Appointed Attorney in response to guardianship review	No Fee	
	Any other paper, no matter how titled, which requests relief or requires a hearing or ruling of the court when proceeding pending. Filed by the ward	No Fee	MCL 600.880b(2)
	Any other paper, no matter how titled, which requests relief or requires a hearing or ruling of the court when proceeding pending. Filed by anyone else	\$20 ⁴	MCL 600.880b(1)
Minnesota	Estates, trusts, guardianships, conservatorships – First paper filed	\$324	This fee includes a base fee of \$310 + Technology fee \$2 + Law Library Fee \$12 Minn. State. § 357.021, subd.2(1), subd.2b, 134A.09, 134A.10

¹ The \$20 fee includes \$10 for the State Court Fund and \$10 for the County General Fund.

² This refers to an account of any type, including, but not necessarily limited to, an annual account, an amended account, a final account, an interim account, a supplemental account, and an account with zero receipts and disbursements. The filing fee is to be applied to each account filed, regardless of the number of separate accounts. The account is not subject to MCR 2.119(G)(2) because it is not a motion.

³ The \$20 fee includes \$10 for the State Court Fund and \$10 for the County General Fund.

⁴ The \$20 fee includes \$10 for the State Court Fund and \$10 for the County General Fund.

Nebraska	Guardianship Filing Fee	\$20	NRS 33-126.02
	Docket Fee/Judges Retirement Fee	\$2	NRS 33-126.02
	Judges retirement fee	\$2	NRS 24-703
	Legal services fee (one per case)	\$5.25	NRS 33-107.01
	Automation fee (one per case)	\$8	NRS 33-107.03
	NSC Education fee	\$1	NRS 33-154
	Dispute resolution fee (one per case)	\$.75	NRS 33-155
	Indigent Defense fee (one per case)	\$3	NRS 33-156
	Uniform Data Analysis fee (one per case)	\$1	NRS 47-633
	Total (per petition regardless of the number of wards)	\$43	
New Hampshire⁵	Petition for guardianship of incapacitated person	\$240	
	Petition for guardianship of minor person	\$130	Plus certified mail costs of \$6.92 for each person to receive the order of notice.
	Petition for guardianship of minor (estate only or person and estate)	\$200	Plus certified mail costs of \$6.92 for each person to receive the order of notice.
	Petition for guardian of incompetent veteran	\$200	
	Motion for successor guardian of person (only) – applies to both guardian of incapacitated person and guardian of minor	\$50	
	Motion for successor guardian of estate or of person and estate – applies to both Guardian of incapacitated person and guardian of minor	\$85	
New Mexico 13th JD	Probate Case Filing Fee (includes wills, estates miscellaneous, guardianship, conservatorship, adoption, and trust)	\$117	
	Clerk's Office Charges a Fee for Form Packets Guardianship/Conservatorship of Adult and Kinship/Guardianship of Minor	\$5	

⁵ E-Filed Cases only. Fees include \$25 surcharge per Probate Division Rule 169, I(q) and Family Division Rule 1.3, L (1). Fees also include \$20 e-Filing fee if applicable.

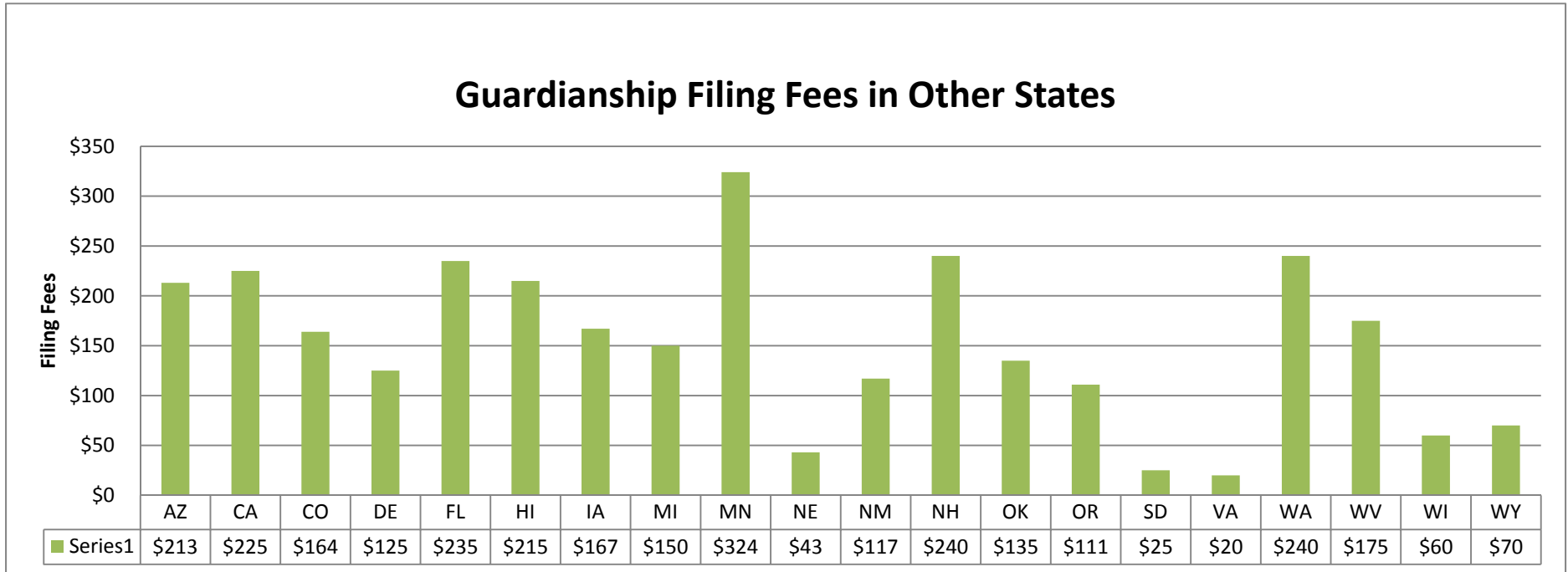
Oklahoma	Guardianship	\$134	28 O.S. § 152A.3
		\$1	19 O.S. § 220
	Application for relative guardianship	\$50	10 O.S. §21.5F.3
	Guardianship Annual Report	\$33	28 O.S. § 152A.4
		\$1	19 O.S. § 220
	Proceeding for sale or lease of real or personal property or mineral interest in probate or guardianship	\$43	28 O.S. § 152A.5
		\$1	19 O.S. § 220
Oregon	Petition for appointment of guardian or for filing an appearance in a guardianship proceeding	\$111	ORS 21.145(3); ORS 21.175(1)
	Filing an answer, motion, or objection by respondent, protected person, the Office of the Long Term Care Ombudsman or the system described in ORS 192.517	No Fee	ORS 125.075(4)
	Request for notice	\$252	ORS 21.135(1), (2)(g); ORS 125.060(4)
	Certified copy of letters testamentary, administration, conservatorship, and guardianship	\$5 + 25 cents per page	ORS 21.258; CJO 14-066(8)
	Registering foreign guardianship order	\$111	ORS 21.145; ORS 125.842
	Appearance in matter of foreign guardianship	\$111	ORS 21.145; ORS 125.842
Rhode Island	<p>Fees enumerated – Hearing date to be noted on receipt.</p> <p>The fees in probate courts shall be as follows: for every petition for the appointment of a custodian, administrator, guardian, or conservator, or for the probate of a will, one percent (1.0%) of the personal property of the decedent or ward over which the court has jurisdiction, but in no event shall the fee be less than thirty dollars (\$30.00) nor more than one thousand five hundred dollars (\$1,500); for every petition of a foreign administrator, executor, or guardian to transfer or sell real or personal estate, one percent (1.0%) of the personal property of the decedent, or ward located in Rhode Island, but in no event shall the fee be less than thirty dollars (\$30.00) nor more than one thousand five hundred dollars (\$1,500) which fees shall be in lieu of all subsequent filing and recording fees in the same proceedings, except as</p>		<p>§ 33-22-21</p> <p>Upon payment of any fee enumerated in this section, the clerk of the court shall issue a written receipt to the person making payment. In the event that the matter filed with the court calls for a hearing, the clerk of the court shall note the hearing date and time on</p>

	<p>hereinafter provided, and shall be paid before the petition is filed, and shall be based upon estimates submitted by the petitioner or someone on his or her behalf, and shall be subject to revision whenever it appears that the estimates were incorrect, and upon revision a further payment or rebate shall be made promptly. In the event that the appointment of a custodian, pending the appointment of an administrator, guardian, or conservator, or the probate of a will, is necessary, the fee so paid for the petition shall be applied on the amount to be paid upon the filing of a petition for the appointment of the administrator, guardian, or conservator, or for the probate of the will. The court at any time may cite in and examine any custodian, executor, administrator, guardian, or conservator for the purpose of determining the full fee due and payable.</p>		<p>the receipt whenever possible; otherwise, as soon as is practicable after the filing of the matter, the clerk of the court shall provide written notice of the hearing date and time directly to the person filing the matter.</p> <p>The clerk of the court shall charge one dollar and fifty cents (\$1.50) per page and three dollars (\$3.00) to certify any probate documents on file with the probate court.</p>
	<p>Also, the following fees shall be charged:</p>		
	<p>For every petition to file a claim out of time</p>	<p>\$30</p>	
	<p>For every petition for the removal of an executor, administrator, guardian, conservator, or other fiduciary</p>	<p>\$30</p>	
	<p>For every petition for appointment of a successor guardian under the uniform gifts to minors act</p>	<p>\$30</p>	
	<p>For every affidavit of complete administration</p>	<p>\$30</p>	
	<p>For every certificate of appointment</p>	<p>\$5</p>	
	<p>For every petition for tax minimization or estate planning</p>	<p>\$30</p>	
	<p>For every petition for change of name</p>	<p>\$30</p>	
	<p>For every petition for adoption</p>	<p>\$30</p>	

South Dakota	Guardianship (includes all subsequent papers)	\$25	SDCL 16-2-29
Virginia	Guardian or Conservatorship Appointment (petition) not including Qual. Fee	\$20	
	Guardian of minor by court	\$84	
	Guardian of minor by clerk	No Fee	
	Standby guardian/conservator – petition	\$15	
	Standby guardian/conservator – reinstate on docket	\$10	
Washington	Guardianship filing –estate with assets more than \$3,000	\$240	36.18.020(2)(f) \$200 36.18.020(5)(b) \$40 judicial surcharge
	Guardianship or Limited Guardianship – for estates less than \$3,000	No Fee	11.88.030(3) 11.88.030(2)(b)
	No prepayment when filed by AG, but may be ordered paid by estate		
	Letter of administration, guardianship, testamentary	\$5	
	Guardianship to Estate – Cause Code migration/ no additional fee is charged to transfer the guardianship file to a probate proceeding when migration is ordered.	No Fee	11.88.150(2)
	Petition for initial detention by family, guardian, or conservator “Joel’s Law” case)	No charge or filing fee	SSB 5269 became effective 7/24/15
	Juvenile dependency, guardianship	No fee	13.34.040 36.18.020(2)(a)
West Virginia	Guardianship/Conservatorship	\$175	§90 § 44A-2-1(c), § 59-1-31 \$75 County, § 44A-2-1(c) \$15 EGCF⁶
	Total Fee Assessment Authority Remittance		
Wisconsin	New or pending guardianship	\$60	54.56, 814.66(1) (m) should be filed with register in probate
Wyoming	Guardianship or Conservatorship	\$70	
	Estate and Probate	\$70	

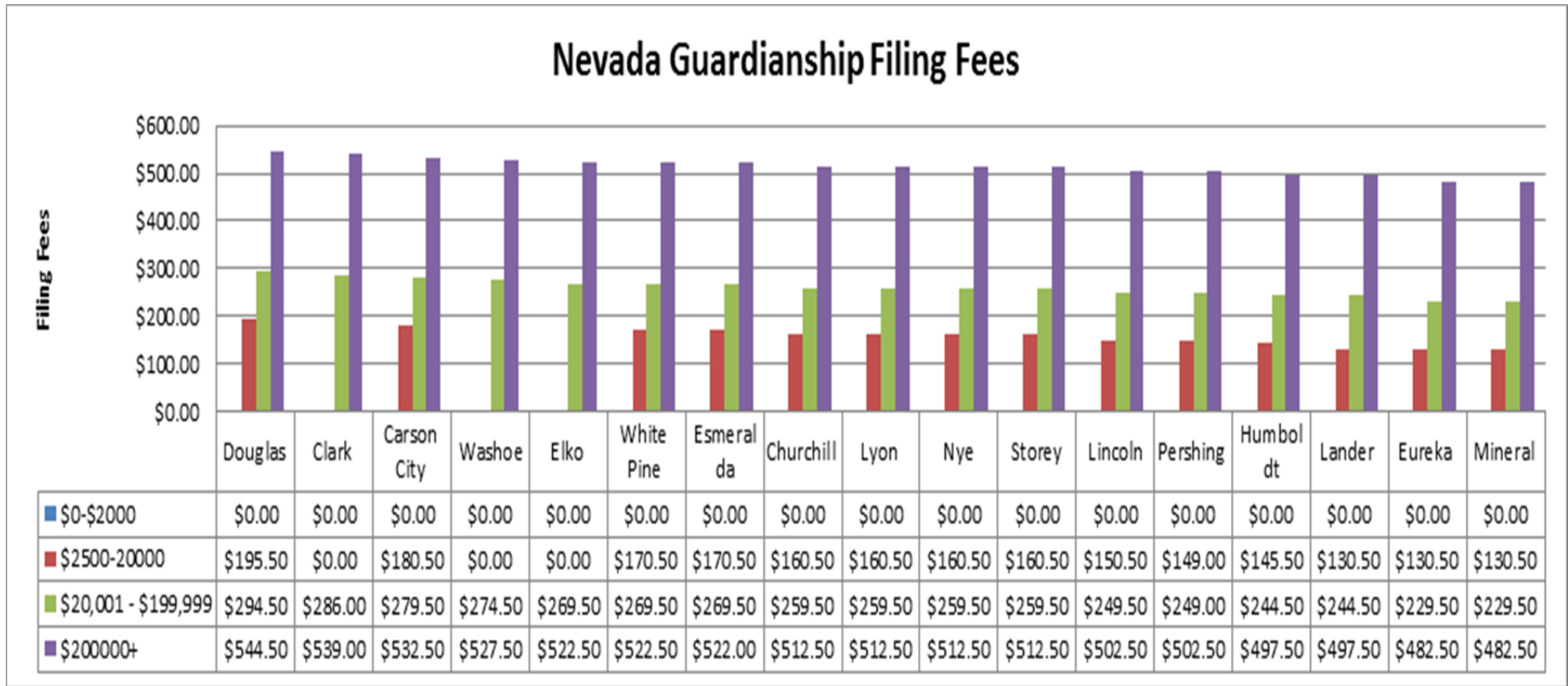
⁶ Enforcement of Guardianship and Conservatorship

Guardianship filing fees¹ in other states.



- Five states charge between \$20 - \$70
- Eight states charge between \$111 - \$175
- Six states charge between \$213 and \$240
- One state (Minnesota) charges \$324

¹ The filing fees are for person only. California and Florida charge more for person and estate.



Filing fees in Nevada are as low as \$0 (estate \$0-\$2500) and as high as \$544 (Douglas County) followed by \$539 (Clark County) and \$532.50 (Carson City), if the value of the estate is over \$200,000.

ESTATE VALUE \$2,500 - \$20,000									
	19.013	19.020	19.030	19.031¹	19.3135	19.0303/AB65²	19.0312³	Ordinance	Total
Douglas	\$72	\$1.50	\$32	\$25	\$10	DCC 2.50.060 \$20	\$5 includes DCC 3.42.020	DCC 3.36.010 \$10 DCC 2.50.060 \$20	\$195.50
Carson City	\$72	\$1.50	\$32	\$25		\$20	\$10	CMC 2.35.010; CMC 2.36.010; CMC 2.37.010	\$180.50
White Pine	\$72	\$1.50	\$32	\$25	\$10	\$20	\$10		\$170.50
Esmeralda									\$170.50
Churchill	\$72	\$1.50	\$32	\$25	\$10	\$20 CC 4.90.060			\$160.50
Lyon	\$72	\$1.50	\$32	\$25		\$20 Ord. 536		LY Ord. 548 \$10	\$160.50
Nye	\$72	\$1.50	\$32	\$25		\$20 Ord. 389		Ord. 256	\$160.50
Storey									\$160.50
Lincoln	\$72	\$1.50	\$32	\$25		\$20 Ord. 2009-4 County			\$150.50
Pershing									\$149.00
Humboldt									\$145.50
Eureka	\$72	\$1.50	\$32	\$25					\$130.50
Mineral	\$72	\$1.50	\$32	\$25					\$130.50
Lander									\$130.50
Clark									NO FEE
Washoe									NO FEE
Elko									NO FEE

¹ Additional fees in civil actions. Programs for legal aid.

² AB 65 – 2009 Legislative Session NRS 19.0303 Additional fees in civil actions: Programs for court security. **1.** In any county, the board of county commissioners may, in addition to any other fee required by law, impose by ordinance a filing fee of not more than \$20 to be paid on the commencement of any civil action or proceeding in the district court for which a filing fee is required and on the filing of any answer or appearance in any such action or proceeding for which a filing fee is required, except as otherwise required pursuant to [NRS 19.034](#).

³ Additional fees in civil actions; Pro bono programs and programs for abused or neglected children and victims of domestic violence.

ESTATE VALUE \$20,001 - \$199,999												
	19.013	19.020	19.030	19.031	19.0313 5⁴	19.0302/ AB 65⁵	19.0303 /AB 65	19.0312	19.0313 6	19.0315 7	Ordinance	Total
Douglas	\$72	\$1.50	\$32	\$25	\$10	\$99	\$20 DCC 2.50.06 0	\$5 includes DCC 3.42.020	\$10		DCC 3.36.010 \$10 DCC 3.48.020 \$20	\$294.50
Clark	\$72	\$3.00	\$32	\$25		\$99	\$20 includes CCC 2.32.08 0	\$10 includes CCC 2.32.040(a)	\$10	\$15 includes CCC 2.32.010		\$286.00
Carson City	\$72	\$1.50	\$32	\$25		\$99					CMC 2.35.010; NRS .0313(3); CMC 2.36.010: 19.03135; CMC 2.37.010; NRS 19.315; Totals \$50	\$279.50

⁴ Additional fees in civil actions; Programs for prevention and treatment of abuse of alcohol and drugs.

⁵ AB 65 – 2009 Legislative Session On the filing of a petition for letters testamentary, letters of administration or a guardianship, which fee does not include the court fee prescribed by [NRS 19.020](#), to be paid by the petitioner:

- (1) Where the stated value of the estate is \$200,000 or more..... \$352
- (2) Where the stated value of the estate is more than \$20,000 but less than \$200,000 \$99
- (3) Where the stated value of the estate is \$20,000 or less, no fee may be charged or collected.

⁶ Additional fees in civil actions; Programs of mediation in cases involving custody or visitation of child; neighborhood justice centers.

⁷ Additional fees in civil actions; Programs for alternative dispute resolution.

Commission to Study the Administration of Guardianships in Nevada's Courts
 February 26, 2016, Agenda and Meeting Materials

Washoe												\$274.50
White Pine	\$72	\$1.50	\$32	\$25	\$10	\$99	\$20				ProBono \$10	\$269.50
Elko	\$72	\$1.50	\$32	\$25		\$99	\$20 includes ECC 04-2009	\$20				\$269.50
Esmeralda												\$269.50
Lyon	\$72	\$1.50	\$32	\$25		\$99	\$20 Ord. 536				LY Ord 548 \$10	\$259.50
Nye	\$72	\$1.50	\$32	\$25		\$99					Ord. 256	\$259.50
Churchill	\$72	\$1.50	\$32	\$25	\$10	\$99	\$20 CC 4.090.060					\$259.50
Storey												\$259.50
Lincoln	\$72	\$1.50	\$32	\$25		\$99	\$20 Ord. 2009-04 County					\$249.50
Pershing												\$249.00
Humboldt												\$244.50
Lander												\$244.50
Eureka	\$72	\$1.50	\$32	\$25		\$99						\$229.50
Mineral	\$72	\$1.50	\$32	\$25		\$99						\$229.50

ESTATE VALUE \$200,000+												
	19.013	19.020	19.030	19.031	19.0313 5	19.0302/ AB 65 ⁸	19.0303/ AB 65	19.0312	19.0313	19.0315 /AB 535	Ordinance	Total
Douglas	\$72	\$1.50	\$32	\$25		\$349	\$20 DCC 2.50.060	\$5 includes DCC 3.42.020	\$10		DCC 3.36.010 \$10 DCC 3.48.020 \$20	\$544.50
Clark	\$72	\$3.00	\$32	\$25		\$352	\$20 includes CCC 2.32.080	\$10 includes CCC 2.32.040(a)	\$10	\$15 includes CCC 2.32.010		\$539.00
Carson City	\$72	\$1.50	\$32	\$25		\$352					CMC 2.35.010; NRS .0313(3); CMC 2.36.010: 19.03135; CMC 2.37.010; NRS \$50 total	\$532.50
Washoe												\$527.50
White Pine	\$72	\$1.50	\$32	\$25	\$10	\$352					ProBono \$10	\$522.50

⁸ AB 65 – 2009 Legislative Session On the filing of a petition for letters testamentary, letters of administration or a guardianship, which fee does not include the court fee prescribed by [NRS 19.020](#), to be paid by the petitioner:

- (1) Where the stated value of the estate is \$200,000 or more..... \$352
- (2) Where the stated value of the estate is more than \$20,000 but less than \$200,000 \$99
- (3) Where the stated value of the estate is \$20,000 or less, no fee may be charged or collected.

Commission to Study the Administration of Guardianships in Nevada's Courts
February 26, 2016, Agenda and Meeting Materials

Elko	\$72	\$1.50	\$32	\$25		\$352/\$10	\$20 includes ECC 04- 2009	\$20				\$522.50
Esmeralda												\$522.00
Churchill	\$72	\$1.50	\$32	\$25	\$10	\$352	\$20 CC 4.090.060					\$512.50
Lyon	\$72	\$1.50	\$32	\$25		\$352	\$20 LY Ord. 536				LY Ord 548 \$10	\$512.50
Nye	\$72	\$1.50	\$32	\$25		\$352/\$10	Ord. 256/\$20					\$512.50
Storey												\$512.50
Lincoln	\$72	\$1.50	\$32	\$25		\$352	\$20 Ord. 2009-04 County					\$502.50
Pershing												\$502.50
Humboldt												\$497.50
Lander												\$497.50
Eureka	\$72	\$1.50	\$32	\$25		\$352						\$482.50
Mineral	\$72	\$1.50	\$32	\$25		\$352						\$482.50