

3/20/2025

AB 387 Conceptual Amendment

Proposed by Jonathan Norman

NV Coalition of Legal Service Providers

Sec. 3. NRS 159A.034 is hereby amended to read as follows: 159A.034

1. Except as otherwise provided in this section, by specific statute or as ordered by the court, a petitioner in a guardianship proceeding shall give notice of the time and place of the hearing on any petition filed in the guardianship proceeding to:

(a) Any protected minor who is 14 years of age or older, regardless of whether the protected minor is considered to have the capacity to understand or appreciate the contents of the petition.

(b) The parent or legal guardian of any protected minor . ~~{who is less than 14 years of age.}~~

(c) All known relatives of the protected minor who are within the second degree of consanguinity.

(d) ~~{Any other interested person or the person's attorney who has filed a request for notice in the guardianship proceedings and has served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request and the person's name and address, or that of his or her attorney.}~~

~~—(e)}~~ The guardian, if the petitioner is not the guardian.

~~{(f)}~~ (e) Any person ~~{or care provider}~~ who is providing care for the protected minor, except that if the person ~~{or care provider}~~ is not related to the protected minor, such person ~~{or care provider}~~ must not receive copies of any inventory or accounting.

~~{(g) The Director of the Department of Health and Human Services if the protected minor has received or is receiving benefits from Medicaid.}~~

~~—(h)}~~ (f) Those persons entitled to notice if a proceeding were brought in the protected minor's home state.

2. The petitioner shall give notice not later than 10 days before the date set for the hearing:

(a) By mailing a copy of the notice by certified, registered or ordinary first-class mail to the residence, office or post office address of each person required to be notified pursuant to this section;

(b) By personal service; or

(c) In any other manner ordered by the court, upon a showing of good cause.

3. Except as otherwise provided in this subsection, if none of the persons entitled to notice of a hearing on a petition pursuant to this section can, after due diligence, be served by certified mail or personal service and this fact is proven by affidavit to the satisfaction of the court, service of the notice ~~must~~ *may* be made ~~by publication~~ in ~~the~~ *any* manner ~~provided~~ *prescribed* by the Nevada Rules of Civil Procedure ~~[], including, without limitation, by electronic transmission.~~ In all such cases, the notice must be ~~published~~ *served* not later than 10 days before the date set for the hearing. If, after the appointment of a guardian, a search for relatives of the protected minor listed in paragraph (c) of subsection 1 fails to find any such relative, the court may waive the notice ~~by publication~~ required by this subsection.

4. For good cause shown, the court may waive the requirement of giving notice.

5. A person entitled to notice pursuant to this section may waive such notice. Such a waiver must be in writing and filed with the court.

6. On or before the date set for the hearing, the petitioner shall file with the court proof of giving notice to each person entitled to notice pursuant to this section.

Sec. 4. NRS 159A.044 is hereby amended to read as follows:

159A.044 1. Except as otherwise provided in NRS 127.045, a proposed protected minor, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

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

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed protected minor.

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

(1) A social security number;

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

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

(d) The date on which the proposed protected minor will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed protected minor will need guardianship after attaining the age of majority.

(e) Whether the proposed protected minor is a resident or nonresident of this State.

(f) The names and addresses of the relatives of the proposed protected minor who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159A.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the **proposed** guardian currently is not receiving compensation for services as a guardian to more than one protected person who is not related to the person by blood or marriage.

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

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

(7) A valid tribal identification card number.

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

(j) *Whether the proposed guardian, or any person who resides with the proposed guardian:*

(1) *Has ever been the subject of ~~named in~~ a report that has been assigned*

a disposition of substantiated pursuant to NRS 432B.305 or an equivalent disposition in another jurisdiction;

~~(2) *Has ever been investigated for child abuse or neglect by an agency which provides child welfare services; or*~~

~~(2)~~ *Is being investigated for child abuse or neglect by an agency which provides child welfare services.*

(k) A summary of the reasons why a guardian is needed and any available documentation demonstrating the need for a guardianship, including, without limitation, any orders or other information from a court concerning the custody of the proposed protected minor.

~~[(k)]~~ (l) *A statement concerning the suitability of the proposed guardian to provide for the basic needs of the proposed protected minor, including, without limitation, food, shelter, clothing, medical care and education.*

(m) A general description and the probable value of the property of the proposed protected minor and any income to which the proposed protected minor is or will be entitled, if the petition is for the appointment of a guardian of the estate.

~~[(l)]~~ (n) The name and address of any person ~~[or care provider]~~ having the care, custody or control of the proposed protected minor.

~~[(m)]~~ (o) *A description of the relationship between the proposed guardian and the proposed protected minor.*

(p) *The name of each person who resides with the proposed guardian and a description of the relationship between any such person and:*

(1) *The proposed guardian; and*

(2) *The proposed protected minor.*

(q) If a petitioner is not a parent of the proposed protected minor ~~[-a]~~:

(1) *A declaration explaining the relationship of the petitioner to the proposed protected minor or to the proposed protected*

minor's parents and the interest, if any, of that petitioner in the appointment ~~[-~~

~~-(n)]~~ ; and

(2) The expected amount of parental involvement in the life of the proposed protected minor, if any.

(r) Requests for any of the specific powers set forth in NRS ~~[159A.165 to]~~ 159A.169, 159A.171 and 159A.175 ~~[-, inclusive,]~~ necessary to enable the guardian to carry out the duties of the guardianship.

~~[(e)]~~ (s) If the guardianship is sought as the result of an investigation of a report of abuse or neglect of the proposed protected minor, whether the referral was from a law enforcement agency or a state or county agency.

~~[(e)]~~ (t) Whether the proposed protected minor or the proposed guardian is a party to any pending criminal or civil ~~litigation.~~

~~-(e)]~~ *proceeding, including, without limitation:*

(1) A proceeding for dependency; or

(2) A delinquency proceeding which is conducted pursuant to title 5 of NRS.

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

~~[(e)]~~ (v) Whether the proposed guardian has filed for or received protection under the federal bankruptcy laws within the immediately preceding 7 years.

Sec. 5. NRS 159A.0445 is hereby amended to read as follows:

159A.0445 ~~[-Upon the filing of a petition for the appointment of a guardian, the]~~

1. A court may require a proposed guardian to file a proposed preliminary care plan and budget ~~[-]~~ *upon:*

(a) The filing of a petition for the appointment of a guardian of the estate;

(b) The filing of a petition for the appointment of a guardian of the person and estate; or

(c) A finding of good cause shown.

2. The format of ~~[such]~~ a proposed preliminary care plan and budget ~~[and the timing of the filing thereof]~~ *described in this section* must be specified by a rule approved by the Supreme Court.

3. *If a budget submitted pursuant to this section is approved, a court shall annually review the budget in conjunction with the*

annual accounting filed pursuant to NRS 159A.176 to 159A.183, inclusive.

4. If at any time the court determines that a budget is not reasonably calculated to meet the needs of a protected minor, the court may order the guardian to submit a revised proposed budget for review and approval by the court.

~~*5. A requirement to make a budget from the estate of a protected minor is presumed to not be in the best interest of the protected minor if the guardian is a parent of the protected minor.*~~

6. Nothing in this section shall be deemed to alleviate the duty of a parent to financially provide for the basic needs of a protected minor, including, without limitation, food, shelter, clothing and medical care.

Sec. 6. NRS 159A.045 is hereby amended to read as follows:

159A.045 1. On or after the date of the filing of a petition to appoint a guardian:

(a) ~~{The}~~ *Subject to subsection 2, the* court may appoint an attorney to represent the protected minor or proposed protected minor; and

(b) The attorney must represent the protected minor or proposed protected minor until relieved of that duty by court order.

2. ~~{The}~~ *Except as otherwise provided in subsection 3, if a petition to appoint a guardian is filed in a jurisdiction where there is a program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent and the protected minor or proposed protected minor would qualify for representation from the program in the guardianship proceeding, the court shall appoint an attorney from the program to represent the protected minor or proposed protected minor.*

3. *If a program for legal services described in subsection 2 has insufficient funds to support the representation of each child who would qualify for the appointment of an attorney pursuant to subsection 2, the program shall determine the number of* ~~*represent the percentage of*~~ *protected minors or proposed protected minors supported from available funds.*

4. *If an attorney appointed pursuant to subsection 1 is not compensated by any public money for the representation and the protected minor or proposed protected minor has an estate, the*

*court may authorize an attorney ~~[is entitled]~~ to **receive** reasonable compensation from the estate . ~~[of the protected minor or proposed protected minor.]~~ Nothing in this subsection shall be interpreted to prevent a proposed protected minor or protected minor from retaining counsel or from an attorney offering pro bono representation of a minor.*

5. An attorney appointed to represent a proposed protected minor or protected minor shall comply with the Rules of Professional Conduct adopted by the Nevada Supreme Court for the representation of children in abuse and neglect proceedings.

~~5.~~ **6.** If the court finds that a person has unnecessarily or

unreasonably caused the appointment of an attorney, the court may order the person to pay to the estate of the protected minor or proposed protected minor all or part of the expenses associated with the appointment of the attorney.

~~[3.] 6.~~ **7.** An attorney who is appointed pursuant to subsection 1 may not serve as a guardian ad litem or an advocate for the best interests of a protected minor or proposed protected minor.

Sec. 7. NRS 159A.0455 is hereby amended to read as follows:

159A.0455 1. The court may appoint a guardian ad litem or an advocate for the best interests of a protected minor or proposed protected minor who is the subject of guardianship proceedings conducted pursuant to this chapter if the court believes that the minor could benefit from that appointment.

2. The court may not appoint ~~an attorney as~~ a guardian ad litem or an advocate for the best interests of a protected minor or proposed protected minor unless:

(a) ~~[The]~~ *An attorney has been appointed pursuant to subsection 1 of NRS 159A.045 or has otherwise been retained to represent the protected minor or proposed protected minor, the court believes that ~~[an]~~ the attorney ~~[who represents the protected minor or proposed protected minor]~~ is unable to provide information which is required by the court to make a determination on the best interests of the minor;*

(b) ~~[No]~~ A volunteer is **not** available to serve as an advocate; or

(c) Extraordinary circumstances exist in which an attorney may assist the court as an advocate.

3. A guardian ad litem or an advocate for the best interests of a

protected minor or proposed protected minor who is appointed pursuant to subsection 1:

- (a) Is an officer of the court;
- (b) Does not represent the protected minor or proposed protected minor;
- (c) Shall not offer legal advice;
- (d) Is not a party to the case;
- (e) Shall advocate for the best interests of the protected minor or proposed protected minor;
- (f) Shall provide information to the court in accordance with applicable court rule; and
- (g) Shall serve until relieved of that duty by court order.

4. A guardian ad litem or an advocate for the best interests of a protected minor or proposed protected minor is entitled to reasonable compensation from the estate of the protected minor or proposed protected minor. If the protected minor or proposed protected minor is indigent, the court may order such compensation to be paid by the county.

5. If the court finds that a person has unnecessarily or unreasonably caused the appointment of a guardian ad litem or an advocate for the best interests of a protected minor or proposed protected minor, the court may order the person to pay to the estate of the protected minor or proposed protected minor all or part of the expenses associated with the appointment of the guardian ad litem or advocate for the best interests of the protected minor or proposed protected minor.

Sec. 9. NRS 159A.0475 is hereby amended to read as follows:

159A.0475 1. A copy of the citation issued pursuant to NRS 159A.047, together with a copy of the petition filed under NRS 159A.044, must be served ~~to~~:

~~—(a) Except as otherwise ordered by the court, on a proposed protected minor who is 14 years of age or older by personal service in the manner provided pursuant to the Nevada Rules of Civil Procedure at least 10 days before the date set for the hearing; and~~

~~—(b) On~~ **on** each person required to be served pursuant to NRS 159A.047 ~~{other than a proposed protected minor}~~ by:

~~{(1)}~~ **(a)** Certified mail, with a return receipt requested, at least 20 days before the hearing; or

~~{(2)}~~ **(b)** Personal service in the manner provided pursuant to

the Nevada Rules of Civil Procedure at least 10 days before the date set for the hearing.

2. If none of the persons on whom the citation and petition is to be served can, after due diligence, be served by certified mail or personal service, as applicable, and this fact is proven by affidavit to the satisfaction of the court, service of the citation ~~{must}~~ **may** be made ~~{by publication}~~ in ~~{the}~~ **any** manner ~~{provided}~~ **prescribed** by the Nevada Rules of Civil Procedure ~~{}~~ **including, without limitation, by electronic transmission.** In all such cases, the citation must be ~~{published}~~ **served** at least ~~{20}~~ **10** days before the date set for the hearing.

3. A citation and petition need not be served on a person ~~{or an officer of the care provider}~~ who has signed the petition or a written waiver of service of the citation and petition or who makes a general appearance.

4. The court may find that notice is sufficient if:

(a) The citation and petition have been served by personal service on the proposed protected minor and an affidavit of such service has been filed with the court pursuant to subsection 3 of NRS 159A.047;

(b) The citation and petition have been served by certified mail, with a return receipt requested, or by personal service on the ~~{care provider or}~~ guardian required to be served pursuant to NRS 159A.047; and

(c) At least one relative of the proposed protected minor who is required to be served pursuant to NRS 159A.047 has been served, as evidenced by the return receipt or the certificate of service. If the court finds that at least one relative of the proposed protected minor has not received notice that is sufficient, the court will require **service of** the citation ~~{to be published}~~ pursuant to subsection 2.

Sec. 10. NRS 159A.048 is hereby amended to read as follows:

159A.048 The citation issued pursuant to NRS 159A.047 must state that:

1. A guardian may be appointed for the proposed protected minor;

2. The rights of the proposed protected minor and of any person having legal or physical custody of the proposed protected minor may be affected as specified in the petition;

3. The proposed protected minor has the right to appear at the

hearing and to oppose the petition;

4. The proposed protected minor has the right to be represented by an attorney; and

5. At any time during proceedings on the citation, the court may appoint for the proposed protected minor:

(a) An attorney ~~H~~ pursuant to NRS 159A.045.

(b) A guardian ad litem or an advocate for the best interests of the proposed protected minor pursuant to NRS 159A.0455 if an attorney has been appointed pursuant to NRS 159A.045.

Sec. 13. NRS 159A.052 is hereby amended to read as follows:

159A.052 1. A petitioner may request the court to appoint a temporary guardian for a proposed protected minor who is in need of immediate medical attention which he or she cannot obtain without the appointment of a temporary guardian. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Documentation which shows that the proposed protected minor needs immediate medical attention and, without the appointment of a temporary guardian, cannot obtain that medical attention. ~~[Such documentation must include, without limitation, a copy of the birth certificate of the proposed protected minor or other documentation verifying the age of the proposed protected minor.]~~

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159A.047 by telephone or in writing before the filing of the petition;

(2) The proposed protected minor would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159A.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159A.047 is not feasible under the circumstances.

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

(a) Finds reasonable cause to believe that the proposed protected minor is in need of immediate medical attention which he or she cannot obtain without the appointment of a temporary guardian; and

(b) Is satisfied that the petitioner has tried in good faith to notify

the persons entitled to notice pursuant to NRS 159A.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159A.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court was satisfied that giving notice to the persons entitled to notice pursuant to NRS 159A.047 was not feasible under the circumstances or determined that such notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159A.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsection 7, if the court finds by clear and convincing evidence that the protected minor continues to be in need of immediate medical attention which he or she cannot obtain without the extension of the temporary guardianship, the court may, pursuant to subsection 8, extend the temporary guardianship until a general guardian is appointed.

6. If the court appoints a temporary guardian or extends a temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the need for immediate medical attention.

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

- (a) The provisions of NRS 159A.0475 have been satisfied; or
- (b) Notice ~~{by publication pursuant to}~~ *in any manner*

prescribed by the Nevada Rules of Civil Procedure , ~~including, without limitation, by electronic transmission~~ is currently being undertaken.

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

9. In lieu of granting the petition for temporary guardianship on the information provided in the petition alone, the court may schedule a hearing on the petition for appointment of temporary guardian to allow for presentation of additional evidence, including testimony, as to the need for a temporary guardian. In ordering a hearing pursuant to this subsection, the court may impose the notice requirements on the petitioner it deems necessary considering the best interests of the proposed protected minor.

Sec. 14. NRS 159A.053 is hereby amended to read as follows:

159A.053 1. A petitioner may request that the court appoint a temporary guardian for the person or the estate, or both, of a proposed protected minor by filing a verified petition.

2. ~~{The petition}~~ *To support the request, the petitioner* must ~~{state}~~ *set forth in the petition and present under oath* facts which :

(a) Establish that the proposed protected minor would be exposed to an immediate risk of physical, emotional, educational or financial harm if the court did not appoint a temporary guardian or otherwise establish good cause for the appointment of a temporary guardian ; and ~~{which show that:~~

~~—(a)}~~ *(b) Show that:*

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159A.047 by telephone or in writing before the filing of the petition;

~~—(b)}~~ *(2)* The proposed protected minor would be exposed to an immediate risk of physical, emotional , *educational* or financial harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159A.047 before the court determines whether to appoint a temporary guardian; or

~~—(c)}~~ *(3)* Giving notice to the persons entitled to notice pursuant to NRS 159A.047 is not feasible under the circumstances.

3. A petition which seeks an ex parte appointment of a temporary guardian must be accompanied by an affidavit which explains the emergency that requires a temporary guardian to be appointed before a hearing.

4. If no parent of the proposed protected minor has had the care, custody and control of the minor for the 6 months immediately preceding the petition, temporary guardianship of the person of the minor is presumed to be in the best interest of the minor.

5. The court may, upon that petition or other showing as it may require, appoint a temporary guardian of the person or the estate, or both, of the proposed protected minor.

6. Except as otherwise provided in subsection 7, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159A.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

7. If, before the appointment of a temporary guardian, the court was satisfied that giving notice to the persons entitled to notice pursuant to NRS 159A.047 was not feasible under the circumstances or determined that such notice was not required pursuant to **subparagraph (2) or (3) of** paragraph (b) ~~for (c)~~ of subsection 2, the petitioner shall notify the persons entitled to notice pursuant to NRS 159A.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

8. Not later than 10 days after the date of an ex parte appointment of a temporary guardian pursuant to subsection 5, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsection 9, if the court finds by clear and convincing evidence that the protected minor continues to be in need of a temporary guardian, the court may, pursuant to subsection 10, extend the temporary guardianship until a general guardian is appointed.

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

(a) The provisions of NRS 159A.0475 have been satisfied; or

(b) Notice ~~{by publication pursuant to}~~ **in any manner prescribed by** the Nevada Rules of Civil Procedure ~~including, without limitation, by electronic transmission~~ is currently being

undertaken.

10. The court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, unless extraordinary circumstances necessitate a longer duration for the temporary guardianship.

11. If for any reason a guardian who is appointed for a protected minor cannot perform the duties of a guardian, the court may, upon a petition filed to request temporary guardianship for the minor, appoint a temporary guardian to exercise the powers of a guardian until another guardian is appointed for the minor.

12. In lieu of granting the petition for temporary guardianship on the information provided in the petition alone, the court may schedule a hearing on the petition for appointment of temporary guardian to allow for presentation of additional evidence, including testimony, as to the need for a temporary guardian. In ordering a hearing pursuant to this subsection, the court may impose the notice requirements on the petitioner it deems necessary considering the best interests of the proposed protected minor.

Sec. 16. NRS 159A.055 is hereby amended to read as follows:

159A.055 1. The petitioner has the burden of proving by clear and convincing evidence that the appointment of a guardian of the person, of the estate, or of the person and estate is necessary ~~and~~ *and in the best interests of the proposed protected minor.*

2. *In determining the best interests of the proposed protected minor pursuant to subsection 1, the court shall consider without limitation:*

- (a) The wishes of the proposed protected minor;*
- (b) The extent to which the parent poses a safety risk of either physical or emotional danger to the proposed protected minor;*
- (c) The nature and quality of the parent-child relationship;*
- (d) The length of time that the proposed protected minor has been out of the care, custody and control of either parent;*
- (e) The ability of the parent to meet the needs of the proposed protected minor; and*
- (f) The recommendation of the guardian ad litem, if Applicable;*
- (g) Any other factors the court deems relevant to determine the best interest of the proposed protected minor.

3. If ~~it appears to~~ the court ~~that the allegations of the petition~~

~~are sufficient and~~ *finds by clear and convincing evidence* that *the appointment of* a guardian ~~[should be appointed for]~~ *is necessary and in the best interests of* the proposed protected minor, the court shall enter an order appointing a guardian. ~~[The]~~

4. An order *appointing a guardian* must:

(a) *Set forth with specificity the findings of fact upon which the order is based;*

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

~~[(b)]~~ (c) Specify whether the proposed protected minor is a resident or nonresident of this State;

~~[(e)]~~ (d) Specify the amount of the bond to be executed and filed by the guardian; *and*

~~[(d)]~~ (e) Designate the names and addresses, so far as may be determined, of ~~[-]~~

~~—(1) The~~ *the* relatives of the proposed protected minor upon whom notice must be served pursuant to NRS 159A.047. ~~[-] and~~

~~(2) Any other interested person; and~~

~~(e) Specify whether the proposed protected minor will require a guardianship after reaching 18 years of age.~~

~~3.]~~ 5. A notice of entry of the court order must be sent to ~~[-]~~

~~(a) The~~ *the* relatives of the proposed protected minor upon whom notice must be served pursuant to NRS 159A.047. ~~[-] and~~

~~(b) Any other interested person.]~~

Sec. 17. NRS 159A.0565 is hereby amended to read as follows:

159A.0565 ~~[(a)]~~

1. *Subject to subsection 2, in* an order appointing a guardian or in any order thereafter, the court may award rights of visitation between a protected minor and his or her parents, ~~or~~ relatives who are within the fourth degree of consanguinity, *or fictive kin as defined by NRS 432B.0657.*

2. *If an order described in subsection 1 limits the visitation between the protected minor and a parent, the order must set forth with specificity findings of fact as to why the limitation is necessary to protect the physical and emotional well-being of the child.*

Sec. 18. NRS 159A.061 is hereby amended to read as follows:

159A.061 1. ~~The appointment of the~~ parents of a proposed protected minor, or either parent, if qualified and suitable, ~~[are preferred over all others for appointment]~~ as guardian for ~~[the person or estate or person and estate of]~~ the proposed protected minor ~~[. The appointment of a parent as guardian for the person or estate of a proposed protected minor must not conflict with a valid order for custody of the proposed protected minor.]~~ is presumed to be in the best interest of the proposed protected minor. The parents of a proposed protected minor, or either parent, are presumed suitable to care for the proposed protected minor and it is presumed to be in the proposed protected minor's best interest to be care for by a fit and suitable parent pursuant to the considerations in subsection 4.

2. Except as otherwise provided in subsection ~~[4, if a parent of a proposed protected minor files a petition seeking appointment as guardian for the proposed protected minor, the]~~ 3, a parent is presumed to be suitable to serve as guardian for the proposed protected minor ~~[.]~~ unless:

(a) The parent is unable to provide for any or all of the basic needs of the proposed protected minor, including, without limitation:

- (1) Food;*
- (2) Shelter;*
- (3) Clothing;*
- (4) Medical care; and*
- (5) Education;*

(b) Because of action or inaction, the parent poses a significant safety risk of either physical or emotional danger to the proposed protected minor; or

(c) The proposed protected minor has not been in the care, custody and control of the parent for the 6 months immediately preceding the filing of the petition.

3. ~~[In determining whether the parents of a proposed protected minor, or either]~~ If a proposed protected minor has been in the care, custody and control of a person who is not a parent for the 6 months immediately preceding the filing of a petition for the appointment of a guardian, a parent ~~may rebut the presumption of unsuitability by proving that the parent does not qualify for unsuitability in the manner described in paragraph (a) or (b) of subsection 2.~~ Bears the initial burden of proving they are suitable

pursuant to section (a) and (b) of this subsection.

4. In evaluating a petition for the appointment of a guardian, the court shall determine the suitability of each parent ~~[, or any other person who seeks appointment as]~~ of the proposed protected minor and the proposed guardian for the proposed protected minor ~~[is qualified and suitable, the court shall consider,]~~ by considering, if applicable and without limitation:

(a) ~~[Which parent has physical custody of the proposed protected minor,]~~ *With whom the proposed protected minor lives and how long the proposed protected minor has lived with that person;*

(b) The ability of the ~~[parents, parent or other]~~ ~~person~~ parents, parent, or proposed guardian to provide for the basic needs of the proposed protected minor, including, without limitation, food, shelter, clothing and medical care, taking into consideration any special needs of the proposed protected minor;

(c) Whether the ~~[parents, parent or other]~~ ~~person~~ parents, parent, or proposed guardian has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of cannabis in accordance with the provisions of chapter 678C of NRS;

(d) Whether the ~~[parents, parent or other]~~ ~~person~~ parents, parent, or proposed guardian 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, his or her spouse, his or her parent or any other adult;

(e) Whether the ~~[parents, parent or other]~~ ~~person~~ parents, parent, or proposed guardian has been convicted in this State or any other jurisdiction of a felony; and

(f) Whether the ~~[parents, parent or other]~~ ~~person~~ parents, parent, or proposed guardian has engaged in one or more acts of domestic violence against the proposed protected minor, a parent of the proposed protected minor or any other person who resides with the proposed protected minor.

~~[4. A parent of a proposed protected minor is presumed to be unsuitable to care for the proposed protected minor if:~~

~~(a) The parent is unable to provide for any or all of the basic needs of the proposed protected minor, including, without~~

limitation:

- ~~—— (1) Food;~~
- ~~—— (2) Shelter;~~
- ~~—— (3) Clothing;~~
- ~~—— (4) Medical care; and~~
- ~~—— (5) Education;~~
- ~~—— (b) Because of action or inaction, the parent poses a significant safety risk of either physical or emotional danger to the proposed protected minor; or~~
- ~~—— (c) The proposed protected minor has not been in the care, custody and control of the parent for the 6 months immediately preceding the filing of the petition. The presumption created by this paragraph is a rebuttable presumption.]~~

5. Subject to the ~~{preference}~~ **presumption** set forth in subsection 1 and except as otherwise provided in subsection ~~{7,}~~ **9**, the court shall appoint as guardian the qualified person who is most suitable and is willing to serve.

6. *Except as otherwise provided in subsection 7, the court may not appoint a guardian for a proposed protected minor without the consent of the proposed protected minor if the proposed protected minor ~~is a minor who~~ is 14 years of age or older.*

7. *If the minor will not consent to the appointment of guardian and if the proposed guardian is otherwise found fit and suitable pursuant to this section, ~~of any person who is suitable and willing to serve,~~ the petitioner must show by clear and convincing evidence that the award of the guardianship to the person who is the most suitable and willing to serve is necessary and in the best interests of the proposed protected minor.*

8. In determining which qualified person is most suitable, the court shall, in addition to considering any applicable factors set forth in subsections 2 ~~{3}~~ and 4, give consideration, among other factors, to:

(a) Any nomination of a guardian for the proposed protected minor contained in a will or other written instrument executed by a parent of the proposed protected minor.

(b) ~~{Any} Except as otherwise provided in subsection 7, Any~~ request made by the proposed protected minor, regardless of age; as provided in subsections 6 and 7, a minor over the age of

14 must consent to the guardianship. ~~[, if he or she is 14 years of age or older, for the appointment of a person as guardian for the proposed protected minor.]~~

(c) The relationship by blood or adoption of the proposed guardian to the proposed protected 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) Parent.~~

~~(2) Adult sibling.~~

~~(3) Grandparent.~~

~~(4) Uncle or aunt.~~

~~(d) Any recommendation made by a master of the court or special master pursuant to NRS 159A.0615.~~

~~(e)~~ **(d)** 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 proposed protected minor.

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

~~[(7)]~~ **9.** The court may award temporary guardianship pursuant to this section, supported by findings of suitability, pending a trial or evidentiary hearing if that appointment is supported by findings.

~~[(8)]~~ **10.** Notwithstanding the presumption set forth in subsection ~~[(4)]~~ **2**, in the event of competing petitions for the appointment of guardianship of a proposed protected minor, any finding of unsuitability of a parent of the proposed protected minor must be found by clear and convincing evidence after a hearing on the merits or an evidentiary hearing.

~~[(9)]~~ **11.** In determining whether to appoint a guardian of the person or estate of a proposed protected minor and who should be appointed, the court must always act in the best interests of the proposed protected minor.

~~[(10)]~~ **12.** A court shall not refuse to appoint a person as a guardian of the person or estate of a proposed protected minor solely because the person:

(a) Is deaf, is blind or has another physical disability; or

(b) Is the holder of a valid registry identification card.

~~{11-}~~ **13.** As used in this section:

(a) ~~["Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.~~

~~(b)}~~ "Blind" has the meaning ascribed to it in NRS 426.082.

~~{(e)}~~ **(b)** "Holder of a valid registry identification card" means a person who holds a valid registry identification card as defined in NRS 678C.080 that identifies the person as:

(1) Exempt from state prosecution for engaging in the medical use of cannabis; or

(2) A designated primary caregiver as defined in NRS 678C.040.

Sec. 19. NRS 159A.076 is hereby amended to read as follows:

159A.076 1. The court may grant a summary administration if, at any time, it appears to the court that after payment of all claims and expenses of the guardianship the value of the protected minor's property does not exceed \$10,000.

2. If the court grants a summary administration, the court may:

(a) Authorize the guardian of the estate who is authorized to manage the protected minor's property to convert the property to cash and sell any of the property, with or without notice, as the court may direct. After the payment of all claims and the expenses of the guardianship, the guardian shall ~~{deposit the money in savings accounts or}~~ invest the money as provided in NRS 159A.117, and hold the investment and all interest, issues, dividends and profits for the benefit of the protected minor. The court may dispense with annual accountings and all other proceedings required by this chapter.

(b) Terminate the guardianship of the estate and direct the guardian to deliver the protected minor's property to the custodial parent or parents, guardian or custodian of the protected minor to hold, invest or use as the court may order.

3. Whether the court grants a summary administration at the time the guardianship is established or at any other time, the guardian shall file an inventory and record of value with the court.

4. If, at any time, the net value of the estate of the protected minor exceeds \$10,000:

(a) The guardian shall file an amended inventory and accounting with the court;

(b) The guardian shall file annual accountings; and

(c) The court ~~{may}~~ shall, unless otherwise ordered by the court, require the guardian to place the entire value of the estate in a blocked account, unless the guardian is a private professional guardian or a public guardian, in which case the court may require the guardian to post a bond.

Sec. 20. NRS 159A.079 is hereby amended to read as follows:

159A.079 1. Except as otherwise ordered by the court, a guardian of the person has the care, custody and control of the person of the protected minor, and has the authority and, subject to subsection 2, shall perform the duties necessary for the proper care, maintenance, education and support of the protected minor, including, without limitation, the following:

(a) Supplying the protected minor with food, clothing, shelter and all incidental necessities, including locating an appropriate residence for the protected minor based on the financial situation and needs of the protected minor, including, without limitation, any medical needs or needs relating to his or her care.

(b) Taking reasonable care of any clothing, furniture, vehicles and other personal effects of the protected minor and commencing a proceeding if any property of the protected minor is in need of protection.

(c) Authorizing medical, surgical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the protected minor.

(d) Seeing that the protected minor is properly trained and educated and that the protected minor has the opportunity to learn a trade, occupation or profession.

~~(e) Ensuring that the protected minor maintains a relationship with each parent of the protected minor in a manner that complies with an order relating to custody or visitation.~~ Facilitating appropriate contact between the protected minor and their parent or parents in a manner and to an extent that is in the best interest of the protected minor and in compliance with an order for visitation if one has been granted by the court.

2. In the performance of the duties enumerated in subsection 1 by a guardian of the person, due regard must be given to the extent of the estate of the protected minor. A guardian of the person may be required to incur expenses on behalf of the protected minor if the

estate of the protected minor is insufficient to reimburse the guardian.

3. A guardian of the person is the protected minor's personal representative for purposes of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any applicable regulations. The guardian of the person has authority to obtain information from any government agency, medical provider, business, creditor or third party who may have information pertaining to the protected minor's health care or health insurance.

4. A guardian of the person may, subject to the provisions of subsection 6 and NRS 159A.0807, establish and change the residence of the protected minor at any place within this State. The guardian shall select the least restrictive appropriate residence which is available and necessary to meet the needs of the protected minor and which is financially feasible.

5. A guardian of the person shall petition the court for an order authorizing the guardian to change the residence of the protected minor to a location outside of this State. The guardian must show that changing the residence of the protected minor to a location outside of this State is in the best interest of the protected minor or that there is no appropriate residence available for the protected minor in this State. The court shall retain jurisdiction over the guardianship unless the guardian files for termination of the guardianship pursuant to NRS 159A.1905 or 159A.191 or the jurisdiction of the guardianship is transferred to the other state. Not later than 6 months after changing the residence of a protected minor to a location outside of this State, the guardian shall file a petition for guardianship in the state of the protected minor's residence.

6. A guardian of the person must file a notice with the court of his or her intent to move a protected minor to or place a protected minor in a *facility that provides residential treatment, including, without limitation, a secured residential long-term care facility*, pursuant to subsection 4 of NRS 159A.0807 unless : ~~the secured residential long-term care facility is in this State and;~~

(a) An emergency condition exists pursuant to subsection 5 of NRS 159A.0807;

(b) The court has previously granted the guardian authority to move the protected minor to or place the protected minor in such a facility based on findings made when the court appointed the

guardian; or

(c) The move or placement is made pursuant to a written recommendation by a licensed physician, ~~["a physician employed by the Department of Veterans Affairs,"]~~ a licensed social worker or an employee of a county or state office for protective services.

7. This section does not relieve a parent or other person of any duty required by law to provide for the care, support and maintenance of any dependent.

Sec. 24. NRS 159A.083 is hereby amended to read as follows:
159A.083 **1.** A guardian of the estate shall:

~~["(a) Protect, preserve, manage and dispose of the estate of the protected minor according to law and for the best interests of the protected minor (b)"]; (a)~~ Protect, preserve, manage and dispose of the estate of the protected minor ~~(b)"]; (a)~~;

~~(b)"]; (a)~~ *(b) Responsibly invest the property of the protected minor pursuant to NRS 159A.117;*

~~(c)"]; (a)~~ *(c) File an annual accounting pursuant to NRS 159A.176 to 159A.183, inclusive; and*

~~(d)"]; (a)~~ *(d) Take any other action authorized or required by law.*

~~(e)"]; (a)~~ **2. ["Apply"] Upon approval of the court, a guardian of the estate may:**

~~(a)"]; (a)~~ *(a) Expend money from the estate of the protected minor ~~["for the proper care, maintenance, education and support of the protected minor having due regard for other income or property available to support"] if it is necessary to meet any extraordinary needs of the~~ protected minor considering the protected minor's past routines and needs prior to the establishment of the guardianship of the estate. ~~["~~*

~~(b)"]; (a)~~ **3. ~~Have such other authority and perform such other duties as are provided by law.~~ , including, without limitation, through an annual budget approved by the court pursuant to NRS 159A.0445;**

~~(c)"]; (a)~~ *(b) Manage any property right on behalf of the protected minor;*

~~(d)"]; (a)~~ *(c) Establish:*

~~(e)"]; (a)~~ *(1) A special needs trust;*

~~(f)"]; (a)~~ *(2) A trust for the benefit of the protected minor which is payable over the lifetime of the minor or over a reasonable shorter period; and*

~~(g)"]; (a)~~ *(3) A structured settlement which is payable over the lifetime of the protected minor or over a reasonable shorter period*

of time; and

(d) Invest money, including, without limitation, with the assistance of a financial advisor, for the purposes of growing the estate of the protected minor, as appropriate given the age and needs of the minor and the size of the estate.

3. As used in this section:

(a) "Estate of the protected minor" does not include any payment assigned to a guardian for the support of the protected minor, including, without limitation, child support payments that are processed pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. §§ 651 et seq., and any supplemental security income benefit.

(b) "Special needs trust" has the meaning ascribed to it in NRS 163.556.

(c) "Structured settlement" has the meaning ascribed to it in NRS 42.275.

Sec. 35. NRS 159A.1905 is hereby amended to read as follows:

159A.1905 1. A protected minor, the guardian or another person may petition the court for the termination or modification of

a guardianship. The petition must state or contain:

(a) The name and address of the petitioner.

(b) The relationship of the petitioner to the protected minor.

(c) The name, age and address of the protected minor, if the protected minor is not the petitioner, or the date of death of the protected minor if the protected minor is deceased.

(d) The name and address of the guardian, if the guardian is not the petitioner.

(e) The reason for termination or modification.

(f) Whether the termination or modification is sought for a guardianship of the person, of the estate, or of the person and estate.

(g) A general description and the value of the remaining property of the protected minor and the proposed disposition of that property.

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

~~(a) The protected minor is unable to retain an attorney; [or] and~~

~~(b)~~ The court determines that the appointment is necessary to

protect the interests of the protected minor.

3. Except as otherwise provided in NRS 159A.1915, the petitioner has the burden of proof to show by clear and convincing evidence that the termination or modification of the guardianship of the person, of the estate, or of the person and estate is in the best interests of the protected minor.

4. The court shall issue a citation requiring all interested persons to appear and show cause why termination or modification of the guardianship should not be granted. The court shall serve the citation on the guardian and the petitioner. The petitioner shall serve the citation on all interested persons.

5. If the court finds that the petitioner did not file a petition for termination or modification in good faith or in furtherance of the best interests of the protected minor, the court may ~~†~~:

~~(a) Disallow the petitioner from petitioning the court for attorney's fees from the estate of the protected minor; and~~

~~(b) Impose~~ **impose** sanctions on the petitioner in an amount sufficient to reimburse the estate of the protected minor for all or part of the expenses and for any other pecuniary losses which are incurred by the estate of the protected minor and associated with the petition.

Sec. 42. NRS 159A.014, 159A.0345, 159A.049, 159A.059, 159A.0615, 159A.0617, 159A.0755, ~~159A.086, 159A.0865, 159A.087, 159A.0895, 159A.097, 159A.099, 159A.105, 159A.107, 159A.109, 159A.111, 159A.121, 159A.123, 159A.125, 159A.132, 159A.134, 159A.136, 159A.1365, 159A.1375, 159A.138, 159A.1385, 159A.1415, 159A.142, 159A.1425, 159A.144, 159A.1455, 159A.146, 159A.1465, 159A.1475, 159A.148, 159A.1495, 159A.1505, 159A.1515, 159A.152, 159A.1535, 159A.154, 159A.156, 159A.157, 159A.159, 159A.161, 159A.163, 159A.165, 159A.1653, 159A.1657, 159A.166, 159A.1663, 159A.1667, 159A.167, 159A.184, 159A.195, 159A.197, 159A.203 and 159A.342 are hereby repealed.~~

