

REQUIRES TWO-THIRDS MAJORITY VOTE

(§§ 18, 25, 28, 29, 32, 37, 40)

(Reprinted with amendments adopted on May 22, 2015)

SECOND REPRINT

A.B. 325

ASSEMBLY BILL NO. 325—ASSEMBLYMEN SPRINKLE,
KIRKPATRICK, SEAMAN; AND O’NEILL

MARCH 16, 2015

Referred to Committee on Commerce and Labor

SUMMARY—Enacts and revises provisions relating to guardians.
(BDR 54-976)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: Yes.

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

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

Legislative Counsel’s Digest:

1 Existing law provides for the court appointment of a private professional
2 guardian to act as a fiduciary for a person or estate, but does not require the private
3 professional guardian to be licensed. (NRS 159.0595) This bill requires the
4 licensing of certain persons engaging in the business of a private professional
5 guardian and authorizes the Commissioner of Financial Institutions to adopt
6 regulations relating to the licensing of those persons.
7 **Sections 15-17** of this bill make it unlawful for a person to act as a private
8 professional guardian without being licensed. **Section 12** of this bill provides
9 certain exceptions to the licensing and other regulatory requirements. **Sections 18-**
10 **26** of this bill establish the requirements and application process to obtain a license
11 to transact the business of a private professional guardian. **Section 28** of this bill
12 sets forth requirements relating to the change of ownership or transfer of assets of a



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13 private professional guardian company. **Section 29** of this bill establishes the
14 process for the renewal of a license. **Section 30** of this bill establishes the process
15 for surrender of a license.

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

20 **Section 35** of this bill establishes the rights and authority of a licensee. **Section**
21 **36** of this bill prohibits certain activities by a licensee. **Sections 37-41** of this bill
22 establish requirements for accounting, reporting and auditing of a private
23 professional guardian company and authorize the Commissioner or a designee to
24 inspect certain records of a private professional guardian company.

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

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

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

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

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

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



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

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

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

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

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

12 3. *It is the purpose of this chapter to bring under public*
13 *supervision persons who are engaged in or who desire to engage*
14 *in the business of a private professional guardian and to ensure*
15 *that there is established in this State an adequate, efficient and*
16 *competitive private professional guardian service available to the*
17 *courts and the public at large.*

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

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

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

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

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

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

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

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

41 **Sec. 10. 1.** *“Private professional guardian company”*
42 *means a natural person or business entity, including, without*



1 *limitation, a sole proprietorship, partnership, limited-liability*
2 *company or corporation, that is licensed pursuant to the*
3 *provisions of this chapter to engage in the business of a private*
4 *professional guardian, whether appointed by a court or hired by a*
5 *private party.*

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

11 *Sec. 11. "Ward" has the meaning ascribed to it in*
12 *NRS 159.027.*

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

14 *1. Is a public guardian or administrator appointed by the*
15 *court;*

16 *2. Is a banking corporation as defined in NRS 657.016;*

17 *3. Is an organization permitted to act as a fiduciary pursuant*
18 *to NRS 662.245;*

19 *4. Is a trust company as defined in NRS 669.070;*

20 *5. Is acting in the performance of his or her duties as an*
21 *attorney at law;*

22 *6. Acts as a trustee under a deed of trust;*

23 *7. Acts as a fiduciary under a court trust; or*

24 *8. Acts as a fiduciary as an individual or a family member.*

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

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

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

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

35 *1. Use the term "private professional guardian" or*
36 *"guardianship services" as a part of his or her business name.*

37 *2. Advertise or use any sign which includes the term "private*
38 *professional guardian."*

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

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



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

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

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

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

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

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

22 (a) No petition for judicial review is filed pursuant to NRS
23 233B.130 and the fine remains unpaid for at least 90 days after
24 notice of the imposition of the fine; or

25 (b) A petition for judicial review is filed pursuant to NRS
26 233B.130 and the fine remains unpaid for at least 90 days after
27 the exhaustion of any right of appeal in the courts of this State
28 resulting in a final determination that upholds the imposition of
29 the fine.

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

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

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

41 3. The application must contain:

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

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



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

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

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

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

9 (g) *A statement by the applicant acknowledging that the*
10 *applicant is required to comply with the provisions of NRS*
11 *159.0595 if issued a license.*

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

44 **Sec. 20. 1.** *In addition to any other requirements set forth*
45 *in this chapter, an applicant for the issuance or renewal of a*



1 license to engage in the business of a private professional
2 guardian shall submit to the Commissioner the statement
3 prescribed by the Division of Welfare and Supportive Services of
4 the Department of Health and Human Services pursuant to
5 NRS 425.520. The statement must be completed and signed by the
6 applicant.

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

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

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

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

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

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

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

31 **Sec. 21.** 1. If the Commissioner receives a copy of a court
32 order issued pursuant to NRS 425.540 that provides for the
33 suspension of all professional, occupational and recreational
34 licenses, certificates and permits issued to a person who is the
35 holder of a license to engage in the business of a private
36 professional guardian, the Commissioner shall deem the license
37 issued to that person to be suspended at the end of the 30th day
38 after the date on which the court order was issued unless the
39 Commissioner receives a letter issued to the holder of the license
40 by the district attorney or other public agency pursuant to NRS
41 425.550 stating that the holder of the license has complied with the
42 subpoena or warrant or has satisfied the arrearage pursuant to
43 NRS 425.560.

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

40 4. If the Commissioner enters an order denying an
41 application, the applicant may request a hearing before the
42 Commissioner, but if no such request is made within 30 days after
43 the entry of the order denying the application, the Commissioner
44 shall enter a final order.



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

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

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

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

14 (a) *The name of the licensee.*

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

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

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

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

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

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

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

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

36 **Sec. 28.** *1. A license issued pursuant to this chapter is not*
37 *transferable or assignable, but upon the approval of the*
38 *Commissioner and any applicable court of jurisdiction, a licensee*
39 *may merge or consolidate with, or transfer its assets and control*
40 *to, another person who holds a license pursuant to this chapter. In*
41 *determining whether to grant the approval, the Commissioner may*
42 *consider the factors set forth in section 22 of this act.*

43 2. *If a change in the control of a private professional*
44 *guardian company occurs, the chief executive officer or managing*
45 *member of the company shall report the change in control and the*



1 *name of the person obtaining control to the Commissioner within*
2 *5 business days after obtaining knowledge of the change.*

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

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

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

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

34 **Sec. 29.** *1. A private professional guardian company*
35 *wishing to renew a license to engage in the business of a private*
36 *professional guardian shall file in the Office of the Commissioner,*
37 *on or before the June 1 of the year after the year of the original*
38 *issuance of the license, an application, which must contain,*
39 *without limitation, the number of the license being renewed. The*
40 *application for renewal must be accompanied by a renewal fee of*
41 *not more than \$1,500 and all information required to complete the*
42 *application.*

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



1 *addition, the renewal must include the date and number of the*
2 *earliest license issued.*

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

38 **Sec. 33. 1.** The Commissioner may require a private
39 professional guardian company to maintain equity, fidelity and
40 surety bonds in amounts that are more than the minimum
41 required initially or at any subsequent time based on the
42 Commissioner's assessment of the risks associated with the
43 business plan of the private professional guardian or other
44 information contained in the application, the Commissioner's
45 investigation of the application or any examination of or filing by



1 *the private professional guardian company thereafter, including,*
2 *without limitation, any examination before the opening of the*
3 *business. In making such a determination, the Commissioner may*
4 *consider, without limitation:*

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

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

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

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

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

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

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

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

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

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

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

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

37 *2. The director or manager of a private professional guardian*
38 *company shall require fidelity bonds in the amount of at least*
39 *\$25,000 on the sole proprietor or each active officer, manager,*
40 *member acting in a managerial or case manager capacity and*
41 *employee, regardless of whether the person receives a salary or*
42 *other compensation from the private professional guardian*
43 *company, to indemnify the company against loss due to any*
44 *dishonest, fraudulent or criminal act or omission by a person*
45 *upon whom a bond is required pursuant to this section who acts*



1 alone or in combination with any other person. A bond required
2 pursuant to this section may be in any form and may be paid for
3 by the private professional guardian company.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

42 4. A court shall not appoint a private professional guardian
43 that is not licensed pursuant to this chapter as the guardian of a
44 person or estate. The court must review each guardianship
45 involving a private professional guardian on the anniversary date



1 *of the appointment of the private professional guardian. If a*
2 *private professional guardian does not hold a current license, the*
3 *court must replace the guardian until such time as the private*
4 *professional guardian obtains the necessary license.*

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

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

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

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

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

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

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



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

4 7. If the Commissioner determines that the records of a
5 licensee are not maintained in accordance with subsections 1 and
6 2, the Commissioner may require the licensee to submit, within 60
7 days, an audited financial statement prepared from the records of
8 the licensee by a certified public accountant who holds a
9 certificate to engage in the practice of public accounting in this
10 State. The Commissioner may grant a reasonable extension of
11 time for the submission of the financial statement if an extension
12 is requested before the statement is due.

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

18 9. For each examination of the books, papers, records and
19 effects of a private professional guardian company that is required
20 or authorized pursuant to this chapter, the Commissioner shall
21 charge and collect from the private professional guardian
22 company a fee for conducting the examination and preparing a
23 report of the examination based upon the rate established by
24 regulation pursuant to NRS 658.101. Failure to pay the fee within
25 30 days after receipt of the bill is grounds for revoking the license
26 of the private professional guardian company.

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

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

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

37 **Sec. 39.** 1. The Commissioner shall provide a copy of a
38 report prepared pursuant to section 38 of this act to the president
39 or secretary of the board of directors of the private professional
40 guardian company if the company is a corporation, or to a
41 manager or owner of the private professional guardian company if
42 the company is not a corporation, and may make a copy available
43 to each member of the board of directors or each manager or
44 owner, as applicable. If, in the judgment of the Commissioner, the
45 report discloses any violation of the provisions of this chapter



1 *committed by the private professional guardian company, or if it*
2 *appears from the report that there are certain conditions existing*
3 *which should be corrected by the private professional guardian*
4 *company, the Commissioner may, in writing, call the matter to the*
5 *attention of each member of the board of directors or each*
6 *manager or owner, with instructions to correct the condition.*

7 2. *Upon the preparation of the report as provided in section*
8 *38 of this act, the Commissioner shall also serve a copy thereof to*
9 *the court having jurisdiction of each ward of the private*
10 *professional guardian company.*

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

16 2. *If applicable, on or before the fourth Monday in January*
17 *of each year, each licensee shall submit to the Commissioner the*
18 *stock ledger of stockholders of the corporation required to be*
19 *maintained pursuant to paragraph (c) of subsection 1 of NRS*
20 *78.105 or the list of each member and manager required to be*
21 *maintained pursuant to paragraph (a) of subsection 1 of NRS*
22 *86.241, verified by the president or a manager, as appropriate.*

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

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

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

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

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

43 2. *Any person if the Commissioner, in his or her discretion,*
44 *determines that the interests of the public that would be protected*



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1 *by disclosure outweigh the interest of any person in the*
2 *confidential information not being disclosed.*

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

11 **2.** *An officer, director, manager or employee of a private*
12 *professional guardian company who is required to be removed*
13 *from office pursuant to subsection 1 may appeal his or her*
14 *removal by filing a written request for a hearing with the*
15 *Commissioner within 10 days after the effective date of his or her*
16 *removal. The Commissioner shall conduct the hearing after*
17 *providing at least 5 days' written notice to the private professional*
18 *guardian company and the officer, director, manager or employee*
19 *who is appealing his or her removal from office. Within 5 days*
20 *after the conclusion of the hearing, the Commissioner shall enter*
21 *an order affirming or disaffirming the removal of the person from*
22 *office. An order of the Commissioner entered pursuant to this*
23 *subsection is final for the purposes of judicial review.*

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

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

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

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

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

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

37 *(f) Has become insolvent.*

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

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

43 *(i) Has refused to provide copies to the Division upon request,*
44 *and in cooperation with any investigation, inspection or*



1 *examination, of any and all documents reviewed by the Division*
2 *during any such investigation, inspection or examination.*

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

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

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

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

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

13 *2. The Commissioner also may initiate such proceedings to*
14 *take possession of the business and property of any private*
15 *professional guardian company if an officer, partner, member or*
16 *sole proprietor of the private professional guardian company*
17 *refuses to be examined upon oath regarding its affairs.*

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

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

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

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

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

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

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

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

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



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

4 (e) The licensee:

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

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

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

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

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

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

28 **Sec. 46.** 1. If the Commissioner has reasonable cause to
29 believe that any person is violating or is threatening to or intends
30 to violate any provision of this chapter, the Commissioner may, in
31 addition to any action provided for in this chapter and chapter
32 233B of NRS and without prejudice thereto, enter an order
33 requiring the person to cease and desist or to refrain from such
34 violation. If the Commissioner enters such an order pursuant to
35 this subsection, the Commissioner shall send a copy of the order to
36 each district court in this State.

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



1 3. *In addition to all other means provided by law for the*
2 *enforcement of a restraining order or injunction, the court in*
3 *which an action is brought may impound, and appoint a receiver*
4 *for, the property and business of the person, including books,*
5 *papers, documents and records pertaining thereto, or so much*
6 *thereof as a court may deem reasonably necessary to prevent*
7 *violations of this chapter through or by means of the use of*
8 *property and business, whether such books, papers, documents*
9 *and records are in the possession of the person, a registered agent*
10 *acting on behalf of the person or any other person. If a receiver is*
11 *appointed and qualified, the receiver has such powers and duties*
12 *relating to the custody, collection, administration, winding up and*
13 *liquidation of such property and business as may be conferred*
14 *upon the receiver by the court.*

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

44 (b) *Whether the nominated person, relative or other person*
45 *has engaged in the habitual use of alcohol or any controlled*



1 substance during the previous 6 months, except the use of
2 marijuana in accordance with the provisions of chapter 453A of
3 NRS;

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

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

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

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

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

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

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

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

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

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

44 (1) A spouse or domestic partner.

45 (2) A child.



- 1 (3) *A parent.*
- 2 (4) *Any relative with whom the adult has resided for more*
- 3 *than 6 months before the filing of the petition or any relative who*
- 4 *has a power of attorney executed by the adult while competent.*
- 5 (5) *Any relative currently acting as agent.*
- 6 (6) *A sibling.*
- 7 (7) *A grandparent or grandchild.*
- 8 (8) *An uncle, aunt, niece, nephew or cousin.*
- 9 (9) *Any other person recognized to be in a familial*
- 10 *relationship with the adult.*
- 11 (d) *Any recommendation made by a master of the court or*
- 12 *special master pursuant to NRS 159.0615.*
- 13 (e) *Any request for the appointment of any other interested*
- 14 *person that the court deems appropriate, including, without*
- 15 *limitation, a person who is not a relative and who has a power of*
- 16 *attorney executed by the adult while competent.*
- 17 5. *The court may appoint as guardian any nominated person,*
- 18 *relative or other person listed in subsection 4 who is not a resident*
- 19 *of this State. The court shall not give preference to a resident of*
- 20 *this State over a nonresident if the court determines that:*
- 21 (a) *The nonresident is more qualified and suitable to serve as*
- 22 *guardian; and*
- 23 (b) *The distance from the proposed guardian's place of*
- 24 *residence and the adult's place of residence will not affect the*
- 25 *quality of the guardianship or the ability of the proposed guardian*
- 26 *to make decisions and respond quickly to the needs of the adult*
- 27 *because:*
- 28 (1) *A person or care provider in this State is providing*
- 29 *continuing care and supervision for the adult;*
- 30 (2) *The adult is in a secured residential long-term care*
- 31 *facility in this State; or*
- 32 (3) *Within 30 days after the appointment of the proposed*
- 33 *guardian, the proposed guardian will move to this State or the*
- 34 *adult will move to the proposed guardian's state of residence.*
- 35 6. *If the court appoints a nonresident as guardian for the*
- 36 *adult:*
- 37 (a) *The jurisdictional requirements of NRS 159.1991 to*
- 38 *159.2029, inclusive, must be met;*
- 39 (b) *The court shall order the guardian to designate a registered*
- 40 *agent in this State in the same manner as a represented entity*
- 41 *pursuant to chapter 77 of NRS; and*
- 42 (c) *The court may require the guardian to complete any*
- 43 *available training concerning guardianships pursuant to NRS*
- 44 *159.0592, in this State or in the state of residence of the guardian,*
- 45 *regarding:*



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

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

6 (3) *The rights of the adult;*

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

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

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

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

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

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

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

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

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

29 (a) *The practice of law;*

30 (b) *The practice of accounting; or*

31 (c) *Any other profession that:*

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

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

36 9. *As used in this section:*

37 (a) *“Adult” means a person who is a ward or a proposed ward*
38 *and who is not a minor.*

39 (b) *“Domestic partner” means a person in a domestic*
40 *partnership.*

41 (c) *“Domestic partnership” means:*

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

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



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

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

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

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

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

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

17 159.024 **1.** "Private professional guardian" means a person
18 who receives compensation for services as a guardian to three or
19 more wards who are not related to the guardian by blood or
20 marriage.

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

22 *(a) A person who serves as a private professional guardian and*
23 *who is required to have a license issued pursuant to sections 2 to*
24 *50, inclusive, of this act.*

25 *(b) A person who serves as a private professional guardian but*
26 *who is exempt pursuant to NRS 159.0595 or section 12 of this act*
27 *from the requirement to have a license issued pursuant to sections*
28 *2 to 50, inclusive, of this act.*

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

30 ~~1-1~~ *(a) A governmental agency.*

31 ~~1-2~~ *(b) A public guardian appointed or designated pursuant to*
32 *the provisions of chapter 253 of NRS.*

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

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

35 159.0595 **1.** ~~[A]~~ *In order for a person to serve as a private*
36 *professional guardian, ~~[if a person,]~~ the person must be ~~[qualified]~~ :*

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

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

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



1 (a) *Be* qualified to serve as a guardian pursuant to ~~NRS~~
2 ~~159.059~~ *section 50.2 of this act if the ward is an adult;*

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

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

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

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

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

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

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

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

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

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

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

29 4. As used in this section:

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

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

34 (c) “Person” means a natural person.

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

36 159.061 1. The parents of a minor, or either parent, or
37 qualified and suitable, are preferred over all others for appointment
38 as guardian for the minor. The appointment of a parent as ~~at~~
39 guardian ~~for~~ for the ~~person~~ *minor* must not conflict with a valid
40 order for custody of the minor.

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

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



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

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

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

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

15 ~~{2-}~~ 3. Subject to the preference set forth in subsection 1 , the
16 court shall appoint as guardian ~~{for an incompetent, a person of~~
17 ~~limited capacity or minor}~~ the qualified person who is most suitable
18 and is willing to serve.

19 ~~{3-}~~ 4. In determining ~~{who}~~ *which qualified person* is most
20 suitable, the court shall , *in addition to considering any applicable*
21 *factors set forth in subsection 2*, give consideration, among other
22 factors, to:

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

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

30 ~~{c)}~~ *minor.*

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

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

40 (1) ~~{Spouse.~~

41 ~~{2} Adult child.~~

42 ~~{3}~~ Parent.

43 ~~{4}~~ (2) Adult sibling.

44 ~~{5}~~ (3) Grandparent . ~~{or adult grandchild.}~~

45 ~~{6}~~ (4) Uncle ~~{,}~~ *or* aunt . ~~{, adult niece or adult nephew.~~



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

3 ~~[(f)]~~ (e) *Any recommendation made by:*

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

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

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

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

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

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

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

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

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

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

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

28 159.185 1. The court may remove a guardian if the court
29 determines that:

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

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

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

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

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

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

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



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

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

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

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

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

14 159.2024 1. To transfer jurisdiction of a guardianship or
15 conservatorship to this State, the guardian, conservator or other
16 interested party must petition the court of this State for guardianship
17 pursuant to NRS 159.1991 to 159.2029, inclusive, to accept
18 guardianship in this State. The petition must include a certified copy
19 of the other state's provisional order of transfer and proof that the
20 ward is physically present in, or is reasonably expected to move
21 permanently to, this State.

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

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

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

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

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

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

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

44 239.010 1. Except as otherwise provided in this section and
45 NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516,



1 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160,
2 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,
3 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345,
4 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,
5 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280,
6 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130,
7 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,
8 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245,
9 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801,
10 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450,
11 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662,
12 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140,
13 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
14 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350,
15 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300,
16 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,
17 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020,
18 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140,
19 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350,
20 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025,
21 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135,
22 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070,
23 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
24 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
25 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080,
26 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275,
27 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264,
28 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460,
29 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
30 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320,
31 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175,
32 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,
33 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195,
34 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570,
35 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610,
36 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
37 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
38 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536,
39 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040,
40 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964,
41 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210,
42 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
43 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265,
44 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133,
45 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,



1 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185,
2 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089,
3 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400,
4 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191,
5 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625,
6 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225,
7 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320,
8 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065,
9 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133,
10 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340,
11 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190,
12 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280,
13 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
14 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117,
15 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196,
16 704B.320, 704B.325, 706.1725, 710.159, 711.600, sections 35, 38
17 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of
18 chapter 391, Statutes of Nevada 2013 and **sections 41 and 48 of this**
19 **act and** unless otherwise declared by law to be confidential, all
20 public books and public records of a governmental entity must be
21 open at all times during office hours to inspection by any person,
22 and may be fully copied or an abstract or memorandum may be
23 prepared from those public books and public records. Any such
24 copies, abstracts or memoranda may be used to supply the general
25 public with copies, abstracts or memoranda of the records or may be
26 used in any other way to the advantage of the governmental entity or
27 of the general public. This section does not supersede or in any
28 manner affect the federal laws governing copyrights or enlarge,
29 diminish or affect in any other manner the rights of a person in any
30 written book or record which is copyrighted pursuant to federal law.
31 2. A governmental entity may not reject a book or record
32 which is copyrighted solely because it is copyrighted.
33 3. A governmental entity that has legal custody or control of a
34 public book or record shall not deny a request made pursuant to
35 subsection 1 to inspect or copy or receive a copy of a public book or
36 record on the basis that the requested public book or record contains
37 information that is confidential if the governmental entity can
38 redact, delete, conceal or separate the confidential information from
39 the information included in the public book or record that is not
40 otherwise confidential.
41 4. A person may request a copy of a public record in any
42 medium in which the public record is readily available. An officer,
43 employee or agent of a governmental entity who has legal custody
44 or control of a public record:



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

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

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

10 253.150 1. The board of county commissioners of each
11 county shall establish the office of public guardian.

12 2. The board of county commissioners shall:

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

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

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

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

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

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

29 4. As used in this section, "private professional guardian"
30 ~~means a person who receives compensation for services as a~~
31 ~~guardian to three or more wards who are not related to the person by~~
32 ~~blood or marriage. The~~ *has the meaning ascribed to it in NRS*
33 *159.024, except that the* term does not include:

34 (a) ~~A governmental agency.~~

35 ~~(b)~~ A banking corporation, as defined in NRS 657.016, or an
36 organization permitted to act as a fiduciary pursuant to NRS
37 662.245 if it is appointed as guardian of an estate only.

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

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

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

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



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

3 432B.4665 1. The court may, upon the filing of a petition
4 pursuant to NRS 432B.466, appoint a person as a guardian for a
5 child if:

6 (a) The court finds:

7 (1) That the proposed guardian is suitable and is not
8 disqualified from guardianship pursuant to NRS ~~159.059;~~
9 **159.061;**

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

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

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

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

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

23 2. A guardianship established pursuant to this section:

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

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

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

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

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

37 ~~3. The court may appoint as a guardian for a child pursuant to
38 this section for not more than 6 months a person who does not
39 satisfy the residency requirement set forth in subsection 5 of NRS
40 159.059 if the court determines that appointing such a person is
41 necessary to facilitate the permanent placement of the child.]~~

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

43 **Sec. 53.** 1. This section and sections 2 to 19, inclusive, and
44 21 to 52.7, inclusive, of this act become effective:



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

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

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

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

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

15 ➤ are repealed by the Congress of the United States.

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

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

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

26 ➤ are repealed by the Congress of the United States.

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

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

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

37 ➤ are repealed by the Congress of the United States.

TEXT OF REPEALED SECTION

159.059 Qualifications of guardian. Except as otherwise
provided in NRS 159.0595, any qualified person or entity that the



* A B 3 2 5 R 2 *

court finds suitable may serve as a guardian. A person is not qualified to serve as a guardian who:

1. Is an incompetent.
2. Is a minor.
3. Has been convicted of a felony, unless the court determines that such conviction should not disqualify the person from serving as the guardian of the ward.
4. Has been suspended for misconduct or disbarred from:
 - (a) The practice of law;
 - (b) The practice of accounting; or
 - (c) Any other profession which:
 - (1) Involves or may involve the management or sale of money, investments, securities or real property; and
 - (2) Requires licensure in this State or any other state,
↳ during the period of the suspension or disbarment.
5. Is a nonresident of this State and:
 - (a) Has not associated as a coguardian, a resident of this State or a banking corporation whose principal place of business is in this State; and
 - (b) Is not a petitioner in the guardianship proceeding.
6. Has been judicially determined, by clear and convincing evidence, to have committed abuse, neglect or exploitation of a child, spouse, parent or other adult, unless the court finds that it is in the best interests of the ward to appoint the person as the guardian of the ward.



