

CHAPTER.....

AN ACT relating to guardianships; authorizing a court having jurisdiction of the guardianship of a ward to assume jurisdiction of a trust of which the ward is currently a beneficiary who is receiving or is entitled to receive distributions in certain circumstances; revising provisions relating to the filing of a verified inventory by a general or special guardian of the estate; requiring a guardian of the estate to obtain court approval before submitting an irrevocable trust to the jurisdiction of the court in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a court having jurisdiction of a trust to transfer supervision of the trust to another court, upon petition by a trustee or beneficiary, when the convenience of certain persons makes a transfer desirable. (NRS 164.130) **Section 3** of this bill additionally authorizes such a court to transfer supervision of the trust to a district court having jurisdiction of the guardianship of a ward who is currently a beneficiary of the trust and is receiving or is entitled to receive distributions.

Existing law requires a general or special guardian of the estate to make and file in a guardianship proceeding, not later than 60 days after the date of his or her appointment, a verified inventory of all of the property of a ward which comes to the possession or knowledge of the guardian. (NRS 159.085) **Section 2** of this bill specifies that such an inventory must include the existence of any trust of which the ward is currently a beneficiary who is receiving or is entitled to receive distributions. **Section 1** of this bill provides that if such an inventory includes the existence of such a trust, the trustee must be served with a copy of the inventory. **Section 1** authorizes the guardian or attorney of the ward to demand a copy of the trust and an accounting of the assets of the trust from the trustee. If the trustee fails to comply with the demand within a certain period, **section 1** authorizes the guardian or attorney of the ward to petition the court to assume jurisdiction of the trust. **Section 1** authorizes the court to assume jurisdiction of the trust if: (1) no objection to the court assuming jurisdiction of the trust is filed; or (2) the court does not find good cause as to why it should not assume jurisdiction of the trust. **Section 1** further requires the trustee to file a copy of the trust and an accounting of the assets of the trust with the court not later than 30 days after the court assumes jurisdiction of the trust or supervision of the trust is transferred pursuant to **section 3**.

Existing law requires a guardian of the estate to petition the court for an order authorizing the guardian to submit a revocable trust to the jurisdiction of the court in certain circumstances. (NRS 159.113) **Section 2.5** of this bill additionally requires a guardian of the estate to petition the court for an order authorizing the guardian to submit an irrevocable trust to the jurisdiction of the court in such circumstances.



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

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

1. If the inventory filed pursuant to NRS 159.085 includes the existence of a trust of which the ward is currently a beneficiary who is receiving or is entitled to receive distributions, the trustee must be served with a copy of the inventory for the purpose of alerting the trustee that the court may assume jurisdiction of the trust pursuant to this section or that supervision of the trust may be transferred to the court pursuant to NRS 164.130.

2. The guardian of the ward or attorney of the ward may demand a copy of the trust and an accounting of the assets of the trust from the trustee. Such a demand must be served on the trustee and all parties and include notice that failure to comply with the demand may result in the court assuming jurisdiction of the trust.

3. If the trustee fails to comply with the demand made pursuant to subsection 2 within 30 days after being served with the demand, the guardian of the ward or attorney of the ward may petition the court to assume jurisdiction of the trust. Such a petition must be served on the trustee and all parties.

4. Not later than 30 days after being served with a petition pursuant to subsection 3, the trustee may object to the court assuming jurisdiction of the trust. Except as otherwise provided in subsection 3 of NRS 164.045, if no objection is filed or if the court does not find good cause as to why it should not assume jurisdiction of the trust, the court may assume jurisdiction of the trust.

5. Not later than 30 days after the court assumes jurisdiction of the trust pursuant to this section or supervision of the trust is transferred to the court pursuant to NRS 164.130, the trustee shall file a copy of the trust and an accounting of the assets of the trust with the court.

6. The provisions of chapters 162 to 167, inclusive, of NRS apply to a trust of which a court has jurisdiction.

Sec. 2. NRS 159.085 is hereby amended to read as follows:

159.085 1. Not later than 60 days after the date of the appointment of a general or special guardian of the estate or, if necessary, such further time as the court may allow, the guardian



shall make and file in the guardianship proceeding a verified inventory of all of the property of the ward which comes to the possession or knowledge of the guardian **H**, *including, without limitation, the existence of any trust of which the ward is currently a beneficiary who is receiving or is entitled to receive distributions.*

2. A temporary guardian of the estate who is not appointed as the general or special guardian shall file an inventory with the court by not later than the date on which the temporary guardian files a final accounting as required pursuant to NRS 159.177.

3. The guardian shall take and subscribe an oath, which must be endorsed or attached to the inventory, before any person authorized to administer oaths, that the inventory contains a true statement of:

(a) All of the estate of the ward which has come into the possession of the guardian;

(b) All of the money that belongs to the ward; and

(c) All of the just claims of the ward against the guardian.

4. Whenever any property of the ward not mentioned in the inventory comes to the possession or knowledge of a guardian of the estate, the guardian shall:

(a) Make and file in the proceeding a verified supplemental inventory not later than 30 days after the date the property comes to the possession or knowledge of the guardian; or

(b) Include the property in the next accounting.

5. The court may order which of the two methods described in subsection 4 the guardian shall follow.

6. The court may order all or any part of the property of the ward appraised as provided in NRS 159.0865 and 159.305.

7. If the guardian neglects or refuses to file the inventory within the time required pursuant to subsection 1, the court may, for good cause shown and upon such notice as the court deems appropriate:

(a) Revoke the letters of guardianship and the guardian shall be liable on the bond for any loss or injury to the estate caused by the neglect of the guardian; or

(b) Enter a judgment for any loss or injury to the estate caused by the neglect of the guardian.

Sec. 2.5. NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian of the estate shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward pursuant to NRS 159.117.

(b) Continue the business of the ward pursuant to NRS 159.119.



(c) Borrow money for the ward pursuant to NRS 159.121.

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.

(f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.

(g) Exchange or partition the ward's property pursuant to NRS 159.175.

(h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.

(i) Exercise or release the power of the ward as a donee of a power of appointment.

(j) Exercise the right of the ward to take under or against a will.

(k) Transfer to a trust created by the ward any property unintentionally omitted from the trust.

(l) Submit a revocable trust *or an irrevocable trust* to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

(m) Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.

(n) Transfer money in a minor ward's blocked account to the Nevada Higher Education Prepaid Tuition Trust Fund created pursuant to NRS 353B.140.

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.



(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

5. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward or complete contracts of the ward.

Sec. 3. NRS 164.130 is hereby amended to read as follows:

164.130 Upon petition by any trustee or beneficiary, a court having jurisdiction of a trust may transfer supervision of the trust to ~~any~~:

1. Any district court within the State, or to any court outside Nevada which accepts jurisdiction over the trust, when the convenience of beneficiaries, trustees, attorneys or other interested persons makes a transfer desirable.

2. A district court within this State having jurisdiction of the guardianship of a ward who is currently a beneficiary of the trust and is receiving or is entitled to receive distributions, if the district court has not assumed jurisdiction pursuant to section 1 of this act.



