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ASSEMBLY BILL NO. 318—ASSEMBLYWOMAN MARZOLA

MARCH 17, 2021

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Referred to Committee on Judiciary

**SUMMARY**—Revises various provisions relating to estates.  
(BDR 3-805)

**FISCAL NOTE:** Effect on Local Government: No.  
Effect on the State: No.

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

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**AN ACT** relating to estates; revising provisions relating to certain declaratory relief; exempting certain fiduciaries from the requirement to provide a residential disclosure form in certain circumstances; revising provisions relating to electronic wills; establishing and revising various provisions governing the administration of estates; revising provisions concerning the distribution of small estates; revising provisions relating to the compensation of attorneys for personal representatives; revising the definition of the term “independent attorney”; revising provisions relating to the nomination of a guardian; authorizing a trustee to reimburse a settlor for the payment of tax on trust income or principal; revising various provisions concerning trusts and the administration of trusts; requiring that public administrators or similar persons be given certain information relating to a decedent and access to the safe deposit box of a decedent in certain circumstances; authorizing certain entities to charge a reasonable fee for providing certain information to public administrators or similar persons; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1 Existing law authorizes certain persons to obtain declaratory relief under a
- 2 deed, written contract or testamentary instrument or with respect to the
- 3 administration of a trust or certain estates for certain purposes. (NRS 30.040,



4 30.060) **Sections 1 and 2** of this bill authorize a principal or person granted  
5 authority to act for a principal under a power of attorney to obtain declaratory relief  
6 under the power of attorney.

7 Existing law generally requires a seller of residential property to provide a  
8 disclosure form to the purchaser of the property, but provides that such a  
9 requirement does not apply in certain circumstances. (NRS 113.130) **Section 3** of  
10 this bill exempts from such a requirement certain fiduciaries who take temporary  
11 possession or control of or title to residential property solely to facilitate the sale of  
12 the property on behalf of a person who is deceased or incapacitated.

13 **Sections 4-14** of this bill revise various provisions governing electronic wills.  
14 **Section 9** of this bill revises provisions governing the revocation of an electronic  
15 will. **Section 11** of this bill revises provisions relating to a qualified custodian of an  
16 electronic will ceasing to serve in that capacity and the appointment of a successor  
17 qualified custodian. **Section 13** of this bill revises provisions concerning the  
18 destruction of the electronic record of an electronic will. **Section 14** of this bill  
19 establishes provisions relating to the conversion of: (1) an electronic will into a  
20 certified paper original of the electronic will; and (2) an electronic revocation of a  
21 will into a certification of revocation.

22 Existing law authorizes the administration of an estate to be granted to one or  
23 more qualified persons not otherwise entitled to serve as an administrator if a  
24 qualified person who is entitled to serve as an administrator files a written request  
25 with the court. (NRS 139.050) **Section 15** of this bill requires the requester to  
26 provide his or her current address and telephone number in the written request and  
27 provides that failure to provide such information voids the written request. Existing  
28 law requires a petition for letters of administration to include certain information.  
29 (NRS 139.090) **Section 16** of this bill additionally requires such a petition to  
30 include the names and addresses of the proposed appointed administrators and any  
31 associated coadministrator.

32 **Section 18** of this bill establishes the circumstances in which a person is  
33 required to accept or not accept certified letters of administration or letters  
34 testamentary and provides that a person who unlawfully refuses to accept such  
35 certified letters is subject to a court order requiring acceptance of the certified  
36 letters and liability for reasonable attorney's fees and costs incurred in an action or  
37 proceeding confirming the validity or mandating the acceptance of the certified  
38 letters. **Section 18** authorizes a person, after accepting certified letters of  
39 administration or letters testamentary, to subsequently request newly certified  
40 letters after a certain period for the purpose of validating the continued authority of  
41 the personal representative.

42 **Section 19** of this bill authorizes a person holding property of a decedent to  
43 request the presentation of only certain items as a prerequisite to transferring such  
44 property in accordance with a court order providing to whom such property is to be  
45 transferred. **Section 19** requires the person to accept and comply with such a court  
46 order not later than 10 business days after the presentation of all requested items  
47 unless certain circumstances exist and provides that a person who unlawfully  
48 refuses to accept and comply with such a court order is subject to a court order  
49 requiring acceptance of the order, liability for reasonable attorney's fees and costs  
50 incurred in an action or proceeding confirming the validity of the court order and  
51 any damages resulting from the delay.

52 Existing law establishes provisions concerning the effect of the absence or  
53 disability of a personal representative on acts taken by one or more other personal  
54 representatives when more than one personal representative has been appointed.  
55 (NRS 143.010) **Section 20** of this bill provides that if there are two personal  
56 representatives, one of whom has a conflict of interest, the acts of the other  
57 personal representative alone are valid, and if there are more than two personal  
58 representatives, the acts of a majority of the personal representatives are sufficient.



59 Existing law establishes provisions concerning the continuation of the operation  
60 of a decedent's business by a personal representative. (NRS 143.050, 143.520)  
61 **Sections 21 and 26** of this bill make various changes to such provisions.

62 Existing law authorizes a court to require a person to post a bond when  
63 obtaining an ex parte order that restrains a personal representative from performing  
64 certain actions, exercising any powers or discharging any duties of the office, or  
65 any other order to secure proper performance of the duties of the office. (NRS  
66 143.165) **Section 22** of this bill provides that a public administrator or similar  
67 person must not be required to post a bond for obtaining any such order.

68 Existing law requires the notice of a hearing on a petition filed by a personal  
69 representative for full or limited authority to administer an estate to be given to  
70 certain persons in certain circumstances. (NRS 143.345) Existing law generally  
71 requires the court to grant the authority requested unless an interested person timely  
72 objects and shows good cause why the authority should not be granted. (NRS  
73 143.350) **Section 24** of this bill requires notice to be given to the public  
74 administrator of the county or a similar person in certain circumstances, and **section**  
75 **25** of this bill provides that a person who receives notice is an interested person for  
76 purposes of having the ability to object to the granting of authority.

77 Existing law authorizes a decedent's estate to be set aside without  
78 administration if the value of the estate does not exceed \$100,000. (NRS 146.070)  
79 **Section 27** of this bill additionally authorizes all or part of a decedent's estate to be  
80 set aside without administration if the decedent's will directs that such portion be  
81 distributed to the trustee of a nontestamentary trust established by the decedent and  
82 in existence at the decedent's death, and provides that the portion of the estate that  
83 is set aside is generally subject to creditors of the estate.

84 Existing law entitles an attorney for a personal representative to reasonable  
85 compensation for his or her services, paid from a decedent's estate, and sets forth  
86 the calculation for determining the allowable compensation in certain  
87 circumstances. (NRS 150.060) **Section 28** of this bill requires a court to allow the  
88 compensation of the attorney in the amount calculated.

89 Existing law provides that the transfer of property for less than fair market  
90 value is generally presumed to be void if the transfer is made to certain transferees,  
91 including the person who drafted the transfer instrument, and establishes the  
92 circumstances in which such a presumption does not apply, including if a transfer  
93 instrument is reviewed by an independent attorney who takes certain actions. (NRS  
94 155.097, 155.0975) **Section 29** of this bill revises the definition of the term  
95 "independent attorney" to include the drafting attorney representing the transferor  
96 in preparation of the transfer instrument if the drafting attorney is not otherwise  
97 disqualified from being an independent attorney.

98 Existing law authorizes any person requesting to nominate another person to be  
99 appointed as his or her guardian to complete a form requesting to nominate a  
100 guardian. (NRS 159.0753) Existing law also authorizes the nomination of  
101 a guardian of the estate in a power of attorney and a guardian of the person in a  
102 power of attorney for health care in certain circumstances. (NRS 162A.250,  
103 162A.800) **Section 30** of this bill revises provisions concerning a form requesting  
104 to nominate a guardian to reference the nomination of a guardian in any such power  
105 of attorney.

106 **Section 31** of this bill allows a governing trust instrument to authorize a trustee  
107 to reimburse a settlor for all or a portion of tax on trust income or principal that is  
108 to be paid by the settlor and authorizes the trustee to pay the settlor directly or pay  
109 the appropriate taxing authority on behalf of the settlor. **Section 31** also provides  
110 that the authority of a trustee to make such a payment or a determination by the  
111 trustee to exercise such authority in favor of the settlor does not make the settlor a  
112 beneficiary for the purposes of Nevada law.



Existing law authorizes a trust to be created by a declaration by the owner of property that he or she or another person holds the property as trustee. (NRS 163.002) **Section 32** of this bill provides that a declaration by the owner of property that he or she or another person holds all the property of the declarant in trust is sufficient to create a trust over all the property of the declarant that is reliably identified as belonging to the declarant at the time of his or her death.

Existing law provides that: (1) a trust is irrevocable unless a right to amend or revoke the trust is expressly reserved by the settlor or granted to one or more other persons under the terms of the trust instrument; and (2) the power of appointment or power to add or remove beneficiaries, appoint, remove or replace the trustee or make administrative amendments does not make a trust revocable. (NRS 163.004)

**Section 33** of this bill instead provides that a trust is irrevocable unless a right to revoke the trust is expressly reserved by the settlor under the terms of the trust instrument, and that any authority, power or right granted to any person other than the settlor under the terms of the trust instrument or by law, including the power or right to amend the trust, does not render or make a trust revocable. **Section 47** of this bill provides that such provisions apply to any trust created or amended before, on or after October 1, 2021.

**Section 34** of this bill establishes the circumstances in which the custodian of an electronic trust may convert the electronic trust into a certified paper original of the electronic trust and the method by which an electronic trust may be converted into a certified paper original. **Section 34** also authorizes the custodian to destroy the electronic record of the electronic trust after converting the electronic trust into a certified paper original if the custodian first takes certain actions.

Existing law generally authorizes a trustee to combine two or more trusts into a single trust or divide a trust into two or more separate trusts in certain circumstances after giving notice to certain persons. (NRS 163.025) **Section 35** of this bill provides that if the terms of the trust instrument do not expressly authorize such a combination or division of trusts, the combination or division is required to be made by court order or after giving such notice.

Existing law provides that a trust instrument may grant certain powers to an investment trust adviser. (NRS 163.5557) **Section 37** of this bill provides that the power to value non-publicly traded investments held in trust that are subject to the investment management authority of the investment trust adviser may also be granted to an investment trust adviser.

Existing law prohibits a creditor of a settlor from seeking to satisfy a claim against the settlor from the assets of a trust in certain circumstances unless the creditor can prove that trust property transferred by the settlor was transferred fraudulently or was otherwise wrongful as to the creditor. (NRS 163.5559) **Section 38** of this bill establishes additional circumstances that generally prohibit a creditor from seeking to satisfy a claim against the settlor from the assets of the trust and provides that such a prohibition does not preclude a creditor from seeking to satisfy a claim against the settlor of a spendthrift trust if the creditor can prove by clear and convincing evidence that trust property transferred by the settlor was fraudulent as to the creditor or violates a legal obligation owed to the creditor under a contract or valid court order.

**Section 39** of this bill provides that a trustee may act at the direction or with the consent of another party pursuant to the terms of a trust instrument to appoint property of one trust to another trust and revises other provisions relating to the appointment of such property.

Existing law authorizes a trustee to provide notice to certain persons after a revocable trust becomes irrevocable and generally prohibits any person who is provided notice from bringing an action to contest the validity of the trust more than 120 days after notice is served. (NRS 164.021) **Section 40** of this bill provides that such a prohibition exists regardless of whether a petition for the assumption of



168 jurisdiction of a trust by a court is served upon the person after such notice is  
169 provided.

170 Existing law authorizes a trustee of a nontestamentary trust to provide notice to  
171 creditors after the death of the settlor, establishes forms for a claim against the  
172 settlor or the trust and requires a creditor to file a claim with the trustee within a  
173 certain period or the claim is barred. (NRS 164.025) **Section 41** of this bill  
174 establishes a form for a claim against the settlor and the trust and provides that a  
175 claim filed with the trustee is presumed to be timely filed if it meets certain  
176 requirements. **Section 41** also establishes provisions concerning the discovery of  
177 the existence of an additional creditor after the initial notice to creditors is  
178 provided.

179 Existing law provides that if a trust has an unrepresented minor or incapacitated  
180 beneficiary, the custodial parent or guardian of the estate of the minor or  
181 incapacitated beneficiary is authorized to provide representation in any judicial  
182 proceeding or nonjudicial matter pertaining to the trust. (NRS 164.038) **Section 42**  
183 of this bill instead provides that any custodial parent or the guardian of the estate  
184 can provide such representation.

185 **Section 44** of this bill requires a lender, trustee or assignee of an encumbrance  
186 against real property to provide to the Director of the Department of Health and  
187 Human Services or a public administrator or similar person a statement containing  
188 the identifying number and account balance of any encumbrance against real  
189 property on which the name of a decedent appears and authorizes a reasonable fee  
190 to be charged for providing such a statement to a public administrator or similar  
191 person. **Section 45** of this bill requires a financial institution to provide a public  
192 administrator or similar person with access to a safe deposit box of a decedent for  
193 the purpose of inspecting and removing any will or instructions for disposition of  
194 the remains of the decedent. **Section 46** of this bill requires county health officers  
195 to include the residential addresses of all deceased persons in a written list filed  
196 with a public administrator or similar person.

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

1 **Section 1.** NRS 30.040 is hereby amended to read as follows:

2 30.040 1. Any person interested under a deed, written  
3 contract or other writings constituting a contract, or whose rights,  
4 status or other legal relations are affected by a statute, municipal  
5 ordinance, contract or franchise, may have determined any question  
6 of construction or validity arising under the instrument, statute,  
7 ordinance, contract or franchise and obtain a declaration of rights,  
8 status or other legal relations thereunder.

9 2. A maker or legal representative of a maker of a will, trust or  
10 other writings constituting a testamentary instrument may have  
11 determined any question of construction or validity arising under the  
12 instrument and obtain a declaration of rights, status or other legal  
13 relations thereunder. Any action for declaratory relief under this  
14 subsection may only be made in a proceeding commenced pursuant  
15 to the provisions of title 12 or 13 of NRS, as appropriate.



1       **3.** *A principal or a person granted authority to act for a*  
2 *principal under power of attorney, whether denominated an agent,*  
3 *attorney-in-fact or otherwise, may have determined any question*  
4 *of construction or validity arising under the instrument and obtain*  
5 *a declaration of rights, status or other legal relations thereunder.*  
6 *Any action for declaratory relief under this subsection may only be*  
7 *made in a proceeding commenced pursuant to the provisions of*  
8 *title 12 or 13 of NRS, as appropriate.*

9       **Sec. 2.** NRS 30.060 is hereby amended to read as follows:

10       30.060 1. Any person interested as or through an executor,  
11 administrator, trustee, guardian, ~~or~~ other fiduciary, *including,*  
12 *without limitation, a person granted authority to act for a*  
13 *principal under a power of attorney, whether denominated an*  
14 *agent, attorney-in-fact or otherwise,* creditor, devisee, legatee, heir,  
15 next of kin or cestui que trust, in the administration of a trust ~~or~~  
16 ~~or~~ the estate of a decedent, an infant, lunatic or insolvent, *or in the*  
17 *actions taken pursuant to a power of attorney,* may have a  
18 declaration of rights or legal relations in respect thereto:

19       (a) To ascertain any class of creditors, devisees, legatees, heirs,  
20 next of kin or others;

21       (b) To direct ~~the executors, administrators or trustees~~ *an*  
22 *executor, administrator, trustee or person granted authority to act*  
23 *for a principal under a power of attorney, whether denominated*  
24 *an agent, attorney-in-fact or otherwise,* to do or abstain from doing  
25 any particular act in ~~their~~ *his or her* fiduciary capacity; or

26       (c) To determine any question arising in the administration of  
27 the estate or trust, including questions of construction of wills, trusts  
28 and other writings.

29       2. Any action for declaratory relief under this section may only  
30 be made in a proceeding commenced pursuant to the provisions of  
31 title 12 or 13 of NRS, as appropriate.

32       **Sec. 3.** NRS 113.130 is hereby amended to read as follows:

33       113.130 1. Except as otherwise provided in subsection 2:

34       (a) At least 10 days before residential property is conveyed to a  
35 purchaser:

36       (1) The seller shall complete a disclosure form regarding the  
37 residential property; and

38       (2) The seller or the seller's agent shall serve the purchaser  
39 or the purchaser's agent with the completed disclosure form.

40       (b) If, after service of the completed disclosure form but before  
41 conveyance of the property to the purchaser, a seller or the seller's  
42 agent discovers a new defect in the residential property that was not  
43 identified on the completed disclosure form or discovers that a  
44 defect identified on the completed disclosure form has become  
45 worse than was indicated on the form, the seller or the seller's agent



1 shall inform the purchaser or the purchaser's agent of that fact, in  
2 writing, as soon as practicable after the discovery of that fact but in  
3 no event later than the conveyance of the property to the purchaser.  
4 If the seller does not agree to repair or replace the defect, the  
5 purchaser may:

6 (1) Rescind the agreement to purchase the property; or

7 (2) Close escrow and accept the property with the defect as  
8 revealed by the seller or the seller's agent without further recourse.

9 2. Subsection 1 does not apply to a sale or intended sale of  
10 residential property:

11 (a) By foreclosure pursuant to chapter 107 of NRS.

12 (b) Between any co-owners of the property, spouses or persons  
13 related within the third degree of consanguinity.

14 (c) Which is the first sale of a residence that was constructed by  
15 a licensed contractor.

16 (d) By a person who takes temporary possession or control of or  
17 title to the property solely to facilitate the sale of the property on  
18 behalf of a person who relocates to another county, state or country  
19 before title to the property is transferred to a purchaser.

20 (e) *By a fiduciary under title 12 or 13 of NRS, including,*  
21 *without limitation, a personal representative, guardian, trustee or*  
22 *person acting under a power of attorney, who takes temporary*  
23 *possession or control of or title to the property solely to facilitate*  
24 *the sale of the property on behalf of a person who is deceased or*  
25 *incapacitated.*

26 3. A purchaser of residential property may not waive any of the  
27 requirements of subsection 1. A seller of residential property may  
28 not require a purchaser to waive any of the requirements of  
29 subsection 1 as a condition of sale or for any other purpose.

30 4. If a sale or intended sale of residential property is exempted  
31 from the requirements of subsection 1 pursuant to paragraph (a) of  
32 subsection 2, the trustee and the beneficiary of the deed of trust  
33 shall, not later than at the time of the conveyance of the property to  
34 the purchaser of the residential property, or upon the request of the  
35 purchaser of the residential property, provide:

36 (a) Written notice to the purchaser of any defects in the property  
37 of which the trustee or beneficiary, respectively, is aware; and

38 (b) If any defects are repaired or replaced or attempted to be  
39 repaired or replaced, the contact information of any asset  
40 management company who provided asset management services for  
41 the property. The asset management company shall provide a  
42 service report to the purchaser upon request.

43 5. As used in this section:

44 (a) "Seller" includes, without limitation, a client as defined in  
45 NRS 645H.060.



1 (b) "Service report" has the meaning ascribed to it in  
2 NRS 645H.150.

3 **Sec. 4.** Chapter 132 of NRS is hereby amended by adding  
4 thereto a new section to read as follows:

5 *1. For the purposes of this title, being "in the presence" of a*  
6 *testator, settlor, principal or witness includes, without limitation,*  
7 *being in the same location at the same time or appearing in the*  
8 *same location at the same time by means of audio-video*  
9 *communication.*

10 *2. As used in this section, "audio-video communication" has*  
11 *the meaning ascribed to it in paragraph (b) of subsection 3 of*  
12 *NRS 133.088.*

13 **Sec. 5.** NRS 132.117 is hereby amended to read as follows:

14 132.117 "Electronic record" ~~{means a record created,~~  
15 ~~generated, sent, communicated, received or stored by electronic~~  
16 ~~means.}~~ *has the meaning ascribed to it in NRS 719.090.*

17 **Sec. 6.** NRS 132.118 is hereby amended to read as follows:

18 132.118 "Electronic signature" ~~{means an electronic sound,~~  
19 ~~symbol or process attached to or logically associated with a record~~  
20 ~~and executed or adopted by a person with the intent to sign the~~  
21 ~~record.}~~ *has the meaning ascribed to it in NRS 719.100.*

22 **Sec. 7.** NRS 132.119 is hereby amended to read as follows:

23 132.119 "Electronic will" means ~~[an instrument, including,~~  
24 ~~without limitation, a codicil, that is executed by a person in~~  
25 ~~accordance with the requirements of NRS 133.085 and which~~  
26 ~~disposes of the property of the person upon or after his or her death.]~~  
27 *a will that is created and maintained in an electronic record.*

28 **Sec. 8.** NRS 133.086 is hereby amended to read as follows:

29 133.086 1. An electronic will is self-proving if:

30 (a) The declarations or affidavits of the attesting witnesses are  
31 incorporated as part of, attached to or logically associated with the  
32 electronic will, as described in NRS 133.050;

33 (b) The electronic will designates a qualified custodian to  
34 maintain custody of the electronic record of the electronic will; and

35 (c) Before ~~{being offered for probate or}~~ being reduced to a  
36 certified paper original, ~~{that is offered for probate,}~~ the electronic  
37 will was at all times under the custody of a qualified custodian.

38 2. A declaration or affidavit of an attesting witness made  
39 pursuant to NRS 133.050 and an affidavit of a person made pursuant  
40 to NRS 133.340 must be accepted by a court as if made before the  
41 court.

42 **Sec. 9.** NRS 133.120 is hereby amended to read as follows:

43 133.120 1. A written will other than an electronic will may  
44 ~~{only}~~ be revoked by:





1 (a) Burning, tearing, cancelling or obliterating the will, with the  
2 intention of revoking it, by the testator, or by some person in the  
3 presence and at the direction of the testator;

4 (b) Another will or codicil in writing, executed as prescribed in  
5 this chapter; ~~for~~

6 (c) An electronic will, executed as prescribed in this chapter ~~H~~ ;  
7 or

8 *(d) An electronic revocation that meets the electronic*  
9 *requirements set forth in paragraphs (a) and (b) of subsection 1 of*  
10 *NRS 133.085.*

11 2. An electronic will may ~~only~~ be revoked by:

12 (a) ~~Another~~ *A subsequent* will, codicil, electronic will or other  
13 writing, executed as prescribed in this chapter ~~;~~ ~~or~~ , *that revokes*  
14 *all or part of the electronic will expressly or by inconsistency;*

15 (b) ~~Cancelling, rendering unreadable~~ *If the electronic will has*  
16 *been converted to a certified paper original, burning, tearing,*  
17 *cancelling or obliterating the ~~will~~ certified paper original,* with  
18 the intention of revoking ~~it,~~ *the electronic will,* by ~~;~~

19 ~~—(1) The~~ *the* testator , or ~~a~~ *by some* person in the presence  
20 and at the direction of the testator; or

21 ~~[(2) If the will is in the custody of a qualified custodian, the~~  
22 ~~qualified custodian at the direction of a testator in an electronic~~  
23 ~~will.]~~

24 *(c) An electronic revocation that meets the electronic*  
25 *requirements set forth in paragraphs (a) and (b) of subsection 1 of*  
26 *NRS 133.085.*

27 3. This section does not prevent the revocation implied by law  
28 from subsequent changes in the condition or circumstances of the  
29 testator.

30 **Sec. 10.** NRS 133.300 is hereby amended to read as follows:

31 133.300 1. A person must execute a written statement  
32 affirmatively agreeing to serve as the qualified custodian of an  
33 electronic will before he or she may serve in such a capacity.

34 2. ~~Except as otherwise provided in paragraph (a) of subsection~~  
35 ~~1 of NRS 133.310, a~~ *A* qualified custodian may not cease serving in  
36 such a capacity until ~~a successor qualified custodian executes the~~  
37 ~~written statement required by subsection 1.]~~ *the requirements of*  
38 *NRS 133.310 have been met.*

39 **Sec. 11.** NRS 133.310 is hereby amended to read as follows:

40 133.310 1. A qualified custodian may cease serving in such a  
41 capacity by:

42 (a) ~~If not designating a successor qualified custodian, providing~~  
43 ~~to the testator:~~

44 ~~—(1) Thirty days' written notice that the qualified custodian~~  
45 ~~has decided to cease serving in such a capacity; and~~



1 ~~— (2)~~ The *conversion of an electronic will into a* certified  
2 paper original ~~[of, and all records concerning, the electronic will.] in~~  
3 *accordance with NRS 133.340;*

4 (b) ~~[If designating]~~ *The conversion of an electronic revocation*  
5 *into a certification of revocation of the electronic will in*  
6 *accordance with subsection 7 of NRS 133.340; or*

7 (c) *The appointment of* a successor qualified custodian ~~[-~~  
8 ~~— (1) Providing]~~ *in accordance with subsection 2.*

9 2. *A successor qualified custodian may be appointed as*  
10 *follows:*

11 (a) *The successor qualified custodian is designated by:*

12 (1) *The testator; or*

13 (2) *Except as otherwise provided in subsection 4, the*  
14 *qualified custodian, by providing the testator* 30 days' written  
15 notice that the qualified custodian has decided to cease serving in  
16 such a capacity ~~[to:~~

17 ~~— (I) The testator; and~~

18 ~~— (II) The designated]~~ *and designating the* successor  
19 qualified custodian ~~[- and~~

20 ~~— (2) Providing];~~

21 (b) *The qualified custodian provides* to the successor qualified  
22 custodian the electronic record of the electronic will and an affidavit  
23 which states:

24 ~~[(I)]~~ (1) That the qualified custodian ceasing to act in  
25 such a capacity is eligible to act as a qualified custodian in this State  
26 and is the qualified custodian designated by the testator in the  
27 electronic will or was designated to act in such a capacity by another  
28 qualified custodian pursuant to this ~~[paragraph;~~

29 ~~— (II)] subsection;~~

30 (2) That an electronic record was created at the time the  
31 testator executed the electronic will;

32 ~~[(III)]~~ (3) That the electronic record has been in the  
33 custody of one or more qualified custodians since the execution of  
34 the electronic will and has not been altered since the time it was  
35 created; and

36 ~~[(IV)]~~ (4) The identity of all qualified custodians who  
37 have had custody of the electronic record since the execution of the  
38 electronic will ~~[-~~

39 ~~— 2. For purposes of making the affidavit pursuant to~~  
40 ~~subparagraph (2) of paragraph (b) of subsection 1, a qualified~~  
41 ~~custodian is entitled to rely conclusively on any affidavits provided~~  
42 ~~by a predecessor qualified custodian if all such affidavits are~~  
43 ~~provided to the]; and~~

44 (c) *The* successor qualified custodian ~~[-]~~ *executes a written*  
45 *statement pursuant to subsection 1 of NRS 133.300.*



1 3. ~~[Subject to the provisions of NRS 133.300, if the testator~~  
2 ~~designates a successor]~~ *If the* qualified custodian ~~[in a writing~~  
3 ~~executed with the same formalities required for the execution]~~ *has*  
4 *custody of the testator's electronic revocation* of ~~[an]~~ *the* electronic  
5 will, ~~[a]~~ *the* qualified custodian shall ~~[cease serving in such a~~  
6 ~~capacity and]~~ provide to the ~~[designated]~~ successor qualified  
7 custodian ~~[:] the electronic record of the electronic revocation and~~  
8 ~~an affidavit stating:~~

9 (a) ~~[The]~~ *That an* electronic record ~~[; and]~~ *was created at the*  
10 *time the testator revoked the will;*

11 (b) ~~[The affidavit described in subparagraph (2) of paragraph (b)~~  
12 ~~of subsection 1.]~~ *That the electronic record has been in the custody*  
13 *of one or more qualified custodians since the execution of the*  
14 *electronic revocation and has not been altered since the time it*  
15 *was created; and*

16 (c) *The identity of all qualified custodians who have had*  
17 *custody of the electronic record since the execution of the*  
18 *electronic revocation.*

19 4. ~~[H]~~ *Before the expiration of the 30 days after the qualified*  
20 *custodian gives notice designating a successor qualified custodian*  
21 *pursuant to subparagraph (2) of paragraph (a) of subsection 2, if*  
22 *the testator designates a different successor* qualified custodian, ~~[is~~  
23 ~~an entity, an affidavit of a duly authorized officer or agent of such~~  
24 ~~entity constitutes the affidavit of]~~ *the successor* qualified custodian  
25 ~~[:] whom the testator designates must be the appointed successor~~  
26 ~~qualified custodian.~~

27 **Sec. 12.** NRS 133.320 is hereby amended to read as follows:

28 133.320 A qualified custodian of an electronic will:

29 1. Must not be an heir of the testator or a beneficiary or devisee  
30 under the electronic will.

31 2. Shall consistently employ, and store electronic records of  
32 electronic wills in, a system that protects electronic records from  
33 destruction, alteration or unauthorized access and detects any  
34 change to an electronic record.

35 3. Shall store in the electronic record of an electronic will each  
36 of the following:

37 (a) A photograph or other visual record of the testator and the  
38 attesting witnesses that was taken contemporaneously with the  
39 execution of the electronic will;

40 (b) A photocopy, photograph, facsimile or other visual record of  
41 any documentation that was taken contemporaneously with the  
42 execution of the electronic will and provides satisfactory evidence  
43 of the identities of the testator and the attesting witnesses, including,  
44 without limitation, documentation of the methods of identification  
45 used pursuant to subsection 4 of NRS 240.1655; and



1 (c) An audio and video recording of the testator, attesting  
2 witnesses and notary public, as applicable, taken at the time the  
3 testator, each attesting witness and notary public, as applicable,  
4 placed his or her electronic signature on the electronic will, as  
5 required pursuant to paragraph (b) of subsection 1 of NRS 133.085.

6 4. Shall provide to any court that is hearing a matter involving  
7 an electronic will which is currently or was previously stored by the  
8 qualified custodian any information requested by the court  
9 pertaining to the qualifications of the qualified custodian and the  
10 policies and practices of the qualified custodian concerning the  
11 maintenance, storage and production of electronic wills.

12 5. *For the purposes of this title, if a qualified custodian or*  
13 *other person is required to provide written notice to a testator,*  
14 *notice shall be deemed to be provided if the qualified custodian or*  
15 *other person delivers written notice to the last known address of*  
16 *the testator.*

17 6. *Except as otherwise provided by law, the requirements*  
18 *governing an electronic will also govern an electronic codicil and*  
19 *electronic revocation of a will.*

20 **Sec. 13.** NRS 133.330 is hereby amended to read as follows:

21 133.330 1. With regard to an electronic record of an  
22 electronic will, a qualified custodian ~~§~~  
23 ~~—(a) Shall~~ shall provide access to or information concerning the  
24 electronic will or the certified paper original of the electronic will  
25 only to:

26 ~~[(1)]~~ (a) The testator or another person as directed by the  
27 written instructions of the testator; and

28 ~~[(2)]~~ (b) After the death of the testator, the nominated  
29 personal representative of the testator or any interested person . ~~§~~  
30 and

31 ~~—(b) May,]~~

32 2. *A qualified custodian may, in the absolute discretion of the*  
33 *qualified custodian, destroy the electronic record of an electronic*  
34 *will at any* ~~time:~~

35 ~~—(1) Five or more years] of the following times:~~

36 (a) *One year* after ~~[the admission]~~ notice of *entry of an order*  
37 *admitting* any will ~~[of the testator]~~ to probate;

38 ~~[(2) Five or more years after the revocation of the electronic~~  
39 ~~will;~~

40 ~~—(3) Five or more years after]~~

41 (b) *After* ceasing to serve as the qualified custodian of the  
42 electronic record of the electronic will *upon the appointment of a*  
43 *successor qualified custodian* pursuant to NRS 133.310;

44 ~~[(4) Ten or more years after the death of the testator; or~~



1 ~~— (5) One hundred and fifty years after the execution of the~~  
2 ~~electronic will.~~

3 ~~— 2. At~~

4 (c) *If the electronic will has been converted to a certified paper*  
5 *original in accordance with NRS 133.340 and the qualified*  
6 *custodian complies with subsection 4, after 30 days' written notice*  
7 *to the testator;*

8 (d) *If a certification of revocation has been created in*  
9 *accordance with subsection 7 of NRS 133.340 and the qualified*  
10 *custodian complies with subsection 4, after 30 days' written notice*  
11 *to the testator;*

12 (e) *Pursuant to the direction of a testator in a writing executed*  
13 *with the same formalities required for the execution of a will or an*  
14 *electronic will* [ ]; *or*

15 (f) *Upon court order authorizing the destruction of the*  
16 *electronic will.*

17 3. *Subject to the provisions of subsection 4, if a certification*  
18 *of revocation has been created pursuant to subsection 7 of NRS*  
19 *133.340, a qualified custodian* [shall cancel, render unreadable or  
20 *obliterate*] *may, in the absolute discretion of the qualified*  
21 *custodian, destroy the electronic record* [ ] *of an electronic*  
22 *revocation at any of the following times:*

23 (a) *One year after notice of entry of an order admitting any*  
24 *will to probate;*

25 (b) *If the requirements of subsection 3 of NRS 133.310 are*  
26 *met, after ceasing to serve as the qualified custodian of the*  
27 *electronic will upon the appointment of a successor qualified*  
28 *custodian pursuant to NRS 133.310;*

29 (c) *Pursuant to the direction of a testator in a writing executed*  
30 *with the same formalities required for the execution of a will or an*  
31 *electronic will;*

32 (d) *After 30 days' written notice to the testator; or*

33 (e) *Upon court order authorizing the destruction of the*  
34 *electronic record of the electronic will.*

35 4. *Before destroying an electronic will or an electronic*  
36 *revocation, the qualified custodian shall make reasonable efforts*  
37 *to provide to the testator the electronic record of the electronic will*  
38 *and electronic revocation.*

39 **Sec. 14.** NRS 133.340 is hereby amended to read as follows:

40 133.340 1. ~~[Upon the creation of]~~ *A qualified custodian may*  
41 *cause an electronic will to be converted into a certified paper*  
42 *original of* [an] *the electronic will* [ ] *under the following*  
43 *circumstances:*

44 (a) [ ] *At the direction of the testator; or*



1 (b) Except as otherwise provided in subsection 9, with 30 days'  
2 written notice to the testator that the qualified custodian intends to  
3 convert the electronic will ~~[has always been in the custody of a~~  
4 ~~qualified custodian, the qualified custodian shall state in an]~~ into a  
5 certified paper original.

6 2. An electronic will may be converted into a certified paper  
7 original by creating a tangible document that contains the  
8 following:

9 (a) The text of the electronic will; and

10 (b) An affidavit ~~[-~~

11 ~~—(1)—That the]~~ satisfying the requirements of subsections 3, 4  
12 and 5, as applicable.

13 3. A qualified custodian ~~[is eligible to act as a]~~ converting an  
14 electronic will into a certified paper original shall state all of the  
15 following in an affidavit:

16 (a) That the qualified custodian ~~[in this State;~~

17 ~~—(2)—~~ is not a person described in subsection 1 of  
18 NRS 133.320;

19 (b) That the qualified custodian is the qualified custodian  
20 designated by the testator in the electronic will or was designated to  
21 act in such a capacity pursuant to ~~[paragraph (b) of]~~ ~~[H] 2~~  
22 or 4 of NRS 133.310;

23 ~~[(3)]~~ (c) That an electronic record was created at the time the  
24 testator executed the electronic will;

25 ~~[(4)]~~ (d) That the electronic record has been in the custody  
26 of one or more qualified custodians since the execution of the  
27 electronic will, and has not been altered since the time it was  
28 created;

29 ~~[(5)]~~ (e) The identity of all qualified custodians who have  
30 had custody of the electronic record since the execution of the  
31 electronic will;

32 ~~[(6)]~~ (f) That the certified paper original is a true, correct  
33 and complete tangible manifestation of the electronic will; and

34 ~~[(7)]~~ (g) That the records described in subsection 3 of NRS  
35 133.320 are in the custody of the qualified custodian.

36 ~~[(b)]~~ 4. In addition to the statements required pursuant to  
37 subsection 3, a qualified custodian converting a self-proving  
38 electronic will to a certified paper original shall state all of the  
39 following in the affidavit:

40 (a) That the declaration or affidavits of the attesting witnesses  
41 satisfying the requirements of NRS 133.050 were created at the  
42 time the testator executed the electronic will and were  
43 incorporated as part of, attached to or logically associated with the  
44 electronic will as required pursuant to NRS 133.086;



1 (b) *That the declarations or affidavits of the attesting witnesses*  
2 *have been in the possession of a qualified custodian since the*  
3 *execution of the electronic will and have not been altered since the*  
4 *time they were created;*

5 (c) *The identity of all qualified custodians who have had*  
6 *possession of the declarations or affidavits of the attesting*  
7 *witnesses since their creation; and*

8 (d) *That the certified paper original contains a true, correct*  
9 *and complete tangible manifestation of the original declarations*  
10 *or affidavits of the attesting witnesses.*

11 5. If the electronic will has not always been under the custody  
12 of a qualified custodian, the person who discovered the electronic  
13 will ~~and the person who reduced~~ *may cause* the electronic will to  
14 ~~the~~ *be converted into a* certified paper original ~~shall each state in~~  
15 ~~an affidavit~~ *by creating a tangible document that contains* the  
16 following ~~information~~ *:*

17 (a) *The text of the electronic will; and*

18 (b) *An affidavit that states, to the best of their knowledge:*

19 (1) When the electronic will was created, if not indicated in  
20 the electronic will;

21 (2) When, how and by whom the electronic will was  
22 discovered;

23 (3) The identities of each person who has had access to the  
24 electronic will;

25 (4) The method in which the electronic will was stored and  
26 the safeguards in place to prevent alterations to the electronic will;

27 (5) Whether the electronic will has been altered since its  
28 execution; and

29 (6) That the certified paper original is a true, correct and  
30 complete tangible manifestation of the electronic will.

31 ~~2.~~ 6. For purposes of making an affidavit pursuant to  
32 ~~paragraph (a) of~~ subsection ~~1.~~ 3, 4 or 5, the qualified custodian  
33 may rely conclusively on any affidavits delivered by a predecessor  
34 qualified custodian.

35 7. *If a testator has revoked a will through an electronic*  
36 *record, the qualified custodian may convert the electronic*  
37 *revocation into a certification of revocation by creating:*

38 (a) *A certified paper original of the electronic will; and*

39 (b) *A tangible document that contains the following:*

40 (1) *The text of the electronic revocation; and*

41 (2) *An affidavit stating:*

42 (I) *That an electronic record was created at the time the*  
43 *testator revoked the will;*

44 (II) *That the electronic record has been in the custody of*  
45 *one or more qualified custodians since the execution of the*



1 *electronic revocation, and has not been altered since the time it*  
2 *was created;*

3 *(III) The identity of all qualified custodians who have*  
4 *had custody of the electronic record since the execution of the*  
5 *electronic revocation;*

6 *(IV) That the certified paper original is a true, correct*  
7 *and complete tangible manifestation of the electronic revocation;*  
8 *and*

9 *(V) That the records described in subsection 3 of NRS*  
10 *133.320 pertaining to the electronic revocation are presently in the*  
11 *custody of the qualified custodian.*

12 8. *A certified paper original of an electronic will satisfying*  
13 *the requirements of subsection 2 or 5, as applicable, may be*  
14 *offered for and admitted into probate in the same manner as if it*  
15 *were an original will. A certified paper original of an electronic*  
16 *will is presumed to be valid and, absent any objection, must be*  
17 *admitted to probate expeditiously without requiring further proof*  
18 *of validity.*

19 9. *Before the expiration of the 30 days after the qualified*  
20 *custodian gives notice to the testator of the qualified custodian's*  
21 *intent to convert the electronic will into a certified paper original*  
22 *pursuant to paragraph (b) of subsection 1, if the testator objects to*  
23 *the conversion and designates a successor qualified custodian in*  
24 *accordance with NRS 133.310, the qualified custodian shall not*  
25 *convert the electronic will into a certified paper original and shall*  
26 *instead comply with paragraph (b) of subsection 2 of*  
27 *NRS 133.310.*

28 **Sec. 15.** NRS 139.050 is hereby amended to read as follows:

29 139.050 Administration may be granted upon petition to one or  
30 more qualified persons, although not otherwise entitled to serve, at  
31 the written request of the person entitled, filed in the court. *The*  
32 *qualified person making the written request must provide his or*  
33 *her current address and phone number in the written request.*  
34 *Failure to provide such information voids the written request.*

35 **Sec. 16.** NRS 139.090 is hereby amended to read as follows:

36 139.090 1. A petition for letters of administration must be in  
37 writing, signed by the petitioner or the attorney for the petitioner  
38 and filed with the clerk of the court, and must state:

39 (a) The jurisdictional facts;

40 (b) The names and addresses of the heirs of the decedent and  
41 their relationship to the decedent, so far as known to the petitioner,  
42 and the age of any who is a minor;

43 (c) The character and estimated value of the property of the  
44 estate; ~~and~~





1 (d) *The names and personal addresses of the proposed*  
2 *appointed administrators and the name and personal address of*  
3 *any associated coadministrator under paragraph (a) of subsection*  
4 *2 of NRS 139.040 or, if the coadministrator is an attorney who is*  
5 *licensed in this State or a banking corporation authorized to do*  
6 *business in this State, the business address of the coadministrator;*  
7 *and*

8 (e) Whether the person to be appointed as administrator has  
9 been convicted of a felony.

10 2. No defect of form or in the statement of jurisdictional facts  
11 actually existing voids an order appointing an administrator or any  
12 of the subsequent proceedings.

13 **Sec. 17.** Chapter 143 of NRS is hereby amended by adding  
14 thereto the provisions set forth as sections 18 and 19 of this act.

15 **Sec. 18. 1.** *Except as otherwise provided in subsection 2:*

16 (a) *A person shall either accept letters of administration or*  
17 *letters testamentary that have been certified within 60 days after*  
18 *presentation of the certified letters of administration or letters*  
19 *testamentary for acceptance, or request a translation or an*  
20 *opinion of counsel, not later than 10 business days after such*  
21 *presentation;*

22 (b) *If a person requests a translation or an opinion of counsel,*  
23 *the person shall accept the certified letters of administration or*  
24 *letters testamentary not later than 5 business days after receipt of*  
25 *the translation or opinion of counsel; and*

26 (c) *A person may not require an additional or different form of*  
27 *certified letters of administration or letters testamentary for*  
28 *authority granted in the letters presented.*

29 2. *A person is not required to accept certified letters of*  
30 *administration or letters testamentary if:*

31 (a) *The person is not otherwise required to engage in a*  
32 *transaction with the personal representative in the same*  
33 *circumstances;*

34 (b) *Engaging in a transaction with the personal representative*  
35 *in the same circumstances would be inconsistent with federal law;*

36 (c) *The person has actual knowledge of the termination of the*  
37 *personal representative's authority before the exercise of*  
38 *authority; or*

39 (d) *A request for a translation or an opinion of counsel is*  
40 *refused.*

41 3. *A person who refuses to accept certified letters of*  
42 *administration or letters testamentary in violation of this section is*  
43 *subject to:*

44 (a) *A court order mandating acceptance of the certified letters*  
45 *of administration or letters testamentary; and*



1 (b) *Liability for reasonable attorney's fees and costs incurred*  
2 *in any action or proceeding that confirms the validity of the*  
3 *certified letters of administration or letters testamentary or*  
4 *mandates acceptance of the certified letters of administration or*  
5 *letters testamentary.*

6 4. *After accepting certified letters of administration or letters*  
7 *testamentary, a person may request newly certified letters of*  
8 *administration or letters testamentary any time after the 6-month*  
9 *period following the date of the previous acceptance of certified*  
10 *letters of administration or letters testamentary for the purpose of*  
11 *validating the continued authority of the personal representative.*

12 **Sec. 19. 1.** *A person holding property that is attributable to*  
13 *a decedent may only request the presentation of the following*  
14 *items before transferring such property in accordance with a court*  
15 *order providing to whom such property is to be transferred:*

16 (a) *A certified copy of the court order providing to whom such*  
17 *property is to be transferred;*

18 (b) *A certified copy of letters of administration or letters*  
19 *testamentary;*

20 (c) *The identification and contact information of the personal*  
21 *representative;*

22 (d) *Tax information, if necessary; and*

23 (e) *Documents evidencing the death of the decedent.*

24 2. *Except as otherwise provided in subsection 3, if a person*  
25 *holding property that is attributable to a decedent requests the*  
26 *presentation of any of the items set forth in subsection 1, the*  
27 *person must accept and comply with the court order providing to*  
28 *whom such property is to be transferred not later than 10 business*  
29 *days after the presentation of all items requested pursuant to*  
30 *subsection 1.*

31 3. *A person holding property that is attributable to a decedent*  
32 *is not required to transfer such property if:*

33 (a) *The certification of the court order, letters of*  
34 *administration or letters testamentary presented is older than 180*  
35 *days;*

36 (b) *The court order is inconsistent with federal law; or*

37 (c) *The person has actual knowledge that the person*  
38 *presenting the court order is not a personal representative of the*  
39 *estate of the decedent.*

40 4. *The lack of legal or actual notice of the court proceeding*  
41 *resulting in the issuance of the court order providing to whom*  
42 *property is to be transferred is not a defense to not complying with*  
43 *the order unless an actual dispute exists over title to the property.*

44 5. *A person who timely complies with a court order in*  
45 *accordance with this section shall be held harmless.*



1       **6. A person who refuses to accept and comply with a court**  
2 **order in violation of this section is subject to:**

- 3       **(a) A court order requiring acceptance of the order; and**  
4       **(b) Liability for reasonable attorney's fees and costs incurred**  
5 **in an action or proceeding confirming the validity of the court**  
6 **order, and any damages resulting from the delay beginning on the**  
7 **day of the presentation of all items requested pursuant to**  
8 **subsection 1.**

9       **Sec. 20.** NRS 143.010 is hereby amended to read as follows:

10       143.010 If there are two personal representatives, the acts of  
11 one alone are valid if the other is absent from the state, or for any  
12 cause is laboring under any legal disability ~~[;]~~ **or conflict of interest,**  
13 and if there are more than two, the acts of a majority are sufficient.

14       **Sec. 21.** NRS 143.050 is hereby amended to read as follows:

15       143.050 1. Except as otherwise provided in **subsection 2,**  
16 **NRS 143.520 ~~[;]~~ or the decedent's will,** after notice given as  
17 provided in NRS 155.010 or in such other manner as the court  
18 directs ~~[, the court may authorize]:~~

19       **(a) Subject to the partnership agreement and the applicable**  
20 **provisions of chapter 87, 87A or 88 of NRS,** the personal  
21 representative ~~[to] may~~ continue ~~[the operation of the decedent's~~  
22 ~~business to such an extent and subject to such restrictions as may~~  
23 ~~seem to the court to be for the best interest of the estate and any~~  
24 ~~interested persons.] as a general partner in any partnership in~~  
25 ~~which the decedent was a general partner at the time of death;~~

26       **(b) Subject to the operating agreement and the applicable**  
27 **provisions of chapter 86 of NRS,** the personal representative may  
28 continue as a manager or managing member in any limited-  
29 liability company in which the decedent was a manager or  
30 managing member at the time of death;

31       **(c) The personal representative may continue operation of any**  
32 **of the following:**

33       **(1) An unincorporated business or joint venture in which**  
34 **the decedent was engaged at the time of death; or**

35       **(2) An unincorporated business or joint venture which was**  
36 **wholly or partly owned by the decedent at the time of death; and**

37       **(d) The personal representative may continue to exercise any**  
38 **shareholder, partnership or membership rights owned by the**  
39 **decedent at the time of death to which the personal representative**  
40 **has succeeded during the administration of the estate.**

41       2. The ~~[provisions of]~~ court may, upon its own motion or  
42 upon the petition of an interested person, restrict the actions of the  
43 personal representative set forth in subsection 1 ~~[do not apply to~~  
44 ~~passive investments or the exercise of any shareholder or~~  
45 ~~membership rights to which the personal representative has~~



1 ~~succeeded.]~~ *as the court determines to be in the best interest of the*  
2 *estate and any interested persons.*

3 3. Unless specifically authorized by the will or by the court, the  
4 personal representative may not receive any separate compensation  
5 for continuing the operation of the decedent's business pursuant to  
6 this section.

7 **Sec. 22.** NRS 143.165 is hereby amended to read as follows:

8 143.165 1. ~~[On]~~ *Except as otherwise provided in subsection*  
9 *6, on* petition or ex parte application of an interested person, the  
10 court, with or without bond, may enter an ex parte order restraining  
11 a personal representative from performing specified acts of  
12 administration, disbursement or distribution, or exercising any  
13 powers or discharging any duties of the office, or enter any other  
14 order to secure proper performance of the duties of the office to be  
15 effective until further order of the court. Notwithstanding any other  
16 provision of law, if it appears to the court that the personal  
17 representative otherwise may take action that would jeopardize  
18 unreasonably the interest of the petitioner, of some other interested  
19 person or the estate, the court may enter the ex parte order. A person  
20 with whom the personal representative may transact business may  
21 be made a party to the ex parte order.

22 2. Any ex parte orders entered pursuant to subsection 1 must be  
23 set for hearing within 10 days after entry of the ex parte order,  
24 unless the parties otherwise agree, or on a date the court otherwise  
25 determines is in the best interest of the estate.

26 3. Notice of entry of the ex parte order entered pursuant to  
27 subsection 1 must be given by the petitioner or applicant to the  
28 personal representative and the attorney of record of the personal  
29 representative, if any, to any other party named as a party in the ex  
30 parte order and as otherwise directed by the court.

31 4. The court may impose a fine on an interested person who  
32 obtains an ex parte order pursuant to this section without probable  
33 cause.

34 5. The court may, at any time, terminate an ex parte order  
35 entered pursuant to subsection 1 on its own motion or upon petition  
36 of the personal representative if it no longer appears to the court that  
37 the personal representative otherwise may take action that would  
38 jeopardize unreasonably the interest of the petitioner, of some other  
39 interested person or the estate.

40 *6. A public administrator or a person employed or contracted*  
41 *with pursuant to NRS 253.125, as applicable, must not be required*  
42 *to post a bond for obtaining any order pursuant to this section.*

43 **Sec. 23.** NRS 143.305 is hereby amended to read as follows:

44 143.305 As used in NRS 143.300 to 143.815, inclusive, *and*  
45 *section 19 of this act*, unless the context otherwise requires, the



1 words and terms defined in NRS 143.310, 143.315 and 143.320  
2 have the meanings ascribed to them in those sections.

3 **Sec. 24.** NRS 143.345 is hereby amended to read as follows:

4 143.345 1. If the authority to administer the estate pursuant  
5 to NRS 143.300 to 143.815, inclusive, *and section 19 of this act* is  
6 requested in a petition for appointment of the personal  
7 representative, notice of the hearing on the petition must be given  
8 for the period and in the manner applicable to the petition for  
9 appointment.

10 2. Where proceedings for the administration of the estate are  
11 pending at the time a petition is filed pursuant to NRS 143.340,  
12 notice of the hearing on the petition must be given for the period and  
13 in the manner provided in NRS 155.010 to all the following persons:

14 (a) Each person specified in NRS 155.010;

15 (b) Each known heir whose interest in the estate would be  
16 affected by the petition;

17 (c) Each known devisee whose interest in the estate would be  
18 affected by the petition; ~~and~~

19 (d) Each person named as personal representative in the will of  
20 the decedent ~~;~~ *and*

21 *(e) The public administrator of the county or a person*  
22 *employed or contracted with pursuant to NRS 253.125, as*  
23 *applicable, if the decedent died intestate and the petitioner is not*  
24 *the surviving spouse or kindred under NRS 139.040, regardless of*  
25 *any nomination by an heir.*

26 3. The notice of hearing of the petition for authority to  
27 administer the estate pursuant to NRS 143.300 to 143.815,  
28 inclusive, *and section 19 of this act*, whether included in the  
29 petition for appointment or in a separate petition, must include a  
30 statement in substantially the following form:

31  
32 The petition requests authority to administer the estate  
33 under the Independent Administration of Estates Act. This  
34 will avoid the need to obtain court approval for many actions  
35 taken in connection with the estate. However, before taking  
36 certain actions, the personal representative will be required to  
37 give notice to interested persons unless they have waived  
38 notice or have consented to the proposed action. Independent  
39 administration authority will be granted unless good cause is  
40 shown why it should not be.

41 **Sec. 25.** NRS 143.350 is hereby amended to read as follows:

42 143.350 1. Except as otherwise provided in subsection 2,  
43 unless an interested person, *including, without limitation, a person*  
44 *who receives notice under NRS 143.345*, objects in writing at or  
45 before the hearing to the granting of authority to administer the



1 estate pursuant to NRS 143.300 to 143.815, inclusive, *and section*  
2 *19 of this act* and the court determines that the interested person has  
3 shown good cause why the authority to administer the estate under  
4 those provisions should not be granted, the court shall grant the  
5 requested authority.

6 2. If the interested person has shown good cause why only  
7 limited authority should be granted, the court shall grant limited  
8 authority.

9 **Sec. 26.** NRS 143.520 is hereby amended to read as follows:

10 143.520 1. Subject to the partnership agreement, ~~and~~ the  
11 applicable provisions of chapter 87, *87A or 88* of NRS ~~and the~~  
12 *decedent's will*, the personal representative who has limited  
13 authority or full authority has the power to continue as a general  
14 partner in any partnership in which the decedent was a general  
15 partner at the time of death.

16 2. *Subject to the operating agreement, the applicable*  
17 *provisions of chapter 86 of NRS and the decedent's will, the*  
18 *personal representative who has limited authority or full authority*  
19 *has the power to continue as a manager or managing member in*  
20 *any limited-liability company in which the decedent was a*  
21 *manager or managing member at the time of death.*

22 3. The personal representative who has limited authority or full  
23 authority has the power to continue operation of any of the  
24 following:

25 (a) An unincorporated business or joint venture in which the  
26 decedent was engaged at the time of ~~the decedent's~~ death.

27 (b) An unincorporated business or joint venture which was  
28 wholly or partly owned by the decedent at the time of ~~the~~  
29 ~~decedent's~~ death.

30 ~~3.~~ 4. *The personal representative who has limited authority*  
31 *or full authority has the power to continue to exercise any*  
32 *shareholder, partnership or membership rights owned by the*  
33 *decedent at the time of death to which the personal representative*  
34 *has succeeded during the administration of the estate.*

35 5. Except as otherwise provided in subsection ~~4.~~ 6, the  
36 personal representative may exercise the powers described in  
37 subsections 1 ~~and 2~~ to 4, inclusive, without giving notice of the  
38 proposed action pursuant to NRS 143.700 to 143.760, inclusive.

39 ~~4.~~ 6. The personal representative shall give notice of a  
40 proposed action pursuant to NRS 143.700 to 143.760, inclusive, if  
41 the personal representative continues as a general partner under  
42 subsection 1 ~~or a manager or managing member under~~  
43 *subsection 2* or continues the operation of any unincorporated  
44 business or joint venture under subsection ~~2.~~ 3, for a period of



1 more than 6 months after the date on which letters are first issued to  
2 a personal representative.

3 **Sec. 27.** NRS 146.070 is hereby amended to read as follows:  
4 146.070 1. *All or part of the estate of a decedent may be set*  
5 *aside without administration by the order of the court as follows:*

6 (a) If the value of a decedent's estate does not exceed \$100,000,  
7 the estate may be set aside without administration by the order of  
8 the court ~~+~~; or

9 (b) *If a decedent's will directs that all or part of the decedent's*  
10 *estate is to be distributed to the trustee of a nontestamentary trust*  
11 *established by the decedent and in existence at the decedent's*  
12 *death, the portion of the estate subject to such direction may be set*  
13 *aside without administration. Any portion of a decedent's estate*  
14 *set aside to the nontestamentary trust pursuant to this paragraph*  
15 *is subject to creditors of the estate unless the petitioner provides*  
16 *proof to the court that the trustee has published or mailed the*  
17 *requisite notice to such creditors on behalf of the nontestamentary*  
18 *trust and settlor pursuant to NRS 164.025.*

19 2. Except as otherwise provided in subsection 3, the whole  
20 estate *set aside pursuant to paragraph (a) of subsection 1* must be  
21 assigned and set apart in the following order:

22 (a) To the payment of the petitioner's attorney's fees and costs  
23 incurred relative to the proceeding under this section;

24 (b) To the payment of funeral expenses, expenses of last illness,  
25 money owed to the Department of Health and Human Services as a  
26 result of payment of benefits for Medicaid and creditors, if there are  
27 any;

28 (c) To the payment of other creditors, if any; and

29 (d) Any balance remaining to the claimant or claimants entitled  
30 thereto pursuant to a valid will of the decedent, and if there is no  
31 valid will, pursuant to intestate succession in accordance with  
32 chapter 134 of NRS.

33 3. *If the value of the estate does not exceed \$100,000 and* the  
34 decedent is survived by a spouse or one or more minor children, the  
35 court must set aside the estate for the benefit of the surviving spouse  
36 or the minor child or minor children of the decedent, subject to any  
37 reduction made pursuant to subsection 4 or 5. The court may  
38 allocate the entire estate to the surviving spouse, the entire amount  
39 to the minor child or minor children, or may divide the estate among  
40 the surviving spouse and minor child or minor children.

41 4. As to any amount set aside to or for the benefit of the  
42 surviving spouse or minor child or minor children of the decedent  
43 pursuant to subsection 3, the court must set aside the estate without  
44 the payment of creditors except as the court finds necessary to  
45 prevent a manifest injustice.



1 5. To prevent an injustice to creditors when there are  
2 nonprobate transfers that already benefit the surviving spouse or  
3 minor child or minor children of the decedent, the court has the  
4 discretion to reduce the amount set aside under subsection 3 to the  
5 extent that the value of the estate, when combined with the value of  
6 nonprobate transfers, as defined in NRS 111.721, from the decedent  
7 to or for the benefit of the surviving spouse or minor child or minor  
8 children of the decedent exceeds \$100,000.

9 6. In exercising the discretion granted in this section, the court  
10 shall consider the needs and resources of the surviving spouse and  
11 minor child or minor children, including any assets received by or  
12 for the benefit of the surviving spouse or minor child or minor  
13 children from the decedent by nonprobate transfers.

14 7. For the purpose of this section, a nonprobate transfer from  
15 the decedent to one or more trusts or custodial accounts for the  
16 benefit of the surviving spouse or minor child or minor children  
17 shall be considered a transfer for the benefit of such spouse or minor  
18 child or minor children.

19 8. Proceedings taken under this section must not begin until at  
20 least 30 days after the death of the decedent and must be originated  
21 by a petition containing:

22 (a) A specific description of all property in the decedent's estate;

23 (b) A list of all known liens and encumbrances against estate  
24 property at the date of the decedent's death, with a description of  
25 any that the petitioner believes may be unenforceable;

26 (c) An estimate of the value of the property, together with an  
27 explanation of how the estimated value was determined;

28 (d) A statement of the debts of the decedent so far as known to  
29 the petitioner;

30 (e) The names and residences of the heirs and devisees of the  
31 decedent and the age of any who is a minor and the relationship of  
32 the heirs and devisees to the decedent, so far as known to the  
33 petitioner; and

34 (f) If the decedent left a will, a statement concerning all  
35 evidence known to the petitioner that tends to prove that the will is  
36 valid.

37 9. If the petition seeks to have the estate set aside for the  
38 benefit of the decedent's surviving spouse or minor child or minor  
39 children without payment to creditors, the petition must also  
40 contain:

41 (a) A specific description and estimated value of property  
42 passing by one or more nonprobate transfers from the decedent to  
43 the surviving spouse or minor child or minor children; or

44 (b) An allegation that the estimated value of the property sought  
45 to be set aside, combined with the value of all nonprobate transfers





1 from the decedent to the surviving spouse or minor child or minor  
2 children who are seeking to receive property pursuant to this  
3 section, is less than \$100,000.

4 10. When property is distributed pursuant to an order granted  
5 under this section, the court may allocate the property on a pro rata  
6 basis or a non-pro rata basis.

7 11. The clerk shall set the petition for hearing and the  
8 petitioner shall give notice of the petition and hearing in the manner  
9 provided in NRS 155.010 to the decedent's heirs and devisees and  
10 to the Director of the Department of Health and Human Services. If  
11 a complete copy of the petition is not enclosed with the notice, the  
12 notice must include a statement setting forth to whom the estate is  
13 being set aside.

14 12. No court or clerk's fees may be charged for the filing of  
15 any petition in, or order of court thereon, or for any certified copy of  
16 the petition or order in an estate not exceeding \$2,500 in value.

17 13. At the hearing on a petition under this section, the court  
18 may require such additional evidence as the court deems necessary  
19 to make the findings required under subsection 14.

20 14. The order granting the petition shall include:

21 (a) The court's finding as to the validity of any will presented;

22 (b) The court's finding as to the value of the estate and, if  
23 relevant for the purposes of subsection 5, the value of any property  
24 subject to nonprobate transfers;

25 (c) The court's determination of any property set aside under  
26 subsection 2;

27 (d) The court's determination of any property set aside under  
28 subsection 3, including, without limitation, the court's determination  
29 as to any reduction made pursuant to subsection 4 or 5; and

30 (e) The name of each distributee and the property to be  
31 distributed to the distributee.

32 15. As to the distribution of the share of a minor child set aside  
33 pursuant to this section, the court may direct the manner in which  
34 the money may be used for the benefit of the minor child as is  
35 deemed in the court's discretion to be in the best interests of the  
36 minor child, and the distribution of the minor child's share shall be  
37 made as permitted for the minor child's share under the terms of the  
38 decedent's will or to one or more of the following:

39 (a) A parent of such minor child, with or without the filing of  
40 any bond;

41 (b) A custodian under chapter 167 of NRS; or

42 (c) A court-appointed guardian of the estate, with or without  
43 bond.

44 16. For the purposes of this section, the value of property must  
45 be the fair market value of that property, reduced by the value of all



1 enforceable liens and encumbrances. Property values and the values  
2 of liens and encumbrances must be determined as of the date of the  
3 decedent's death.

4 **Sec. 28.** NRS 150.060 is hereby amended to read as follows:

5 150.060 1. An attorney for a personal representative is  
6 entitled to reasonable compensation for the attorney's services, to be  
7 paid out of the decedent's estate.

8 2. An attorney for a personal representative may be  
9 compensated based on:

10 (a) The applicable hourly rate of the attorney;

11 (b) The value of the estate accounted for by the personal  
12 representative;

13 (c) An agreement as set forth in subsection 4 of NRS 150.061;  
14 or

15 (d) Any other method preapproved by the court pursuant to a  
16 request in the initial petition for the appointment of the personal  
17 representative.

18 3. If the attorney is requesting compensation based on the  
19 hourly rate of the attorney, he or she may include, as part of that  
20 compensation for ordinary services, a charge for legal services or  
21 paralegal services performed by a person under the direction and  
22 supervision of the attorney.

23 4. If the attorney is requesting compensation based on the  
24 value of the estate accounted for by the personal representative, the  
25 ~~allowable~~ court shall allow compensation of the attorney for  
26 ordinary services ~~must be determined~~ as follows:

27 (a) For the first \$100,000, at the rate of 4 percent;

28 (b) For the next \$100,000, at the rate of 3 percent;

29 (c) For the next \$800,000, at the rate of 2 percent;

30 (d) For the next \$9,000,000, at the rate of 1 percent;

31 (e) For the next \$15,000,000, at the rate of 0.5 percent; and

32 (f) For all amounts above \$25,000,000, a reasonable amount to  
33 be determined by the court.

34 5. Before an attorney may receive compensation based on the  
35 value of the estate accounted for by the personal representative, the  
36 personal representative must sign a written agreement as required by  
37 subsection 8. The agreement must be prepared by the attorney and  
38 must include detailed information, concerning, without limitation:

39 (a) The schedule of fees to be charged by the attorney;

40 (b) The manner in which compensation for extraordinary  
41 services may be charged by the attorney; and

42 (c) The fact that the court is required to approve the  
43 compensation of the attorney pursuant to subsection 8 before the  
44 personal representative pays any such compensation to the attorney.



1 6. For the purposes of determining the compensation of an  
2 attorney pursuant to subsection 4, the value of the estate accounted  
3 for by the personal representative:

4 (a) Is the total amount of the appraisal of property in the  
5 inventory, plus:

6 (1) The gains over the appraisal value on sales; and

7 (2) The receipts, less losses from the appraisal value on sales;

8 and

9 (b) Does not include encumbrances or other obligations on the  
10 property of the estate.

11 7. In addition to the compensation for ordinary services of an  
12 attorney set forth in this section, an attorney may also be entitled to  
13 receive compensation for extraordinary services as set forth in  
14 NRS 150.061.

15 8. The compensation of the attorney must be fixed by written  
16 agreement between the personal representative and the attorney, and  
17 is subject to approval by the court, after petition, notice and hearing  
18 as provided in this section. If the personal representative and the  
19 attorney fail to reach agreement, or if the attorney is also the  
20 personal representative, the amount must be determined and allowed  
21 by the court. The petition requesting approval of the compensation  
22 of the attorney must contain specific and detailed information  
23 supporting the entitlement to compensation, including:

24 (a) If the attorney is requesting compensation based upon the  
25 value of the estate accounted for by the personal representative, the  
26 attorney must provide the manner of calculating the compensation in  
27 the petition; and

28 (b) If the attorney is requesting compensation based on an  
29 hourly basis, or is requesting compensation for extraordinary  
30 services, the attorney must provide the following information to the  
31 court:

32 (1) Reference to time and hours;

33 (2) The nature and extent of services rendered;

34 (3) Claimed ordinary and extraordinary services;

35 (4) The complexity of the work required; and

36 (5) Other information considered to be relevant to a  
37 determination of entitlement.

38 9. The clerk shall set the petition for hearing, and the petitioner  
39 shall give notice of the petition to the personal representative if he  
40 or she is not the petitioner and to all known heirs in an intestacy  
41 proceeding and devisees in a will proceeding. The notice must be  
42 given for the period and in the manner provided in NRS 155.010. If  
43 a complete copy of the petition is not attached to the notice, the  
44 notice must include a statement of the amount of the fee which the  
45 court will be requested to approve or allow.



1 10. On similar petition, notice and hearing, the court may make  
2 an allowance to an attorney for services rendered up to a certain  
3 time during the proceedings. If the attorney is requesting  
4 compensation based upon the value of the estate as accounted for by  
5 the personal representative, the court may apportion the  
6 compensation as it deems appropriate given the amount of work  
7 remaining to close the estate.

8 11. An heir or devisee may file objections to a petition filed  
9 pursuant to this section, and the objections must be considered at the  
10 hearing.

11 12. Except as otherwise provided in this subsection, an  
12 attorney for minor, absent, unborn, incapacitated or nonresident  
13 heirs is entitled to compensation primarily out of the estate of the  
14 distributee so represented by the attorney in those cases and to such  
15 extent as may be determined by the court. If the court finds that all  
16 or any part of the services performed by the attorney for the minor,  
17 absent, unborn, incapacitated or nonresident heirs was of value to  
18 the decedent's entire estate as such and not of value only to those  
19 heirs, the court shall order that all or part of the attorney's fee be  
20 paid to the attorney out of the money of the decedent's entire estate  
21 as a general administrative expense of the estate. The amount of  
22 these fees must be determined in the same manner as the other  
23 attorney's fees provided for in this section.

24 **Sec. 29.** NRS 155.094 is hereby amended to read as follows:

25 155.094 **1.** "Independent attorney" means an attorney, other  
26 than an attorney who:

27 ~~(1)~~ **(a)** Is a transferee described in subsection 2 of NRS  
28 155.097; or

29 ~~(2)~~ **(b)** Served as an attorney for a person who is described in  
30 subsection 2 of NRS 155.097 at the time of the execution of the  
31 transfer instrument.

32 **2.** *The term includes, without limitation, the drafting attorney*  
33 *representing the transferor in preparation of the transfer*  
34 *instrument if the drafting attorney is not a person described in*  
35 *paragraph (a) or (b) of subsection 1.*

36 **Sec. 30.** NRS 159.0753 is hereby amended to read as follows:

37 159.0753 **1.** Any person who wishes to request to nominate  
38 another person to be appointed as his or her guardian may do so ~~by~~  
39 :

40 **(a)** *If nominating a guardian of the estate, pursuant to*  
41 *NRS 162A.250;*

42 **(b)** *If nominating a guardian of the person, pursuant to NRS*  
43 *162A.800; or*

44 **(c)** *By completing a form requesting to nominate a guardian in*  
45 *accordance with this section.*



1 2. A form requesting to nominate a guardian *pursuant to this*  
2 *section* must be:

3 (a) Signed by the person requesting to nominate a guardian;

4 (b) Signed by two impartial adult witnesses who have no  
5 interest, financial or otherwise, in the estate of the person requesting  
6 to nominate a guardian and who attest that the person has the mental  
7 capacity to understand and execute the form; and

8 (c) Notarized.

9 3. A request to nominate a guardian *pursuant to this section*  
10 may be in substantially the following form, and must be witnessed  
11 and executed in the same manner as the following form:

12  
13 **REQUEST TO NOMINATE GUARDIAN**

14  
15 I, ..... (insert your name), residing at .....  
16 (insert your address), am executing this notarized document  
17 as my written declaration and request for the person(s)  
18 designated below to be appointed as my guardian should it  
19 become necessary. I am advising the court and all persons  
20 and entities as follows:

21 1. As of the date I am executing this request to nominate  
22 a guardian, I have the mental capacity to understand and  
23 execute this request.

24 2. This request pertains to a (circle one): (guardian of the  
25 person)/(guardian of the estate)/(guardian of the person and  
26 estate).

27 3. Should the need arise, I request that the court give my  
28 preference to the person(s) designated below to serve as my  
29 appointed guardian.

30 4. I request that my ..... (insert relation),  
31 ..... (insert name), serve as my appointed guardian.

32 5. If ..... (insert name) is unable or unwilling to  
33 serve as my appointed guardian, then I request that my  
34 ..... (insert relation), ..... (insert name),  
35 serve as my appointed guardian.

36 6. I do not, under any circumstances, desire to have any  
37 private, for-profit guardian serve as my appointed guardian.

38  
39 **(YOU MUST DATE AND SIGN THIS DOCUMENT)**

40  
41 I sign my name to this document on ..... (date)

42 .....

43 (Signature)  
44



(YOU MUST HAVE TWO QUALIFIED ADULT  
WITNESSES  
DATE AND SIGN THIS DOCUMENT)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed this request to nominate a guardian in my presence, that the principal appears to be of sound mind, has the mental capacity to understand and execute this document and is under no duress, fraud or undue influence, and that I have no interest, financial or otherwise, in the estate of the principal.

.....  
(Signature of first witness)

.....  
(Print name)

.....  
(Date)

.....  
(Signature of second witness)

.....  
(Print name)

.....  
(Date)

CERTIFICATE OF ACKNOWLEDGMENT  
OF NOTARY PUBLIC

State of Nevada }

County of ..... }

On this ..... day of ....., in the year ....., before me, ..... (insert name of notary public), personally appeared ..... (insert name of principal), ..... (insert name of first witness) and ..... (insert name of second witness), personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to this instrument, and acknowledged that they have signed this instrument.

.....  
(Signature of notarial officer)

(Seal, if any)



1 4. The Secretary of State shall make the form established in  
2 subsection 3 available on the Internet website of the Secretary of  
3 State.

4 5. The Secretary of State may adopt any regulations necessary  
5 to carry out the provisions of this section.

6 **Sec. 31.** Chapter 163 of NRS is hereby amended by adding  
7 thereto a new section to read as follows:

8 *1. A governing trust instrument may authorize the trustee, in  
9 the sole discretion of the trustee or at the direction or with the  
10 consent of a directing trust adviser, to reimburse a settlor for all or  
11 a portion of tax on trust income or principal that is payable by the  
12 settlor under the law imposing such tax. In the sole discretion of  
13 the trustee, the trustee may pay such amount to the settlor directly  
14 or to an appropriate taxing authority on behalf of the settlor.*

15 *2. A trustee or directing trust adviser is not liable to any  
16 person as a result of determining whether to reimburse or not  
17 reimburse a settlor for all or a portion of tax on trust income or  
18 principal that is payable by the settlor pursuant to subsection 1.*

19 *3. The authority of a trustee to make a payment to or for the  
20 benefit of a settlor or a determination by the trustee to exercise  
21 such authority in favor of the settlor in accordance with  
22 subsection 1 does not make the settlor a beneficiary for purposes  
23 of the laws of this State. As used in this subsection, "beneficiary"  
24 has the meaning ascribed to it in NRS 163.4147.*

25 **Sec. 32.** NRS 163.002 is hereby amended to read as follows:

26 163.002 1. Except as otherwise provided by specific statute  
27 **or any regulatory or contractual restrictions**, a trust may be  
28 created by any of the following methods:

29 (a) A declaration by the owner of property that he or she or  
30 another person holds the property as trustee. In the absence of a  
31 contrary declaration by the owner of the property or of a transfer of  
32 the property to a third party and regardless of formal title to the  
33 property:

34 (1) Property declared to be trust property, together with all  
35 income therefrom and the reinvestment thereof, must remain trust  
36 property; and

37 (2) If the property declared to be trust property includes an  
38 account, contract, certificate, note, judgment, business interest,  
39 contents of a safe deposit box or other property interest that is  
40 subject to additions or contributions, all subsequent additions and  
41 contributions to the property are also trust property.

42 (b) A transfer of property by the owner during his or her lifetime  
43 to another person as trustee.

44 (c) A testamentary transfer of property by the owner to another  
45 person as trustee.



1 (d) An exercise of a power of appointment in trust.

2 (e) An enforceable promise to create a trust.

3 2. A declaration pursuant to paragraph (a) of subsection 1 may  
4 , *but is not required, to* include a schedule or list of trust assets that  
5 is signed by the owner of the property or that is incorporated by  
6 reference into a document that is signed by the owner of the  
7 property.

8 *3. A declaration by the owner of property pursuant to*  
9 *paragraph (a) of subsection 1 that he or she or another person*  
10 *holds all the property of the declarant in trust is sufficient to*  
11 *create a trust over all the property of the declarant that is reliably*  
12 *identified through the use of extrinsic evidence as belonging to the*  
13 *declarant at the time of his or her death.*

14 **Sec. 33.** NRS 163.004 is hereby amended to read as follows:

15 163.004 1. Except as otherwise provided by law, the terms of  
16 a trust instrument may expand, restrict, eliminate or otherwise vary  
17 the rights and interests of beneficiaries in any manner that is not  
18 illegal or against public policy, including, without limitation:

19 (a) The right to be informed of the beneficiary's interest for a  
20 period of time;

21 (b) The grounds for the removal of a fiduciary;

22 (c) The circumstances, if any, in which the fiduciary must  
23 diversify investments;

24 (d) A fiduciary's powers, duties, standards of care, rights of  
25 indemnification and liability to persons whose interests arise from  
26 the trust instrument; and

27 (e) The provisions of general applicability to trusts and trust  
28 administration.

29 2. A trust is irrevocable except to the extent that ~~[a right to~~  
30 ~~amend the trust or]~~ a right to revoke the trust is expressly reserved  
31 by the settlor ~~[or is granted to one or more other persons]~~ under the  
32 terms of the trust instrument. ~~[Notwithstanding the provisions of this~~  
33 ~~subsection, the following powers do]~~ *Any authority, power or right*  
34 *granted to any person other than the settlor under the terms of the*  
35 *trust instrument or by law, including, without limitation, the power*  
36 *or right to amend the trust, does not render or* make a trust  
37 revocable. ~~†~~

38 ~~—(a) Power of appointment;~~

39 ~~—(b) Power to add or remove beneficiaries;~~

40 ~~—(c) Power to appoint, remove or replace the trustee; or~~

41 ~~—(d) Power to make administrative amendments.]~~

42 3. Nothing in this section shall be construed to:

43 (a) Authorize the exculpation or indemnification of a fiduciary  
44 for the fiduciary's own willful misconduct or gross negligence; or





1 (b) Preclude a court of competent jurisdiction from removing a  
2 fiduciary because of the fiduciary's willful misconduct or gross  
3 negligence.

4 4. The rule that statutes in derogation of the common law are to  
5 be strictly construed has no application to this section. This section  
6 must be liberally construed to give maximum effect to the principle  
7 of freedom of disposition and to the enforceability of trust  
8 instruments.

9 **Sec. 34.** NRS 163.0095 is hereby amended to read as follows:

10 163.0095 1. An electronic trust is a trust instrument that:

11 (a) Is created and maintained in an electronic record in such a  
12 manner that any alteration thereto is detectable;

13 (b) Contains the electronic signature of the settlor and the date  
14 and time thereof;

15 (c) Includes, without limitation, an authentication method which  
16 is attached to or logically associated with the trust instrument to  
17 identify the settlor or is electronically notarized in accordance with  
18 all applicable provisions of law;

19 (d) Is subject to the provisions of chapter 719 of NRS; and

20 (e) Meets the requirements set forth in this chapter for a valid  
21 trust.

22 2. Regardless of the physical location of the settlor, an  
23 electronic trust shall be deemed to be executed in this State and will  
24 be governed by the laws of this State and subject to the jurisdiction  
25 of the courts of this State if the electronic trust is:

26 (a) Transmitted to and maintained by a custodian designated in  
27 the trust instrument at the custodian's place of business in this State  
28 or at the custodian's residence in this State; or

29 (b) Maintained by the settlor at the settlor's place of business in  
30 this State or at the settlor's residence in this State, or by the trustee  
31 at the trustee's place of business in this State or at the trustee's  
32 residence in this State.

33 3. Notwithstanding the provisions of subsection 2, the validity  
34 of a notarial act performed by an electronic notary public must be  
35 determined by applying the laws of the jurisdiction in which the  
36 electronic notary public is commissioned or appointed.

37 4. The provisions of this section do not apply to a testamentary  
38 trust.

39 5. *The custodian of an electronic trust may convert the*  
40 *electronic trust into a certified paper original of the electronic*  
41 *trust under the following circumstances:*

42 (a) *At the direction of the settlor or the trustee; or*

43 (b) *Except as otherwise provided in subsection 8, with 30 days'*  
44 *written notice, delivered to the last known address of the settlor or*



1 trustee, that the custodian intends to convert the electronic trust  
2 into a certified paper original.

3 6. An electronic trust may be converted into a certified paper  
4 original by creating a tangible document that contains the  
5 following:

6 (a) The text of the electronic trust; and

7 (b) An affidavit of the custodian or an employee of the  
8 custodian stating:

9 (1) That the electronic record was created at the time the  
10 settlor executed the electronic trust;

11 (2) The identities of all custodians who have had custody of  
12 the electronic record since the execution of the electronic trust;

13 (3) That the certified paper original is a true, correct and  
14 complete tangible manifestation of the electronic trust; and

15 (4) That the electronic record of the electronic trust is  
16 presently in the custody of the custodian.

17 7. The custodian of an electronic trust may destroy the  
18 electronic record of the electronic trust after converting the  
19 electronic trust into a certified paper original if the custodian:

20 (a) Provides 30 days' written notice, delivered to the last  
21 known address of the settlor or trustee, that the custodian intends  
22 to destroy the record and the settlor or trustee does not object  
23 within the 30-day period; and

24 (b) Makes a reasonable effort to provide the electronic record  
25 to the settlor or trustee before destroying the electronic record.

26 8. Before the expiration of the 30 days after the custodian  
27 gives notice to the settlor or trustee pursuant to paragraph (b) of  
28 subsection 5, if the settlor or trustee objects to the conversion of  
29 the electronic trust into a certified paper original and agrees to  
30 take custody of the electronic trust, the custodian shall not convert  
31 the electronic trust into a certified paper original and shall deliver  
32 the electronic record of the electronic trust to the settlor or trustee  
33 or to such other person as the settlor or trustee may direct.

34 9. As used in this section:

35 (a) "Authentication characteristic" has the meaning ascribed to it  
36 in NRS 133.085.

37 (b) "Authentication method" means a method of identification  
38 using any applicable method authorized or required by law,  
39 including, without limitation, a digital certificate using a public key  
40 or a physical device, including, without limitation, a smart card,  
41 flash drive or other type of token, an authentication characteristic or  
42 another commercially reasonable method.

43 (c) "Certified paper original" means a tangible document that  
44 contains the text of an electronic trust.

45 (d) "Public key" has the meaning ascribed to it in NRS 720.110.



1       **Sec. 35.** NRS 163.025 is hereby amended to read as follows:

2       163.025 1. Except as otherwise provided by the terms of the  
3 trust instrument, a trustee may combine two or more trusts into a  
4 single trust or divide a trust into two or more separate trusts if the  
5 combination or division does not:

6       (a) Impair the rights of any beneficiary;

7       (b) Substantially affect the accomplishment of the purposes of  
8 the trust or trusts; or

9       (c) Violate the rule against perpetuities applicable to the trust or  
10 trusts.

11       2. ~~The~~ *If the terms of the trust instrument do not expressly*  
12 *authorize the combination or division of trusts, then the*  
13 combination or division of trusts must be made ~~only~~ *by court*  
14 *order or* after giving notice of the proposed action and following the  
15 procedure set forth in NRS 164.725. The notice of the proposed  
16 action must include a summary of the anticipated tax consequences,  
17 if any, of the proposed combination or division.

18       **Sec. 36.** NRS 163.553 is hereby amended to read as follows:

19       163.553 As used in NRS 163.553 to 163.556, inclusive, *and*  
20 *section 31 of this act*, unless the context otherwise requires, the  
21 words and terms defined in NRS 163.5533 to 163.5547, inclusive,  
22 have the meanings ascribed to them in those sections.

23       **Sec. 37.** NRS 163.5557 is hereby amended to read as follows:

24       163.5557 1. An instrument may provide for the appointment  
25 of a person to act as an investment trust adviser or a distribution  
26 trust adviser with regard to investment decisions or discretionary  
27 distributions.

28       2. An investment trust adviser may exercise the powers  
29 provided to the investment trust adviser in the instrument in the best  
30 interests of the trust. The powers exercised by an investment trust  
31 adviser are at the sole discretion of the investment trust adviser and  
32 are binding on all other persons. The powers granted to an  
33 investment trust adviser may include, without limitation, the power  
34 to:

35       (a) Direct the trustee with respect to the retention, purchase, sale  
36 or encumbrance of trust property and the investment and  
37 reinvestment of principal and income of the trust.

38       (b) Vote proxies for securities held in trust.

39       (c) Select one or more investment advisers, managers or  
40 counselors, including the trustee, and delegate to such persons any  
41 of the powers of the investment trust adviser.

42       (d) *Value non-publicly traded investments held in trust that*  
43 *are subject to the investment management authority of the*  
44 *investment trust adviser.*



1 3. A distribution trust adviser may exercise the powers  
2 provided to the distribution trust adviser in the instrument in the best  
3 interests of the trust. The powers exercised by a distribution trust  
4 adviser are at the sole discretion of the distribution trust adviser and  
5 are binding on all other persons. Except as otherwise provided in the  
6 instrument, the distribution trust adviser shall direct the trustee with  
7 regard to all discretionary distributions to a beneficiary.

8 **Sec. 38.** NRS 163.5559 is hereby amended to read as follows:

9 163.5559 1. Except as otherwise provided in subsection 2, a  
10 creditor of a settlor may not seek to satisfy a claim against the settlor  
11 from the assets of a trust ~~[if the settlor's sole interest in the trust is]~~  
12 *because of* the existence of ~~[a]~~ :

13 (a) A discretionary power granted to a person other than the  
14 settlor by the terms of the trust or by operation of law or to  
15 reimburse the settlor for any tax on trust income or principal which  
16 is payable by the settlor under the law imposing such tax ~~[i]~~ ;

17 (b) *A power allowing the settlor to reacquire the trust corpus*  
18 *by substituting other property of an equivalent value; or*

19 (c) *A power allowing the settlor to borrow trust corpus or*  
20 *income, directly or indirectly, without adequate interest or without*  
21 *adequate security.*

22 2. The provisions of subsection 1 do not ~~[apply to]~~ *preclude a*  
23 *creditor from seeking to satisfy a claim against the settlor of a*  
24 *spendthrift trust from* trust property transferred by the settlor to the  
25 extent ~~[a]~~ *the creditor can prove by clear and convincing evidence*  
26 *that the transfer was fraudulent as to that creditor* pursuant to  
27 chapter 112 of NRS or ~~[was otherwise wrongful as to]~~ *violates a*  
28 *legal obligation owed to that creditor under a contract or a valid*  
29 *court order that is legally enforceable by* that creditor.

30 3. For purposes of this section, a beneficiary of a trust shall be  
31 deemed to not be a settlor of a trust because of a lapse, waiver or  
32 release of the beneficiary's right to withdraw part or all of the trust  
33 property if the value of the property which could have been  
34 withdrawn by exercising the right of withdrawal in any calendar  
35 year does not, at the time of the lapse, waiver or release, exceed the  
36 greater of the amount provided in 26 U.S.C. § 2041(b)(2), 26 U.S.C.  
37 § 2503(b) or 26 U.S.C. § 2514(e), as amended, or any successor  
38 provision.

39 **Sec. 39.** NRS 163.556 is hereby amended to read as follows:

40 163.556 1. Except as otherwise provided in this section,  
41 unless the terms of a testamentary instrument or irrevocable trust  
42 provide otherwise, a trustee with discretion or authority to distribute  
43 trust income or principal to or for a beneficiary of the trust , *whether*  
44 *acting in the trustee's own discretion or at the direction or with the*  
45 *consent of another party pursuant to the terms of the trust*



1 *instrument*, may exercise such discretion or authority by appointing  
2 the property subject to such discretion or authority in favor of a  
3 second trust as provided in this section.

4 2. The second trust to which a trustee appoints property of the  
5 original trust may only have as beneficiaries one or more of the  
6 beneficiaries of the original trust:

7 (a) To or for whom a distribution of income or principal may be  
8 made from the original trust;

9 (b) To or for whom a distribution of income or principal may be  
10 made in the future from the original trust at a time or upon the  
11 happening of an event specified under the original trust; or

12 (c) Both paragraphs (a) and (b).

13 ↪ For purposes of this subsection, a permissible appointee of a  
14 power of appointment exercised by a beneficiary of the second trust  
15 is not considered a beneficiary of the second trust.

16 3. A trustee may not appoint property of the original trust to a  
17 second trust if:

18 (a) Appointing the property will reduce any income interest of  
19 any income beneficiary of the original trust if the original trust is:

20 (1) A trust for which a marital deduction has been taken for  
21 federal or state income, gift or estate tax purposes;

22 (2) A trust for which a charitable deduction has been taken  
23 for federal or state income, gift or estate tax purposes; or

24 (3) A grantor-retained annuity trust or unitrust under  
25 26 C.F.R. § 25.2702-3(b) and (c).

26 ↪ As used in this paragraph, “unitrust” has the meaning ascribed to  
27 it in NRS 164.700.

28 (b) The property to be appointed is subject to a power of  
29 withdrawal which is held by a beneficiary of the original trust and  
30 may be executed at the time of the proposed appointment, unless  
31 after the exercise of such appointment, the beneficiary of the  
32 original trust’s power of withdrawal is unchanged with respect to  
33 the trust property.

34 (c) ~~Property specifically allocated for one beneficiary of the~~  
35 ~~original trust is no longer allocated for that beneficiary under either~~  
36 ~~or both trusts, unless the beneficiary consents in writing.~~

37 ~~—(d)~~ A contribution made to the original trust qualified for a gift  
38 tax exclusion as described in section 2503(b) of the Internal  
39 Revenue Code, 26 U.S.C. § 2503(b), by reason of the application of  
40 section 2503(c) of the Internal Revenue Code, 26 U.S.C. § 2503(c),  
41 unless the second trust provides that the beneficiary’s remainder  
42 interest must vest not later than the date upon which such interest  
43 would have vested under the terms of the original trust.



1 4. A trustee who is a beneficiary of the original trust may not  
2 exercise the authority to appoint property of the original trust to a  
3 second trust if:

4 (a) Under the terms of the original trust or pursuant to law  
5 governing the administration of the original trust:

6 (1) The trustee does not have discretion to make distributions  
7 to himself or herself;

8 (2) The trustee's discretion to make distributions to himself  
9 or herself is limited by an ascertainable standard, and under the  
10 terms of the second trust, the trustee's discretion to make  
11 distributions to himself or herself is not limited by the same  
12 ascertainable standard; or

13 (3) The trustee's discretion to make distributions to himself  
14 or herself can only be exercised with the consent of a cotrustee or a  
15 person holding an adverse interest and under the terms of the second  
16 trust the trustee's discretion to make distributions to himself or  
17 herself is not limited by an ascertainable standard and may be  
18 exercised without consent; or

19 (b) Under the terms of the original trust or pursuant to law  
20 governing the administration of the original trust, the trustee of the  
21 original trust does not have discretion to make distributions that will  
22 discharge the trustee's legal support obligations but under the  
23 second trust the trustee's discretion is not limited.

24 5. Notwithstanding the provisions of subsection 1, a trustee  
25 who may be removed by the beneficiary or beneficiaries of the  
26 original trust and replaced with a trustee that is related to or  
27 subordinate, as described in section 672 of the Internal Revenue  
28 Code, 26 U.S.C. § 672(c), to a beneficiary, may not exercise the  
29 authority to appoint property of the original trust to a second trust to  
30 the extent that the exercise of the authority by such trustee would  
31 have the effect of increasing the distributions that can be made from  
32 the second trust to such beneficiary or group of beneficiaries that  
33 held the power to remove the trustee of the original trust and replace  
34 such trustee with a related or subordinate person, unless the  
35 distributions that may be made from the second trust to such  
36 beneficiary or group of beneficiaries described in paragraph (a) of  
37 subsection 4 are limited by an ascertainable standard.

38 6. The provisions of subsections 4 and 5 do not prohibit a  
39 trustee who is not a beneficiary of the original trust or who may not  
40 be removed by the beneficiary or beneficiaries and replaced with a  
41 trustee that is related to or subordinate to a beneficiary from  
42 exercising the authority to appoint property of the original trust to a  
43 second trust pursuant to the provisions of subsection 1.

44 7. Before appointing property pursuant to subsection 1, a  
45 trustee may give notice of a proposed action pursuant to



1 NRS 164.725 or may petition a court for approval pursuant to NRS  
2 153.031, 164.015 or 164.725. Any notice of a proposed action or a  
3 petition for a court's approval must include the trustee's opinion of  
4 how the appointment of property will affect the trustee's  
5 compensation and the administration of other trust expenses.

6 8. The trust instrument of the second trust may:

7 (a) Grant a general or limited power of appointment to one or  
8 more of the beneficiaries of the second trust who are beneficiaries of  
9 the original trust.

10 (b) Provide that, at a time or occurrence of an event specified in  
11 the trust instrument, the remaining trust assets in the second trust  
12 must be held for the beneficiaries of the original trust upon terms  
13 and conditions that are substantially identical to the terms and  
14 conditions of the original trust.

15 9. The power to appoint the property of the original trust  
16 pursuant to subsection 1 must be exercised by a writing, signed by  
17 the trustee and filed with the records of the trust.

18 10. The exercise of the power to invade principal of the  
19 original trust pursuant to subsection 1 is considered the exercise of a  
20 power of appointment, other than power to appoint the property to  
21 the trustee, the trustee's creditors, the trustee's estate or the creditors  
22 of the trustee's estate and the provisions of NRS 111.1031 apply to  
23 such power of appointment.

24 11. The provisions of this section do not abridge the right of  
25 any trustee who has the power to appoint property which arises  
26 under any other law **or under the terms of the original trust.**

27 12. The provisions of this section do not impose upon a trustee  
28 a duty to exercise the power to appoint property pursuant to  
29 subsection 1.

30 13. The power to appoint property to another trust pursuant to  
31 subsection 1 is not a power to amend the trust and a trustee is not  
32 prohibited from appointing property to another trust pursuant to  
33 subsection 1 if the original trust is irrevocable or provides that it  
34 may not be amended.

35 14. A trustee's power to appoint property to another trust  
36 pursuant to subsection 1 is not limited by the existence of a  
37 spendthrift provision in the original trust.

38 15. A trustee exercising any power granted pursuant to this  
39 section may designate himself or herself or any other person  
40 permitted to act as a trustee as the trustee of the second trust.

41 16. The trustee of a second trust, resulting from the exercise of  
42 the power to appoint property to another trust pursuant to subsection  
43 1, may also exercise the powers granted pursuant to this section with  
44 respect to the second trust.



1 17. ~~[This]~~ *Except as otherwise provided under the terms of*  
2 *the trust, the power of a trustee to appoint property to another*  
3 *trust is in addition to any other powers conferred by the terms of*  
4 *the trust or under the laws of this State. This section does not*  
5 *expand, restrict, eliminate or otherwise alter any power that, with*  
6 *respect to a trust, a person holds in a nonfiduciary capacity.*

7 18. *The power of a trustee to appoint property to another trust*  
8 *is an administrative act under this section and, therefore,*  
9 *regardless of whether a trust applies the laws of this State for*  
10 *construction or validity issues, this* section applies to a trust that is  
11 governed by, sitused in or administered under the laws of this State,  
12 whether the trust is initially governed by, sitused in or administered  
13 under the laws of this State pursuant to the terms of the trust  
14 instrument or whether the governing law, situs or administration of  
15 the trust is moved to this State from another state or foreign  
16 jurisdiction.

17 ~~[18.]~~ 19. The power to appoint *property* to a second trust  
18 pursuant to this section may be exercised to appoint *property* to a  
19 second trust that is a special needs trust, pooled trust or third-party  
20 trust.

21 ~~[19.]~~ 20. As used in this section:

22 (a) "Ascertainable standard" means a standard relating to a  
23 person's health, education, support or maintenance within the  
24 meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal  
25 Revenue Code, 26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any  
26 regulations of the United States Treasury promulgated thereunder.

27 (b) "Pooled trust" means a trust described in 42 U.S.C. §  
28 1396p(d)(4)(C) that meets the requirements for such a trust under  
29 any law or regulation of this State relating to the treatment of trusts  
30 for purposes of eligibility for Medicaid or other needs-based public  
31 assistance.

32 (c) "Second trust" means an irrevocable trust that receives trust  
33 income or principal appointed by the trustee of the original trust,  
34 and may be established by any person, including, without limitation,  
35 a new trust created by the trustee, acting in that capacity, of the  
36 original trust. If the trustee of the original trust establishes the  
37 second trust, then for purposes of creating the new second trust,  
38 the requirement of NRS 163.008 that the instrument be signed by  
39 the settlor shall be deemed to be satisfied by the signature of the  
40 trustee of the original trust. The second trust may be a trust created  
41 under:

42 (1) The original trust instrument, as modified after an  
43 appointment of property made pursuant to this section; or

44 (2) A different trust instrument.





1 (d) "Special needs trust" means a trust under 42 U.S.C. §  
2 1396p(d)(4)(A) that meets the requirements for such a trust under  
3 any law or regulation of this State relating to the treatment of trusts  
4 for purposes of eligibility for Medicaid or other needs-based public  
5 assistance.

6 (e) "Third-party trust" means a trust that is:

7 (1) Established by a third party with the assets of the third  
8 party to provide for the supplemental needs of a person who is  
9 eligible for needs-based public assistance at or after the time of the  
10 creation of the trust; and

11 (2) Exempt from the provisions of any law or regulation of  
12 this State relating to the treatment of trusts for purposes of eligibility  
13 for Medicaid.

14 **Sec. 40.** NRS 164.021 is hereby amended to read as follows:

15 164.021 1. When a revocable trust becomes irrevocable  
16 because of the death of a settlor or by the express terms of the trust,  
17 the trustee may, after the trust becomes irrevocable, provide notice  
18 to any beneficiary of the irrevocable trust, any heir of the settlor or  
19 to any other interested person.

20 2. The notice provided by the trustee must contain:

21 (a) The identity of the settlor of the trust and the date of  
22 execution of the trust instrument;

23 (b) The name, mailing address and telephone number of any  
24 trustee of the trust;

25 (c) Any provision of the trust instrument which pertains to the  
26 beneficiary or notice that the heir or interested person is not a  
27 beneficiary under the trust;

28 (d) Any information required to be included in the notice  
29 expressly provided by the trust instrument; and

30 (e) A statement set forth in a separate paragraph, in 12-point  
31 boldface type or an equivalent type which states: "You may not  
32 bring an action to contest the trust more than 120 days from the date  
33 this notice is ~~provided~~ *provided to* you."

34 3. The trustee shall ~~serve the~~ *cause* notice pursuant to *this*  
35 *section to be provided in accordance with* the provisions of  
36 NRS 155.010.

37 4. No person upon whom notice is ~~served~~ *provided* pursuant  
38 to this section may bring an action to contest the validity of the trust  
39 more than 120 days from the date the notice *pursuant to this section*  
40 *is provided, regardless of whether a petition under NRS 164.010* is  
41 *subsequently* served upon the person ~~it~~ *after the notice is provided,*  
42 unless the person proves that he or she ~~did~~ *was* not ~~receive actual~~  
43 *provided* notice ~~it~~ *in accordance with this section.*



1 **Sec. 41.** NRS 164.025 is hereby amended to read as follows:  
2 164.025 1. ~~The~~ *Regardless of the filing of a petition under*  
3 *NRS 164.010, the* trustee of a nontestamentary trust may after the  
4 death of the settlor of the trust cause to be published a notice in the  
5 manner specified in paragraph (b) of subsection 1 of NRS 155.020  
6 and mail a copy of the notice to known or readily ascertainable  
7 creditors.

8 2. The notice must be in substantially the following form:  
9 (a) For a claim against the settlor:

10  
11 NOTICE TO CREDITORS

12  
13 Notice is hereby given that the undersigned is the duly  
14 appointed and qualified trustee of the ..... trust.  
15 ....., the settlor of that trust died on ..... A  
16 creditor having a claim against the settlor must file a claim  
17 with the undersigned at the address given below within 90  
18 days after the first publication of this notice.

19 Dated .....

20 .....  
21  
22 .....  
23 Trustee

24 .....  
25 Address  
26

27 (b) For a claim against the trust:

28  
29 NOTICE TO CREDITORS

30  
31 Notice is hereby given that the undersigned is the duly  
32 appointed and qualified trustee of the ..... trust.  
33 ....., the settlor of that trust died on ..... A  
34 creditor having a claim against the trust estate must file a  
35 claim with the undersigned at the address given below within  
36 90 days after the first publication of this notice.

37 Dated .....

38 .....  
39  
40 .....  
41 Trustee

42 .....  
43 Address  
44

45 (c) *For a claim against the settlor and the trust:*



**NOTICE TO CREDITORS**

*Notice is hereby given that the undersigned is the duly appointed and qualified trustee of the ..... trust. ...., the settlor of that trust died on ..... A creditor having a claim against the settlor and against the trust estate must file a claim with the undersigned at the address given below within 90 days after the first publication of this notice.*

*Dated.....*

.....  
*Trustee*

.....  
*Address*

3. ~~[A]~~ *Except as otherwise provided in subsection 4, a person having a claim, due or to become due, against a settlor or the trust, as applicable, must file the claim with the trustee within 90 days after the mailing, for those required to be mailed, or 90 days after publication of the first notice to creditors. A claim filed within the applicable period is presumed timely filed if it contains on the first page of the claim a title stating it is a "Claim Pursuant to NRS 164.025" in a minimum 12-point bold type and it is mailed to the trustee at the address set forth in the notice with a return receipt or the creditor obtains written confirmation of receipt signed by the trustee or trustee's counsel. Any claim against a settlor or the trust estate, as applicable, that is not timely filed [within that time] is forever barred. After the expiration of the time to file a claim as provided in this [section,] subsection or, if applicable, subsection 4, the trustee may distribute the assets of the trust to its beneficiaries without personal liability for any claim which has not been timely filed with the trustee. A claim not complying with the requirements of this subsection is rebuttably presumed to be untimely.*

4. *Notwithstanding the provisions of subsection 3, if the existence of an additional creditor who was not known or readily ascertainable at the time of the first publication of the notice to creditors is discovered by the trustee before the last day that creditors who were provided such notice may file a claim with the trustee pursuant to subsection 3, the trustee may immediately mail a copy of the notice to the additional creditor, who must file a claim with the trustee in accordance with the provisions of subsection 3 within the applicable time period set forth in*



1 *subsection 3 or 30 days from the date the trustee mailed such*  
2 *subsequent notice to the creditor, whichever is later.*

3 5. If the trustee knows or has reason to believe that the settlor  
4 received public assistance during the lifetime of the settlor, the  
5 trustee shall, whether or not the trustee gives notice to other  
6 creditors, give notice within 30 days after the death to the  
7 Department of Health and Human Services in the manner provided  
8 in NRS 155.010. If notice to the Department is required by this  
9 subsection but is not given, the trust estate and any assets transferred  
10 to a beneficiary remain subject to the right of the Department to  
11 recover public assistance received.

12 ~~[5.]~~ 6. If a claim is rejected by the trustee, in whole or in part,  
13 the trustee must, within 10 days after the rejection, notify the  
14 claimant of the rejection by written notice forwarded by registered  
15 or certified mail to the mailing address of the claimant. The claimant  
16 must bring suit in the proper court against the trustee within 60 days  
17 after the notice is given, whether the claim is due or not, or the  
18 claim is barred forever and the trustee may distribute the assets of  
19 the trust to its beneficiaries without personal liability to any creditor  
20 whose claim is barred forever.

21 ~~[6.]~~ 7. As used in this section, "nontestamentary trust" has the  
22 meaning ascribed to it in NRS 163.0016.

23 **Sec. 42.** NRS 164.038 is hereby amended to read as follows:

24 164.038 1. Unless otherwise represented by counsel, a minor,  
25 incapacitated person, unborn person or person whose identity or  
26 location is unknown and not reasonably ascertainable may be  
27 represented by another person who has a substantially similar  
28 interest with respect to the question or dispute.

29 2. A person may only be represented by another person  
30 pursuant to subsection 1 if there is no material conflict of interest  
31 between the person and the representative with respect to the  
32 question or dispute for which the person is being represented. If a  
33 person is represented pursuant to subsection 1, the results of that  
34 representation in the question or dispute will be binding on the  
35 person.

36 3. A presumptive remainder beneficiary may represent and  
37 bind a beneficiary with a contingent remainder for the same  
38 purpose, in the same circumstance and to the same extent as an  
39 ascertainable beneficiary may bind a minor, incapacitated person,  
40 unborn person or person who cannot be ascertained.

41 4. A powerholder may represent and bind a person who is a  
42 permissible appointee or taker in default of appointment.

43 5. If a trust has a minor or incapacitated beneficiary who may  
44 not be represented by another person pursuant to this section, ~~[the]~~ a  
45 custodial parent or *the* guardian of the estate of the minor or



1 incapacitated beneficiary may represent the minor or incapacitated  
2 beneficiary in any judicial proceeding or nonjudicial matter  
3 pertaining to the trust. A minor or incapacitated beneficiary may  
4 only be represented by a parent or guardian if there is no material  
5 conflict of interest between the minor or incapacitated beneficiary  
6 and the parent or guardian with respect to the question or dispute. If  
7 a minor or incapacitated beneficiary is represented pursuant to this  
8 subsection, the results of that representation will be binding on the  
9 minor or incapacitated beneficiary. The representation of a minor or  
10 incapacitated beneficiary pursuant to this subsection is binding on  
11 an unborn person or a person who cannot be ascertained if:

12 (a) The unborn person or a person who cannot be ascertained  
13 has an interest substantially similar to the minor or incapacitated  
14 person; and

15 (b) There is no material conflict of interest between the unborn  
16 person or a person who cannot be ascertained and the minor or  
17 incapacitated person with respect to the question or dispute.

18 6. As used in this section:

19 (a) "Permissible appointee" has the meaning ascribed to it in  
20 NRS 162B.065.

21 (b) "Powerholder" has the meaning ascribed to it in  
22 NRS 162B.080.

23 (c) "Presumptive remainder beneficiary" means:

24 (1) A beneficiary who would receive income or principal of  
25 the trust if the trust were to terminate as of that date, regardless of  
26 the exercise of a power of appointment; or

27 (2) A beneficiary who, if the trust does not provide for  
28 termination, would receive or be eligible to receive distributions of  
29 income or principal of the trust if all beneficiaries of the trust who  
30 were receiving or eligible to receive distributions were deceased.

31 (d) "Taker in default of appointment" has the meaning ascribed  
32 to it in NRS 162B.095.

33 **Sec. 43.** Chapter 239A of NRS is hereby amended by adding  
34 thereto the provisions set forth as sections 44 and 45 of this act.

35 **Sec. 44.** *Upon presentation of a death certificate, affidavit of*  
36 *death or other proof of death, a lender, trustee or assignee of an*  
37 *encumbrance against real property shall provide the Director of*  
38 *the Department of Health and Human Services or a public*  
39 *administrator or a person employed or contracted with pursuant to*  
40 *NRS 253.125, as applicable, with a statement which sets forth the*  
41 *identifying number and account balance of any encumbrance*  
42 *against real property on which the name of the deceased person*  
43 *appears. A lender, trustee or assignee may charge a reasonable*  
44 *fee, not to exceed \$2, to provide a public administrator or a person*  
45 *employed or contracted with pursuant to NRS 253.125, as*



1 *applicable, with a statement pursuant to the provisions of this*  
2 *section.*

3 **Sec. 45.** *Upon presentation of a death certificate, affidavit of*  
4 *death or other proof of death, a financial institution shall provide*  
5 *a public administrator or a person employed or contracted with*  
6 *pursuant to NRS 253.125, as applicable, with access to a safe*  
7 *deposit box rented in the sole name of the decedent, or jointly*  
8 *owned with a predeceased person for whom proof of death has*  
9 *been provided, for the purpose of the inspection and removal of*  
10 *any will or instructions for disposition of the remains of the*  
11 *decedent. The estate of the decedent is responsible for any costs*  
12 *and expenses incurred by drilling or forcing open a safe deposit*  
13 *box.*

14 **Sec. 46.** NRS 440.250 is hereby amended to read as follows:

15 440.250 1. Not later than the fifth day of each month, deputy  
16 county health officers shall file with the county health officer all  
17 original birth and death certificates executed by them.

18 2. Within 5 days after receipt of the original death certificates,  
19 the county health officer shall file with the public administrator or a  
20 person employed or contracted with pursuant to NRS 253.125, as  
21 applicable, a written list of the names, ~~and~~ social security numbers  
22 *and residential addresses* of all deceased persons and the names of  
23 their next of kin as those names appear on the certificates.

24 **Sec. 47.** 1. The amendatory provisions of section 4 of this  
25 act apply to any power of attorney, will or other estate planning  
26 document that is executed on or after January 1, 2020.

27 2. The amendatory provisions of section 33 of this act apply to  
28 any trust created or amended before, on or after October 1, 2021.





