

(Reprinted with amendments adopted on April 21, 2023)

FIRST REPRINT

A.B. 381

ASSEMBLY BILL NO. 381—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR  
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

MARCH 22, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing guardianship.  
(BDR 13-302)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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

AN ACT relating to guardianship; revising various provisions relating to certain petitions regarding guardianships; revising various provisions relating to a guardian ad litem; authorizing a protected person or proposed protected person to object to certain petitions; revising provisions relating to the termination or modification of a guardianship; revising provisions relating to the rights of a protected person; making various other changes relating to guardianships; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law: (1) authorizes a proposed protected person, a governmental person or proposed protected person as a guardian ad litem if the court believes that the protected person or proposed protected person will benefit from the appointment and the services of the guardian ad litem will be beneficial in determining the best interests of the protected person or proposed protected person. Existing law requires the guardian ad litem to represent the protected person or proposed protected person until relieved of that duty by court order. Existing law



\* A B 3 8 1 R 1 \*

15 further authorizes a court to appoint a person who is not an attorney as a guardian  
16 ad litem to represent a protected person or proposed protected person if a court-  
17 approved volunteer advocate program for guardians ad litem has been established  
18 in the judicial district. (NRS 159.0455)

19 **Section 2** of this bill: (1) requires a court to set forth with specificity in the  
20 order of appointment the scope and the duties of the guardian ad litem; (2)  
21 authorizes the protected person or proposed protected person to object to the  
22 appointment and to have a hearing on the objection before the guardian ad litem  
23 commences performing services; (3) clarifies that the appointment of a guardian ad  
24 litem does not relieve the court of its obligation to appoint counsel to represent the  
25 protected person or proposed protected person; (4) requires the court, in the order  
26 of appointment, to set the hourly rate of compensation for the guardian ad litem  
27 and, unless the guardian ad litem is a volunteer; (5) provides that if the guardian ad  
28 litem is an attorney, the hourly rate of compensation set by the court must not  
29 exceed the customary hourly rate of compensation for a guardian ad litem who is  
30 not an attorney.

31 Existing law: (1) authorizes a petitioner to request that the court appoint a  
32 temporary guardian for a proposed protected person; and (2) requires the petitioner  
33 to support such a request with documentation that shows the proposed protected  
34 person faces a substantial and immediate risk of physical harm or needs immediate  
35 medical attention and lacks capacity to respond to the risk of harm or obtain the  
36 necessary medical attention. (NRS 159.0523) **Section 3** of this bill: (1) requires the  
37 petitioner to set forth in the petition and present under oath a detailed explanation  
38 of the substantial and immediate risk of physical harm the proposed protected  
39 person faces or the immediate medical attention the proposed protected person  
40 needs and lacks capacity to respond to the risk of harm or obtain the necessary  
41 medical attention; and (2) provides that if the court appoints a temporary guardian,  
42 the court must limit the authority of the temporary guardian to that which is  
43 necessary to respond to a specific risk of harm or to a specific need for immediate  
44 medical attention identified in the petition.

45 Existing law authorizes a petitioner to request that the court appoint a  
46 temporary guardian for a protected person who is unable to respond to a substantial  
47 and immediate risk of financial loss. (NRS 159.0525) **Section 4** of this bill provides  
48 that any court order for the appointment of a temporary guardian or to extend a  
49 temporary guardianship must state the specific substantial and immediate risk of  
50 financial loss, the powers of the temporary guardian and the reasons that the powers  
51 of the temporary guardian are necessary to address the specific substantial and  
52 immediate risk of financial loss.

53 Existing law requires the court to: (1) dismiss a petition for the appointment of  
54 a guardian if the court finds that the proposed protected person is not incapacitated  
55 and is not in need of a guardian; and (2) appoint a guardian if the court finds that  
56 appointment of a guardian is required. (NRS 159.054) **Section 5** of this bill requires  
57 the court to: (1) dismiss a petition if the court finds that either the proposed  
58 protected person is not incapacitated and is not in need of a guardian or that there  
59 are less restrictive alternatives to guardianship available to the proposed protected  
60 person; and (2) appoint a guardian if the court finds that there are no less restrictive  
61 alternatives to guardianship available to the proposed protected person and the  
62 proposed protected person is in need of a guardian.

63 Existing law requires the court to include certain information in an order  
64 appointing a guardian. (NRS 159.055) **Section 6** of this bill requires that an order  
65 of appointment must state that there are no less restrictive alternatives to  
66 guardianship available to the proposed protected person and that the proposed  
67 protected person is in need of a guardian.

68 Existing law provides that subject to the discretion and approval of the court, a  
69 guardian must be allowed reasonable compensation for his or her services and



70 reasonable expenses incurred in retaining accountants, attorneys, appraisers or other  
71 professional services. Existing law authorizes the court to consider certain factors  
72 in determining whether the compensation is reasonable. (NRS 159.183) **Section 7**  
73 of this bill: (1) provides that a guardian is not allowed reasonable expenses incurred  
74 for retaining attorneys to represent a petitioner or guardian in the guardianship  
75 proceeding; and (2) requires, rather than authorizes, the court to consider certain  
76 factors in determining whether the compensation is reasonable.

77 Existing law authorizes a protected person, the guardian or another person to  
78 petition the court for the termination or modification of a guardianship. Existing  
79 law provides that for such a petition to be granted, the petitioner has the burden of  
80 proof to show by clear and convincing evidence that the termination or  
81 modification of the guardianship is in the best interests of the protected person.  
82 (NRS 159.1905) **Section 8** of this bill instead requires: (1) the petitioner to present  
83 prima facie evidence showing that the guardianship is no longer necessary or in the  
84 best interests of the protected person and should be terminated or that the needs of  
85 the protected person have changed such that the powers of the guardian should be  
86 modified; and (2) the court to terminate the guardianship if it is shown by clear and  
87 convincing evidence that the guardianship is no longer necessary or in the best  
88 interests of the protected person or to modify the guardianship if it is shown by  
89 clear and convincing evidence that the needs of the protected person have changed  
90 such that the powers of the guardian should be modified. If the petitioner meets the  
91 burden of proof, **section 8** requires the court to enter an order: (1) terminating the  
92 guardianship unless it is proven by clear and convincing evidence that continuation  
93 of the guardianship is in the best interests of the protected person; or (2) modifying  
94 the guardianship unless it is shown that the needs of the protected person have  
95 changed such that the powers of the guardian should be modified. **Section 8**  
96 additionally requires the court, in ruling on a petition to terminate a guardianship, to  
97 consider whether less restrictive alternatives to a guardianship are available to the  
98 protected person. Finally, **section 8** authorizes the protected person to seek  
99 reasonable attorney's fees from any person who opposed the petition under certain  
100 circumstances.

101 Existing law establishes the Protected Persons' Bill of Rights, which sets forth  
102 certain specific rights of each protected person. (NRS 159.327, 159.328) Existing  
103 law authorizes, for good cause, a guardian to petition a court to issue an order  
104 restricting the ability of a relative or person of natural affection to communicate,  
105 visit or interact with the protected person. (NRS 159.333) **Section 9** of this bill: (1)  
106 clarifies that the right of a protected person to communicate, visit and interact with  
107 other persons includes, without limitation, the right to have regular contact through  
108 telephone calls and personal mail and have visitors, unless his or her guardian and  
109 the court determine the particular communications or interactions or a particular  
110 visitor will cause harm to the protected person; and (2) adds the right to deny  
111 communication, visitation or interaction with another person. **Section 10** of this  
112 bill: (1) prohibits a court, under any circumstances, from issuing an order requiring  
113 a protected person to communicate, visit or interact with a relative or a person of  
114 natural affection; and (2) requires the court to appoint an attorney for a protected  
115 person after a petition is filed by a guardian to restrict communication, unless an  
116 attorney has already been appointed for the protected person or the protected person  
117 has already retained an attorney. **Section 11** of this bill places the burden of proof  
118 on the guardian if he or she opposes a petition filed by the protected person to  
119 modify or restrict an order restricting communication, visitation or interaction  
120 between a protected person and a relative or person of natural affection.

121 Existing law authorizes a person who is liable for attorney's fees and costs  
122 incurred for retaining an attorney to represent a party in a guardianship proceeding  
123 to petition the court for an order authorizing payment for such fees and costs from  
124 the estate of a protected person. Existing law sets forth a list of factors that the court



125 may consider in determining whether attorney’s fees are just, reasonable and  
 126 necessary. (NRS 159.344) **Section 12** of this bill: (1) requires, rather than  
 127 authorizes, the court to consider the list of factors; (2) requires the court, regardless  
 128 of whether or not the court orders the payment of attorney’s fees, to include in its  
 129 order written findings on the list of factors; (3) provides that a guardian is not  
 130 allowed attorney’s fees for services incurred by the guardian as a result of a petition  
 131 to have him or her removed as guardian if the court removes the guardian; and (4)  
 132 prohibits the award of attorney’s fees if the person who petitions the court for  
 133 attorney’s fees failed to file the required written notice.

134 Existing law lists certain court orders that may be appealed. (NRS 159.375)  
 135 **Section 13** of this bill adds to that list an order: (1) restricting communication,  
 136 visitation or interaction between a protected person and a relative or person of  
 137 natural affection; (2) ordering or authorizing a guardian to move a protected person  
 138 from this State to another state; or (3) ordering or authorizing a guardian to consent  
 139 to experimental medical, biomedical or behavioral treatment of a protected person,  
 140 the participation of a protected person in any biomedical or behavioral experiment  
 141 or the sterilization of a protected person.

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

1 **Section 1.** NRS 159.044 is hereby amended to read as follows:

2 159.044 1. A proposed protected person, a governmental  
 3 agency, a nonprofit corporation or any interested person may  
 4 petition the court for the appointment of a guardian.

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

7 (a) The name, ~~and~~ address, *telephone number and electronic*  
 8 *mail address* of the petitioner.

9 (b) The name, date of birth, ~~and~~ current address, *telephone*  
 10 *number and electronic mail address* of the proposed protected  
 11 person.

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

- 17 (1) A social security number;
- 18 (2) A taxpayer identification number;
- 19 (3) A valid driver’s license number;
- 20 (4) A valid identification card number;
- 21 (5) A valid passport number;
- 22 (6) A valid permanent resident card number; or
- 23 (7) A valid tribal identification card number.

24 ➔ If the information required pursuant to this paragraph is not  
 25 included with the petition, the information must be provided to the



1 court not later than 120 days after the appointment of a guardian or  
2 as otherwise ordered by the court.

3 (d) Whether the proposed protected person is a resident or  
4 nonresident of this State.

5 (e) The names , ~~and~~ addresses , *telephone numbers and*  
6 *electronic mail addresses* of the spouse of the proposed protected  
7 person and the relatives of the proposed protected person who are  
8 within the second degree of consanguinity.

9 (f) The name, date of birth , ~~and~~ current address , *telephone*  
10 *number and electronic mail address* of the proposed guardian. If  
11 the proposed guardian is a private professional guardian, the petition  
12 must include proof that the guardian meets the requirements of NRS  
13 159.0595 or 159A.0595. If the proposed guardian is not a private  
14 professional guardian, the petition must include a statement that the  
15 guardian currently is not receiving compensation for services as a  
16 guardian to more than one protected person who is not related to the  
17 person by blood or marriage. As used in this paragraph, “protected  
18 person” includes a protected minor.

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

- 24 (1) A social security number;
- 25 (2) A taxpayer identification number;
- 26 (3) A valid driver’s license number;
- 27 (4) A valid identification card number;
- 28 (5) A valid passport number;
- 29 (6) A valid permanent resident card number; or
- 30 (7) A valid tribal identification card number.

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

35 (i) A summary of the reasons why a guardian is needed and  
36 recent documentation demonstrating the need for a guardianship.  
37 The documentation must include, without limitation:

38 (1) A certificate signed by a physician who is licensed to  
39 practice medicine in this State or who is employed by the  
40 Department of Veterans Affairs, a letter signed by any governmental  
41 agency in this State which conducts investigations or a certificate  
42 signed by any other person whom the court finds qualified to  
43 execute a certificate, stating:

44 (I) The need for a guardian;



1 (II) Whether the proposed protected person presents a  
2 danger to himself or herself or others;

3 (III) Whether the attendance of the proposed protected  
4 person at a hearing would be detrimental to the proposed protected  
5 person;

6 (IV) Whether the proposed protected person would  
7 comprehend the reason for a hearing or contribute to the proceeding;  
8 and

9 (V) Whether the proposed protected person is capable of  
10 living independently with or without assistance; and

11 (2) If the proposed protected person is determined to have  
12 the limited capacity to consent to the appointment of a special  
13 guardian, a written consent to the appointment of a special guardian  
14 from the protected person.

15 (j) Whether the appointment of a general or a special guardian is  
16 sought.

17 (k) A general description and the probable value of the property  
18 of the proposed protected person and any income to which the  
19 proposed protected person is or will be entitled, if the petition is for  
20 the appointment of a guardian of the estate or a special guardian. If  
21 any money is paid or is payable to the proposed protected person by  
22 the United States through the Department of Veterans Affairs, the  
23 petition must so state.

24 (l) The name , ~~and~~ address *and telephone number* of any  
25 person or care provider having the care, custody or control of the  
26 proposed protected person.

27 (m) If the petitioner is not the spouse or natural child of the  
28 proposed protected person, a declaration explaining the relationship  
29 of the petitioner to the proposed protected person or to the family or  
30 friends of the proposed protected person, if any, and the interest, if  
31 any, of the petitioner in the appointment.

32 (n) Requests for any of the specific powers set forth in NRS  
33 159.117 to 159.175, inclusive, necessary to enable the guardian to  
34 carry out the duties of the guardianship.

35 (o) If the guardianship is sought as the result of an investigation  
36 of a report of abuse, neglect, exploitation, isolation or abandonment  
37 of the proposed protected person, whether the referral was from a  
38 law enforcement agency or a state or county agency.

39 (p) Whether the proposed protected person or the proposed  
40 guardian is a party to any pending criminal or civil litigation.

41 (q) Whether the guardianship is sought for the purpose of  
42 initiating litigation.

43 (r) Whether the proposed protected person has executed a  
44 durable power of attorney for health care, a durable power of



1 attorney for financial matters or a written nomination of guardian  
2 and, if so, who the named agents are for each document.

3 (s) Whether the proposed guardian has filed for or received  
4 protection under the federal bankruptcy laws within the immediately  
5 preceding 7 years.

6 3. Before the court makes a finding pursuant to NRS 159.054,  
7 a petitioner seeking a guardian for a proposed protected person must  
8 provide the court with an assessment of the needs of the proposed  
9 protected person completed by a licensed physician which identifies  
10 the limitations of capacity of the proposed protected person and how  
11 such limitations affect the ability of the proposed protected person  
12 to maintain his or her safety and basic needs. The court may  
13 prescribe the form in which the assessment of the needs of the  
14 proposed protected person must be filed.

15 **Sec. 2.** NRS 159.0455 is hereby amended to read as follows:

16 159.0455 1. On or after the date of the filing of a petition to  
17 appoint a guardian:

18 (a) The court may, in any proceeding, appoint a person to  
19 represent the protected person or proposed protected person as a  
20 guardian ad litem if the court believes that the protected person or  
21 proposed protected person will benefit from the appointment and the  
22 services of the guardian ad litem will be beneficial in determining  
23 the best interests of the protected person or proposed protected  
24 person; and

25 (b) The guardian ad litem must represent the protected person or  
26 proposed protected person as a guardian ad litem , *in accordance*  
27 *with the scope and duties of the guardian ad litem set forth in the*  
28 *order of appointment pursuant to subsection 2*, until relieved of  
29 that duty by court order.

30 2. *The order of appointment must set forth with specificity the*  
31 *scope and duties of the guardian ad litem. The guardian ad litem*  
32 *shall not commence performing any services until authorized to do*  
33 *so as provided in subsection 3.*

34 3. Upon the appointment of the guardian ad litem, the ~~court~~  
35 ~~shall set forth in~~ *clerk shall provide notice to the protected person*  
36 *or proposed protected person of the order of appointment [the*  
37 ~~duties of~~ *to allow the protected person or proposed protected*  
38 *person the opportunity to object to the appointment before the*  
39 *guardian ad litem commences performing any services. If the*  
40 *protected person or proposed protected person does not file an*  
41 *objection within 10 days after receiving notice of the appointment,*  
42 *the guardian ad litem [ ] may commence performing services. If the*  
43 *protected person or proposed protected person files an objection*  
44 *within 10 days after receiving notice of the appointment, the*  
45 *matter must be set for a hearing and the guardian ad litem shall*



1 *not commence performing services unless and until the court*  
2 *enters an order overruling the objection and confirming the order*  
3 *of appointment.*

4 ~~[3.]~~ 4. If a court-approved volunteer advocate program for  
5 guardians ad litem has been established in a judicial district, a court  
6 may appoint a person who is not an attorney to represent a protected  
7 person or proposed protected person as a guardian ad litem. If such a  
8 program has been established, all volunteers participating in the  
9 program must complete appropriate training, as determined by  
10 relevant national or state sources or as approved by the Supreme  
11 Court or the district court in the judicial district, before being  
12 appointed to represent a protected person or proposed protected  
13 person.

14 ~~[4.]~~ 5. A guardian ad litem appointed pursuant to this section is  
15 an officer of the court and is not a party to the case. A guardian ad  
16 litem appointed pursuant to this section shall not offer legal advice  
17 to the protected person or proposed protected person but shall:

18 (a) Advocate for the best interests of the protected person or  
19 proposed protected person in a manner that will enable the court to  
20 determine the action that will be the least restrictive and in the best  
21 interests of the protected person or proposed protected person; and

22 (b) Provide any information required by the court.

23 *6. The appointment of a guardian ad litem pursuant to this*  
24 *section does not affect the obligation to appoint counsel to*  
25 *represent a protected person or proposed protected person*  
26 *pursuant to NRS 159.0485.*

27 *7. The court shall, in the order of appointment, set the hourly*  
28 *rate of compensation for the guardian ad litem. If the guardian ad*  
29 *litem is an attorney, the hourly rate set by the court must not*  
30 *exceed the customary hourly rate of compensation for a guardian*  
31 *ad litem who is not an attorney. The provisions of this subsection*  
32 *do not apply if a court appoints a volunteer as a guardian ad litem.*

33 **Sec. 3.** NRS 159.0523 is hereby amended to read as follows:

34 159.0523 1. A petitioner may request the court to appoint a  
35 temporary guardian for a proposed protected person who is unable  
36 to respond to a substantial and immediate risk of physical harm or to  
37 a need for immediate medical attention. To support the request, the  
38 petitioner must set forth in a petition and present to the court under  
39 oath:

40 (a) Documentation which shows the proposed protected person  
41 faces a substantial and immediate risk of physical harm or needs  
42 immediate medical attention and lacks capacity to respond to the  
43 risk of harm or obtain the necessary medical attention. Such  
44 documentation must include, without limitation, a certificate signed  
45 by a physician who is licensed to practice medicine in this State or





1 who is employed by the Department of Veterans Affairs, a letter  
2 signed by any governmental agency in this State which conducts  
3 investigations or a police report indicating:

4 (1) That the proposed protected person is unable to respond  
5 to a substantial and immediate risk of physical harm or to a need for  
6 immediate medical attention;

7 (2) Whether the proposed protected person presents a danger  
8 to himself or herself or others; and

9 (3) Whether the proposed protected person is or has been  
10 subjected to abuse, neglect, exploitation, isolation or abandonment;

11 ~~and~~

12 (b) *A detailed explanation of the substantial and immediate*  
13 *risk of physical harm the proposed protected person faces or the*  
14 *immediate medical attention the proposed protected person needs*  
15 *and lacks capacity to respond to the risk of harm or obtain the*  
16 *necessary medical attention; and*

17 (c) Facts which show that:

18 (1) The petitioner has tried in good faith to notify the persons  
19 entitled to notice pursuant to NRS 159.047 by telephone or in  
20 writing before the filing of the petition;

21 (2) The proposed protected person would be exposed to an  
22 immediate risk of physical harm if the petitioner were to provide  
23 notice to the persons entitled to notice pursuant to NRS 159.047  
24 before the court determines whether to appoint a temporary  
25 guardian; or

26 (3) Giving notice to the persons entitled to notice pursuant to  
27 NRS 159.047 is not feasible under the circumstances.

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

30 (a) Finds reasonable cause to believe that the proposed protected  
31 person is unable to respond to a *specific* substantial and immediate  
32 risk of physical harm *identified in the petition* or to a *specific* need  
33 for immediate medical attention ~~+~~ *identified in the petition*; and

34 (b) Is satisfied that the petitioner has tried in good faith to notify  
35 the persons entitled to notice pursuant to NRS 159.047 or that  
36 giving notice to those persons is not feasible under the  
37 circumstances, or determines that such notice is not required  
38 pursuant to subparagraph (2) of paragraph ~~(b)~~ (c) of subsection 1.

39 3. Except as otherwise provided in subsection 4, after the  
40 appointment of a temporary guardian, the petitioner shall attempt in  
41 good faith to notify the persons entitled to notice pursuant to NRS  
42 159.047, including, without limitation, notice of any hearing to  
43 extend the temporary guardianship. If the petitioner fails to make  
44 such an effort, the court may terminate the temporary guardianship.



1 4. If, before the appointment of a temporary guardian, the court  
2 determined that advance notice was not required pursuant to  
3 subparagraph (2) of paragraph ~~[(b)]~~ (c) of subsection 1, the  
4 petitioner shall notify the persons entitled to notice pursuant to NRS  
5 159.047 without undue delay, but not later than 48 hours after the  
6 appointment of the temporary guardian or not later than 48 hours  
7 after the petitioner discovers the existence, identity and location of  
8 the persons entitled to notice pursuant to that section. If the  
9 petitioner fails to provide such notice, the court may terminate the  
10 temporary guardianship.

11 5. Not later than 10 days after the date of the appointment of a  
12 temporary guardian pursuant to subsection 2, the court shall hold a  
13 hearing to determine the need to extend the temporary guardianship.  
14 Except as otherwise provided in subsection ~~[7.]~~ 8, the court may  
15 extend the temporary guardianship until a general or special  
16 guardian is appointed pursuant to subsection ~~[8.]~~ 9 if:

17 (a) The court finds by clear and convincing evidence that the  
18 proposed protected person is unable to respond to a *specific*  
19 substantial and immediate risk of physical harm or to a *specific* need  
20 for immediate medical attention ~~[-]~~ *identified in the petition;* and

21 (b) The extension of the temporary guardianship is necessary  
22 and in the best interests of the proposed protected person.

23 6. *If the court appoints a temporary guardian pursuant to this*  
24 *section, the court shall limit the authority of the temporary*  
25 *guardian to that which is necessary to respond to a specific*  
26 *substantial and immediate risk of physical harm or to a specific*  
27 *need for immediate medical attention identified in the petition.*

28 7. If the court ~~[appoints a temporary guardian or]~~ extends the  
29 temporary guardianship pursuant to this section, the court shall limit  
30 the authority of the temporary guardian to that which is necessary to  
31 perform any actions required to ensure the health, safety or care of a  
32 proposed protected person, including, without limitation:

33 (a) Responding to ~~[the]~~ *a specific* substantial and immediate risk  
34 of physical harm or to a *specific* need for immediate medical  
35 attention ~~[-]~~ *identified in the petition;* and

36 (b) Applying for Medicaid or other appropriate assistance,  
37 coverage or support for the proposed protected person for the  
38 purpose of providing adequate care for and ensuring the appropriate  
39 placement of the proposed protected person.

40 ~~[7.]~~ 8. The court may not extend a temporary guardianship  
41 pursuant to subsection 5 beyond the initial period of 10 days unless  
42 the petitioner demonstrates that:

43 (a) The provisions of NRS 159.0475 have been satisfied; or

44 (b) Notice by publication pursuant to the Nevada Rules of Civil  
45 Procedure is currently being undertaken.



1 ~~18.1~~ 9. The court may extend the temporary guardianship, for  
2 good cause shown, for not more than two successive 60-day periods,  
3 except that the court shall not cause the temporary guardianship to  
4 continue longer than 5 months unless extraordinary circumstances  
5 are shown.

6 ~~19.1~~ 10. If a court is making a determination regarding the  
7 extension of a temporary guardianship or the issuance of any ex  
8 parte or emergency order, the court may consider the actions taken  
9 by a temporary guardian to carry out any requested activities for the  
10 benefit of a proposed protected person during the temporary  
11 guardianship.

12 **Sec. 4.** NRS 159.0525 is hereby amended to read as follows:

13 159.0525 1. A petitioner may request the court to appoint a  
14 temporary guardian for a protected person who is unable to respond  
15 to a substantial and immediate risk of financial loss. To support the  
16 request, the petitioner must set forth in a petition and present to the  
17 court under oath:

18 (a) Documentation which shows that the proposed protected  
19 person faces a substantial and immediate risk of financial loss and  
20 lacks capacity to respond to the risk of loss. Such documentation  
21 must include, without limitation, a certificate signed by a physician  
22 who is licensed to practice medicine in this State or who is  
23 employed by the Department of Veterans Affairs, a letter signed by  
24 any governmental agency in this State which conducts  
25 investigations or a police report indicating:

26 (1) That the proposed protected person is unable to respond  
27 to a substantial and immediate risk of financial loss;

28 (2) Whether the proposed protected person can live  
29 independently with or without assistance or services; and

30 (3) Whether the proposed protected person is or has been  
31 subjected to abuse, neglect, exploitation, isolation or abandonment;

32 (b) A detailed explanation of what risks the proposed protected  
33 person faces, including, without limitation, termination of utilities or  
34 other services because of nonpayment, initiation of eviction or  
35 foreclosure proceedings, exploitation or loss of assets as the result of  
36 fraud, coercion or undue influence; and

37 (c) Facts which show that:

38 (1) The petitioner has tried in good faith to notify the persons  
39 entitled to notice pursuant to NRS 159.047 by telephone or in  
40 writing before the filing of the petition;

41 (2) The proposed protected person would be exposed to an  
42 immediate risk of financial loss if the petitioner were to provide  
43 notice to the persons entitled to notice pursuant to NRS 159.047  
44 before the court determines whether to appoint a temporary  
45 guardian; or



1 (3) Giving notice to the persons entitled to notice pursuant to  
2 NRS 159.047 is not feasible under the circumstances.

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

5 (a) Finds reasonable cause to believe that the proposed protected  
6 person is unable to respond to a *specific* substantial and immediate  
7 risk of financial loss ~~§~~ *identified in the petition*; and

8 (b) Is satisfied that the petitioner has tried in good faith to notify  
9 the persons entitled to notice pursuant to NRS 159.047 or that  
10 giving notice to those persons is not feasible under the  
11 circumstances, or determines that such notice is not required  
12 pursuant to subparagraph (2) of paragraph (c) of subsection 1.

13 3. Except as otherwise provided in subsection 4, after the  
14 appointment of a temporary guardian, the petitioner shall attempt in  
15 good faith to notify the persons entitled to notice pursuant to NRS  
16 159.047, including, without limitation, notice of any hearing to  
17 extend the temporary guardianship. If the petitioner fails to make  
18 such an effort, the court may terminate the temporary guardianship.

19 4. If, before the appointment of a temporary guardian, the court  
20 determined that advance notice was not required pursuant to  
21 subparagraph (2) of paragraph (c) of subsection 1, the petitioner  
22 shall notify the persons entitled to notice pursuant to NRS 159.047  
23 without undue delay, but not later than 48 hours after the  
24 appointment of the temporary guardian or not later than 48 hours  
25 after the petitioner discovers the existence, identity and location of  
26 the persons entitled to notice pursuant to that section. If the  
27 petitioner fails to provide such notice, the court may terminate the  
28 temporary guardianship.

29 5. Not later than 10 days after the date of the appointment of a  
30 temporary guardian pursuant to subsection 2, the court shall hold a  
31 hearing to determine the need to extend the temporary guardianship.  
32 Except as otherwise provided in subsection 7, the court may extend  
33 the temporary guardianship until a general or special guardian is  
34 appointed pursuant to subsection 8 if:

35 (a) The court finds by clear and convincing evidence that the  
36 proposed protected person is unable to respond to a *specific*  
37 substantial and immediate risk of financial loss ~~§~~ *identified in the*  
38 *petition*; and

39 (b) The extension of the temporary guardianship is necessary  
40 and in the best interests of the proposed protected person.

41 6. If the court appoints a temporary guardian or extends the  
42 temporary guardianship pursuant to this section, the court shall limit  
43 the powers of the temporary guardian to those necessary to respond  
44 to ~~the~~ *a specific* substantial and immediate risk of financial loss ~~§~~  
45 *identified in the petition*, specifically limiting the temporary



1 guardian's authority to take possession of, close or have access to  
2 any accounts of the protected person or to sell or dispose of tangible  
3 personal property of the protected person to only that authority as  
4 needed to provide for the basic living expenses of the protected  
5 person until a general or special guardian can be appointed. The  
6 court may freeze any or all of the accounts of the protected person to  
7 protect such accounts from loss.

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

11 (a) The provisions of NRS 159.0475 have been satisfied; or

12 (b) Notice by publication pursuant to the Nevada Rules of Civil  
13 Procedure is currently being undertaken.

14 8. The court may extend the temporary guardianship, for good  
15 cause shown, for not more than two successive 60-day periods,  
16 except that the court shall not cause the temporary guardianship to  
17 continue longer than 5 months unless extraordinary circumstances  
18 are shown.

19 *9. Any court order issued pursuant to this section for the*  
20 *appointment of a temporary guardian or to extend the temporary*  
21 *guardianship must state a specific substantial and immediate risk*  
22 *of financial loss, the powers of the temporary guardian and the*  
23 *reasons that the powers of the temporary guardian are necessary*  
24 *to address a specific substantial and immediate risk of financial*  
25 *loss.*

26 **Sec. 5.** NRS 159.054 is hereby amended to read as follows:

27 159.054 1. If the court finds that ~~[the]~~ :

28 (a) *The* proposed protected person is not incapacitated and is not  
29 in need of a guardian ~~[;]~~ ; *or*

30 (b) *There are less restrictive alternatives to guardianship*  
31 *available to the proposed protected person,*

32 *↳ the court shall dismiss the petition.*

33 2. If the court finds that the proposed protected person is of  
34 limited capacity and is in need of a special guardian, the court shall  
35 enter an order accordingly and specify the powers and duties of the  
36 special guardian.

37 3. If the court finds that ~~[appointment of a general guardian is~~  
38 ~~required.] :~~

39 (a) *There are no less restrictive alternatives to guardianship*  
40 *available to the proposed protected person; and*

41 (b) *The proposed protected person is in need of a guardian,*

42 *↳ the court shall appoint a general guardian of the person, estate, or*  
43 *person and estate of the proposed protected person.*



1     **Sec. 6.** NRS 159.055 is hereby amended to read as follows:

2     159.055 1. The petitioner has the burden of proving by clear  
3 and convincing evidence that the appointment of a guardian of the  
4 person, of the estate, or of the person and estate is necessary.

5     2. If it appears to the court that the allegations of the petition  
6 are sufficient and that a guardian should be appointed for the  
7 proposed protected person, the court shall enter an order appointing  
8 a guardian. The order must:

9     (a) *State that there are no less restrictive alternatives to*  
10 *guardianship available to the proposed protected person and that*  
11 *the proposed protected person is in need of a guardian;*

12     (b) Specify whether the guardian appointed is *a* guardian of the  
13 person, of the estate, of the person and estate or a special guardian;

14     ~~(b)~~ (c) Specify whether the proposed protected person is a  
15 resident or nonresident of this State;

16     ~~(e)~~ (d) Specify the amount of the bond to be executed and filed  
17 by the guardian; and

18     ~~(d)~~ (e) Designate the names and addresses, so far as may be  
19 determined, of:

20         (1) The relatives of the proposed protected person upon  
21 whom notice must be served pursuant to NRS 159.047; and

22         (2) Any other interested person.

23     3. A notice of entry of the court order must be sent to:

24     (a) The relatives of the proposed protected person upon whom  
25 notice must be served pursuant to NRS 159.047; and

26     (b) Any other interested person.

27     **Sec. 7.** NRS 159.183 is hereby amended to read as follows:

28     159.183 1. Subject to the discretion and approval of the court  
29 and except as otherwise provided in subsection 5, a guardian must  
30 be allowed:

31     (a) Reasonable compensation for the guardian's services;

32     (b) Necessary and reasonable expenses incurred in exercising  
33 the authority and performing the duties of a guardian; and

34     (c) Reasonable expenses incurred in retaining accountants,  
35 attorneys ~~( )~~ *other than attorneys retained to represent a petitioner*  
36 *or guardian in the guardianship proceeding*, appraisers or other  
37 professional services.

38     2. Reasonable compensation and services must be based upon  
39 similar services performed for persons who are not under a legal  
40 disability. In determining whether compensation is reasonable, the  
41 court ~~(may)~~ *shall* consider:

42     (a) The nature of the guardianship;

43     (b) The type, duration and complexity of the services required;  
44 and

45     (c) Any other relevant factors.



1 3. In the absence of an order of the court pursuant to this  
2 chapter shifting the responsibility of the payment of compensation  
3 and expenses, the payment of compensation and expenses must be  
4 paid from the estate of the protected person. In evaluating the ability  
5 of a protected person to pay such compensation and expenses, the  
6 court may consider:

7 (a) The nature, extent and liquidity of the assets of the protected  
8 person;

9 (b) The disposable net income of the protected person;

10 (c) Any foreseeable expenses; and

11 (d) Any other factors that are relevant to the duties of the  
12 guardian pursuant to NRS 159.079 or 159.083.

13 4. Any compensation or expenses ~~[, including, without~~  
14 ~~limitation, attorney's fees,]~~ must not be paid from the estate of the  
15 protected person unless and until the payment of such fees is  
16 approved by the court pursuant to this section . ~~[or NRS 159.344, as~~  
17 ~~applicable.]~~

18 5. A guardian is not allowed compensation or expenses ~~[,~~  
19 ~~including, without limitation, attorney's fees,]~~ for services incurred  
20 by the guardian as a result of a petition to have him or her removed  
21 as guardian if the court removes the guardian.

22 **Sec. 8.** NRS 159.1905 is hereby amended to read as follows:

23 159.1905 1. A protected person, the guardian or another  
24 person may petition the court for the termination or modification of  
25 a guardianship. The petition must state or contain:

26 (a) The name and address of the petitioner.

27 (b) The relationship of the petitioner to the protected person.

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

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

33 (e) The reason for termination or modification.

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

36 (g) A general description and the value of the remaining  
37 property of the protected person and the proposed disposition of that  
38 property.

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

41 (a) The protected person is unable to retain an attorney; or

42 (b) The court determines that the appointment is necessary to  
43 protect the interests of the protected person.

44 3. The petitioner ~~[has the burden of proof to show by clear and~~  
45 ~~convincing evidence that the termination or modification of the~~



1 ~~guardianship of the person, of the estate, or of the person and estate~~  
2 ~~is in the best interests of the protected person.]~~ *must present prima*  
3 *facie evidence showing that:*

4 (a) *The guardianship is no longer necessary or in the best*  
5 *interests of the protected person such that the guardianship should*  
6 *be terminated; or*

7 (b) *The needs of the protected person have changed such that*  
8 *the powers of the guardian should be modified.*

9 4. *If the petitioner presents prima facie evidence showing*  
10 *that:*

11 (a) *The guardianship is no longer necessary or in the best*  
12 *interests of the protected person, the court shall enter an order*  
13 *terminating the guardianship unless it is proven by clear and*  
14 *convincing evidence that continuation of the guardianship is in*  
15 *the best interests of the protected person. In ruling on a petition*  
16 *pursuant to this paragraph, the court shall consider whether less*  
17 *restrictive alternatives to a guardianship are available to the*  
18 *protected person to meet the current needs of the protected person.*

19 (b) *The needs of the protected person have changed such that*  
20 *the powers of the guardian should be modified, the court shall*  
21 *enter an order modifying the guardianship unless it is proven by*  
22 *clear and convincing evidence that continuation of the*  
23 *guardianship without modification is in the best interests of the*  
24 *protected person.*

25 5. The court shall issue a citation to the guardian and all  
26 interested persons requiring them to appear and show cause why  
27 termination or modification of the guardianship should not be  
28 granted.

29 ~~5.]~~ 6. If the court finds that the petitioner *or an objector* did  
30 not file a petition for termination or modification *or an objection*  
31 *thereto* in good faith or in furtherance of the best interests of the  
32 protected person, the court may:

33 (a) Disallow the petitioner from petitioning the court for  
34 attorney's fees from the estate of the protected person; and

35 (b) Impose sanctions on the petitioner *or an objector* in an  
36 amount sufficient to reimburse the estate of the protected person for  
37 all or part of the expenses and for any other pecuniary losses which  
38 are incurred by the estate of the protected person and associated  
39 with the petition ~~5.]~~ *or objection.*

40 7. *If the protected person prevails on a petition for*  
41 *termination or modification, the protected person is entitled to*  
42 *seek reasonable attorney's fees from any person who opposed the*  
43 *petition of the protected person unless the court finds that the*  
44 *objector filed an objection to the petition in good faith or in*  
45 *furtherance of the best interests of the protected person.*





1     **Sec. 9.** NRS 159.328 is hereby amended to read as follows:

2     159.328 1. The Legislature hereby declares that, except as  
3 otherwise specifically provided by law, each proposed protected  
4 person has the right to have an attorney before a guardianship is  
5 imposed to ask the court for relief, and each protected person has the  
6 right to:

7     (a) Have an attorney at any time during a guardianship to ask the  
8 court for relief.

9     (b) Receive notice of all guardianship proceedings and all  
10 proceedings relating to a determination of capacity unless the court  
11 determines that the protected person lacks the capacity to  
12 comprehend such notice.

13     (c) Receive a copy of all documents filed in a guardianship  
14 proceeding.

15     (d) Have a family member, an interested party, a person of  
16 natural affection, an advocate for the protected person or a medical  
17 provider speak or raise any issues of concern on behalf of the  
18 protected person during a court hearing, either orally or in writing,  
19 including, without limitation, issues relating to a conflict with a  
20 guardian.

21     (e) Be educated about guardianships and ask questions and  
22 express concerns and complaints about a guardian and the actions of  
23 a guardian, either orally or in writing.

24     (f) Participate in developing a plan for his or her care, including,  
25 without limitation, managing his or her assets and personal property  
26 and determining his or her residence and the manner in which he or  
27 she will receive services.

28     (g) Have due consideration given to his or her current and  
29 previously stated personal desires, preferences for health care and  
30 medical treatment and religious and moral beliefs.

31     (h) Remain as independent as possible, including, without  
32 limitation, to have his or her preference honored regarding his or her  
33 residence and standard of living, either as expressed or  
34 demonstrated before a determination was made relating to capacity  
35 or as currently expressed, if the preference is reasonable under the  
36 circumstances.

37     (i) Be granted the greatest degree of freedom possible,  
38 consistent with the reasons for a guardianship, and exercise control  
39 of all aspects of his or her life that are not delegated to a guardian  
40 specifically by a court order.

41     (j) Engage in any activity that the court has not expressly  
42 reserved for a guardian, including, without limitation, voting,  
43 marrying or entering into a domestic partnership, traveling, working  
44 and having a driver's license.

45     (k) Be treated with respect and dignity.



1 (l) Be treated fairly by his or her guardian.

2 (m) Maintain privacy and confidentiality in personal matters.

3 (n) ~~Receive~~ *Communicate, visit and interact with other*  
4 *persons, including, without limitation, have regular contact*  
5 *through telephone calls and personal mail and have visitors, unless*  
6 *his or her guardian and the court determine that particular*  
7 ~~correspondence~~ *communications or interactions* or a particular  
8 visitor will cause harm to the protected person.

9 (o) *Deny communication, visitation or interaction with other*  
10 *persons.*

11 (p) Receive timely, effective and appropriate health care and  
12 medical treatment that does not violate his or her rights.

13 ~~Have~~ (q) Have all services provided by a guardian at a  
14 reasonable rate of compensation and have a court review any  
15 requests for payment to avoid excessive or unnecessary fees or  
16 duplicative billing.

17 ~~Receive~~ (r) Receive prudent financial management of his or her  
18 property and regular detailed reports of financial accounting,  
19 including, without limitation, reports on any investments or trusts  
20 that are held for his or her benefit and any expenditures or fees  
21 charged to his or her estate.

22 ~~Receive and control~~ (s) Receive and control his or her salary, maintain a bank  
23 account and manage his or her personal money.

24 ~~Ask the court to:~~ (t) Ask the court to:

25 (1) Review the management activity of a guardian if a  
26 dispute cannot be resolved.

27 (2) Continually review the need for a guardianship or modify  
28 or terminate a guardianship.

29 (3) Replace the guardian.

30 (4) Enter an order restoring his or her capacity at the earliest  
31 possible time.

32 2. The rights of a protected person set forth in subsection 1 do  
33 not abrogate any remedies provided by law. All such rights may be  
34 addressed in a guardianship proceeding or be enforced through a  
35 private right of action.

36 **Sec. 10.** NRS 159.333 is hereby amended to read as follows:

37 159.333 1. *A court shall not, under any circumstances,*  
38 *issue an order requiring a protected person to communicate, visit*  
39 *or interact with a relative or person of natural affection.*

40 2. For good cause, a guardian may petition a court to issue an  
41 order restricting the ability of a relative or person of natural  
42 affection to communicate, visit or interact with a protected person.

43 ~~After a petition is filed by a guardian pursuant to~~  
44 subsection ~~1~~, 2, a court:



1 (a) ~~May~~ *Shall* appoint ~~[a person to meet with]~~ *an attorney for*  
2 the protected person ~~[to determine his or her wishes regarding~~  
3 ~~communication, visitation or interaction with the relative or person~~  
4 ~~of natural affection;]~~ , *unless an attorney has already been*  
5 *appointed for the protected person or the protected person has*  
6 *already retained an attorney;*

7 (b) Shall give notice and an opportunity to be heard to the  
8 guardian, the protected person and the relative or person of natural  
9 affection;

10 (c) Shall preserve the right of the protected person to be present  
11 at the hearing on the petition; and

12 (d) May order supervised communication, visitation or  
13 interaction between the protected person and the relative or person  
14 of natural affection ~~before~~ *until* the hearing on the petition.

15 ~~[3.]~~ *4.* Upon a showing of good cause by a guardian, a court  
16 may issue an order restricting the communication, visitation or  
17 interaction between a protected person and a relative or person of  
18 natural affection pursuant to this section. When determining whether  
19 to issue an order, a court shall consider the following factors:

20 (a) Whether any protective order has been issued to protect the  
21 protected person from the relative or person of natural affection;

22 (b) Whether the relative or person of natural affection has been  
23 charged with abuse, neglect or financial exploitation of the protected  
24 person;

25 (c) Whether the protected person has expressed ~~[to the court or~~  
26 ~~to the guardian and at least one other independent witness who is~~  
27 ~~not affiliated with or related to the guardian or the protected person~~  
28 ~~a desire to or]~~ a desire not to communicate, visit or interact with the  
29 relative or person of natural affection;

30 (d) If the protected person is unable to communicate, whether a  
31 properly executed living will, durable power of attorney or other  
32 written instrument contains a preference by the protected person  
33 regarding his or her communication, visitation or interaction with  
34 the relative or person of natural affection; and

35 (e) Any other factor deemed relevant by the court.

36 ~~[4.]~~ *5.* If a protected person is unable to communicate verbally,  
37 the guardian shall provide the court with documentation of any  
38 physical reactions or manifestations of agitation, distress or  
39 combative or overly emotional behavior by the protected person  
40 during or following any contact with a relative or person of natural  
41 affection or any opposition by the protected person to any  
42 communication, visitation or interaction with a relative or person of  
43 natural affection for the purpose of allowing the court to consider  
44 whether the protected person has expressed a desire not to  
45 communicate, visit or interact with the relative or person of natural



1 affection, as set forth in paragraph (c) of subsection ~~[3.]~~ 4. Such  
2 documentation may include, without limitation, any nursing notes,  
3 caregiver records, medical records or testimony of witnesses.

4 ~~[5.]~~ 6. A guardian, protected person, relative or person of  
5 natural affection may petition the court to modify or rescind any  
6 order issued pursuant to this section.

7 **Sec. 11.** NRS 159.337 is hereby amended to read as follows:

8 159.337 In a proceeding held pursuant to NRS 159.331 to  
9 159.338, inclusive:

10 1. The guardian has the burden of proof if he or she:

11 (a) Petitions the court to restrict the ability of a relative or  
12 person of natural affection to communicate, visit or interact with a  
13 protected person pursuant to subsection ~~[H]~~ 2 of NRS 159.333;

14 (b) Petitions the court to modify or rescind an order pursuant to  
15 subsection ~~[5]~~ 6 of NRS 159.333; ~~[or]~~

16 (c) *Opposes a petition filed by the protected person pursuant to*  
17 *subsection 6 of NRS 159.333; or*

18 (d) Opposes a petition filed pursuant to NRS 159.335.

19 2. A relative or person of natural affection has the burden of  
20 proof if he or she petitions the court to modify or rescind an order  
21 pursuant to subsection ~~[5]~~ 6 of NRS 159.333.

22 **Sec. 12.** NRS 159.344 is hereby amended to read as follows:

23 159.344 1. Any person, including, without limitation, a  
24 guardian or proposed guardian, who retains an attorney for the  
25 purposes of representing a party in a guardianship proceeding is  
26 personally liable for any attorney's fees and costs incurred as a  
27 result of such representation.

28 2. Notwithstanding the provisions of subsection 1 and except  
29 as otherwise provided in subsection ~~[5 of NRS 159.183.]~~ 9, a person  
30 who is personally liable for attorney's fees and costs may petition  
31 the court for an order authorizing such attorney's fees and costs to  
32 be paid from the estate of the protected person in accordance with  
33 this section. Any such attorney's fees and costs must not be paid  
34 from the guardianship estate unless and until the court authorizes the  
35 payment pursuant to this section.

36 3. When a person who intends to petition the court for payment  
37 of attorney's fees and costs from the guardianship estate first  
38 appears in the guardianship proceeding, the person must file written  
39 notice of his or her intent to seek payment of attorney's fees and  
40 costs from the guardianship estate. The written notice:

41 (a) Must provide a general explanation of the compensation  
42 arrangement and how compensation will be computed;

43 (b) Must include the hourly billing rates of all timekeepers,  
44 including, without limitation, attorneys, law clerks and paralegals;



1 (c) Must provide a general explanation of the reasons why the  
2 services of the attorney are necessary to further the best interests of  
3 the protected person;

4 (d) Must be served by the person on all persons entitled to notice  
5 pursuant to NRS 159.034 and 159.047; and

6 (e) Is subject to approval by the court after a hearing.

7 4. If written notice was filed and approved by the court  
8 pursuant to subsection 3, a person may file with the court a petition  
9 requesting payment of attorney's fees and costs from the  
10 guardianship estate. Such a petition must include the following  
11 information:

12 (a) A detailed statement as to the nature and extent of the  
13 services performed by the attorney;

14 (b) An itemization of each task performed by the attorney, with  
15 reference to the time spent on each task in an increment to the  
16 nearest one-tenth of an hour and with no minimum billing unit in  
17 excess of one-tenth of an hour;

18 (c) An indication of whether any time billed, including, without  
19 limitation, any time spent traveling or waiting, benefited any clients  
20 of the attorney other than the protected person and, if so, how many  
21 other clients benefited from such time; and

22 (d) Any other information considered relevant to a  
23 determination of whether attorney's fees are just, reasonable and  
24 necessary.

25 ✎ Absent approval from all parties who have appeared in the  
26 proceeding, any supplemental requests for the payment of attorney's  
27 fees and costs cannot be augmented in open court and must be  
28 properly noticed in the same manner as the underlying petition  
29 requesting payment.

30 5. In determining whether attorney's fees are just, reasonable  
31 and necessary, the court ~~may~~ shall consider all the following  
32 factors:

33 (a) The written notice approved by the court pursuant to  
34 subsection 3.

35 (b) Whether the services conferred any actual benefit upon the  
36 protected person or attempted to advance the best interests of the  
37 protected person.

38 (c) The qualities of the attorney, including, without limitation,  
39 his or her ability, training, education, experience, professional  
40 standing and skill.

41 (d) The character of the work performed, including, without  
42 limitation, the difficulty, intricacy and importance of the work, the  
43 time and skill required to complete the work, the responsibility  
44 imposed and the nature of the proceedings.



1 (e) The work actually performed by the attorney, including,  
2 without limitation, the skill, time and attention given to the work.

3 (f) The result of the work, including, without limitation, whether  
4 the attorney was successful and any benefits that were derived.

5 (g) The usual and customary fees charged in the relevant  
6 professional communities for each task performed, regardless of  
7 who actually performed the task. The court may only award:

8 (1) Compensation at an attorney rate for time spent  
9 performing services that require an attorney;

10 (2) Compensation at a paralegal rate for time spent  
11 performing paralegal services;

12 (3) Compensation at a fiduciary rate for time spent  
13 performing fiduciary services; and

14 (4) No compensation for time spent performing secretarial or  
15 clerical services.

16 (h) The appropriate apportionment among multiple clients of  
17 any billed time that benefited multiple clients of the attorney.

18 (i) The extent to which the services were provided in a  
19 reasonable, efficient and cost-effective manner, including, without  
20 limitation, whether there was appropriate and prudent delegation of  
21 services to others.

22 (j) The ability of the estate of the protected person to pay,  
23 including, without limitation:

24 (1) The value of the estate;

25 (2) The nature, extent and liquidity of the assets of the estate;

26 (3) The disposable net income of the estate;

27 (4) The anticipated future needs of the protected person; and

28 (5) Any other foreseeable expenses.

29 (k) The efforts made by the person and attorney to reduce and  
30 minimize any issues.

31 (l) Any actions by the person or attorney that unnecessarily  
32 expanded issues or delayed or hindered the efficient administration  
33 of the estate.

34 (m) Whether any actions taken by the person or attorney were  
35 taken for the purpose of advancing or protecting the interests of the  
36 person as opposed to the interests of the protected person.

37 (n) Any other factor that is relevant in determining whether  
38 attorney's fees are just, reasonable and necessary, including, without  
39 limitation, any other factor that is relevant in determining whether  
40 the person was acting in good faith and was actually pursuing the  
41 best interests of the protected person.

42 **↳ Regardless of whether or not the court orders the payment of**  
43 **attorney's fees pursuant to this section, the court shall include in**  
44 **its order written findings on the factors set forth in this subsection.**



1 6. The court shall not approve compensation for an attorney  
2 for:

3 (a) Time spent on internal business activities of the attorney,  
4 including, without limitation, clerical or secretarial support; or

5 (b) Time reported as a total amount of time spent on multiple  
6 tasks, rather than an itemization of the time spent on each task.

7 7. Any fees paid by a third party, including, without limitation,  
8 a trust of which the estate is a beneficiary, must be disclosed to and  
9 approved by the court.

10 8. In addition to any payment provided to a person pursuant to  
11 this section for the services of an attorney, a person may receive  
12 payment for ordinary costs and expenses incurred in the scope of the  
13 attorney's representation.

14 9. *A guardian is not allowed attorney's fees for services*  
15 *incurred by the guardian as a result of a petition to have him or*  
16 *her removed as guardian if the court removes the guardian. If a*  
17 *court grants a petition for removal of a guardian, any person who*  
18 *objected to the petition must not be awarded attorney's fees if the*  
19 *court finds that the person did not file the objection to the petition*  
20 *for removal in good faith or in furtherance of the best interests of*  
21 *the protected person.*

22 10. If two or more parties in a guardianship proceeding file  
23 competing petitions for the appointment of a guardian or otherwise  
24 litigate any contested issue in the guardianship proceeding, only the  
25 prevailing party may petition the court for payment of attorney's  
26 fees and costs from the guardianship estate pursuant to this section.  
27 If the court determines that there is no prevailing party, the court  
28 may authorize a portion of each party's attorney's fees and costs to  
29 be paid from the guardianship estate if the court determines that  
30 such fees and costs are just, reasonable and necessary given the  
31 nature of any issues in dispute.

32 ~~10.1~~ 11. If an attorney is appointed by the court in a  
33 guardianship proceeding, he or she may petition the court for  
34 compensation for his or her services from the guardianship estate in  
35 accordance with the procedure set forth in this section.

36 12. *If a person fails to file the written notice required*  
37 *pursuant to subsection 3, the court shall dismiss any petition filed*  
38 *by the person for an award of attorney's fees from the estate of the*  
39 *protected person.*

40 13. *As used in this section, "secretarial or clerical services"*  
41 *means:*

42 (a) *Those tasks that are clerical and not legally substantive in*  
43 *nature, including, without limitation, preparing cover sheets,*  
44 *drafting notices, filling out and printing form documents, drafting*  
45 *certificates of service, preparing summons and affidavits, filing*



1 *documents with the court, organizing files, calendaring,*  
2 *scheduling, transmitting documents and performing other similar*  
3 *tasks that are clerical in nature; and*

4 *(b) Time spent by an attorney reviewing work that is clerical in*  
5 *nature performed by other persons.*

6 **Sec. 13.** NRS 159.375 is hereby amended to read as follows:

7 159.375 In addition to any order from which an appeal is  
8 expressly authorized pursuant to this chapter, an appeal may be  
9 taken to the appellate court of competent jurisdiction pursuant to the  
10 rules fixed by the Supreme Court pursuant to Section 4 of Article 6  
11 of the Nevada Constitution within 30 days after its notice of entry  
12 from an order:

13 1. Granting or revoking letters of guardianship.

14 2. Directing or authorizing the sale or conveyance, or  
15 confirming the sale, of property of the estate of a protected person.

16 3. Settling an account.

17 4. Ordering or authorizing a guardian to act pursuant to  
18 NRS 159.113.

19 5. Ordering or authorizing the payment of a debt, claim, devise,  
20 guardian's fees or attorney's fees.

21 6. Determining ownership interests in property.

22 7. Granting or denying a petition to enforce the liability of a  
23 surety.

24 8. Granting or denying a petition for modification or  
25 termination of a guardianship.

26 9. Granting or denying a petition for removal of a guardian or  
27 appointment of a successor guardian.

28 *10. Restricting communication, visitation or interaction*  
29 *between the protected person and a relative or person of natural*  
30 *affection pursuant to NRS 159.333.*

31 *11. Ordering or authorizing a guardian to move the protected*  
32 *person from this State to another state.*

33 *12. Ordering or authorizing a guardian to act pursuant to*  
34 *NRS 159.0805 or 159.0806.*

35 **Sec. 14.** The amendatory provisions of this act apply to any  
36 proceeding or matter commenced on or after July 1, 2023.

37 **Sec. 15.** This act becomes effective on July 1, 2023.

