

**Amendment No. 405**

Assembly Amendment to Assembly Bill No. 314	(BDR 2-738)
<b>Proposed by:</b> Assembly Committee on Judiciary	
<b>Amends:</b> Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date			
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.





ASSEMBLY BILL NO. 314—COMMITTEE ON JUDICIARY

MARCH 17, 2017

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to estates. (BDR 2-738)

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.

AN ACT relating to estates; revising provisions relating to property exempt from a writ of execution; revising provisions relating to nonprobate transfers of property; establishing provisions relating to community property **or separate property** transferred into an irrevocable trust; revising certain definitions applicable to the administration of an estate; revising provisions relating to the revival of a will and the proving of a will as lost or destroyed; revising provisions concerning contests of wills; authorizing the extension of the period during which an agreement between an heir finder and apparent heir is void and unenforceable; revising provisions concerning special administrators and personal representatives; revising provisions relating to the filing of an inventory and appraisal or record of value of the assets of a decedent; revising provisions governing the presentation of claims against and the sale of real property of an estate; revising provisions relating to the period within which certain actions are performed; authorizing notice to be served by certified mail; revising provisions concerning fiduciaries; revising various provisions governing trusts and trustees; authorizing a person to provide for the burial or cremation of his or her remains in a will or durable power of attorney; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law provides that money not exceeding \$500,000 and nonexempt personal  
 2 property not exceeding \$1,000 in value that is held in a certain manner is exempt from a writ  
 3 of execution. (NRS 21.090) **Section 1** of this bill increases the amount of money to  
 4 \$1,000,000. ~~and~~ revises provisions relating to the manner in which such money is held ~~to~~  
 5 and increases the amount of nonexempt personal property to \$10,000.  
 6 Existing law establishes provisions relating to nonprobate transfers of property. (NRS  
 7 111.700-111.815) **Section 2** of this bill revises the definition of the term “nonprobate transfer”  
 8 to exclude certain property, and **section 3** of this bill revises provisions relating to :(1) the  
 9 procedure to proceed against a nonprobate transferee if there are insufficient assets in  
 10 the estate to pay a valid creditor; and (2) the property against which a creditor does not

11 have a claim to include certain property transferred pursuant to a beneficiary designation by a  
12 decedent.

13 **Section 4** of this bill authorizes a trust instrument to provide that community property or  
14 separate property transferred into an irrevocable trust of which both spouses are current  
15 permissible beneficiaries remains community property or separate property, as applicable,  
16 during the marriage, and **section 5** of this bill specifies that in granting a divorce, a court is  
17 required to make an equal distribution of community property transferred into such an  
18 irrevocable trust to the extent practicable.

19 **Sections 6 and 7** of this bill revise the definitions of the terms “expenses of  
20 administration” and “fiduciary,” respectively, for the purposes of the administration of an  
21 estate.

22 **Section 8** of this bill revises provisions relating to the revival of a first will after the  
23 destruction, cancellation or revocation of a second will, and **section 9** of this bill revises  
24 provisions relating to the proving of a will as a lost or destroyed will.

25 **Sections 10 and 41** of this bill revise: (1) provisions relating to no-contest clauses in a  
26 will or trust, respectively; and (2) the circumstances under which the share of a devisee or  
27 beneficiary, respectively, must not be reduced or eliminated. **Section 11** of this bill revises  
28 provisions relating to the issuance of a citation after a petition is filed that contests the  
29 admission of a will to probate or the validity of such a will.

30 **Section 12** of this bill authorizes a court to extend the period during which an agreement  
31 between an heir finder and apparent heir is void and unenforceable.

32 **Section 13** of this bill revises provisions relating to the appointment of a special  
33 administrator for the estate of a decedent. **Sections 14 and 15** of this bill revise provisions  
34 relating to the giving of a bond by a special administrator or personal representative,  
35 respectively.

36 Existing law establishes provisions governing the administration of estates by personal  
37 representatives. (NRS 143.010-143.210) **Sections 16-19** of this bill revise various provisions  
38 governing personal representatives. **Section 20** of this bill revises provisions relating to the  
39 issuance of a temporary order to restrain a personal representative from performing certain  
40 actions and the setting of a hearing on the matter.

41 Existing law establishes provisions relating to the filing by a personal representative of an  
42 inventory and appraisal or record of value of all the estate of the decedent that has come  
43 to the possession or knowledge of the personal representative. (Chapter 144 of NRS) **Section**  
44 **21** of this bill extends the time within which a personal representative is required to file such  
45 documents and authorizes the filing of a redacted inventory in certain circumstances, and  
46 **section 22** of this bill authorizes the personal representative to file a verified record of value in  
47 lieu of the appraisal in certain circumstances. **Section 23** of this bill revises provisions  
48 relating to the satisfaction of the fees and costs incurred by a person seeking to enforce the  
49 filing of an inventory.

50 Existing law establishes provisions governing the presentation of claims against the estate  
51 of a decedent. (NRS 147.010-147.190) **Section 24** of this bill authorizes any creditor of a  
52 decedent to petition the court for a determination of the validity of a rejected claim in lieu of  
53 bringing suit against the personal representative. **Section 25** of this bill authorizes the holder  
54 of any lien against the property of an estate to bring an action enforcing the lien against the  
55 property in certain circumstances.

56 Existing law establishes provisions governing the sale of real property of an estate. (NRS  
57 148.220-148.320) **Sections 26-28** of this bill revise provisions relating to such a sale.

58 **Sections 29-33** of this bill revise provisions relating to a court’s jurisdiction over and  
59 trustees of a testamentary trust.

60 **Section 34** of this bill provides that the specified period within which an act authorized or  
61 required to be performed pursuant to the provisions of law concerning notices, transfers,  
62 orders, procedure and appeals relating to the wills and estates of deceased persons may be  
63 extended in certain circumstances or the court may authorize a person to perform the act after  
64 the specified period expires if the failure to perform the action was the result of excusable  
65 neglect. **Section 35** of this bill authorizes notice to any person in the matter of an estate or  
66 testamentary trust to be served by certified mail.

67 Existing law establishes miscellaneous provisions relating to fiduciaries. (NRS 162.260-  
68 162.310) **Section 36** of this bill authorizes a fiduciary to withhold from the beneficiaries of an  
69 estate or trust any property that the fiduciary determines may be subject to claims of offset

70 held by the fiduciary in his or her fiduciary capacity, and **section 37** of this bill authorizes a  
71 fiduciary to establish a trust for certain purposes.

72 Existing law establishes various provisions governing trusts. (Chapter 163 of NRS)  
73 **Section 39** of this bill authorizes a trust to be created for a noncharitable purpose without a  
74 definite ascertainable beneficiary or for a noncharitable but otherwise valid purpose. Under  
75 section 39, the noncharitable purpose must be stated with sufficient particularity in the  
76 trust instrument to enable a finder of fact to ascertain the noncharitable purpose for  
77 which the trust was created. **Section 40** of this bill establishes provisions relating to the  
78 effect of the divorce, annulment of the marriage or termination of the domestic partnership of  
79 the descendant of a settlor on the former spouse or domestic partner of the descendant.  
80 **Sections 42-44** of this bill revise provisions relating to the creation of a trust.

81 **Section 46** of this bill authorizes a court to enter a temporary order restraining a trustee  
82 from performing specified acts in certain circumstances, and **section 47** of this bill provides  
83 that a trustee is entitled to be exonerated or reimbursed for a tort committed in the  
84 administration of a trust in certain circumstances. **Section 49** of this bill revises provisions  
85 relating to the power of a trustee to appoint property of one trust to a second trust. **Section 50**  
86 of this bill establishes the circumstances in which a trustee is authorized to include capital  
87 gains from the sale or exchange of capital assets in distributable net income for purposes of  
88 taxation. **Section 53** of this bill requires a trustee to provide a list of the assets of the trust  
89 estate to an interested person upon a written request in certain circumstances.

90 **Sections 51 and 52** of this bill revise provisions governing jurisdiction over a trust.

91 **Section 54** of this bill authorizes a person who is 18 years of age or older and who wishes  
92 to authorize another person to order the burial or cremation of his or her human remains in the  
93 event of his or her death to do so by including such an authorization in a validly executed will  
94 or durable power of attorney.

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

1 **Section 1.** NRS 21.090 is hereby amended to read as follows:

2 21.090 1. The following property is exempt from execution, except as  
3 otherwise specifically provided in this section or required by federal law:

4 (a) Private libraries, works of art, musical instruments and jewelry not to  
5 exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the  
6 judgment debtor, to be selected by the judgment debtor, and all family pictures and  
7 keepsakes.

8 (b) Necessary household goods, furnishings, electronics, wearing apparel, other  
9 personal effects and yard equipment, not to exceed \$12,000 in value, belonging to  
10 the judgment debtor or a dependent of the judgment debtor, to be selected by the  
11 judgment debtor.

12 (c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not  
13 to exceed \$4,500 in value, belonging to the judgment debtor to be selected by the  
14 judgment debtor.

15 (d) Professional libraries, equipment, supplies, and the tools, inventory,  
16 instruments and materials used to carry on the trade or business of the judgment  
17 debtor for the support of the judgment debtor and his or her family not to exceed  
18 \$10,000 in value.

19 (e) The cabin or dwelling of a miner or prospector, the miner's or prospector's  
20 cars, implements and appliances necessary for carrying on any mining operations  
21 and the mining claim actually worked by the miner or prospector, not exceeding  
22 \$4,500 in total value.

23 (f) Except as otherwise provided in paragraph (p), one vehicle if the judgment  
24 debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to  
25 any excess above that equity.

1 (g) For any workweek, 75 percent of the disposable earnings of a judgment  
2 debtor during that week, or 50 times the minimum hourly wage prescribed by  
3 section ~~16(a)(1)~~ 206(a)(1) of the federal Fair Labor Standards Act of 1938, 29  
4 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is  
5 greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption  
6 provided in this paragraph does not apply in the case of any order of a court of  
7 competent jurisdiction for the support of any person, any order of a court of  
8 bankruptcy or of any debt due for any state or federal tax. As used in this  
9 paragraph:

10 (1) "Disposable earnings" means that part of the earnings of a judgment  
11 debtor remaining after the deduction from those earnings of any amounts required  
12 by law to be withheld.

13 (2) "Earnings" means compensation paid or payable for personal services  
14 performed by a judgment debtor in the regular course of business, including,  
15 without limitation, compensation designated as income, wages, tips, a salary, a  
16 commission or a bonus. The term includes compensation received by a judgment  
17 debtor that is in the possession of the judgment debtor, compensation held in  
18 accounts maintained in a bank or any other financial institution or, in the case of a  
19 receivable, compensation that is due the judgment debtor.

20 (h) All fire engines, hooks and ladders, with the carts, trucks and carriages,  
21 hose, buckets, implements and apparatus thereunto appertaining, and all furniture  
22 and uniforms of any fire company or department organized under the laws of this  
23 State.

24 (i) All arms, uniforms and accouterments required by law to be kept by any  
25 person, and also one gun, to be selected by the debtor.

26 (j) All courthouses, jails, public offices and buildings, lots, grounds and  
27 personal property, the fixtures, furniture, books, papers and appurtenances  
28 belonging and pertaining to the courthouse, jail and public offices belonging to any  
29 county of this State, all cemeteries, public squares, parks and places, public  
30 buildings, town halls, markets, buildings for the use of fire departments and  
31 military organizations, and the lots and grounds thereto belonging and appertaining,  
32 owned or held by any town or incorporated city, or dedicated by the town or city to  
33 health, ornament or public use, or for the use of any fire or military company  
34 organized under the laws of this State and all lots, buildings and other school  
35 property owned by a school district and devoted to public school purposes.

36 (k) All money, benefits, privileges or immunities accruing or in any manner  
37 growing out of any life insurance.

38 (l) The homestead as provided for by law, including a homestead for which  
39 allodial title has been established and not relinquished and for which a waiver  
40 executed pursuant to NRS 115.010 is not applicable.

41 (m) The dwelling of the judgment debtor occupied as a home for himself or  
42 herself and family, where the amount of equity held by the judgment debtor in the  
43 home does not exceed \$550,000 in value and the dwelling is situated upon lands not  
44 owned by the judgment debtor.

45 (n) All money reasonably deposited with a landlord by the judgment debtor to  
46 secure an agreement to rent or lease a dwelling that is used by the judgment debtor  
47 as his or her primary residence, except that such money is not exempt with respect  
48 to a landlord or the landlord's successor in interest who seeks to enforce the terms  
49 of the agreement to rent or lease the dwelling.

50 (o) All property in this State of the judgment debtor where the judgment is in  
51 favor of any state for failure to pay that state's income tax on benefits received  
52 from a pension or other retirement plan.

1 (p) Any vehicle owned by the judgment debtor for use by the judgment debtor  
2 or the judgment debtor's dependent that is equipped or modified to provide  
3 mobility for a person with a permanent disability.

4 (q) Any prosthesis or equipment prescribed by a physician or dentist for the  
5 judgment debtor or a dependent of the debtor.

6 (r) Money, not to exceed ~~(\$500,000)~~ \$1,000,000 in present value, held in:

7 (1) An individual retirement arrangement which conforms with *or is*  
8 *maintained pursuant to* the applicable limitations and requirements of section 408  
9 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A ~~(†)~~, *including,*  
10 *without limitation, an inherited individual retirement arrangement;*

11 (2) A written simplified employee pension plan which conforms with *or is*  
12 *maintained pursuant to* the applicable limitations and requirements of section 408  
13 of the Internal Revenue Code, 26 U.S.C. § 408 ~~(†)~~, *including, without limitation,*  
14 *an inherited simplified employee pension plan;*

15 (3) A cash or deferred arrangement *plan* which is ~~(†)~~ qualified ~~(plan)~~ *and*  
16 *maintained* pursuant to the Internal Revenue Code ~~(†)~~, *including, without*  
17 *limitation, an inherited cash or deferred arrangement plan;*

18 (4) A trust forming part of a stock bonus, pension or profit-sharing plan  
19 which is ~~(†)~~ qualified ~~(plan)~~ *and maintained* pursuant to sections 401 et seq. of the  
20 Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

21 (5) A trust forming part of a qualified tuition program pursuant to chapter  
22 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS  
23 and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is  
24 deposited after the entry of a judgment against the purchaser or account owner or  
25 the money will not be used by any beneficiary to attend a college or university.

26 (s) All money and other benefits paid pursuant to the order of a court of  
27 competent jurisdiction for the support, education and maintenance of a child,  
28 whether collected by the judgment debtor or the State.

29 (t) All money and other benefits paid pursuant to the order of a court of  
30 competent jurisdiction for the support and maintenance of a former spouse,  
31 including the amount of any arrearages in the payment of such support and  
32 maintenance to which the former spouse may be entitled.

33 (u) Payments, in an amount not to exceed \$16,150, received as compensation  
34 for personal injury, not including compensation for pain and suffering or actual  
35 pecuniary loss, by the judgment debtor or by a person upon whom the judgment  
36 debtor is dependent at the time the payment is received.

37 (v) Payments received as compensation for the wrongful death of a person  
38 upon whom the judgment debtor was dependent at the time of the wrongful death,  
39 to the extent reasonably necessary for the support of the judgment debtor and any  
40 dependent of the judgment debtor.

41 (w) Payments received as compensation for the loss of future earnings of the  
42 judgment debtor or of a person upon whom the judgment debtor is dependent at the  
43 time the payment is received, to the extent reasonably necessary for the support of  
44 the judgment debtor and any dependent of the judgment debtor.

45 (x) Payments received as restitution for a criminal act.

46 (y) Payments received pursuant to the federal Social Security Act, including,  
47 without limitation, retirement and survivors' benefits, supplemental security income  
48 benefits and disability insurance benefits.

49 (z) Any personal property not otherwise exempt from execution pursuant to  
50 this subsection belonging to the judgment debtor, including, without limitation, the  
51 judgment debtor's equity in any property, money, stocks, bonds or other funds on  
52 deposit with a financial institution, not to exceed ~~(\$1,000)~~ \$10,000 in total value, to  
53 be selected by the judgment debtor.

1 (aa) Any tax refund received by the judgment debtor that is derived from the  
2 earned income credit described in section 32 of the Internal Revenue Code, 26  
3 U.S.C. § 32, or a similar credit provided pursuant to a state law.

4 (bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as  
5 set forth in that section.

6 (cc) Regardless of whether a trust contains a spendthrift provision:

7 (1) A distribution interest in the trust as defined in NRS 163.4155 that is a  
8 contingent interest, if the contingency has not been satisfied or removed;

9 (2) A distribution interest in the trust as defined in NRS 163.4155 that is a  
10 discretionary interest as described in NRS 163.4185, if the interest has not been  
11 distributed;

12 (3) A power of appointment in the trust as defined in NRS 163.4157  
13 regardless of whether the power has been exercised;

14 (4) A power listed in NRS 163.5553 that is held by a trust protector as  
15 defined in NRS 163.5547 or any other person regardless of whether the power has  
16 been exercised; and

17 (5) A reserved power in the trust as defined in NRS 163.4165 regardless of  
18 whether the power has been exercised.

19 (dd) If a trust contains a spendthrift provision:

20 (1) A distribution interest in the trust as defined in NRS 163.4155 that is a  
21 mandatory interest as described in NRS 163.4185, if the interest has not been  
22 distributed; and

23 (2) Notwithstanding a beneficiary's right to enforce a support interest, a  
24 distribution interest in the trust as defined in NRS 163.4155 that is a support  
25 interest as described in NRS 163.4185, if the interest has not been distributed.

26 (ee) Proceeds received from a private disability insurance plan.

27 (ff) Money in a trust fund for funeral or burial services pursuant to NRS  
28 689.700.

29 (gg) Compensation that was payable or paid pursuant to chapters 616A to  
30 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

31 (hh) Unemployment compensation benefits received pursuant to NRS 612.710.

32 (ii) Benefits or refunds payable or paid from the Public Employees' Retirement  
33 System pursuant to NRS 286.670.

34 (jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS  
35 615.270.

36 (kk) Public assistance provided through the Department of Health and Human  
37 Services pursuant to NRS 422.291 and 422A.325.

38 (ll) Child welfare assistance provided pursuant to NRS 432.036.

39 2. Except as otherwise provided in NRS 115.010, no article or species of  
40 property mentioned in this section is exempt from execution issued upon a  
41 judgment to recover for its price, or upon a judgment of foreclosure of a mortgage  
42 or other lien thereon.

43 3. Any exemptions specified in subsection (d) of section 522 of the  
44 Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a  
45 resident of this State unless conferred also by subsection 1, as limited by subsection  
46 2.

47 **Sec. 2.** NRS 111.721 is hereby amended to read as follows:

48 111.721 1. "Nonprobate transfer" means a transfer of any property or  
49 interest in property from a decedent to one or more other persons by operation of  
50 law or by contract that is effective upon the death of the decedent and includes,  
51 without limitation:

52 (a) A transfer by right of survivorship, including a transfer pursuant to  
53 subsection 1 of NRS 115.060;



1 (b) A transfer by deed upon death pursuant to NRS 111.655 to 111.699,  
2 inclusive; and

3 (c) A security registered as transferable on the death of a person.

4 2. The term does not include:

5 (a) Property that is subject to administration in probate of the estate of the  
6 decedent;

7 (b) Property that is set aside, without administration, pursuant to NRS 146.070;

8 ~~and~~

9 (c) Property transferred pursuant to an affidavit as authorized by NRS 146.080

10 ~~;~~ **and**

11 ***(d) Property transferred from an estate or a trust pursuant to a power of***  
12 ***appointment granted under a will or trust, as applicable.***

13 **Sec. 3.** NRS 111.779 is hereby amended to read as follows:

14 111.779 1. Except as otherwise provided in NRS 21.090 and other  
15 applicable law, a transferee of a nonprobate transfer is liable to the probate estate of  
16 the decedent for allowed claims against that decedent's probate estate to the extent  
17 the estate is insufficient to satisfy those claims.

18 2. The liability of a nonprobate transferee may not exceed the value of  
19 nonprobate transfers received or controlled by that transferee.

20 3. Nonprobate transferees are liable for the insufficiency described in  
21 subsection 1 in the following order of priority:

22 (a) A transferee specified in the decedent's will or any other governing  
23 instrument as being liable for such an insufficiency, in the order of priority  
24 provided in the will or other governing instrument;

25 (b) The trustee of a trust serving as the principal nonprobate instrument in the  
26 decedent's estate plan as shown by its designation as devisee of the decedent's  
27 residuary estate or by other facts or circumstances, to the extent of the value of the  
28 nonprobate transfer received or controlled; and

29 (c) Other nonprobate transferees, in proportion to the values received.

30 4. Unless otherwise provided by the trust instrument, interests of beneficiaries  
31 in all trusts incurring liabilities under this section abate as necessary to satisfy the  
32 liability, as if all the trust instruments were a single will and the interests were  
33 devised under it.

34 5. If a nonprobate transferee is a spouse or a minor child, the nonprobate  
35 transferee may petition the court to be excluded from the liability imposed by this  
36 section as if the nonprobate property received by the spouse or minor child were  
37 part of the decedent's estate. Such a petition may be made pursuant to the  
38 applicable provisions of chapter 146 of NRS, including, without limitation, the  
39 provisions of NRS 146.010, NRS 146.020 without regard to the filing of an  
40 inventory and subsection 2 of NRS 146.070.

41 6. A provision made in one instrument may direct the apportionment of the  
42 liability among the nonprobate transferees taking under that or any other governing  
43 instrument. If a provision in one instrument conflicts with a provision in another,  
44 the later one prevails.

45 7. Upon due notice to a nonprobate transferee, the liability imposed by this  
46 section is enforceable in probate proceedings in this State, whether or not the  
47 transferee is located in this State.

48 8. If a probate proceeding is pending, **at the time of filing and it has been**  
49 **determined by a final order issued by the probate court that there are insufficient**  
50 **assets to pay a valid creditor, a proceeding under this section may be commenced**  
51 **by one of the following persons:**

1 ~~(a) The~~ personal representative of the decedent's estate, ~~for, if the personal~~  
2 ~~representative declines to do so, by a~~ A personal representative who declines in  
3 good faith to commence a proceeding incurs no personal liability for declining.

4 (b) A creditor ~~in the name~~ of the ~~decedent's~~ estate, ~~if the personal~~  
5 ~~representative has declined or refused to commence an action within 30 days~~  
6 ~~after receiving a written demand by a creditor. Such demand must identify the~~  
7 ~~nonprobate transfers known to the creditor. If the creditor is unaware of any~~  
8 ~~nonprobate transfers, in the probate proceeding, the creditor may, pursuant to~~  
9 ~~NRS 155.170, obtain discovery, perpetuate testimony or conduct examinations in~~  
10 ~~any manner authorized by law or by the Nevada Rules of Civil Procedure to~~  
11 ~~ascertain whether any nonprobate transfers exist. If the creditor is unable to~~  
12 ~~identify any nonprobate transfers within a reasonable time after conducting~~  
13 ~~discovery, the creditor may not proceed under this section. If a creditor~~  
14 ~~commences an action under this section:~~

15 (1) The creditor must proceed at the expense of the creditor and not of the  
16 estate.

17 (2) If a creditor successfully establishes an entitlement to payment under  
18 this section, ~~it~~ and collects nonprobate transfers, the court must order the  
19 reimbursement of the costs reasonably incurred by the creditor, including attorney's  
20 fees, from the transferee from whom the payment is to be made, subject to the  
21 limitations of subsection 2, or from the estate as a cost of administration, or  
22 partially from each, as the court deems just. ~~A personal representative who~~  
23 ~~declines in good faith to commence a requested proceeding incurs no personal~~  
24 ~~liability for declining.~~

25 9. If a probate proceeding is not pending, a proceeding under this section may  
26 be commenced as a civil action by a creditor at the expense of the creditor.

27 10. If a proceeding is commenced pursuant to this section, it must be  
28 commenced:

29 (a) ~~As to a creditor whose claim was allowed after proceedings challenging~~  
30 ~~disallowance of the claim by the personal representative,~~ If a probate proceeding  
31 is pending in which notice to creditors has been given at the time of filing a  
32 proceeding under this section:

33 (1) As to a creditor whose claim was properly and timely filed, allowed by  
34 the personal representative or partially allowed by the personal representative,  
35 and accepted by the creditor pursuant to NRS 147.160, within 60 days after the  
36 probate court enters an order confirming the amount of payment of the approved  
37 claim that is final and no longer subject to reconsideration or appeal or within 1  
38 year after the decedent's death, whichever is later.

39 (2) As to a creditor:

40 (I) Whose claim was rejected by the personal representative, partially  
41 allowed by the personal representative and rejected by the creditor pursuant to  
42 NRS 147.160, or deemed rejected by the personal representative pursuant to NRS  
43 147.110;

44 (II) Who adjudicated the creditor's claims in the proper court or by a  
45 summary adjudication; and

46 (III) Who obtained a favorable final judgment on its claim from the  
47 proper court,

48 within 60 days after the probate court enters an order confirming the amount  
49 of payment of the approved claim that is final and no longer subject to  
50 reconsideration or appeal or within 1 year after the decedent's death, whichever  
51 is later.

52 (b) If an action had been commenced against the decedent before the  
53 decedent's death, the creditor receives a judgment against the decedent's estate

1 and the creditor has filed a proper and timely creditor's claim against the estate,  
2 within 60 days after ~~final allowance of the claim by~~ the probate court enters an  
3 order confirming the amount of payment of the adjudicated claim that is final  
4 and no longer subject to reconsideration or appeal or within 1 year after the  
5 decedent's death, whichever is later.

6 ~~(b) As to a creditor whose claim against the decedent is being adjudicated in a~~  
7 ~~separate proceeding that is still pending 1 year after the decedent's death, within 60~~  
8 ~~days after the adjudication of the claim in favor of the creditor is final and no longer~~  
9 ~~subject to reconsideration or appeal.~~

10 (c) As to the recovery of benefits paid for Medicaid, within 3 years after the  
11 decedent's death.

12 (d) As to all other creditors, within 1 year after the decedent's death.

13 11. Unless a written notice asserting that a decedent's probate estate is  
14 non-existent or insufficient to pay allowed claims and statutory allowances has been  
15 received from the decedent's personal representative, the following rules apply:

16 (a) Payment or delivery of assets by a financial institution, registrar or other  
17 obligor to a nonprobate transferee in accordance with the terms of the governing  
18 instrument controlling the transfer releases the obligor from all claims for amounts  
19 paid or assets delivered.

20 (b) A trustee receiving or controlling a nonprobate transfer is released from  
21 liability under this section with respect to any assets distributed to the trust's  
22 beneficiaries. Each beneficiary to the extent of the distribution received becomes  
23 liable for the amount of the trustee's liability attributable to assets received by the  
24 beneficiary.

25 12. Notwithstanding any provision of this section to the contrary:

26 (a) A creditor has no claim against ~~property~~:

27 (1) *Property transferred pursuant to a power of appointment exercised by a*  
28 *decedent unless it was exercisable in favor of the decedent or the decedent's estate.*

29 (2) *Property transferred pursuant to a beneficiary designation by a*  
30 *decedent which transfers money held by any of the following:*

31 (I) *An individual retirement arrangement which conforms with or is*  
32 *maintained pursuant to the applicable limitations and requirements of section*  
33 *408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A,*  
34 *including, without limitation, an inherited individual retirement arrangement;*

35 (II) *A written simplified employee pension plan which conforms with*  
36 *or is maintained pursuant to the applicable limitations and requirements of*  
37 *section 408 of the Internal Revenue Code, 26 U.S.C. § 408, including, without*  
38 *limitation, an inherited simplified employee pension plan;*

39 (III) *A cash or deferred arrangement plan which is qualified and*  
40 *maintained pursuant to the Internal Revenue Code, including, without limitation,*  
41 *an inherited cash or deferred arrangement plan;*

42 (IV) *A trust forming part of a stock bonus, pension or profit-sharing*  
43 *plan which is qualified and maintained pursuant to sections 401 et seq. of the*  
44 *Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and*

45 (V) *A trust forming part of a qualified tuition program pursuant to*  
46 *chapter 353B of NRS, any applicable regulations adopted pursuant to chapter*  
47 *353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529,*  
48 *unless the money is deposited after the entry of a judgment against the purchaser*  
49 *or account owner or the money will not be used by any beneficiary to attend a*  
50 *college or university.*

51 (3) *Property transferred pursuant to a beneficiary designation by a*  
52 *decedent which transfers money, benefits or privileges that accrue in any manner*  
53 *out of life insurance.*

1           (4) *Proceeds of any wages of the decedent which were exempt from*  
2 *execution during the decedent's lifetime pursuant to paragraph (g) of subsection*  
3 *1 of NRS 21.090.*

4           (5) *A trust, a beneficial interest of the decedent under a trust or amount*  
5 *payable from a trust if the trust was created by someone other than the decedent,*  
6 *except to enforce a valid assignment of the decedent's beneficial interest under a*  
7 *trust that is not a spendthrift trust.*

8           (6) *An irrevocable trust or amounts payable from a trust if the trust was*  
9 *properly created as a valid spendthrift trust under chapter 166 of NRS, except*  
10 *with respect to property transferred to the trust by the decedent to the extent*  
11 *permitted under subsections 1, 2 and 3 of NRS 166.170.*

12           (b) A purchaser for value of property or a lender who acquires a security  
13 interest in the property from a beneficiary of a nonprobate transfer after the death of  
14 the owner, in good faith:

15           (1) Takes the property free of any claims or of liability to the owner's  
16 estate, creditors of the owner's estate, persons claiming rights as beneficiaries under  
17 the nonprobate transfer or heirs of the owner's estate, in absence of actual  
18 knowledge that the transfer was improper; and

19           (2) Has no duty to verify sworn information relating to the nonprobate  
20 transfer. The protection provided by this subparagraph applies to information that  
21 relates to the ownership interest of the beneficiary in the property and the  
22 beneficiary's right to sell, encumber and transfer good title to a purchaser or lender  
23 and does not relieve a purchaser or lender from the notice imparted by instruments  
24 of record respecting the property.

25           13. As used in this section, "devise" has the meaning ascribed to it in NRS  
26 132.095.

27           **Sec. 4.** Chapter 123 of NRS is hereby amended by adding thereto a new  
28 section to read as follows:

29           1. *A trust instrument may provide that community property or separate*  
30 *property transferred into an irrevocable trust of which both spouses are current*  
31 *permissible beneficiaries remains community property or separate property, as*  
32 *applicable, during the marriage. Any community property ~~or separate~~*  
33 *property, including, without limitation, any income, appreciation and proceeds*  
34 *thereof, that is distributed or withdrawn from a trust instrument containing such*  
35 *a provision remains community property ~~unless the spouses otherwise agree in~~*  
36 *writing at or after the time of the distribution or withdrawal.* *or separate*  
37 *property, as applicable.*

38           2. *The provisions of this section do not affect the character of community*  
39 *property or separate property that is transferred into a trust in any manner other*  
40 *than as described in this section.*

41           **Sec. 5.** NRS 125.150 is hereby amended to read as follows:

42           125.150 Except as otherwise provided in NRS 125.155 and 125.165, and  
43 unless the action is contrary to a premarital agreement between the parties which is  
44 enforceable pursuant to chapter 123A of NRS:

45           1. In granting a divorce, the court:

46           (a) May award such alimony to the wife or to the husband, in a specified  
47 principal sum or as specified periodic payments, as appears just and equitable; and

48           (b) Shall, to the extent practicable, make an equal disposition of the community  
49 property of the parties, *including, without limitation, any community property*  
50 *transferred into an irrevocable trust pursuant to section 4 of this act over which*  
51 *the court acquires jurisdiction pursuant to NRS 164.010,* except that the court  
52 may make an unequal disposition of the community property in such proportions as

1 it deems just if the court finds a compelling reason to do so and sets forth in writing  
2 the reasons for making the unequal disposition.

3 2. Except as otherwise provided in this subsection, in granting a divorce, the  
4 court shall dispose of any property held in joint tenancy in the manner set forth in  
5 subsection 1 for the disposition of community property. If a party has made a  
6 contribution of separate property to the acquisition or improvement of property held  
7 in joint tenancy, the court may provide for the reimbursement of that party for his  
8 or her contribution. The amount of reimbursement must not exceed the amount of  
9 the contribution of separate property that can be traced to the acquisition or  
10 improvement of property held in joint tenancy, without interest or any adjustment  
11 because of an increase in the value of the property held in joint tenancy. The  
12 amount of reimbursement must not exceed the value, at the time of the disposition,  
13 of the property held in joint tenancy for which the contribution of separate property  
14 was made. In determining whether to provide for the reimbursement, in whole or in  
15 part, of a party who has contributed separate property, the court shall consider:

16 (a) The intention of the parties in placing the property in joint tenancy;

17 (b) The length of the marriage; and

18 (c) Any other factor which the court deems relevant in making a just and  
19 equitable disposition of that property.

20 ➤ As used in this subsection, "contribution" includes, without limitation, a down  
21 payment, a payment for the acquisition or improvement of property, and a payment  
22 reducing the principal of a loan used to finance the purchase or improvement of  
23 property. The term does not include a payment of interest on a loan used to finance  
24 the purchase or improvement of property, or a payment made for maintenance,  
25 insurance or taxes on property.

26 3. A party may file a postjudgment motion in any action for divorce,  
27 annulment or separate maintenance to obtain adjudication of any community  
28 property or liability omitted from the decree or judgment as the result of fraud or  
29 mistake. A motion pursuant to this subsection must be filed within 3 years after the  
30 discovery by the aggrieved party of the facts constituting the fraud or mistake. The  
31 court has continuing jurisdiction to hear such a motion and shall equally divide the  
32 omitted community property or liability between the parties unless the court finds  
33 that:

34 (a) The community property or liability was included in a prior equal  
35 disposition of the community property of the parties or in an unequal disposition of  
36 the community property of the parties which was made pursuant to written findings  
37 of a compelling reason for making that unequal disposition; or

38 (b) The court determines a compelling reason in the interests of justice to make  
39 an unequal disposition of the community property or liability and sets forth in  
40 writing the reasons for making the unequal disposition.

41 ➤ If a motion pursuant to this subsection results in a judgment dividing a defined  
42 benefit pension plan, the judgment may not be enforced against an installment  
43 payment made by the plan more than 6 years after the installment payment.

44 4. Except as otherwise provided in NRS 125.141, whether or not application  
45 for suit money has been made under the provisions of NRS 125.040, the court may  
46 award a reasonable attorney's fee to either party to an action for divorce.

47 5. In granting a divorce, the court may also set apart such portion of the  
48 husband's separate property for the wife's support, the wife's separate property for  
49 the husband's support or the separate property of either spouse for the support of  
50 their children as is deemed just and equitable.

51 6. In the event of the death of either party or the subsequent remarriage of the  
52 spouse to whom specified periodic payments were to be made, all the payments  
53 required by the decree must cease, unless it was otherwise ordered by the court.

1           7. If the court adjudicates the property rights of the parties, or an agreement  
2 by the parties settling their property rights has been approved by the court, whether  
3 or not the court has retained jurisdiction to modify them, the adjudication of  
4 property rights, and the agreements settling property rights, may nevertheless at any  
5 time thereafter be modified by the court upon written stipulation signed and  
6 acknowledged by the parties to the action, and in accordance with the terms thereof.

7           8. If a decree of divorce, or an agreement between the parties which was  
8 ratified, adopted or approved in a decree of divorce, provides for specified periodic  
9 payments of alimony, the decree or agreement is not subject to modification by the  
10 court as to accrued payments. Payments pursuant to a decree entered on or after  
11 July 1, 1975, which have not accrued at the time a motion for modification is filed  
12 may be modified upon a showing of changed circumstances, whether or not the  
13 court has expressly retained jurisdiction for the modification. In addition to any  
14 other factors the court considers relevant in determining whether to modify the  
15 order, the court shall consider whether the income of the spouse who is ordered to  
16 pay alimony, as indicated on the spouse's federal income tax return for the  
17 preceding calendar year, has been reduced to such a level that the spouse is  
18 financially unable to pay the amount of alimony the spouse has been ordered to  
19 pay.

20           9. In addition to any other factors the court considers relevant in determining  
21 whether to award alimony and the amount of such an award, the court shall  
22 consider:

- 23           (a) The financial condition of each spouse;
- 24           (b) The nature and value of the respective property of each spouse;
- 25           (c) The contribution of each spouse to any property held by the spouses  
26 pursuant to NRS 123.030;
- 27           (d) The duration of the marriage;
- 28           (e) The income, earning capacity, age and health of each spouse;
- 29           (f) The standard of living during the marriage;
- 30           (g) The career before the marriage of the spouse who would receive the  
31 alimony;
- 32           (h) The existence of specialized education or training or the level of marketable  
33 skills attained by each spouse during the marriage;
- 34           (i) The contribution of either spouse as homemaker;
- 35           (j) The award of property granted by the court in the divorce, other than child  
36 support and alimony, to the spouse who would receive the alimony; and
- 37           (k) The physical and mental condition of each party as it relates to the financial  
38 condition, health and ability to work of that spouse.

39           10. In granting a divorce, the court shall consider the need to grant alimony to  
40 a spouse for the purpose of obtaining training or education relating to a job, career  
41 or profession. In addition to any other factors the court considers relevant in  
42 determining whether such alimony should be granted, the court shall consider:

- 43           (a) Whether the spouse who would pay such alimony has obtained greater job  
44 skills or education during the marriage; and
- 45           (b) Whether the spouse who would receive such alimony provided financial  
46 support while the other spouse obtained job skills or education.

47           11. If the court determines that alimony should be awarded pursuant to the  
48 provisions of subsection 10:

- 49           (a) The court, in its order, shall provide for the time within which the spouse  
50 who is the recipient of the alimony must commence the training or education  
51 relating to a job, career or profession.
- 52           (b) The spouse who is ordered to pay the alimony may, upon changed  
53 circumstances, file a motion to modify the order.

1 (c) The spouse who is the recipient of the alimony may be granted, in addition  
2 to any other alimony granted by the court, money to provide for:

- 3 (1) Testing of the recipient's skills relating to a job, career or profession;  
4 (2) Evaluation of the recipient's abilities and goals relating to a job, career  
5 or profession;  
6 (3) Guidance for the recipient in establishing a specific plan for training or  
7 education relating to a job, career or profession;  
8 (4) Subsidization of an employer's costs incurred in training the recipient;  
9 (5) Assisting the recipient to search for a job; or  
10 (6) Payment of the costs of tuition, books and fees for:  
11 (I) The equivalent of a high school diploma;  
12 (II) College courses which are directly applicable to the recipient's  
13 goals for his or her career; or  
14 (III) Courses of training in skills desirable for employment.

15 12. For the purposes of this section, a change of 20 percent or more in the  
16 gross monthly income of a spouse who is ordered to pay alimony shall be deemed  
17 to constitute changed circumstances requiring a review for modification of the  
18 payments of alimony. As used in this subsection, "gross monthly income" has the  
19 meaning ascribed to it in NRS 125B.070.

20 **Sec. 6.** NRS 132.135 is hereby amended to read as follows:

21 132.135 "Expenses of administration" means funeral expenses and expenses  
22 actually and properly incurred by a personal representative in the administration of  
23 an estate, *including, without limitation, expenses incurred for the maintenance or*  
24 *preservation of the assets of an estate*, plus the fees of the personal representative,  
25 any attorney retained by the personal representative and any other consultant  
26 engaged by him or her.

27 **Sec. 7.** NRS 132.145 is hereby amended to read as follows:

28 132.145 1. "Fiduciary" includes , *without limitation*, a personal  
29 representative, guardian , ~~and~~ trustee ~~+~~ *under any trust, whether express,*  
30 *implied, resulting or constructive, bailee, conservator, curator, receiver or trustee*  
31 *in bankruptcy or an attorney in fact, assignee for the benefit of creditors or agent.*  
32 *The term does not include:*

33 (a) *A trust protector or trust adviser, except under the terms and conditions*  
34 *expressly provided in the written instrument appointing the trust protector or*  
35 *trust adviser; or*

36 (b) *A holder of a power of appointment under the terms of a trust.*

37 2. *As used in this section:*

38 (a) *"Trust adviser" has the meaning ascribed to it in NRS 163.5545.*

39 (b) *"Trust protector" has the meaning ascribed to it in NRS 163.5547.*

40 **Sec. 8.** NRS 133.130 is hereby amended to read as follows:

41 133.130 If, after the making of any will, the testator executes a *valid* second  
42 will ~~+~~ *that includes provisions revoking the first will*, the destruction, cancellation  
43 or revocation of the second will does not revive the first will ~~+~~ unless ~~++~~ :

44 1. *It appears by the terms of the revocation or the manner in which the*  
45 *revocation occurred* that it was the intention to revive and give effect to the first  
46 will ; ~~+~~ or ~~unless, after~~

47 2. *After the destruction, cancellation or revocation, the first will is reexecuted.*

48 **Sec. 9.** NRS 136.240 is hereby amended to read as follows:

49 136.240 1. The petition for the probate of a lost or destroyed will must  
50 include a copy of the will, or if no copy is available state, or be accompanied by a  
51 written statement of, the testamentary words, or the substance thereof.

52 2. If offered for probate, a lost or destroyed will must be proved in the same  
53 manner as other wills are proved under this chapter.

1 3. In addition, no will may be proved as a lost or destroyed will unless *its*  
2 *provisions are clearly and distinctly proved by two or more credible witnesses and*  
3 it is ~~proved~~ :

4 (a) *Proved* to have been in *legal* existence at the death of the person whose will  
5 it is claimed to be ~~+~~ *and has not otherwise been revoked or destroyed without the*  
6 *knowledge, consent or ratification of such person;* or ~~is shown~~

7 (b) *Shown* to have been fraudulently destroyed in the lifetime of that person. ~~+~~  
8 ~~nor unless its provisions are clearly and distinctly proved by at least two credible~~  
9 ~~witnesses.~~

10 4. The testimony of each witness must be reduced to writing, signed by the  
11 witness and filed, and is admissible in evidence in any contest of the will if the  
12 witness has died or permanently moved from the State.

13 5. Notwithstanding any provision of this section to the contrary:

14 (a) The production of a person's lost or destroyed will, whose primary  
15 beneficiary is a nontestamentary trust established by the person and in existence at  
16 his or her death, creates a rebuttable presumption that the will had not been  
17 revoked.

18 (b) If the proponent of a lost or destroyed will makes a prima facie showing  
19 that it was more likely than not left unrevoked by the person whose will it is  
20 claimed to be before his or her death, then the will must be admitted to probate in  
21 absence of an objection. If such prima facie showing has been made, the court shall  
22 accept a copy of such a will as sufficient proof of the terms thereof without  
23 requiring further evidence in the absence of any objection.

24 6. If the will is established, its provisions must be set forth specifically in the  
25 order admitting it to probate, or a copy of the will must be attached to the order.

26 **Sec. 10.** NRS 137.005 is hereby amended to read as follows:

27 137.005 1. Except as otherwise provided in subsections 3 and 4, a no-  
28 contest clause in a will must be enforced by the court ~~+~~ *because public policy*  
29 *favors enforcing the intent of the testator. However, because public policy does*  
30 *not favor forfeitures, a no-contest clause must be strictly construed by the court*  
31 *and must not be extended beyond the plain meaning of the express provisions of*  
32 *the will.*

33 2. A no-contest clause must be construed to carry out the testator's intent ~~+~~  
34 ~~Except~~ to the extent ~~{the will is vague or ambiguous.}~~ *such intent is clear and*  
35 *unambiguous. No* extrinsic evidence is ~~{not}~~ admissible to establish the testator's  
36 intent concerning the no-contest clause. The provisions of this subsection do not  
37 prohibit ~~{such}~~ *extrinsic* evidence from being admitted for any other purpose  
38 authorized by law. Except as otherwise provided in subsections 3 and 4, a devisee's  
39 share may be reduced or eliminated under a no-contest clause based upon conduct  
40 that is set forth by the testator in the will, including, without limitation, any  
41 testamentary trust established in the will. Such conduct may include, without  
42 limitation:

43 (a) Conduct other than formal court action; and

44 (b) Conduct which is unrelated to the will itself, including, without limitation:

45 (1) The commencement of civil litigation against the testator's probate  
46 estate or family members;

47 (2) Interference with the administration of a trust or a business entity;

48 (3) Efforts to frustrate the intent of the testator's power of attorney; and

49 (4) Efforts to frustrate the designation of beneficiaries related to a  
50 nonprobate transfer by the testator.

51 3. Notwithstanding any provision to the contrary in the will, a devisee's share  
52 must not be reduced or eliminated ~~++~~ *because of any action taken by* the devisee  
53 ~~{seeks}~~ *seeking* only to:



1 (a) Enforce the terms of the will or any document referenced in or affected by  
2 the will;

3 (b) Enforce the devisee's legal rights in the probate proceeding; ~~for~~

4 (c) Obtain ~~for~~ court ~~finding~~ *instruction* with respect to the *proper*  
5 *administration of the estate or the* construction or legal effect of the will ~~for~~ *or the*  
6 *provisions thereof; or*

7 *(d) Enforce the fiduciary duties of the personal representative.*

8 4. Notwithstanding any provision to the contrary in the will, a devisee's share  
9 must not be reduced or eliminated under a no-contest clause because the devisee  
10 institutes legal action seeking to invalidate a will if the legal action is instituted *and*  
11 *maintained* in good faith and based on probable cause that would have led a  
12 reasonable person, properly informed and advised, to conclude that the will is  
13 invalid.

14 5. *As to any testamentary trust, the testator is the settlor. Unless the will*  
15 *expressly provides otherwise, a no-contest clause in a will applies to a*  
16 *testamentary trust created under that will and the provisions of NRS 163.00195*  
17 *apply to that trust.*

18 6. As used in this section, "no-contest clause" means one or more provisions  
19 in a will that express a directive to reduce or eliminate the share allocated to a  
20 devisee or to reduce or eliminate the distributions to be made to a devisee if the  
21 devisee takes action to frustrate or defeat the testator's intent as expressed in the  
22 will.

23 **Sec. 11.** NRS 137.090 is hereby amended to read as follows:

24 137.090 Upon filing ~~the~~ a petition ~~, and within the time allowed for filing~~  
25 ~~the petition,~~ *pursuant to NRS 137.080, the court shall order the issuance of* a  
26 citation, ~~must be issued,~~ directed to the personal representative and to all the  
27 devisees mentioned in the will, and the heirs, so far as known to the petitioner,  
28 including minors and incapacitated persons, or the personal representative of any  
29 such person who is dead, directing them to plead to the contest within 30 days after  
30 service of the citation.

31 **Sec. 12.** NRS 139.135 is hereby amended to read as follows:

32 139.135 1. An agreement between an heir finder and an apparent heir, the  
33 primary purpose of which is to locate, recover or assist in the recovery of an estate  
34 for which the public administrator has petitioned for letters of administration, is  
35 void and unenforceable if the agreement is entered into during the period beginning  
36 with the death of the person whose estate is in probate until 90 days thereafter.  
37 *Upon a showing of good cause, the court may extend such a period until 180 days*  
38 *after the death of the person.*

39 2. As used in this section, "heir finder" means a person who, for payment of a  
40 fee, assignment of a portion of any interest in a decedent's estate or other  
41 consideration, provides information, assistance, forensic genealogy research or  
42 other efforts related to another person's right to or interest in a decedent's estate.  
43 The term does not include:

44 (a) A person acting in the capacity of a personal representative or guardian ad  
45 litem;

46 (b) A person appointed to perform services by a probate court in which a  
47 proceeding in connection with a decedent's estate is pending; or

48 (c) An attorney providing legal services to a decedent's family member if the  
49 attorney has not agreed to pay to any other person a portion of the fees received  
50 from the family member or the family member's interest in the decedent's estate.

51 **Sec. 13.** NRS 140.010 is hereby amended to read as follows:

52 140.010 The court shall appoint a special administrator to collect and take  
53 charge of the estate of the decedent, in whatever county or counties the estate may

1 be found, and to exercise such other powers as may be necessary to preserve the  
2 estate ~~†~~ *or any rights or privileges belonging to the decedent:*

3 1. If there is a delay in granting letters testamentary or letters of  
4 administration, from any cause.

5 2. If letters are granted irregularly.

6 3. If no sufficient bond is filed as required by the court.

7 4. If no petition is filed for letters.

8 5. If an executor or administrator dies or is suspended or removed, and the  
9 circumstances of the estate require the immediate appointment of a personal  
10 representative.

11 6. If there may be no assets subject to administration but good cause exists for  
12 the appointment of a personal representative of the decedent.

13 7. In any other proper case.

14 **Sec. 14.** NRS 140.030 is hereby amended to read as follows:

15 140.030 Before letters issue to a person as a special administrator, the person  
16 must:

17 1. Give bond in such sum as the court directs, with sureties to the satisfaction  
18 of the court, conditioned for the faithful performance of the duties, unless the court  
19 waives bond ~~†~~ , *with or without conditions, or dispenses the bond and  
20 alternatively requires the establishment of a blocked account;* and

21 2. Take the usual oath of office.

22 **Sec. 15.** NRS 142.020 is hereby amended to read as follows:

23 142.020 1. The requirement of a bond of a personal representative is  
24 discretionary with the court. Whether a bond is expressly required by the will or  
25 not, the court may:

26 (a) Require a bond if it determines a bond is desirable; or

27 (b) Dispense with the requirement of a bond if ~~††~~ :

28 (1) *The court determines a bond is unnecessary †; or*

29 (2) *The assets of the estate are deposited with a financial institution  
30 pursuant to subsection 3.*

31 2. The bond must be conditioned so that the personal representative will  
32 faithfully execute the duties of the office according to law, and the bond must be  
33 filed by the clerk.

34 3. Personal assets of an estate may be deposited with a domestic credit union  
35 or other domestic financial institution upon such terms as may be prescribed by  
36 order of the court having jurisdiction of the estate. The deposit is subject to the  
37 further order of the court. ~~†The bond of the personal representative may be reduced  
38 accordingly.†~~ The personal representative shall file with the clerk the  
39 acknowledgment of an authorized representative of the financial institution that  
40 holds the assets deposited, which may be in the following form:

41  
42 PROOF OF BLOCKED ACCOUNT

43  
44 The undersigned affirms that ....., as personal  
45 representative of the estate of ....., deceased, has established  
46 an account, number ....., entitled ".....," in the amount of \$.....

47 The undersigned acknowledges that this account bears a blocked/frozen  
48 designation, and that no money may be removed without first presenting an  
49 order from the court authorizing the withdrawal.

50 Dated on ..... (date). By: .....

51 Title: .....

52

1 4. During the pendency of the administration, any person, including a  
2 creditor, having an interest in an estate whose value exceeds \$10,000 may file a  
3 petition requesting that the personal representative submit additional bond. Upon  
4 the filing of the petition, the clerk shall set it for hearing, and the petitioner shall  
5 give notice for the period and in the manner provided in NRS 155.010. Upon  
6 hearing the petition, the court may require the personal representative to file  
7 additional bond in the amount of the claim of the petitioner, unless it determines  
8 that bond should be dispensed with or set in a different amount.

9 5. The amount of the bond is the estimated value of all personal property plus  
10 income for 1 year from both real and personal property, unless the amount of the  
11 bond is expressly mentioned in the will, changed by the court or required pursuant  
12 to subsection 4.

13 6. If a banking corporation, as defined in NRS 657.016, or trust company, as  
14 defined in NRS 669.070, doing business in this State is appointed the personal  
15 representative of the estate of a decedent, no bond is required unless otherwise  
16 specifically required by the court.

17 **Sec. 16.** NRS 143.020 is hereby amended to read as follows:

18 143.020 Except as otherwise provided in NRS 143.030 and 146.010, a  
19 personal representative has a right to the possession of all the real, as well as  
20 personal, property of the decedent and may receive the rents and profits of the  
21 property until the estate is settled, or until delivered over by order of the court to the  
22 heirs or devisees, and shall make a reasonable effort to ~~keep~~ **preserve and**  
23 **maintain all such property, including, without limitation, by keeping** in good  
24 tenable repair all houses, buildings and appurtenances thereon which are under  
25 the control of the personal representative.

26 **Sec. 17.** NRS 143.035 is hereby amended to read as follows:

27 143.035 1. A personal representative shall use reasonable diligence in  
28 performing the duties of the personal representative and in pursuing the  
29 administration of the estate.

30 2. ~~1A~~ **In the absence of pending litigation or a contested proceeding**  
31 **involving the estate, a personal representative in charge of an estate that has not**  
32 **been closed shall:**

33 (a) Within 6 months after the personal representative's appointment, where no  
34 federal estate tax return is required to be filed for the estate; or

35 (b) Within ~~15~~ **18** months after the personal representative's appointment,  
36 where a federal estate tax return is required to be filed for the estate,

37 **file with the court a report explaining why the estate has not been closed.**

38 3. Upon receiving the report, the clerk shall set a time and place for a hearing  
39 of the report. The personal representative shall send a copy of the report and shall  
40 give notice of the hearing, for the period and in the manner provided in NRS  
41 155.010, to:

42 (a) Each person whose interest is affected as an heir or devisee; and

43 (b) The Department of Health and Human Services, if the Department has filed  
44 a claim against the estate.

45 4. At the hearing, the court shall determine whether or not the personal  
46 representative has used reasonable diligence in the administration of the estate, and  
47 if the personal representative has not, the court may:

48 (a) Subject to the provisions of NRS 143.037:

49 (1) Prescribe the time within which the estate must be closed; or

50 (2) Allow the personal representative additional time for closing and order  
51 a subsequent report; or

52 (b) Revoke the letters of the personal representative, appoint a successor and  
53 prescribe a reasonable time within which the successor shall close the estate.

1 **Sec. 18.** NRS 143.037 is hereby amended to read as follows:

2 143.037 1. Except as otherwise provided in this section, a personal  
3 representative shall close an estate within 18 months after appointment.

4 2. If ~~†~~ *an estate is not closed within 18 months after the appointment of a*  
5 *personal representative and:*

6 (a) A claim against the estate is in litigation or in summary determination  
7 pursuant to subsection 5 of NRS 145.060 ~~†~~, *a petition for determination of the*  
8 *validity of the claim has been filed pursuant to* subsection 2 of NRS 147.130 or the  
9 amount of federal estate tax has not been determined, ~~†the court, upon petition of†~~ a  
10 devisee, creditor or heir ~~†, shall†~~ *may file a petition seeking an* order that:

11 ~~†(a)†~~ (I) A certain amount of money, or certain other assets, be retained by the  
12 personal representative to:

13 ~~†(1)†~~ (I) Satisfy the claim or tax; and

14 ~~†(2)†~~ (II) Pay any fees or costs related to the claim or tax, including fees  
15 for appraisals, attorney's fees and court costs; and

16 ~~†(b)†~~ (2) The remainder of the estate be distributed.

17 ~~†3. If a†~~

18 (b) A contest of the will or a proceeding to determine heirship is pending, *a*  
19 *devisee, creditor or heir may file a petition requesting* the court which appointed  
20 the personal representative ~~†~~

21 ~~—(a) Shall† to order that †:~~

22 (1) A certain amount of money, or certain other assets, be retained and the  
23 remainder of the estate distributed; or

24 ~~†(b) May, for good cause shown, order that the†~~

25 (2) The entire distributable estate be retained pending disposition of the  
26 contest or proceeding.

27 3. *A court shall not enter an order distributing the assets of an estate*  
28 *pursuant to this section if such a distribution will result in there being*  
29 *insufficient assets to enable the personal representative to discharge any tax*  
30 *liability, claims of creditors, administrative expenses or any other just obligation*  
31 *of the estate.*

32 **Sec. 19.** NRS 143.050 is hereby amended to read as follows:

33 143.050 1. Except as otherwise provided in NRS 143.520, after notice given  
34 as provided in NRS 155.010 or in such other manner as the court directs, the court  
35 may authorize the personal representative to continue the operation of the  
36 decedent's business to such an extent and subject to such restrictions as may seem  
37 to the court to be for the best interest of the estate and any interested persons.

38 2. *The provisions of subsection 1 do not apply to passive investments or the*  
39 *exercise of any shareholder or membership rights to which the personal*  
40 *representative has succeeded.*

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

44 **Sec. 20.** NRS 143.165 is hereby amended to read as follows:

45 143.165 1. On petition *or ex parte application* of an interested person, the  
46 court by temporary order *, with or without bond,* may restrain a personal  
47 representative from performing specified acts of administration, disbursement or  
48 distribution, or exercising any powers or discharging any duties of the office, or  
49 enter any other order to secure proper performance of the duties of the office. ~~†~~  
50 *Notwithstanding any other provision of law,* if it appears to the court that the  
51 personal representative otherwise may take some action that would jeopardize  
52 unreasonably the interest of the petitioner or of some other interested person ~~†~~ *or*  
53 *the estate, the court may enter the temporary order.* A person with whom the

1 personal representative may transact business may be made a party to the temporary  
2 order.

3 2. The matter must be set for hearing within 10 days after entry of the  
4 temporary order , unless the parties otherwise agree ~~it~~ , *or on a date the court*  
5 *otherwise determines is in the best interest of the estate.* Notice as the court directs  
6 must be given by the petitioner to the personal representative and the attorney of  
7 record of the personal representative, if any, and to any other party named as a  
8 party in the temporary order.

9 **Sec. 21.** NRS 144.010 is hereby amended to read as follows:

10 144.010 1. Except as otherwise provided in this ~~subsection,~~ *section,* every  
11 personal representative shall ~~make~~ *prepare* and file with the clerk ~~it~~ *a true*  
12 *inventory and appraisal or record of value of all the assets of the decedent*  
13 *that have come to the possession or knowledge of the personal representative,*  
14 within ~~60~~ *120* days after ~~appointment,~~ *the issuance of letters of administration,*  
15 unless the court extends the time ~~to a true inventory and appraisal or record of~~  
16 ~~value of all the estate of the decedent that has come to the possession or knowledge~~  
17 ~~of the personal representative,~~ *for good cause shown.* The requirement of  
18 *preparing and* filing an inventory or ~~the requirement of filing~~ an appraisal or  
19 a verified record of value, or both, may be waived by the unanimous written  
20 consent of all interested persons.

21 2. ~~The~~ *Notwithstanding the provisions of this subsection, an interested*  
22 *person may provide a written request to the personal representative at any time 60*  
23 *days or more after the issuance of letters of administration which seeks a list of*  
24 *the assets of the estate known to the personal representative. The personal*  
25 *representative shall provide such information to the requesting interested party*  
26 *within 10 days after receipt of the written request.*

27 3. *Unless an interested heir requested and was provided a list of assets*  
28 *pursuant to subsection 2, the* personal representative, within 10 days after filing  
29 the inventory with the clerk, shall mail a copy to all the interested heirs of an  
30 intestate estate, or to the devisees of a testate estate, or to both interested heirs and  
31 devisees, if a contest of the will of the decedent is pending. Proof of the mailing of  
32 the copies must be made and filed in the proceeding.

33 4. *Notwithstanding the requirements set forth in this section, a personal*  
34 *representative may file a redacted inventory to protect the decedent or his or her*  
35 *estate or an interested person. Such an inventory may redact any account*  
36 *numbers, social security numbers and values. Upon request by the court or an*  
37 *interested person, the personal representative shall make the full inventory*  
38 *without redaction available for inspection.*

39 5. *This section must not be construed to interfere with the authority of a*  
40 *court to order a personal representative to provide the court with information*  
41 *sufficient to identify the assets of an estate and the value thereof that is subject to*  
42 *probate administration, including, without limitation, requiring the personal*  
43 *representative to submit an inventory to the court in camera, as the court deems*  
44 *necessary and appropriate.*

45 **Sec. 22.** NRS 144.020 is hereby amended to read as follows:

46 144.020 1. A personal representative may engage a qualified and  
47 disinterested appraiser to ascertain the fair market value, as of the decedent's death,  
48 of any asset the value of which is subject to reasonable doubt. Different persons  
49 may be engaged to appraise different kinds of assets included in the estate.

50 2. Any such appraiser is entitled to a reasonable compensation for the  
51 appraisal and may be paid the compensation by the personal representative out of  
52 the estate at any time after completion of the appraisal.

1 3. Except as otherwise provided in NRS 144.010, if there is no reasonable  
2 doubt as to the value of assets, such as money, deposits in banks or credit unions,  
3 bonds, policies of life insurance, or securities for money or evidence of  
4 indebtedness, and the asset is equal in value to cash, the personal representative  
5 shall file a verified record of value in lieu of the appraisal.

6 4. If it appears beyond reasonable doubt that there will be no need to sell  
7 assets of the estate to pay the debts of the estate or expenses of administration, or to  
8 divide assets for distribution in kind to the devisees or heirs, the personal  
9 representative may petition the court for an order allowing a verified record of  
10 value to be filed in lieu of the appraisal or, if no interested person is prejudiced  
11 thereby, an order waiving the requirement for filing an appraisal or verified  
12 record of value, and the court may enter such an order with or without notice.

13 *5. If the personal representative reasonably believes that the value of the*  
14 *household furniture and furnishings of the estate is less than \$30,000, the*  
15 *personal representative may file a verified record of value in lieu of the*  
16 *appraisal. Notwithstanding the provisions of this subsection, any interested*  
17 *person may petition the court to require the personal representative to obtain an*  
18 *appraisal on some or all of such household furniture and furnishings. Upon*  
19 *a showing of good cause, the court shall order the appraisal.*

20 **Sec. 23.** NRS 144.080 is hereby amended to read as follows:

21 144.080 If a personal representative neglects or refuses to file the inventory  
22 within the time prescribed by law or extended by the court, the court may, upon  
23 such notice as it deems appropriate ~~[-revoke]~~ :

24 1. *Revoke* the letters of the personal representative ~~[-and]~~ ;

25 2. *Order that the fees and costs incurred by the interested person seeking to*  
26 *enforce the provisions of this subsection be satisfied by the bond of the personal*  
27 *representative or, in the absence of a bond, be paid personally by the personal*  
28 *representative; or*

29 3. *Hold* the personal representative ~~[-is]~~ liable on the bond of the personal  
30 representative for any injuries sustained by the estate through his or her ~~[-neglect]~~  
31 *gross negligence or willful misconduct.*

32 **Sec. 24.** NRS 147.130 is hereby amended to read as follows:

33 147.130 1. If a claim is rejected by the personal representative or the court,  
34 in whole or in part, the claimant must be immediately notified by the personal  
35 representative, and the claimant must bring suit in the proper court against the  
36 personal representative within 60 days after the notice or file a timely petition for  
37 ~~[-summary]~~ *determination of the validity of the claim* pursuant to subsection 2,  
38 whether the claim is due or not, or the claim is forever barred. A claimant must be  
39 informed of the rejection of the claim by written notice forwarded to the claimant's  
40 mailing address by registered or certified mail.

41 2. If a claim ~~[-filed by the Department of Health and Human Services]~~ is  
42 rejected by the personal representative, ~~[-the Director of the Department]~~ *a creditor*  
43 *may, within 20 days after receipt of the written notice of rejection, petition the court*  
44 *for* ~~[-summary]~~ *determination of the validity of the claim* ~~[-]~~ *in lieu of bringing suit*  
45 *against the personal representative pursuant to subsection 1.* A petition for  
46 ~~[-summary]~~ *determination of the validity of the claim* must be filed with the clerk,  
47 who shall set the petition for hearing, and notice must be given for the period and in  
48 the manner required by NRS 155.010. Allowance of the claim by the court is  
49 sufficient evidence of its correctness, and it must be paid as if previously allowed  
50 by the personal representative.

51 3. In any action brought upon a claim rejected in whole or in part by the  
52 personal representative, if the personal representative resides out of the State or has  
53 departed from the State, or cannot, after due diligence, be found within the State, or

1 conceals himself or herself to avoid the service of summons, the summons, together  
2 with a copy of the complaint, must be mailed directly to the last address given by  
3 the personal representative, with a copy to the attorney for the estate, and proof of  
4 the mailing must be filed with the clerk where the administration of the estate is  
5 pending. This service is the equivalent of personal service upon the personal  
6 representative, but he or she has 30 days from the date of service within which to  
7 answer.

8 4. If the personal representative defaults after such service, the default is  
9 sufficient grounds for his or her removal as personal representative by the court  
10 without notice. Upon petition and notice, in the manner provided for an application  
11 for letters of administration, an administrator or an administrator with the will  
12 annexed must be appointed by the court and, upon his or her qualification as such,  
13 letters of administration or letters of administration with the will annexed must be  
14 issued.

15 **Sec. 25.** NRS 147.150 is hereby amended to read as follows:

16 147.150 No holder of a claim against an estate may maintain an action  
17 thereon unless the claim is first filed with the clerk and the claim is rejected in  
18 whole or in part, except in the following case: An action may be brought by the  
19 holder of a *lien or* mortgage to enforce the *lien or* mortgage against the property of  
20 the estate subject thereto if all recourse against any other property of the estate is  
21 expressly waived in the complaint.

22 **Sec. 26.** NRS 148.220 is hereby amended to read as follows:

23 148.220 1. Notice of the time and place of sale of real property must be  
24 published in a newspaper published in the county in which the property, or some  
25 portion of the property, is located, if there is one so published, and if not, then in  
26 such paper as the court directs, for 2 weeks, being three publications, 1 week apart,  
27 before the day of sale or, in the case of a private sale, before the day on or after  
28 which the sale is to be made. For good cause shown, the court may decrease the  
29 number of publications to one and shorten the time for publication to a period not  
30 less than 8 days.

31 2. ~~If the~~ *The court may waive the requirement of publication if:*

32 (a) *The personal representative is the sole devisee or heir of the estate, or if all*  
33 *devisees or heirs of the estate consent in writing ~~[-, the court may waive the~~*  
34 *requirement of publication -];*

35 (b) *The personal representative provides proof that the property has been*  
36 *publicly listed in a public property listing service for a period of not less than 30*  
37 *days; or*

38 (c) *The estate is subject to a lien or mortgage on the property in excess of the*  
39 *value of the real property and the estate has entered into an agreement with the*  
40 *holder of the lien or mortgage to waive the deficiency and accept the net sales*  
41 *proceeds.*

42 3. If it appears from the inventory and appraisalment that the value of the  
43 property to be sold does not exceed \$5,000, the personal representative may waive  
44 the requirement of publication and, in lieu thereof, post a notice of the time and  
45 place of sale in three of the most public places in the county in which the property,  
46 or some portion of the property, is located, for 2 weeks before the day of the sale or,  
47 in the case of a private sale, before the day on or after which the sale is to be made.

48 4. The property proposed to be sold must be described with common certainty  
49 in the notice.

50 **Sec. 27.** NRS 148.260 is hereby amended to read as follows:

51 148.260 1. Except as otherwise provided in subsection 2, ~~that~~ a sale of real  
52 property at a private sale ~~may~~ *must not* be confirmed by the court unless the court  
53 is satisfied that the sum offered represents the fair market value of the property sold

1 ~~+, nor unless~~ and the real property has been appraised within 1 year before the time of  
2 sale. If ~~+++ the property~~ has not been appraised, a new appraisal must be  
3 ~~+++ performed~~, as in the case of an original appraisal of an estate, ~~+, -This~~  
4 ~~may be done~~ at any time before the sale or confirmation ~~+++ thereof~~ of the property.

5 2. *The court may waive the requirement of an appraisal:*

6 (a) *For good cause shown; or*

7 (b) If the personal representative is the sole devisee or heir of the estate, or if  
8 all devisees or heirs consent in writing to sale without an appraisal, ~~+++ the~~  
9 ~~requirement of an appraisal may be dispensed with and~~, *in which case* the  
10 personal representative may rely on the assessed value of the property for taxation  
11 in obtaining confirmation of the sale.

12 **Sec. 28.** NRS 148.270 is hereby amended to read as follows:

13 148.270 1. At the hearing, the court shall consider the necessity for the sale,  
14 or the advantage, benefit and interest of the estate in having the sale made, and  
15 must examine the return and the evidence in relation to the sale.

16 2. If it appears to the court that good reason existed for the sale, that the sale  
17 was legally made and fairly conducted, and complied with the requirements of NRS  
18 148.260, that the sum bid is not disproportionate to the value, and it does not appear  
19 that a sum exceeding the bid by at least 5 percent if the bid is not more than  
20 \$100,000, or by at least \$5,000 if the bid is \$100,000 or more, may be obtained, the  
21 court shall enter an order confirming the sale and directing conveyances to be  
22 executed. Otherwise, it shall vacate the sale. If the court directs that the property be  
23 resold, notice must be given and the sale in all respects conducted as if no previous  
24 sale had taken place.

25 3. If a written offer of 5 percent or \$5,000 more in amount than that named in  
26 the return is made to the court by a responsible person, as provided in subsection 2,  
27 and the bid complies with all provisions of the law, the court may accept the offer  
28 and confirm the sale to that person, order a new sale or conduct a public auction in  
29 open court.

30 4. If a higher bid is received at the time of a hearing to confirm the sale, the  
31 court may continue the hearing if it finds that the original bidder was not notified of  
32 the hearing and might desire to increase his or her bid, but failure to notify the  
33 original bidder or to continue the hearing is not grounds to void an order confirming  
34 a sale.

35 5. *If the court accepts a higher bid at the time of a hearing to confirm the*  
36 *sale, the court shall confirm the original purchase contract and include in the*  
37 *order confirming the sale the substitution of the new sale price and purchaser.*  
38 *The order confirming the sale is a sufficient addendum to the original contract to*  
39 *allow escrow to close.*

40 6. *Notwithstanding the provisions of this section, if the estate is subject to a*  
41 *lien or mortgage that exceeds the value of the property and the estate has entered*  
42 *into an agreement with the holder of the lien or mortgage to waive any deficiency*  
43 *as to other estate property and accept the net sales proceeds as full satisfaction of*  
44 *the lien or mortgage, the court shall confirm the sale without accepting bids on*  
45 *the property.*

46 **Sec. 29.** NRS 153.020 is hereby amended to read as follows:

47 153.020 1. If a ~~+++ trust~~ life estate or estate for years is created by or under  
48 any will to continue after distribution ~~+++ of the estate~~, the court does not lose  
49 jurisdiction of the estate, *life estate or estate for years* by final distribution ~~+++ of the estate~~,  
50 but retains jurisdiction of it until the distribution of the residue *of the life*  
51 *estate or estate for years* to those entitled to it ~~+-The~~ is complete. *Proof of*  
52 *distribution of the residue* may be made upon petition of ~~+++ the trustee, his or her~~  
53 ~~successor in interest or of~~ any person entitled to share in the distribution ~~+++ of the~~



1 *life estate or estate for years, which terminates the jurisdiction of the court upon*  
2 *decree of the court. The court does not retain jurisdiction over a testamentary*  
3 *trust created by or under a will after distribution of that portion of the estate to*  
4 *such a testamentary trust.*

5 *2. Notwithstanding the provisions of subsection 1, before the entry of an*  
6 *order granting final distribution of the estate, the court may consider a petition*  
7 *filed by the trustee or any beneficiary of the testamentary trust requesting the*  
8 *court to retain jurisdiction of the testamentary trust and, upon good cause shown,*  
9 *the court may order such continued jurisdiction. Such a petition must be filed*  
10 *with the clerk of the court before the hearing on the petition for final distribution*  
11 *of the estate and must be served on all interested persons in accordance with NRS*  
12 *155.010.*

13 *3. This section must not be construed to limit the ability of an interested*  
14 *person to subsequently seek submission of a testamentary trust to the jurisdiction*  
15 *of the court pursuant to NRS 164.010.*

16 **Sec. 30.** NRS 153.031 is hereby amended to read as follows:

17 153.031 1. A trustee or beneficiary may petition the court regarding any  
18 aspect of the affairs of the trust, including:

19 (a) Determining the existence of the trust;  
20 (b) Determining the construction of the trust instrument;  
21 (c) Determining the existence of an immunity, power, privilege, right or duty;  
22 (d) Determining the validity of a provision of the trust;  
23 (e) Ascertaining beneficiaries and determining to whom property is to pass or  
24 be delivered upon final or partial termination of the trust, to the extent not provided  
25 in the trust instrument;

26 (f) Settling the accounts and reviewing the acts of the trustee, including the  
27 exercise of discretionary powers;

28 (g) Instructing the trustee;

29 (h) ~~Compelling~~ *Subject to the requirements of chapter 165 of NRS,*  
30 *compelling* the trustee to report information about the trust or account, to the  
31 beneficiary;

32 (i) Granting powers to the trustee;

33 (j) Fixing or allowing payment of the trustee's compensation, or reviewing the  
34 reasonableness of the trustee's compensation;

35 (k) Appointing or removing a trustee;

36 (l) Accepting the resignation of a trustee;

37 (m) Compelling redress of a breach of the trust;

38 (n) Approving or directing the modification or termination of the trust;

39 (o) Approving or directing the combination or division of trusts;

40 (p) Amending or conforming the trust instrument in the manner required to  
41 qualify the estate of a decedent for the charitable estate tax deduction under federal  
42 law, including the addition of mandatory requirements for a charitable-remainder  
43 trust;

44 (q) Compelling compliance with the terms of the trust or other applicable law;  
45 and

46 (r) Permitting the division or allocation of the aggregate value of community  
47 property assets in a manner other than on a pro rata basis.

48 2. A petition under this section must state the grounds of the petition and the  
49 name and address of each interested person, including the Attorney General if the  
50 petition relates to a charitable trust, and the relief sought by the petition. Except as  
51 otherwise provided in this chapter, the clerk shall set the petition for hearing and  
52 the petitioner shall give notice for the period and in the manner provided in NRS  
53 155.010. The court may order such further notice to be given as may be proper.

1 3. If the court grants any relief to the petitioner, the court may, in its  
2 discretion, order any or all of the following additional relief if the court determines  
3 that such additional relief is appropriate to redress or avoid an injustice:

4 (a) Order a reduction in the trustee's compensation.

5 (b) Order the trustee to pay to the petitioner or any other party all reasonable  
6 costs incurred by the party to adjudicate the affairs of the trust pursuant to this  
7 section, including, without limitation, reasonable attorney's fees. The trustee may  
8 not be held personally liable for the payment of such costs unless the court  
9 determines that the trustee was negligent in the performance of or breached his or  
10 her fiduciary duties.

11 **Sec. 31.** NRS 153.041 is hereby amended to read as follows:

12 153.041 The trustee ~~may, upon petition of a beneficiary or the guardian of a~~  
13 ~~beneficiary, be ordered to appear at a hearing and render an account. The trustee~~  
14 ~~must be served with a citation of a testamentary trust shall account in accordance~~  
15 ~~with the provisions of chapter 165 of NRS. This section must not be interpreted to~~  
16 ~~abridge the authority of a court having jurisdiction over a testamentary trust~~  
17 ~~pursuant to NRS 153.020 or 164.010 to order a trustee of a testamentary trust to~~  
18 ~~account, upon good cause, to the persons and in the manner provided in NRS~~  
19 ~~155.050. Unless otherwise ordered by the court, the citation must be served at~~  
20 ~~least 30 days before the day of the hearing. The petition may not be denied unless~~  
21 ~~an account has been filed with the court within 1 year before the petition is filed.~~

22 **Sec. 32.** NRS 153.070 is hereby amended to read as follows:

23 153.070 ~~On the settlement of each account. The expenses and compensation~~  
24 ~~of a trustee of a testamentary trust must initially be governed by the terms of~~  
25 ~~the will which created the testamentary trust or as otherwise ordered by the court~~  
26 ~~at the time the testamentary trust is established. Thereafter, subject to any~~  
27 ~~contrary terms of the testamentary trust or an order of the court, the court shall~~  
28 ~~allow the trustee his or her proper expenses and such compensation for services as~~  
29 ~~the court may deem are just and reasonable. Where there are several trustees, the~~  
30 ~~shall apportion the compensation must be apportioned among the trustees~~  
31 ~~according to the respective services rendered, and such compensation may~~  
32 ~~be a fixed yearly compensation for each trustee, a set amount for the term~~  
33 ~~of service, an hourly rate for services rendered or pursuant to a standard schedule~~  
34 ~~of fees. The provisions of this section must not be~~  
35 ~~interpreted to abridge the authority of a court to review and settle the expenses and~~  
36 ~~compensation of the trustee of a testamentary trust pursuant to NRS 153.020 or 164.010~~  
37 ~~to review and settle the expenses and compensation of the trustee of a testamentary~~  
38 ~~trust upon the petition of any interested person.~~

39 **Sec. 33.** NRS 153.090 is hereby amended to read as follows:

40 153.090 1. A person named or designated as a trustee of a testamentary  
41 trust in a will may, at any time before distribution of any of the estate to the person,  
42 decline to act as trustee, and an order of court must be entered accepting the  
43 resignation, but the declination of any person who has qualified as trustee may not  
44 be accepted by the court unless the testamentary trust is subject to ongoing court  
45 jurisdiction pursuant to NRS 153.020 and a petition to accept the declination is  
46 filed in the proceeding for administration of the ~~estate.~~ testamentary trust. Upon  
47 the filing of the petition, the clerk shall set it for hearing and the petitioner shall  
48 give notice to all interested persons for the period and in the manner provided in  
49 NRS 155.010.

50 2. A person named or designated as a trustee of a testamentary trust in a  
51 will that is no longer subject to ongoing court jurisdiction may resign as trustee  
52 in accordance with the terms of the testamentary trust or will which created the  
53 testamentary trust or, if the testamentary trust or will is silent on the matter, may

1 *seek court approval of such resignation in conjunction with a petition under NRS*  
2 *164.010 or 164.030.*

3 3. In accepting a declination ~~†~~ *or resignation*, the court may enter and  
4 enforce any order which may be necessary for the preservation of the estate.

5 **Sec. 34.** Chapter 155 of NRS is hereby amended by adding thereto a new  
6 section to read as follows:

7 *Notwithstanding any provision in this title, if an act is authorized or required*  
8 *to be performed at or within a specified period pursuant to this chapter:*

9 1. *The period may be extended upon the agreement of all interested*  
10 *persons, by written stipulation of counsel filed in the action; or*

11 2. *The court, for good cause shown, may at any time:*

12 (a) *Regardless of whether there has been a motion, petition or notice, order*  
13 *that the period be extended if a request for the extension is made before the*  
14 *expiration of the specified period as originally prescribed or as extended by a*  
15 *previous order; or*

16 (b) *Upon a motion made after the expiration of the specified period,*  
17 *authorize a person to perform the act if the failure to perform the act in a timely*  
18 *manner was the result of excusable neglect.*

19 **Sec. 35.** NRS 155.050 is hereby amended to read as follows:

20 155.050 1. The citation described in NRS 155.040 ~~is to~~ *must* be served ~~†~~  
21 ~~the same manner as the personal~~ *by:*

22 (a) *Certified mail, with a return receipt requested, on each person required to*  
23 *be served; or*

24 (b) *Personal service ~~of summons~~ in the manner provided pursuant to Rule*  
25 *4(d) of the Nevada Rules of Civil Procedure.*

26 2. If ~~personal~~, *after due diligence*, service cannot be made upon the person  
27 to be served, *service of the citation may be ~~served~~ made by publication in the*  
28 *manner provided by Rule 4(e) of the Nevada Rules of Civil Procedure*, by leaving  
29 a copy with the person's attorney of record or in such other manner as the court  
30 may direct.

31 **Sec. 36.** NRS 162.280 is hereby amended to read as follows:

32 162.280 At the time for distribution of any property of an estate or trust, the  
33 fiduciary may withhold any part or all of the property from the beneficiaries if the  
34 fiduciary determines that the property may be subject to *claims of offset held by the*  
35 *fiduciary in his or her fiduciary capacity*, conflicting claims, tax deficiencies or  
36 other liabilities, contingent or otherwise, relating to the estate or trust.

37 **Sec. 37.** NRS 162.300 is hereby amended to read as follows:

38 162.300 1. A fiduciary may *establish a trust or* form a corporation, limited-  
39 liability company or other entity, and transfer, assign and convey to the *trust,*  
40 corporation, limited-liability company or entity all or any part of an estate or of any  
41 trust property in exchange for the stock, securities or obligations of the *trust,*  
42 corporation, limited-liability company or entity, and continue to hold the stock and  
43 securities and obligations.

44 2. A *trust established or a* corporation, limited-liability company or other  
45 entity incorporated, organized or registered under the laws of this State that acts as  
46 a fiduciary or trustee of an estate or trust administered under the laws of this State  
47 may be owned or controlled by the trust if the trust instrument authorizes the trust  
48 to own an affiliate.

49 3. As used in this section, "affiliate" has the meaning ascribed to it in NRS  
50 163.020.

1       **Sec. 38.** Chapter 163 of NRS is hereby amended by adding thereto the  
2 provisions set forth as sections 39 and 40 of this act.

3       **Sec. 39.** *Except as otherwise provided in NRS 163.0075 or another*  
4 *provision of law:*

5       1. *A trust may be created for a noncharitable purpose without a definite*  
6 *ascertainable beneficiary or for a noncharitable but otherwise valid purpose. The*  
7 *noncharitable purpose for which a trust is created must be stated with sufficient*  
8 *particularity in the trust instrument as to be ascertainable by a finder of fact.*

9       2. *A trust authorized by this section may be enforced by a trustee, trust*  
10 *adviser, trust protector or person appointed under the terms of the trust or, if no*  
11 *such person is appointed, by the court.*

12       3. *Except to the extent the court determines that the value of the trust*  
13 *property exceeds the amount required for the intended use, property of a trust*  
14 *authorized by this section may be applied only to its intended use, including,*  
15 *without limitation, appointing trust property to or for the benefit of an existing or*  
16 *new trust whose purposes are limited to one or more purposes of the original*  
17 *trust. Except as otherwise provided by the terms of the trust, property not required*  
18 *for the intended use must be distributed to the settlor, if living, or otherwise to the*  
19 *settlor's successors in interest.*

20       4. *As used in this section:*

21       (a) *"Trust adviser" has the meaning ascribed to it in NRS 163.5545.*

22       (b) *"Trust protector" has the meaning ascribed to it in NRS 163.5547.*

23       (c) *"Valid purpose" means any purpose that is not illegal or against public*  
24 *policy.*

25       **Sec. 40.** *Unless otherwise ordered or provided for in a property or*  
26 *separation agreement approved by the court in a proceeding for a divorce or*  
27 *annulment, the divorce, annulment of the marriage or termination of the*  
28 *domestic partnership of the descendant of a settlor revokes:*

29       1. *Every devise, beneficial interest or designation to serve as trustee that*  
30 *was given by the settlor to the former spouse or domestic partner of the*  
31 *descendant in a revocable inter vivos trust executed before the entry of the decree*  
32 *of divorce or annulment or the termination of the domestic partnership, unless*  
33 *otherwise provided in the trust instrument, and the provisions of the trust take*  
34 *effect in the same manner as if the spouse or domestic partner of the descendant*  
35 *predeceased the settlor; and*

36       2. *The appointment of the spouse or domestic partner of the descendant as*  
37 *a trust protector, trust adviser or consultant.*

38       **Sec. 41.** NRS 163.00195 is hereby amended to read as follows:

39       163.00195 1. Except as otherwise provided in subsections 3 and 4, a no-  
40 contest clause in a trust must be enforced by the court ~~+~~ *because public policy*  
41 *favours enforcing the intent of the settlor. However, because public policy does not*  
42 *favor forfeitures, a no-contest clause must be strictly construed by the court and*  
43 *must not be extended beyond the plain meaning of the express provisions of the*  
44 *trust.*

45       2. A no-contest clause must be construed to carry out the settlor's intent ~~+~~  
46 ~~Except~~ *to the extent ~~{the no-contest clause in the trust is vague or ambiguous,}~~*  
47 *such intent is clear and unambiguous. No* extrinsic evidence is ~~{not}~~ admissible to  
48 establish the settlor's intent concerning the no-contest clause. The provisions of this  
49 subsection do not prohibit ~~{such}~~ *extrinsic* evidence from being admitted for any  
50 other purpose authorized by law. Except as otherwise provided in subsections 3 and  
51 4, a beneficiary's share may be reduced or eliminated under a no-contest clause  
52 based upon conduct that is set forth by the settlor in the trust. Such conduct may  
53 include, without limitation:

- 1 (a) Conduct other than formal court action; and  
2 (b) Conduct which is unrelated to the trust itself, including, without limitation:  
3 (1) The commencement of civil litigation against the settlor's probate  
4 estate or family members;  
5 (2) Interference with the administration of another trust or a business  
6 entity;  
7 (3) Efforts to frustrate the intent of the settlor's power of attorney; and  
8 (4) Efforts to frustrate the designation of beneficiaries related to a  
9 nonprobate transfer by the settlor.

10 3. Notwithstanding any provision to the contrary in the trust, a beneficiary's  
11 share must not be reduced or eliminated ~~+++~~ *because of any action taken by the*  
12 beneficiary ~~seeks~~ *seeking* only to:

13 (a) Enforce the terms of the trust, any document referenced in or affected by  
14 the trust, or any other trust-related instrument;

15 (b) Enforce the beneficiary's legal rights related to the trust, any document  
16 referenced in or affected by the trust, or any trust-related instrument; ~~+++~~

17 (c) Obtain ~~+++~~ court ~~+++~~ *instruction* with respect to the *proper*  
18 *administration of the trust or the* construction or legal effect of the trust, *the*  
19 *provisions thereof* or any document referenced in or affected by the trust, or any  
20 other trust-related instrument ~~+++~~; *or*

21 *(d) Enforce the fiduciary duties of the trustee.*

22 4. Notwithstanding any provision to the contrary in the trust, a beneficiary's  
23 share must not be reduced or eliminated under a no-contest clause in a trust because  
24 the beneficiary institutes legal action seeking to invalidate a trust, any document  
25 referenced in or affected by the trust, or any other trust-related instrument if the  
26 legal action is instituted *and maintained* in good faith and based on probable cause  
27 that would have led a reasonable person, properly informed and advised, to  
28 conclude that the trust, any document referenced in or affected by the trust, or other  
29 trust-related instrument is invalid.

30 5. *Unless the trust expressly provides otherwise, a no-contest clause must*  
31 *not be applied to a settlor who is also a beneficiary of the trust.*

32 6. As used in this section:

33 (a) "No-contest clause" means one or more provisions in a trust that express a  
34 directive to reduce or eliminate the share allocated to a beneficiary or to reduce or  
35 eliminate the distributions to be made to a beneficiary if the beneficiary takes action  
36 to frustrate or defeat the settlor's intent as expressed in the trust or in a trust-related  
37 instrument.

38 (b) "Trust" means the original trust instrument and each amendment made  
39 pursuant to the terms of the original trust instrument.

40 (c) "Trust-related instrument" means any document purporting to transfer  
41 property to or from the trust or any document made pursuant to the terms of the  
42 trust purporting to direct the distribution of trust assets or to affect the management  
43 of trust assets, including, without limitation, documents that attempt to exercise a  
44 power of appointment.

45 **Sec. 42.** NRS 163.002 is hereby amended to read as follows:

46 163.002 1. Except as otherwise provided by specific statute, a trust may be  
47 created by any of the following methods:

48 ~~+++~~ (a) A declaration by the owner of property that he or she *or another*  
49 *person* holds the property as trustee. In the absence of a contrary declaration by the  
50 owner of the property or of a transfer of the property to a third party and regardless  
51 of formal title to the property:

52 ~~+++~~ (1) Property declared to be trust property, together with all income  
53 therefrom and the reinvestment thereof, must remain trust property; and

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

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

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

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

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

**2. A declaration pursuant to paragraph (a) of subsection 1 may include a schedule or list of trust assets that is signed by the owner of the property or that is incorporated by reference into a document that is signed by the owner of the property.**

**Sec. 43.** NRS 163.006 is hereby amended to read as follows:

163.006 A trust is created only if there is a beneficiary. This requirement is satisfied if the trust instrument provides for:

1. A beneficiary or class of beneficiaries that is ascertainable with reasonable certainty or that is sufficiently described so that it can be determined whether a person meets the description or is within the class;

2. A grant of power to the trustee or some other person to select the beneficiary based on a standard or in the discretion of the trustee or other person;

3. A charitable trust as defined in NRS 163.460;

4. A trust for the care of one or more animals created pursuant to NRS 163.0075; ~~(e)~~

5. A public benefit trust as defined in NRS 163.551 ~~(h)~~ **;** or

**6. A noncharitable trust without an ascertainable beneficiary pursuant to section 39 of this act.**

**Sec. 44.** NRS 163.008 is hereby amended to read as follows:

163.008 1. A trust created in relation to real property is not valid unless it is created by operation of law or is evidenced by:

(a) A written instrument signed by the trustee, or by the agent of the trustee if the agent is authorized in writing to do so; or

(b) A written instrument, including, without limitation, an electronic trust, conveying the trust property and signed by the settlor, or by the agent of the settlor if the agent is authorized in writing to do so.

2. Such a trust may be recorded in the office of the county recorder in the county where all or a portion of the real property is located.

**3. This section must not be construed to require a declaration by an owner of property pursuant to NRS 163.002 that specifically identified real property is held in trust to be in writing. As used in this subsection, "specifically identified real property" includes property that is identified by legal description, street address or the applicable assessor's parcel number.**

**Sec. 45.** NRS 163.027 is hereby amended to read as follows:

163.027 1. Except as otherwise provided in subsection 2 or in the trust, a trustee may distribute property and money:

(a) In divided or undivided interests; and

(b) With or without proration.

2. Each affected beneficiary must consent before property or money is distributed without proration ~~(h)~~ unless the trust specifically authorizes the trustee to make that distribution ~~(h)~~ **or the distribution is otherwise authorized by law.**

1       **Sec. 46.** NRS 163.115 is hereby amended to read as follows:

2       163.115 1. If a trustee commits or threatens to commit a breach of trust, a  
3 beneficiary or cotrustee of the trust may maintain a proceeding for any of the  
4 following purposes that is appropriate:

5       (a) To compel the trustee to perform his or her duties.

6       (b) To enjoin the trustee from committing the breach of trust.

7       (c) To compel the trustee to redress the breach of trust by payment of money or  
8 otherwise.

9       (d) To appoint a receiver or temporary trustee to take possession of the trust  
10 property and administer the trust.

11       (e) To remove the trustee.

12       (f) To set aside acts of the trustee.

13       (g) To reduce or deny compensation of the trustee.

14       (h) To impose an equitable lien or a constructive trust on trust property.

15       (i) To trace trust property that has been wrongfully disposed of and recover the  
16 property or its proceeds.

17       2. *On petition or ex parte application of a beneficiary or trustee, the court*  
18 *by temporary order, with or without bond, may restrain a trustee from performing*  
19 *specified acts of administration, disbursement or distribution, or exercising any*  
20 *powers or discharging any duties of the office, or enter any other order to secure*  
21 *proper performance of the duties of the office. Notwithstanding any other*  
22 *provision of law governing temporary injunctions, if it appears to the court that*  
23 *the trustee otherwise may take some action that would jeopardize unreasonably*  
24 *the interest of the petitioner, another beneficiary or the trust, the court may enter*  
25 *the temporary order. A person with whom the trustee may transact business may*  
26 *be made a party to the temporary order.*

27       3. *Any temporary order entered pursuant to subsection 2 must be set for*  
28 *hearing within 10 days after entry of the temporary order, unless the parties*  
29 *otherwise agree, or on a date the court otherwise determines is in the best*  
30 *interests of the trust. Notice of entry of the temporary order must be given by*  
31 *the petitioner to the trustee and the attorney of record of the trustee, if any, to any*  
32 *other party named as a party in the temporary order and as otherwise directed by*  
33 *the court.*

34       4. The provision of remedies in ~~subsection 4~~ *this section* does not preclude  
35 resort to any other appropriate remedy provided by statute or common law.

36       ~~4~~ 5. A proceeding under this section must be commenced by filing *or*  
37 *bringing in conjunction with the filing of* a petition under NRS 164.010 and  
38 164.015.

39       **Sec. 47.** NRS 163.130 is hereby amended to read as follows:

40       163.130 1. A trustee who has incurred personal liability for a tort committed  
41 in the administration of the trust is entitled to exoneration therefor from the trust  
42 property if the trustee has not discharged the claim, or to be reimbursed therefor out  
43 of trust funds if the trustee has paid the claim, if:

44       (a) The tort was a common incident of the kind of business activity in which  
45 the trustee was properly engaged for the trust; ~~or~~

46       (b) Although the tort was not a common incident of such activity, neither the  
47 trustee nor any officer or employee of the trustee was guilty of personal fault in  
48 incurring the liability ~~or~~; *or*

49       (c) *The trust instrument authorizes the exoneration or reimbursement of a*  
50 *trustee and the actions of the trustee did not constitute willful misconduct or*  
51 *gross negligence.*

52       2. If a trustee commits a tort which increases the value of the trust property,  
53 the trustee shall be entitled to exoneration or reimbursement with respect thereto

1 the extent of such increase in value, even though the trustee would not otherwise be  
2 entitled to exoneration or reimbursement.

3 3. Nothing in this section shall be construed to change the existing law with  
4 regard to the liability of trustees of charitable trusts for torts of themselves or their  
5 employees.

6 **Sec. 48.** NRS 163.4185 is hereby amended to read as follows:

7 163.4185 1. A distribution interest may be classified as:

8 (a) A mandatory interest if the trustee has no discretion to determine whether a  
9 distribution should be made, when a distribution should be made or the amount of  
10 the distribution.

11 (b) A support interest if the ~~{distribution of a support interest contains a~~  
12 ~~standard for distribution for the support of a person which may be interpreted by the~~  
13 ~~trustee or a court, as necessary. A provision in a trust which provides a support~~  
14 ~~interest may contain mandatory language which a} trustee ~~{must follow.} is~~  
15 ~~required to make distributions to the beneficiary pursuant to an ascertainable~~  
16 ~~standard.~~~~

17 (c) A discretionary interest if the trustee has discretion to determine whether a  
18 distribution should be made, when a distribution should be made and the amount of  
19 the distribution.

20 2. If a trust contains a combination of a mandatory interest, a support interest  
21 or a discretionary interest, the trust must be separated as:

22 (a) a mandatory interest only to the extent of the mandatory language provided  
23 in the trust;

24 (b) a support interest only to the extent of the support language provided in the  
25 trust; and

26 (c) A discretionary interest for any remaining trust property.

27 3. If a trust provides for a support interest that also includes mandatory  
28 language but the mandatory language is qualified by discretionary language, the  
29 support interest must be classified and separated as a discretionary interest.

30 4. *As used in this section, "ascertainable standard" means a standard*  
31 *relating to a person's health, education, support or maintenance within the*  
32 *meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code, 26*  
33 *U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States*  
34 *Treasury promulgated thereunder.*

35 **Sec. 49.** NRS 163.556 is hereby amended to read as follows:

36 163.556 1. Except as otherwise provided in this section, unless the terms of  
37 a testamentary instrument or irrevocable trust provide otherwise, a trustee with  
38 discretion or authority to distribute trust income or principal to or for a beneficiary  
39 of the trust may exercise such discretion or authority by appointing the property  
40 subject to such discretion or authority in favor of a second trust as provided in this  
41 section.

42 2. The second trust to which a trustee appoints property of the first trust may  
43 only have as beneficiaries one or more of the beneficiaries of the original trust:

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

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

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

50 ↪ For purposes of this subsection, a permissible appointee of a power of  
51 appointment exercised by a beneficiary of the second trust is not considered a  
52 beneficiary of the second trust.

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



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

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

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

7 (3) A grantor-retained annuity trust or unitrust under ~~127~~ 26 C.F.R. §  
8 25.2702-3(b) and (c).

9 As used in this paragraph, “unitrust” has the meaning ascribed to it in NRS  
10 164.700.

11 (b) The property to be appointed is subject to a power of withdrawal which is  
12 held by a beneficiary of the original trust and may be executed at the time of the  
13 proposed appointment, unless after the exercise of such appointment, the  
14 beneficiary of the original trust’s power of withdrawal is unchanged with respect to  
15 the trust property.

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

19 (d) Property held for the benefit of one or more beneficiaries under both the  
20 original and the second trust has a lower value than the value of the property held  
21 for the benefit of the same beneficiaries under only the original trust, unless:

22 (1) The benefit provided is limited to a specific amount or periodic  
23 payments of a specific amount; and

24 (2) The value of the property held in either or both trusts for the benefit of  
25 one or more beneficiaries is actuarially adequate to provide the benefit.

26 (e) A contribution made to the original trust qualified for a gift tax exclusion as  
27 described in section 2503(b) of the Internal Revenue Code, 26 U.S.C. § 2503(b), by  
28 reason of the application of section 2503(c) of the Internal Revenue Code, 26  
29 U.S.C. § 2503(c), unless the second trust provides that the beneficiary’s remainder  
30 interest must vest not later than the date upon which such interest would have  
31 vested under the terms of the original trust.

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

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

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

38 (2) The trustee’s discretion to make distributions to himself or herself is  
39 limited by an ascertainable standard, and under the terms of the second trust, the  
40 trustee’s discretion to make distributions to himself or herself is not limited by the  
41 same ascertainable standard; or

42 (3) The trustee’s discretion to make distributions to himself or herself can  
43 only be exercised with the consent of a cotrustee or a person holding an adverse  
44 interest and under the terms of the second trust the trustee’s discretion to make  
45 distributions to himself or herself is not limited by an ascertainable standard and  
46 may be exercised without consent; or

47 (b) Under the terms of the original trust or pursuant to law governing the  
48 administration of the original trust, the trustee of the original trust does not have  
49 discretion to make distributions that will discharge the trustee’s legal support  
50 obligations but under the second trust the trustee’s discretion is not limited.

51 5. Notwithstanding the provisions of subsection 1, a trustee who may be  
52 removed by the beneficiary or beneficiaries of the original trust and replaced with a  
53 trustee that is related to or subordinate, as described in section 672 of the Internal

1 Revenue Code, 26 U.S.C. § 672(c), to a beneficiary, may not exercise the authority  
2 to appoint property of the original trust to a second trust to the extent that the  
3 exercise of the authority by such trustee would have the effect of increasing the  
4 distributions that can be made from the second trust to such beneficiary or group of  
5 beneficiaries that held the power to remove the trustee of the original trust and  
6 replace such trustee with a related or subordinate person, unless the distributions  
7 that may be made from the second trust to such beneficiary or group of  
8 beneficiaries described in paragraph (a) of subsection 4 are limited by an  
9 ascertainable standard.

10 6. The provisions of subsections 4 and 5 do not prohibit a trustee who is not a  
11 beneficiary of the original trust or who may not be removed by the beneficiary or  
12 beneficiaries and replaced with a trustee that is related to or subordinate to a  
13 beneficiary from exercising the authority to appoint property of the original trust to  
14 a second trust pursuant to the provisions of subsection 1.

15 7. Before appointing property pursuant to subsection 1, a trustee may give  
16 notice of a proposed action pursuant to NRS 164.725 or may petition a court for  
17 approval pursuant to NRS 153.031, 164.015 or 164.725. Any notice of a proposed  
18 action or a petition for a court's approval must include the trustee's opinion of how  
19 the appointment of property will affect the trustee's compensation and the  
20 administration of other trust expenses.

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

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

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

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

31 10. The exercise of the power to invade principal of the original trust pursuant  
32 to subsection 1 is considered the exercise of a power of appointment, other than  
33 power to appoint the property to the trustee, the trustee's creditors, the trustee's  
34 estate or the creditors of the trustee's estate and the provisions of NRS 111.1031  
35 apply to such power of appointment.

36 11. The provisions of this section do not abridge the right of any trustee who  
37 has the power to appoint property which arises under any other law.

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

40 13. The power to appoint property to another trust pursuant to subsection 1 is  
41 not a power to amend the trust and a trustee is not prohibited from appointing  
42 property to another trust pursuant to subsection 1 if the original trust is irrevocable  
43 or provides that it may not be amended.

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

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

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

1 17. ~~For the purposes of this section, "second trust" means an irrevocable trust~~  
2 ~~that receives trust income or principal appointed by the trustee of the original trust,~~  
3 ~~and may be established by any person, including, without limitation, a new trust~~  
4 ~~created by the trustee, acting in that capacity, of the original trust. If the trustee of~~  
5 ~~the original trust establishes the second trust, then for purposes of creating the new~~  
6 ~~second trust, the requirement of NRS 163.008 that the instrument be signed by the~~  
7 ~~settlor shall be deemed to be satisfied by the signature of the trustee of the second~~  
8 ~~original trust. The second trust may be a trust created under the same trust~~  
9 ~~instrument as the original trust or under a different trust instrument.~~

10 ~~18. As used in this section, "ascertainable standard" means a standard relating~~  
11 ~~to an individual's health, education, support or maintenance within the meaning of~~  
12 ~~section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. §~~  
13 ~~2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury~~  
14 ~~promulgated thereunder.~~

15 ~~19. This section applies to a trust that is governed by, situated in or~~  
16 ~~administered under the laws of this State, whether the trust is initially governed by,~~  
17 ~~situated in or administered under the laws of this State pursuant to the terms of the~~  
18 ~~trust instrument or whether the governing law, situs or administration of the trust is~~  
19 ~~moved to this State from another state or foreign jurisdiction.~~

20 *18. The power to appoint to a second trust pursuant to this section may be*  
21 *exercised to appoint to a second trust that is a special needs trust, pooled trust or*  
22 *third-party trust.*

23 *19. As used in this section:*

24 *(a) "Ascertainable standard" means a standard relating to a person's health,*  
25 *education, support or maintenance within the meaning of section 2041(b)(1)(A)*  
26 *or 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. § 2041(b)(1)(A) or*  
27 *2514(c)(1), and any regulations of the United States Treasury promulgated*  
28 *thereunder.*

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

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

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

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

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

50 *(2) Exempt from the provisions of any law or regulation of this State*  
51 *relating to the treatment of trusts for purposes of eligibility for Medicaid.*

1       **Sec. 50.** NRS 163.610 is hereby amended to read as follows:

2       163.610 ~~{A fiduciary} Unless otherwise provided by the trust instrument, a~~  
 3 ~~trustee may {take such actions as are necessary to cause} include capital gains from~~  
 4 ~~the sale or exchange of {trust assets, as determined for federal income tax purposes,~~  
 5 ~~to be taxed for federal income tax purposes as part of a distribution of income,~~  
 6 ~~including, without limitation, income which has been increased by an adjustment~~  
 7 ~~from principal to income under NRS 164.795, a unitrust distribution or a~~  
 8 ~~distribution of principal} capital assets in distributable net income to the extent the~~  
 9 ~~gains are, in a reasonable and impartial exercise of discretion by the trustee,~~  
 10 ~~allocated to:~~

11       1. *Income pursuant to the power of the trustee to adjust between principal*  
 12 *and income pursuant to NRS 164.795;*

13       2. *Principal and treated consistently by the trustee in the books, records and*  
 14 *tax returns of the trust as part of the distribution to a beneficiary; or*

15       3. *Principal but distributed to a beneficiary or utilized by the trustee in*  
 16 *determining the amount that is distributed or required to be distributed to a*  
 17 *beneficiary.*

18       **Sec. 51.** NRS 164.010 is hereby amended to read as follows:

19       164.010 1. Upon petition of any person appointed as trustee of an express  
 20 trust by any written instrument other than a will, or upon petition of a settlor or  
 21 beneficiary of the trust, the district court of the county in which ~~{the} any~~ trustee  
 22 resides or conducts business ~~{}~~ *at the time of the filing of the petition* or in which  
 23 the trust has been domiciled ~~{}~~ *as of the time of the filing of the petition* shall  
 24 ~~{consider the application to}~~ assume jurisdiction of the trust as a proceeding in rem  
 25 ~~{}~~ *unless another court has properly assumed continuing jurisdiction in rem in*  
 26 *accordance with the laws of that jurisdiction and the district court determines*  
 27 *that it is not appropriate for the district court to assume jurisdiction under the*  
 28 *circumstances.*

29       2. ~~{}~~ *For the purposes of this section, a trust is domiciled in this State*  
 30 *notwithstanding that the trustee neither resides nor conducts business in this*  
 31 *State if:*

32       (a) *The trust instrument expressly provides that the situs of the trust is in this*  
 33 *State or that a court in this State has jurisdiction over the trust;*

34       (b) *A person has designated for the trust that this State is the situs or has*  
 35 *jurisdiction, if such person made the designation at a time during which he or*  
 36 *she held the power to make such a designation under the express terms of the*  
 37 *trust instrument;*

38       (c) *The trust owns an interest in real property located in this State;*

39       (d) *The trust owns personal property, wherever situated, if the trustee is:*

40       (1) *Incorporated or authorized to do business in this State;*

41       (2) *A trust company licensed under chapter 669 of NRS;*

42       (3) *A family trust company, as defined in NRS 669A.080; or*

43       (4) *A national association having an office in this State;*

44       (e) *One or more beneficiaries of the trust reside in this State; or*

45       (f) *At least part of the administration of the trust occurs in this State.*

46       3. *Notwithstanding the provisions of this section, if a court of a jurisdiction*  
 47 *other than this State has jurisdiction over a trust and grants an order authorizing*  
 48 *a transfer of jurisdiction over that trust to this State, the district court has the*  
 49 *power to assume jurisdiction over the trust and to otherwise supervise the*  
 50 *administration of that trust in accordance with the procedures set forth in this*  
 51 *title.*

52       4. *For the purposes of determining venue, preference is given in the*  
 53 *following order:*

1           (a) *To the county in which the situs or domicile was most recently declared*  
2 *by a person granted the power to make such a declaration under the terms of the*  
3 *trust instrument at the time of the filing of the petition;*

4           (b) *To the county in which the situs or domicile is declared in the trust*  
5 *instrument; and*

6           (c) *To the county in which the situs or domicile is declared by the trustee at*  
7 *the time of the filing of the petition in a certification of the trust which complies*  
8 *with subsection 2 of NRS 164.400 and subsection 2 of NRS 164.410 and which*  
9 *contains a declaration of the trust's situs or domicile as authorized in subsection*  
10 *1 of NRS 164.410.*

11           5. When the court ~~grants the petition,~~ *assumes jurisdiction pursuant to this*  
12 *section, the court:*

13           (a) Has jurisdiction of the trust as a proceeding in rem ~~to~~ *as of the date of the*  
14 *filing of the petition;*

15           (b) Shall be deemed to have personal jurisdiction over *any trustee confirmed*  
16 *by the court and* any person ~~pursuant to NRS 164.045,~~ *appearing in the matter,*  
17 *unless such an appearance is made solely for the purpose of objecting to the*  
18 *jurisdiction of the court;*

19           (c) May confirm at the same time the appointment of the trustee and specify  
20 the manner in which the trustee must qualify; and

21           (d) May consider at the same time granting orders on other matters relating to  
22 the trust, including, without limitation, matters that might be addressed in a  
23 declaratory judgment relating to the trust under subsection 2 of NRS 30.040 or  
24 petitions filed pursuant to NRS 153.031 or 164.015 whether such matters are raised  
25 in the petition to assume jurisdiction pursuant to this section or in one or more  
26 separate petitions that are filed concurrently with the petition to assume jurisdiction.

27           ~~3-~~ 6. At any time, the trustee may petition the court for removal of the trust  
28 from continuing jurisdiction of the court.

29           ~~4-~~ For the purposes of this section, a trust is domiciled:

30           ~~(a) In this State if there is a clear and sufficient nexus between the trust and this~~  
31 ~~State pursuant to subsection 4 of NRS 164.045.~~

32           ~~(b) In a county of this State that provides the nexus required pursuant to~~  
33 ~~paragraph (a) giving preference:~~

34           ~~(1) First, to the situs or domicile most recently declared by a person~~  
35 ~~granted the power to make such a declaration under the terms of the trust~~  
36 ~~instrument;~~

37           ~~(2) Second, to the situs or domicile declared in the trust instrument; and~~

38           ~~(3) Finally, to the situs or domicile declared by the trustee in a certification~~  
39 ~~of the trust which complies with subsection 2 of NRS 164.400 and subsection 2 of~~  
40 ~~NRS 164.410 and which contains a declaration of the trust's situs or domicile as~~  
41 ~~authorized in subsection 1 of NRS 164.410.~~

42           ~~5-~~ 7. As used in this section, "written instrument" includes, without  
43 limitation, an electronic trust as defined in NRS 163.0015.

44           Sec. 52. NRS 164.045 is hereby amended to read as follows:

45           164.045 1. The laws of this State govern the validity and construction of a  
46 trust if:

47           (a) The trust instrument so provides;

48           (b) Designated by a person who, under the terms of the trust instrument, has  
49 the right to designate the laws that govern the validity and construction of the trust,  
50 at the time the designation is made; or

51           (c) The trust instrument does not provide for the law that governs the validity  
52 and construction of the trust, a person designated under the terms of the trust  
53 instrument to designate the law that governs the validity and construction of the

1 trust, if any, has not made such a designation and the settlor or the trustee of the  
 2 trust was a resident of this State at the time the trust was created or at the time the  
 3 trust became irrevocable.

4 *↳ A trust instrument or designation cannot extend the duration of the trust*  
 5 *beyond the rule against perpetuities otherwise applicable to the trust at the time*  
 6 *of its creation.*

7 2. A person not domiciled in this State may have the right to designate the  
 8 laws that govern the validity and construction of a trust if properly designated under  
 9 the trust instrument.

10 3. ~~If the district court, as defined in NRS 132.116, determines that there is a~~  
 11 ~~clear and sufficient nexus between a trust and this State, the court may assume~~  
 12 ~~jurisdiction during a proceeding conducted pursuant to NRS 164.010 unless:~~

13 ~~—(a) Another court has properly assumed jurisdiction in accordance with the~~  
 14 ~~laws of that jurisdiction;~~

15 ~~—(b) The trust instrument expressly provides that the situs of the trust is outside~~  
 16 ~~of this State or that a court of a jurisdiction other than this State has jurisdiction~~  
 17 ~~over the trust; or~~

18 ~~—(c) A person has designated for the trust a situs or jurisdiction other than this~~  
 19 ~~State, if such person made the designation at a time during which he or she held the~~  
 20 ~~power to make such a designation under the express terms of the trust instrument.~~

21 ~~4. For the purposes of this section, there is a clear and sufficient nexus~~  
 22 ~~between a trust and this State if:~~

23 ~~—(a) The trust owns an interest in real property located in this State;~~

24 ~~—(b) The trust owns personal property, wherever situated, if the trustee or~~  
 25 ~~cotrustee is:~~

26 ~~—(1) A resident of this State;~~

27 ~~—(2) Incorporated or authorized to do business in this State;~~

28 ~~—(3) A trust company licensed under chapter 669 of NRS;~~

29 ~~—(4) A family trust company, as defined in NRS 669A.080; or~~

30 ~~—(5) A national association having an office in this State;~~

31 ~~—(c) One or more beneficiaries of the trust reside in this State; or~~

32 ~~—(d) At least part of the administration of the trust occurs in this State.~~

33 ~~5. For paragraphs (c) and (d) of subsection 4 to apply with respect to a~~  
 34 ~~cotrustee, such cotrustee must have the authority to maintain records for the trust and~~  
 35 ~~to prepare income tax returns for the trust, even if such authority may also be~~  
 36 ~~exercised by another cotrustee.~~

37 ~~6. Notwithstanding the provisions of this section, if a court of a jurisdiction~~  
 38 ~~other than this State has jurisdiction over a trust and grants an order authorizing a~~  
 39 ~~transfer of jurisdiction over the trust to this State, the district court has the power to~~  
 40 ~~assume jurisdiction over that trust and to otherwise supervise the administration of~~  
 41 ~~that trust in accordance with the procedures set forth in this title if the requirements~~  
 42 ~~of subsection 4 are satisfied.~~

43 ~~7.] A trust, the situs of which is outside this State, that moves its situs to this~~  
 44 ~~State is valid whether or not the trust complies with the laws of this State at the~~  
 45 ~~time of its creation or after its creation.~~

46 **Sec. 53.** NRS 165.030 is hereby amended to read as follows:

47 165.030 *[Within 75] An interested person to whom a trustee is required to*  
 48 *account pursuant to this chapter may provide a written request to the trustee at*  
 49 *any time 60 days or more after [a] the appointment of the trustee [receives*  
 50 *possession of trust property, the trustee shall serve a copy of an inventory setting*  
 51 *forth all the trust property which has come into the possession or knowledge of*  
 52 *which seeks a list of the assets of the trust estate known to the trustee. The trustee*  
 53 *shall serve the [notice] information to the requesting interested party in the same*

1 manner *required for notice, as* set forth in NRS 155.010 ~~{to each interested person~~  
2 ~~and beneficiary to whom the trustee is required to account pursuant to this chapter.}~~  
3 *within 15 days after receipt of the written request.*

4 **Sec. 54.** NRS 451.024 is hereby amended to read as follows:

5 451.024 1. The following persons, in the following order of priority, may  
6 order the burial or cremation of human remains of a deceased person:

7 (a) A person designated as the person with authority to order the burial or  
8 cremation of the human remains of the decedent in a legally valid document or in  
9 an affidavit executed in accordance with subsection 9;

10 (b) If the decedent was, at the time of death, on active duty as a member of the  
11 Armed Forces of the United States, a reserve component thereof or the National  
12 Guard, a person designated by the decedent in the United States Department of  
13 Defense Record of Emergency Data, DD Form 93, or its successor form, as the  
14 person authorized to direct disposition of the human remains of the decedent;

15 (c) The spouse of the decedent;

16 (d) An adult son or daughter of the decedent;

17 (e) Either parent of the decedent;

18 (f) An adult brother or sister of the decedent;

19 (g) A grandparent of the decedent;

20 (h) A guardian of the person of the decedent at the time of death; and

21 (i) A person who meets the requirements of subsection 2.

22 2. Any other person may order the burial or cremation of the human remains  
23 of the decedent if the person:

24 (a) Is at least 18 years of age; and

25 (b) Executes an affidavit affirming:

26 (1) That he or she knew the decedent;

27 (2) The length of time that he or she knew the decedent;

28 (3) That he or she does not know the whereabouts of any of the persons  
29 specified in paragraphs (a) to (h), inclusive, of subsection 1; and

30 (4) That he or she willingly accepts legal and financial responsibility for  
31 the burial or cremation of the human remains of the decedent.

32 3. If a person with authority to order the burial or cremation of the human  
33 remains of a decedent pursuant to paragraphs (c) to (h), inclusive, of subsection 1  
34 has been arrested for or charged with murder, as defined in NRS 200.010, or  
35 voluntary manslaughter, as defined in NRS 200.050, in connection with the death  
36 of the decedent, the authority of the person to order the disposition of the human  
37 remains of the decedent is automatically relinquished and passes to the next person  
38 in order of priority pursuant to subsection 1.

39 4. If there is more than one person authorized to order the burial or cremation  
40 of the human remains of a decedent within a particular priority class pursuant to  
41 paragraphs (d) to (h), inclusive, of subsection 1, a funeral establishment or direct  
42 cremation facility may require a majority of the members of the priority class to  
43 agree upon a disposition of the remains of the decedent.

44 5. A person who accepts legal and financial responsibility for the burial or  
45 cremation of the human remains of a decedent as described in subparagraph (4) of  
46 paragraph (b) of subsection 2 does not have a claim against the estate of the  
47 decedent or against any other person for the cost of the burial or cremation.

48 6. If the deceased person was an indigent or other person for whom the final  
49 disposition of the decedent's remains is a responsibility of a county or the State, the  
50 appropriate public officer may order the burial or cremation of the remains and  
51 provide for the respectful disposition of the remains.

52 7. If the deceased person donated his or her body for scientific research or,  
53 before the person's death, a medical facility was made responsible for the final

1 disposition of the person, a representative of the scientific institution or medical  
2 facility may order the burial or cremation of his or her remains.

3 8. A living person may order the burial or cremation of human remains  
4 removed from his or her body or the burial or cremation of his or her body after  
5 death. In the latter case, any person acting pursuant to his or her instructions is an  
6 authorized agent.

7 9. A person 18 years of age or older wishing to authorize another person to  
8 order the burial or cremation of his or her human remains in the event of the  
9 person's death *may include such an authorization in a validly executed will or*  
10 *durable power of attorney or* may execute an affidavit before a notary public in  
11 substantially the following form:

12  
13 State of Nevada }  
14 } ss  
15 County of ..... }  
16 (Date) .....

17 I, ....., (person authorizing another person to order the  
18 burial or cremation of his or her human remains in the event of his or her  
19 death) do hereby designate ..... (person who is being  
20 authorized to order the burial or cremation of the human remains of a  
21 person in the event of his or her death) to order the disposition of my  
22 human remains upon my death.

23 Subscribed and sworn to before me this .....  
24 day of the month of ..... of the year .....

25 .....  
26 (Notary Public)  
27

28 10. If the authorized person is not reasonably available or is unable to act as  
29 the authorized person, the right of the person to be the authorized person shall pass  
30 to the next person or category of persons in the order of priority pursuant to  
31 subsection 1.

32 11. It shall be presumed that an authorized person is not reasonably available  
33 to act as an authorized person in accordance with subsection 10 if the crematory,  
34 cemetery, funeral establishment or direct cremation facility, after exercising due  
35 diligence, has been unable to contact the person, or if the person has been unwilling  
36 or unable to make final arrangements for the burial or cremation of the human  
37 remains of the decedent, within 30 days after the initial contact or attempt to  
38 contact by the crematory, cemetery, funeral establishment or direct cremation  
39 facility.

40 12. If a person with a lower authorization priority than another person  
41 pursuant to subsection 1 has been authorized to order the burial or cremation of the  
42 human remains of a decedent and, subsequently, a person with a higher  
43 authorization priority makes an initial contact with the crematory, cemetery, funeral  
44 establishment or direct cremation facility and is available to perform the duties of  
45 an authorized person pursuant to this section before the final disposition of the  
46 decedent, the person with the higher authorization priority is the authorized person  
47 to order the burial or cremation of the human remains of the decedent.