

SENATE BILL NO. 8—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing guardianship of minors. (BDR 13-390)

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 guardianship of minors; establishing provisions relating to the transfer of jurisdiction of a guardianship of a minor to or from another state; establishing provisions relating to the registration and recognition of guardianship orders concerning minors that were issued in another state; revising provisions relating to the appointment of guardians by a court; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law establishes provisions relating to: (1) the transfer of jurisdiction of a guardianship of an adult to or from another state; and (2) the registration and recognition of guardianship orders concerning adults that were issued in another state. (NRS 159.2023-159.2027) **Sections 2-5** of this bill establish such provisions for the guardianship of minors.

Section 2 of this bill authorizes a guardian appointed in this State to petition a court to transfer the jurisdiction of the guardianship to another state and requires the court to issue an order provisionally granting the petition if the court makes certain findings. **Section 2** also requires the court to issue a final order confirming the transfer and terminating the guardianship upon a petition for termination and the filing of a provisional order accepting the proceeding from the court to which the proceeding is to be transferred.

Section 3 of this bill requires a guardian or other interested party who wishes to transfer jurisdiction of a guardianship from another state to this State to petition a court of this State to accept guardianship and requires that such a petition contain certain information. **Section 3** generally requires the court to issue a provisional order granting such a petition after a hearing is held and to issue a final order granting guardianship upon the filing of a final order issued by the other state that



19 terminates the proceedings in that state and transfers the proceedings to this State.
20 **Section 3** additionally requires the court to determine whether the guardianship
21 needs to be modified to conform to the laws of this State and, if so, to order any
22 such modifications.

23 **Section 4** of this bill provides that: (1) if a petition for the appointment of a
24 guardian is not pending in this State and a guardian has been appointed in another
25 state, the guardian is authorized to petition the court to register the guardianship
26 order in this State; and (2) after a hearing on the petition, the court is required to
27 issue an order granting the petition if there is no contest to the petition. **Section 5** of
28 this bill authorizes the guardian, after the registration of such a guardianship, to
29 exercise all powers authorized in the order of appointment except as otherwise
30 prohibited by law. **Section 5** also requires a court of this State to recognize and
31 enforce such a registered guardianship but prohibits the court from modifying such
32 a registered guardianship.

33 **Section 6** of this bill revises the definition of "home state" for the purposes of
34 determining the home state of a child who is less than 6 months of age. **Section 7** of
35 this bill authorizes a court to appoint: (1) a guardian of the person or guardian of
36 the person and estate for a minor whose home state is not this State under certain
37 circumstances if the minor is physically present in Nevada; and (2) a guardian of
38 the person, guardian of the estate, or guardian of the person and estate for a minor if
39 the court has jurisdiction to make an initial child custody determination under the
40 Uniform Child Custody Jurisdiction and Enforcement Act. (Chapter 125A of NRS)

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

1 **Section 1.** Chapter 159A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 to 5, inclusive,
3 of this act.

4 **Sec. 2. 1.** *A guardian appointed in this State may petition*
5 *the court to transfer the jurisdiction of the guardianship to*
6 *another state. Notice of the petition must be given to the persons*
7 *that would be entitled to notice of a petition in this State for the*
8 *appointment of a guardian.*

9 *2. The court shall issue an order provisionally granting the*
10 *petition to transfer a guardianship and shall direct the guardian or*
11 *other interested party to petition for guardianship in the other*
12 *state if the court finds that:*

13 *(a) The protected minor is physically present in, or is*
14 *reasonably expected to move permanently to, the other state;*

15 *(b) An objection to the transfer has not been made or, if an*
16 *objection has been made, the objector has not established that the*
17 *transfer would be contrary to the best interests of the protected*
18 *minor; and*

19 *(c) The plans for care and services for the protected minor in*
20 *the other state are in the best interests of the protected minor.*

21 **3.** *The court shall issue a final order confirming the transfer*
22 *and terminating the guardianship upon a petition for termination*



1 *pursuant to NRS 159A.1905 or 159A.191 and filing of a*
2 *provisional order accepting the proceeding from the court to*
3 *which the proceeding is to be transferred.*

4 **Sec. 3. 1.** *To transfer jurisdiction of a guardianship to this*
5 *State, the guardian or other interested party must petition the*
6 *court of this State for guardianship pursuant to NRS 159A.044 to*
7 *accept guardianship in this State. The petition must include:*

8 (a) *A certified copy of the other state's provisional order of*
9 *transfer;*

10 (b) *Proof that the protected minor is physically present in, or is*
11 *reasonably expected to move permanently to, this State;*

12 (c) *A copy of one of the forms of identification of the protected*
13 *minor set forth in paragraph (c) of subsection 2 of NRS 159A.044;*
14 *and*

15 (d) *A copy of one of the forms of identification of the guardian*
16 *set forth in paragraph (h) of subsection 2 of NRS 159A.044.*

17 2. *Upon the filing of a petition, the clerk of the court shall*
18 *issue a citation setting forth a time and place for a hearing in*
19 *accordance with NRS 159A.047.*

20 3. *Upon completion of the hearing, the court shall issue a*
21 *provisional order granting a petition filed under subsection 1,*
22 *unless:*

23 (a) *An objection is made and the objector establishes that*
24 *transfer of the proceeding would be contrary to the best interests*
25 *of the protected minor; or*

26 (b) *The guardian or petitioner is not qualified for appointment*
27 *as a guardian in this State pursuant to NRS 159A.061.*

28 4. *The court shall issue a final order granting guardianship*
29 *upon filing of a final order issued by the other state terminating*
30 *proceedings in that state and transferring the proceedings to this*
31 *State. The court shall determine whether the guardianship needs*
32 *to be modified to conform to the laws of this State and, if so, order*
33 *any such modifications.*

34 5. *In granting a petition under this section, the court shall*
35 *recognize a guardianship order from the other state.*

36 **Sec. 4. 1.** *If a guardian has been appointed in another state*
37 *and a petition for the appointment of a guardian is not pending in*
38 *this State, the guardian appointed in the other state, after giving*
39 *notice to the appointing court of an intent to register and the*
40 *reason for registration, may petition the court to register the*
41 *guardianship order in this State by filing as a foreign judgment in*
42 *a court, in any appropriate county of this State:*

43 (a) *Certified copies of the order and letters of office;*



1 (b) A copy of one of the forms of identification of the protected
2 minor set forth in paragraph (c) of subsection 2 of NRS 159A.044;
3 and

4 (c) A copy of one of the forms of identification of the guardian
5 set forth in paragraph (h) of subsection 2 of NRS 159A.044.

6 2. Upon the filing of a petition, the clerk of the court shall
7 issue a citation setting forth a time and place for a hearing in
8 accordance with NRS 159A.047.

9 3. Upon completion of the hearing, if there is no contest to
10 the petition, the court shall issue an order granting a petition filed
11 under subsection 1.

12 **Sec. 5. 1.** Upon registration of a guardianship, the
13 guardian may exercise in this State all powers authorized in the
14 order of appointment except as prohibited under the laws of this
15 State, including maintaining actions and proceedings in this State.

16 2. A court of this State may grant any relief available under
17 any law of this State to enforce a registered order.

18 3. A court of this State shall recognize and enforce, but shall
19 not modify, a registered guardianship of a court of another state.

20 **Sec. 6.** NRS 159A.018 is hereby amended to read as follows:

21 159A.018 "Home state" means ~~[the]~~ :

22 1. The state in which the proposed protected minor ~~[was~~
23 ~~physically present]~~ lived with a parent or a person acting as a
24 parent for at least 6 consecutive months, including any temporary
25 absence from the state, immediately before the filing of a petition
26 for the appointment of a guardian.

27 2. In the case of a child less than 6 months of age, the state in
28 which the child lived from birth, including any temporary absence
29 from the state, with a parent or a person acting as a parent.

30 **Sec. 7.** NRS 159A.0487 is hereby amended to read as follows:

31 159A.0487 Any court of competent jurisdiction may appoint:

32 1. Guardians of the person, of the estate, or of the person and
33 estate for minors whose home state is this State.

34 2. Guardians of the person or of the person and estate for
35 minors who, although not residents of this State ~~[]~~ or whose home
36 state is not this State, are physically present in this State and whose
37 welfare and best interest requires such an appointment ~~[]~~ pursuant
38 to chapter 125A of NRS.

39 3. Guardians of the person, of the estate, or of the person and
40 estate for minors if the court otherwise has jurisdiction to make an
41 initial child custody determination pursuant to NRS 125A.305.

42 4. Guardians of the estate for nonresident minors who have
43 property within this State.

44 ~~[4.]~~ 5. Guardians ad litem.



1 **Sec. 8.** This act becomes effective on July 1, 2021.

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