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Administration of Estates; Guardianships

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2. Ch. 322 §1 (adding NRS 146.080(2)).
3. Id. (adding NRS 146.080(4) and (5)).
4. Id. (adding NRS 146.080(2)(a)).
5. Id. (adding NRS 146.080(2)(g)).
6. Id. (adding NRS 146.080(2)(b)).
7. Id. (adding NRS 146.080(2)(c)).
8. Id. (adding NRS 146.080(2)(d)).
9. Id. (adding NRS 146.080(2)(i)).
10. Id. (adding NRS 146.080(2)(e)). See also Uniform Probate Code 3-120(a)(3).
11. Ch. 322 §1 (adding NRS 146.080(2)(f)).
12. Id. (adding NRS 146.080(2)(h)).
13. Id. (adding NRS 146.080(3)(b)).
14. See Donato v. Mason, 117 N.J. Super. 1, 283 A.2d 348 (1940) (under a similar statute, an affiant's taking of estate assets in derogation of a claim for the decedent's burial expenses was held wrongful).
15. Ch. 322 §1 (adding NRS 146.080(2)(f)).
16. Id. §1 (adding NRS 146.080(3)(a)).
17. Id. §1 (adding NRS 146.080(5)(a)).
18. Id. §1 (adding NRS 146.080(5)(b)).
19. Id. §1 (adding NRS 146.080(4)).
20. Id. §1 (adding NRS 146.080(6)(a)).
21. Id. §1 (adding NRS 146.080(6)(c)).
22. Id. §1 (adding NRS 146.080(6)(b)).
23. Id. §1 (adding NRS 146.080(6)(d)).
24. Id. §1 (adding NRS 146.080(6)(e)).
25. Id. §1 (adding NRS 146.080(6)).

ADMINISTRATION OF ESTATES: GUARDIANSHIPS

Adds to NRS Chapters 17 and 159

Amends NRS 41.470, 159.050, 159.113, 159.115, 159.117, 159.125, 159.127, 159.169

Repeals NRS 159.129 to 159.115, inclusive

SB 89 (Close, Wilson and Raggio); STATS 1979, Ch 277

SB 379 (Committee on Judiciary); STATS 1979, Ch 431

SB 395 (Ashworth); STATS 1979, Ch 355

Chapters 277, 308 395 and 431 enact various substantive and procedural changes relating to guardianships.

Chapter 431 provides that all the property of a ward, including interests in contracts and choses of action, may be sold by the guardian¹ and that the provisions for the selling of the property will be those used for the selling of property in a decedent's estate.² These procedures are similar to those in guardianship law;³ however, they do supply more detail in the selling of certain types of property such as contracts for the selling and mining property,⁴ and they increase the commissions for selling property from five percent for all real property to ten percent for unimproved property and seven percent for other property.⁵

The powers of guardians in dealing with the property of wards have also been increased. Under prior law, a guardian could petition the court for the authority to complete a contract for the ward but did not have the express statutory authority to petition the court for the authority to enter into a contract for the ward.⁶ Chapter 355 amends NRS 158.113 to provide that the guardian may petition the court for the authority to: (a) enter into contracts; (b) place property into any type of trust; (c) exercise or release the power of the ward as a donee of a power of appointment; (d) release the ward as a trustee, personal representative or custodian for the minor or guardian; and (e) change the state of residence or domicile of the ward.⁷ Chapter 355 also adds NRS 159.117(1)(b) to allow the guardian upon approval of the court to exercise the options of the ward to purchase or exchange securities or other property.⁸ When a petition is filed under NRS 159.113, or any account such as that required by NRS 159.177 is filed, the clerk is required to give notice of the filing to all parties concerned.⁹ Notice is now required to be given in accordance with NRS 159.010 to 159.090.¹⁰ The only significant difference is that rather than posting notice on the courthouse door it must now be given by registered or certified mail.¹¹

While the powers of the guardian are increased, the guardian's liabilities for the actions of the ward have also been increased. The liability of the parents or the guardian of a minor age are increased from \$3,000 to \$10,000 for any willful misconduct of the minor.¹²

Previously, a nonresident could become a guardian only by becoming a coguardian with a Nevada banking institution.¹³ Chapter 431 provides that a nonresident can become a guardian now either by becoming a coguardian with a Nevada banking institution or with a Nevada resident.¹⁴

Chapter 277 establishes when the court is permitted to make monetary judgments payable directly to the parents of a minor and when a guardian must be appointed for the minor. Under existing law, the court may appoint a guardian in order to protect the interest of the minor.¹⁵ If qualified and suitable, the parents are preferred over all others for such an appointment.¹⁶ The guardian is required to post a bond¹⁷ and to file annual accountings with the court.¹⁸ The guardian is allowed to deduct the minor's expenses and to take a reasonable payment for his services from the minor's money.¹⁹ Apparently, the legislature believed that these procedures would deplete rather than preserve small sums of money administered over extended periods of time. Accordingly, Chapter 277 adds to NRS Chapter 17 to permit the court to make judgments or settlements of \$2,500 or less payable directly to the minor's parents without requiring the appointment of a guardian, the posting of a bond, nor the filing of annual accountings.²⁰

Don H. Gallian

FOOTNOTES

1. 1979 Nev. Stats ch. 431 (hereinafter "Ch. 431") §2 (adding to NRS Ch. 159).
2. Id. §3 (adding to NRS Ch. 159).
3. Compare NRS 148.060 and 148.080 to 148.400 with Ch. 431 §6 (repealing NRS 159.129 to 159.155).
4. See NRS 148.330 to 148.400.
5. Compare 1971 Nev. Stats. ch. 105, at 156 (NRS 159.129) with NRS 148.110.
6. See 1969 Nev. Stats. ch. 246, at 422 (NRS 159.113).
7. 1979 Nev. Stats. ch. 355 (hereinafter "Ch. 355") §1 (amending NRS 159.113).
8. Id. §2 (adding NRS 159.117(1)(b)).
9. 1969 Nev. Stats. ch. 246, at 422 (NRS 159.115).
10. Ch. 431 §5 (amending NRS 159.115).
11. Compare 1969 Nev. Stats. chs. 53 and 246, at 422 (NRS 159.115) with NRS 155.010.
12. 1979 Nev. Stats. ch. 308 (hereinafter "Ch. 308") §1 (amending NRS 41.470(2)).
13. 1971 Nev. Stats. ch. 106, at 158 (NRS 159.059(5)(a)).
14. Ch. 431 §4 (amending NRS 159.059).

15. NRS 159.035.
16. NRS 159.061.
17. NRS 159.065.
18. NRS 159.177.
19. NRS 159.183.
20. Ch. 277 §1 (adding to NRS Ch. 17).

ADMINISTRATION OF ESTATES; FILING AFFIDAVITS

Amends NRS 147.070

SB 364 (Committee on Judiciary); STATS 1979, Ch 302

Chapter 302 eliminates the necessity of filing an affidavit in support of a claim against an estate when the claim is for less than \$250.¹ Prior law required that an affidavit of support be filed with every claim against an estate.²

An affidavit of support required for claims exceeding \$250 must aver that the amount demanded: (a) is due, or will be due on a specified date; (b) includes credit for prior payments; and (c) to the knowledge of the affiant, is not subject to offset.³

Rosalie Lazzarotto

FOOTNOTES

1. 1979 Nev. Stats. ch. 302 §1 (hereinafter "Ch. 302") (amending NRS 147.070(1)).
2. 1967 Nev. Stats. ch. 180 §1, at 361 (NRS 147.070(1)). See also Maples v. Geller, 1 Nev. 195, 196 (1865).
3. Ch. 302 §1 (amending NRS 147.070(1)(9)(b)).

ADMINISTRATION OF ESTATES; REFORM OF PUBLIC ADMINISTRATOR OFFICE

Adds to NRS Chapter 253

Amends NRS 253.010, 253.020, 253.030, 253.050, 253.130, 253.210