

-Estate Planning Law Changes- from the 2025 Nevada Legislature

1. Overview

2. SB 404 (State Bar Bill)

3. Other bills and Guardianship

Presented Nov, 2025 to Estate Planning Council of Northern Nevada
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What was tracked

Generally, legislation that involved changes to NRS chapters 132 through 167

SB 404 (State Bar bill)

AB 461 (Uniform Law Commission bill)

SB 494 – Budget/Finance bill, creates the Nevada Health Authority which will take over the Medicaid recovery function for estates.

AB 227—a bill on adoptions, with a small section that addresses intestate inheritance rights of adopted persons

AB 368— a bill that expands the right of a person in assisted living to have a video camera so that their family members can monitor their health and care.

Guardianship changes

- SB 346—requires a showing of “less restrictive alternatives to guardianship” in petitions and elsewhere
- AB 65—addresses use of investigative services, changes to the State Guardianship Office, and immigrant status
- AB 387—revises provisions on service of certain notices, petitions and citations regarding guardianships of minors.

Effective dates

- Most of these bills became effective on October 1, 2025.
- AB 65 changes agency to State Guardianship Office, and authorizes appointment to protect immigrant minors, was effective July 1, 2025.
- AB 227 (adoption/guardianship) and AB 368 (cameras in assisted living) became effective on passage but required that regulations be adopted so that the law change can be implemented by October 1, 2025. One of the guardianship bills was effective on July 1, 2025.

SB 404

- Primary bill with changes you need to know
https://www.leg.state.nv.us/Session/83rd2025/Bills/SB/SB404_EN.pdf
- State Bar Committee bill- non-partisan group of estate planning attorneys
- The Bar Committee proposal was tweaked and generally accepted, but without our proposal for a new Healthcare Power of Attorney form. That form can still be used by you. Copies are provided, plus we can send you a MS Word version if you like.

Summary and Explanation of changes to law

Note: for a deeper dive see the handout with
exact language changes and committee
explanations

NRS 139.040 on the priority of persons to be appointed Administrator.

- We added “grandchildren”, “other issue”, and “sibling” to the list. New line up is:
 - (a) The surviving spouse.
 - (b) The children.
 - (c) The grandchildren.**
 - (d) Other issue.**
 - (e) A parent.
 - ~~[(d) The brother or the sister. — (e) The grandchildren.]~~
 - (f) A sibling.**
 - (g) Any other of the kindred entitled to share in the distribution of the estate.
 - (h) The public administrator or a person employed or contracted with pursuant to NRS 253.125, as applicable.
 - (i) Creditors who have become such during the lifetime of the decedent.
 - (j) Any of the kindred not above enumerated, within the fourth degree of consanguinity.
 - (k) Any person who is legally qualified **upon a finding of good cause**. (and we list the evidence to provide to the Court)
- We also gave the Court the ability, if no surviving spouse, to disregard the order of priority in favor of **an heir with equal or larger interest in the estate**.

- --NRS 143.360 on revocation of a personal representative (PR), the same list of priority persons should be used by the Court in determining whether to revoke and who should take the place as PR.
- --NRS 139.050 on information to be included on a petition to appoint an administrator when the entitled person nominates another. We removed the need to list a phone number but very importantly added the requirement the nominating person be given notice of the hearing. We also require Notice to the nominator.

Increased Thresholds

- We bumped up the threshold for Summary Administration (NRS 145.110) from \$300,000 to \$500,000.
- We bumped up Petitions to Set Aside (NRS 146) from \$100,000 to \$150,000. (note: still no dollar limit via a PourOver Will)
- We bumped small estate affidavits to a spouse from \$100,000 to \$150,000. (note: still at \$25,000 for anyone other than a spouse)

Statute of limitations

- --We adopted a 2 year Statute of limitations for claims of breach of fiduciary duty, absent fraud or intentional misrepresentation.
- NRS 11.190 (4) “Within 2 years:”
 - g) Except as otherwise provided in NRS 165.1214, absent fraud or intentional misrepresentation, an action to recover for breach of fiduciary duty against a fiduciary, as defined in NRS 163.554, who resides in this State or a trust company as described in chapter 669 or 669A of NRS that has its principal place of business in this State. The cause of action shall be deemed to accrue when the aggrieved party discovers or should have discovered through the use of reasonable diligence the material facts that constitute the cause of action, whichever occurs earlier.

Fraud is a 3 year statute (Shupe v Ham 98 Nev 61; 1981), and requires fraudulent intent. New section addresses breach of a duty of a fiduciary without fraudulent intent, e.g. honest mistakes.

- --We eliminated the need to create separate subtrusts when it could just as easily be distributed directly to the beneficiaries of those subtrusts. (new section to NRS 163; avoids unnecessary steps and EINs)
- --We added a provision to NRS 163.557 that allows the Trustee to reimburse the settlor for a tax liability. (puts us in step with the IRS on avoiding gift tax when reimbursing per IRS Memorandum CCA 202352018).

- --We clarified that the provision of copies of the Trust to beneficiaries only requires provision of the effective documents at death, not the very old ones that were replaced or superseded earlier. NRS 164.021
- --We added a provision to clearly state and somewhat expand Nevada jurisdiction over administration of a Trust. Nevada law will now apply (1) if the Trust says so, (2) if designated by a person with the right to designate, (3) default law is Nevada unless it expressly says otherwise.

The Trust is considered “administered in Nevada” if the Trustee resides in Nevada:

- (a) The sole trustee resides in Nevada; or a corporation or other entity having an office in Nevada for the conduct of business;
- (b) The trust has more than one trustee, at least one of which is a corporation or other entity and that corporation or other entity has an office in Nevada for the conduct of trust business;
- (c) The trust has more than one trustee, all of whom are persons and more than half of the trustees reside in Nevada;
- (d) A trust created pursuant to chapter 166 of NRS meets the requirements set forth in NRS 166.015 Spendthrift Trust Act (part of personal property, land, rents, profits in Nevada; Settlor, Trustee or other listed contact in Nevada, etc—think Self Settled Trusts) ; or
- (e) During any such period when the trust is revocable by the settlor who is a resident of this State and there is at least one trustee that is:
 - (1) A resident of this State; or
 - (2) A corporation or other entity having an office in this State for the conduct of trust business.

Clean up Dept

(by section number within SB 404)

- 1. “Distributee” definition clarified to mean both a person “who has received” and (added) a person who “has the right to receive” property of a decedent.
- 1.1 If you need to present an affidavit to prove a Will to the Court, it must be “filed” with the Court—this is what we usually do but the statute used the language—“an ex parte” affidavit.
- 1.4 On appointments of personal representatives, we corrected the language that the Court appoints the PR and the clerk grants the letters.

- 1.6 On contesting the right to be appointed, we corrected the language to capture the scenario where the contestant is arguing for a nominee who the contestant believes should be appointed.
- 2.0 As regards NRS 143.340 on appointments, only a PR named in the Will can receive authority to use the short cut powers under the Independent Administration of Estates; This amendment section also clarifies that the requirements for filing inventories apply to PRs of both the probate of wills and probate via intestate succession. (To those like me who were taught that the term “probate” applies to wills and “administration” applies to intestate, the Nevada statutes use the term “probate” for both.)

- 11 NRS 155.020 requires sending out and publishing the Notice of the Petition. This will now apply to summary and general probates /administrations. This coincides with raising the dollar limit on Summary Administration to \$500,000.
- 17 Clarifies language that the exercise of a power of attorney over property of a decedent is exempt from creditor claims unless it was the decedent who actually exercised the power.

- 23 Clarifies that, if the trust language so provides, the accounting can be approved by a trust advisor or trust protector.
- End of bill- deletes NRS 139.060 (appt of administrators) that used to say the relatives of the whole blood are preferred to those of half blood. Such provision was in conflict with the intestate provisions of NRS that say they are treated the same. Whoever is inheriting should have the first chance to serve.

AB 461

- AB 461- Uniform Law Commission Bill- mostly died but the portion that passed provided for an interim study by the Guardianship Commission (created by the Nev Sup Ct) to develop a program to educate folks on advance healthcare directives.
- The sponsors of this bill were the same two legislators that introduced a problematic version of Advance Healthcare Directive during the 2023 Legislative Session that it is generally not used by practitioners and met with disdain from the medical community as it does more damage than good for end of life care. AB 461 was designed to further that effort with adoption of another work from the Uniform Law Commission named the “uniform health-care decisions act”.
- Just some of the problems with AB 461
 - Would have defined advance health-care directive to mean the problematic form adopted in 2023
 - Process to file a Court Petition regarding a POA– no time
 - Proposed criminal penalties and statutory damages which could be alleged against the attorney advising the client and the physician treating the client.
- It is likely that this proposal, or something like it, will come back again in 2027.

SB 494

- SB 494 – Restructures Dept of Health and Human Services- key take away is that the “**Nevada Health Authority**” has now taken over the Medicaid recovery function for estates. It amends the familiar probate statutes by replacing the Dept of Health and Human Services with “Nevada Health Authority”. Notice of set asides under NRS 146.070 and 146.080; duty to pay money owed to Medicaid in NRS 150.230; notice to creditors in NRS 111.689 as to Deeds Upon Death. Oddly, it looks like they may have missed the correction in NRS 155.020, but when LCB updates the statutes they may pick it up.
https://www.leg.state.nv.us/Session/83rd2025/Bills/SB/SB494_EN.pdf
- As of Sept 1, 2025
Medicaid Estate Recovery
9850 Double R Boulevard, Suite 200
Reno, Nevada 89521

- Just a side note as to Deeds Upon Death—most of us do not use these anymore due to the many limitations but be aware that if you are recording an Affidavit of Death regarding a Deed Upon Death, NRS 111.689 requires you to publish a Notice to Creditors via NRS 155.020. You probably knew that but I have run across several attorneys who did not do the published notice and it can cause title problems later.

AB 227

- AB 227 – Adoption, not estate planning, but it includes a provision that addresses inheritance and appears to re-word but still say that when parental rights are terminated, the child still may inherit under intestate succession. However, once the child is adopted, then the inheritance rights from the terminated parent no longer exist. As you know, the default treatment under the statutes is that adopted children are treated the same as naturally born children.
- Existing law states that: “The termination of parental rights pursuant to this section does not terminate the right of the child to inherit from his or her parent or parents, except that the right to inherit terminates if the child is adopted as provided in NRS 127.160.” That statute was changed to state “as provided in section 38 of this act”. Sec 38 states in relevant part.
- 3. After a parent has executed a specific consent to adoption or relinquishment or the parental rights of the parent have been terminated, and the court has entered an order of adoption: ... (b) The child does not owe the parent any legal duty and may not inherit from that parent or a relative of that parent.
- 4. Notwithstanding any other provisions to the contrary in this section, the adoption of a child does not in any way change the status of the relationship between the child and any parent who is a petitioner and whose parental rights have not been terminated.” Sec 39, AB 227

<https://www.leg.state.nv.us/App/NELIS/REL/83rd2025/Bill/12229/Text>

AB 368

- Cameras in assisted living, and other types of supported living arrangements.
- Extends the right of patients to place a video/streaming device in their room for family members to be able to check on them. Now applies to every “covered facility” which is defined to include:
 - 1. A facility for intermediate care; 2. A facility for skilled nursing; 3. A home for individual residential care; 4. A unit for the provision of long-term care in a hospital; 5. A residential facility for groups; or 6. A unit in a senior living community for the provision of assisted living services or a senior living community that provides only assisted living services.”
- The testimony on this was pretty interesting. The care facilities were worried about privacy issues (and no doubt unstated concerns about being caught doing something wrong). The testimony in support was heart-wrenching pleas from patients who wanted their family members to see them and have the peace of mind that they were not alone.
- <https://www.leg.state.nv.us/App/NELIS/REL/83rd2025/Bill/12495/Text#>
- Effective on passage which allows for regulations to be adopted; with all other sections on Oct 1, 2025—and the regs need to be in place by Oct 1, 2025.

SB 346

- SB 346- Requires that “less restrictive alternatives to guardianship” must be considered at all stages of guardianship.
- Requires you include an “attestation that information on less restrictive alternatives to guardianship has been provided to the proposed protected person” in the Petition to appoint a Guardian. In physician assessment, the doc must include a “determination of whether less restrictive alternatives to guardianship are available and sufficient to support the needs of the proposed protected person.”
- Annual reports to the Court must include “an explanation as to why less restrictive alternatives to guardianship in lieu of the guardianship are not being considered.”
- Allows Court to terminate or modify the guardianship if “the petitioner shows that the protected person has entered into a less restrictive alternative to a guardianship in lieu of the guardianship.”
- Less restrictive alternative to a guardianship must be addressed in any petition to transfer the guardianship, and can be denied if not shown.
- This bill also added that the Protected Persons Bill of Rights (159.327, 328) must provide that a protected person has the right to be educated about less restrictive alternatives to guardianship.
- <https://www.leg.state.nv.us/App/NELIS/REL/83rd2025/Bill/12613/Text#> Effective October 1, 2025

AB 65

- Revising provisions relating to certain **investigative services provided during a guardianship proceeding**; prohibiting a governmental entity from charging a fee for providing a copy of certain documents relating to a guardianship proceeding; revising provisions relating to service of process of a citation and petition in a guardianship proceeding; changing the name of the State Guardianship Compliance Office to the State Guardianship Office;
- changing the title of the State Guardianship Compliance Officer to the State Guardianship Officer; revising the powers of the Officer; authorizing a court to appoint or extend the appointment of a guardian for a protected minor or proposed protected minor seeking status as a special immigrant juvenile with the United States Citizenship and Immigration Services of the Department of Homeland Security under certain circumstances; revising certain notice requirements for minor guardianship proceedings; and providing other matters properly relating thereto.
- <https://www.leg.state.nv.us/App/NELIS/REL/83rd2025/Bill/11874/Text#>
- NOTE--- this one is Effective July 1, 2025

AB 387

- AB 387- Guardianship --revising provisions relating to service of certain notices, petitions and citations relating to Guardianships of minors; revising provisions relating to the appointment, modification, removal or termination of guardianships of minors; revising provisions relating to the powers and duties of guardians of minors; revising provisions relating to the management of the estates, property and other assets of protected minors.
- https://www.leg.state.nv.us/Session/83rd2025/Bills/AB/AB387_EN.pdf
- Effective Oct 1, 2025

Reminder

Tax law changes (OBBBB)

- a. Estate Tax current \$13.99m
goes to \$15m per person on Jan
1, 2026
- b. Gifts current \$19,000;
projected to be the same in 2026.
(per Forbes)

There is no stupid question.

- QUESTIONS ?????
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