

Probate: Nevada

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A Question and Answer guide to the laws of probate in Nevada. This Q&A guide addresses state laws and customs impacting estate proceedings, including key statutes and rules from the Nevada Revised Statutes (NRS). It details the various types of proceedings available, such as general and summary administration, ancillary probate for non-residents, and simplified options like the set aside estate and small estate affidavit processes. This resource provides insight into the procedures for opening an estate, appointing a personal representative, administering assets, and navigating the creditor claims process. It also covers the primary duties and compensation of an estate fiduciary and the steps required to properly close the estate and discharge the personal representative from liability.

Answers to questions can be compared across a number of jurisdictions (see Probate: State Q&A Tool).

Key Statutes and Rules

1. What are the state laws and rules that govern estate proceedings?

The Nevada laws governing estate proceedings are contained in Title 12 of the Nevada Revised Statutes (NRS 132.010 to 156.260). Local court rules also govern estate proceedings. Counsel should also check the local rules for the court in which they are practicing, since each court is different and the rules vary. For example:

- Part IV of the Rules of Practice for the [Eighth Judicial District Court](#) governs the practice and procedure of all probate proceedings in Clark County (NV EDCR 4.01 to NV EDCR 4.50).
- Rule 57 of the Rules of Practice for the [Second Judicial District Court](#) governs the practice and procedure of all probate proceedings in Washoe County (NV WDFCR 57.1 to NV WDFCR 57.8).

2. What court has jurisdiction over estate proceedings in your state?

In Nevada, a decedent's estate may be settled in the district court of any county in Nevada if:

- Any part of the estate is located in Nevada.
- The decedent was a resident of Nevada at death (see Residency).

(NRS 136.010(1).)

If the decedent was a Nevada resident at the time of the decedent's death, the district court of any Nevada county, whether the death occurred in that county or not, may assume jurisdiction of the estate after considering the convenience of the forum to both:

- The personal representative named in the will.
- The heirs, devisees, interested persons, or beneficiaries to the decedent or estate and their legal counsel.

(NRS 136.010(2).)

Once a district court assumes jurisdiction of an estate after a properly noticed hearing, that court has exclusive jurisdiction regarding the estate's administration (NRS 136.010(3)).

Probate for a nonresident, known as ancillary probate, is limited to real property located in Nevada. Nevada courts generally take the position that a nonresident decedent's personal property, wherever located, is the subject of the domiciliary estate proceedings. (See Question 19: Ancillary Probate.)

Residency

For estate administration purposes, a person is generally considered a resident of the place where the person lived at the time of their death (NRS 10.155). Nevada courts commonly rely on the address listed in the death certificate to determine a decedent's residency at death no matter which state issues the death certificate. The listed residency information generally creates a rebuttable presumption that can be overcome with contrary evidence such as, for example, a declaration of domicile in a will or other document.

Assigned Authority for Probate Matters

In Clark County, which includes the city of Las Vegas, all probate proceedings are initially assigned to the probate commissioner. The probate commissioner is considered a special master akin to a referee in the matter. An interested party objecting to the commissioner hearing the matter may have a hearing before the probate judge. (NV EDCR 4.03 and NV EDCR 4.08.)

In Washoe County, which includes the city of Reno, all probate proceedings are automatically assigned to the probate commissioner unless disqualification is warranted (NV WDFCR 57.3).

In all other Nevada counties, probate matters are generally assigned to one of the county's district court judges.

In contested matters, the probate commissioner generally issues a Report and Recommendations, which contains:

- The commissioner's findings of fact.
- Recommended conclusions of law.
- Recommendations for the provisions and enforcement of any order.

(NV EDCR 4.04(a) and NV WDFCR 57.3(4).)

For non-contested matters that comply with applicable statutes and rules, the probate commissioner generally

has the judge issue an order (NV EDCR 4.14 and NV WDFCR 57.4).

Types of Estate Proceedings

3. What are the different types of probate or other estate proceedings or processes for transferring a decedent's assets at death?

Nevada refers to the administration of a decedent's estate as a probate, whether the administration is testate or intestate (NRS 132.275). The court admits wills to probate and, in intestacy, the court opens a probate, but does not admit a will. The use of the term probate in this State Q&A refers to the administration of a testate or intestate estate unless otherwise specifically noted.

In Nevada, the main types of estate proceedings are:

- **General administration.** General administration is a full probate where the court appoints a personal representative to administer estate matters. This type of proceeding is required when the estate's net value, the value of all assets subject to probate less any encumbrances, exceeds \$500,000. A general administration may be used also if the estate's value is unknown. The personal representative may seek to administer the estate under the Independent Administration of Estates Act, which enables a personal representative to take many actions as to estate assets without court order, approval, or ratification (see Question 20: Independent Administration).
- **Summary administration.** Summary administration is like general administration, except that in summary administration, certain proceedings and notice requirements are reduced or waived. The court may order summary administration when the estate's net value is \$500,000 or less. (NRS 145.010 to 145.110; see Question 19: Summary Administration.) The personal representative may seek to administer the estate under the Independent Administration of Estates Act in a summary administration as well (see Question 20: Independent Administration).
- **Set aside estate.** If the net value of a decedent's estate does not exceed \$150,000, the estate may be distributed by court order, without further administration, to those persons entitled to the assets (NRS 146.070; see Question 19: Set Aside Estate). Although a surviving spouse can use a

small estate affidavit for an amount up to \$150,000 worth of personal property, the same limit as a set aside, a set aside proceeding is required if real property is involved. A set aside may be preferable if the decedent has debts because a set aside proceeding allows the court to distribute the full estate to the spouse to the exclusion of creditors. A small estate affidavit requires the affiant to pay or provide for all the decedent's debts. A set aside may also be done (despite the total value of the estate assets) when the decedent left a pour over will directing the distribution of estate assets to a decedent's nontestamentary trust in existence at the decedent's death (NRS 146.070(1)(b)).

- **Small estate affidavit.** If the net value of a decedent's estate does not exceed \$25,000 and does not include real property, those entitled to the assets of the estate may present an affidavit claiming the property without any court interaction. The \$25,000 threshold increases to \$150,000 if the person claiming the property is a surviving spouse. (NRS 146.080; see Question 19: Small Estate Affidavit.) A surviving spouse may prefer to use the set aside process rather than the small estate process if there are creditors of the decedent, even though the small estate process is otherwise available, because a set aside proceeding allows the court to distribute the full estate to the spouse to the exclusion of creditors.
- **Ancillary probate.** An ancillary estate proceeding is used to transfer a non-resident decedent's Nevada real property that does not transfer by non-probate means like through a revocable trust or by a survivorship right. For more information on ancillary probate, see Question 19: Ancillary Probate.

Opening the Estate

4. What is the typical initial filing process for opening an estate? Specifically, please discuss:

- How original wills are handled.
- Whether filing typically occurs by mail, e-filing, or in person and common practices for the most common methods.
- Documents typically submitted to the court with the initial filing.
- Any additional practical advice regarding the initial process for opening an estate.

Original Will

In Nevada, within 30 days of learning of the testator's death, a person in possession of the testator's original will must deliver the will to either:

- The clerk of the district court that has jurisdiction.
- The personal representative named in the will.

(NRS 136.050(1).) If the personal representative has the original will, the representative must file the will with the clerk within 30 days of either:

- The testator's death.
- The personal representative's knowledge of being named as representative in the will.

(NRS 136.050(2).)

Persons neglecting to timely file the will without reasonable cause are liable to every person interested in the will for damages from the neglect (NRS 136.050(3)).

In an ancillary probate, a certified copy from the court where the original will was filed is filed in Nevada as an exhibit to the petition to open the ancillary probate (NRS 136.180(1); see Question 19: Ancillary Probate).

Lost Will

If an original will is accidentally lost or fraudulently destroyed, the court may admit a copy of the will. In that case, a petitioner must prove the will was in existence at the testator's death and was not revoked. Proof of execution and validity of the copy must be done in the same manner as proving an original will. (NRS 136.230 and 136.240.)

Filing a copy of a decedent's lost or destroyed will with the court creates a rebuttable presumption that the will was not revoked if:

- The will's primary beneficiary is a nontestamentary trust established by the testator and in existence on the testator's death.
- Two or more credible witnesses clearly and distinctively prove the will's provisions. The affidavits must establish that these witnesses, independent of reviewing a copy of the will, can attest to the provisions of the will (i.e., the devises of the will, the named executor, etc.).

(NRS 136.240(5)(a), (5)(b).) These presumptions can be overcome by proving that the decedent

destroyed the will with the intent to revoke it by a preponderance of the evidence (NRS 136.240(5)(c)).

For a lost will where there is no rebuttable presumption, the lost will proponent must make a prima facie showing the testator, more likely than not, did not revoke the will. If there is no objection, the court must admit the will and accept the copy as sufficient proof of the will terms (NRS 136.240(5)(d)).

If the proponent establishes the lost will, the court order admitting the will to probate must specifically set forth the will's provisions or a copy of the will must be attached to the order (NRS 136.240(6)).

Method of Filing

The method of filing for an estate administration depends on the county where the petition is filed. For example, all estate administration documents are filed with the clerk of the court electronically in [Clark County](#) and [Washoe County](#). Some of the smaller counties require original documents be filed with the clerk of the court. Counsel should check the specific filing requirements and rules for the applicable county's court.

Documents Submitted with Initial Filing

To open a probate proceeding (testate or intestate) and appoint a personal representative, Nevada courts generally require:

- A petition to open probate (see Question 5: Petition Requirements).
- As exhibits to the petition:
 - a certified copy of the decedent's death certificate; and
 - a file-stamped copy of the will submitted to the clerk, if the decedent died testate.

The nominated personal representative or a family member should order multiple certified copies of the decedent's death certificate as soon as possible after the decedent's death. These certified copies may be needed to facilitate the transfer of the decedent's assets throughout the estate administration. For more information on ordering death certificates for a Nevada decedent, see [Nevada Division of Public and Behavioral Health: Office of Vital Records](#).

If a death certificate is not available when filing the petition to administer the decedent's estate, other evidence of death, for example, an affidavit of death from the funeral home, may be filed as an exhibit to the petition to prove the decedent's death. This evidence can be sufficient to initiate estate administration proceedings. A death certificate must be filed before a personal representative can make any distributions from the estate.

In addition to the initial petition and relevant exhibits, most counties require submission of a civil court cover sheet to initiate a new probate case (NRS 3.275(b); see, for example, [District Court Civil Cover Sheet](#)). Some counties (including Washoe County) require submission of the proposed order when the petitioner files the petition. Other counties (including Clark County) prefer the petitioner to submit the proposed order the week of the hearing, or shortly thereafter. Counsel should check the local rules.

Contacting the Court

Most communication with the probate court should be made by email to the clerk. Depending on their current workload, the clerks may take phone calls to discuss matters, but generally prefer email. The applicable court's websites usually include the clerks' email addresses.

Setting a Hearing Date

The court clerk sets hearing dates according to the rules of the local court where the estate matter is to be heard. For example, in Clark County, hearings for probate matters in front of the probate commissioners are held on Wednesday and Friday mornings (NV EDCR 4:10).

5. Who can petition to open an estate and what information is required for the petition?

Standing to Petition to Open Estate

In Nevada, a personal representative or devisee named in a will, if any, or any other person interested in the estate, has standing to petition for:

- The probate of a will and issuance of letters testamentary in a testate estate.
- Letters of administration in an intestate estate.

(NRS 136.070 and 139.040.) An interested person is a person with a right or interest in an estate that may be materially affected by a fiduciary's or the court's decision. The fiduciary or court determines who is an interested person according to the proceeding's particular purposes and matters involved. The following persons are generally interested persons when decedent's estate is opened:

- Heirs, devisees, children, spouses, creditors, settlors, or beneficiaries.
- Persons with a property right in or claim against the estate.
- Persons with priority for appointment as personal representative.
- Fiduciaries representing interested persons.

(NRS 132.185 and 132.390.)

The nominated personal representative or the family member with the highest priority to serve as personal representative if the decedent died intestate generally petitions the court to open probate and for appointment as personal representative. For more information about appointing a personal representative, see Question 7.

Statutes of Limitation

Nevada has no statute of limitations to initiate an estate proceeding. If there are assets subject to estate administration, a petition may be filed to open an estate administration.

Petition Requirements

The court process for probate in Nevada begins with filing the petition for probate (whether decedent died testate or intestate) and for letters testamentary (testate) or the petition for letters of administration (intestate). The petition must be:

- Signed by the petitioning party or that party's attorney.
- Verified, which requires the petitioner must declare under penalty of perjury that the statements in the petition are true.
- Filed with the clerk of the court.

(NRS 136.100(1), 132.270, and 132.360.)

The petition must include:

- Jurisdictional facts, which are the facts forming the basis for the court's jurisdiction. This is generally that the decedent died a resident of Nevada or that the decedent died owning real property in Nevada for an ancillary estate. For more information on residency, see Question 2: Residency.
- Whether the named personal representative, if any, consents to serve.
- Names and addresses of the heirs and beneficiaries of a will, if applicable.
- Ages of the heirs and beneficiaries of a will. This is generally accomplished by indicating that the individual is an adult or providing the specific age if they are a minor.
- Relationship between the decedent and each heir or beneficiary.
- Character and estimated value of the estate property.
- Name and address of the person requesting appointment as personal representative and whether that person has been convicted of a felony.
- Name of any beneficiary that predeceased the decedent.
- A copy of the decedent's will, if any.
- An explanation of whether the will, if any, meets the statutory requirements.
- The facts necessary to prove the will, if any (NRS 133.040, 133.050, 136.130 to 136.190, and 136.240).
- A statement showing how the district court in which the petition is being filed is a convenient forum to interested parties to the estate and their counsel.

(NRS 136.090 and 139.090.)

The petition may include:

- A request to administer the estate under the Independent Administration of Estates Act, which enables a personal representative to take many actions as to estate assets without court order, approval, or ratification (see Question 20: Independent Administration).
- Information regarding bond (see Question 8).

6. Who does the petitioner have to provide notice to during the estate opening process? Specifically, please discuss:

- Who is entitled to receive notice?
- What notice is required when an estate is open?
- Who has standing to object to the petition for probate or administration?

Who is Entitled to Receive Notice of a Hearing on Petition to Open Estate

In Nevada, the petitioner must give notice of a hearing on a petition to open an estate to:

- The decedent's heirs, which are any person, including the surviving spouse, that is entitled by intestate succession to the decedent's property (NRS 132.165).
- All beneficiaries named in the will, if any.
- Any nominated personal representatives not joining in the petition.
- The [Nevada Department of Health and Human Services](#).
- Any other interested person, defined under NRS 132.185 and 132.390.
- The public, by publication.

(NRS 136.100(2) and 155.020.)

Method of Providing Notice of Hearing on Petition to Open Estate

Notice of a petition for probate:

- Must include the time and place of the hearing.
- Must be:
 - mailed at least ten court days before the hearing date to all interested parties and other persons entitled to notice by certified, registered, or ordinary first-class mail to the person's home or work address, if known; or
 - delivered by personal delivery at least 10 days before the hearing.
- Must be published in the local newspaper once a week for three consecutive weeks, with the

last publication at least ten court days before the hearing date if the address or the identity of a person entitled to notice is not known.

- If the probate is a general administration (an estate with a net value over \$500,000), notice must be published in the local newspaper three times before the hearing date, with at least ten days between the first and the last publication, including both the first and last days. It is common to have the publication run three times, each one week apart. This publication can also serve as the publication for unknown persons entitled to notice, provided the statutory requirements under both circumstances are satisfied.

(NRS 155.010 and 155.020.)

The larger counties in Nevada have a legal newspaper in which these publications are generally made. Publications in the smaller counties are generally done in local newspapers with general circulation in those counties.

The notice of the hearing for a petition for probate must be in substantially the following form:

"Notice is hereby given that [PETITIONER NAME] has filed in this court a petition for probate and for letters testamentary, or for letters of administration, of the estate of [DECEDENT NAME], deceased, and a hearing has been set for the [DATE] day of the month of [MONTH], of the year [YEAR], at [TIME] [a.m./p.m.] at the courthouse of the above-entitled court. All persons interested in the estate are notified to appear and show cause why the petition should not be granted.

Dated: [DATE]"

(NRS 155.020(3).)

If the estate is to be administered under the Independent Administration of Estates Act, special language must be included in the notice of hearing for the petition (see Question 20: Independent Administration).

Nevada does not require a copy of the petition to be sent with the notice of hearing. However, the petitioner should generally provide each interested party a copy of the petition to notify all parties of:

- The relief requested.
- The actions to be taken by the personal representative.

The court typically may grant certain relief, for example a request for fees, only if the relief is fully disclosed to the interested parties by either:

- Including the relief in the petition's title.
- Providing a copy of the petition to the interested parties.

By always providing a copy of the petition, the petitioner generally complies with the court's preference to fully disclose certain information.

For information about notice specifically to creditors, see Question 14.

Waiver of Notice

Anyone entitled to notice may waive notice in writing (NRS 155.010(5)). Interested parties usually waive notice either:

- If the interested party agrees to dispense with the formalities required by the law (usually because the interested party trusts the person handling the estate administration).
- When a personal representative inadvertently fails to give proper notice and the party entitled to notice has no dispute with the pending petition.

A waiver of notice may include language like the following:

"I, [INTERESTED PERSON NAME], declare under penalties of perjury under the laws of the State of Nevada that I waive the requirement of notice of hearing for the [PETITION NAME] in this matter pursuant to NRS 155.010."

Standing to Object

Only an interested person in an estate may contest the will's validity. An interested person is a person whose interest in an estate may be materially affected by a decision of a fiduciary or the court (NRS 132.185). An interested person in a testate estate includes a person who:

- Stands to receive more or different property rights if the will, if any, is not admitted to probate.
- Is an intestate heir receiving property if the decedent died with no will.
- Is a beneficiary under another purported will of the decedent.

(NRS 137.010 and 137.080.)

The contestant may file written grounds opposing the probate of the will at any time before the hearing of the petition and giving personal notice by citation as required under statute (NRS 137.010(1)). After the court admits the will to probate, any interested person other than a party to a contest before probate or a person with actual notice of the previous contest in time to join that contest may, within three months after the order admitting the will to probate, contest the admission or validity of the will by filing a petition requesting the probate be revoked (NRS 137.080).

An interested person can also object in writing to the appointment of a personal representative in either in a testate or intestate administration if, for example:

- A will not presented to the court nominates a personal representative other than the petitioning party. This may include a previous will if a challenge is brought contesting the validity of the current will.
- There is no will and an intestate heir has a higher priority to serve as a personal representative than the petitioning party.
- There is no will and an intestate heir has a lower priority to serve as a personal representative than the petitioning party but the petitioning party is disqualified to serve.

(NRS 138.060(1); see Question 7: Appointing a Fiduciary Where Decedent Died Without a Will.)

While an objection can be filed at any time during the probate, it is best to file this type of objection before the hearing at which the personal representative is appointed. The court generally is hesitant to remove a personal representative that already partially administered the estate, absent a showing of a breach of fiduciary duties.

Appointing an Estate Fiduciary

7. How is the person in charge of the estate (referred to here as the fiduciary) appointed? in particular please consider:

- The procedure for appointing a fiduciary when the decedent died with a will.
- The procedure for appointing a fiduciary when the decedent died without a will.
- The procedure for appointing a fiduciary in urgent or unusual circumstances.
- Any restrictions on a person's eligibility to act as fiduciary, including whether an attorney who prepares a will for a client can act as the fiduciary.

In Nevada, the person the court appoints to administer the estate is called the personal representative. The term personal representative refers to both:

- An executor (personal representative of a testate estate).
- An administrator (generally, personal representative of an intestate estate).

(NRS 132.265.)

Appointing a Fiduciary Where Decedent Died with a Will

When a decedent dies with a will, typically the nominated personal representative:

- Submits the original will to the clerk of the district court that has jurisdiction (see Question 4: Original Will).
- Files a petition requesting probate of the will and the nominee's appointment as personal representative (see Question 5: Petition Requirements).

After a hearing, the court generally appoints the person nominated in the will to serve as personal representative, if that person is qualified (NRS 138.020 and 138.040; see Qualification as Fiduciary). An interested person may object to the appointment (see Question 6: Standing to Object).

The clerk issues letters testamentary to the personal representative after the personal representative takes

an oath declaring the representative will perform the representative's required duties (NRS 142.010).

Appointing a Fiduciary Where Decedent Died Without a Will

When a decedent dies without a will, the person seeking appointment as personal representative files a petition requesting estate administration and their appointment as personal representative. The clerk issues letters of administration to the qualified individual with statutory priority (usually the petitioner) after that individual takes an oath declaring the individual will perform the personal representative's required duties (NRS 142.010).

The court appoints an administrator (a personal representative where the decedent died without a will) in the following order of priority:

- Surviving spouse.
- Children.
- Grandchildren.
- Other issue
- A parent.
- A sibling.
- Any other kindred entitled to a share of the estate.
- Public administrator.
- Creditor of the decedent, which became decedent's creditor during the decedent's lifetime.
- Any other kindred within fourth degree of consanguinity.
- Any person legally qualified on a finding of good cause based on evidence, which must include:
 - an affidavit of due diligence to find any living heir (including, without limitation, a report from an heir finder and proof of service via certified mail to all potential heirs identified in the heir finder report); and
 - a statement of the qualifications of the person seeking appointment.

(NRS 139.040(1).) The court appoints person with priority as personal representative if that person is qualified (see Qualification as Fiduciary).

When there are several qualified persons equally entitled to administration, the court has discretion to grant letters to one or more of them (NRS 139.070).

When there is no surviving spouse, the court may, in its discretion, disregard the order of priority and appoint either:

- An heir or the nominee of an heir, or group of heirs, with an equal or larger interest in the estate than the heir entitled to priority for appointment.
- An independent personal representative.

(NRS 139.040(5).)

Appointing a Fiduciary in Urgent or Unusual Circumstances

A Nevada probate court may appoint a special administrator to ensure the estate, or the decedent's rights or privileges, is preserved in urgent or unusual circumstances. This includes when:

- There is a delay or irregularity in granting letters.
- No sufficient bond is filed as required by the court.
- No petition is filed for letters.
- An executor or administrator dies, is suspended, or is removed, and the estate circumstances require immediate appointment of a personal representative.
- There are no assets subject to probate but good cause exists for appointment of a special administrator, for example, to search for possible probate assets or maintain a personal injury claim.
- In any other proper case.

(NRS 140.010.)

The court can make the appointment in chambers or in open court, with or without notice, as the court deems reasonable. The order grants specific authority to the personal representative based on the urgent or unusual circumstance. (NRS 140.020(1).)

A special administrator's powers terminate when:

- The administrator returns to the court to:
 - render an account; and
 - close the special administration.
- The court grants letters testamentary or letters of administration. The special administrator's powers automatically cease after the court grants the petition and the special administrator must immediately deliver to the personal representative all the decedent's property and effects in the special administrator's possession.

(NRS 140.070 and 140.080.)

Qualification as Fiduciary

An individual is qualified to serve as a personal representative if the individual:

- Is at least 18 years old. However, if a person otherwise entitled to appointment as an administrator is a minor, the court may appoint the custodial parent or legal guardian of the minor as administrator, and they have the same priority for appointment as the minor (NRS 139.040(2)).
- Has never been convicted of a felony, unless the court determines that such a conviction should not disqualify the person from serving as the estate fiduciary.
- On proof, adjudged to be disqualified for a compelling reason. However, if a person otherwise entitled to appointment as administrator is an incapacitated person, the court may appoint the guardian as the administrator, and they have the same priority for appointment as the incapacitated person (NRS 139.040(3)).
- Is a Nevada resident or, if the proposed personal representative is a bank, the bank is authorized to do business in Nevada.

(NRS 138.020 and 139.010; see *Appointing a Fiduciary Where Decedent Died Without a Will*.) If the individual is not a Nevada resident or the bank is not authorized to do business in Nevada, the individual or bank may still serve as personal representative if either:

- A co-personal representative is appointed with the proposed personal representative and that co-personal representative is:
 - a Nevada resident; or
 - a bank authorized to do business in Nevada.
- The decedent's will nominates the individual or bank to serve as personal representative, and the court, in its discretion, believes it is appropriate to make the appointment.

(NRS 139.040(4).)

8. Is a fiduciary bond required, and if so, in what circumstances?

The bond requirement in Nevada estate administrations is in the court's discretion. If a will waives the bond requirement, then the court generally does not require it. However, the court may still require bond if evidence is presented showing its necessity. (NRS 142.070.)

If a will does not waive the bond requirement or the decedent died intestate, the court generally does not require bond if the liquid assets are to be held in the attorney's IOLTA (client trust account) or a blocked account (NRS 142.020). In this case, it is common for the liquid funds to be held in the attorney's IOLTA, as this is more economical and efficient for the estate when disbursements are to be made.

For more information on waiver of bond by will, see Question 20: Bond Waiver.

9. How are the key estate fiduciaries compensated?

Individual Executors or Administrators

The personal representative of a Nevada estate is compensated based on the terms of the will, if any. Within 60 days after appointment, the personal representative may renounce the compensation specified in the will in favor of statutory compensation. (NRS 150.010.)

If the will does not provide specific compensation, the personal representative renounces the compensation in the will, or there is no will, the personal representative is paid based on the estate's value, less liens and encumbrances, as follows:

- 4 percent for the first \$15,000.
- 3 percent of the next \$85,000.
- 2 percent above \$100,000.

(NRS 150.020.)

The court may:

- Allow just and reasonable additional fees if it determines that the statutory fees are insufficient to reasonably compensate the personal representative (NRS 150.020(4)).
- Authorize additional compensation for extraordinary services (NRS 150.030).

The personal representative is reimbursed from the estate for all personal funds expended to assist in the estate's administration (NRS 150.010).

Multiple Fiduciaries

If there are two or more personal representatives, the compensation is the same as for a single personal representative but the court apportions the fees

among them according to the percentage of work performed by each (NRS 150.020(3)).

Corporate Executors

Nevada does not have a specific statute regarding compensation of a corporate fiduciary. A corporate fiduciary is compensated in the same manner as all other personal representatives.

If the corporate fiduciary has a set fee schedule, it is best to seek court approval of the fee schedule at the outset of the administration, usually as part of the initial petition to open probate and appoint the personal representative. If approved by the court, a provision confirming the fee schedule can be part of the initial court order. However, a contract for higher compensation than the statutory rate provided by NRS 150.020 and 150.030 is void (NRS 150.040).

The court can award compensation higher than the statutory rate if the corporate fiduciary provided extraordinary services or the statutory rate is insufficient to reasonably compensate the corporate fiduciary (see Individual Executors or Administrators).

Attorney as Executor

Despite any provision to the contrary in the will, an attorney serving as personal representative who is also the attorney for the personal representative may receive compensation as the personal representative or as the attorney for the personal representative, but not both, without court approval (NRS 150.025). This attorney generally receives only one fee. Nevada courts are generally reluctant to grant fees for both roles absent an extraordinary showing justifying both fees.

10. What is the level of care that each estate fiduciary owes to the beneficiaries of the estate?

A personal representative in Nevada must use reasonable diligence in:

- Performing the duties of the personal representative.
- Administering the estate.

(NRS 143.035(1).)

A personal representative is not liable for losses when the personal representative both:

- Acts in good faith.
- Exercises ordinary prudence.

(*In re Pedrolí's Estate*, 221 P. 244, 244 (Nev. 1923).)

A Nevada personal representative is generally subject to the common law fiduciary duties to:

- Account for all estate transactions and management of estate assets.
- Comply with the will's terms and governing law.
- Act with loyalty to the interests of the estate.
- Be impartial between interested parties of the estate.
- Prudently manage estate assets.

(NRS 150.070; see *Pedrolí's Estate*, 221 P. at 244.)

Administering the Estate

11. What are the main duties of the estate fiduciary in administering the estate?

In Nevada, the personal representative typically has the following duties:

- Open the estate.
- Identify and collect assets of the estate (NRS 143.030(1)).
- Manage and invest, when applicable, the assets of the estate pending distribution (NRS 143.175). Unless prohibited by the will, the personal representative may petition to manage and administer the estate assets under the Independent Administration of Estates Act, which enables a personal representative to take many actions as to estate assets without court order, approval, or ratification (see Question 20: Independent Administration).
- Keep appropriate records of estate property and transactions, including the filing of tax returns, inventories, and accountings (NRS 144.010 and 150.080 to 150.115).
- Pay taxes, debts, and other estate expenses (NRS 147.195).
- Keep the court informed about the status of the estate's administration (NRS 143.035).
- Distribute the remaining estate assets, including any real property or proceeds thereof, to the appropriate beneficiaries (NRS 151.110).

The personal representative may perform other acts throughout the administration, depending on the estate's needs to prepare it for final distribution. For example, the personal representative may sell real or personal property if directed or authorized to do so in the will or by the court (NRS 148.060 and 148.080; see Question 12: Petition for Sale of Property). The personal representative should consider the estate's liquidity needs, proper asset management, and any tax consequences from the sale and distribution of assets.

12. What are the key documents and procedures in your state for ongoing estate administration?

A Nevada personal representative typically prepares the following documents to properly administer the estate:

- **Notice to Creditors.** The personal representative must publish a notice to creditors and mail a copy of the notice to those creditors whose names and addresses are readily ascertainable (NRS 147.010 and 155.020(4); see Question 14).
- **Inventory.** The personal representative must file an inventory with the court within 120 days after appointment. If the personal representative discovers additional assets after filing the inventory, the personal representative should file an amended inventory (see Inventory).
- **Accountings.** The personal representative is accountable for the whole estate that comes into the personal representative's possession and must prepare accountings throughout the estate administration process (NRS 150.070(1); see Accountings).
- **Status Report.** If the estate is open longer than six months if no federal estate tax return is required, or 18 months if a federal estate tax return is required, the personal representative must file a report with the court explaining why the estate has not been closed (NRS 143.035(2); see Question 15).
- **Sale of Property.** If estate assets will be sold during estate administration, the personal representative must generally file a petition, along with an appraisal of the property, seeking confirmation of the sale (NRS 148.060(1); see Petition for Sale of Property).

Inventory

Within 120 days after the court issues letters, unless the court extends the time for good cause shown, the personal representative must prepare and file with the clerk an inventory of estate assets. The estate inventory typically includes detailed information regarding each asset in the estate. The personal representative should hire an appraiser to determine the value of assets when the value is not known, for example, real property, business interests, jewelry. Values should include any encumbrance and be reported at the net value as of the decedent's date of death. (NRS 144.010 and 144.020.)

The inventory must include:

- All assets of the estate, both real and personal.
- A statement of all receivables, partnerships, and other interests, bonds, notes, and other securities.
- Mortgages of any kind on real and personal property of estate.

(NRS 144.040(2).)

The inventory must show what portion of the estate is community property and what portion is separate property (NRS 144.040(3)(a)). Unless otherwise altered by an agreement between the spouses or court decree:

- Separate property is:
 - all property of a spouse owned before the marriage; and
 - property acquired after the marriage by gift, inheritance, or as an award for personal injury damages, with the related rents, issues, and profits.

(NRS 123.130.)

- Community property is all property acquired after marriage other than property stated in NRS 123.130, above (NRS 123.220).

Within ten days after the personal representative files the inventory with the clerk, the personal representative must mail a copy to each beneficiary and other interested party (NRS 144.010(3)).

Waiver of Inventory by Interested Persons

The inventory requirement may be waived by unanimous written consent of all interested persons

(NRS 144.010(1)). Waiver of an inventory is common when there are relatively few beneficiaries and there are no disputes.

The written consent, to be signed by each interested person, to waive the inventory may include language like the following:

"I, [BENEFICIARY NAME], as a beneficiary of the Estate of [DECEDENT NAME], declare under penalties of perjury under the laws of the State of Nevada, that I waive the requirement of an inventory in this matter pursuant to NRS 144.010."

Accountings

The personal representative must prepare accountings throughout the estate administration process. The starting value of the first account should be the inventory value of the estate assets. The first accounting:

- Is due six months after the personal representative's appointment (or sooner if the court requires).
- Summarizes all transactions of the estate from the date of the personal representative's appointment through the date the accounting was prepared.
- Lists the creditor claims filed against the estate, including;
 - the claimant's name;
 - the nature of the claim;
 - when the claim became due or will become due; and
 - whether the personal representative allowed, rejected, or did not yet act on the claim.

(NRS 150.080.)

Until the personal representative distributes all estate property, the personal representative must file an annual account showing all transactions of the estate since the last account. Once the estate is in a proper condition to be closed, the personal representative files a final account (NRS 150.105 and 150.110; see Question 15).

In simple estates where no federal estate tax return is required, the estate may be in a condition to be closed about the time the first accounting is due. In these circumstances, the first accounting may be a first and final accounting.

Waiver of Accounting by Interested Persons

The court may waive any accounting requirement if all interested persons consent in writing (NRS 150.075). Waiver of an accounting is common when there are relatively few beneficiaries and there are no disputes.

The written consent, to be signed by each interested person, to waive the accounting may include language like the following:

“I, [BENEFICIARY NAME], as beneficiary of the Estate of [DECEDENT NAME], declare under penalties of perjury under the laws of the State of Nevada, that I waive the requirement of an accounting in this matter pursuant to NRS 150.075.”

Petition for Sale of Property

If estate assets are to be sold during probate, the personal representative generally must file a report and petition within 30 days after each sale seeking confirmation of the sale before title to the property passes. This applies to both real and personal property. (NRS 148.060.) The following estate property may be sold without first seeking court approval:

- Perishable property.
- Personal property which will depreciate if not disposed of promptly.
- Property which will incur loss or expense by being kept.
- So much other personal property as necessary to provide the family allowance under NRS 143.525, pending the receipt of other sufficient money.

(NRS 148.170.) Title to this property passes without court confirmation. However, if the personal representative sells the property for less than fair market value, the personal representative may be liable to the estate for the difference between the sales price and the fair market value unless the personal representative obtains an order approving the sale before the closing of the estate (NRS 148.170).

If an estate is being administered under the Independent Administration of Estates Act with:

- Full authority, a personal representative is not required to seek court confirmation of a sale of real property, an unincorporated business, or other personal property.

- Limited authority, a personal representative is not required to seek court confirmation of a sale of an unincorporated business, or other personal property but must seek court confirmation of a sale of real property.

(NRS 143.405, 143.410, and 143.535; see Question 20: Independent Administration.)

An appraisal of the property to be sold must accompany the petition. The court may waive this appraisal requirement for good cause shown or if the following persons consent in writing to sale without the appraisal:

- The personal representative, if the representative is the sole devisee or heir of the estate.
- All devisees to whom the property is devised, if the property is specifically devised in the will.
- All residuary devisees, if the property is not specifically devised in the will.
- All heirs of the estate, if there is no will (see [State Q&A, Wills: Nevada: Question 16](#)).

(NRS 148.260.)

Waiver of an appraisal is common when there are relatively few beneficiaries, there are no disputes, and everyone agrees on the sale terms.

The written consent, to be signed by each interested person, to waive the appraisal may include language like the following:

“I, [BENEFICIARY NAME], as a beneficiary of the Estate of [DECEDENT NAME], declare under penalties of perjury under the laws of the State of Nevada, that I waive the requirement of an appraisal for the [PROPERTY DESCRIPTION] pursuant to NRS 148.260(2).”

Notice of Petition for Sale of Property

The personal representative must generally publish notice of the time and place of the sale in the local newspaper, consisting of three publications of the notice in that newspaper, each one week apart, before the day of sale. The court may waive the publication requirement if either:

- The following persons consent in writing:
 - The personal representative, if the representative is the sole devisee or heir of the estate.

- All devisees to whom the property is devised, if the property is specifically devised in the will.
- All residuary devisees, if the property is not specifically devised in the will, or
- All heirs of the estate, if there is no will (see [State Q&A, Wills: Nevada: Question 16](#)).
- The personal representative provides proof that the property was listed publicly for at least 30 days.
- The property is subject to a short sale.

(NRS 148.220.)

The larger counties have a legal newspaper in which these publications are generally made. Publications in the smaller counties are generally done in local newspapers with general circulation in those counties. Waiver of publication is common when there are relatively few beneficiaries and there are no disputes.

The written consent, to be signed by each interested person, to waive the appraisal may include language like the following:

“I, [BENEFICIARY NAME], as a beneficiary of the Estate of [DECEDENT NAME], declare under penalties of perjury under the laws of the State of Nevada, that I waive the requirement of publication of the Notice of Sale for the [PROPERTY DESCRIPTION] pursuant to NRS 148.220(2).”

13. What are the due dates for key documents and processes during and after the estate proceeding?

Notice of Petition Opening a Probate

Nevada law requires that notice of a petition opening a probate (for either a testate or intestate decedent) be mailed at least ten days before the hearing date to all interested parties (NRS 155.010; see Question 6).

Creditor Claims

Any person or entity that has a claim against the decedent must file their claim in the matter within the longer of:

- 90 days after the first publication of the notice to creditors.
- 30 days after the notice has been mailed to a known creditor.

(NRS 147.040(1), (2).) A claim is barred if a creditor fails to file a claim within this time (NRS 147.040(3)).

If the court grants summary administration, the period of 90 days above is reduced to 60 days after first publication of the notice to creditors (NRS 147.040(4); see Question 19: Summary Administration).

For more information on creditor claims generally, see Question 14.

Inventory of Assets

The personal representative files an inventory with the court within 120 days after appointment, unless the court extends the time for good cause shown. The personal representative must generally mail a copy to interested heirs of an intestate estate or the devisees of a testate estate, or to both, within ten days of filing the inventory. The personal representative should file an amended inventory if additional assets are discovered after filing the inventory, within 20 days after its discovery. (NRS 144.010 and 144.090; see Question 12: Inventory.)

Status Report

The personal representative files a status report with the court explaining why the estate is not closed if the estate is open longer than:

- 6 months after the personal representative's appointment, if no federal estate tax return is required.
- 18 months after the personal representative's appointment, if a federal estate tax return is required.

(NRS 143.035(2).)

Estate Tax Return

Federal Estate Tax Return

The due date for filing a US Estate Tax Return ([Form 706](#)) is nine months after the decedent's death (26 U.S.C. § 6075). A six-month extension ([Form 4768](#)) for filing the return is automatically granted if filed before the return's due date (26 C.F.R. § 20.6081-1(b)).

If an estate has more than one personal representative, only one personal representative needs to sign the estate tax return. However, all personal representatives are responsible for the information contained on the return

(26 C.F.R. § 20.6018-2; see [Form 706 Instructions, Signature and Verification](#)).

For more information on the federal estate tax, see [Practice Note, Federal Estate Tax](#).

State Estate Tax Return

In Nevada, there is no state income tax, gift tax, estate tax, or generation-skipping transfer tax.

Estate Income Tax Return

The due date for any necessary estate federal income tax return ([Form 1041](#)) varies depending on whether the estate is operating on a calendar year or a fiscal year. The return is due by:

- April 15 of the year following the calendar year in which the estate received the income for calendar year estates.
- The 15th day of the fourth month following the close of the tax year for fiscal year estates.

(See [Instructions for IRS Form 1041](#).)

An automatic five and one half month extension ([Form 7004](#)) is available (see [Instructions for IRS Form 1041](#)).

Considerations for Creditor Claims

14. What is the procedure for notifying and paying creditors of the estate?

Notice to Creditors

In Nevada, a personal representative must provide notice to all creditors of the decedent. This is done in two ways. First, the personal representative must publish a notice to creditors in the local newspaper:

- At least three times.
- With at least ten days between the first and last publication, including both the first and last days.

(NRS 147.010 and 155.020.)

The larger counties have a legal newspaper in which these publications are generally made. Publications in the smaller counties are generally done in local newspapers with general circulation in those counties.

The personal representative must also:

- Mail a copy of the notice to all known creditors (creditors with names and addresses that are readily ascertainable as of the date of first publication of the notice and which have not already filed a claim, as well as creditors discovered before the expiration of the creditor period) (NRS 155.020(4), (5)). Nevada does not require this separate creditor notice to be mailed to the Nevada Department of Health and Human Services (Medicaid), which receives notice of the petition to open an estate (see Question 6).
- File with the court clerk:
 - an affidavit of publication with the court when publication is complete; and
 - a certificate of mailing with the court after mailing the notice to creditors.

(NRS 147.030.)

The notice to creditors must be in substantially the following form:

“Notice is hereby given that the undersigned has been appointed and qualified by the [COURT TITLE] on [APPOINTMENT DATE] as personal representative of the estate of [DECEDENT NAME], deceased. All creditors having claims against the estate are required to file the claims with the clerk of the court within [60/90] days after the mailing or the first publication (as the case may be) of this notice.”

(NRS 155.020(4).) The notice should recite 60 days for a summary administration and 90 days for a general administration (NRS 147.040(4); see Question 19: Summary Administration).

Time to File a Claim

Publishing the notice to creditors starts the time within which a creditor must file a claim against the estate, known as the creditor period. The creditor period runs for 90 days from the first publication date or 60 days from that date if in a summary administration. (NRS 147.040(1), (4).) If the personal representative discovers a creditor during the creditor period after the personal representative mailed the notice to known creditors, the personal representative must immediately mail a copy of the notice to the newly discovered creditor (NRS 155.020(5)).

A known creditor must file a claim within the longer of:

- 30 days from the mailing of the notice to creditors (whether in a general or summary administration).
- The expiration of the 90-day creditor period or 60-day period if in a summary administration.

(NRS 147.040.)

An unknown creditor must file a claim within 90 days from the first publication of notice to creditors or 60 days if in a summary administration (NRS 147.040 (1), (4)).

If a creditor fails to file a claim within this time, the claim is forever barred. However, if the creditor proves, by affidavit or other proof to the court's satisfaction, that the creditor's name and address were readily ascertainable and the creditor did not have statutory or actual notice of the notice to creditors or the estate administration, the creditor may file the claim at any time before the filing of the final account. (NRS 147.040(3) and 155.020.)

Filing a Claim

For a creditor to file a timely claim, the claim must be filed with the court clerk (NRS 147.040(3)). Under a strict interpretation of the statute, mailing the claim to the personal representative or to the attorney for the personal representative is not sufficient and may result in the creditor's claim being barred, if the creditor does not also timely file the claim with the court clerk.

Accepting or Rejecting and Paying Claims

Within 15 days of the expiration of the creditor period, the personal representative should determine the validity of all filed claims and allow, reject in part, or reject in whole each claim. The representative should then either:

- Endorse on each claim an allowance or rejection (if an endorsement block is provided on the filed creditor claim).
- File with the court clerk a notice of allowance or a notice of rejection.

(NRS 147.110(1).) A personal representative need not allow or reject a claim that was not timely filed unless the court otherwise orders (NRS 147.110(3)).

If the personal representative allows a claim, the claim is:

- Ranked among the debts of the estate and other claims allowed.
- Paid from the assets of the estate in the normal course of administration.

(NRS 147.120.)

If the personal representative rejects a claim in whole or in part, the representative should immediately send a notice of rejection to the creditor's mailing address by registered or certified mail. The creditor then has 60 days from the date of the notice to bring an action against the personal representative in the proper court against to determine whether the claim is due (NRS 147.130(1)). Alternatively, instead of bringing a claim against the personal representative, a creditor may petition the probate court to determine the validity of the claim. The creditor must bring this petition within 20 days of receipt of the rejection notice. The court clerk sets a hearing on the petition and the creditor must give statutory notice. (NRS 147.130(2).)

The creditor's claim is forever barred if both:

- The personal representative:
 - rejected the creditor's claim; and
 - provided notice of the rejection by registered or certified mail.
- The creditor fails to take the required action within 20 days or 60 days, as applicable, or the creditor takes the required action and the court rejects the claim.

(NRS 147.130(1), (2).)

If a personal representative fails to file an allowance or rejection of a claim within 15 days of the expiration of the creditor period, the claim is deemed rejected (NRS 147.110(2)). However:

- The 60-day and 20-day periods to seek confirmation of the creditor claim do not begin running unless the personal representative provides the written notice of the rejection to the creditor (NRS 147.130(1), (2)).
- The personal representative may allow a valid claim that was deemed rejected at any time before the final accounting (NRS 147.110(2)).

Claims of the Personal Representative

If the personal representative has a personal claim against the decedent, the personal representative must file the claim with the clerk, who presents it for allowance or rejection to the court. If the claim is:

- Allowed, it is paid as other claims.
- Rejected, the personal representative can file an action to determine the claim's validity and for recovery from the estate. If the action fails, the personal representative making the claim must pay all costs of the action, including reasonable attorneys' fees for the estate, as fixed by the court.

(NRS 147.050.)

Closing the Estate

15. What is the process for concluding (or closing) the estate?

A personal representative can close a Nevada estate when the assets are ready for distribution and the personal representative paid all creditor claims (or is to pay them as part of final distribution), or those claims are barred by law (see Question 14). The estate cannot be closed if:

- There is pending litigation involving the estate.
- Assets need to be sold before distribution.
- Money or other property that is due to the estate is still uncollected.
- Creditor claims remain unsettled.
- There is a dispute among beneficiaries regarding the accounting or distribution.
- Tax liabilities or other legal obligations of the decedent or the estate are not satisfied.

If the estate is ready for final distribution, the personal representative files a final accounting for court confirmation. On settlement of the final accounting, the court may order final distribution. An estate may not be finally distributed without a court. (NRS 151.080; see Question 12: Accountings.)

A personal representative usually brings a petition for final distribution as part of the petition to confirm the final accounting (NRS 151.080). A final distribution petition should include:

- A statement that the personal representative fully administered the estate.
- A statement that all timely filed creditor claims have been paid, settled, or otherwise disposed of or will be paid as part of the final distribution.
- The amount of compensation paid or to be paid to the personal representative and the attorneys and the manner of determining the compensation.
- The plan of distribution, including:
 - a schedule of all prior distributions;
 - the property remaining to be distributed;
 - a schedule describing the proposed distribution of the remaining assets; and
 - the amount of funds to be retained to pay expenses that are incurred in the distribution of the remaining assets and termination of the estate administration.

The personal representative must provide notice of the hearing on the petition for settlement and distribution to all interested parties (NRS 155.010).

After the court enters an order for distribution, the personal representative must timely distribute the assets of the estate under the order. The personal representative must, within ten days of the order for distribution's entry conveying real property, if any, record a certified copy of the order with the county recorder in the county or counties where:

- The court entered the order.
- The real property, or any portion of it, is located.

(NRS 151.110.)

In some cases, the order may reflect distributions to which the beneficiaries agreed, which are different from the distributions stated in the will, if any, or in intestacy.

Beneficiaries May Agree to Alter Distribution Terms

The estate's beneficiaries may agree among themselves to alter the amounts to which they are entitled under the terms of a decedent's will or the laws of intestacy, by written agreement of all affected parties. The personal representative must still fulfill the representative's duty to:

- Administer the estate for the benefit of creditors.
- Pay all taxes and costs of administration.
- Carry out the responsibilities to any beneficiary not a party to the agreement.

(NRS 151.005; see Question 10.) Personal representatives are not required to oversee the performance of testamentary trusts if another person is appointed as trustee of the trust. Therefore, trustees of testamentary trusts are beneficiaries under this section. (NRS 151.005.)

A beneficiary agreement, to be signed by each affected beneficiary, may include language similar to the following:

“Pursuant to NRS 151.005, [BENEFICIARY NAMES] (the “Beneficiaries”), as the beneficiaries of the Estate of [DECEDENT NAME] (the “Estate”), enter into this agreement.”

It is important for the beneficiaries to understand that any beneficiary agreement may have gift tax implications. The key is to determine if a gift is being made. When a beneficiary gives away an interest in the estate voluntarily without full consideration, this action could be considered a gift, with gift tax implications. However, when a beneficiary enters into a binding agreement to settle a *bona fide* dispute, it is generally not considered a gift, and the gift tax may not apply. Resolving a real dispute is generally adequate to avoid gift tax implications. However, if the parties are not making a deal at arm’s length, a gift tax may be triggered. (26 U.S.C. §§ 2501 and 2503.)

16. Please describe if there is any special action needed to discharge the estate fiduciary from continuing liability for actions taken on behalf of the estate.

A Nevada personal representative should provide a receipt to each distributee (each person or entity to which assets of the estate are distributed) for the distributee to sign confirming they received the assets the court ordered to be distributed to them. The personal representative should file with the court all signed receipts.

Once the personal representative fully distributes the estate and files all receipts, the personal representative sends a final discharge order to the court for review and signature. If the court is satisfied the personal representative complied with the court’s

order regarding distribution of the estate’s assets, the court signs the final discharge order discharging the personal representative and all sureties from continuing liability (NRS 151.230(1); see Question 8).

If a beneficiary fails to sign and return their receipt, the personal representative may file proof of distribution by providing a copy of the canceled check or other evidence showing receipt by the beneficiary (NRS 151.230(2)).

Expense and Timeline

17. What are the expected costs for a typical estate proceeding?

The primary costs of an estate proceeding in Nevada are:

- Personal representative compensation and expenses (see Question 9).
- **Legal fees.** For a routine, non-contested probate in Nevada, average legal fees if billed hourly can range anywhere from \$5,000 to \$15,000. Much of the expense depends on the nature of the estate assets, how complicated it is to marshal the assets, and whether the personal representative must manage a business, file taxes, or sell assets. Attorneys for the estate are entitled to reasonable compensation, which can be based on the attorney’s hourly rate, the estate’s value (with extraordinary services usually billed by the hour), or any other method approved by the court under the initial petition for the personal representative’s appointment (NS 150.060(1), (2)). If attorneys’ fees are based on the value of the estate, which calculation method must be disclosed to and approved by the court, the compensation is:
 - 4 percent for the first \$100,000;
 - 3 percent for the next \$100,000;
 - 2 percent for the next \$800,000;
 - 1 percent for the next \$9,000,000;
 - 0.5 percent for the next \$15,000,000; and
 - a reasonable amount as the court determines for estates above \$25,000,000.

(NRS 150.060(4).) Petitioner commonly includes this calculation method in the initial petition to open the probate, even though Nevada does not require disclosure in the initial petition.

- **Filing fees.** The initial filing fee to open a probate can range between approximately \$150 and \$550 depending on the estate's value and the county in which the petitioner files the probate is filed. Filing fees after the initial filing are minimal.

The expected costs of an estate proceeding vary greatly depending on:

- The estate's size.
- The nature and complexity of the estate assets.
- Whether a bond is required.
- Whether there are any challenges to the estate.
- How involved a lawyer needs to be in the estate matters.

18. How long does the typical estate proceeding take?

A typical Nevada estate proceeding takes approximately six months. An estate administration may take longer than six months if:

- There is a contest or other litigation.
- There are unknown assets and a search is required to discover the estate's assets.
- Marshaling or liquidating the assets requires significant time.
- A federal estate tax return is required.

If the estate is open longer than six months if no federal estate tax return is required, or 18 months if a federal estate tax return is required, the personal representative must file a report with the court explaining why the estate has not been closed (NRS 143.035(2); see Question 15)

Miscellaneous Estate Proceedings and Processes

19. Please list and describe any simplified or special proceedings or non-court processes for transferring a decedent's assets at death that are available in your state.

Summary Administration

Summary administration is a similar process to general administration but simplified. It can be used

when the net value of the estate, which is the value of all assets subject to probate less any encumbrances, does not exceed \$500,000. A personal representative is appointed to administer the estate, but certain proceedings and notice requirements are waived. (NRS 145.010 to 145.110.)

In a summary administration, the petitioner must file a petition for letters testamentary or of administration with the court containing:

- Jurisdictional facts, which are the facts forming the basis for the court's jurisdiction. This is generally that the decedent died a resident of Nevada, or that the decedent died owning real property located in Nevada (for an ancillary estate). (See Question 2: Residency.)
 - Whether the named personal representative, if any, consents to serve.
 - The names and addresses of the heirs and beneficiaries of a will, if applicable.
 - The age of the heirs and beneficiaries of a will. This is generally accomplished by indicating that the heir or beneficiary is either an adult or minor.
 - The relationship between the decedent and each heir and beneficiary.
 - The character and estimated value of the estate.
 - The name and address of the person requesting appointment as personal representative and whether they have been convicted of a felony.
 - The name of any beneficiary that predeceased the decedent.
 - A copy of the decedent's will, if any.
 - An explanation of whether the will, if any, meets the statutory requirements (NRS 133.040).
 - The facts necessary to prove the will, if any (NRS 133.050 and 136.130 to 136.190).
- (NRS 136.090, 139.090, and 145.020.)

The primary differences between a general administration and summary administration are:

- The statutory creditor claims limitations period, which is 90 days for general administration and 60 days for summary administration (NRS 147.040(4); see Question 14: Time to File a Claim).
- Notice of a petition for probate is not required to be published in the local newspaper unless the address or identity of an interested party is unknown (NRS 145.030 and 155.010; see Question 6).

Once a petitioner opens a summary administration and the court appoints a personal representative, administration is otherwise substantially the same as general administration:

- The creditor claim process is the same, except for the 60-day creditor period in summary administration instead of a 90-day creditor period in general administration (NRS 147.040(4); see Question 14).
- The requirements of preparing and filing an inventory and accountings are the same (see Question 12: Inventory and Accountings).
- The processes to petition the court to close the estate and discharge the personal representative is the same (NRS 145.080; see Question 15). For more information on discharge of the personal representative, see Question 16.

As in a general administration, a personal representative may seek to administer the estate under the Independent Administration of Estates Act in a summary administration (NRS 143.340; see Question 20: Independent Administration).

Set Aside Estate

If the net value of a decedent's estate does not exceed \$150,000 (the net value is the value of all assets subject to probate less any encumbrances), the court may order the assets of the estate to be set aside without administration and distributed to those entitled to the assets, such as the intestate heirs or the beneficiaries under a will (NRS 146.070(1)).

The assets are disbursed in the following priority to pay:

- Attorneys' fees and costs.
- Funeral expenses, expenses of last illness, and payments to Medicaid.
- All other creditors. In a set aside proceeding, there is no creditor process, but the petitioner must inform the court of the decedent's debts. The petitioner must satisfy the debts, in full, from the estate assets before the heirs or beneficiaries receive their share, unless the heir is the surviving spouse or minor children, or both.
- Beneficiaries under the terms of a will, if the decedent died testate, otherwise to the heirs through intestate succession.

(NRS 146.070(1), (2).)

If the decedent left a surviving spouse or minor children, or both, then the entire estate must be set aside for their benefit, despite the existence of creditors or if the terms of a will may provide to the contrary. The court:

- May allocate the assets of the estate among the surviving spouse and minor children as the court deems proper.
- Must make these allocations without the payment of creditors except as the court finds necessary to prevent a manifest injustice.

(NRS 146.070(3), (4).)

If the decedent's will directs all or part of the decedent's estate to the trustee of a nontestamentary trust established by the decedent and in existence at the decedent's death, the court may set aside the part of the estate to be distributed to that trust without administration regardless of whether the value of these assets exceed the \$150,000 threshold otherwise required to qualify for a set aside. This set aside is subject to estate creditors unless the petitioner proves to the court the trustee published or mailed the required notice to those creditors under NRS 164.025. (NRS 146.070(1)(b).)

Petition for Set Aside

A petitioner cannot file a petition for set aside until at least 30 days have elapsed since the decedent's death. The person, or one of the persons, receiving the property under a set aside is generally the petitioner. The petition must state:

- The specific description of all the estate property.
- A list of all known liens and encumbrances against estate property and an explanation if any are not valid.
- The estimated value of the property along with an explanation of how the estimate was determined, unless the assets are being set aside to the decedent's nontestamentary trust according to the decedent's will.
- A statement of the decedent's debts known to the petitioner.
- The name, address, age (for minors), and relationship to the decedent of each heir and, if the decedent left a will, each beneficiary.
- If there is a will, a statement proving the validity of the will.

- If a petition seeks a set aside for a surviving spouse or for a minor child without payment to creditors, the petition must also contain:
 - a specific description and estimated value of all non-probate transfers from the decedent to the surviving spouse or minor children; or
 - a statement that the estimated value of the assets to be set aside, combined with the value of all non-probate transfers from the decedent to the surviving spouse or minor children is less than \$150,000.

(NRS 146.070(8), (9).)

Small Estate Affidavit

If the net value of a decedent's estate (the value of all assets subject to probate less any encumbrances) does not exceed \$25,000 and does not include real property, the person or persons entitled to the estate assets may, 40 days after the decedent's death:

- Present an affidavit claiming the property to the third party in control of the property.
- Collect the property without any court involvement.

(NRS 146.080.) The \$25,000 threshold is increased to \$150,000 if the person claiming the property is the surviving spouse (NRS 146.080(1), (7)).

The affidavit must state:

- The affiant's name and address, and that the affiant is entitled by law to succeed to the claimed property.
- The decedent's date and place of death.
- That the gross value of the decedent's property does not exceed the applicable amount (\$25,000 or \$150,000), not including amounts due the decedent for services in the US armed forces or the value of motor vehicles registered to the decedent, and that there is no real property or an interest in real property.
- That at least 40 days passed since the decedent's death, as shown in a certified copy of decedent's death certificate (which must be attached to the affidavit).
- That no petition for appointment of a personal representative is pending or granted in any jurisdiction.
- That all debts of the decedent have been paid or provided for, including funeral and burial expenses,

and money owed from payments of Medicaid benefits.

- A description of the property claimed.
- That the affiant gave proper written notice by personal service or certified mail to each person with an equal right to claim the property and that 14 days elapsed since affiant served or mailed the notice.
- That the affiant is entitled to the property personally or on behalf of someone else.
- That the affiant does not know of any personal injury or tort claims against the decedent.
- An acknowledgment that filing a false affidavit is a felony in the Nevada.

(NRS 146.080(2), (7).)

A third party receiving an affidavit with the required information may turn over the claimed assets to the affiant and is immune from civil liability if the third party relied in good faith on the affidavit (NRS 146.080(4)).

Because there is no creditor process when using a small estate affidavit, the person or persons entitled to the estate assets of the estate must pay or provide for all debts of the decedent (NRS 146.080(2)(f)). This requires the affiant to become familiar with the decedent's debts before using the affidavit.

If an affiant collects the estate assets and:

- There are outstanding debts, or submits an affidavit missing required information or containing statements not entirely true, then the affiant may be liable for such debt up to the amount received from the estate if the creditor seeks payment.
- Fails to give the required notice to other successors, any assets the affiant receives are held in trust for the other successors with an interest in the property.

(NRS 146.080(3).)

Small Estate Versus Set Aside Estate

Although a surviving spouse can use a small estate affidavit to distribute an amount up to \$150,000, the same limit as a set aside, as between these two processes, the surviving spouse must use a set aside proceeding to distribute real property.

A set aside may also be preferable if the decedent had debts. A set aside proceeding allows the court to distribute the full estate to the spouse to the

exclusion of creditors, whereas a small estate affidavit requires the affiant to pay or provide for all the decedent's debts. For all other heirs or beneficiaries, a set aside is appropriate if the assets of the estate exceed \$25,000, but do not exceed \$150,000.

For more information on set asides, see [Set Aside Estate](#).

Ancillary Probate

If a nonresident of Nevada, with an estate proceeding opened in the nonresident's home state, dies owning real property in Nevada that does not transfer by non-probate means (for example, through a revocable trust or by a survivorship right), an ancillary estate proceeding in Nevada is required to transfer that real property to the heirs or beneficiaries.

If the nonresident decedent died owning personal property in Nevada, that property is subject to the domiciliary estate proceeding process even if the decedent also owned Nevada real property. Nevada real property is the only asset type subject to a Nevada ancillary estate proceeding for the nonresident decedent. Otherwise, ancillary estate proceedings are generally identical to the Nevada domiciliary estate proceedings. The small estate affidavit process is not available in these circumstances because an affiant cannot use that process to transfer Nevada real property.

In a Nevada ancillary probate, the court in the nonresident decedent's state of domicile admits the will. The petitioner files a certified copy of the will, which has the same effect as if the original will was filed in Nevada (NRS 136.180(1)).

For more information on ancillary probate, see [Practice Note, Ancillary Probate in Nevada](#).

Waiver of Probate Requirements and Formal Probate

20. What types of estate proceedings or probate requirements can be waived by will in your state? Specifically, please discuss:

- Whether any particular language is required to accomplish a waiver and if so, please include the language.
- Whether it is common to waive these estate proceedings or probate requirements.

Independent Administration

In Nevada, a personal representative may seek to administer the estate under the Independent Administration of Estates Act (IAEA) (NRS 143.340). The court may grant independent administration in both testate and intestate estate administrations, unless the will prohibits independent administration (NRS 143.330). If a personal representative seeking independent administration is nominated as personal representative in the will or is an heir entitled to share in the distribution of the estate, the court may grant independent administration unless both:

- An interested person objects in writing at or before the hearing.
- The court determines that the interested person showed good cause why the court should not grant independent administration.

(NRS 143.350.) Independent administration enables a personal representative to act as to estate assets without the following court supervision that would be required without independent administration:

- Judicial order.
- Authorization.
- Approval.
- Confirmation.
- Instructions.

(NRS 143.310.)

It is not common for a decedent's will to contain a provision prohibiting administration of the estate under the IAEA. Even though independent administration is permitted without including language in the will, some attorneys are beginning to add language into their wills expressly authorizing it. However, this is not a general trend.

Because a personal representative may administer an estate without certain court supervision, the time and expense of the administration may be reduced. Though independent administration can be useful, many Nevada estate attorneys do not prefer it. Rather, those attorneys prefer the security of a court order confirming the actions of a personal representative (for example, the sale of estate assets). Under independent administration, a personal representative may act without court confirmation, but is still liable if the action was improper or damages the estate or a beneficiary (for example, the sales price for estate assets was too low) (NRS 143.375).

For Nevada attorneys familiar with the estate administration process, the cost and time for a court to confirm a personal representative's actions are not materially different from that required for a personal representative to take the same action without court authority. The personal representative must still prepare and send certain notices to the interested parties (see Notice of Proposed Action). Therefore, many attorneys for a personal representative advise the personal representative to obtain the court order regarding material administrative actions to protect their client. These material administrative actions include:

- Selling most types of estate assets.
- Paying creditors and settling claims.
- Making distributions to the beneficiaries.

However, actions which preserve or maintain the assets of the estate do not generally require a court order before taking those action (for example, paying taxes or utility bills on real property owned by the estate).

Petition for Independent Administration

A personal representative must petition the court for independent administration and may request the power of independent administration with either full authority or limited authority and may do so in either:

- The original petition for probate.
- A separate petition requesting independent administration.

(NRS 143.340.)

The primary difference between full authority and limited authority under the IAEA is generally that a representative administering the estate with:

- Limited authority requires court authorization for transactions regarding real property (NRS 143.320).
- Full authority does not require court authorization for transactions regarding real property (NRS 143.315).

The notice of hearing on the petition for independent administration, whether made in the original petition for probate or in a separate petition, must be given as provided in NRS 155.010 to each:

- Interested persons and others entitled to notice.

- Known heir or devisee whose interest is affected by the petition.
- Person named as personal representative in the decedent's will.

(NRS 143.345 and 155.010.)

This notice must contain a statement substantially similar to:

"The petition requests authority to administer the estate under the Independent Administration of Estates Act. This will avoid the need to obtain court approval for many actions taken in connection with the estate. However, before taking certain actions, the personal representative will be required to give notice to interested persons unless they have waived notice or have consented to the proposed action. Independent administration authority will be granted unless good cause is shown why it should not be."

(NRS 143.345(3).)

Notice of Proposed Action

If the court grants independent administration, a personal representative must still provide notice of a proposed action to each interested person regarding certain actions during the estate administration. Nevada statutes state which actions require notice before taking those actions and which may be taken without prior notice (NRS 143.375 and 143.700).

An interested party may object to a proposed action. If an interested person objects to a proposed action, the personal representative must petition the court for authority to take that action. (NRS 143.745.)

An interested party may consent to a proposed action at any time, either before or after the proposed action is taken. If all interested parties consent to the proposed action, the personal representative may proceed with the proposed action before expiration of the 15-day notice period. (NRS 143.710.)

An interested person may waive, in writing, the right to receive notice of a proposed action, which is most commonly done if the interested party fully trusts the personal representative, and there are no anticipated disputes. A person waiving their right to receive notice of a proposed action may revoke the waiver in writing. (NRS 143.715 and 143.720.)

A notice of proposed action must contain the following:

- The personal representative's name and mailing address.
- The person and telephone number to call to get additional information.
- The action proposed to be taken, with a reasonably specific description of the action, with the material terms of the contract if the action involves certain real property transactions.
- The date on or after which the proposed action is to be taken.
- A form for objecting to the proposed action.

(NRS 143.725.)

The personal representative must mail or serve by personal delivery a notice of proposed action to each interested person at least 15 days before taking the proposed action (NRS 143.730 and 155.010).

Even when the court grants independent administration, court approval is still required for:

- Allowance of personal representative's compensation.
- Allowance for attorneys' fees.
- Settlement of accounts.
- Preliminary and final distributions and discharge.
- Any transaction personally involving the personal representative or their attorney or indirectly benefiting those persons or a relative of those persons.

(NRS 143.370.)

Probate Requirements

The will cannot waive probate notice requirements, the inventory, or the accounting. However, interested parties may waive these requirements (see Questions 6: Waiver of Notice and 12: Waiver

of Inventory by Interested Persons and Waiver of Accounting by Interested Persons).

Bond Waiver

In Nevada, the court has discretion to require a bond and may:

- Require a bond if it determines a bond is desirable.
- Dispense with the bond requirement if:
 - the court determines bond is unnecessary; or
 - the estate assets are deposited in a blocked account.

(NRS 142.020.)

Nevada wills generally contain language waiving bond. Therefore, for probate of a testate estate, a blocked account or use of the attorney's IOLTA is generally not required and a petitioner may include language in the petition similar to the following:

"The requirement of bond should be waived pursuant to [WILL PROVISION NUMBER] of the decedent's will, which specifically waives the requirement of bond."

For probate of an intestate estate, given the court's discretion in requiring or dispensing with bond, a petitioner may request the court waive bond by including language in the petition to open the probate (see Question 5: Petition Requirements) similar to the following:

"The Petitioner requests that the Court waive the requirement of bond pursuant to NRS 142.020(1)(b), and instead require all liquid assets be placed in the [LAW FIRM NAME] attorney trust account."

or

"The Petitioner requests that the Court waive the requirement of bond pursuant to NRS 142.020(1)(b), and instead require all liquid assets be placed in a blocked account in the name of the Estate."

For more information on bond generally, see Question 8.

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