JUDICIAL DEPARTMENT BILL DRAFT REQUEST FOR THE 2023 LEGISLATIVE SESSION

Authority: NRS 218D.190

Deadline: BDRs from the Judicial Department must be submitted by the Supreme Court by no later than **September 1, 2022**.

Person Submitting Request:

John McCormick

Person to Contact for Clarification or Additional Information:

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1. **Intent of Proposed Bill or Resolution** (Describe the problem to be solved, intended effect, and/or the goal(s) of the proposed bill or resolution – may be attached as separate document):

The intent of this proposal is to 1) remove the word compliance from the name of the Guardianship Office at AOC to better reflect its actual work as well as remove the statutory cap on staffing for the office, 2) allow minor guardianship investigators to obtain vital records and receive them free of charge, 3) add provisions related to unaccompanied immigrant minors related to special immigrant juvenile status, and 4) increases the existing recording fee that supports counsel for protected minors and potential protected minors and minor guardianship investigators to provide extra funds.

2. **If known, list any existing state law that is sought to be changed or which is affected by the measure (NRS Title(s), Chapter(s) and Section(s) affected, Statutes of Nevada Chapter(s) and Section(s) affected and/or Nevada Constitutional provision):**

Title 13, NRS 159.341, NRS 159A.046, new section in Ch. 159A; Title 20, NRS 247.305; Title 40, NRS 400.700

3. **Any additional information that may be helpful in drafting the bill or resolution** (May include any relevant legislative measures, cases or federal laws or other supporting materials – may be attached):

Suggested language is attached. The suggested language places special immigrant juvenile provisions found in NRS 159.343 into the correct location in juvenile guardianship Ch. 159A. All sections except fee increase effective 07/01/23. Fee section effective 01/01/24.

4. **Effective Date:**

- ☐ Default (October 1, 2023)
- ☒ July 1, 2023
- ☒ January 1, 2024
- ☐ Upon Passage and Approval
- ☐ Other

5. **Description of any known cost to the State or a local government that would result from carrying out the changes in the bill if enacted:**

There could be minimal costs associated with providing investigators with vital records, free of charge, to the agency with custody of the record(s). There could also be cost to county recorder offices to implement the increased fee collection.

REQUIRED PREFILING:

A bill draft requested by the Supreme Court is required to be prefiled on or before November 16, 2022. By statute, such a measure that is not prefiled on or before that date is deemed to be withdrawn. There is no authority to waive this requirement.

Please submit the completed Bill Draft Request form by mail to: Bryan Fernley, Legislative Counsel, Legislative Building, 401 South Carson Street, Carson City, Nevada 89701; by e-mail at Bryan.Fernley@lcb.state.nv.us; or by fax at (775) 684-6761.

Section 1. NRS 159.341 is hereby amended to read as follows:

159.341 1. The State Guardianship ~~[Compliance]~~ Office is hereby created.

2. The State Guardianship ~~[Compliance]~~ Officer is:

(a) Appointed by the Supreme Court and serves at the pleasure of the Court; and

(b) Entitled to receive an annual salary set by the Supreme Court within the limits of legislative appropriations.

3. The State Guardianship ~~[Compliance]~~ Officer may hire ~~[two]~~ ***such*** accountants and ~~[two]~~ investigators ***as necessary within the limits of legislative appropriations*** to provide auditing and investigative services to the district courts during the administration of guardianship proceedings pursuant to chapter 159 and 159A of NRS.

4. The State Guardianship ~~[Compliance]~~ Officer shall not act as a guardian for any protected person or protected minor.

Sec. 2. NRS 159A.046 is hereby amended to read as follows:

159A.046 1. Upon filing of the petition, or any time thereafter, the court may appoint one or more investigators to:

(a) Locate persons who perform services needed by the proposed protected minor and other public and private resources available to the proposed protected minor.

(b) Determine any competing interests in the appointment of a guardian.

(c) Investigate allegations or claims which affect a proposed protected minor.

(d) Investigate the suitability of a proposed guardian to provide for the basic needs of a proposed protected minor, including, without limitation, food, clothing, shelter, medical care and education.

(e) Locate relatives of the proposed protected minor who are within the second degree of consanguinity.

(f) Obtain birth records of a proposed protected minor or protected minor, or death records of a proposed protected minor or protected minor, guardian or any party subject to a court case pursuant to this chapter.

2. An investigator may be an employee of the court or a person retained under contract with the court.

3. An investigator shall file with the court and parties a report concerning the scope of the appointment of the guardian and any special powers which a guardian would need to assist the proposed protected minor.

4. If the court finds that a person has unnecessarily or unreasonably caused the investigation, the court may order the person to pay to the court all or part of the expenses associated with the investigation.

5. An investigator appointed pursuant to subsection 1 shall be provided copies of documents related to the scope of the investigation, free of charge, from any Court or government agency within this State.

Sec. 3. Chapter 159A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a person includes a request that the court make the findings set forth in subsection 3 of NRS 3.2203 in a petition filed or motion made pursuant to this chapter, the

court may appoint or extend the appointment of a guardian of the person 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 if the protected person or proposed protected person:

(a) Is an unmarried person who is less than 21 years of age; and

(b) Consents to the appointment or the extension of the appointment.

2. The appointment or the extension of the appointment of a guardian of the person pursuant to subsection 1 does not authorize the guardian to abrogate any rights that the protected minor or proposed protected minor may have pursuant to the laws of this State, including, without limitation, the right to make decisions regarding his or her medical treatment, education or residence, without the express consent of the protected minor or proposed protected minor.

Sec. 4 NRS 247.305 is hereby amended to read as follows: Fees: Amount; collection; disposition of excess payment; payment to county treasurer.

1. If another statute specifies the fee to be charged for a service, county recorders shall charge and collect only the fee specified. Otherwise, unless prohibited by NRS 375.060, county recorders shall charge and collect the following fees:

(a) For recording a document..... $25

(b) For copying a record, for each page..... $1

(c) For certifying, including certificate and seal..... $4

(d) For a certified copy of a certificate of marriage..... $10

(e) For a certified abstract of a certificate of marriage..... $10

(f) For a certified copy of a certificate of marriage or for a certified abstract of a certificate of marriage, the additional sum of $5 for the Account for Aid for Victims of Domestic or Sexual Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and must be credited to that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the recorder to the State Controller for credit to that Account.

2. Except as otherwise provided in this subsection and NRS 375.060, a county recorder may charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee not to exceed $5 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder may not charge the additional fee authorized in this subsection for recording an originally signed certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him or her pursuant to this subsection to the county treasurer for credit to the account established pursuant to NRS 247.306.

3. Except as otherwise provided in this subsection and NRS 375.060, a county recorder shall charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee of ~~[$7]~~ ***$12*** for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder shall not charge the additional fee authorized in this subsection for recording an originally signed

certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him or her pursuant to this subsection to the county treasurer. On or before the 15th day of each month, the county treasurer shall remit the money received by him or her pursuant to this subsection in the following amounts for each fee received:

(a) ~~[Five]~~ ***Seven*** dollars:

(1) To the organization operating the program for legal services for the indigent that receives the fees charged pursuant to NRS 19.031 to be used to provide legal services for:

(I) Protected persons or proposed protected persons who are adults in guardianship proceedings; and

(II) If sufficient funding exists, protected persons or proposed protected persons who are minors in guardianship proceedings, including, without limitation, any guardianship proceeding involving an allegation of financial mismanagement of the estate of a minor; or

(2) If the organization described in subparagraph (1) does not exist in the judicial district, to an account maintained by the county for the exclusive use of the district court to pay the reasonable compensation and expenses of attorneys to represent protected persons and proposed protected persons who are adults and do not have the ability to pay such compensation and expenses, in accordance with NRS 159.0485.

(b) One dollar to the State Treasurer for credit to the Account to Assist Persons Formerly in Foster Care established pursuant to NRS 432.017.

(c) ~~[One]~~ ***Four*** dollar***s*** to an account maintained by the county for the exclusive use of the district court to pay:

(1) The compensation of:

(I) Investigators***, and associated support staff,*** appointed by the court pursuant to NRS 159A.046; and

(II) Attorneys for protected persons and proposed protected persons who are minors in guardianship proceedings; and

(2) For self-help assistance for protected persons and proposed protected persons who are minors in guardianship proceedings.

4. Except as otherwise provided in this subsection and NRS 375.060, a board of county commissioners may, in addition to any fee that a county recorder is otherwise authorized to charge and collect, impose by ordinance a fee of not more than $6 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder shall not charge the additional fee authorized by this subsection for recording an originally signed certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him or her pursuant to this subsection to the county treasurer. On or before the 15th day of each month, the county treasurer shall remit the money received by him or her pursuant to this subsection to the organization operating the program for legal services for the indigent that receives the fees charged pursuant to NRS 19.031 to be used to provide legal services for abused and neglected children, including, without limitation, to compensate attorneys appointed to represent such children pursuant to NRS 128.100 and 432B.420.

5. Except as otherwise provided in subsection 6, a county recorder shall not charge or collect any fees for any of the services specified in this section when rendered by the county recorder to:

(a) The county in which the county recorder's office is located.

(b) The State of Nevada or any city or town within the county in which the county recorder's office is located, if the document being recorded:

(1) Conveys to the State, or to that city or town, an interest in land;

(2) Is a mortgage or deed of trust upon lands within the county which names the State or that city or town as beneficiary;

(3) Imposes a lien in favor of the State or that city or town; or

(4) Is a notice of the pendency of an action by the State or that city or town.

6. A county recorder shall charge and collect the fees specified in this section for copying any document at the request of the State of Nevada, and any city or town within the county. For copying, and for his or her certificate and seal upon the copy, the county recorder shall charge the regular fee.

7. If the amount of money collected by a county recorder for a fee pursuant to this section:

(a) Exceeds by $5 or less the amount required by law to be paid, the county recorder shall deposit the excess payment with the county treasurer for credit to the county general fund.

(b) Exceeds by more than $5 the amount required by law to be paid, the county recorder shall refund the entire amount of the excess payment.

8. Except as otherwise provided in subsection 2, 3, 4 or 7 or by an ordinance adopted pursuant to the provisions of NRS 244.207, county recorders shall, on or before the fifth working day of each month, account for and pay to the county treasurer all such fees collected during the preceding month.

9. For the purposes of this section, "State of Nevada," "county," "city" and "town" include any department or agency thereof and any officer thereof in his or her official capacity.

Sec. 5 NRS 440.700 Is hereby amended to read as follows:

1. Except as otherwise provided in this section, the State Registrar shall charge and collect a fee in an amount established by the State Registrar by regulation:

(a) For searching the files for one name, if no copy is made.

(b) For verifying a vital record.

(c) For establishing and filing a record of paternity, other than a hospital-based paternity, and providing a certified copy of the new record.

(d) For a certified copy of a record of birth.

(e) For a certified copy of a record of death originating in a county in which the board of county commissioners has not created an account for the support of the office of the county coroner pursuant to NRS 259.025.

(f) For a certified copy of a record of death originating in a county in which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to NRS 259.025.

(g) For correcting a record on file with the State Registrar and providing a certified copy of the corrected record.

(h) For replacing a record on file with the State Registrar and providing a certified copy of the new record.

(i) For filing a delayed certificate of birth and providing a certified copy of the certificate.

(j) For the services of a notary public, provided by the State Registrar.

(k) For an index of records of marriage provided on microfiche to a person other than a county clerk or a county recorder of a county of this State.

(l) For an index of records of divorce provided on microfiche to a person other than a county clerk or a county recorder of a county in this State.

(m) For compiling data files which require specific changes in computer programming.

2. The fee collected for furnishing a copy of a certificate of birth or death must include the sum of $3 for credit to the Children's Trust Account created by NRS 432.131.

3. The fee collected for furnishing a copy of a certificate of death must include the sum of $1 for credit to the Review of Death of Children Account created by NRS 432B.409.

4. The fee collected for furnishing a copy of a certificate of death must include the sum of 50 cents for credit to the Grief Support Trust Account created by NRS 439.5132.

5. The State Registrar shall not charge a fee for furnishing a certified copy of a record of birth to:

(a) A homeless person, including, without limitation, a homeless child or youth, who submits on a form prescribed by the State Registrar a statement signed under penalty of perjury that the person is homeless. The State Registrar shall not require such a statement to be notarized.

(b) A person who submits documentation from the Department of Corrections verifying that the person is imprisoned or was released from prison within the immediately preceding 90 days.

(c) A staff person of a local educational agency who has been designated pursuant to 42 U.S.C. § 11432(g)(1)(J)(ii) for a certified copy of a record of birth of a homeless child or youth who is enrolled in the local educational agency.

(d) A social worker licensed to practice in this State, for a certified copy of a record of birth of a homeless child or youth who is a client of the social worker.

6. The fee collected for furnishing a copy of a certificate of death originating in a county in which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to NRS 259.025 must include the sum of $4 for credit to the account for the support of the office of the county coroner of the county in which the certificate originates.

7. Upon the request of any parent or guardian***,*** ~~[or]~~ an unaccompanied youth ***or any investigator appointed pursuant to NRS 159A.046***, the State Registrar shall supply, without the payment of a fee***:*** ~~[,]~~

(a) ~~[a]~~ ***A*** certificate limited to a statement as to the date of birth of any child or of the unaccompanied youth as disclosed by the record of such birth when the certificate is necessary

for admission to school, [or] for securing employment, for obtaining health benefits or care, or for the establishment or management of a guardianship pursuant to NRS Ch. 159A.

(b) A certificate limited to the statement as to the date of death of any child, parent, guardian or party subject to a court case pursuant to NRS Ch. 159A.

8. The United States Bureau of the Census may obtain, without expense to the State, transcripts or certified copies of births and deaths without payment of a fee.

9. As used in this section:

(a) "Homeless child or youth" has the meaning ascribed to it in 42 U.S.C. § 11434a.

(b) "Local educational agency" has the meaning ascribed to it in 42 U.S.C. § 11434a.

(c) "Unaccompanied youth" has the meaning ascribed to it in 42 U.S.C. § 11434a.

Sec. 6

1. Sections 1,2, 3, and 5 are effective on July 1, 2023.

2. Section 4 is effective on January 1, 2024.