

1 **RIGHTS OF PARENTS AND CHILDREN AMENDMENTS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: LaVar Christensen**

5 Senate Sponsor: _____

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies Title 78A, Chapter 6, Juvenile Court Act, by permitting a parent who
10 has been served with a petition for termination of parental rights to request a jury trial.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ states that a parent who has been served with a petition for termination of parental
- 14 rights maintains fundamental liberty interests guaranteed by the United States
- 15 Constitution;
- 16 ▶ permits a parent to request a jury trial in a proceeding for termination of parental
- 17 rights;
- 18 ▶ requires the court to grant a parent's request for a jury trial in a proceeding for
- 19 termination of parental rights; and
- 20 ▶ makes technical changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **78A-6-506**, as renumbered and amended by Laws of Utah 2008, Chapter 3



28

29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **78A-6-506** is amended to read:

31 **78A-6-506. Notice -- Nature of proceedings.**

32 (1) After a petition for termination of parental rights has been filed, notice of that fact
33 and of the time and place of the hearing shall be provided, in accordance with the Utah Rules
34 of Civil Procedure, to the parents, the guardian, the person or agency having legal custody of
35 the child, and to any person acting in loco parentis to the child.

36 (2) A hearing shall be held specifically on the question of termination of parental rights
37 no sooner than [~~10~~] 30 days after service of summons is complete.

38 (3) A verbatim record of the proceedings shall be taken and the parties shall be advised
39 of their right to counsel and trial by jury.

40 (4) (a) The summons shall contain a statement to the effect that the rights of the parent
41 or parents are proposed to be permanently terminated in the proceedings and that,
42 notwithstanding any other provision of this chapter, the parent has a right to request a jury trial.
43 [~~That~~]

44 (b) The statement described in Subsection (4)(a) may be contained in the summons
45 originally issued in the proceeding or in a separate summons subsequently issued.

46 [~~(3)~~] (5) The proceedings are civil in nature and are governed by the Utah Rules of
47 Civil Procedure.

48 (6) A parent who has been served with a petition for termination of parental rights:

49 (a) continues to possess protected, fundamental liberty interests recognized by the
50 United States Constitution and as stated and described in Section 78A-6-503;

51 (b) shall be subject to the required heightened protection and least restrictive means
52 analysis described in Section 78A-6-503;

53 (c) has a right to, and may request, a final determination by jury trial regarding the
54 parent's fitness, and whether the parent-child relationship should be terminated; and

55 (d) shall request the jury trial described in Subsection (6)(c) no later than 45 days after
56 the day on which the parent receives the notice described in Subsection (1).

57 (7) If a parent requests a jury trial, the parent shall pay the same filing fee set by the
58 court for a civil case with a demand for jury trial.

59 (8) The court shall [~~in all cases~~]:
60 (a) grant a request for a jury trial and convert the hearing described in Subsection (2) to
61 a pretrial conference and may transfer the case to district court for trial by jury;
62 (b) require the petitioner to establish the facts by clear and convincing evidence[~~, and~~
63 ~~shall~~]; and
64 (c) give, or instruct the jury to give, full and careful consideration to all of the evidence
65 presented with regard to the constitutional rights and claims of the parent [~~and, if~~].
66 (9) If the jury, or the court in cases where the parent does not request a jury trial, finds
67 a parent [~~is found~~], by reason of [~~his~~] the parent's conduct or condition, to be unfit or
68 incompetent based upon [~~any of~~] the grounds for termination described in this part, and subject
69 to the principles and recognized rights described in Section 78A-6-503, the jury or court shall
70 then consider the welfare and best interest of the child of paramount importance in determining
71 whether termination of parental rights shall be ordered.

Legislative Review Note

as of 2-11-13 12:55 PM

Office of Legislative Research and General Counsel