

26 ▶ beginning July 1, 2014, permits a parent whose rights were terminated, or a relative
27 of the child, to petition for guardianship of the parent's child if the child is not
28 adopted within a year of termination, and no adoption is likely to occur, or if the
29 child's adoptive parents return the child to the custody of the division;

30 ▶ requires the division to study options for creating a posttermination of parental
31 rights system and report the findings to the 2013 Health and Human Services
32 Interim Committee.

33 ▶ delays the effective date of Uncodified Section 10, Laws of Utah 2012, Chapter
34 223; and

35 ▶ makes technical changes.

36 **Money Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 This bill provides effective dates.

39a **Ĥ→ This bill coordinates with H.B. 156, Restoration of Terminated Parental Rights, by**
39b **providing superseding amendments. ←Ĥ**

40 **Utah Code Sections Affected:**

41 AMENDS:

42 **62A-4a-105**, as last amended by Laws of Utah 2012, Chapters 49 and 200

43 **62A-4a-114**, as last amended by Laws of Utah 2008, Chapter 3

44 **62A-4a-209**, as last amended by Laws of Utah 2008, Chapters 3 and 17

44a **Ĥ→ 63I-1-278, as last amended by Laws of Utah 2012, Chapters 301 and 369 ←Ĥ**

45 **78A-2-228 (Effective 07/01/13)**, as last amended by Laws of Utah 2012, Chapter 223

46 **78A-6-307**, as last amended by Laws of Utah 2008, Chapter 17 and renumbered and
47 amended by Laws of Utah 2008, Chapter 3

48 **78A-6-312**, as last amended by Laws of Utah 2012, Chapter 293

49 **78A-6-511**, as last amended by Laws of Utah 2012, Chapter 293

50 **78A-6-513**, as renumbered and amended by Laws of Utah 2008, Chapter 3

51 **78A-6-1106**, as renumbered and amended by Laws of Utah 2008, Chapter 3

52 **78B-7-106 (Effective 07/01/13)**, as last amended by Laws of Utah 2012, Chapters 120
53 and 223

54 **78B-7-202 (Effective 07/01/13)**, as last amended by Laws of Utah 2012, Chapter 223

55 ENACTS:

56 **78A-2-227.1**, Utah Code Annotated 1953

57 78A-6-511.1, Utah Code Annotated 1953

57a **H→ Utah Code Sections Affected by Coordination Clause:**

57b **78A-6-511, as last amended by the Laws of Utah 2012, Chapter 293**

57c **78A-6-513, as last amended by the Laws of Utah 2008, Chapter 3 ←H**

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

60 Section 1. Section **62A-4a-105** is amended to read:

61 **62A-4a-105. Division responsibilities.**

62 (1) The division shall:

63 (a) administer services to minors and families, including:

64 (i) child welfare services;

65 (ii) domestic violence services; and

66 (iii) all other responsibilities that the Legislature or the executive director may assign

67 to the division;

68 (b) provide the following services:

69 (i) financial and other assistance to an individual adopting a child with special needs

70 under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the

71 child as a legal ward of the state;

72 (ii) non-custodial and in-home preventative services, including:

73 (A) services designed to prevent family break-up; and

74 (B) family preservation services;

75 (iii) reunification services to families whose children are in substitute care in

76 accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act

77 of 1996;

78 (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse

79 or neglect of a child in that family;

80 (v) shelter care in accordance with the requirements of this chapter and Title 78A,

81 Chapter 6, Juvenile Court Act of 1996;

82 (vi) domestic violence services, in accordance with the requirements of federal law;

83 (vii) protective services to victims of domestic violence, as defined in Section 77-36-1,

84 and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6,

85 Part 3, Abuse, Neglect, and Dependency Proceedings;

86 (viii) substitute care for dependent, abused, neglected, and delinquent children;

87 (ix) programs and services for minors who have been placed in the custody of the

243 (ii) determines that there is not reason to believe that the child's health or safety will be
244 endangered during the emergency placement; and

245 (iii) has the custodial parent or guardian sign an emergency placement agreement.

246 (b) Either before or after making an emergency placement with the noncustodial parent
247 of the child, the division may conduct the investigation described in Subsection (3)(a) in
248 relation to the noncustodial parent.

249 (c) Before, or within one day, excluding weekends and holidays, after a child is placed
250 in an emergency placement with the noncustodial parent of the child, the division shall conduct
251 a limited:

252 (i) background check of the noncustodial parent, pursuant to Subsection (7); and

253 (ii) inspection of the home where the emergency placement is made.

254 (6) After an emergency placement, the division caseworker must:

255 (a) respond to the emergency placement's calls within one hour if the custodial parents
256 or guardians attempt to make unauthorized contact with the child or attempt to remove the
257 child;

258 (b) complete all removal paperwork, including the notice provided to the custodial
259 parents and guardians under Section 78A-6-306;

260 (c) contact the attorney general to schedule a shelter hearing;

261 (d) complete the placement procedures required in Section 78A-6-307; and

262 (e) continue to search for other relatives as a possible long-term placement, if needed.

263 (7) (a) The background check described in Subsection (3)(c)(i) shall include:

264 (i) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification
265 background check; and

266 (ii) a completed search of the Management Information System described in Section
267 62A-4a-1003.

268 (b) The division shall determine whether a person passes the background check
269 described in this Subsection (7) pursuant to the provisions of Subsections 62A-2-120(2), (3),
270 and (8).

271 (c) Notwithstanding Subsection (7)(b), the division may not place a child with an
272 individual who is prohibited by court order from having access to that child.

272a **Ĥ→ Section 4. Section 63I-1-278 is amended to read:**

272b **63I-1-278. Repeal dates, Title 78A and Title 78B.**

272c **(1) The Office of the Court Administrator, created in Section 78A-2-105, is repealed**

272d **July 1, 2018. ←Ĥ**

272e **Ĥ→ (2) Section 78A-2-227.1 is repealed July 1, 2014.**
272f [~~2~~] **(3) Section 78B-3-421, regarding medical malpractice arbitration agreements, is**
272g **repealed July 1, 2019.**
272h [~~3~~] **(4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution is repealed July 1, 2016.**
272i [~~4~~] **(5) The following are repealed December 31, 2014:**
272j **(a) Subsection 78B-6-802(1)(i);**
272k **(b) the language in Subsection 78B-6-802(1)(a) that states "except as provided in Subsection**
272l **(1)(i)"; and**
272m **(c) the language in Subsection 78B-6-802(1)(b) that states "and except as provided in**
272n **Subsection (1)(i)".**
272o [~~5~~] **(6) Section 78B-6-901.5, regarding notice to tenants on residential rental**
272p **property to be foreclosed, is repealed December 31, 2014. ←Ĥ**
273 **Section Ĥ→ [4] 5 ←Ĥ . Section 78A-2-227.1 is enacted to read:**

460 recommendation regarding the best interest of the minor, the court shall require the private
 461 attorney guardian ad litem to disclose the factors that form the basis of the recommendation.

462 (15) An attorney guardian ad litem appointed under this section is immune from any
 463 civil liability that might result by reason of acts performed within the scope of duties of the
 464 attorney guardian ad litem.

465 (16) The Office of Guardian ad Litem and the Guardian Ad Litem Oversight
 466 Committee shall compile a list of attorneys willing to accept an appointment as a private
 467 attorney guardian ad litem.

468 (17) Upon the advice of the director of the Office of Guardian ad Litem and the
 469 Guardian Ad Litem Oversight Committee, the Judicial Council shall establish by rule:

470 (a) the minimum qualifications and requirements for appointment by the court as an
 471 attorney guardian ad litem;

472 (b) the standard fee rate and retainer amount for a private attorney guardian ad litem;

473 (c) the percentage of cases a private attorney guardian ad litem may be expected to take
 474 on pro bono;

475 (d) a system to:

476 (i) select a private attorney guardian ad litem for a given appointment; and

477 (ii) determine when a private attorney guardian ad litem shall be expected to accept an
 478 appointment pro bono; and

479 (e) the process for handling a complaint relating to the eligibility status of a private
 480 attorney guardian ad litem.

481 (18) Any savings that result from assigning a private attorney guardian ad litem in a
 482 district court case, instead of a guardian ad litem from the Office of Guardian ad Litem, shall
 483 be applied to the ~~Ĥ→ [Office of Guardian ad Litem to reduce caseloads and improve current~~

484 ~~practices.] private guardian ad litem program. ←Ĥ~~

485 Section ~~Ĥ→ [6] 7 ←Ĥ~~ . Section 78A-6-307 is amended to read:

486 **78A-6-307. Shelter hearing -- Placement -- DCFS custody.**

487 (1) As used in this section:

488 (a) (i) "Natural parent," notwithstanding the provisions of Section 78A-6-105, means:

489 (A) a biological or adoptive mother;

490 (B) an adoptive father; or

1080 (f) grant to the petitioner temporary custody of any minor children of the parties;

1081 (g) order the appointment of ~~H~~ :

1081a (i) before July 1, 2014, ~~H~~ a [private attorney] guardian ad litem under Section

1082 [78A-2-228] 78A-2-227.1, if appropriate; ~~H~~ and

1082a (ii) on or after July 1, 2014, a private attorney guardian ad litem under Section

1082b 78A-2-228, if appropriate; ~~H~~

1083 (h) order any further relief that the court considers necessary to provide for the safety
1084 and welfare of the petitioner and any designated family or household member; and

1085 (i) if the petition requests child support or spousal support, at the hearing on the
1086 petition order both parties to provide verification of current income, including year-to-date pay
1087 stubs or employer statements of year-to-date or other period of earnings, as specified by the
1088 court, and complete copies of tax returns from at least the most recent year.

1089 (3) A court may grant the following relief in an order for protection or a modification
1090 of an order after notice and hearing, whether or not the respondent appears:

1091 (a) grant the relief described in Subsection (2); and

1092 (b) specify arrangements for parent-time of any minor child by the respondent and
1093 require supervision of that parent-time by a third party or deny parent-time if necessary to
1094 protect the safety of the petitioner or child.

1095 (4) Following the protective order hearing, the court shall:

1096 (a) as soon as possible, deliver the order to the county sheriff for service of process;

1097 (b) make reasonable efforts to ensure that the order for protection is understood by the
1098 petitioner, and the respondent, if present;

1099 (c) transmit electronically, by the end of the next business day after the order is issued,
1100 a copy of the order for protection to the local law enforcement agency or agencies designated
1101 by the petitioner; and

1102 (d) transmit a copy of the order to the statewide domestic violence network described
1103 in Section 78B-7-113.

1104 (5) (a) Each protective order shall include two separate portions, one for provisions, the
1105 violation of which are criminal offenses, and one for provisions, the violation of which are civil
1106 violations, as follows:

1107 (i) criminal offenses are those under Subsections (2)(a) through (e), and under
1108 Subsection (3)(a) as it refers to Subsections (2)(a) through (e); and

1109 (ii) civil offenses are those under Subsections (2)(f), (h), and (i), and Subsection (3)(a)
1110 as it refers to Subsections (2)(f), (h), and (i).

1173 (c) identify and obtain any other background information that may be of assistance to
1174 the court.

1175 (3) Upon the filing of a petition, the court shall immediately determine, based on the
1176 evidence and information presented, whether the minor is being abused or is in imminent
1177 danger of being abused. If so, the court shall enter an ex parte child protective order.

1178 (4) The court may appoint ~~H~~→ :

1178a (a) [a] ~~an~~ ←~~H~~ [private] attorney guardian ad litem
1178b under Section

1179 [~~78A-2-228~~] 78A-2-227.1 for district court cases, ~~H~~→ **before July 1, 2014;**

1179a **(b) a private attorney guardian ad litem under Section 78A-2-228 for district court**
1179b **cases, on or after July 1, 2014;** ←~~H~~ or

1179c ~~H~~→ (c) ←~~H~~ the Office of Guardian ad Litem for

1180 juvenile court cases under Section 78A-6-902, for the child who is the subject of the petition.

1181 Section 14. **Effective date.**

1182 (1) Except as provided in Subsections (2) and (3), this bill takes effect on May 14,
1183 2013.

1184 (2) The actions affecting the following sections take effect on July 1, 2013:

1185 (a) Section 78A-6-227.1;

1186 (b) Section 78B-7-106; and

1187 (c) Section 78A-7-202.

1188 (3) The actions affecting the following sections take effect on July 1, 2014:

1189 (a) Section 78A-6-511; and

1190 (b) Section 78A-6-513.

1190a ~~H~~→ **Section 15. Coordinating S.B. 49 with H. B. 156 -- Superseding amendments.**

1190b **If this S.B. 49 and H.B. 156, Restoration of Terminated Parental Rights, both pass and become**

1190c **law, it is the intent of the Legislature that, as of July 1, 2014, the amendments to Sections**

1190d **78A-6-511 and 78A-6-513 in H.B. 156 supersede the amendments to Section 78A-6-511 and**

1190e **78A-6-513 in S.B. 49, when the Office of Legislative Research and General Counsel prepares**

1190f **the Utah Code database for publication.** ←~~H~~