

H.B. 156

RESTORATION OF TERMINATED PARENTAL RIGHTS

HOUSE FLOOR AMENDMENTS

AMENDMENT 2

MARCH 6, 2013 1:39 PM

Representative **LaVar Christensen** proposes the following amendments:

1. *Page 1, Lines 15 through 17:*

15 { ~~→ authorizes a parent to nominate a relative to serve as a legal guardian for the parent's~~
16 ~~child in the event of a termination of parental rights;~~
17 ~~→ describes the circumstances under which a court may grant a guardianship petition; }~~

2. *Page 3, Line 60*

a. House Floor Amendments

b. 3-6-2013:

60 home and bring up children is a fundamental { ~~and beyond the reach of any court~~ } and protected
liberty interest .

3. *Page 3, Line 64 through Page 4, Line 108*

a. House Floor Amendments

b. 3-6-2013:

64 { ~~Section 2. Section 78A-6-507.5 is enacted to read:~~
65 ~~78A-6-507.5. Contesting a petition to terminate parental rights -- Submitting a~~
66 ~~nominee for guardianship -- Guardianship process:~~
67 ~~(1) A parent who receives notice of a petition to terminate parental rights under Section~~
68 ~~78A-6-506 and disputes that the parent's parental rights should be terminated, may:~~
69 ~~(a) contest the petition; and~~
70 ~~(b) in the alternative, ~~it~~ → [submit a petition naming] name ~~← it~~ an individual ~~it~~ → [to~~
70a ~~serve] for the court to consider ~~← it~~ as legal guardian~~
71 ~~for the child, if:~~
72 ~~(i) the nominee is an adult who is a grandparent, great-grandparent, aunt, great-aunt,~~
73 ~~uncle, great-uncle, brother-in-law, sister-in-law, stepparent, first cousin, sibling, or stepsibling~~
74 ~~of the child;~~
75 ~~(ii) the nominee consents to the guardianship relationship; and~~
76 ~~(iii) the parent's rights are ultimately terminated.~~
77 ~~it → (2) The division shall make a recommendation to the court regarding the fitness of the~~
78 ~~nominee described in Subsection (1) to serve as the child's guardian.]~~
79 ~~[(3)] (2) ~~← it~~ The court shall:~~
80 ~~(a) consider:~~

81 ~~_____ (i) the principles, rights, protections, and requirements described and recognized in this~~
82 ~~part;~~
83 ~~_____ ~~fit~~ ~~→~~ [(ii) the recommendation of the division, described in Subsection (2);]~~
84 ~~_____ [(iii) (ii) ~~←~~ ~~fit~~ the desires of the child, if the child is 12 years of age or older;~~
85 ~~_____ ~~fit~~ ~~→~~ [(iv) (iii) ~~←~~ ~~fit~~ the fundamental right of a parent to choose who shall raise and care for~~
85a ~~the parent's~~
86 ~~child; and~~
87 ~~_____ ~~fit~~ ~~→~~ [(v) (iv) ~~←~~ ~~fit~~ the fundamental right of a child to be reared by the child's parent or the~~
87a ~~parent's~~
88 ~~designee; and~~
89 ~~_____ (b) if it appears the parent will not be able to successfully contest the petition for termination of~~
90 ~~parental rights, order a legal guardianship relationship between the child and the~~
91 ~~nominee, if it is in the best interest of the child and a means of achieving the strong public~~
92 ~~policy in support of family preservation.~~
93 ~~_____ ~~fit~~ ~~→~~ [(4) (3) ~~←~~ ~~fit~~ In an order granting ~~fit~~ ~~→~~ [the petition for] ~~←~~ ~~fit~~ guardianship ~~fit~~ ~~→~~ under~~
93a ~~this section ~~←~~ ~~fit~~, the court shall describe:~~
94 ~~_____ (a) what limitations, if any, the guardian shall place on the parent's access to the child~~
95 ~~as a condition for continued guardianship; and~~
96 ~~_____ (b) what role, if any, the division will fill in supervising the guardianship placement.~~
97 ~~_____ ~~fit~~ ~~→~~ [(5) (4) ~~←~~ ~~fit~~ If granted, the court shall review the guardianship placement six months~~
97a ~~after the~~
98 ~~day on which the guardianship petition is granted to review whether guardianship is still~~
99 ~~appropriate and consistent with controlling constitutional rights.~~
100 ~~_____ ~~fit~~ ~~→~~ [(6) (5) ~~←~~ ~~fit~~ Nothing in this section shall be construed as a guarantee that a nominee~~
100a ~~will be~~
101 ~~allowed to serve as a legal guardian for a child, but the nominee shall be given added weight~~
102 ~~and strong and thorough consideration.~~
103 ~~_____ ~~fit~~ ~~→~~ [(7) (6) ~~←~~ ~~fit~~ Legal guardianship, as described and established in this section, is:~~
104 ~~_____ (a) considered a permanent placement for purposes of complying with federal law, if~~
105 ~~the guardianship is ordered without the continued supervision of the division; and~~
106 ~~_____ (b) most appropriate when a former parent:~~
107 ~~_____ (i) has made progress toward becoming a fit parent, but has not yet succeeded; and~~
108 ~~_____ (ii) may become a fit parent with additional time and assistance. }~~

4. Page 4, Line 120 through Page 5, Line 122

a. House Floor Amendments

b. 3-6-2013:

120 agency or the division for adoption; {~~for~~} or121 (b) make any other disposition of the child
authorized under Section 78A-6-117 {~~for~~; or} ∴

122 ~~{(c) place the child in a guardianship relationship under Section 78A-6-513.5.}~~

5. Page 5, Line 130:

130 are relatives who are willing to adopt the child; ~~{and}~~ and

6. Page 5, Lines 134 through 135:

134 relative is not in the best interest of the child ~~{,;and}~~ :
135 ~~{(d) shall consider a legal guardianship, under Section 78A-6-513.5.}~~

7. Page 5, Line 145:

145 (3) ~~[After]~~ Except as provided in ~~{Section 78A-6-513.5}~~ Sections 78A-6-1401 through 1404 ,
 after the termination of a

8. Page 6, Line 160

a. House Floor Amendments
b. 3-6-2013:

160 (a) a child ~~{, age 12 or older, }~~ = whose parent-child relationship to the former parent was

9. Page 6, Lines 166 through 168

a. House Floor Amendments
b. 3-6-2013:

166 relationship and :
 (A) the child has not been adopted; ~~{or}~~ and

(B) the child is not in an adoptive placement; or

167 (ii) the child has been adopted, but the ~~{adoptive parents have ff→ returned and ←ff~~

167a relinquished the child to

168 ~~the custody of the division or another person.}~~ adoption has failed and custody and guardianship
have returned to the state by court order.