

## 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  
121 authorized under Section 78A-6-117 ~~{-.;-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.