

H.B. 156

RESTORATION OF TERMINATED PARENTAL RIGHTS

HOUSE FLOOR AMENDMENTS

AMENDMENT 3

MARCH 7, 2013 8:18 AM

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

1. *Page 1, Lines 15 through 18:*

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; }~~
18 ▶ permits a former parent { , } or a child { ~~12 years of age or older;~~ } to submit a motion for

2. *Page 3, Line 60*

House Floor Amendments

3-6-2013:

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

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

House Floor Amendments

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) ←~~ ~~fit~~ The court shall:
80 ~~— (a) consider:~~
81 ~~— (i) the principles, rights, protections, and requirements described and recognized in this~~
82 part;
83 ~~— fit → [(ii)] (ii) ←~~ ~~fit~~ 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
House Floor Amendments
3-6-2013:

120 agency or the division for adoption; ~~{for}~~ or
121 (b) make any other disposition of the child 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, Lines 160 through 161

House Floor Amendments

3-6-2013:

160 (a) a legally authorized individual acting on behalf of a child ~~{, age 12 or older,}~~ whose
parent-child relationship to the former parent was
161 terminated under this chapter ~~{, or an individual acting on the child's behalf}~~ ;or

9. Page 6, Lines 165 through 168

House Floor Amendments

3-6-2013:

165 (i) ~~{12}~~ 18 months have passed since the court ordered termination of the parent-child legal
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.

10. Page 7, Line 208

House Floor Amendments

3-6-2013:

(b) The court shall also consider **and balance** the fundamental liberty interests of the former parent