

H.B. 156

RESTORATION OF TERMINATED PARENTAL RIGHTS

HOUSE FLOOR AMENDMENTS

AMENDMENT 4

MARCH 7, 2013 1:38 PM

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 legally authorized representative of 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) ←~~ 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 ~~{f,;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 ~~{f,;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 197

House Floor Amendments

3-6-2013:

197 by ~~{ a preponderance of the }~~ clear and convincing evidence that it is in the best interest of the child,
may:

11. Page 7, Line 203

House Floor Amendments

3-6-2013:

203 (2) (a) In determining whether reunification is ~~{ required }~~ appropriate and in the best interest
of the

12. Page 7, Lines 206 through 209

House Floor Amendments

3-6-2013:

206 resulted in the termination of the parent-child relationship; ~~{ and }~~

207 (ii) extended family support for the former parent ~~{ }~~ ; and

(iii) other material changes of circumstances, if any, that may have occurred that warrant the
granting of the motion.

208 (b) The court shall also consider , balance, and protect the fundamental liberty interests of ~~{ the
former parent~~

209 ~~and child. }~~ both parents and children.