

**1st Sub. S.B. 49**  
**CHILD WELFARE MODIFICATIONS**

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

1. *Page 2, Lines 26 through 32:*

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.}~~

2. *Page 2, Lines 38 through 39:*

38 Other Special Clauses:  
39 This bill provides effective dates.

**This bill provides revisor instructions.**

**This bill coordinates with H.B. 156, Restoration of Terminated Parental Rights, by providing superseding amendments.**

3. *Page 2, Line 54:*

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

**Utah Code Sections Affected by Coordination Clause:**

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

**78A-6-513, as last amended by the Laws of Utah 2008, Chapter 3** =

4. *Page 2, Line 56:*

56 { ~~78A-2-227.1, Utah Code Annotated 1953~~ }

5. *Page 3, Line 57:*

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

**Uncodified Material Affected:**

**AMENDS UNCODIFIED MATERIAL:**

**Uncodified Section 10, Laws of Utah 2012, Chapter 223**

This uncodified section affects Sections 30-3-5.2, 51-9-408, 78A-2-227, 78A-2-228, 78B-3-102, 78B-7-106, 78B-7-106, 78B-7-202, and 78B-15-612.

6. Page 10, Line 274 through Page 12, Line 338:

274           ~~{78A-2-227.1. Appointment of attorney guardian ad litem in district court matters:~~  
275       ~~—— A district court may appoint the Office of Guardian ad Litem to represent the best~~  
276       ~~interests of a minor in the following district court matters:~~  
277       ~~—— (1) protective order proceedings; and~~  
278       ~~—— (2) district court actions when:~~  
279       ~~—— (a) child abuse, child sexual abuse, or neglect is alleged in a formal complaint, petition,~~  
280       ~~or counterclaim;~~  
281       ~~—— (b) the child abuse, child sexual abuse, or neglect described in Subsection (2)(a) has~~  
282       ~~been reported to Child Protective Services; and~~  
283       ~~—— (c) the court makes a finding that the adult parties to the case are indigent, as defined in~~  
284       ~~Section 77-32-202.~~  
285       ~~—— (3) (a) A court may not appoint an attorney guardian ad litem in a criminal case;~~  
286       ~~—— (b) Subsection (3)(a) does not prohibit the appointment of an attorney guardian ad~~  
287       ~~litem in a case where a court is determining whether to adjudicate a minor for committing an~~  
288       ~~act that would be a crime if committed by an adult.~~  
289       ~~—— (c) Subsection (3)(a) does not prohibit an attorney guardian ad litem from entering an~~  
290       ~~appearance, filing motions, or taking other action in a criminal case on behalf of a minor, if:~~  
291       ~~—— (i) the attorney guardian ad litem is appointed to represent the minor in a case that is~~  
292       ~~not a criminal case; and~~  
293       ~~—— (ii) the interests of the minor may be impacted by:~~  
294       ~~—— (A) an order that has been, or may be, issued in the criminal case; or~~  
295       ~~—— (B) other proceedings that have occurred, or may occur, in the criminal case;~~  
296       ~~—— (4) If a court appoints an attorney guardian ad litem in a divorce or child custody case,~~  
297       ~~the court shall:~~  
298       ~~—— (a) specify in the order appointing the attorney guardian ad litem the specific issues in~~  
299       ~~the proceeding that the attorney guardian ad litem is required to be involved in resolving, which~~  
300       ~~may include issues relating to the custody of children and parent-time schedules;~~  
301       ~~—— (b) to the extent possible, bifurcate the issues specified in the order described in~~  
302       ~~Subsection (4)(a) from the other issues in the case, in order to minimize the time constraints~~  
303       ~~placed upon the attorney guardian ad litem in the case; and~~  
304       ~~—— (c) except as provided in Subsection (6), within one year after the day on which the~~  
305       ~~attorney guardian ad litem is appointed in the case, issue a final order:~~  
306       ~~—— (i) resolving the issues described in the order described in Subsection (4)(a); and~~  
307       ~~—— (ii) terminating the appointment of the attorney guardian ad litem in the case;~~  
308       ~~—— (5) The court shall issue an order terminating the appointment of an attorney guardian~~

309 ad litem made under this section, if:  
310 —— (a) the court determines that the allegations of abuse or neglect are unfounded;  
311 —— (b) after receiving input from the attorney guardian ad litem, the court determines that  
312 the children are no longer at risk of abuse or neglect; or  
313 —— (c) there has been no activity in the case for which the attorney guardian ad litem is  
314 appointed for a period of six consecutive months;  
315 —— (6) A court may issue a written order extending the one-year period described in  
316 Subsection (4)(c) for a time-certain, if the court makes a written finding that there is a  
317 compelling reason that the court cannot comply with the requirements described in Subsection  
318 (4)(c) within the one-year period;  
319 —— (7) When appointing an attorney guardian ad litem for a minor under this section, a  
320 court may appoint the same attorney guardian ad litem who represents the minor in another  
321 proceeding, or who has represented the minor in a previous proceeding, if that attorney  
322 guardian ad litem is available;  
323 —— (8) The court is responsible for all costs resulting from the appointment of an attorney  
324 guardian ad litem and shall use funds appropriated by the Legislature for the guardian ad litem  
325 program to cover those costs;  
326 —— (9) (a) If the court appoints the Office of Guardian Ad Litem in a civil case pursuant to  
327 this section, the court may assess all or part of those attorney fees, court costs, paralegal, staff,  
328 and volunteer expenses against the minor's parent, parents, or legal guardian in an amount that  
329 the court determines to be just and appropriate.  
330 —— (b) The court may not assess those fees or costs against a legal guardian, when that  
331 guardian is the state, or against a parent, parents, or legal guardian who is found to be  
332 impecunious. If a person claims to be impecunious, the court shall require of that person an  
333 affidavit of impecuniosity as provided in Section 78A-2-302 and the court shall follow the  
334 procedures and make the determinations as provided in Section 78A-2-302.  
335 —— (10) An attorney guardian ad litem appointed in accordance with the requirements of  
336 this section and Chapter 6, Part 9, Guardian Ad Litem, is, when serving in the scope of duties  
337 of an attorney guardian ad litem, considered an employee of this state for purposes of  
338 indemnification under the Governmental Immunity Act. }

7. Page 16, Lines 483 through 484:

483 be applied to { ~~the Office of Guardian ad Litem to reduce caseloads and improve current~~  
484 ~~practices.~~ } the private guardian ad litem program.

8. Page 36, Lines 1081 through 1082:

1081 (g) order the appointment of a { ~~[private attorney]~~ } private attorney guardian ad litem under  
Section  
1082 [78A-2-228] { ~~78A-2-227.1~~ } 78A-2-228 , if appropriate;

9. Page 39, Lines 1178 through 1179:

1178 (4) The court may appoint a ~~{private}~~ private attorney guardian ad litem under Section  
1179 ~~[78A-2-228]~~ ~~{78A-2-227.1}~~ 78A-2-228 for district court cases, or the Office of Guardian ad Litem for

10. Page 39, Lines 1185 through 1187:

1185 ~~{(a) Section 78A-6-227.1;}~~  
1186 ~~{(b)}~~ (a) Section 78B-7-106; and  
1187 ~~{(c)}~~ (b) Section 78A-7-202.

11. Page 39, Line 1190:

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

Section 15. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, change the effective date in Sections 30-3-5.2, 51-9-408, 78A-2-227, 78A-2-228, 78B-3-102, 78B-7-106, 78B-7-202, and 78B-15-612 from July 1, 2013 to January 1, 2014.

Section 16. Coordinating S.B. 49 with H. B. 156 -- Superseding amendments.

If this S.B. 49 and H.B. 156, Restoration of Terminated Parental Rights, both pass and become law, it is the intent of the Legislature that, as of July 1, 2014, the amendments to Sections 78A-6-511 and 78A-6-513 in H.B. 156 supersede the amendments to Section 78A-6-511 and 78A-6-513 in S.B. 49, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

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