

## HB0399S01 compared with HB0399

~~{deleted text}~~ shows text that was in HB0399 but was deleted in HB0399S01.

inserted text shows text that was not in HB0399 but was inserted into HB0399S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Rebecca P. Edwards proposes the following substitute bill:

### GUARDIANSHIP OF ADULT CHILDREN WITH DISABILITIES

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Rebecca P. Edwards**

Senate Sponsor: \_\_\_\_\_

---

---

#### LONG TITLE

##### General Description:

This bill ~~{creates a simplified process for a parent to obtain guardianship of a disabled child}~~ reduces the filing fee for guardianships under certain circumstances.

##### Highlighted Provisions:

This bill:

- ▶ ~~{sets definitions;~~
- ▶ ~~declares the purpose of the part as providing for a simplified process for the parents of a child with disabilities to obtain guardianship;~~
- ▶ ~~requires the Judicial Council to develop a streamlined process and petition;~~
- ▶ ~~sets}~~ reduces the filing fee for ~~{the simplified process at \$35; and~~

**HB0399S01 compared with HB0399**

~~provides that counsel for the child is not required~~; a guardianship when the prospective ward is under 22 years of age to \$35.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78A-2-301**, as last amended by Laws of Utah 2014, Chapters 189 and 263

~~{ENACTS:~~

~~78B-6-2001, Utah Code Annotated 1953~~

~~78B-6-2002, Utah Code Annotated 1953~~

~~78B-6-2003, Utah Code Annotated 1953~~

~~78B-6-2004, Utah Code Annotated 1953~~

~~78B-6-2005, Utah Code Annotated 1953~~

---

---

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **78A-2-301** is amended to read:

**78A-2-301. Civil fees of the courts of record -- Courts complex design.**

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$360.

(b) The fee for filing a complaint or petition is:

(i) \$75 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

(iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

(v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5; ~~and~~

(vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender

## HB0399S01 compared with HB0399

Registry under Section 77-41-112[-]; and

(vii) \$35 if the petition is for guardianship and the prospective ward is under 22 years of ~~an incapacitated child in accordance with Title 78B, Chapter 6, Part 20, Guardianship Proceedings for Incapacitated Adult Child;~~age.

(c) The fee for filing a small claims affidavit is:

(i) \$60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is \$10,000 or more, or the party seeks relief other than monetary damages; and

(iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount

## HB0399S01 compared with HB0399

deposited.

(g) The fee for filing a petition is:

(i) \$225 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) \$65 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is \$225.

(i) The fee for filing a petition for expungement is \$135.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is \$35.

## **HB0399S01 compared with HB0399**

(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah State Tax Commission is \$30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the Utah State Tax Commission, is \$50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is \$35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is \$35.

(q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is \$100.

(r) The fee for filing any accounting required by law is:

(i) \$15 for an estate valued at \$50,000 or less;

(ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

(iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

(iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

(v) \$175 for an estate valued at more than \$168,000.

(s) The fee for filing a demand for a civil jury is \$250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rule of Civil Procedure 26 is \$35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is \$35.

(v) The fee for a petition to open a sealed record is \$35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is \$5.

(ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6, Part 8, Emancipation, is \$50.

## HB0399S01 compared with HB0399

(y) The fee for a certificate issued under Section 26-2-25 is \$8.

(z) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per page.

(bb) The Judicial Council shall by rule establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall be credited to the court as a reimbursement of expenditures.

(cc) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(dd) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ee) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited in the Capital Projects Fund under this Subsection

## HB0399S01 compared with HB0399

(2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the administrator of the courts shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995, until June 30, 1998, the administrator of the courts shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

## HB0399S01 compared with HB0399

(b) The Legislature may appropriate money from the restricted account to the administrator of the courts for the following purposes only:

- (i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and
- (ii) to cover operations and maintenance costs on the court complex.

~~{ Section 2. Section 78B-6-2001 is enacted to read:~~

### ~~Part 20. Guardianship Proceedings for Incapacitated Adult Child~~

~~78B-6-2001. Definition of parent -- Purpose -- Exemption from specific requirements:~~

~~(1) For the purpose of this part, "parent" means a biological parent, adoptive parent, stepparent, or grandparent.~~

~~(2) The purpose of this part is to provide a parent of an incapacitated child with a simplified procedure to obtain guardianship when the child reaches 18 years of age.~~

~~(3) A parent who is caring for a permanently incapacitated child is exempt from the requirements regarding guardianships in Title 75, Chapter 5, Protection of Persons Under Disability and Their Property, and Chapter 5b, Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.~~

~~Section 3. Section 78B-6-2002 is enacted to read:~~

~~78B-6-2002. Definitions:~~

~~As used in this part:~~

~~(1) "Child" means an individual who:~~

~~(a) is less than 22 years of age; and~~

~~(b) has been diagnosed by a physician, psychiatrist, psychologist, or neuropsychologist with a condition that permanently incapacitates the child.~~

~~(2) "Incapacitated" or "incapacity" is measured by functional limitations and means that an individual's ability to do the following is impaired to the extent that the individual lacks the ability, even with appropriate technological assistance, to meet the essential requirements for physical health, safety, self-care, or financial protection:~~

~~(a) receive and evaluate information;~~

~~(b) make and communicate decisions; or~~

~~(c) provide for necessities such as food, shelter, clothing, health care, or safety.~~



## HB0399S01 compared with HB0399

~~Section 4. Section 78B-6-2003 is enacted to read:~~

~~**78B-6-2003. Guardianship of incapacitated child -- Simplified procedure.**~~

~~(1) The parent of an incapacitated child may petition the juvenile court for guardianship of the child within six months of the child's 18th birthday.~~

~~(2) The Judicial Council shall create a simplified petition and court procedure for guardianships when the petitioner is the parent of a child who is permanently incapacitated.~~

~~The procedure shall include forms created for use with the Online Court Assistance Program.~~

~~(3) The simplified petition shall require that the petitioner provide:~~

~~(a) a letter to the court from a representative of the child's educational institution describing the child's physical and mental capacity, including the child's ability to consider and make decisions regarding:~~

~~(i) where and with whom the child will live;~~

~~(ii) when and how to seek medical treatment; and~~

~~(iii) general participation in day-to-day activities;~~

~~(b) a copy of the child's most recent individual education plan; and~~

~~(c) a statement by the petitioner describing the extent of care provided by the petitioner, including efforts regarding the child's:~~

~~(i) education;~~

~~(ii) socialization;~~

~~(iii) counseling; and~~

~~(iv) work history, if any.~~

~~Section 5. Section 78B-6-2004 is enacted to read:~~

~~**78B-6-2004. Counsel not required -- When court may request.**~~

~~Interested parties may receive notice of a guardianship proceeding under this part by certified mail, return receipt requested.~~

~~Section 6. Section 78B-6-2005 is enacted to read:~~

~~**78B-6-2005. Counsel not required -- When court may request.**~~

~~Counsel is not required to be retained for the incapacitated child to pursue a guardianship in accordance with this part.~~

**HB0399S01 compared with HB0399**

~~Legislative Review Note~~

~~\_\_\_\_\_ as of 2-24-15 10:35 AM~~

~~\_\_\_\_\_ Office of Legislative Research and General Counsel}~~