

SENATE BILL REPORT

SB 5452

As Reported By Senate Committee On:
Human Services & Corrections, February 23, 2007

Title: An act relating to providing for reunification after termination of parental rights.

Brief Description: Providing for reunification after termination of parental rights.

Sponsors: Senator Rockefeller.

Brief History:

Committee Activity: Human Services & Corrections: 1/30/07, 2/23/07 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5452 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Marr and McAuliffe.

Staff: Kiki Keizer (786-7430)

Background: A court order terminating the parent-child relationship divests the parent and the child of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other except past-due child support obligations owed by the parent.

Washington courts have found that "permanent deprivation of parental rights should only be allowed for the most powerful reasons."

Summary of Bill: If at least three years have elapsed since the date of an order terminating parental rights, and the child whose parent's rights were terminated has not been adopted, then the child may petition the juvenile court to reinstate the former parent's rights. The child must be provided counsel; the Department of Social and Health Services (DSHS) or child placing agency must stipulate that the child is not likely to be adopted; and the court must determine that the best interests of the child may be promoted by reinstatement of parental rights before a hearing is ordered. A number of parties must receive notice of the hearing, including the DSHS, the child's attorney, the child, the parent whose rights were terminated, any parent whose rights were not terminated, and the child's tribe, if applicable.

The juvenile court must grant the petition for reinstatement of parental rights if it finds, by clear and convincing evidence, that the child is no longer likely to be adopted and the

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reinstatement of parental rights is in the child's best interest, including a finding that the reinstatement of parental rights will not present a risk to the child's health, welfare, or safety.

If the juvenile court grants the petition, the court may dismiss the dependency if the child and parent agree that the child will return to the physical custody of the parent whose rights were reinstated.

A child could petition for reinstatement of parental rights, even if those rights were terminated before the effective date of the act.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Human Services & Corrections):

- A section is added to the bill, setting out certain factors that the court must consider when determining whether reinstatement of parental rights is in the best interest of the child.
- The class of children who may petition is expanded to children whose permanency plan is not achieved after three years in state care.
- DSHS is required to provide information about efforts to achieve the permanency plan.
- The court must order DSHS to provide services, including a home-study, to ensure the child's safe transition to house of origin.
- Granting the petition does not vacate the original termination order.
- A parent is not liable to DSHS for child support for the period during which parental rights were terminated.
- The state, DSHS, and DSHS's employees are not liable for civil damages arising out of the provision of services after reunification.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: A child without parents, and with no prospects of having parents, is in a difficult position in today's society. A child can hope for a better future if he or she has parents functioning in that role.

Reunification after termination of parental rights should not be taken lightly because there was a reason that parental rights were terminated to begin with. For this reason, it is important to incorporate safeguards such as oversight by an objective and independent judge and a higher standard of proof that a reunification is in the best interests of the child. We must carefully examine the change of circumstances that might warrant a reinstatement of parental rights.

Reunification might be an option for kids who are harder to place in adoptive homes because they are older or have special needs. It might also be a good alternative for kids who are in unstable foster placements. Kids just want to go home, and, many do so after they age out of foster care, anyway.

The state and federal timelines for establishing a permanent plan for a child in foster care are very short and may not be sufficient for parents to fully address substance abuse or mental health issues. Parents may make substantial changes, even if it takes longer than the legal timelines established for dependency matters. If the home environment has changed, then reunification may be a good option to offer.

The bill could go even further by requiring the DSHS to inform a child about this alternative and also providing for appointed counsel for the former parent. Language could also clarify that the former parent would not be liable for child support for the period of time after parental rights were terminated and the child remained in state care.

There is a similar law in California, which is rarely applied but is an option for kids who are still not in a permanent home after at least three years, even with all of the DSHS's efforts to achieve permanency.

CON: Parents have had time to get their act together before their rights were terminated. Parents may not have had any contact with the child after their rights were terminated, so this process of reunification might actually undermine getting to permanency for a child. Parents could, under the current system, try to adopt their children to restore their parental rights. A number of questions are unanswered by the proposed legislation, such as: what about the very young child? and what criteria should the court use to determine if a child is not adoptable?

Persons Testifying: PRO: Senator Rockefeller, prime sponsor; Elaine Wolcott-Ehrhardt, CC Tillett, Stella Hackney Farias, Pat Arrera, Julie Feister, Vivian L. Collins, and Marvin D. Collins, Washington Families United; Patrick Dowd, Washington State Office of Public Defense; Laurie Lippold, Children's Home Society of Washington.

CON: Martha Harden Cesar, Superior Court Judges Association.