

SENATE BILL REPORT

SB 5690

As Reported by Senate Committee On:
Human Services & Corrections, February 17, 2011

Title: An act relating to reinstating parental rights.

Brief Description: Concerning when a child may petition the juvenile court to reinstate the previously terminated rights of his or her parent.

Sponsors: Senators Hargrove, Stevens, McAuliffe and Roach.

Brief History:

Committee Activity: Human Services & Corrections: 2/08/11, 2/17/11 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5690 be substituted therefor, and the substitute bill do pass.

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

Staff: Jennifer Strus (786-7316)

Background: A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent if the following requirements are met:

- the child was previously found to be a dependent child;
- the child's parent's rights were terminated pursuant to a dependency proceeding;
- the child has not achieved his or her permanency plan within three years of a final order of termination; and
- the child must be at least 12 years old at the time the petition is filed.

After a petition is filed, the court must hold a threshold hearing to consider the parent's fitness and interest in reinstatement of parental rights. If the court finds that the best interests of the child would be served by reinstatement, the court is to hold a hearing on the merits of the petition.

The court must conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not imminently likely to achieve his or her permanency plan and that reinstatement of parental rights is in the child's

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best interests. In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the Department of Social and Health Services must provide to the court information related to any efforts to achieve the permanency plan including efforts to achieve adoption or a permanent guardianship.

In a recent Court of Appeals case, *In Re the Interest of J.R.*, a 15 year old child filed a petition to have his mother's parental rights reinstated. When the child was five, his mother voluntarily relinquished her parental rights. Two and a half months after the relinquishment, the court ordered that the child be placed in a guardianship with his grandmother and another relative. The guardianship was in place for ten years until the court terminated the guardianship upon the guardian's request. Shortly thereafter, the child petitioned to have his mother's rights reinstated. At the threshold hearing, the state argued that J.R.'s petition did not meet the statutory criteria laid out in RCW 13.34.215(1)(c) because he achieved permanency when he was placed in a dependency guardianship within three years of the order terminating parental rights. The juvenile court stated that although the reinstatement of his mother's parental rights might be in J.R.'s best interests, he did not meet the criteria established for reinstatement petitions. Upon appeal, the Court of Appeals affirmed the juvenile court and held that RCW 13.34.215(1)(c) applies only to dependent children whose permanent plans were not achieved within three years of a final order of termination and therefore, J.R.'s petition was appropriately dismissed by the juvenile court.

Summary of Bill (Recommended Substitute): A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent if the following requirements are met:

1. the child was previously found to be a dependent child;
2. the child's parent's rights were terminated pursuant to a dependency proceeding;
3. (a) the child has not achieved his or her permanency plan, or (b) while the child achieved a permanency plan, it has not since been sustained;
4. three years have passed since the final order of termination was entered; and
5. the child must be at least 12 years old at the time the petition is filed.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): The provision about achieving a permanent plan within three years of the final order of termination is removed. If the child can show that his or her permanent plan was not achieved, or while achieved, it was not sustained and that three years have passed since the final order of termination was entered, the child can petition for reinstatement of parental rights if the child meets the other statutory criteria.

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: None.

Persons Testifying: No one.