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HOUSE BILL 1879

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State of Washington

62nd Legislature

2011 Regular Session

By Representatives Kagi, Walsh, Goodman, Orwall, Roberts, and Kenney

Read first time 02/08/11. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to reinstating parental rights; and amending RCW  
2 13.34.215.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 13.34.215 and 2010 c 180 s 4 are each amended to read  
5 as follows:

6 (1) A child may petition the juvenile court to reinstate the  
7 previously terminated parental rights of his or her parent under the  
8 following circumstances:

9 (a) The child was previously found to be a dependent child under  
10 this chapter;

11 (b) The child's parent's rights were terminated in a proceeding  
12 under this chapter;

13 (c) The child has not achieved his or her permanency plan within  
14 three years of a final order of termination or the permanency plan was  
15 achieved within three years of the final order of termination but was  
16 not sustained after the child turned twelve years of age and the child  
17 was returned to foster care; and

18 (d) The child must be at least twelve years old at the time the

1 petition is filed. Upon the child's motion for good cause shown, or on  
2 its own motion, the court may hear a petition filed by a child younger  
3 than twelve years old.

4 (2) If the child is eligible to petition the juvenile court under  
5 subsection (1) of this section and a parent whose rights have been  
6 previously terminated contacts the department or supervising agency or  
7 the child's guardian ad litem regarding reinstatement, the department  
8 or supervising agency or the guardian ad litem must notify the eligible  
9 child about his or her right to petition for reinstatement of parental  
10 rights.

11 (3) A child seeking to petition under this section shall be  
12 provided counsel at no cost to the child.

13 (4) The petition must be signed by the child in the absence of a  
14 showing of good cause as to why the child could not do so.

15 (5) If, after a threshold hearing to consider the parent's apparent  
16 fitness and interest in reinstatement of parental rights, the court  
17 finds by a preponderance of the evidence that the best interests of the  
18 child may be served by reinstatement of parental rights, the juvenile  
19 court shall order that a hearing on the merits of the petition be held.

20 (6) The court shall give prior notice for any proceeding under this  
21 section, or cause prior notice to be given, to the department or the  
22 supervising agency, the child's attorney, and the child. The court  
23 shall also order the department or supervising agency to give prior  
24 notice of any hearing to the child's former parent whose parental  
25 rights are the subject of the petition, any parent whose rights have  
26 not been terminated, the child's current foster parent, relative  
27 caregiver, guardian or custodian, and the child's tribe, if applicable.

28 (7) The juvenile court shall conditionally grant the petition if it  
29 finds by clear and convincing evidence that the child has not achieved  
30 his or her permanency plan and is not likely to imminently achieve his  
31 or her permanency plan and that reinstatement of parental rights is in  
32 the child's best interest. In determining whether reinstatement is in  
33 the child's best interest the court shall consider, but is not limited  
34 to, the following:

35 (a) Whether the parent whose rights are to be reinstated is a fit  
36 parent and has remedied his or her deficits as provided in the record  
37 of the prior termination proceedings and prior termination order;

1 (b) The age and maturity of the child, and the ability of the child  
2 to express his or her preference;

3 (c) Whether the reinstatement of parental rights will present a  
4 risk to the child's health, welfare, or safety; and

5 (d) Other material changes in circumstances, if any, that may have  
6 occurred which warrant the granting of the petition.

7 (8) In determining whether the child has or has not achieved his or  
8 her permanency plan or whether the child is likely to achieve his or  
9 her permanency plan, the department or supervising agency shall provide  
10 the court, and the court shall review, information related to any  
11 efforts to achieve the permanency plan including efforts to achieve  
12 adoption or a permanent guardianship.

13 (9)(a) If the court conditionally grants the petition under  
14 subsection (7) of this section, the case will be continued for six  
15 months and a temporary order of reinstatement entered. During this  
16 period, the child shall be placed in the custody of the parent. The  
17 department or supervising agency shall develop a permanency plan for  
18 the child reflecting the plan to be reunification and shall provide  
19 transition services to the family as appropriate.

20 (b) If the child must be removed from the parent due to abuse or  
21 neglect allegations prior to the expiration of the conditional six-  
22 month period, the court shall dismiss the petition for reinstatement of  
23 parental rights if the court finds the allegations have been proven by  
24 a preponderance of the evidence.

25 (c) If the child has been successfully placed with the parent for  
26 six months, the court order reinstating parental rights remains in  
27 effect and the court shall dismiss the dependency.

28 (10) After the child has been placed with the parent for six  
29 months, the court shall hold a hearing. If the placement with the  
30 parent has been successful, the court shall enter a final order of  
31 reinstatement of parental rights, which shall restore all rights,  
32 powers, privileges, immunities, duties, and obligations of the parent  
33 as to the child, including those relating to custody, control, and  
34 support of the child. The court shall dismiss the dependency and  
35 direct the clerk's office to provide a certified copy of the final  
36 order of reinstatement of parental rights to the parent at no cost.

37 (11) The granting of the petition under this section does not

1 vacate or otherwise affect the validity of the original termination  
2 order.

3 (12) Any parent whose rights are reinstated under this section  
4 shall not be liable for any child support owed to the department  
5 pursuant to RCW 13.34.160 or Title 26 RCW or costs of other services  
6 provided to a child for the time period from the date of termination of  
7 parental rights to the date parental rights are reinstated.

8 (13) A proceeding to reinstate parental rights is a separate action  
9 from the termination of parental rights proceeding and does not vacate  
10 the original termination of parental rights. An order granted under  
11 this section reinstates the parental rights to the child. This  
12 reinstatement is a recognition that the situation of the parent and  
13 child have changed since the time of the termination of parental rights  
14 and reunification is now appropriate.

15 (14) This section is retroactive and applies to any child who is  
16 under the jurisdiction of the juvenile court at the time of the hearing  
17 regardless of the date parental rights were terminated.

18 (15) The state, the department, the supervising agency, and its  
19 employees are not liable for civil damages resulting from any act or  
20 omission in the provision of services under this section, unless the  
21 act or omission constitutes gross negligence. This section does not  
22 create any duty and shall not be construed to create a duty where none  
23 exists. This section does not create a cause of action against the  
24 state, the department, the supervising agency, or its employees  
25 concerning the original termination.

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