
SUBSTITUTE SENATE BILL 5690

State of Washington

62nd Legislature

2011 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, McAuliffe, and Roach)

READ FIRST TIME 02/21/11.

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)(i) The child has not achieved his or her permanency plan
14 (~~within three years of a final order of termination~~); (~~and~~) or

15 (ii) While the child achieved a permanency plan, it has not since
16 been sustained;

17 (d) Three years have passed since the final order of termination
18 was entered; and

1 (e) The child must be at least twelve years old at the time the
2 petition is filed. Upon the child's motion for good cause shown, or on
3 its own motion, the court may hear a petition filed by a child younger
4 than twelve years old.

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

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

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

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

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

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

36 (a) Whether the parent whose rights are to be reinstated is a fit
37 parent and has remedied his or her deficits as provided in the record
38 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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