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HOUSE BILL 2821

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State of Washington                      60th Legislature                      2008 Regular Session

By Representatives Kagi, Dickerson, and Kenney

Read first time 01/16/08. Referred to Committee on Early Learning & Children's Services.

1            AN ACT Relating to reinstatement of parental rights hearing  
2 procedures; and amending RCW 13.34.215.

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

4            **Sec. 1.** RCW 13.34.215 and 2007 c 413 s 1 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 if the final order was  
15 appealed, within three years of exhaustion of any right to appeal the  
16 order terminating parental rights; and

17            (d) Absent good cause, the child must be at least twelve years old  
18 at the time the petition is filed.

1 (2) A child seeking to petition under this section shall be  
2 provided counsel at no cost to the child.

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

5 (4) If, after a threshold hearing to consider the parent's apparent  
6 fitness and interest in reinstatement of parental rights, (~~it~~  
7 ~~appears~~) the court finds by a preponderance of the evidence that the  
8 best interests of the child may be served by reinstatement of parental  
9 rights, the juvenile court shall order that a hearing on the merits of  
10 the petition be held.

11 (5) The court shall give prior notice for any proceeding under this  
12 section, or cause prior notice to be given, to the department, the  
13 child's attorney, and the child. The court shall also order the  
14 department to give prior notice of any hearing to the child's former  
15 parent whose parental rights are the subject of the petition, any  
16 parent whose rights have not been terminated, the child's current  
17 foster parent, relative caregiver, guardian or custodian, and the  
18 child's tribe, if applicable.

19 (6) The juvenile court shall conditionally grant the petition if it  
20 finds by clear and convincing evidence that the child has not achieved  
21 his or her permanency plan and is not likely to imminently achieve his  
22 or her permanency plan and that reinstatement of parental rights is in  
23 the child's best interest. In determining whether reinstatement is in  
24 the child's best interest the court shall consider, but is not limited  
25 to, the following:

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

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

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

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

35 (7) In determining whether the child has or has not achieved his or  
36 her permanency plan or whether the child is likely to achieve his or  
37 her permanency plan, the department shall provide the court, and the

1 court shall review, information related to any efforts to achieve the  
2 permanency plan including efforts to achieve adoption or a permanent  
3 guardianship.

4 (8)(a) If the court conditionally grants the petition under  
5 subsection (6) of this section, the case will be continued for six  
6 months. During this period, the child shall be placed in the custody  
7 of the parent. The department shall develop a permanency plan for the  
8 child reflecting the plan to be reunification and shall provide  
9 transition services to the family as appropriate.

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

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

18 (9) The granting of the petition under this section does not vacate  
19 or otherwise affect the validity of the original termination order.

20 (10) Any parent whose rights are reinstated under this section  
21 shall not be liable for any child support owed to the department  
22 pursuant to RCW 13.34.160 for the time period from the date of  
23 termination of parental rights to the date parental rights are  
24 reinstated.

25 (11) A proceeding to reinstate parental rights is a separate action  
26 from the termination of parental rights proceeding and does not vacate  
27 the original termination of parental rights. An order granted under  
28 this section reinstates the parental rights to the child. This  
29 reinstatement is a recognition that the situation of the parent and  
30 child have changed since the time of the termination of parental rights  
31 and reunification is now appropriate.

32 (12) This section is retroactive and applies to any child who is  
33 under the jurisdiction of the juvenile court at the time of the hearing  
34 regardless of the date parental rights were terminated.

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