
SUBSTITUTE SENATE BILL 5452

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senator Rockefeller)

READ FIRST TIME 02/26/07.

1 AN ACT Relating to providing for reunification after termination of
2 parental rights; amending RCW 13.34.200; adding a new section to
3 chapter 13.34 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that current law does
6 not explicitly provide for reunification of a child with his or her
7 parent or parents after termination of parental rights even in cases
8 where a child is not expected to get the benefits of being adopted into
9 a new family or of having a permanent adult guardian. A child can
10 remain in this status even if there has been a significant change of
11 circumstances in a parent's situation and the minor child's preference
12 is to reunite with his or her parent. There may be cases in which a
13 child will no longer be at risk of abuse or neglect by a former parent
14 and it is in the best interests of a child who is legally free to be
15 reunited with his or her parent.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.34 RCW
17 to read as follows:

18 (1) If a child has not achieved his or her permanency plan at least

1 three years from the date of entry of an order for the termination of
2 parental rights, the child may petition the juvenile court to reinstate
3 a former parent's parental rights.

4 (2) A child seeking to petition under this section shall be
5 provided counsel.

6 (3) The child may file the petition prior to the expiration of this
7 three-year period if the department or the supervising or custodial
8 agency that is responsible for the custody or supervision of the child
9 and the child stipulate that the child is not likely to achieve his or
10 her permanency plan.

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

13 (5) If, after a threshold hearing to consider the parent's apparent
14 fitness and interest in reinstatement of parental rights, it appears
15 that the best interests of the child may be served by reinstatement of
16 parental rights, the juvenile court shall order that a hearing be held.

17 (6) The court shall give prior notice, or cause prior notice to be
18 given, to the department or the supervising or custodial agency, the
19 child's attorney, the child, and the child's tribe, if applicable. The
20 court shall also order the department or the supervising or custodial
21 agency to give prior notice of the hearing to the child's former parent
22 or parents whose parental rights were terminated and to any parent of
23 the child whose parental rights were not terminated.

24 (7) The juvenile court shall grant the petition if it finds by
25 clear and convincing evidence that the child is no longer likely to be
26 adopted and that reinstatement of parental rights is in the child's
27 best interest. In determining whether reinstatement is in the child's
28 best interest the court shall consider, but is not limited to, the
29 following:

30 (a) Whether the child has or has not achieved his or her permanency
31 plan and whether it is likely that the child will achieve his or her
32 permanency plan;

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

36 (c) The age and maturity of the child, and the ability of the child
37 to express his or her preference;

1 (d) Whether the reinstatement of parental rights will present a
2 risk to the child's health, welfare, or safety; and

3 (e) Other material changes in circumstances, if any, that may have
4 occurred which warrant the granting of the petition.

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

10 (9) If the juvenile court grants the petition, the court may
11 dismiss the dependency if the child and the parent or parents who were
12 the subject of a petition under this section and whose parental rights
13 were reinstated agree that the child will return to the physical
14 custody of the parent or parents and the court finds that returning to
15 the physical custody of the parent or parents is in the best interests
16 of the child and will not present a risk to the child's health, welfare
17 or safety. The court shall order the department to provide services
18 necessary to ensure the child's health, welfare, and safety, including
19 a home study, as the child transitions back into the parent's physical
20 custody if the child is to return to the parent's physical custody.

21 (10) If the dependency is not dismissed and the permanency plan is
22 reunification with the parent, the department shall provide services
23 necessary to facilitate the reunification.

24 (11) The granting of the petition under this section does not
25 vacate the original termination order.

26 (12) Any parent whose rights are reinstated under this section
27 shall not be liable for any child support owed to the department
28 pursuant to RCW 13.34.160.

29 (13) The state, the department, and its employees are not liable
30 for civil damages resulting from any act or omission in the provision
31 of services under this section, unless the act or omission constitutes
32 gross negligence. This section does not create any duty and shall not
33 be construed to create a duty where none exists. This section does not
34 create a cause of action against the state, the department, or its
35 employees concerning the original termination.

36 NEW SECTION. **Sec. 3.** This act is retroactive and applies to any

1 child who is under the jurisdiction of the juvenile court at the time
2 of the hearing regardless of the date parental rights were terminated.

3 **Sec. 4.** RCW 13.34.200 and 2003 c 227 s 7 are each amended to read
4 as follows:

5 (1) Upon the termination of parental rights pursuant to RCW
6 13.34.180, all rights, powers, privileges, immunities, duties, and
7 obligations, including any rights to custody, control, visitation, or
8 support existing between the child and parent shall be severed and
9 terminated and the parent shall have no standing to appear at any
10 further legal proceedings concerning the child, except as provided in
11 section 2 of this act: PROVIDED, That any support obligation existing
12 prior to the effective date of the order terminating parental rights
13 shall not be severed or terminated. The rights of one parent may be
14 terminated without affecting the rights of the other parent and the
15 order shall so state.

16 (2) An order terminating the parent and child relationship shall
17 not disentitle a child to any benefit due the child from any third
18 person, agency, state, or the United States, nor shall any action under
19 this chapter be deemed to affect any rights and benefits that an Indian
20 child derives from the child's descent from a member of a federally
21 recognized Indian tribe.

22 (3) An order terminating the parent-child relationship shall
23 include a statement addressing the status of the child's sibling
24 relationships and the nature and extent of sibling placement, contact,
25 or visits.

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