

SSB 5452 - S AMD 259

By Senator Rockefeller

ADOPTED 03/13/2007

1 Strike everything after the enacting clause and insert the
2 following:

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

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

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

19 (a) The child was previously found to be a dependent child under
20 this chapter;

21 (b) The child's parent's rights were terminated in a proceeding
22 under this chapter; and

23 (c) The child has not achieved his or her permanency plan within
24 three years of a final order of termination, or if the final order was
25 appealed, within three years of exhaustion of any right to appeal the
26 order terminating parental rights.

27 (2) The child may file the petition prior to the expiration of this
28 three-year period if the department or the supervising or custodial

1 agency that is responsible for the custody or supervision of the child
2 and the child stipulate that the child is not likely to achieve his or
3 her permanency plan.

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

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

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

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

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

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

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

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

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

36 (8) In determining whether the child has or has not achieved his or
37 her permanency plan or whether the child is likely to achieve his or
38 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 (9) The court shall grant the petition and dismiss the dependency
5 only if the child and the parent or parents who were the subject of a
6 petition under this section and whose parental rights were reinstated
7 agree that the child will return to the legal custody of the parent or
8 parents and the court finds that returning to the legal custody of the
9 parent or parents is in the best interests of the child and will not
10 present a risk to the child's health, welfare, or safety. The court
11 shall order the department to provide services necessary to ensure the
12 child's health, welfare, and safety, including a home study, as the
13 child transitions back into the parent's legal custody.

14 (10) The granting of the petition under this section does not
15 vacate or otherwise affect the validity of the original termination
16 order.

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

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

29 NEW SECTION. **Sec. 3.** This act is retroactive and applies to any
30 child who is under the jurisdiction of the juvenile court at the time
31 of the hearing regardless of the date parental rights were terminated.

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

34 (1) Upon the termination of parental rights pursuant to RCW
35 13.34.180, all rights, powers, privileges, immunities, duties, and
36 obligations, including any rights to custody, control, visitation, or

1 support existing between the child and parent shall be severed and
2 terminated and the parent shall have no standing to appear at any
3 further legal proceedings concerning the child, except as provided in
4 section 2 of this act: PROVIDED, That any support obligation existing
5 prior to the effective date of the order terminating parental rights
6 shall not be severed or terminated. The rights of one parent may be
7 terminated without affecting the rights of the other parent and the
8 order shall so state.

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

15 (3) An order terminating the parent-child relationship shall
16 include a statement addressing the status of the child's sibling
17 relationships and the nature and extent of sibling placement, contact,
18 or visits."

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19 On page 1, line 2 of the title, after "rights;" strike the
20 remainder of the title and insert "amending RCW 13.34.200; adding a new
21 section to chapter 13.34 RCW; and creating new sections."

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