

**RCW 13.34.215 Petition reinstating terminated parental rights—
Notice—Achievement of permanency plan—Effect of granting the petition
—Hearing—Child support liability—Retroactive application—Limitation
on liability.** (1) A child may petition the juvenile court to
reinstate the previously terminated parental rights of his or her
parent under the following circumstances:

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

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

(c) (i) The child has not achieved his or her permanency plan; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) The state, the department, and its employees are not liable for civil damages resulting from any act or omission in the provision of services under this section, unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists. This section does not

create a cause of action against the state, the department, or its employees concerning the original termination. [2018 c 284 § 22; 2011 c 292 § 2; 2010 c 180 § 4; 2009 c 520 § 36; 2008 c 267 § 1; 2007 c 413 § 1.]

Findings—2010 c 180: See note following RCW 13.34.100.

Severability—2007 c 413: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2007 c 413 § 13.]