

ESSB 5452 - H COMM AMD

By Committee on Early Learning & Children's Services

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 13.34 RCW
4 to read as follows:

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

8 (a) The child must have been found to be a dependent child under
9 this chapter;

10 (b) The child must be at least twelve years of age at the time the
11 petition to reinstate parental rights is filed;

12 (c) At least three years have passed from the date of entry of an
13 order for the termination of parental rights;

14 (d) The child's permanent plan is adoption and the child has not
15 been adopted;

16 (e) The petition is signed by the child, unless the court finds
17 good cause not to require the child's signature; and

18 (f) The petition alleges facts demonstrating the parent is fit and
19 that reinstatement of parental rights is in the best interest of the
20 child.

21 (2) Upon the filing of a petition to reinstate parental rights, the
22 juvenile court shall order that a hearing be held. The court shall
23 give prior notice, or cause prior notice to be given, to the
24 department, the child's attorney, the child, the child's foster parent,
25 and the child's tribe, if applicable. The court shall also order the
26 department to give prior notice of the hearing to the child's former
27 parent or parents whose parental rights were terminated and to any
28 parent of the child whose parental rights were not terminated.

29 (3) The juvenile court shall conditionally grant the petition if it
30 finds the following by clear and convincing evidence:

1 (a) The parental deficiencies which led to the termination of
2 parental rights have been addressed to a degree that assures the court
3 that the reinstatement of parental rights will not present a risk to
4 the child's health, welfare, or safety;

5 (b) The parent is currently able to care for the child such that
6 placement of the child with the parent will not present a risk to the
7 child's health, welfare, or safety;

8 (c) The child is no longer likely to be adopted; and

9 (d) That reinstatement of parental rights is in the child's best
10 interest.

11 (4)(a) If the court conditionally grants the petition under
12 subsection (3) of this section, the case will be continued for one
13 year. During this period, the child shall be placed in the custody of
14 the parent. The department shall develop a permanency plan for the
15 child reflecting the plan to be reunification. The department shall
16 provide transition services to the family as appropriate. The court
17 shall conduct a minimum of two review hearings to determine the status
18 of the case and the well-being of the child.

19 (b) If the child must be removed from the parent due to abuse or
20 neglect allegations, the court shall dismiss the petition for
21 reinstatement of parental rights if the court finds the allegations
22 have been proven by a preponderance of the evidence.

23 (c) If the child has been successfully placed with the parent for
24 one year, the court order reinstating parental rights remains in effect
25 and the court shall dismiss the dependency if the court finds that
26 dismissal of the dependency is in the best interests of the child and
27 will not present a risk to the child's health, welfare, or safety.

28 (5) A child seeking to petition under this section shall be
29 provided counsel prior to the filing of the petition.

30 (6) The child's former parent or parents have the right to be
31 represented by counsel, and if indigent, to have counsel appointed for
32 him or her by the court after the petition for reinstatement of
33 parental rights has been filed. Unless waived in court, counsel shall
34 be provided to the child's parent if such person (a) has appeared in
35 the proceeding or requested the court to appoint counsel and (b) is
36 financially unable to obtain counsel because of indigency.

37 (7) A proceeding to reinstate parental rights is a separate action
38 from the termination of parental rights proceeding and does not vacate

1 the original termination of parental rights. An order granted under
2 this section reinstates the parental rights to the child. This
3 reinstatement is a recognition that the situation of the parent and
4 child have changed since the time of the termination of parental rights
5 and reunification is now appropriate.

6 NEW SECTION. **Sec. 2.** This act is retroactive and applies to any
7 child who is under the jurisdiction of the juvenile court at the time
8 of the hearing regardless of the date parental rights were terminated.

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

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

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

28 (3) An order terminating the parent-child relationship shall
29 include a statement addressing the status of the child's sibling
30 relationships and the nature and extent of sibling placement, contact,
31 or visits.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.20A RCW
33 to read as follows:

34 The state, the department, and its employees or agents are not
35 liable for civil damages resulting from any act or omission in the

1 provision of child welfare or child protective services through the
2 children's administration of the department of social and health
3 services, unless the act or omission constitutes gross negligence.
4 This section does not create any duty and shall not be construed to
5 create a duty where none exists. This section does not create a cause
6 of action against the state, the department, or its employees
7 concerning the original termination.

8 NEW SECTION. **Sec. 5.** Nothing in this act may be construed to
9 limit the application of other statutes specifying a liability standard
10 for the state's employees and agents."

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