

SENATE BILL REPORT

ESSB 5452

As Passed Senate, March 13, 2007

Title: An act relating to providing for reunification after termination of parental rights.

Brief Description: Providing for reunification after termination of parental rights.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senator Rockefeller).

Brief History:

Committee Activity: Human Services & Corrections: 1/30/07, 2/23/07 [DPS].
Passed Senate: 3/13/07, 46-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5452 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Marr and McAuliffe.

Staff: Kiki Keizer (786-7430)

Background: A court order terminating the parent-child relationship divests the parent and the child of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other except past-due child support obligations owed by the parent.

Washington courts have found that "permanent deprivation of parental rights should only be allowed for the most powerful reasons."

Summary of Engrossed Substitute Bill: A child whose parent's rights were terminated may petition the juvenile court to reinstate the former parent's rights under certain circumstances. The child must be provided counsel, and the court must determine that the best interests of the child may be promoted by reinstatement of parental rights before a hearing is ordered. A number of interested parties must receive notice of the hearing.

The juvenile court must grant the petition for reinstatement of parental rights if it finds, by clear and convincing evidence, that the child is not likely to achieve his or her permanency plan, and the reinstatement of parental rights is in the child's best interest. Certain factors are established that the court must consider when determining whether reinstatement of parental rights is in the best interest of the child.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Department of Social and Health Services (DSHS) is required to provide information about efforts to achieve the permanency plan.

If the juvenile court grants the petition, the court may dismiss the dependency if the child and parent agree that the child will return to the legal custody of the parent whose rights were reinstated.

A parent is not liable to DSHS for child support for the period during which parental rights were terminated.

The state, DSHS, and DSHS's employees are not liable for civil damages arising out of the provision of services after reunification.

A child could petition for reinstatement of parental rights, even if those rights were terminated before the effective date of the act.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: A child without parents, and with no prospects of having parents, is in a difficult position in today's society. A child can hope for a better future if he or she has parents functioning in that role.

Reunification after termination of parental rights should not be taken lightly because there was a reason that parental rights were terminated to begin with. For this reason, it is important to incorporate safeguards such as oversight by an objective and independent judge and a higher standard of proof that a reunification is in the best interests of the child. We must carefully examine the change of circumstances that might warrant a reinstatement of parental rights.

Reunification might be an option for kids who are harder to place in adoptive homes because they are older or have special needs. It might also be a good alternative for kids who are in unstable foster placements. Kids just want to go home, and, many do so after they age out of foster care, anyway.

The state and federal timelines for establishing a permanent plan for a child in foster care are very short and may not be sufficient for parents to fully address substance abuse or mental health issues. Parents may make substantial changes, even if it takes longer than the legal timelines established for dependency matters. If the home environment has changed, then reunification may be a good option to offer.

The bill could go even further by requiring the DSHS to inform a child about this alternative and also providing for appointed counsel for the former parent. Language could also clarify that the former parent would not be liable for child support for the period of time after parental rights were terminated and the child remained in state care.

There is a similar law in California, which is rarely applied but is an option for kids who are still not in a permanent home after at least three years, even with all of the DSHS's efforts to achieve permanency.

CON: Parents have had time to get their act together before their rights were terminated. Parents may not have had any contact with the child after their rights were terminated, so this process of reunification might actually undermine getting to permanency for a child. Parents could, under the current system, try to adopt their children to restore their parental rights. A number of questions are unanswered by the proposed legislation, such as: what about the very young child? and what criteria should the court use to determine if a child is not adoptable?

Persons Testifying: PRO: Senator Rockefeller, prime sponsor; Elaine Wolcott-Ehrhardt, CC Tillet, Stella Hackney Fasias, Pat Arrera, Julie Feister, Vivian L. Collins, Marvin D. Collins, Washington Families United; Patrick Dowd, Washington State Office of Public Defense; Laurie Lippold, Children's Home Society of Washington.

CON: Martha Harden Cesar, Superior Court Judges Association.