

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: H3/21/17

A Bill

HOUSE BILL 1973

5 By: Representatives D. Meeks, C. Fite
6 By: Senator Irvin
7

For An Act To Be Entitled

9 AN ACT TO PROVIDE FOR THE RESUMPTION OF SERVICES FOR
10 PARENTS WHOSE PARENTAL RIGHTS ARE TERMINATED; TO
11 PROVIDE FOR THE REINSTATEMENT OF PARENTAL RIGHTS; AND
12 FOR OTHER PURPOSES.
13
14

Subtitle

15 TO PROVIDE FOR THE RESUMPTION OF SERVICES
16 FOR PARENTS WHOSE PARENTAL RIGHTS ARE
17 TERMINATED; AND TO PROVIDE FOR THE
18 REINSTATEMENT OF PARENTAL RIGHTS.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 *SECTION 1. TEMPORARY LANGUAGE. DO NOT CODIFY. Legislative findings.*

25 *The General Assembly finds that:*

26 *(1) A juvenile in the foster care system should have a family*
27 *for a lifetime;*

28 *(2) Too many juveniles in the foster care system reach the age*
29 *of majority without being reunited successfully with their biological*
30 *families and without the security of a permanent home; and*

31 *(3) The Division of Children and Family Services' annual report*
32 *for 2016 indicated that:*

33 *(A) Nine hundred seventy-four (974) juveniles between*
34 *twelve (12) and fourteen (14) years of age were in the foster care system;*

35 *(B) One thousand four hundred twenty-nine (1,429)*
36 *juveniles over fourteen (14) years of age were in the foster care system; and*



1 (C) Eight hundred eleven (811) juveniles were in the
2 foster care system for over thirty-six (36) months.

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4 *SECTION 2. TEMPORARY LANGUAGE. DO NOT CODIFY. Legislative intent.*

5 Through the passage of this act, the General Assembly intends to:

6 (1) Provide additional options to the child welfare system; and

7 (2) Find permanency for juveniles in the foster care system,
8 particularly for those juveniles who are over fourteen (14) years of age or
9 older and have been in the foster care system for an extended period of time
10 without finding a permanent family.

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12 *SECTION 3. Arkansas Code Title 9, Chapter 27, Subchapter 3, is amended*
13 *to add additional sections to read as follows:*

14 9-27-369. Resumption of services.

15 (a) The Department of Human Services or an attorney ad litem may file
16 a motion to resume services for a parent whose parental rights were
17 previously terminated under this subchapter if:

18 (1) The child:

19 (A) Does not have a legal parent;

20 (B) Is not in an adoptive placement, a pre-adoptive
21 placement, or under another permanent placement and there is some evidence
22 that the juvenile is not likely to achieve permanency within a reasonable
23 period of time as viewed from the child's perspective; or

24 (C) Was previously adopted, appointed a permanent guardian, or
25 placed in the permanent custody of another individual and the adoption,
26 guardianship, or custodial placement was disrupted or otherwise dissolved;
27 and

28 (2) The order terminating the parental rights of the parent who
29 is the subject of a motion filed under this section was entered at least
30 three (3) years before the date on which the motion to resume services was
31 filed.

32 (b)(1) A motion filed under this section shall identify the parent for
33 whom services would resume.

34 (2) A parent shall not be named as a party to a motion filed
35 under this section.

36 (3) The petitioner shall serve the parent who is the subject of

1 a motion filed under this section with the motion.

2 (4) A parent who is the subject of a motion filed under this
3 section shall have the right to be heard at a hearing on the motion.

4 (c) When determining whether to grant or deny a motion filed under
5 this section, the court shall consider the:

6 (1) Efforts made by the department to achieve adoption or other
7 permanent placement for the child, including without limitation any barriers
8 preventing permanency from being achieved;

9 (2) Current status of the parent who is the subject of the
10 motion, including without limitation the extent to which the parent has
11 remedied any conditions that led to the termination of his or her parental
12 rights;

13 (3) Willingness of the parent who is the subject of the motion
14 to participate with the services offered; and

15 (4) Child's wishes regarding a resumption of contact,
16 visitation, or placement with the parent who is the subject of the motion.

17 (d)(1) A court may grant a motion filed under this section if it finds
18 by a preponderance of the evidence that it is in the best interest of the
19 child to resume services and establish appropriate contact or visitation
20 between the child and the parent or placement of the child with the parent.

21 (2) If the court grants a motion filed under this section, the
22 court:

23 (A)(i) May order family services for the purposes of
24 assisting reunification between the child and a fit parent who is the subject
25 of the motion.

26 (ii) The court may order the parent to pay for some
27 or all of the costs associated with court-ordered family services;

28 (B)(i) May order studies, evaluations, home studies, or
29 postdisposition reports.

30 (ii) A written home study on the parent who is the
31 subject of the motion shall be submitted to the court before the court may
32 order unsupervised visitation or placement of the juvenile with the parent.

33 (iii) If a study, evaluation, or home study is
34 performed before a hearing on a motion filed under subsection (a) of this
35 section, the results of the study, evaluation, or home study shall be served
36 on the parent, attorney ad litem, court-appointed special advocate, and any

1 other party to the motion at least two (2) business days before the hearing;
2 and

3 (C) Shall schedule a review hearing every ninety (90) days
4 until the court:

5 (i) Finds that it is not in the best interest of the
6 child to have contact, visitation, or placement with the parent;

7 (ii) Enters an order reinstating the rights of the
8 parent under § 9-27-370; or

9 (iii) No longer has jurisdiction over the case.

10 (3) A staffing shall be held and a case plan developed within
11 thirty (30) days of the date on which the order granting a motion for
12 resumption of services under this section is entered.

13 (e) A court may deny a motion filed under this section if the court
14 finds by a preponderance of the evidence that the parent who is the subject
15 of the motion engaged in conduct that interfered with the child's ability to
16 achieve permanency.

17 (f) The written order of the court shall be filed by the court, a
18 party, or the attorney of a party as designated by the court and distributed
19 to the parties within thirty (30) days of the date of the hearing on the
20 motion to resume services or before the next hearing, whichever is sooner.

21
22 9-27-370. Reinstatement of parental rights.

23 (a) The Department of Human Services or an attorney ad litem may file
24 a petition to reinstate the parental rights of a parent whose parental rights
25 have been terminated under this subchapter if the:

26 (1) Court has granted a motion to resume services under § 9-27-
27 369;

28 (2) Services have continued for at least one hundred eighty
29 (180) days following the date on which the court entered the order granting a
30 motion to resume services under § 9-27-369; and

31 (3) Parent for whom reinstatement of parental rights is sought
32 has substantially complied with the orders of the court and with the case
33 plan developed under § 9-27-369.

34 (b) A petition to reinstate parental rights shall be filed in the
35 circuit court that had jurisdiction over the petition to terminate the
36 parental rights of the parent who is the subject of the petition to reinstate

1 parental rights.

2 (c) A petition filed under this section shall be served on the:

3 (1) Attorney ad litem;

4 (2) Department;

5 (3) Parent who is the subject of the petition;

6 (4) Court Appointed Special Advocate Program Director, if
7 applicable and

8 (5) Child's tribe, if applicable.

9 (d) At least seven (7) business days before a hearing on a petition
10 filed under this section, the department shall provide the parent, parent's
11 counsel, attorney ad litem, court-appointed special advocate, and any other
12 party to the petition with a written report that includes information on:

13 (1) The efforts made by the department to achieve adoption or
14 another permanent placement for the child, including without limitation any
15 barriers to the adoption or permanent placement of the child;

16 (2) The extent to which the parent who is the subject of the
17 petition has complied with the case plan and orders of the court as of the
18 date on which services were ordered to be resumed under § 9-27-369;

19 (3) The impact of the resumed services on the parent and on the
20 health, safety, and well-being of the child; and

21 (4) Any recommendations of the department.

22 (e) Parental rights may be reinstated under this section if the court
23 finds by clear and convincing evidence that:

24 (1) Reinstatement of parental rights is in the best interest of
25 the child; and

26 (2) There has been a material change in circumstances as to the
27 parent who is the subject of the petition since the date on which the order
28 terminating the parental rights of the parent was entered.

29 (f) The court shall consider the following factors when determining
30 whether a reinstatement of parental rights is in the best interest of the
31 child:

32 (1) The likelihood of the child achieving permanency through
33 adoption or another permanent placement;

34 (2) The age, maturity, and preference of the child concerning
35 the reinstatement of parental rights;

36 (3) The parent's fitness and whether the parent has remedied the

1 conditions that existed at the time of the termination of his or parental
2 rights; and

3 (4) The effect that the reinstatement of parental rights would
4 have on the health, safety, and well-being of the child.

5 (g) A court may deny a petition filed under this section if the court
6 finds by a preponderance of the evidence that the parent engaged in conduct
7 that interfered with the child's ability to achieve permanency.

8 (h) An order reinstating the parental rights of the parent who is the
9 subject of a petition filed under this section restores all rights, powers,
10 privileges, immunities, duties, and obligations of the parent as to the
11 child, including without limitation custody, control, and support of the
12 child.

13 (i) If the child is placed with a parent whose parental rights are
14 reinstated under this section, the court shall not close the case until the
15 child has resided with the parent for no less than six (6) months.

16 (j) A written order shall be filed by the court, a party, or the
17 attorney of a party as designated by the court within thirty (30) days of the
18 date of the hearing on the motion to reinstate parental rights or before the
19 next hearing, whichever is sooner.

20 (k) An order reinstating parental rights under this section does not:

21 (1) Vacate or affect the validity of a previous order
22 terminating the parental rights of the parent who is the subject of the
23 petition; and

24 (2) Restore or impact the rights of a parent who is not the
25 subject of a petition filed under this section.

26 (l) This section is retroactive and applies to a child who is under
27 the jurisdiction of a court at the time of a hearing on a petition to
28 terminate parental rights, regardless of the date on which parental rights
29 were terminated by court order.

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31 /s/D. Meeks
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