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2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: S3/22/17

A Bill

SENATE BILL 734

5 By: Senator A. Clark
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING THE TERMINATION OF
9 PARENTAL RIGHTS; CONCERNING THE PROCEDURE FOR THE
10 REINSTATEMENT OF PARENTAL RIGHTS; AND FOR OTHER
11 PURPOSES.
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Subtitle

14 TO AMEND THE LAW CONCERNING THE
15 TERMINATION OF PARENTAL RIGHTS; AND
16 CONCERNING THE PROCEDURE FOR THE
17 REINSTATEMENT OF PARENTAL RIGHTS.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 *SECTION 1. Arkansas Code Title 9, Chapter 27, Subchapter 3, is amended*
24 *to add an additional section to read as follows:*

25 *9-27-369. Reinstatement of parental rights.*

26 *(a) The Department of Human Services or an attorney ad litem may file*
27 *a petition to reinstate the parental rights of a parent if:*

28 *(1) The juvenile was previously adjudicated to be dependent,*
29 *dependent-neglected, or a member of a family in need of services under this*
30 *chapter;*

31 *(2) The parent previously had his or her parental rights*
32 *terminated under this chapter;*

33 *(3) A permanency plan involving an adoption, guardianship, or*
34 *permanent custody placement for the juvenile is not likely to be achieved*
35 *within one (1) year and:*

36 *(A) The juvenile has not been adopted, appointed a*



1 guardian, or appointed a permanent custodian;

2 (B) The appointed guardian or appointed permanent
3 custodian of the juvenile supports the petition; or

4 (C) The juvenile was previously adopted, appointed a
5 guardian, or appointed a permanent custodian and the adoption, guardianship,
6 or custodial placement was disrupted or otherwise dissolved; and

7 (4) At least one (1) year has passed from the date on which the
8 order terminating the parental rights of the parent was entered by the court.

9 (b) A parent whose parental rights were previously terminated under
10 this chapter may file a petition to reinstate his or her parental rights if:

11 (1) The juvenile was previously adjudicated dependent,
12 dependent-neglected, or a member of a family in need of services under this
13 chapter;

14 (2) A permanency plan involving an adoption, guardianship, or
15 permanent custody placement for the juvenile is not likely to be achieved
16 within one (1) year and:

17 (A) The juvenile has not been adopted, appointed a
18 guardian, or appointed a permanent custodian;

19 (B) The appointed guardian or permanent custodian of the
20 juvenile supports the petition; or

21 (C) The juvenile was previously adopted, appointed a
22 guardian, or appointed a permanent custodian and the adoption, guardianship,
23 or custodial placement was disrupted or otherwise dissolved;

24 (3) At least one (1) year has passed from the date on which the
25 order terminating the parental rights of the parent was entered by the court;
26 and

27 (4) The parent proves by clear and convincing evidence that he
28 or she has remedied the grounds that were used as a basis for the termination
29 of his or her parental rights for an ongoing period of at least six (6)
30 months.

31 (c) The petitioner shall provide notice to the department, attorney ad
32 litem, and parent who is the subject of the petition to reinstate parental
33 rights.

34 (d)(1) If the juvenile is fourteen (14) years of age or older, the
35 department or attorney ad litem shall provide the juvenile with a form on
36 which the juvenile shall indicate his or her consent or objection to the

1 petition.

2 (2) If the juvenile objects to the petition to reinstate
3 parental rights, the petition shall be dismissed without prejudice.

4 (3)(A) If the juvenile consents to the petition to reinstate
5 parental rights, a hearing shall be held on the petition no later than ninety
6 (90) days from the date on which the petition is filed.

7 (B) The petitioner shall notify the department, attorney
8 ad litem, and the parent who is the subject of the petition to reinstate
9 parental rights of a hearing date scheduled under subdivision (d)(3)(A) of
10 this section.

11 (e) The court shall grant a petition to reinstate parental rights if
12 the court finds by clear and convincing evidence that the:

13 (1) Juvenile has not been adopted;

14 (2) Juvenile has not been appointed a guardian or permanent
15 custodian;

16 (3) Adoption, guardianship, or permanent custodial placement of
17 the juvenile was disrupted or otherwise dissolved;

18 (4) Juvenile is not likely to be adopted or appointed a guardian
19 or permanent custodian within a reasonable time; and

20 (5)(A) Reinstatement of parental rights is in the best interest
21 of the juvenile.

22 (B) The court shall consider the following factors in
23 determining whether a reinstatement of parental rights is in the best
24 interest of the juvenile:

25 (i) Whether the parent who is the subject of the
26 petition to reinstate parental rights is a fit parent and has remedied the
27 grounds that were used as a basis for the termination of his or her parental
28 rights;

29 (ii) The age and maturity of the juvenile and the
30 ability of the juvenile to express his or her preference;

31 (iii) Whether a reinstatement of parental rights
32 will endanger the health, safety, or welfare of the juvenile;

33 (iv) The current permanency goal concerning the
34 juvenile and progress toward the permanency goal; and

35 (v) Any other material change in circumstances that
36 is relevant to a determination of whether to grant or deny the petition.

1 (f) If the court grants a petition to reinstate parental rights, then:

2 (1)(A) The court may enter a temporary order requiring the
3 juvenile to be placed in the custody of the parent who is the subject of the
4 petition to reinstate parental rights when it is safe and appropriate.

5 (B) The court shall dismiss the petition to reinstate
6 parental rights if the juvenile is not placed in the custody of the parent
7 within six (6) months of the date on which the hearing on the petition was
8 held;

9 (2) The court may order the juvenile to be placed in the home of
10 the parent who is the subject of the petition to reinstate parental rights on
11 a trial basis that does not exceed sixty (60) days; and

12 (3)(A) The case shall remain open for at least six (6) months
13 from the date on which the juvenile is placed in the custody of the parent
14 who is the subject of the petition to reinstate parental rights.

15 (B) The court shall dismiss a petition to reinstate
16 parental rights if the:

17 (i) Juvenile is removed from the custody of the
18 parent due to an endangerment of the health, safety, or welfare of the
19 juvenile; and

20 (ii) Court finds that the grounds for the new
21 removal of the juvenile from the custody of the parent has been proven by a
22 preponderance of the evidence.

23 (g)(1) If the juvenile remains successfully placed for six (6) months
24 in the custody of the parent who is the subject of the petition to reinstate
25 parental rights, the court shall:

26 (A) Hold a hearing on the petition to reinstate parental
27 rights;

28 (B) Enter an order reinstating the parental rights of the
29 parent; and

30 (C) Close the case.

31 (2) If the placement of the juvenile in the custody of the
32 parent who is the subject of the petition to reinstate parental rights is
33 unsuccessful, the court shall:

34 (A) Hold a hearing on the petition to reinstate parental
35 rights;

36 (B) Remove custody of the juvenile from the parent; and

1 (C) Dismiss the petition to reinstate parental rights.

2 (h) An order reinstating the parental rights of a parent under this
3 section:

4 (1) Restores all rights, powers, privileges, immunities, duties,
5 and obligations of the parent as to the juvenile, including those relating to
6 the custody, control, and support of the juvenile; and

7 (2) Supersedes a previous:

8 (A) Order terminating the parental rights of the parent;
9 and

10 (B) Adoption order concerning the juvenile.

11 (i) This section is retroactive and applies to a juvenile who is under
12 the jurisdiction of the court at the time of the hearing on the petition to
13 reinstate parental rights, regardless of when the previous order terminating
14 the parental rights of the parent was entered.

15 (j)(1) The state, department, and employees of the department are not
16 be liable for civil damages resulting from an act or omission taken in
17 accordance with this section unless the act or omission constitutes gross
18 negligence.

19 (2) This section does not create a cause of action against the
20 state, the department or the employees of the department, or a supervising
21 agency or the employees of the supervising agency as to a previous order
22 terminating the parental rights of a parent.

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24 /s/A. Clark

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