

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

# 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.  
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## Subtitle

16 TO PROVIDE FOR THE RESUMPTION OF SERVICES  
17 FOR PARENTS WHOSE PARENTAL RIGHTS ARE  
18 TERMINATED; AND TO PROVIDE FOR THE  
19 REINSTATEMENT OF PARENTAL RIGHTS.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code Title 9, Chapter 27, Subchapter 3, is amended  
25 to add additional sections to read as follows:

26 9-27-369. Resumption of services.

27 (a) The Department of Human Services or an attorney ad litem may file  
28 a petition to resume services for a parent whose parental rights were  
29 previously terminated under this subchapter if:

30 (1) The child:

31 (A) Does not have a legal parent;

32 (B) Is not in an adoptive placement, a pre-adoptive  
33 placement, or under other permanent placement and is not likely to be adopted  
34 or otherwise achieve permanency within a reasonable period of time as viewed  
35 from the child's perspective; or

36 (C) Was previously adopted, appointed a permanent



1 guardian, or placed in the permanent custody of another individual and the  
2 adoption, guardianship, or custodial placement was disrupted or otherwise  
3 dissolved; and

4 (2) The order terminating the parental rights of the parent who  
5 is the subject of a petition filed under this section was entered at least  
6 (2) years before the date on which the petition to resume services was filed.

7 (b)(1) A petition filed under this section shall identify the parent  
8 for whom services would resume.

9 (2) A parent shall not be named as a party to a petition filed  
10 under this section.

11 (3) The department and the attorney ad litem shall serve the  
12 parent who is the subject of a petition filed under this section with the  
13 petition.

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

16 (c) When determining whether to grant or deny a petition filed under  
17 this section, the court shall consider the:

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

21 (2) Current status of the parent who is the subject of the  
22 petition, including without limitation the extent to which the parent has  
23 remedied any conditions that led to the termination of his or her parental  
24 rights;

25 (3) Willingness of the parent who is the subject of the petition  
26 to participate with the services offered; and

27 (4) Child's opinion regarding a resumption of contact,  
28 visitation, or placement with the parent who is the subject of the petition.

29 (d)(1) A court may grant a petition filed under this section if it  
30 finds compelling evidence that it is in the best interest of the child to  
31 resume services and establish appropriate contact or visitation between the  
32 child and the parent or placement of the child with the parent.

33 (2) If the court grants a petition filed under this section, the  
34 court:

35 (A)(i) May order family services for the purposes of  
36 assisting reunification between the child and the parent who is the subject

1 of the petition.

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

4 (B)(i) May order one (1) or more studies, evaluations,  
5 home studies, or post-disposition reports.

6 (ii) The department must perform a home study on the  
7 parent who is the subject of the petition and submit the results to the court  
8 before the court may order unsupervised contact or visitation between the  
9 child and parent or placement of the child with the parent.

10 (iii) If a study, evaluation, or home study is  
11 performed before a hearing on a petition filed under subsection (a) of this  
12 section, the results of the study, evaluation, or home study shall be served  
13 on the parent and his or her counsel, attorney ad litem, court-appointed  
14 special advocate, and any other party to the petition at least two (2) days  
15 before the hearing; and

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

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

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

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

23 (3) The department and the attorney ad litem shall conduct a  
24 staffing and develop a case plan within thirty (30) days from the date on  
25 which the order granting a petition for resumption of services under this  
26 section is filed.

27 (e) A court may deny a petition filed under this section if the court  
28 finds by a preponderance of the evidence that the parent who is the subject  
29 of the petition engaged in conduct that interfered with the child's ability  
30 to achieve permanency.

31 (f) A filed copy of an order entered by the court under this section  
32 shall be served on the parent, parent's counsel, department, attorney ad  
33 litem, court-appointed special advocate, and any other party to the petition  
34 within thirty (30) days of the date on which the order is filed or before a  
35 subsequent hearing concerning the petition to resume services, whichever is  
36 sooner.

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2 9-27-370. Reinstatement of parental rights.

3 (a) The Department of Human Services and an attorney ad litem may file  
4 a petition to reinstate the parental rights of a parent whose parental rights  
5 have been terminated under this subchapter if the:

6 (1) Court has granted a petition to resume services under § 9-  
7 27-369;

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

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

14 (b) A petition to reinstate parental rights shall be filed in the  
15 circuit court that had jurisdiction over the petition to terminate the  
16 parental rights of the parent who is the subject of the petition to reinstate  
17 parental rights.

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

19 (1) Attorney ad litem;

20 (2) Department;

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

22 (4) Head of the Court-Appointed Special Advocates for Children;

23 and

24 (5) Child's tribe, if the child is a documented member of a  
25 Native American tribe.

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

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

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

36 (3) The impact of the resumed services on the parent and on the

1 health, safety, and well-being of the child; and

2 (4) Any recommendations of the department.

3 (e) Parental rights may be reinstated under this section if the court  
4 finds by a preponderance of the evidence that:

5 (1) Reinstatement of parental rights is in the best interest of  
6 the child; and

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

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

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

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

17 (3) The parent's fitness and whether the parent has remedied the  
18 conditions that were the grounds for the termination of his or parental  
19 rights; and

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

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

25 (h) An order reinstating the parental rights of the parent who is the  
26 subject of a petition filed under this section restores all rights, powers,  
27 privileges, immunities, duties, and obligations of the parent as to the  
28 child, including without limitation custody, control, and support of the  
29 child.

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

33 (j) An order concerning a petition filed under this section shall be  
34 filed within thirty (30) days of the date on which the order is entered by  
35 the court or the hearing on the petition, whichever is sooner.

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

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

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

6           (1) This section is retroactive and applies to a child who is under  
7 the jurisdiction of a court at the time of a hearing on a petition to  
8 terminate parental rights, regardless of the date on which parental rights  
9 were terminated by court order.

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