

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
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As Engrossed: H3/21/17
A Bill

HOUSE BILL 1973

By: Representatives D. Meeks, C. Fite

By: Senator Irvin

For An Act To Be Entitled

AN ACT TO PROVIDE FOR THE RESUMPTION OF SERVICES FOR PARENTS WHOSE PARENTAL RIGHTS ARE TERMINATED; TO PROVIDE FOR THE REINSTATEMENT OF PARENTAL RIGHTS; AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE FOR THE RESUMPTION OF SERVICES FOR PARENTS WHOSE PARENTAL RIGHTS ARE TERMINATED; AND TO PROVIDE FOR THE REINSTATEMENT OF PARENTAL RIGHTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

The General Assembly finds that:

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

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

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

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

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



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

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

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

(1) Provide additional options to the child welfare system; and
(2) Find permanency for juveniles in the foster care system, particularly for those juveniles who are over fourteen (14) years of age or older and have been in the foster care system for an extended period of time without finding a permanent family.

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

9-27-369. Resumption of services.

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

(1) The child:

(A) Does not have a legal parent;

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

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

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

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

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

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

a motion filed under this section with the motion.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) No longer has jurisdiction over the case.

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

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

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

9-27-370. Reinstatement of parental rights.

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

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

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

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

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

parental rights.

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

(1) Attorney ad litem;

(2) Department;

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

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

(5) Child's tribe, if applicable.

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

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

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

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

(4) Any recommendations of the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

/s/D. Meeks