

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

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: S3/22/17
A Bill

SENATE BILL 734

By: Senator A. Clark

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE TERMINATION OF PARENTAL RIGHTS; CONCERNING THE PROCEDURE FOR THE REINSTATEMENT OF PARENTAL RIGHTS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE TERMINATION OF PARENTAL RIGHTS; AND CONCERNING THE PROCEDURE FOR THE REINSTATEMENT OF PARENTAL RIGHTS.

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

SECTION 1. Arkansas Code Title 9, Chapter 27, Subchapter 3, is amended to add an additional section to read as follows:

9-27-369. 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 if:

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

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

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

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



guardian, or appointed a permanent custodian;

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

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

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

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

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

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

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

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

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

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

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

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

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

petition.

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

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

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

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

(1) Juvenile has not been adopted;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Close the case.

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

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

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

(C) Dismiss the petition to reinstate parental rights.

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

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

(2) Supersedes a previous:

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

(B) Adoption order concerning the juvenile.

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

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

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

/s/A. Clark