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ENGROSSED SUBSTITUTE SENATE BILL 5452

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State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senator Rockefeller)

READ FIRST TIME 02/26/07.

1 AN ACT Relating to providing for reunification after termination of  
2 parental rights; amending RCW 13.34.200; adding a new section to  
3 chapter 13.34 RCW; and creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that current law does  
6 not explicitly provide for reunification of a child with his or her  
7 parent or parents after termination of parental rights even in cases  
8 where a child is not expected to get the benefits of being adopted into  
9 a new family or of having a permanent adult guardian. A child can  
10 remain in this status even if there has been a significant change of  
11 circumstances in a parent's situation and the minor child's preference  
12 is to reunite with his or her parent. There may be cases in which a  
13 child will no longer be at risk of abuse or neglect by a former parent  
14 and it is in the best interests of a child who is legally free to be  
15 reunited with his or her parent.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.34 RCW  
17 to read as follows:

1 (1) A child may petition the juvenile court to reinstate the  
2 previously terminated parental rights of his or her parent under the  
3 following circumstances:

4 (a) The child was previously found to be a dependent child under  
5 this chapter;

6 (b) The child's parent's rights were terminated in a proceeding  
7 under this chapter; and

8 (c) The child has not achieved his or her permanency plan within  
9 three years of a final order of termination, or if the final order was  
10 appealed, within three years of exhaustion of any right to appeal the  
11 order terminating parental rights.

12 (2) The child may file the petition prior to the expiration of this  
13 three-year period if the department or the supervising or custodial  
14 agency that is responsible for the custody or supervision of the child  
15 and the child stipulate that the child is not likely to achieve his or  
16 her permanency plan.

17 (3) A child seeking to petition under this section shall be  
18 provided counsel at no cost to the child.

19 (4) The petition must be signed by the child in the absence of a  
20 showing of good cause as to why the child could not do so.

21 (5) If, after a threshold hearing to consider the parent's apparent  
22 fitness and interest in reinstatement of parental rights, it appears  
23 that the best interests of the child may be served by reinstatement of  
24 parental rights, the juvenile court shall order that a hearing be held.

25 (6) The court shall give prior notice for any proceeding under this  
26 section, or cause prior notice to be given, to the department, the  
27 child's attorney, and the child. The court shall also order the  
28 department to give prior notice of any hearing to the child's former  
29 parent whose parental rights are the subject of the petition, any  
30 parent whose rights have not been terminated, the child's current  
31 foster parent, relative caregiver, guardian or custodian, and the  
32 child's tribe, if applicable.

33 (7) The juvenile court shall grant the petition if it finds by  
34 clear and convincing evidence that the child has not achieved his or  
35 her permanency plan and is not likely to imminently achieve his or her  
36 permanency plan and that reinstatement of parental rights is in the  
37 child's best interest. In determining whether reinstatement is in the

1 child's best interest the court shall consider, but is not limited to,  
2 the following:

3 (a) Whether the parent whose rights are to be reinstated is a fit  
4 parent and has remedied his or her deficits as provided in the record  
5 of the prior termination proceedings and prior termination order;

6 (b) The age and maturity of the child, and the ability of the child  
7 to express his or her preference;

8 (c) Whether the reinstatement of parental rights will present a  
9 risk to the child's health, welfare, or safety; and

10 (d) Other material changes in circumstances, if any, that may have  
11 occurred which warrant the granting of the petition.

12 (8) In determining whether the child has or has not achieved his or  
13 her permanency plan or whether the child is likely to achieve his or  
14 her permanency plan, the department shall provide the court, and the  
15 court shall review, information related to any efforts to achieve the  
16 permanency plan including efforts to achieve adoption or a permanent  
17 guardianship.

18 (9) The court shall grant the petition and dismiss the dependency  
19 only if the child and the parent or parents who were the subject of a  
20 petition under this section and whose parental rights were reinstated  
21 agree that the child will return to the legal custody of the parent or  
22 parents and the court finds that returning to the legal custody of the  
23 parent or parents is in the best interests of the child and will not  
24 present a risk to the child's health, welfare, or safety. The court  
25 shall order the department to provide services necessary to ensure the  
26 child's health, welfare, and safety, including a home study, as the  
27 child transitions back into the parent's legal custody.

28 (10) The granting of the petition under this section does not  
29 vacate or otherwise affect the validity of the original termination  
30 order.

31 (11) Any parent whose rights are reinstated under this section  
32 shall not be liable for any child support owed to the department  
33 pursuant to RCW 13.34.160 for the time period from the date of  
34 termination of parental rights to the date parental rights are  
35 reinstated.

36 (12) The state, the department, and its employees are not liable  
37 for civil damages resulting from any act or omission in the provision  
38 of services under this section, unless the act or omission constitutes

1 gross negligence. This section does not create any duty and shall not  
2 be construed to create a duty where none exists. This section does not  
3 create a cause of action against the state, the department, or its  
4 employees concerning the original termination.

5 NEW SECTION. **Sec. 3.** This act is retroactive and applies to any  
6 child who is under the jurisdiction of the juvenile court at the time  
7 of the hearing regardless of the date parental rights were terminated.

8 **Sec. 4.** RCW 13.34.200 and 2003 c 227 s 7 are each amended to read  
9 as follows:

10 (1) Upon the termination of parental rights pursuant to RCW  
11 13.34.180, all rights, powers, privileges, immunities, duties, and  
12 obligations, including any rights to custody, control, visitation, or  
13 support existing between the child and parent shall be severed and  
14 terminated and the parent shall have no standing to appear at any  
15 further legal proceedings concerning the child, except as provided in  
16 section 2 of this act: PROVIDED, That any support obligation existing  
17 prior to the effective date of the order terminating parental rights  
18 shall not be severed or terminated. The rights of one parent may be  
19 terminated without affecting the rights of the other parent and the  
20 order shall so state.

21 (2) An order terminating the parent and child relationship shall  
22 not disentitle a child to any benefit due the child from any third  
23 person, agency, state, or the United States, nor shall any action under  
24 this chapter be deemed to affect any rights and benefits that an Indian  
25 child derives from the child's descent from a member of a federally  
26 recognized Indian tribe.

27 (3) An order terminating the parent-child relationship shall  
28 include a statement addressing the status of the child's sibling  
29 relationships and the nature and extent of sibling placement, contact,  
30 or visits.

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