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H.B. No. 2926

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the reinstatement of the parent-child relationship with
3 respect to a person whose parental rights have been involuntarily
4 terminated and to certain requirements in relation to the
5 termination of the parent-child relationship or placement of a
6 child in substitute care.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. Chapter 161, Family Code, is amended by adding
9 Subchapter D to read as follows:

10 SUBCHAPTER D. REINSTATEMENT OF PARENTAL RIGHTS AFTER INVOLUNTARY
11 TERMINATION

12 Sec. 161.301. DEFINITIONS. In this subchapter:

13 (1) "Commissioner" means the commissioner of the
14 Department of Family and Protective Services.

15 (2) "Department" means the Department of Family and
16 Protective Services.

17 Sec. 161.302. PETITION. (a) The following persons may file
18 a petition under this subchapter requesting the court to reinstate
19 the parental rights of a former parent whose parental rights were
20 involuntarily terminated under Section 161.001 or 161.003:

21 (1) the department;

22 (2) the single source continuum contractor under
23 Subchapter B-1, Chapter 264, with responsibility for the child who
24 is the subject of the petition;

1 (3) the attorney ad litem for the child who is the
2 subject of the petition; or

3 (4) the former parent whose parental rights were
4 involuntarily terminated.

5 (b) A petition for the reinstatement of parental rights may
6 be filed under this subchapter only if:

7 (1) the termination of parental rights resulted from a
8 suit filed by the department;

9 (2) at least two years have passed since the issuance
10 of the order terminating the former parent's parental rights and an
11 appeal of the order is not pending;

12 (3) the child has not been adopted;

13 (4) the child is not the subject of an adoption
14 placement agreement; and

15 (5) the petitioner has provided the notice required by
16 Subsection (d), if the petitioner is the former parent whose
17 parental rights are sought to be reinstated.

18 (c) The contents of the petition for reinstatement of
19 parental rights must be sworn by the petitioner and must include:

20 (1) the name of the petitioner;

21 (2) the name and current residence address of the
22 former parent whose parental rights are sought to be reinstated, if
23 that former parent is not the petitioner;

24 (3) the child's name, current residence address, and
25 date and place of birth, if known;

26 (4) the name, current residence address, and contact
27 information, if known, of any party that:

1 (A) participated in the original termination
2 hearing; and

3 (B) has information relevant to the
4 determination of conservatorship of or possession of or access to
5 the child;

6 (5) a summary of the grounds on which the court
7 rendered the order terminating the former parent's parental rights;

8 (6) a summary statement of the facts and evidence that
9 the petitioner believes demonstrate that the former parent whose
10 parental rights are sought to be reinstated has the capacity and
11 willingness to perform parental duties under Section 151.001,
12 including steps the former parent has taken toward personal
13 rehabilitation since the rendition of the order terminating
14 parental rights, including mental health and substance abuse
15 treatment, employment, or other personal history that demonstrates
16 rehabilitation;

17 (7) a statement of the former parent whose parental
18 rights are sought to be reinstated requesting the reinstatement of
19 parental rights;

20 (8) a statement of the intent or willingness of the
21 child to consent to the reinstatement of parental rights, if the
22 child is 12 years of age or older; and

23 (9) a summary of all prior requests or motions for
24 reinstatement by the former parent whose parental rights are sought
25 to be reinstated and by the petitioner, if the former parent is not
26 the petitioner, with respect to that child.

27 (d) Before a former parent whose parental rights have been

1 involuntarily terminated may file a petition for reinstatement
2 under this subchapter, the former parent, at least 45 days before
3 the petition is filed, must notify the department of the former
4 parent's intent to file the petition. The commissioner shall
5 create a form to be used by a former parent for that notice that
6 includes the information listed in Subsection (c). A copy of the
7 notice must be filed with the petition.

8 (e) The petition for the reinstatement of parental rights
9 and notice of hearing on the petition must be served on:

- 10 (1) the child or the child's representative;
11 (2) the county attorney;
12 (3) the child's attorney ad litem;
13 (4) the department or single source continuum
14 contractor, if applicable;
15 (5) the former parent whose parental rights are sought
16 to be reinstated, if that former parent is not the petitioner; and
17 (6) if the child is subject to the Indian Child Welfare
18 Act of 1978 (25 U.S.C. Section 1901 et seq.), the designated tribal
19 service agent of the child's tribe and any other person required by
20 federal law.

21 Sec. 161.303. HEARING. (a) A reinstatement hearing under
22 this subchapter must be held not later than the 60th day after the
23 date the petition is filed.

24 (b) The petitioner has the burden of proof in the hearing,
25 and each party may call witnesses.

26 (c) The court may grant the petition and order the
27 reinstatement of the former parent's parental rights only if the

1 court finds by a preponderance of the evidence that:

2 (1) reinstatement of parental rights is in the child's
3 best interests;

4 (2) at least two years have passed since issuance of
5 the order terminating parental rights and an appeal of the order is
6 not pending;

7 (3) the child has not been adopted and is not the
8 subject of an adoption placement agreement;

9 (4) if the child is 12 years of age or older, the child
10 consents to the reinstatement and desires to reside with the
11 parent;

12 (5) the former parent has remedied the conditions that
13 were grounds for rendering the order terminating parental rights;
14 and

15 (6) the former parent is willing and has the
16 capability to perform parental duties as provided in Section
17 151.001, including maintaining the health, safety, and welfare of
18 the child.

19 (d) In determining whether to grant a petition for
20 reinstatement of parental rights under this subchapter in regard to
21 a child who is 11 years of age or younger on the date the petition is
22 filed, the court shall consider the child's age, maturity, and
23 ability to express a preference and may consider the child's
24 preference regarding the reinstatement as one factor, considered
25 along with all other relevant factors, in making the determination.

26 Sec. 161.304. ORDERS. (a) Following a hearing under this
27 subchapter, the court may render an order:

1 (1) granting the petition;
2 (2) denying the petition; or
3 (3) deferring the decision on the petition and
4 rendering a temporary order expiring after a period of six months
5 during which the department remains the managing conservator of the
6 child and the former parent is the possessory conservator.

7 (b) If the court defers granting the petition under
8 Subsection (a)(3):

9 (1) the department shall monitor the possessory
10 conservatorship of the former parent during the period of the
11 temporary order; and

12 (2) when the temporary order expires, the court shall
13 hold a hearing to determine whether to grant or deny the petition
14 for reinstatement.

15 (c) If, following a hearing under this subchapter, the court
16 renders an order for reinstatement of parental rights, the court
17 shall enter the court's findings in a written order stating that all
18 legal rights, powers, privileges, immunities, duties, and
19 obligations of the former parent regarding the child, including
20 with respect to custody, care, control, and support, are
21 reinstated.

22 (d) If, following a hearing under this subchapter, the court
23 denies a petition for reinstatement of parental rights, the court
24 shall render a written order that includes:

25 (1) the court's findings and detailing reasons for
26 denial of the petition; and

27 (2) a statement prohibiting the filing of a subsequent

1 petition in regard to the former parent's parental rights before
2 the first anniversary of the date the order of denial was issued.

3 SECTION 2. Subchapter C, Chapter 161, Family Code, is
4 amended by adding Section 161.2081 to read as follows:

5 Sec. 161.2081. NOTICE OF TERMINATION FOR CERTAIN RELATIVES.

6 Immediately after a court renders an order terminating the
7 parent-child relationship in a suit filed by the Department of
8 Family and Protective Services, the department shall notify each
9 individual described by Section 102.006(c) who has been identified
10 under Section 262.1095 that:

11 (1) the parent-child relationship has been
12 terminated; and

13 (2) the individual has 90 days after the date the order
14 is rendered to file an original suit or a suit for modification
15 requesting managing conservatorship of the child in accordance with
16 Section 102.006(c).

17 SECTION 3. Section 262.1095(a), Family Code, is amended to
18 read as follows:

19 (a) When the Department of Family and Protective Services or
20 another agency takes possession of a child under this chapter, the
21 department:

22 (1) shall provide information as prescribed by this
23 section to each adult the department is able to identify and locate
24 who is:

25 (A) related to the child within the fourth
26 [~~third~~] degree by consanguinity as determined under Chapter 573,
27 Government Code;

1 (B) an adult relative of the alleged father of
2 the child if the department has a reasonable basis to believe the
3 alleged father is the child's biological father; or

4 (C) identified as a potential relative or
5 designated caregiver, as defined by Section 264.751, on the
6 proposed child placement resources form provided under Section
7 261.307; and

8 (2) may provide information as prescribed by this
9 section to each adult the department is able to identify and locate
10 who has a long-standing and significant relationship with the
11 child.

12 SECTION 4. Section 262.114, Family Code, is amended by
13 adding Subsection (d) to read as follows:

14 (d) In making a placement decision for a child, the
15 department shall give preference to persons in the following order:

16 (1) a person related to the child by blood, marriage,
17 or adoption;

18 (2) a person with whom the child has a long-standing
19 and significant relationship;

20 (3) a foster home; and

21 (4) a general residential operation.

22 SECTION 5. This Act takes effect September 1, 2021.