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H.B. No. 2926

A BILL TO BE ENTITLED

AN ACT

relating to the reinstatement of the parent-child relationship with respect to a person whose parental rights have been involuntarily terminated.

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

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

SUBCHAPTER D. REINSTATEMENT OF PARENTAL RIGHTS AFTER INVOLUNTARY TERMINATION

Sec. 161.301. DEFINITIONS. In this subchapter:

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

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

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

(1) the department;

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

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

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

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

5 (1) at least two years have passed since the issuance
6 of the order terminating the former parent's parental rights;

7 (2) the child has not been adopted;

8 (3) the child is not the subject of a written adoption
9 placement agreement; and

10 (4) the petitioner has provided the notice required by
11 Subsection (d), if the petitioner is the former parent whose
12 parental rights are sought to be reinstated.

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

15 (1) the name of the petitioner;

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

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

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

23 (A) participated in the original termination
24 hearing; and

25 (B) has information relevant to the
26 determination of conservatorship of or possession of or access to
27 the child;

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

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

12 (7) a statement of the former parent whose parental
13 rights are sought to be reinstated requesting the reinstatement of
14 parental rights;

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

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

22 (d) Before a former parent whose parental rights have been
23 involuntarily terminated may file a petition for reinstatement
24 under this subchapter, the former parent, at least 45 days before
25 the petition is filed, must notify the department of the former
26 parent's intent to file the petition. The commissioner shall
27 create a form to be used by a former parent for that notice that

1 includes the information listed in Subsection (c). A copy of the
2 notice must be filed with the petition.

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

5 (1) the child or the child's representative;

6 (2) the county attorney;

7 (3) the child's attorney ad litem;

8 (4) the department or single source continuum
9 contractor, if applicable;

10 (5) the former parent whose parental rights are sought
11 to be reinstated, if that former parent is not the petitioner; and

12 (6) if the child is subject to the Indian Child Welfare
13 Act of 1978 (25 U.S.C. Section 1901 et seq.), the designated tribal
14 service agent of the child's tribe and any other person required by
15 federal law.

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

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

21 (c) The court may grant the petition and order the
22 reinstatement of the former parent's parental rights only if the
23 court finds by a preponderance of the evidence that:

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

26 (2) at least two years have passed since issuance of
27 the order terminating parental rights;

1 (3) the child has not been adopted and is not the
2 subject of a written adoption placement agreement;

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

6 (5) the former parent has remedied the conditions that
7 were grounds for rendering the order terminating parental rights;
8 and

9 (6) the former parent is willing and has the
10 capability to perform parental duties as provided in Section
11 151.001, including maintaining the health, safety, and welfare of
12 the child.

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

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

22 (1) granting the petition;

23 (2) denying the petition; or

24 (3) deferring the decision on the petition and
25 rendering a temporary order expiring after a period of six months
26 during which the department remains the managing conservator of the
27 child and the former parent is the possessory conservator.

1 (b) If the court defers granting the petition under
2 Subsection (a)(3):

3 (1) the department shall monitor the possessory
4 conservatorship of the former parent during the period of the
5 temporary order; and

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

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

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

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

21 (2) a statement prohibiting the filing of a subsequent
22 petition in regard to the former parent's parental rights before
23 the first anniversary of the date the order of denial was issued.

24 SECTION 2. This Act takes effect September 1, 2021.