

1-1 By: Parker, et al. (Senate Sponsor - Buckingham) H.B. No. 2926
1-2 (In the Senate - Received from the House May 12, 2021;
1-3 May 13, 2021, read first time and referred to Committee on State
1-4 Affairs; May 19, 2021, reported favorably by the following vote:
1-5 Yeas 9, Nays 0; May 19, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	<u>Hughes</u>	<u>X</u>		
1-9	<u>Birdwell</u>	<u>X</u>		
1-10	<u>Campbell</u>	<u>X</u>		
1-11	<u>Hall</u>	<u>X</u>		
1-12	<u>Lucio</u>	<u>X</u>		
1-13	<u>Nelson</u>	<u>X</u>		
1-14	<u>Powell</u>	<u>X</u>		
1-15	<u>Schwertner</u>	<u>X</u>		
1-16	<u>Zaffirini</u>	<u>X</u>		

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the reinstatement of the parent-child relationship with
1-20 respect to a person whose parental rights have been involuntarily
1-21 terminated and to certain requirements in relation to the
1-22 termination of the parent-child relationship or placement of a
1-23 child in substitute care.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Chapter 161, Family Code, is amended by adding
1-26 Subchapter D to read as follows:

1-27 SUBCHAPTER D. REINSTATEMENT OF PARENTAL RIGHTS AFTER INVOLUNTARY
1-28 TERMINATION

1-29 Sec. 161.301. DEFINITIONS. In this subchapter:

1-30 (1) "Commissioner" means the commissioner of the
1-31 Department of Family and Protective Services.

1-32 (2) "Department" means the Department of Family and
1-33 Protective Services.

1-34 Sec. 161.302. PETITION. (a) The following persons may file
1-35 a petition under this subchapter requesting the court to reinstate
1-36 the parental rights of a former parent whose parental rights were
1-37 involuntarily terminated under Section 161.001 or 161.003:

1-38 (1) the department;

1-39 (2) the single source continuum contractor under
1-40 Subchapter B-1, Chapter 264, with responsibility for the child who
1-41 is the subject of the petition;

1-42 (3) the attorney ad litem for the child who is the
1-43 subject of the petition; or

1-44 (4) the former parent whose parental rights were
1-45 involuntarily terminated.

1-46 (b) A petition for the reinstatement of parental rights may
1-47 be filed under this subchapter only if:

1-48 (1) the termination of parental rights resulted from a
1-49 suit filed by the department;

1-50 (2) at least two years have passed since the issuance
1-51 of the order terminating the former parent's parental rights and an
1-52 appeal of the order is not pending;

1-53 (3) the child has not been adopted;

1-54 (4) the child is not the subject of an adoption
1-55 placement agreement; and

1-56 (5) the petitioner has provided the notice required by
1-57 Subsection (d), if the petitioner is the former parent whose
1-58 parental rights are sought to be reinstated.

1-59 (c) The contents of the petition for reinstatement of
1-60 parental rights must be sworn by the petitioner and must include:

1-61 (1) the name of the petitioner;

2-1 (2) the name and current residence address of the
2-2 former parent whose parental rights are sought to be reinstated, if
2-3 that former parent is not the petitioner;
2-4 (3) the child's name, current residence address, and
2-5 date and place of birth, if known;
2-6 (4) the name, current residence address, and contact
2-7 information, if known, of any party that:
2-8 (A) participated in the original termination
2-9 hearing; and
2-10 (B) has information relevant to the
2-11 determination of conservatorship of or possession of or access to
2-12 the child;
2-13 (5) a summary of the grounds on which the court
2-14 rendered the order terminating the former parent's parental rights;
2-15 (6) a summary statement of the facts and evidence that
2-16 the petitioner believes demonstrate that the former parent whose
2-17 parental rights are sought to be reinstated has the capacity and
2-18 willingness to perform parental duties under Section 151.001,
2-19 including steps the former parent has taken toward personal
2-20 rehabilitation since the rendition of the order terminating
2-21 parental rights, including mental health and substance abuse
2-22 treatment, employment, or other personal history that demonstrates
2-23 rehabilitation;
2-24 (7) a statement of the former parent whose parental
2-25 rights are sought to be reinstated requesting the reinstatement of
2-26 parental rights;
2-27 (8) a statement of the intent or willingness of the
2-28 child to consent to the reinstatement of parental rights, if the
2-29 child is 12 years of age or older; and
2-30 (9) a summary of all prior requests or motions for
2-31 reinstatement by the former parent whose parental rights are sought
2-32 to be reinstated and by the petitioner, if the former parent is not
2-33 the petitioner, with respect to that child.
2-34 (d) Before a former parent whose parental rights have been
2-35 involuntarily terminated may file a petition for reinstatement
2-36 under this subchapter, the former parent, at least 45 days before
2-37 the petition is filed, must notify the department of the former
2-38 parent's intent to file the petition. The commissioner shall
2-39 create a form to be used by a former parent for that notice that
2-40 includes the information listed in Subsection (c). A copy of the
2-41 notice must be filed with the petition.
2-42 (e) The petition for the reinstatement of parental rights
2-43 and notice of hearing on the petition must be served on:
2-44 (1) the child or the child's representative;
2-45 (2) the county attorney;
2-46 (3) the child's attorney ad litem;
2-47 (4) the department or single source continuum
2-48 contractor, if applicable;
2-49 (5) the former parent whose parental rights are sought
2-50 to be reinstated, if that former parent is not the petitioner; and
2-51 (6) if the child is subject to the Indian Child Welfare
2-52 Act of 1978 (25 U.S.C. Section 1901 et seq.), the designated tribal
2-53 service agent of the child's tribe and any other person required by
2-54 federal law.
2-55 Sec. 161.303. HEARING. (a) A reinstatement hearing under
2-56 this subchapter must be held not later than the 60th day after the
2-57 date the petition is filed.
2-58 (b) The petitioner has the burden of proof in the hearing,
2-59 and each party may call witnesses.
2-60 (c) The court may grant the petition and order the
2-61 reinstatement of the former parent's parental rights only if the
2-62 court finds by a preponderance of the evidence that:
2-63 (1) reinstatement of parental rights is in the child's
2-64 best interests;
2-65 (2) at least two years have passed since issuance of
2-66 the order terminating parental rights and an appeal of the order is
2-67 not pending;
2-68 (3) the child has not been adopted and is not the
2-69 subject of an adoption placement agreement;

3-1 (4) if the child is 12 years of age or older, the child
 3-2 consents to the reinstatement and desires to reside with the
 3-3 parent;

3-4 (5) the former parent has remedied the conditions that
 3-5 were grounds for rendering the order terminating parental rights;
 3-6 and

3-7 (6) the former parent is willing and has the
 3-8 capability to perform parental duties as provided in Section
 3-9 151.001, including maintaining the health, safety, and welfare of
 3-10 the child.

3-11 (d) In determining whether to grant a petition for
 3-12 reinstatement of parental rights under this subchapter in regard to
 3-13 a child who is 11 years of age or younger on the date the petition is
 3-14 filed, the court shall consider the child's age, maturity, and
 3-15 ability to express a preference and may consider the child's
 3-16 preference regarding the reinstatement as one factor, considered
 3-17 along with all other relevant factors, in making the determination.

3-18 Sec. 161.304. ORDERS. (a) Following a hearing under this
 3-19 subchapter, the court may render an order:

3-20 (1) granting the petition;

3-21 (2) denying the petition; or

3-22 (3) deferring the decision on the petition and
 3-23 rendering a temporary order expiring after a period of six months
 3-24 during which the department remains the managing conservator of the
 3-25 child and the former parent is the possessory conservator.

3-26 (b) If the court defers granting the petition under
 3-27 Subsection (a)(3):

3-28 (1) the department shall monitor the possessory
 3-29 conservatorship of the former parent during the period of the
 3-30 temporary order; and

3-31 (2) when the temporary order expires, the court shall
 3-32 hold a hearing to determine whether to grant or deny the petition
 3-33 for reinstatement.

3-34 (c) If, following a hearing under this subchapter, the court
 3-35 renders an order for reinstatement of parental rights, the court
 3-36 shall enter the court's findings in a written order stating that all
 3-37 legal rights, powers, privileges, immunities, duties, and
 3-38 obligations of the former parent regarding the child, including
 3-39 with respect to custody, care, control, and support, are
 3-40 reinstated.

3-41 (d) If, following a hearing under this subchapter, the court
 3-42 denies a petition for reinstatement of parental rights, the court
 3-43 shall render a written order that includes:

3-44 (1) the court's findings and detailing reasons for
 3-45 denial of the petition; and

3-46 (2) a statement prohibiting the filing of a subsequent
 3-47 petition in regard to the former parent's parental rights before
 3-48 the first anniversary of the date the order of denial was issued.

3-49 SECTION 2. Subchapter C, Chapter 161, Family Code, is
 3-50 amended by adding Section 161.2081 to read as follows:

3-51 Sec. 161.2081. NOTICE OF TERMINATION FOR CERTAIN RELATIVES.
 3-52 Immediately after a court renders an order terminating the
 3-53 parent-child relationship in a suit filed by the Department of
 3-54 Family and Protective Services, the department shall notify each
 3-55 individual described by Section 102.006(c) who has been identified
 3-56 under Section 262.1095 that:

3-57 (1) the parent-child relationship has been
 3-58 terminated; and

3-59 (2) the individual has 90 days after the date the order
 3-60 is rendered to file an original suit or a suit for modification
 3-61 requesting managing conservatorship of the child in accordance with
 3-62 Section 102.006(c).

3-63 SECTION 3. Section 262.1095(a), Family Code, is amended to
 3-64 read as follows:

3-65 (a) When the Department of Family and Protective Services or
 3-66 another agency takes possession of a child under this chapter, the
 3-67 department:

3-68 (1) shall provide information as prescribed by this
 3-69 section to each adult the department is able to identify and locate

4-1 who is:

4-2 (A) related to the child within the fourth
4-3 [~~third~~] degree by consanguinity as determined under Chapter 573,
4-4 Government Code;

4-5 (B) an adult relative of the alleged father of
4-6 the child if the department has a reasonable basis to believe the
4-7 alleged father is the child's biological father; or

4-8 (C) identified as a potential relative or
4-9 designated caregiver, as defined by Section 264.751, on the
4-10 proposed child placement resources form provided under Section
4-11 261.307; and

4-12 (2) may provide information as prescribed by this
4-13 section to each adult the department is able to identify and locate
4-14 who has a long-standing and significant relationship with the
4-15 child.

4-16 SECTION 4. Section 262.114, Family Code, is amended by
4-17 adding Subsection (d) to read as follows:

4-18 (d) In making a placement decision for a child, the
4-19 department shall give preference to persons in the following order:

4-20 (1) a person related to the child by blood, marriage,
4-21 or adoption;

4-22 (2) a person with whom the child has a long-standing
4-23 and significant relationship;

4-24 (3) a foster home; and

4-25 (4) a general residential operation.

4-26 SECTION 5. This Act takes effect September 1, 2021.

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