

1 **CHILD AND FAMILY AMENDMENTS**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: LaVar Christensen**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of the Restoration of Parental Rights Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ permits a former parent to petition for restoration of parental rights; and
- 13 ▶ permits a child of any age to petition to restore parental rights.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **78A-6-1403**, as enacted by Laws of Utah 2013, Chapter 340

21 **78A-6-1404**, as enacted by Laws of Utah 2013, Chapter 340

23 *Be it enacted by the Legislature of the state of Utah:*

24 Section 1. Section **78A-6-1403** is amended to read:

25 **78A-6-1403. Petition to restore parental rights -- Duties of the division.**

26 (1) A child, [or] an authorized representative acting on behalf of a child, or a former
27 parent of the child, may file a petition to restore parental rights if:



28 ~~[(a) the child is 12 years of age or older or as provided in Subsection (2)(b);]~~

29 ~~[(b)]~~ (a) 24 months have passed since the court ordered termination of the parent-child
30 legal relationship; and

31 ~~[(c)]~~ (b) the child:

32 (i) has not been adopted and is not in an adoptive placement, or is unlikely to be
33 adopted before the child is 18 years of age; or

34 (ii) was previously adopted following a termination of a parent-child legal relationship,
35 but the adoption failed and the child was returned to the custody of the division.

36 ~~[(2)(a) A child younger than 12 years of age may not petition for restoration of
37 parental rights except as provided in Subsection (2)(b).]~~

38 ~~[(b) A child 12 years of age or older, or the child's authorized representative, may
39 petition for restoration of parental rights, and if the child has a sibling who is younger than 12
40 years of age, the child may include the sibling in the petition.]~~

41 ~~[(c) The court may grant a petition for restoration of parental rights for a child younger
42 than 12 years of age as described in Subsection ~~78A-6-1404(2).~~]~~

43 ~~[(3)]~~ (2) The petition described in Subsection (1) shall be:

44 (a) filed in the juvenile court that previously terminated the parent-child relationship;
45 and

46 (b) served on the division.

47 ~~[(4)]~~ (3) The division shall notify and inform a child who qualifies for restoration of
48 parental rights under ~~[Subsections (1)(a) through (c)]~~ Subsection (1) that the child is eligible to
49 petition for restoration under this part.

50 ~~[(5)]~~ (4) Upon the receipt of a petition to restore parental rights, filed by a child or an
51 authorized representative acting on behalf of a child, the division shall:

52 (a) make a diligent effort to locate the former parent whose rights may be restored
53 under this part; and

54 (b) if the former parent is found, as described in Subsection ~~[(5)]~~ (4)(a), notify the
55 former parent of:

56 (i) the legal effects of restoration; and

57 (ii) the time and date of the hearing on the petition.

58 ~~[(6)]~~ (5) The court shall set a hearing on the petition at least 30 days, but no more than

59 60 days, after the day on which the petition is filed with the court.

60 ~~[(7)]~~ (6) Before the hearing described in Subsection ~~[(6)]~~ (5), the division may submit a
61 confidential report to the court that includes the following information:

62 (a) material changes in circumstances since the termination of parental rights;

63 (b) a summary of the reasons why parental rights were terminated;

64 (c) the date on which parental rights were terminated;

65 (d) the willingness of the former parent to resume contact with the child and have
66 parental rights restored;

67 (e) the ability of the former parent to be involved in the life of the child and accept
68 physical custody of, and responsibility for, the child; and

69 (f) any other information the division reasonably considers appropriate and
70 determinative.

71 Section 2. Section **78A-6-1404** is amended to read:

72 **78A-6-1404. Hearing on the petition to restore parental rights.**

73 ~~[(1) At the hearing on the petition described in Section 78A-6-1403, if the former
74 parent consents and if the court finds by clear and convincing evidence that it is in the best
75 interest of the child, the court may:]~~

76 ~~[(a) allow contact between the former parent and child, and describe the conditions
77 under which contact may take place;]~~

78 ~~[(b) order that the child be placed with the former parent in a temporary custody and
79 guardianship relationship, to be reevaluated six months from the day on which the child is
80 placed; or]~~

81 ~~[(c) restore the parental rights of the parent.]~~

82 ~~[(2)]~~ (1) The court may restore the parent-child legal relationship ~~[for a child who is
83 younger than 12 years of age] if:~~

84 ~~[(a) the petitioner:]~~

85 ~~[(i) is a sibling of the child;]~~

86 ~~[(ii)]~~ (a) the child meets the requirements of Subsection 78A-6-1403(1); ~~[and]~~

87 ~~[(iii) includes the child who is younger than 12 years of age in the petition described in
88 Section 78A-6-1403;]~~

89 ~~[(b) the child who is younger than 12 years of age meets the requirements of~~

90 Subsections ~~78A-6-1403(1)(b) and (c);~~

91 ~~[(e)]~~ (b) considering the age and maturity of the child, the child consents to the
92 restoration;

93 ~~[(d)]~~ (c) the former parent consents to the restoration; and

94 ~~[(e)]~~ (d) the court finds by clear and convincing evidence that restoration is in the best
95 interest of the child ~~[who is younger than 12 years of age].~~

96 ~~[(3)]~~ (2) In determining whether reunification is appropriate and in the best interest of
97 the child, the court shall consider:

98 (a) whether the former parent has been sufficiently rehabilitated from the behavior that
99 resulted in the termination of the parent-child relationship;

100 (b) extended family support for the former parent; and

101 (c) other material changes of circumstances, if any, that may have occurred that warrant
102 the granting of the motion.

103 (3) At the hearing on a petition described in Section 78A-6-1403, if the former parent
104 consents and if the court finds by clear and convincing evidence that it is in the best interest of
105 the child, the court may:

106 (a) allow contact between the former parent and the child, and describe the conditions
107 under which contact may take place;

108 (b) order that the child be placed with the former parent, in a temporary custody and
109 guardianship relationship, to be reevaluated after the child has been placed with the former
110 parent for six months; or

111 (c) restore the parental rights of the parent.

112 (4) If the court orders the child to be placed in the physical custody of the former
113 parent under Subsection ~~[(1)]~~ (3), the court shall specify in the order:

114 (a) whether that custody is subject to:

115 (i) continued evaluation by the court; or

116 (ii) the supervision of the division; and

117 (b) the terms and conditions of reunification.

Legislative Review Note
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Office of Legislative Research and General Counsel