

Senator Todd Weiler proposes the following substitute bill:

RESTORATION OF TERMINATED PARENTAL RIGHTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: LaVar Christensen

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill modifies Title 78A, Chapter 6, Juvenile Court Act, by amending provisions relating to the termination of parental rights and permitting the restoration of terminated parental rights.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits a child, age 14 or older, to submit a petition for restoration of terminated parental rights under certain circumstances;
- ▶ describes the duties of the Division of Child and Family Services in responding to a petition for restoration of terminated parental rights;
- ▶ describes the circumstances under which a court may grant a petition for restoration of terminated parental rights; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **78A-6-513**, as renumbered and amended by Laws of Utah 2008, Chapter 3

29 ENACTS:

30 **78A-6-1401**, Utah Code Annotated 1953

31 **78A-6-1402**, Utah Code Annotated 1953

32 **78A-6-1403**, Utah Code Annotated 1953

33 **78A-6-1404**, Utah Code Annotated 1953



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

36 Section 1. Section **78A-6-513** is amended to read:

37 **78A-6-513. Effect of decree.**

38 (1) An order for the termination of the parent-child legal relationship divests the child
39 and the parents of all legal rights, powers, immunities, duties, and obligations with respect to
40 each other, except the right of the child to inherit from the parent.

41 (2) An order or decree entered pursuant to this part may not disentitle a child to any
42 benefit due him from any third person, including, but not limited to, any Indian tribe, agency,
43 state, or the United States.

44 (3) ~~[After]~~ Except as provided in Sections 78A-6-1401 through 78A-6-1404, after the
45 termination of a parent-child legal relationship, the former parent is neither entitled to any
46 notice of proceedings for the adoption of the child nor has any right to object to the adoption or
47 to participate in any other placement proceedings.

48 Section 2. Section **78A-6-1401** is enacted to read:

49 **Part 14. Restoration of Parental Rights Act**

50 **78A-6-1401. Restoration of Parental Rights Act.**

51 This part is known as the "Restoration of Parental Rights Act."

52 Section 3. Section **78A-6-1402** is enacted to read:

53 **78A-6-1402. Definitions.**

54 As used in this part, "former parent" means an individual whose legal parental rights
55 were terminated under this chapter.

56 Section 4. Section **78A-6-1403** is enacted to read:

57 **78A-6-1403. Motion to restore parental rights -- Duties of the division.**
58 (1) A child, or an authorized representative of a child, may file a petition to restore
59 parental rights if:
60 (a) the child is 14 years of age or older;
61 (b) 24 months have passed since the court ordered termination of the parent-child legal
62 relationship; and
63 (c) the child:
64 (i) has not been adopted, and is unlikely to be adopted before the child is 18 years of
65 age; or
66 (ii) was previously adopted following a termination of a parent-child legal relationship,
67 but the adoption failed and the child was returned to the custody of the division.
68 (2) The petition described in Subsection (1) shall be filed:
69 (a) in the juvenile court that previously terminated the parent-child relationship; and
70 (b) on the division.
71 (3) Upon the receipt of a petition to restore parental rights, the division shall:
72 (a) make a diligent effort to locate the former parent whose rights may be restored
73 under this part; and
74 (b) if the former parent is found, as described in Subsection (3)(a), notify the former
75 parent of:
76 (i) the legal effects of restoration; and
77 (ii) the time and date of the hearing on the petition.
78 (4) The court shall set a hearing on the petition at least 30 days, but no more than 60
79 days, after the day on which the petition is filed with the court.
80 (5) Before the hearing described in Subsection (4), the division may submit a
81 confidential report to the court that includes the following information:
82 (a) material changes in circumstances since the termination of parental rights;
83 (b) a summary of the reasons why parental rights were terminated;
84 (c) the date on which parental rights were terminated;
85 (d) the willingness of the former parent to resume contact with the child and have
86 parental rights restored;
87 (e) the ability of the former parent to be involved in the life of the child and accept

88 physical custody of, and responsibility for, the child; and

89 (f) any other information the division reasonably considers appropriate and
90 determinative.

91 Section 5. Section **78A-6-1404** is enacted to read:

92 **78A-6-1404. Hearing on the petition to restore parental rights.**

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

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

98 (b) order that the child be placed with the former parent in a temporary custody and
99 guardianship relationship, to be reevaluated six months from the day on which the child is
100 placed; or

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

102 (2) In determining whether reunification is appropriate and in the best interest of the
103 child, the court shall consider:

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

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

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

109 (3) If the court orders the child to be placed in the physical custody of the former
110 parent under Subsection (1), the court shall specify in the order:

111 (a) whether that custody is subject to:

112 (i) continued evaluation by the court; or

113 (ii) the supervision of the division; and

114 (b) the terms and conditions of reunification.