

1 **CHILD AND FAMILY AMENDMENTS**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: LaVar Christensen**

5 Senate Sponsor: Wayne A. Harper

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 child of any age to petition to restore parental rights.

13 **Money Appropriated in this Bill:**

14 None

15 **Other Special Clauses:**

16 None

17 **Utah Code Sections Affected:**

18 AMENDS:

19 **78A-6-1403**, as enacted by Laws of Utah 2013, Chapter 340

20 **78A-6-1404**, as enacted by Laws of Utah 2013, Chapter 340

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

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

24 **78A-6-1403. Petition to restore parental rights -- Duties of the division.**

25 (1) A child, who is 12 years of age or older, or an authorized representative acting on
26 behalf of a child of any age, may file a petition to restore parental rights if:

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

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

30 ~~[(e)]~~ (b) the child:

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

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

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

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

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

42 ~~[(3)]~~ (2) The petition described in Subsection (1) shall be:

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

45 (b) served on the division.

46 ~~[(4)]~~ (3) The division shall notify and inform a child who is 12 years of age or older
47 and who qualifies for restoration of parental rights under ~~[Subsections (1)(a) through (c)]~~
48 Subsection (1) that the child is eligible to petition for restoration under this part.

49 ~~[(5)]~~ (4) Upon the receipt of a petition to restore parental rights, filed by a child or an
50 authorized representative acting on behalf of a child, the division shall:

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

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

55 (i) the legal effects of restoration; and

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

57 ~~[(6)]~~ (5) The court shall set a hearing on the petition at least 30 days, but no more than

58 60 days, after the day on which the petition is filed with the court.

59 ~~[(7)]~~ (6) Before the hearing described in Subsection ~~[(6)]~~ (5), the division may submit a
60 confidential report to the court that includes the following information:

- 61 (a) material changes in circumstances since the termination of parental rights;
- 62 (b) a summary of the reasons why parental rights were terminated;
- 63 (c) the date on which parental rights were terminated;
- 64 (d) the willingness of the former parent to resume contact with the child and have
65 parental rights restored;
- 66 (e) the ability of the former parent to be involved in the life of the child and accept
67 physical custody of, and responsibility for, the child; and
- 68 (f) any other information the division reasonably considers appropriate and
69 determinative.

70 (7) (a) A former parent who remedies the circumstances that resulted in the termination
71 of the former parent's parental rights and who is capable of exercising proper and effective
72 parental care, shall notify the division that if the circumstances described in Subsection (1) are
73 established, the former parent desires and requests to have the former parent's parental rights
74 restored.

75 (b) The former parent's request to the division shall be fully and fairly considered by
76 the division for appropriate submittal to the court.

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

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

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

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

84 ~~[(b) order that the child be placed with the former parent in a temporary custody and~~
85 ~~guardianship relationship, to be reevaluated six months from the day on which the child is~~

86 placed; or]

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

88 [~~(2)~~] (1) The court may restore the parent-child legal relationship [~~for a child who is~~
89 younger than 12 years of age] if:

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

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

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

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

95 [~~(b)~~ the child who is younger than 12 years of age meets the requirements of
96 Subsections 78A-6-1403(1)(b) and (c);]

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

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

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

102 [~~(3)~~] (2) In determining whether reunification is appropriate and in the best interest of
103 the 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) At the hearing on a petition described in Section 78A-6-1403, if the former parent
110 consents and if the court finds by clear and convincing evidence that it is in the best interest of
111 the child, the court may:

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

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

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

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

120 (a) whether that custody is subject to:

121 (i) continued evaluation by the court; or

122 (ii) the supervision of the division; and

123 (b) the terms and conditions of reunification.