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# REINSTATEMENT OF PARENTAL RIGHTS

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## A. Petition for Reinstatement

A petition to reinstate parental rights may be filed by DFPS, a Single Source Continuum Contractor (SSCC), the attorney ad litem for a child, and the parent whose rights were terminated. If the petitioner is the parent, they must provide DFPS with 45 days' notice of their intent to file. Notice of the petition must be served on the child, the county attorney, the child's attorney, DFPS or the SSCC, the parent (if they are not the petitioner), and the tribe if the child is subject to the (ICWA). A petition may be filed two years after termination, but the child must not have been adopted or in an agreed adoptive placement. The petition must include the name of the petitioner, the name and address of the parent, the name, date of birth, and residence of the child, and contact information for any party that participated in the termination hearing that has relevant information to the petition. The petition must also include a summary of the termination grounds, a summary of the facts and evidence that demonstrate the parent's current fitness, a statement of the child's consent if the child is 12 years or older, and a summary of the parent's prior requests for reinstatement (if the petitioner is not the parent). [Tex. Fam. Code § 161.302](#).

## B. Hearing

A hearing must be held within 60 days and the petitioner has the burden of proof. The court must find by preponderance of the evidence that reinstatement of parental rights is in the child's best interest, the parent has remedied the conditions that were the grounds for termination, the parent is willing and capable of performing parental duties, two years have passed, the child has not been adopted, and the child consents (if older than 12). If the child is younger than 12 years old, the court shall consider the child's wishes in making the determination. [Tex. Fam. Code § 161.303](#).

## C. Order

The court may grant, deny, or defer the petition for six months and render a temporary order awarding the parent possessory conservatorship. DFPS must monitor the parent and the court must hold another hearing to revisit the reinstatement when the temporary order expires. If the petition is denied, a new petition may not be filed for one year after the date of the order. [Tex. Fam. Code § 161.304](#).