
REINSTATEMENT OF PARENTAL RIGHTS

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. [Tex. Fam. Code § 161.302\(a\)](#).

A petition for reinstatement may be filed if:

- The termination of parental rights resulted from a suit filed by DFPS;
- At least two years have passed since the issuance of the order terminating the former parent's parental rights and an appeal of the order is not pending;
- The child has not been adopted;
- The child is not the subject of an adoption placement agreement; and
- If the petitioner is the former parent whose parental rights are sought to be reinstated, proper notice is provided. [Tex. Fam. Code § 161.302\(b\)](#).

The petition must include the name of the petitioner, the name and address of the former parent seeking reinstatement, the name, date and place of birth, and residence of the child (if known), and the name, address, and contact information for any party that participated in the termination hearing that has information relevant to the petition. The petition must also include a summary of the termination grounds, a summary of the facts and evidence that demonstrate the former parent's current fitness, a statement by the former parent seeking reinstatement, a statement of the child's consent if the child is 12 years or older, and a summary of the prior requests or motions for reinstatement by the former parent and the petitioner (if the petitioner is not the former parent). [Tex. Fam. Code § 161.302\(c\)](#).

If the petitioner is the former parent, they must provide DFPS with 45 days' notice of their intent to file. [Tex. Fam. Code § 161.302\(d\)](#). Notice of the petition must be served on the child or the child's representative, the county attorney, the child's attorney, DFPS or the SSCC, the former parent whose parental rights are sought to be reinstated (if they are not the petitioner), and the Tribe if the child is subject to the Indian Child Welfare Act (ICWA). [Tex. Fam. Code § 161.302\(e\)](#).

B. Hearing

A hearing must be held within 60 days of filing 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 former parent has remedied the conditions that were the grounds for termination, the former parent is willing and capable of performing parental duties as provided in Tex. Fam. Code § 151.001, at least two years have passed since the order terminating parental rights was issued and no appeal of that order is pending, the child has not been adopted and is not the subject of an adoption placement agreement, and the child consents to the reinstatement and desires to reside with the parent (if older than 12). If the child is younger than 12 years old, the court shall consider the child's

age, maturity, and ability to express a preference and may consider the child's preference regarding the reinstatement as one factor in making the determination. [Tex. Fam. Code § 161.303](#).

C. Orders

The court may grant, deny, or defer the petition for six months and render a temporary order awarding the parent possessory conservatorship with DFPS remaining the managing conservator. If the court defers granting the petition, DFPS must monitor the parent and the court must hold another hearing to revisit the reinstatement when the temporary order expires. If the court grants or denies the petition, the court must articulate the court's findings in its order. 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](#).

Special Issue: Youth in DFPS conservatorship are eligible for certain benefits, such as a tuition and fee waiver for attending state higher education institutions, an Education and Training Voucher (ETV) to provide financial assistance while attending school, Medicaid eligibility, and waiver of fees for state government identification. Eligibility for the youth depends on a variety of factors including the youth's age, legal conservatorship, and how the youth exits DFPS conservatorship. If the parent's rights are reinstated, it may affect the availability of certain benefits for the youth and the child may still be eligible for the tuition and fee waiver under certain circumstances.
