

# HOUSE RESEARCH

## Bill Summary

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### Overview

This bill provides the juvenile court with jurisdiction to reestablish the legal parent and child relationship under specific circumstances after the termination of a parent's rights.

- 1      **Other matters relating to children.** Amends § 260C.101, subd. 2. Adds that the juvenile court has original and exclusive jurisdiction over reestablishment of a legal parent and child relationship under section 260C.329.
- 2      **Reestablishment of the legal parent and child relationship.** Creates § 260C.329.

**Subdivision 1. Citation.** Provides that this is the "Family Reunification Act."

**Subd. 2. Definition.** Defines "eligible child" as a minor who is: (1) at least 10 years of age; (2) younger than 10 years of age, with a sibling age 10 or older who is a party; (3) younger than 10 if the county attorney and social services agree; or (4) an Indian child. States that "reestablishment of the legal parent and child relationship" means physical reunification of a child with a birth parent whose parental rights were terminated. Restores all parental rights.

**Subd. 3. Process for minors; who may motion.** Paragraph (a) lists the parties who may bring a motion to reestablish the parent and child relationship.

Paragraph (b) provides that a motion cannot be brought if a prior motion has been brought within the prior two years; if fewer than 36 months have elapsed since a termination of parental rights (TPR) order and the child remains in foster care; if the child has been adopted; or if the child is the subject of an adoption agreement. Also, provides that only a child can bring a motion for reestablishment if the child has previously opposed a motion for reestablishment of the parent and child relationship.

**Subd. 4. Process for minors; timing, jurisdiction, and content of motion.** Provides that the motion must be brought before the court that issued the TPR order and conducts judicial reviews, and must be brought before the child turns 18. Requires that the motion must state a factual basis for requesting reestablishment of the relationship, must contain names and contact information for all person or agencies entitled to notice, and contain evidence showing

the basis for reestablishment of the legal parent and child relationship.

**Subd. 5. Process for minors; service on parties of motion.** Requires notice to be provided to the foster parents and to any other individuals or entities that have standing to bring a motion, except a parent whose rights have been terminated and who is not the subject of the motion is not entitled to notice.

**Subd. 6. Process for minors; hearing on motion.** Paragraph (a) states the hearing on the motion must be conducted during a regularly scheduled review.

Paragraph (b) requires the court to determine whether the motion states a *prima facie* case that the parent is fit to safely provide day-to-day care of the child and the conditions leading to the TPR have been ameliorated.

Paragraph (c) places the burden of proof on the person who filed the motion.

Paragraph (d) requires the court to deny the motion if the court finds the motion does not state the *prima facie* case required under paragraph (b).

**Subd. 7. Process for minors; GAL report; testimony.** Paragraph (a) requires the responsible social service agency and the child's guardian ad litem, unless a moving party, to file a report with the court supporting or opposing the motion.

Paragraph (b) allows the court to accept the child's voluntary input.

**Subd. 8. Process for minors; evidentiary hearing.** Allows the court to order the reestablishment of the legal parent and child relationship if the child has not been adopted or is not the subject of an adoption agreement, at least 36 months have elapsed following the TPR order and the child remains in foster care, and the court makes detailed findings that there is clear and convincing evidence that reestablishment of the relationship is in the best interests of the child. Lists the factors the court must address; the paramount determinant is the child's best interests.

**Subd. 9. Process for minors; service of order.** Requires the court administrator to serve a copy of the final order on specified individuals and a certified copy of the order on the commissioner.

**Subd. 10. Process for persons over 18 years of age.** Paragraph (a) allows a person 18 years or older who was the subject of a guardianship and transfer of legal custody and who has not been adopted, or a parent whose rights were terminated to bring a motion to reestablish the legal parent and child relationship.

Paragraph (b) requires the motion to be filed before the court that issued the TPR order.

Paragraph (c) instructs the court to set a time for hearing the motion and provide notice to specified persons and entities.

Paragraph (d) lists the conditions under which the court must order reestablishment of the legal parent and child relationship.

Paragraph (e) lists the individuals who must receive a copy of the final order.

**Subd. 11. No right to appointed counsel.** States that a motion under this section does not entitle a parent to appointed counsel.

**Subd. 12. Effect of order.** Paragraph (a) provides that reestablishment of the legal parent and child relationship means the child is the legal child of the parent, all parental rights are

restored, guardianship and legal custody of the commissioner is dismissed, and with respect to a minor child, permanent legal and physical custody of the child is awarded to the parent.

Paragraph (b) states that the restoration of rights for one parent has no effect on the legal rights of the other parent whose rights have been terminated and has no effect on the legal sibling relationship between the child and any other children of the parent.

Paragraph (c) provides that reestablishment of the legal parent and child relationship removes the presumption of palpable unfitness and eliminates the requirement that the county attorney file a TPR or CHIPS petition due to an involuntary termination of parental rights if there is the birth of a subsequent child to the parent.