

§4059. Reinstatement of parental rights

The department may petition the District Court to reinstate the parental rights of a parent whose parental rights have been previously terminated by an order of the District Court. [PL 2011, c. 402, §16 (NEW).]

1. Contents of petition for reinstatement of parental rights. The petition for reinstatement of parental rights must be sworn and must include at least the following:

A. The name, date and place of birth, if known, of the child and the child's current residence; [PL 2011, c. 402, §16 (NEW).]

B. The name and residence of the parent whose rights were terminated; [PL 2011, c. 402, §16 (NEW).]

C. The name and residence of the former guardian ad litem of the child in the related child protection proceeding; [PL 2011, c. 402, §16 (NEW).]

D. The names and residences of all persons known to the department that affect custody, visitation or access to the child; [PL 2011, c. 402, §16 (NEW).]

E. A summary of the reasons for the termination of parental rights; [PL 2011, c. 402, §16 (NEW).]

F. A summary statement of the facts that the petitioner believes constitute a substantial change in circumstances of the parent that demonstrate the parent has the capacity and willingness to provide for the health and safety of the child; [PL 2011, c. 402, §16 (NEW).]

G. A statement of the intent of the parent whose rights were terminated to consent to the reinstatement of parental rights; and [PL 2011, c. 402, §16 (NEW).]

H. A statement of the intent or willingness of the child as to the reinstatement of parental rights. [PL 2011, c. 402, §16 (NEW).]

[PL 2011, c. 402, §16 (NEW).]

2. Permanency plan. The sworn petition must be accompanied by the permanency plan that provides for the health and safety of the child, outlines the transition services to the family and outlines the conditions and supervision required by the department for placing the child in the home on a trial basis.

[PL 2011, c. 402, §16 (NEW).]

3. Scheduling of case management conference. On the filing of the petition, the court shall set a time and date for a case management conference under subsection 7.

[PL 2011, c. 402, §16 (NEW).]

4. Withdrawal of petition. The department may withdraw the petition without leave of the court at any time prior to the final hearing.

[PL 2011, c. 402, §16 (NEW).]

5. Guardian ad litem. The court shall appoint a guardian ad litem for the child.

[PL 2011, c. 402, §16 (NEW).]

6. Service. The petition and the notice of the case management conference under subsection 7 must be served on the parent whose rights were terminated and the guardian ad litem for the child at least 10 days prior to the scheduled case management conference date. Service must be in accordance with the Maine Rules of Civil Procedure or in any other manner ordered by the court.

[PL 2011, c. 402, §16 (NEW).]

7. Case management conference. Upon the filing of a petition for reinstatement of parental rights, the court shall hold a case management conference to review the permanency plan filed by the

department to provide for transition services to the family. The permanency plan must outline the conditions and supervision required by the department for placing the child in the home on a trial basis. [PL 2011, c. 402, §16 (NEW).]

8. Reinstatement of parental rights. Parental rights may be reinstated as follows.

A. The court shall hold a hearing prior to the reinstatement of parental rights. [PL 2011, c. 402, §16 (NEW).]

B. The department has the burden of proof. [PL 2011, c. 402, §16 (NEW).]

C. The court may order reinstatement of parental rights if the court finds, by clear and convincing evidence, that:

- (1) The child has been in the custody of the department for at least 12 months after the issuance of the order terminating parental rights;
- (2) The child has lived for at least 3 months in the home of the parent after the petition for reinstatement has been filed;
- (3) The parent consents to the reinstatement of parental rights. Consent must be written and voluntarily and knowingly executed in court before a judge. The judge shall explain the effects of reinstatement of parental rights;
- (4) If the child is 12 years of age or older, the child consents to the reinstatement of parental rights; and
- (5) Reinstatement of parental rights is in the best interest of the child. [PL 2011, c. 402, §16 (NEW).]

D. In determining whether to reinstate parental rights, the court shall consider the age and maturity of the child, the child's ability to express a preference, the child's ability to integrate back into the home of the parent whose rights were terminated, the ability of the parent whose rights were terminated to meet the child's physical and emotional needs, the extent that the parent whose rights were terminated has remedied the circumstances that resulted in the termination of parental rights and the likelihood of future risk to the child. [PL 2011, c. 402, §16 (NEW).]

E. The court shall enter its findings in a written order that further states that from the date of the order of reinstatement of parental rights, the child is the child of the parent whose rights were terminated and must be accorded all the same rights as existed prior to the order terminating parental rights, including inheritance rights. The order must further state that all legal rights, powers, privileges, immunities, duties and obligations to each other as parent and child are reinstated. [PL 2011, c. 402, §16 (NEW).]

F. The reinstatement of one parent's rights does not affect the rights of the other parent. [PL 2011, c. 402, §16 (NEW).]

[PL 2011, c. 402, §16 (NEW).]

SECTION HISTORY

PL 2011, c. 402, §16 (NEW).

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