

Senate File 525

S-3089

1 Amend Senate File 525 as follows:

2 1. Page 1, before line 1 by inserting:

3 <Section 1. Section 232.2, subsection 39, Code 2021, is  
4 amended to read as follows:

5 39. "*Parent*" means a biological or adoptive mother or father  
6 of a child; or a father whose paternity has been established  
7 by operation of law due to the individual's marriage to the  
8 mother at the time of conception, birth, or at any time during  
9 the period between conception and birth of the child, by order  
10 of a court of competent jurisdiction, or by administrative  
11 order when authorized by state law. "*Parent*" does not include a  
12 mother or father whose parental rights have been terminated or  
13 a father whose paternity has been disestablished pursuant to  
14 section 232.96A or 600B.41A.>

15 2. Page 1, after line 16 by inserting:

16 <c. If a court makes a finding that no relative listed in  
17 paragraph "a" would be appropriate for placement of the child,  
18 the court shall order placement of the child with a person with  
19 whom the child had a significant, positive relationship at the  
20 time of the removal.

21 d. If a court finds there is no person with whom the child  
22 had a significant, positive relationship at the time of the  
23 removal with whom placement of the child would be appropriate,  
24 then the court shall order placement of the child in a manner  
25 that the court believes is in the child's best interests.>

26 3. By striking page 1, line 26, through page 2, line 14, and  
27 inserting:

28 <Sec. \_\_\_\_\_. NEW SECTION. 232.96A Disestablishment of  
29 paternity — child in need of assistance proceedings.

30 1. For the purposes of this section:

31 a. "*Disestablished father*" means a person whose paternity of  
32 a child has been disestablished pursuant to this section.

33 b. "*Established father*" means a person whose paternity of a  
34 child has been legally established by operation of law due to  
35 the person's marriage to the mother at the time of conception,

1 birth, or at any time during the period between conception  
2 and birth of the child, by order of a court of competent  
3 jurisdiction, or by administrative order.

4 2. Upon a motion filed by a child subject to a child in  
5 need of assistance proceeding, the mother of the child, the  
6 established father of the child, or the legal representative  
7 of any of these persons, a court with jurisdiction over the  
8 child in need of assistance proceeding shall enter an order  
9 disestablishing the established father's paternity of the child  
10 if all of the following conditions are met:

11 a. The child has been adjudicated as a child in need of  
12 assistance in an active juvenile court case.

13 b. A guardian ad litem has been appointed for the child.

14 c. If paternity was established pursuant to section 252A.3A,  
15 the motion asserts the signed affidavit was based on fraud,  
16 duress, or material mistake of fact.

17 d. Notice of the motion is served on both legally  
18 established parents of the child in accordance with the rules  
19 of civil procedure.

20 e. If enforcement services are being provided by the child  
21 support recovery unit pursuant to chapter 252B, notice of  
22 the motion is served on the child support recovery unit in  
23 accordance with the rules of civil procedure.

24 f. The results of a blood or genetic test is on record in  
25 the child in need of assistance proceeding and concludes that  
26 the established father is not the child's biological father.

27 3. An order disestablishing paternity under subsection  
28 2 shall include all of the provisions provided in section  
29 600B.41A, subsection 4.

30 4. Upon entry of an order disestablishing paternity under  
31 subsection 2, the clerk of the juvenile court shall send a copy  
32 of the order to the disestablished father at the disestablished  
33 father's last known address and to the clerk of the district  
34 court.

35 5. Upon request by the child support recovery unit or a

1 disestablished father and without the need for a prior court  
2 order, the clerk of the juvenile court shall disclose to the  
3 child support recovery unit a copy of an order entered under  
4 subsection 2.

5 6. All costs of testing, fees for a child's guardian ad  
6 litem, and court costs related to disestablishing paternity  
7 shall be paid by the person moving to disestablish paternity  
8 pursuant to subsection 2.

9 7. Participation of the child support recovery unit created  
10 in section 252B.2 in an action brought under this section shall  
11 be limited as follows:

12 a. The unit shall only participate in actions if services  
13 are being provided by the unit pursuant to chapter 252B.

14 b. When services are being provided by the unit under  
15 chapter 252B, the unit may enter an administrative order for  
16 blood and genetic tests pursuant to chapter 252F.

17 c. The unit is not responsible for or required to provide  
18 for or assist in obtaining blood or genetic tests in any case  
19 in which services are not being provided by the unit.

20 d. The unit is not responsible for the costs of blood or  
21 genetic testing conducted pursuant to an action brought under  
22 this section.

23 e. Pursuant to section 252B.7, subsection 4, an attorney  
24 employed by the unit represents the state in any action  
25 under this section. The unit's attorney is not the legal  
26 representative of the mother, the established father, or the  
27 child in a child in need of assistance proceeding under this  
28 subchapter.

29 Sec. \_\_\_\_ . NEW SECTION. 232.121 Reinstatement of parental  
30 rights.

31 1. A child, the child's guardian ad litem, the department,  
32 or an agency or person to whom guardianship and custody of the  
33 child has been transferred following termination of parental  
34 rights of a parent under section 232.117, may petition the  
35 juvenile court to reinstate the parental rights of the child's

1 former parent if all of the following circumstances exist,  
2 making the child an eligible child for purposes of this  
3 section:

4 *a.* The child was previously found to be a child in need of  
5 assistance under this chapter.

6 *b.* The child has not achieved the goals of the child's case  
7 permanency plan, and is not likely to do so.

8 *c.* The child does not have a permanent placement or a  
9 planned permanent placement, is not subject to a permanent  
10 guardianship, is not in an adoptive placement, is not likely  
11 to be adopted within a reasonable period of time, and other  
12 permanency options have been exhausted.

13 *d.* The child's former parent's parental rights were  
14 terminated in a proceeding under this chapter, but the  
15 termination of the parent-child relationship was not based on a  
16 finding of sexual abuse, a near child fatality, a suspicious  
17 child fatality, or an incident of egregious abuse or neglect  
18 against a child as evidenced by the aggravated circumstances  
19 specified pursuant to section 232.102, subsection 12,  
20 paragraphs "d" through "g".

21 *e.* Two years have passed since the final order of  
22 termination of parental rights was entered.

23 *f.* The child is at least twelve years of age when the  
24 petition is filed, or is younger than twelve years of age when  
25 the petition is filed but is part of a sibling group including  
26 a child for whom reinstatement is being sought and that child  
27 meets the other conditions for reinstatement.

28 2. *a.* If a child meets the criteria of an eligible  
29 child under subsection 1, the child's guardian ad litem,  
30 the department, or an agency or person to whom guardianship  
31 and custody of the child has been transferred under section  
32 232.117, shall notify the child of the child's right to  
33 petition the court for the reinstatement.

34 *b.* If the former parent whose rights were previously  
35 terminated contacts the child's guardian ad litem, the

1 department, or the agency or other person to whom guardianship  
2 and custody of the child has been transferred under section  
3 232.117, and the child is eligible pursuant to subsection 1,  
4 the guardian ad litem, department, agency, or other person  
5 shall notify the eligible child of the child's right to  
6 petition the court for the reinstatement.

7 3. If a child seeking to petition for reinstatement of  
8 parental rights under this section does not have a guardian  
9 ad litem or attorney, the court shall appoint a guardian ad  
10 litem and counsel for the child at no cost to the child. If a  
11 guardian ad litem has previously been appointed for the child  
12 in a proceeding under this chapter, the same person may serve  
13 both as the child's counsel and as guardian ad litem. However,  
14 the court may appoint a separate guardian ad litem if the same  
15 person cannot properly represent the legal interests of the  
16 child as legal counsel and also represent the best interest of  
17 the child as guardian ad litem.

18 4. The petition must be signed by the child unless good  
19 cause is shown as to why the child is unable to do so. The  
20 former parent for whom reinstatement of parental rights is  
21 sought must consent in writing to the petition.

22 5. The court shall hold a threshold hearing to consider  
23 the former parent's apparent interest in the reinstatement of  
24 parental rights. At a minimum, the threshold hearing shall  
25 determine all of the following:

26 a. Whether the former parent has remedied the former  
27 parent's deficits as provided in the record of the prior  
28 termination proceedings and prior termination order.

29 b. Whether the former parent has participated in an  
30 assessment based on evidence-based criteria that supports the  
31 reinstatement of the parent-child relationship as being in the  
32 best interest of the child.

33 6. If, after a threshold hearing to consider the former  
34 parent's apparent fitness and interest in the reinstatement  
35 of parental rights, the court finds by a preponderance of the

1 evidence that the best interest of the child may be served by  
2 the reinstatement of parental rights, the court shall order  
3 that a hearing on the merits of the petition be held.

4 7. Before a hearing is held on the merits of the petition,  
5 notice shall be provided to the child's guardian ad litem, the  
6 department, the agency or other person to whom guardianship  
7 and custody of the child has been transferred under section  
8 232.117, the child's attorney, the child, the child's former  
9 parent whose parental rights are the subject of the petition,  
10 any parent whose rights have not been terminated, the child's  
11 current foster parent, the child's relative caregiver, and the  
12 child's tribe, if applicable. Notice shall be provided in the  
13 same manner as in section 232.37.

14 8. The court shall conditionally grant the petition if the  
15 court finds by clear and convincing evidence that the child has  
16 not been adopted, has not achieved the goals of the child's  
17 case permanency plan, and is not imminently likely to achieve  
18 such goals, and that reinstatement of parental rights is in the  
19 child's best interest. In determining whether reinstatement is  
20 in the child's best interest the court shall consider, but is  
21 not limited to considering, all of the following:

22 a. Whether the former parent whose rights are to be  
23 reinstated is a fit parent and has remedied the former parent's  
24 deficits as provided in the record of the prior termination  
25 proceedings and prior termination order.

26 b. Whether the former parent whose rights are to be  
27 reinstated understands the legal obligations, rights, and  
28 consequences of the reinstatement of parental rights and is  
29 willing and able to accept such obligations, rights, and  
30 consequences.

31 c. The age and maturity of the child, and the ability of the  
32 child to express the child's preference.

33 d. Whether the reinstatement of parental rights will present  
34 a risk to the child's health, welfare, or safety.

35 e. Other material changes in circumstances, if any, that may

1 have occurred which warrant the granting of the petition.

2 9. In determining whether the child has or has not achieved  
3 the goals of the child's case permanency plan or whether the  
4 child is imminently likely to achieve the goals of the child's  
5 case permanency plan, the department, or the agency or other  
6 person to whom guardianship and custody of the child has been  
7 transferred under section 232.117, shall provide the court, and  
8 the court shall review, information related to any efforts to  
9 achieve the goals of the case permanency plan including efforts  
10 to achieve adoption or a permanent placement.

11 10. *a.* If the court conditionally grants the petition under  
12 subsection 8, the case shall be continued for six months and a  
13 temporary order of reinstatement entered. During this period,  
14 the child shall be placed in the custody of the former parent.  
15 The department or agency shall develop a case permanency plan  
16 for the child reflecting reunification and shall provide  
17 transition services to the family, as appropriate.

18 *b.* If the child must be removed from the former parent due  
19 to allegations of abuse or neglect prior to the expiration  
20 of the conditional six-month period, the court shall dismiss  
21 the petition for reinstatement of parental rights if the court  
22 finds the allegations have been proven by a preponderance of  
23 the evidence.

24 11. At the end of the six-month period, the court shall hold  
25 a hearing and order one of the following:

26 *a.* If the placement with the former parent has been  
27 successful, the court shall enter a final order of  
28 reinstatement of parental rights which shall restore all  
29 rights, powers, privileges, immunities, duties, and obligations  
30 of the parent as to the child, including those relating  
31 to custody, control, and support of the child. The court  
32 shall vacate the dispositional order in the child in need  
33 of assistance proceeding and direct the clerk's office to  
34 provide a certified copy of the final order of reinstatement of  
35 parental rights to the parent at no cost.

1     *b.* If the placement with the former parent has not been  
2 successful, the court shall dismiss the petition and the  
3 child's case permanency plan shall remain in effect.

4     12. A proceeding to reinstate parental rights is a separate  
5 action from the termination of parental rights proceeding  
6 and does not vacate or otherwise affect the validity of the  
7 original termination of parental rights order. An order  
8 granted under this section reinstates the former parent's  
9 rights to the child. The reinstatement is a recognition that  
10 the situation of the parent and child has changed since the  
11 time of the termination of parental rights and reunification  
12 is now appropriate.

13     13. A parent whose rights are reinstated under this  
14 section shall not be liable for any child support owed to the  
15 department or costs of other services provided to a child for  
16 the time period from the date of termination of parental rights  
17 to the date parental rights are reinstated.

18     14. This section shall apply to any eligible child who is  
19 under the jurisdiction of the juvenile court at the time of the  
20 hearing regardless of the date parental rights were terminated.

21     15. The state, the department, or an agency or other person  
22 or an employee of such entities is not liable for civil damages  
23 resulting from any act or omission in the provision of services  
24 under this section unless the act or omission constitutes gross  
25 negligence. This section does not create any duty and shall  
26 not be construed to create a duty where none exists. This  
27 section does not create a cause of action against the state,  
28 the department, an agency, another person, or the employees of  
29 such entities concerning the original termination.>

30     4. Title page, line 3, by striking <cases.> and inserting  
31 <cases, the reinstatement of parental rights of a former parent  
32 under certain circumstances, and the disestablishment of  
33 paternity under certain circumstances.>

34     5. By renumbering as necessary.

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