

 VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>126</h1>
Chapter:	Planning with Children and Families	
Subject:	Reinstatement of Parental Rights	Page 1 of 6
Approved:	Karen Shea, Deputy Commissioner	Effective: 1/23/2018

Purpose

To provide guidance for division staff about when it may be appropriate to evaluate the potential for reinstatement of parental rights of a parent whose rights were previously terminated or voluntarily relinquished, and the procedures for achieving such reinstatement.

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Related Policies

Family Services [Policy 84](#): Conditional Custody Orders (CCOs)

Family Services [Policy 125](#): Permanency Planning for Children and Youth in DCF Custody

Family Services [Policy 196](#): Post-Adoption Contact Agreements

Introduction

At times, the division has been unable to establish legal permanency for a child who is legally free for adoption. In some situations, the child may have been adopted but the adoption subsequently dissolved. For youth in these circumstances, it may in their best interests to support them to safely reconnect with parents who years earlier lost parental rights. These children suffer emotionally from being without an attachment to parents, siblings, and family. The Family Services worker may have reason to begin assessing and exploring whether reinstatement of parental rights is an option that could provide the child with permanency if:

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- the parent’s life circumstances have improved significantly (achieved stability and strengthened their parenting abilities);
- the parent demonstrates they can provide safe and appropriate care for the child;
- the parental rights of parents who have adopted have been terminated or there is a plan to address residual parental rights; and
- the young person is in support of exploring reinstatement of parental rights.

Additionally, youth may display signs that it is appropriate to explore this option, such as talking about wanting to return home or running away to family members.

If a child or youth has achieved permanency through adoption, there must first be permanency planning around the residual parental rights. No actions to reinstate parental rights shall occur without efforts to notify the parents who have adopted while they hold residual parental rights. The possibility of reinstatement of parental rights should NOT interfere with a child or youth’s established permanency goal.

Reinstatement of parental rights does not vacate or otherwise affect the validity of the original order terminating parental rights. Rather, reinstatement restores a parent’s legal rights to the child, and recognizes that the parent’s and child’s situations have changed since the time of the termination of parental rights, and reunification is now appropriate. An order reinstating the rights of the parent as it pertains to a particular child has no effect on the legal rights of any other parent whose rights to the child have been terminated, or the legal relationships between grandparents, siblings, or other relatives.

Definitions

Background Check: The process of compiling and assessing criminal history and child protection records of an individual. For the purpose of this policy, the Vermont Child Protection Registry, SSMIS, DOC, and VCAS should be checked for all persons 16 years and older living in the household with the child or persons who will have child care responsibilities.

Dissolved Adoption: Legal dissolution of an adoption. A previously finalized adoption in which the parental rights of the parents who adopted the child have been terminated through a court order (either through family court or probate court).

Former Parent: A person whose parental rights were previously terminated. The term former parents may apply to parents whose rights were created through birth or adoption and all parental rights have been terminated.

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Project Family: A partnership between the Vermont Department for Children and Families (DCF) and Lund to find families and achieve permanency for Vermont children and youth.

Reunification Plan: A case plan specifically focused on the services and supports, including natural and professional, needed to maximize the success of a reunification, as well as a plan for ongoing monitoring of the child’s safety and well-being.

Safety Network: Family, friends, and community members who care about the child and are willing to take action to support the family and keep the child safe. They are willing to engage child protection staff and understand the concerns. For the purpose of this policy, a safety network may also include professionals.

Policy

33 V.S.A. § 5125 specifies that “a petition for reinstatement of parental rights **may** be filed by the Department for Children and Families on behalf of a child in the custody of the Department, under the following conditions”:

- (A) the child's adoption has been dissolved; or
- (B) the child has not been adopted after at least three years from the date of the court order terminating parental rights.

Additionally, the child, if 14 years of age or older, may also file a petition to reinstate parental rights if the adoption has been dissolved, or if parental rights have been terminated and the child has not been adopted after three years from the date of the court order terminating parental rights. This does not apply to children who have been placed under permanent guardianship pursuant to 14 V.S.A. § 2664.

Evaluating Suitability of Former Parent

The possibility of reinstatement of parental rights should **NOT** interfere with a child or youth’s established permanency goal or current adoption. In situations where contact is occurring between children and their birth parents while the parental rights of adoptive parents are intact, Family Services workers shall notify adoptive parents prior to any discussions of reinstatement with other parties. Discussions about reinstatement of parental rights should not occur without the knowledge of the parents who adopted the child.

Reinstatement of parental rights is not always an option and Family Services workers must be aware of the risks that reinstatement of parental rights involves. Reinstatement of parental rights will never be considered if the child or youth is not in support of it. It

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may be beneficial for Family Services workers to utilize a family-centered meeting to discuss the child’s safety, well-being, and best interests.

Prior to filing an updated permanency plan and petition for reinstatement of parental rights, consultation with the district permanency team and the assigned policy and operations manager is required.

Family Services workers, supervisors, and district permanency team members will determine if the family has made collective changes that support reinstatement of parental rights. It is important to carefully assess the former parent’s current personal and family situation, with a focus on safety of the child or youth. The assessment should include whether the parent:

- is presently safely parenting other children;
- has addressed the issues that led to the termination of parental rights and those issues no longer exist;
- is committed to parenting the child as demonstrated through their plan to parent and provide for the child;
- is capable of meeting the child’s current needs;
- has adequate housing and can meet the child’s basic needs; and
- has a reliable safety network and/or support system.

Additionally, the assessment should include an evaluation of family time and the current relationship between the child and parent.

The division shall ensure that all persons living in the household or persons who will have child care responsibilities are assessed for criminal history and potential safety risks as part of the evaluation of suitability. The Vermont Child Protection Registry, SSMIS, DOC, and VCAS should be checked for each individual 16 years and older. If indicated, the division may also conduct background checks on household members younger than sixteen. The Family Services worker will also contact three personal references provided by the parent.

If reinstatement of parental rights is determined to not be an appropriate permanency option, Family Services workers will document all current safety concerns and the reasons reinstatement of parental rights is not appropriate in the subsequent case plan or permanency plan. If the child, through their attorney, petitions for reinstatement against the department’s recommendations, an updated permanency plan will be filed with the court as a response to that petition.

Petitioning for Reinstatement

Once a Family Services worker determines that reinstatement of parental rights may be an option for a youth to achieve permanency, they will collaborate with their supervisor,

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the child’s attorney, GAL, and permanency planning manager to ensure reinstatement of parental rights is in the best interest of the child. These conversations will determine whether the department, or the child through their attorney, will petition for reinstatement of parental rights. If the child has been adopted, dissolution of the adoption must occur prior to the filing of a petition of reinstatement of parental rights.

When the team agrees that petitioning for reinstatement is in the best interest of the child, the department must file an updated permanency plan with the petition for reinstatement. The updated plan shall address:

- the material change in circumstances since the termination of parental rights,
- the department’s efforts to achieve permanency,
- the reasons for the parent’s desire to have rights reinstated,
- any statements by the child expressing the child’s opinions about reinstatement, and
- the parent’s present ability and willingness to resume or assume parental duties.

The court will hold a hearing to consider whether reinstatement is in the child’s best interest. The court must conditionally grant the petition if it finds, by clear and convincing evidence, that:

- a) the parent is presently willing and has the ability to provide for the child’s present and future safety, care, protection, education, and healthy mental, physical, and social development;
- b) reinstatement is the child’s express preference;
- c) if the child is 14 years of age or older and has filed the petition, the child is of sufficient maturity to understand the nature of this decision;
- d) the child has not been adopted, or the adoption has been dissolved;
- e) the child is not likely to be adopted; and
- f) reinstatement of parental rights is in the best interests of the child.

The order will transfer temporary custody to the parent for a period of up to six months, subject to conditions as the court may deem necessary and sufficient to ensure the child’s safety and well-being. For additional information and policy guidance on conditional custody orders, see Family Services [Policy 84](#).

Supporting the Placement

Placement will not occur until reinstatement of parental rights is determined to be in the child’s best interests and a conditional custody order with conditions is ordered by the court. The department will recommend temporary custody to the former parent with conditions for at least six months.

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Once the court has approved the plan to reinstate parental rights the department may be ordered to provide transition services to the family as appropriate. Division staff will engage the family in case planning, and change the case plan goal to reunification. Division staff will provide or refer the family to appropriate services to meet the needs of the youth and family.

If, during this time period, the child is placed at risk of harm, allegations of abuse or neglect arise, or the child is beyond the control of the parent, truant, or committing delinquent acts, the Family Services worker will notify the court. The court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence. At this time, the conditional custody order case will be closed, and custody of the young person reverts back to DCF.

Finalizing the Reinstatement

After the child is placed with the parent for up to six months, the court will hold a hearing to determine if the placement has been successful. The court will enter a final order of reinstatement of parental rights upon a finding by a preponderance of the evidence that placement continues to be in the child’s best interest. The conditional custody order and any open case the division has with the parent and child should be closed once the order of reinstatement of parental rights is issued.

Birth Certificate

If the child or youth was adopted, the adoptive parents’ rights were terminated, and reinstatement of parental rights occurs with the birth parents, the child or youth’s birth certificate may need to be updated. Parents may need to provide documentation and court orders indicating their parental rights have been reinstated and they have custody of the child. This process may be initiated through the [Petition for New, Corrected or Delayed Birth Certificate](#) (Form Number 700-00200). It is the responsibility of the legal parents to obtain a new birth certificate if desired.