

**Virginia Commission on Youth
Study of Restoration of Parental Rights**

STATE-BY-STATE COMPARISON OF EXISTING RESTORATION LAWS

STATE	WHO CAN FILE	JUVENILE: AGE	JUVENILE: OTHER FACTORS	PRIOR TERMINATION PROCEEDING	NOTIFICATION TO ELIGIBLE JUVENILE REQUIRED
CALIFORNIA	Juvenile	No age threshold but if the juvenile is 12 years of age or older, the juvenile must sign the petition for reinstatement.	Has not been adopted; Adoption is no longer the permanency plan.	Occurred at least three years prior to the filing of the petition for reinstatement	Not addressed in Code
HAWAII	Juvenile; Juvenile's guardian ad litem or attorney; Department	14 years of age or older	Been in permanent custody for at least 12 months		Not addressed in Code
ILLINOIS	Department of Children and Family Services	13 years of age or older <i>Younger sibling exception</i>	Has remained a ward of the Court; Not currently in a placement likely to achieve permanency	Occurred at least three years prior to the filing of the motion for reinstatement	Not addressed in Code
LOUISIANA	Counsel appointed for child; Department	At least 15 years of age	Currently in foster care	Not addressed in Code	Not addressed in Code
MAINE	Department	No age threshold but if juvenile is 12 years of age or older, the juvenile must consent to reinstatement	Has been in the custody of the department for at least 12 months following the termination order	Occurred at least 12 months prior to the filing of the petition for reinstatement	Not addressed in Code

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STATE	CONSENT REQUIRED	BURDEN OF PROOF	PROCESS	CONDITIONAL GRANT
CALIFORNIA	Not addressed in Code	Clear and convincing evidence	<ul style="list-style-type: none"> ✓ Motion filed ✓ Hearing held <i>if it appears the best interests of the child may be promoted by reinstatement</i> 	Not provided in Code
HAWAII	Both parent and juvenile must consent	Clear and convincing evidence	<ul style="list-style-type: none"> ✓ Motion filed ✓ Department and child's guardian ad litem submit reports to the court with findings ✓ Preliminary hearing ✓ Final hearing 	At the preliminary hearing, the court may order a temporary reinstatement of parental rights. The juvenile is placed in the physical care of the parent for <i>no more than 6 months</i> . The department develops a permanency plan and appropriate transitional services are provided to the family. A final hearing is held on the motion after the juvenile has been with the parent for 6 months. If the trial placement has been successful, the court may issue a final order of reinstatement of parental rights.
ILLINOIS	Must be a finding that parent "wishes" to have parental rights reinstated	Clear and convincing evidence	Not addressed in Code	Not provided in Code
LOUISIANA	Court will not restore parental rights without the parent's consent		<ul style="list-style-type: none"> ✓ Motion filed ✓ Department submits report to court with findings ✓ Hearing – <i>stipulation exception</i> 	The court may restore parental rights, or it may decide either to allow contact between parent and juvenile under certain conditions or to place the juvenile in parent's custody with continuing Department supervision.
MAINE	Both parent and juvenile must consent	Clear and convincing evidence	Not addressed in Code	Not provided in Code

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STATE	FACTORS CONSIDERED
CALIFORNIA	None specified.
HAWAII	<p><u>The department and the juvenile's guardian ad litem shall submit reports to the court that address:</u></p> <ul style="list-style-type: none"> ✓ The material changes in circumstances since the termination of parental rights ✓ The reasons parental rights were terminated and the date of the termination order ✓ A parent's willingness to resume contact with the juvenile and to have parental rights reinstated ✓ A juvenile's willingness to resume contact with the parent and to have parental rights reinstated ✓ A parent's willingness and ability to be involved in the juvenile's life and to accept physical custody of the juvenile ✓ Other relevant information <p><u>The court shall consider:</u></p> <ul style="list-style-type: none"> ✓ Whether a parent has remedied the conditions that caused the termination of parental rights ✓ The age and maturity of the juvenile and the juvenile's ability to express a preference ✓ The likelihood of risk to the health, safety, or welfare of the juvenile
ILLINOIS	<p><u>The court shall consider:</u></p> <ul style="list-style-type: none"> ✓ The reasons why the juvenile was initially brought to the attention of the court ✓ The history of the juvenile's case ✓ The current circumstances of the parent for whom reinstatement is sought
LOUISIANA	<p><u>The department shall submit a confidential report to the court with findings on the following:</u></p> <ul style="list-style-type: none"> ✓ The change in circumstances since the certification for adoption ✓ A summary of the reasons why parental rights were terminated and the date of the judgment ✓ The willingness of the parent to resume contact with the juvenile and have parental rights restored ✓ The willingness of the juvenile to resume contact with the parent and have parental rights restored ✓ The ability and willingness of the parent to be involved in the life of the juvenile and to accept the physical custody of the juvenile ✓ Other relevant information
MAINE	<p><u>The department's petition must include:</u></p> <ul style="list-style-type: none"> ✓ A summary of the reasons for the termination of parental rights ✓ A summary statement of the facts that the department believes to constitute a substantial change in circumstances of the parent demonstrating that the parent has the capacity and willingness to provide for the health and safety of the juvenile ✓ Statements of intent of the parent and of the juvenile to consent to reinstatement <p><u>The court shall consider:</u></p> <ul style="list-style-type: none"> ✓ The age and maturity of the juvenile ✓ The juvenile's ability to express a preference ✓ The juvenile's ability to integrate back into the home of the parent ✓ The ability of the parent to meet the juvenile's physical and emotional needs ✓ The extent that the parent has remedied the circumstances that resulted in the termination of parental rights ✓ The likelihood of future risk to the juvenile

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NEVADA	Juvenile; Legal custodian or guardian for juvenile	No age threshold but if juvenile is 14 years of age or older, the juvenile must consent to reinstatement.	Has not been adopted	Not addressed in Code
NEW YORK	Juvenile's attorney; Agency or individual to whom guardianship & custody of juvenile has been committed; Respondent in TPR proceeding	At least 14 years of age	Remains under the jurisdiction of the family court; Has not been adopted; Does not have a permanency goal of adoption; Consents to reinstatement	Occurred at least two years prior to the filing of the petition for reinstatement Based on one of three grounds: <ul style="list-style-type: none"> ✓ Parent abandoned child for the 6 months immediately prior to the filing of TPR petition ✓ Parent was presently and for the foreseeable future unable by reason of mental illness or retardation, to provide proper and adequate care for a child who has been in the care of an authorized agency for the period of one year immediately prior to the filing of the TPR petition ✓ Child is a permanently neglected child
NORTH CAROLINA	Juvenile; Juvenile's guardian ad litem attorney; County department of social services	At least 12 years of age <i>Exceptional circumstances exception</i>	Does not have a legal parent; Is not in an adoptive placement; Is not likely to be adopted within a reasonable period of time	Occurred at least three years prior to the filing of the reinstatement motion
OKLAHOMA	Juvenile <i>Juvenile's attorney must sign the application for reinstatement</i>	15 years of age or older	Previously found to be a deprived child; Has not achieved permanency plan	Occurred at least three years prior to the filing of the application for reinstatement
WASHINGTON	Juvenile	12 years of age or older <i>Good cause exception</i>	Previously found to be a dependent child; Has not achieved or sustained permanency plan	Occurred at least three years prior to the filing of the petition for reinstatement

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NEVADA	Parent must consent in writing. Juvenile must consent if over the age of 14.	Preponderance of the evidence	Not addressed in Code	Not provided in Code
NEW YORK	Juvenile must consent; the agency with guardianship and custody of the juvenile must consent	Clear and convincing evidence	Not addressed in Code	Court may grant the petition conditionally for a period of time up to <u>6 months</u> . Guardianship and custody of juvenile remains with the local social services district while the juvenile visits with or is placed on a trial discharge with the parent. A reunification plan is developed and appropriate transitional services are provided. A proceeding is held at the end of the designated period to make a final disposition on the petition.
NORTH CAROLINA	Not addressed in Code	Not addressed in Code	<ul style="list-style-type: none"> ✓ Motion filed ✓ Preliminary hearing ✓ Motion dismissed <u>OR</u> Permanency plan ordered to become reinstatement 	If the court orders the permanency plan become reinstatement of parental rights, interim hearings are held <u>every 6 months</u> . A final decision to dismiss or grant the motion must be made <u>within 12 months</u> of the motion being filed.
OKLAHOMA	Not addressed in Code	At preliminary hearing – preponderance of the evidence At hearing on the merits – clear and convincing evidence	<ul style="list-style-type: none"> ✓ Motion filed ✓ Preliminary hearing ✓ Hearing on the merits ✓ Final hearing 	The court may conditionally grant the application for reinstatement at the hearing on the merits. The case is then continued for <u>6 months</u> and a temporary order of reinstatement is entered. Meanwhile, the juvenile is placed in the custody of the parent and the Department develops an appropriate permanency plan. At the end of this period, if the placement has been successful, the court shall enter a final order of reinstatement of parental rights.
WASHINGTON	Not addressed in Code	At threshold hearing – preponderance of the evidence At hearing on the merits – clear and convincing evidence	<ul style="list-style-type: none"> ✓ Petition filed ✓ Threshold hearing ✓ Hearing on the merits ✓ Final hearing 	The court may conditionally grant the petition for reinstatement at the hearing on the merits. The case is then continued for <u>6 months</u> and a temporary order of reinstatement is entered. Meanwhile, the juvenile is placed in the custody of the parent and the department develops a permanency plan and provides appropriate reunification services. After the juvenile has been placed with the parent for <u>6 months</u> , if the placement has been successful, the court shall enter a final order of reinstatement of parental rights.

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NEVADA	None specified.
NEW YORK	None specified.
NORTH CAROLINA	<p><u>Court shall consider and make written findings regarding those that are relevant:</u></p> <ul style="list-style-type: none"> ✓ What efforts were made to achieve adoption or permanent guardianship ✓ Whether the parent has remedied the conditions that led to the juvenile's removal and the termination of his or her parental rights ✓ Whether the juvenile would receive proper care and supervision in a safe home if placed with the parent ✓ The age and maturity of the juvenile and the ability of the juvenile to express his or her preference ✓ The parent's willingness to resume contact with the juvenile and to have parental rights reinstated ✓ The juvenile's willingness to resume contact with the parent and to have parental rights reinstated ✓ Services that would be needed by the juvenile and the parent if parental rights are reinstated ✓ Any other criteria the court deems necessary
OKLAHOMA	<p><u>The court shall consider:</u></p> <ul style="list-style-type: none"> ✓ Whether the parent is a fit parent and has remedied the conditions as provided in the record of the prior termination proceedings and order ✓ The age and maturity of the juvenile, and the ability of the juvenile to express his or her preference ✓ Whether reinstatement will present a risk to the health, safety, or welfare of the juvenile ✓ Other material changes in circumstances, if any, that may have occurred which warrant the granting of the application
WASHINGTON	<p><u>The court shall consider:</u></p> <ul style="list-style-type: none"> ✓ Whether the parent is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and order ✓ The age and maturity of the juvenile and the ability of the juvenile to express his or her preference ✓ Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety ✓ Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition