

# Project Report:

Observations from some of the first reinstatement of parental rights cases in Texas

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# Reinstatement Process

Petitioners are eligible to file for reinstatement if it has been **at least two years** since **involuntary termination in a DFPS suit**, and the **children have not been adopted nor are subject to a written adoption placement agreement**. Additionally, petitioners must provide a **45-day notice form** to the Department before filing.



If the petitioner does not know whether their case is eligible for reinstatement, the petitioner can file notice and ask the Department to provide a determination of eligibility in return.

## After hearing, judge can:

- grant petition
- deny petition
- render 6 months of temp orders

# The Good News

- Terminated parents coming to my project are largely familiar with reinstatement eligibility requirements because of internet resources published TLSC and referrals from the Family Law Helpline.
- The majority of terminated parents coming to my project have made substantial changes in their lives since termination.
- The Department is providing eligibility information to terminated parents who are unsure if their children are still in the conservatorship of the department (usually within 2-3 days of inquiry).
- Attorneys and judges seem very enthusiastic about figuring out how to make this new policy operate efficiently.

# Statutory Ambiguities

- Does filing the 45-day notice preserve parent's eligibility? Issue of rushed adoptions as a litigation tactic to defeat reinstatement.
- What if kids have not been adopted but aren't in the conservatorship of the department? Issue of eligibility for kids who are with other (non-terminated) bio parent.
- Are parents who signed a voluntary affidavit of relinquishment eligible? The statute says rights have to be "involuntarily" terminated.
- Children over the age of 12 have to consent to reinstatement. But do they have to consent at the time of notice, petition filing or at the time the order is rendered?



# Statutory Ambiguities

- Can parent file for reinstatement for possessory conservatorship? Nothing on the face of the statute to prevent it.
- Is reinstatement suit filed under a new cause number? And does a terminated parent become a party to the former suit by filing under the old cause number?
  - Right to attend permanency hearings? Right to file motions prior to reinstatement hearing?
- Does parental preference doctrine apply? Do terminated parents who have rehabilitated get preference over other permanency options?
- How early can parents file the 45-day notice? Immediately after their rights are terminated? Or once they become eligible for reinstatement?

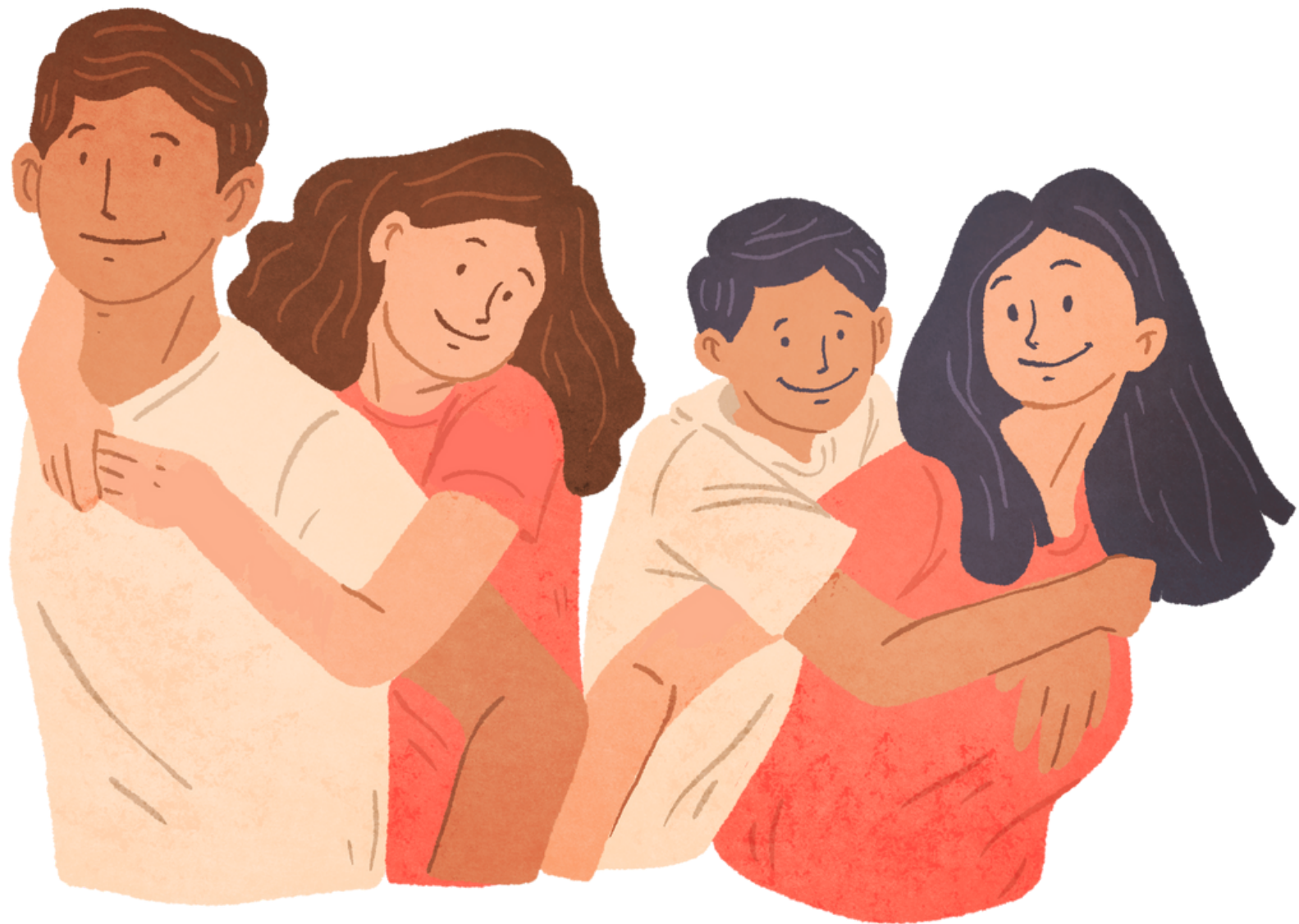
# Reinstatement may not be the best means of family reunification when...

- Child needs a high level of care that the parent cannot provide on their own.
- Child is about to age out of foster care and would lose the age-out benefits if parent's rights are reinstated.
- Parties agree that child should be back with parent but disagree as to reinstatement eligibility.



# The Future for Reinstatement is Bright

- Despite challenges, there are already several families across the state who have been reunited by reinstatement and there will undoubtedly be even more to come.



**"Sometimes the impossible is possible!**

...

**The children and their mother never stopped trying and they believed that they could all be together again. Their advocates listened."**

-Quote from "An Examination of the First Successful Reinstatement of Parental Rights Case in Texas," by Hon. Robert Falkenburg, William Drake Mikeska, Ana M. Soileau

Questions?



Thank you!

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