

1 HB115
2 147772-2
3 By Representative Jones
4 RFD: Children and Senior Advocacy
5 First Read: 05-FEB-13
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8 SYNOPSIS: Under existing law, the Department of Human
9 Resources is required to file a petition to
10 terminate the parental rights of a parent or
11 parents of a child who has been in foster care for
12 15 of the most recent 22 months.

13 This bill would require the petition to be
14 filed if the child has been in foster care for 12
15 of the most recent 22 months and could require
16 completion of the trial on a petition for
17 termination of parental rights within 90 days after
18 service of process has been perfected and require
19 the trial court judge to enter a final order within
20 30 days of the completion of the trial.

21 This bill would require service by
22 publication if service of process has not been
23 completed within 45 days of filing the petition for
24 termination of parental rights.

25 This bill would require the court to order
26 service by publication if the child who is the
27 subject of the proceedings was abandoned in the

1 state or evidence is presented indicating the
2 absent parent or parents are avoiding service of
3 process or their whereabouts cannot be reasonably
4 ascertained.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT

9
10 Relating to the termination of parental rights; to
11 amend Sections 12-15-317, 12-15-318, and 12-15-320, Code of
12 Alabama 1975; to require the Department of Human Resources to
13 file a petition to terminate the parental rights of a parent
14 or parents of a child who has been in foster care for 12 of
15 the most recent 22 months; to require the completion of the
16 trial on a petition for termination of parental rights within
17 90 days after service of process has been perfected; to
18 require the trial court judge to enter a final order within 30
19 days of the completion of the trial; to require service by
20 publication if service of process has not been completed
21 within 45 days of the filing of the petition for termination
22 of parental rights; and to require the court to order service
23 by publication if the child who is the subject of the
24 proceedings was abandoned in the state or evidence is
25 presented indicating the absent parent or parents are avoiding
26 service of process or their whereabouts cannot be reasonably
27 ascertained.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. This act shall be known and may be cited
3 as The Best Interests of the Child Act of 2013.

4 Section 2. Sections 12-15-317, 12-15-318, and
5 12-15-320, Code of Alabama 1975, are amended to read as
6 follows:

7 "§12-15-317.

8 "The Department of Human Resources, any public or
9 private licensed child-placing agency, parent, child, or any
10 interested person may file a petition to terminate the
11 parental rights of a parent or parents of a child.

12 "(1) Mandatory filing of petition by the Department
13 of Human Resources. The Department of Human Resources shall be
14 required to file a petition to terminate the parental rights
15 of a parent or parents of a child, or if the petition has been
16 filed by another party, shall seek to be joined as a party to
17 the petition, and, concurrently, to identify, recruit,
18 process, and approve a qualified family for adoption, in the
19 following circumstances:

20 "a. In the case of a child who has been in foster
21 care in the custody of the Department of Human Resources for
22 12 ~~15~~ of the most recent 22 months.

23 "b. If a child has been abandoned.

24 "c. If the parent has committed murder of another
25 child of that parent.

26 "d. If the parent has committed manslaughter of
27 another child of that parent.

1 "e. If the parent has aided, abetted, attempted,
2 conspired, or solicited to commit murder or manslaughter of
3 another child of that parent.

4 "f. If the parent has committed a felony assault
5 that has resulted in serious bodily injury, as defined in
6 paragraph c. of subdivision (5) of subsection (a) of Section
7 12-15-319, to the child, to another child of the parent, or to
8 the other parent of the child.

9 "(2) Exceptions to mandatory filing shall include
10 any of the following factors:

11 "a. The child is being cared for by a relative.

12 "b. The Department of Human Resources has documented
13 in the individualized service plan, which shall be available
14 for review by the juvenile court, a compelling reason for
15 determining that filing a petition would not be in the best
16 interests of the child.

17 "c. The Department of Human Resources has not
18 provided to the family of the child, consistent with the time
19 period in the individualized service plan of the Department of
20 Human Resources, such services as the Department of Human
21 Resources deems necessary for the safe return of the child to
22 his or her home, if reasonable efforts are required to be made
23 with respect to the child.

24 "§12-15-318.

25 "(a) Except as otherwise provided by the Alabama
26 Rules of Juvenile Procedure and this section, service of

1 process of termination of parental rights actions shall be
2 made in accordance with the Alabama Rules of Civil Procedure.

3 "(b) If service of process has not been completed
4 within 45 ~~90~~ days of the filing of the termination of parental
5 rights petition, the petitioner shall request service by
6 publication.

7 "(c) Service of process by publication may not be
8 ordered by the juvenile court unless at least one of the
9 following conditions is ~~are~~ met:

10 "(1) The child who is the subject of the proceedings
11 was abandoned in the state, or.

12 "(2) The state or private department or agency
13 having custody of the child has established, by evidence
14 presented to the juvenile court, that the absent parent or
15 parents are avoiding service of process or their whereabouts
16 are unknown and cannot be ascertained with reasonable
17 diligence.

18 "(d) Service shall be made by publication in a
19 newspaper of general circulation in the county of the juvenile
20 court having jurisdiction and in the county of the last known
21 address of the parent or parents of the abandoned child, at
22 least once a week for four consecutive weeks.

23 "§12-15-320.

24 "(a) Termination of parental rights cases shall be
25 given priority over other cases. The trial on the petition for
26 termination of parental rights shall be completed within 90
27 days after service of process has been perfected. The trial

1 court judge shall enter a final order within 30 days of the
2 completion of the trial.

3 "(b) If the juvenile court determines that the
4 parents of a child are unwilling or unable to act as parents
5 and terminates their parental rights, it may do the following:

6 "(1) Transfer or continue the permanent legal
7 custody of the child to the Department of Human Resources or
8 to any public or private licensed child-placing agency able
9 and willing to assume the care and maintenance of the child.
10 An order of the juvenile court which terminates parental
11 rights and awards permanent legal custody to the Department of
12 Human Resources or to a licensed child-placing agency shall
13 mean that the Department of Human Resources or the licensed
14 child-placing agency shall have authority to make permanent
15 plans for the child, including the authority to place for
16 adoption and consent to adoption.

17 "(2) Transfer or continue the permanent legal
18 custody of the child to the petitioner who, after study by the
19 Department of Human Resources, is found to be able to properly
20 receive and care for the child."

21 Section 3. This act shall become effective
22 immediately upon its passage and approval by the Governor or
23 upon its otherwise becoming law.