

1 SB307  
2 147772-3  
3 By Senator Fielding  
4 RFD: Judiciary  
5 First Read: 12-MAR-13

1 SB307

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4 ENROLLED, An Act,

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

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

4           "§12-15-317.

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

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

17          "a. In the case of a child who has been in foster  
18          care in the custody of the Department of Human Resources for  
19          12 ~~15~~ of the most recent 22 months.

20          "b. If a child has been abandoned.

21          "c. If the parent has committed murder of another  
22          child of that parent.

23          "d. If the parent has committed manslaughter of  
24          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.

1           "(a) Except as otherwise provided by the Alabama  
2 Rules of Juvenile Procedure and this section, service of  
3 process of termination of parental rights actions shall be  
4 made in accordance with the Alabama Rules of Civil Procedure.

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

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

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

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

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

25           "§12-15-320.

1           "(a) Termination of parental rights cases shall be  
2 given priority over other cases. The trial on the petition for  
3 termination of parental rights shall be completed within 90  
4 days after service of process has been perfected. The trial  
5 court judge shall enter a final order within 30 days of the  
6 completion of the trial.

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

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

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

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

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB307

Senate 10-APR-13

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 24-APR-13

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By: Senator Fielding