Safeguards in the Dash-3's Regarding Reinstatement of Parental Rights

Safeguards for Motions to Reinstate Parental Rights of a Former Parent

- Only DHS and child[1] can file a motion to reinstate parental rights that have been terminated.
- Child must be at least 12 years old to file absent good cause.
- Child has a right to have a lawyer appointed to help them.
- Cannot file a motion if an adoption has been initiated (Under ORS 109.309 or ORS 419B.529), so no filed or pending adoptions will be interrupted.
- Must wait to file until 18 months after the parental rights have been terminated or six months after the appellate judgment, whichever is later.[2]
- Motion must be in writing and state a prima facie case (showing a legally sufficient case); if no prima facie case is stated, the motion can be denied without a hearing.
- Moving party has the burden of proving the required elements by clear and convincing evidence, which is a very high standard of proof. The required elements are:
  a. the conduct or conditions that led to the termination of parental rights have been ameliorated;
  b. the parent wants his/her rights to be reinstated;
  c. it is in the best interest of the child (which requires the court to consider the child's health, safety, permanency, age, maturity and ability to express his/her preferences);
  d. and, if the youth is over 14, the child consents to the reinstatement.

Safeguards if a Motion is Granted

- The child remains a ward of the court for at least six months which means that DHS and the court remain involved in the family's lives—wardship can continue longer than 6 months if needed.
- DHS aids in the child's transition to the parent's home and continues to offer supports.
- A permanency hearing, where DHS reports to the court, must be held within 60 days of the order reinstating parental rights.

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[1] Though a few states allow parents to file, neither Washington nor California does.
[2] Nationally 83% of adoptions happen within the first 17 months after termination.

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