
SUBSTITUTE HOUSE BILL 2237

State of Washington

68th Legislature

2024 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Taylor and Walen)

1 AN ACT Relating to limitations in parenting plans; amending RCW
2 26.09.191; and adding a new section to chapter 26.09 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 26.09.191 and 2021 c 215 s 134 are each amended to
5 read as follows:

6 (1) ~~((The permanent parenting plan shall not require mutual
7 decision-making or designation of a dispute resolution process other
8 than court action))~~ PURPOSE. Parents are responsible for protecting
9 and preserving the health and well-being of their minor children.
10 When a parent acts contrary to the health and well-being of the
11 parent's child, or engages in conduct that creates an unreasonable
12 risk of harm to a child, the court may, and in some situations must,
13 impose limitations intended to protect the child from harm as
14 described in this section and section 2 of this act.

15 (2) GENERAL CONSIDERATIONS.

16 (a) In entering a permanent parenting plan, the court shall not
17 draw any presumptions from the provisions of the temporary parenting
18 plan.

19 (b) The weight given to the existence of a protection order
20 issued under chapter 7.105 RCW or former chapter 26.50 RCW as to
21 domestic violence is within the discretion of the court.

1 (c) In determining whether any of the conduct described in this
2 section or section 2 of this act has occurred, the court shall apply
3 the rules of evidence and civil procedure except where the parties
4 have opted for an informal family law trial pursuant to state or
5 local court rules.

6 (3) DEFINITIONS. The definitions in this subsection apply
7 throughout this section and section 2 of this act unless the context
8 clearly requires otherwise.

9 (a) "Abusive use of conflict" refers to a party engaging in
10 ongoing and deliberate actions to misuse conflict. This includes, but
11 is not limited to: (i) Repeated bad faith violations of court orders
12 regarding the child or the protection of the child or other parent;
13 (ii) credible threats of physical, emotional, or financial harm to
14 the other parent or to family, friends, or professionals providing
15 support to the child or other parent; (iii) intentional use of the
16 child in conflict; or (iv) abusive litigation as defined in RCW
17 26.51.020. Litigation that is aggressive or improper but does not
18 meet the definition of abusive litigation shall not constitute a
19 basis for finding abusive use of conflict under this section.
20 Protective actions as defined in this section shall not constitute a
21 basis for a finding of abusive use of conflict.

22 (b) "Child" shall also mean "children."

23 (c) "Knowingly" means knows or reasonably should know.

24 (d) "Parenting functions" has the same meaning as in RCW
25 26.09.004.

26 (e) "Protective actions" are actions taken by a parent in good
27 faith for the purpose of protecting themselves or the parent's child
28 from the risk of harm posed by the other parent. "Protective actions"
29 can include, but are not limited to: (i) Reports or complaints
30 regarding physical, sexual, or mental abuse of a child or child
31 neglect to an individual or entity connected to the provision of care
32 or safety of the child such as law enforcement, medical
33 professionals, therapists, schools, day cares, or child protective
34 services; (ii) seeking court orders changing residential time; or
35 (iii) petitions for protection or restraining orders.

36 (f) "Sex offense against a child" means any of the following
37 offenses involving a child victim: (i) Any sex offense as defined in
38 RCW 9.94A.030; (ii) any offense with a finding of sexual motivation;
39 (iii) any offense in violation of chapter 9A.44 RCW other than RCW
40 9A.44.132; (iv) any offense involving the sexual abuse of a minor,

1 including any offense under chapter 9.68A RCW; or (v) any federal or
2 out-of-state offense comparable to any offense under (f)(i) through
3 (iv) of this subsection.

4 (g) "Social worker" means a person with a master's degree or
5 further advanced degree from a social work educational program
6 accredited and approved as provided in RCW 18.320.010.

7 (h) "Willful abandonment" has occurred when the child's parent
8 has expressed, either by statement or conduct, an intent to forego,
9 for an extended period, parental rights or responsibilities despite
10 an ability to exercise such rights and responsibilities. "Willful
11 abandonment" does not include a parent who has been unable to see the
12 child due to incarceration, deportation, inpatient treatment, medical
13 emergency, fleeing to an emergency shelter or domestic violence
14 shelter, or withholding of the child by the other parent.

15 (4) RESIDENTIAL TIME LIMITATIONS.

16 (a) PARENTAL CONDUCT REQUIRING LIMITS ON A PARENT'S RESIDENTIAL
17 TIME. A parent's residential time with the parent's child shall be
18 limited if it is found that a parent has engaged in any of the
19 following conduct:

20 ~~((a))~~ (i) Willful abandonment that continues for an extended
21 period of time ~~((or substantial refusal to perform parenting~~
22 ~~functions;~~

23 ~~(b) physical, sexual,);~~

24 (ii) Physical abuse or a pattern of emotional abuse of a child;
25 ~~((or (c) a))~~ (iii) A history of acts of domestic violence as
26 defined in RCW 7.105.010 ~~((or))~~ an assault ~~((or sexual assault))~~
27 that causes grievous bodily harm or the fear of such harm ~~((or that~~
28 ~~results in a pregnancy.~~

29 ~~(2)(a) The)), or any sexual assault; or~~

30 (iv) Sexual abuse of a child. Required limitations and
31 considerations for a parent who has been convicted of a sex offense
32 against a child or found to have sexually abused a child in the
33 current case or a prior case are addressed in section 2 of this act.

34 (b) PARENT RESIDING WITH A PERSON WHOSE CONDUCT REQUIRES
35 RESIDENTIAL TIME LIMITATIONS. A parent's residential time with the
36 child shall be limited if it is found that the parent knowingly
37 resides with a person who has engaged in any of the following
38 conduct: ~~((i) Willful abandonment that continues for an extended~~
39 ~~period of time or substantial refusal to perform parenting functions;~~
40 ~~(ii) physical, sexual,))~~

1 (i) Physical abuse or a pattern of emotional abuse of a child;
2 ~~((iii)—a)~~ (ii) A history of acts of domestic violence as
3 defined in RCW 7.105.010 ~~((or))~~, an assault ~~((or—sexual—assault))~~
4 that causes grievous bodily harm or the fear of such harm ~~((or—that~~
5 ~~results in a pregnancy; or (iv) the parent has been convicted as an~~
6 ~~adult of a sex offense under:~~

7 ~~(A) RCW 9A.44.076 if, because of the difference in age between~~
8 ~~the offender and the victim, no rebuttable presumption exists under~~
9 ~~(d) of this subsection;~~

10 ~~(B) RCW 9A.44.079 if, because of the difference in age between~~
11 ~~the offender and the victim, no rebuttable presumption exists under~~
12 ~~(d) of this subsection;~~

13 ~~(C) RCW 9A.44.086 if, because of the difference in age between~~
14 ~~the offender and the victim, no rebuttable presumption exists under~~
15 ~~(d) of this subsection;~~

16 ~~(D) RCW 9A.44.089;~~

17 ~~(E) RCW 9A.44.093;~~

18 ~~(F) RCW 9A.44.096;~~

19 ~~(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age~~
20 ~~between the offender and the victim, no rebuttable presumption exists~~
21 ~~under (d) of this subsection;~~

22 ~~(H) Chapter 9.68A RCW;~~

23 ~~(I) Any predecessor or antecedent statute for the offenses listed~~
24 ~~in (a) (iv) (A) through (H) of this subsection;~~

25 ~~(J) Any statute from any other jurisdiction that describes an~~
26 ~~offense analogous to the offenses listed in (a) (iv) (A) through (H) of~~
27 ~~this subsection.~~

28 ~~This subsection (2) (a) shall not apply when (c) or (d) of this~~
29 ~~subsection applies.~~

30 ~~(b) The parent's residential time with the child shall be limited~~
31 ~~if it is found that the parent resides with a person who has engaged~~
32 ~~in any of the following conduct: (i) Physical, sexual, or a pattern~~
33 ~~of emotional abuse of a child; (ii) a history of acts of domestic~~
34 ~~violence as defined in RCW 7.105.010 or an assault or sexual assault~~
35 ~~that causes grievous bodily harm or the fear of such harm or that~~
36 ~~results in a pregnancy; or (iii) the person has been convicted as an~~
37 ~~adult or as a juvenile has been adjudicated of a sex offense under:~~

38 ~~(A) RCW 9A.44.076 if, because of the difference in age between~~
39 ~~the offender and the victim, no rebuttable presumption exists under~~
40 ~~(e) of this subsection;~~

1 ~~(B) RCW 9A.44.079 if, because of the difference in age between~~
2 ~~the offender and the victim, no rebuttable presumption exists under~~
3 ~~(e) of this subsection;~~

4 ~~(C) RCW 9A.44.086 if, because of the difference in age between~~
5 ~~the offender and the victim, no rebuttable presumption exists under~~
6 ~~(e) of this subsection;~~

7 ~~(D) RCW 9A.44.089;~~

8 ~~(E) RCW 9A.44.093;~~

9 ~~(F) RCW 9A.44.096;~~

10 ~~(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age~~
11 ~~between the offender and the victim, no rebuttable presumption exists~~
12 ~~under (e) of this subsection;~~

13 ~~(H) Chapter 9.68A RCW;~~

14 ~~(I) Any predecessor or antecedent statute for the offenses listed~~
15 ~~in (b) (iii) (A) through (H) of this subsection;~~

16 ~~(J) Any statute from any other jurisdiction that describes an~~
17 ~~offense analogous to the offenses listed in (b) (iii) (A) through (H)~~
18 ~~of this subsection.~~

19 ~~This subsection (2) (b) shall not apply when (c) or (e) of this~~
20 ~~subsection applies.~~

21 ~~(c) If a parent has been found to be a sexual predator under~~
22 ~~chapter 71.09 RCW or under an analogous statute of any other~~
23 ~~jurisdiction, the court shall restrain the parent from contact with a~~
24 ~~child that would otherwise be allowed under this chapter. If a parent~~
25 ~~resides with an adult or a juvenile who has been found to be a sexual~~
26 ~~predator under chapter 71.09 RCW or under an analogous statute of any~~
27 ~~other jurisdiction, the court shall restrain the parent from contact~~
28 ~~with the parent's child except contact that occurs outside that~~
29 ~~person's presence.~~

30 ~~(d) There is a rebuttable presumption that a parent who has been~~
31 ~~convicted as an adult of a sex offense listed in (d) (i) through (ix)~~
32 ~~of this subsection poses a present danger to a child. Unless the~~
33 ~~parent rebuts this presumption, the court shall restrain the parent~~
34 ~~from contact with a child that would otherwise be allowed under this~~
35 ~~chapter:~~

36 ~~(i) RCW 9A.64.020 (1) or (2), provided that the person convicted~~
37 ~~was at least five years older than the other person;~~

38 ~~(ii) RCW 9A.44.073;~~

39 ~~(iii) RCW 9A.44.076, provided that the person convicted was at~~
40 ~~least eight years older than the victim;~~

1 ~~(iv) RCW 9A.44.079, provided that the person convicted was at~~
2 ~~least eight years older than the victim;~~
3 ~~(v) RCW 9A.44.083;~~
4 ~~(vi) RCW 9A.44.086, provided that the person convicted was at~~
5 ~~least eight years older than the victim;~~
6 ~~(vii) RCW 9A.44.100;~~
7 ~~(viii) Any predecessor or antecedent statute for the offenses~~
8 ~~listed in (d) (i) through (vii) of this subsection;~~
9 ~~(ix) Any statute from any other jurisdiction that describes an~~
10 ~~offense analogous to the offenses listed in (d) (i) through (vii) of~~
11 ~~this subsection.~~
12 ~~(e) There is a rebuttable presumption that a parent who resides~~
13 ~~with a person who, as an adult, has been convicted, or as a juvenile~~
14 ~~has been adjudicated, of the sex offenses listed in (e) (i) through~~
15 ~~(ix) of this subsection places a child at risk of abuse or harm when~~
16 ~~that parent exercises residential time in the presence of the~~
17 ~~convicted or adjudicated person. Unless the parent rebuts the~~
18 ~~presumption, the court shall restrain the parent from contact with~~
19 ~~the parent's child except for contact that occurs outside of the~~
20 ~~convicted or adjudicated person's presence:~~
21 ~~(i) RCW 9A.64.020 (1) or (2), provided that the person convicted~~
22 ~~was at least five years older than the other person;~~
23 ~~(ii) RCW 9A.44.073;~~
24 ~~(iii) RCW 9A.44.076, provided that the person convicted was at~~
25 ~~least eight years older than the victim;~~
26 ~~(iv) RCW 9A.44.079, provided that the person convicted was at~~
27 ~~least eight years older than the victim;~~
28 ~~(v) RCW 9A.44.083;~~
29 ~~(vi) RCW 9A.44.086, provided that the person convicted was at~~
30 ~~least eight years older than the victim;~~
31 ~~(vii) RCW 9A.44.100;~~
32 ~~(viii) Any predecessor or antecedent statute for the offenses~~
33 ~~listed in (e) (i) through (vii) of this subsection;~~
34 ~~(ix) Any statute from any other jurisdiction that describes an~~
35 ~~offense analogous to the offenses listed in (e) (i) through (vii) of~~
36 ~~this subsection.~~
37 ~~(f) The presumption established in (d) of this subsection may be~~
38 ~~rebutted only after a written finding that the child was not~~
39 ~~conceived and subsequently born as a result of a sexual assault~~
40 ~~committed by the parent requesting residential time and that:~~

1 ~~(i) If the child was not the victim of the sex offense committed~~
2 ~~by the parent requesting residential time, (A) contact between the~~
3 ~~child and the offending parent is appropriate and poses minimal risk~~
4 ~~to the child, and (B) the offending parent has successfully engaged~~
5 ~~in treatment for sex offenders or is engaged in and making progress~~
6 ~~in such treatment, if any was ordered by a court, and the treatment~~
7 ~~provider believes such contact is appropriate and poses minimal risk~~
8 ~~to the child; or~~

9 ~~(ii) If the child was the victim of the sex offense committed by~~
10 ~~the parent requesting residential time, (A) contact between the child~~
11 ~~and the offending parent is appropriate and poses minimal risk to the~~
12 ~~child, (B) if the child is in or has been in therapy for victims of~~
13 ~~sexual abuse, the child's counselor believes such contact between the~~
14 ~~child and the offending parent is in the child's best interest, and~~
15 ~~(C) the offending parent has successfully engaged in treatment for~~
16 ~~sex offenders or is engaged in and making progress in such treatment,~~
17 ~~if any was ordered by a court, and the treatment provider believes~~
18 ~~such contact is appropriate and poses minimal risk to the child.~~

19 ~~(g) The presumption established in (e) of this subsection may be~~
20 ~~rebutted only after a written finding that the child was not~~
21 ~~conceived and subsequently born as a result of a sexual assault~~
22 ~~committed by the parent requesting residential time and that:~~

23 ~~(i) If the child was not the victim of the sex offense committed~~
24 ~~by the person who is residing with the parent requesting residential~~
25 ~~time, (A) contact between the child and the parent residing with the~~
26 ~~convicted or adjudicated person is appropriate and that parent is~~
27 ~~able to protect the child in the presence of the convicted or~~
28 ~~adjudicated person, and (B) the convicted or adjudicated person has~~
29 ~~successfully engaged in treatment for sex offenders or is engaged in~~
30 ~~and making progress in such treatment, if any was ordered by a court,~~
31 ~~and the treatment provider believes such contact is appropriate and~~
32 ~~poses minimal risk to the child; or~~

33 ~~(ii) If the child was the victim of the sex offense committed by~~
34 ~~the person who is residing with the parent requesting residential~~
35 ~~time, (A) contact between the child and the parent in the presence of~~
36 ~~the convicted or adjudicated person is appropriate and poses minimal~~
37 ~~risk to the child, (B) if the child is in or has been in therapy for~~
38 ~~victims of sexual abuse, the child's counselor believes such contact~~
39 ~~between the child and the parent residing with the convicted or~~
40 ~~adjudicated person in the presence of the convicted or adjudicated~~

1 ~~person is in the child's best interest, and (C) the convicted or~~
2 ~~adjudicated person has successfully engaged in treatment for sex~~
3 ~~offenders or is engaged in and making progress in such treatment, if~~
4 ~~any was ordered by a court, and the treatment provider believes~~
5 ~~contact between the parent and child in the presence of the convicted~~
6 ~~or adjudicated person is appropriate and poses minimal risk to the~~
7 ~~child.~~

8 ~~(h) If the court finds that the parent has met the burden of~~
9 ~~rebutting the presumption under (f) of this subsection, the court may~~
10 ~~allow a parent who has been convicted as an adult of a sex offense~~
11 ~~listed in (d) (i) through (ix) of this subsection to have residential~~
12 ~~time with the child supervised by a neutral and independent adult and~~
13 ~~pursuant to an adequate plan for supervision of such residential~~
14 ~~time. The court shall not approve of a supervisor for contact between~~
15 ~~the child and the parent unless the court finds, based on the~~
16 ~~evidence, that the supervisor is willing and capable of protecting~~
17 ~~the child from harm. The court shall revoke court approval of the~~
18 ~~supervisor upon finding, based on the evidence, that the supervisor~~
19 ~~has failed to protect the child or is no longer willing or capable of~~
20 ~~protecting the child.~~

21 ~~(i) If the court finds that the parent has met the burden of~~
22 ~~rebutting the presumption under (g) of this subsection, the court may~~
23 ~~allow a parent residing with a person who has been adjudicated as a~~
24 ~~juvenile of a sex offense listed in (e) (i) through (ix) of this~~
25 ~~subsection to have residential time with the child in the presence of~~
26 ~~the person adjudicated as a juvenile, supervised by a neutral and~~
27 ~~independent adult and pursuant to an adequate plan for supervision of~~
28 ~~such residential time. The court shall not approve of a supervisor~~
29 ~~for contact between the child and the parent unless the court finds,~~
30 ~~based on the evidence, that the supervisor is willing and capable of~~
31 ~~protecting the child from harm. The court shall revoke court approval~~
32 ~~of the supervisor upon finding, based on the evidence, that the~~
33 ~~supervisor has failed to protect the child or is no longer willing or~~
34 ~~capable of protecting the child.~~

35 ~~(j) If the court finds that the parent has met the burden of~~
36 ~~rebutting the presumption under (g) of this subsection, the court may~~
37 ~~allow a parent residing with a person who, as an adult, has been~~
38 ~~convicted of a sex offense listed in (e) (i) through (ix) of this~~
39 ~~subsection to have residential time with the child in the presence of~~
40 ~~the convicted person supervised by a neutral and independent adult~~

1 and pursuant to an adequate plan for supervision of such residential
2 time. The court shall not approve of a supervisor for contact between
3 the child and the parent unless the court finds, based on the
4 evidence, that the supervisor is willing and capable of protecting
5 the child from harm. The court shall revoke court approval of the
6 supervisor upon finding, based on the evidence, that the supervisor
7 has failed to protect the child or is no longer willing or capable of
8 protecting the child.

9 (k) A court shall not order unsupervised contact between the
10 offending parent and a child of the offending parent who was sexually
11 abused by that parent. A court may order unsupervised contact between
12 the offending parent and a child who was not sexually abused by the
13 parent after the presumption under (d) of this subsection has been
14 rebutted and supervised residential time has occurred for at least
15 two years with no further arrests or convictions of sex offenses
16 involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter
17 9.68A RCW and (i) the sex offense of the offending parent was not
18 committed against a child of the offending parent, and (ii) the court
19 finds that unsupervised contact between the child and the offending
20 parent is appropriate and poses minimal risk to the child, after
21 consideration of the testimony of a state-certified therapist, mental
22 health counselor, or social worker with expertise in treating child
23 sexual abuse victims who has supervised at least one period of
24 residential time between the parent and the child, and after
25 consideration of evidence of the offending parent's compliance with
26 community supervision requirements, if any. If the offending parent
27 was not ordered by a court to participate in treatment for sex
28 offenders, then the parent shall obtain a psychosexual evaluation
29 conducted by a certified sex offender treatment provider or a
30 certified affiliate sex offender treatment provider indicating that
31 the offender has the lowest likelihood of risk to reoffend before the
32 court grants unsupervised contact between the parent and a child.

33 (l) A court may order unsupervised contact between the parent and
34 a child which may occur in the presence of a juvenile adjudicated of
35 a sex offense listed in (e)(i) through (ix) of this subsection who
36 resides with the parent after the presumption under (e) of this
37 subsection has been rebutted and supervised residential time has
38 occurred for at least two years during which time the adjudicated
39 juvenile has had no further arrests, adjudications, or convictions of
40 sex offenses involving children under chapter 9A.44 RCW, RCW

1 ~~9A.64.020, or chapter 9.68A RCW, and (i) the court finds that~~
2 ~~unsupervised contact between the child and the parent that may occur~~
3 ~~in the presence of the adjudicated juvenile is appropriate and poses~~
4 ~~minimal risk to the child, after consideration of the testimony of a~~
5 ~~state-certified therapist, mental health counselor, or social worker~~
6 ~~with expertise in treatment of child sexual abuse victims who has~~
7 ~~supervised at least one period of residential time between the parent~~
8 ~~and the child in the presence of the adjudicated juvenile, and after~~
9 ~~consideration of evidence of the adjudicated juvenile's compliance~~
10 ~~with community supervision or parole requirements, if any. If the~~
11 ~~adjudicated juvenile was not ordered by a court to participate in~~
12 ~~treatment for sex offenders, then the adjudicated juvenile shall~~
13 ~~obtain a psychosexual evaluation conducted by a certified sex~~
14 ~~offender treatment provider or a certified affiliate sex offender~~
15 ~~treatment provider indicating that the adjudicated juvenile has the~~
16 ~~lowest likelihood of risk to reoffend before the court grants~~
17 ~~unsupervised contact between the parent and a child which may occur~~
18 ~~in the presence of the adjudicated juvenile who is residing with the~~
19 ~~parent.~~

20 ~~(m)(i) The limitations imposed by the court under (a) or (b) of~~
21 ~~this subsection shall be reasonably calculated to protect the child~~
22 ~~from the physical, sexual, or emotional abuse or harm that could~~
23 ~~result if the child has contact with the parent requesting~~
24 ~~residential time. The limitations shall also be reasonably calculated~~
25 ~~to provide for the safety of the parent who may be at risk of~~
26 ~~physical, sexual, or emotional abuse or harm that could result if the~~
27 ~~parent has contact with the parent requesting residential time. The~~
28 ~~limitations the court may impose include, but are not limited to:~~
29 ~~Supervised contact between the child and the parent or completion of~~
30 ~~relevant counseling or treatment. If the court expressly finds based~~
31 ~~on the evidence that limitations on the residential time with the~~
32 ~~child will not adequately protect the child from the harm or abuse~~
33 ~~that could result if the child has contact with the parent requesting~~
34 ~~residential time, the court shall restrain the parent requesting~~
35 ~~residential time from all contact with the child.~~

36 ~~(ii) The court shall not enter an order under (a) of this~~
37 ~~subsection allowing a parent to have contact with a child if the~~
38 ~~parent has been found by clear and convincing evidence in a civil~~
39 ~~action or by a preponderance of the evidence in a dependency action~~
40 ~~to have sexually abused the child, except upon recommendation by an~~

1 evaluator or therapist for the child that the child is ready for
2 contact with the parent and will not be harmed by the contact. The
3 court shall not enter an order allowing a parent to have contact with
4 the child in the offender's presence if the parent resides with a
5 person who has been found by clear and convincing evidence in a civil
6 action or by a preponderance of the evidence in a dependency action
7 to have sexually abused a child, unless the court finds that the
8 parent accepts that the person engaged in the harmful conduct and the
9 parent is willing to and capable of protecting the child from harm
10 from the person.

11 (iii) The court shall not enter an order under (a) of this
12 subsection allowing a parent to have contact with a child if the
13 parent has been found by clear and convincing evidence pursuant to
14 RCW 26.26A.465 to have committed sexual assault, as defined in RCW
15 26.26A.465, against the child's parent, and that the child was born
16 within three hundred twenty days of the sexual assault.

17 (iv) If the court limits residential time under (a) or (b) of
18 this subsection to require supervised contact between the child and
19 the parent, the court shall not approve of a supervisor for contact
20 between a child and a parent who has engaged in physical, sexual, or
21 a pattern of emotional abuse of the child unless the court finds
22 based upon the evidence that the supervisor accepts that the harmful
23 conduct occurred and is willing to and capable of protecting the
24 child from harm. The court shall revoke court approval of the
25 supervisor upon finding, based on the evidence, that the supervisor
26 has failed to protect the child or is no longer willing to or capable
27 of protecting the child.

28 (n) If the court expressly finds based on the evidence that
29 contact between the parent and the child will not cause physical,
30 sexual, or emotional abuse or harm to the child and that the
31 probability that the parent's or other person's harmful or abusive
32 conduct will recur is so remote that it would not be in the child's
33 best interests to apply the limitations of (a), (b), and (m) (i) and
34 (iv) of this subsection, or if the court expressly finds that the
35 parent's conduct did not have an impact on the child, then the court
36 need not apply the limitations of (a), (b), and (m) (i) and (iv) of
37 this subsection. The weight given to the existence of a protection
38 order issued under chapter 7.105 RCW or former chapter 26.50 RCW as
39 to domestic violence is within the discretion of the court. This

1 subsection shall not apply when ~~(c), (d), (e), (f), (g), (h), (i),~~
2 ~~(j), (k), (l), and (m) (ii) of this subsection apply.~~

3 ~~(3))~~, or any sexual assault; or

4 (iii) Sexual abuse of a child. Required limitations and
5 considerations on a parent who resides with someone convicted of a
6 sex offense against a child or found to have sexually abused a child
7 in the current case or a prior case are addressed in section 2 of
8 this act.

9 (c) PARENTAL CONDUCT THAT MAY RESULT IN LIMITATIONS ON A PARENT'S
10 RESIDENTIAL TIME. A parent's involvement or conduct may have an
11 adverse effect on the child's best interests, and the court may
12 preclude or limit any provisions of the parenting plan, if any of the
13 following factors exist:

14 ~~((a))~~ (i) A parent's neglect or substantial nonperformance of
15 parenting functions;

16 ~~((b))~~ (ii) A long-term emotional or physical impairment
17 ~~((which))~~ that interferes with the parent's performance of parenting
18 functions ~~((as defined in RCW 26.09.004))~~;

19 ~~((c))~~ (iii) A long-term impairment resulting from drug,
20 alcohol, or other substance abuse that interferes with the
21 performance of parenting functions;

22 ~~((d))~~ (iv) The absence or substantial impairment of emotional
23 ties between the parent and the child;

24 ~~((e) The))~~ (v) A parent has engaged in the abusive use of
25 conflict ~~((by the parent))~~ which creates the danger of serious damage
26 to the child's psychological development ~~((Abusive use of conflict~~
27 ~~includes, but is not limited to, abusive litigation as defined in RCW~~
28 ~~26.51.020. If the court finds a parent has engaged in abusive~~
29 ~~litigation, the court may impose any restrictions or remedies set~~
30 ~~forth in chapter 26.51 RCW in addition to including a finding in the~~
31 ~~parenting plan. Litigation that is aggressive or improper but that~~
32 ~~does not meet the definition of abusive litigation shall not~~
33 ~~constitute a basis for a finding under this section. A report made in~~
34 ~~good faith to law enforcement, a medical professional, or child~~
35 ~~protective services of sexual, physical, or mental abuse of a child~~
36 ~~shall not constitute a basis for a finding of abusive use of~~
37 ~~conflict;~~

38 ~~(f))~~;

39 (vi) A parent has withheld from the other parent access to the
40 child for a protracted period without good cause. Withholding does

1 not include protective actions taken by a parent in good faith for
2 the legitimate and lawful purpose of protecting themselves or the
3 parent's child from the risk of harm posed by the other parent; or

4 ~~((g))~~ (vii) Such other factors or conduct as the court
5 expressly finds adverse to the best interests of the child.

6 ~~((4) In cases involving allegations of limiting factors under~~
7 ~~subsection (2)(a)(ii) and (iii) of this section, both parties shall~~
8 ~~be screened to determine the appropriateness of a comprehensive~~
9 ~~assessment regarding the impact of the limiting factor on the child~~
10 ~~and the parties.~~

11 ~~(5) In entering a permanent parenting plan, the court shall not~~
12 ~~draw any presumptions from the provisions of the temporary parenting~~
13 ~~plan.~~

14 ~~(6) In determining whether any of the conduct described in this~~
15 ~~section has occurred, the court shall apply the civil rules of~~
16 ~~evidence, proof, and procedure.~~

17 ~~(7) For the purposes of this section:~~

18 ~~(a) "A parent's child" means that parent's natural child, adopted~~
19 ~~child, or stepchild; and~~

20 ~~(b) "Social worker" means a person with a master's or further~~
21 ~~advanced degree from a social work educational program accredited and~~
22 ~~approved as provided in RCW 18.320.010.)~~

23 (d) LIMITATIONS A COURT MAY IMPOSE ON A PARENT'S RESIDENTIAL
24 TIME. The limitations that may be imposed by the court under this
25 section shall be reasonably calculated to protect a child from the
26 physical, sexual, or emotional abuse or harm that could result if a
27 child has contact with the parent requesting residential time. The
28 limitations shall also be reasonably calculated to provide for the
29 safety of the parent who may be at risk of physical, sexual, or
30 emotional abuse or harm that could result if the parent has contact
31 with the other parent. The limitations the court may impose include,
32 but are not limited to:

33 (i) SUPERVISED VISITATION. A court may, in its discretion, order
34 supervised contact between a child and the parent.

35 (A) If the court requires supervised visitation, there is a
36 presumption that the supervision shall be provided by a professional
37 supervisor. This presumption is overcome if the court finds: (I)
38 There is a lay person who has demonstrated through sworn testimony
39 and evidence of past interactions with children that they are capable
40 and committed to protecting the child from physical or emotional

1 abuse or harm; and (II) the parent is unable to access professional
2 supervision due to (1) geographic isolation or other factors that
3 would make professionally supervised visitation inaccessible or (2)
4 financial indigency that has been demonstrated by a general rule 34
5 waiver or other evidence that the parent's current income and
6 necessary expenses do not allow for the cost of professional
7 supervision.

8 (B) For all supervision, the court shall include clear written
9 guidelines and prohibitions to be followed by the supervised party.
10 No visits shall take place until the supervised parent and
11 supervisor, or designated representative of a professional
12 supervision program, have signed an acknowledgment confirming that
13 they have read the court orders and the guidelines and prohibitions
14 regarding visitation and agree to follow them. The court shall only
15 permit supervision by an individual or program that is committed to
16 protecting the child from any physical or emotional abuse or harm and
17 is willing and capable of intervening in behaviors inconsistent with
18 the court orders and guidelines.

19 (C) A parent may seek an emergency ex parte order temporarily
20 suspending residential time until review by the court if: (I) The
21 supervised parent repeatedly violates the court order or guidelines;
22 (II) the supervised parent threatens the supervisor or child with
23 physical harm, commits an act of domestic violence, or materially
24 violates any treatment condition associated with any restrictions
25 under this section (a missed counseling appointment does not
26 constitute a violation); (III) the supervisor is unable or unwilling
27 to protect the child and/or the protected parent; or (IV) the
28 supervisor is no longer willing to provide service to the supervised
29 parent. The court suspending residential time shall set a review
30 hearing to take place within 14 days of entering the ex parte order.

31 (ii) EVALUATION OR TREATMENT. The court may order a parent to
32 undergo evaluations for such issues as domestic violence
33 perpetration, substance use disorder, mental health, or anger
34 management, with collateral input provided from the other parent. Any
35 evaluation report that does not include collateral input must provide
36 details as to why and the attempts made to obtain collateral input.

37 (A) The court may also order that a parent complete treatment for
38 any of these issues if the need for treatment is supported by the
39 evidence and the evidence supports a finding that the issue
40 interferes with parenting functions.

1 (B) A parent's residential time and decision-making authority may
2 be conditioned on the parent's completion of an evaluation or
3 treatment ordered by the court.

4 (iii) NO CONTACT. If, based on the evidence, the court expressly
5 finds that limitations on the residential time with a child will not
6 adequately protect a child from the harm or abuse that could result
7 if a child has contact with the parent requesting residential time,
8 the court shall restrain the parent requesting residential time from
9 all contact with a child.

10 (5) LIMITATIONS ON DECISION MAKING AND DISPUTE RESOLUTION. Except
11 for circumstances provided in subsection (6)(b) of this section, the
12 court shall order sole decision making and no dispute resolution
13 other than court action if it is found that a parent has engaged in
14 any of the following conduct:

- 15 (a) Willful abandonment that continues for an extended period;
16 (b) Physical, sexual, or a pattern of emotional abuse of a child;
17 (c) A history of acts of domestic violence as defined in RCW
18 7.105.010; or

19 (d) An assault that causes grievous bodily harm or the fear of
20 such harm or any sexual assault.

21 (6) DETERMINATION NOT TO IMPOSE LIMITATIONS.

22 (a) If the court makes express written findings based on clear
23 and convincing evidence that contact between the parent and the child
24 will not cause physical, sexual, or emotional abuse or harm to the
25 child and that the probability that the parent's or other person's
26 harmful or abusive conduct will recur is so remote that it would not
27 be in the child's best interests to apply limitations to residential
28 time under subsection (4) of this section, then the court need not
29 apply the limitations of subsection (4) of this section. This
30 subsection shall not apply to findings of sexual abuse which are
31 governed by section 2 of this act.

32 (b) If the court makes express written findings based on clear
33 and convincing evidence that it would be contrary to the child's best
34 interests to order sole decision making or preclude dispute
35 resolution under subsection (5) of this section, the court need not
36 apply those limitations. Where there has been a finding of domestic
37 violence, there is a rebuttable presumption that there will be sole
38 decision making. The court shall not require face-to-face mediation,
39 arbitration, or interventions, including therapeutic interventions,

1 that require the parties to share the same physical or virtual space
2 if there has been a finding of domestic violence.

3 (c) In determining whether there is clear and convincing evidence
4 supporting a determination not to impose limitations, the court shall
5 consider and make express written findings on all of the following
6 factors:

7 (i) Any current risk posed by the parent to the physical or
8 psychological well-being of the child or other parent;

9 (ii) Whether a parent has demonstrated that they can and will
10 prioritize the child's physical and psychological well-being;

11 (iii) Whether a parent has adhered to and is likely to adhere to
12 court orders;

13 (iv) Whether a parent has genuinely acknowledged past harm and is
14 committed to avoiding harm in the future; and

15 (v) A parent's compliance with any previously court-ordered
16 treatment. A parent's compliance with the requirements for
17 participation in a treatment program does not, by itself, constitute
18 evidence that the parent has made the requisite changes.

19 (7) WHEN LIMITATIONS APPLY TO BOTH PARENTS.

20 (a) When mandatory limitations in subsection (4)(a) or (b) of
21 this section apply to both parents, the court may make an exception
22 in applying mandatory limitations. The court shall make detailed
23 written findings regarding the comparative risk of harm to the child
24 posed by each parent, and shall explain the limitations imposed on
25 each parent, including any decision not to impose restrictions on a
26 parent or to award decision making to a parent who is subject to
27 limitations.

28 (b) When mandatory limitations under subsection (4)(a) or (b) of
29 this section apply to one parent and discretionary limitations under
30 subsection (4)(c) of this section apply to another parent, there is a
31 presumption that the mandatory limitations shall have priority in
32 setting the limitations of the residential schedule, decision making,
33 and dispute resolution. If the court deviates from this presumption,
34 the court shall make detailed written findings as to the reasons for
35 the deviation.

36 (c) When discretionary limitations in subsection (4)(c) of this
37 section apply to both parents, the court shall make detailed written
38 findings regarding the comparative risk of harm to the child posed by
39 each parent, and shall explain the limitations imposed on each
40 parent, including any decision not to impose restrictions on a parent

1 or to award decision making to a parent who is subject to limitations
2 in subsection (4)(c) of this section.

3 (d) In making the determinations under (a), (b), or (c) of this
4 subsection, the court shall consider the best interests of the child
5 and which parenting arrangement best maintains a child's emotional
6 growth, health and stability, and physical care. Further, the best
7 interests of the child are ordinarily served when the existing
8 pattern of interaction between a parent and child is altered only to
9 the extent necessitated by the changed relationship of the parents or
10 as required to protect the child from physical, mental, or emotional
11 harm.

12 NEW SECTION. Sec. 2. A new section is added to chapter 26.09
13 RCW to read as follows:

14 This section governs limitations on residential provisions,
15 decision-making authority, and dispute resolution when a parent, or a
16 person the parent resides with, has been convicted of a sex offense
17 against a child or found to have sexually abused a child.

18 (1) SEXUALLY VIOLENT PREDATORS. If a parent has been found to be
19 a sexually violent predator under chapter 71.09 RCW or under an
20 analogous statute of any other jurisdiction, the court shall restrain
21 the parent from contact with a child that would otherwise be allowed
22 under this chapter. If a parent resides with an adult or a juvenile
23 who has been found to be a sexually violent predator under chapter
24 71.09 RCW or under an analogous statute of any other jurisdiction,
25 the court shall restrain the parent from contact with the parent's
26 child except contact that occurs outside the predator's presence.

27 (2) CHILD SEXUAL ABUSE BY PARENT.

28 (a) There is a rebuttable presumption that a parent who has been
29 convicted as an adult of a sex offense against any child in this or
30 another jurisdiction poses a present danger to a child. Unless the
31 parent rebuts this presumption, the court shall restrain the parent
32 from all contact with the parent's child that would otherwise be
33 allowed under this chapter.

34 (b) The court shall not enter an order allowing a parent to have
35 contact with the parent's child if the parent has been found by a
36 preponderance of the evidence in a dependency or family law action,
37 including in the current case, to have sexually abused that child,
38 except upon recommendation by an evaluator or therapist for the child

1 that the child is ready for contact with the parent and will not be
2 harmed by the contact.

3 (3) PARENT RESIDING WITH A PERSON FOUND TO HAVE SEXUALLY ABUSED A
4 CHILD.

5 (a) There is a rebuttable presumption that a parent who knowingly
6 resides with a person who, as an adult, has been convicted of a sex
7 offense against a child, or as a juvenile has been adjudicated of a
8 sex offense against a child at least eight years younger, in this or
9 another jurisdiction, places a child at risk of abuse or harm when
10 that parent exercises residential time in the presence of the
11 convicted or adjudicated person. Unless the parent rebuts the
12 presumption, the court shall restrain the parent from contact with
13 the parent's child except for contact that occurs outside of the
14 convicted or adjudicated person's presence.

15 (b) The court shall not enter an order allowing a parent to have
16 contact with the child in the offender's presence if the parent
17 resides with a person who has been found by a preponderance of the
18 evidence in a dependency or family law action, including in the
19 current case, to have sexually abused a child, unless the court finds
20 that the parent accepts that the person engaged in the harmful
21 conduct and the parent is willing to and capable of protecting the
22 child from harm from the person.

23 (4) REBUTTING THE PRESUMPTION OF NO CONTACT.

24 (a) OFFENDING PARENT. The presumption established in subsection
25 (2)(a) of this section may be rebutted only after a written finding
26 that:

27 (i) If the child was not the victim of the sex offense committed
28 by the parent requesting residential time, (A) contact between the
29 child and the offending parent is appropriate and poses minimal risk
30 to the child, and (B) the offending parent has provided documentation
31 that they have successfully completed treatment for sex offenders or
32 are engaged in and making progress in such treatment, if any was
33 ordered by a court; or

34 (ii) If the child was the victim of the sex offense committed by
35 the parent requesting residential time, (A) contact between the child
36 and the offending parent is appropriate and poses minimal risk to the
37 child, (B) if the child is in or has been in therapy for victims of
38 sexual abuse, the child's counselor believes such contact between the
39 child and the offending parent is in the child's best interest, and
40 (C) the offending parent has provided documentation that they have

1 successfully completed treatment for sex offenders or are engaged in
2 and making progress in such treatment, if any was ordered by a court.

3 (b) PARENT RESIDES WITH OFFENDING PERSON. The presumption
4 established in subsection (3)(a) of this section may be rebutted only
5 after a written finding that:

6 (i) If the child was not the victim of the sex offense committed
7 by the person who is residing with the parent requesting residential
8 time, (A) contact between the child and the parent residing with the
9 convicted or adjudicated person is appropriate and that parent is
10 able to protect the child in the presence of the convicted or
11 adjudicated person, and (B) the convicted or adjudicated person has
12 provided documentation that they have successfully completed
13 treatment for sex offenders or are engaged in and making progress in
14 such treatment, if any was ordered by a court; or

15 (ii) If the child was the victim of the sex offense committed by
16 the person who is residing with the parent requesting residential
17 time, (A) contact between the child and the parent in the presence of
18 the convicted or adjudicated person is appropriate and poses minimal
19 risk to the child, (B) if the child is in or has been in therapy for
20 victims of sexual abuse, the child's counselor believes such contact
21 between the child and the parent residing with the convicted or
22 adjudicated person in the presence of the convicted or adjudicated
23 person is in the child's best interest, and (C) the convicted or
24 adjudicated person has provided documentation that they have
25 successfully completed treatment for sex offenders or are engaged in
26 and making progress in such treatment, if any was ordered by a court.

27 (c) CONTACT IF PRESUMPTION REBUTTED.

28 (i) (A) If the court finds that the parent has met the burden of
29 rebutting the presumption under (a) of this subsection, the court may
30 allow a parent who has been convicted as an adult of a sex offense
31 against a child to have residential time with the child supervised by
32 a neutral and independent adult and pursuant to an adequate plan for
33 supervision of such residential time.

34 (B) The court shall not approve of a supervisor for contact
35 between the child and the parent unless the court finds, based on the
36 evidence, that the supervisor is willing and capable of protecting
37 the child from harm. The court shall revoke court approval of the
38 supervisor upon finding, based on the evidence, that the supervisor
39 has failed to protect the child or is no longer willing or capable of
40 protecting the child;

1 (ii) If the court finds that the parent has met the burden of
2 rebutting the presumption under (b) of this subsection, the court may
3 allow a parent residing with a person who has been convicted of a sex
4 offense against a child or adjudicated of a juvenile sex offense with
5 a child at least eight years younger to have residential time with
6 the child in the presence of that person, supervised by a neutral and
7 independent adult and pursuant to an adequate plan for supervision of
8 such residential time. The supervisor may be the parent if the court
9 finds, based on the evidence, that the parent is willing and capable
10 of protecting the child from harm. The court shall revoke court
11 approval of the supervisor, including the parent, upon finding, based
12 on the evidence, that the supervisor has failed to protect the child
13 or is no longer willing or capable of protecting the child;

14 (iii) A court shall not order unsupervised contact between the
15 offending parent and a child of the offending parent who was sexually
16 abused by that parent;

17 (iv) A court may order unsupervised contact between the offending
18 parent and a child who was not sexually abused by the parent after
19 the presumption under subsection (2)(a) of this section has been
20 rebutted pursuant to (a) of this subsection and supervised
21 residential time has occurred for at least two years with no further
22 arrests or convictions of sex offenses involving children and (A) the
23 sex offense of the offending parent was not committed against a child
24 of the offending parent, and (B) the court finds that unsupervised
25 contact between the child and the offending parent is appropriate and
26 poses minimal risk to the child, after consideration of the testimony
27 of a state-certified therapist, mental health counselor, or social
28 worker with expertise in treating child sexual abuse victims who has
29 supervised at least one period of residential time between the parent
30 and the child, and after consideration of evidence of the offending
31 parent's compliance with community supervision requirements, if any.
32 If the offending parent was not ordered by a court to participate in
33 treatment for sex offenders, then the parent shall obtain a
34 psychosexual evaluation conducted by a certified sex offender
35 treatment provider or a certified affiliate sex offender treatment
36 provider indicating that the offender has the lowest likelihood of
37 risk to reoffend before the court grants unsupervised contact between
38 the parent and a child.

39 (5) RESTRICTED DECISION MAKING AND DISPUTE RESOLUTION. The
40 parenting plan shall not require mutual decision making or

1 designation of a dispute resolution process other than court action
2 if it is found that a parent has been convicted as an adult of a sex
3 offense against any child in this or any other jurisdiction or has
4 been found to be a sexually violent predator under chapter 71.09 RCW
5 or under an analogous statute of any other jurisdiction.

--- **END** ---