
SUBSTITUTE HOUSE BILL 2529

State of Washington

52nd Legislature

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By House Committee on Judiciary (originally sponsored by Representatives Belcher, Forner, Paris, H. Myers, Riley, Anderson, Leonard, R. King, Ebersole, Bowman, Orr, Scott, J. Kohl, Morris, Fraser, Rasmussen and Brekke)

Read first time 02/07/92.

1 AN ACT Relating to restricting residential time and visitation
2 rights of parents who have sexually abused their children; amending RCW
3 26.10.160; and reenacting and amending RCW 26.09.191.

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

5 **Sec. 1.** RCW 26.09.191 and 1989 c 375 s 11 and 1989 c 326 s 1 are
6 each reenacted and amended to read as follows:

7 (1) The permanent parenting plan shall not require mutual decision-
8 making or designation of a dispute resolution process other than court
9 action if it is found that a parent has engaged in any of the following
10 conduct: (a) Willful abandonment that continues for an extended period
11 of time or substantial refusal to perform parenting functions; (b)
12 physical, sexual, or a pattern of emotional abuse of a child; or (c) a
13 history of acts of domestic violence as defined in RCW 26.50.010(1) or

1 an assault or sexual assault which causes grievous bodily harm or the
2 fear of such harm.

3 (2)(a) The parent's residential time with the child shall be
4 limited if it is found that the parent has engaged in any of the
5 following conduct: (i) Willful abandonment that continues for an
6 extended period of time or substantial refusal to perform parenting
7 functions; (ii) physical, sexual, or a pattern of emotional abuse of a
8 child; or (iii) a history of acts of domestic violence as defined in
9 RCW 26.50.010(1) or an assault or sexual assault which causes grievous
10 bodily harm or the fear of such harm.

11 (b) The limitations imposed by the court shall be reasonably
12 calculated to protect the child from physical, sexual, or emotional
13 abuse or harm that could result if the child has contact with the
14 parent requesting residential time. If the court expressly finds
15 limitation on the residential time with the child will not adequately
16 protect the child from the harm or abuse that could result if the child
17 has contact with the parent requesting residential time, the court
18 shall restrain the parent requesting residential time from all contact
19 with the child.

20 (c) The court shall require a neutral and independent adult to
21 supervise any court-ordered residential time if the court finds that
22 the parent has engaged in sexual abuse of the child or the parent's
23 other children, if any. Unless the nonoffending parent approves the
24 supervisor, the offending parent has the burden of proving that the
25 proposed supervisor is neutral, independent, willing to supervise, and
26 is capable of intervening between the child and the parent if
27 necessary. The court shall have jurisdiction over the supervisor, may
28 specify minimum requirements of supervision, and may hold the
29 supervisor in contempt if the supervisor fails to adequately supervise
30 the residential time. The court shall enter findings of fact regarding

1 the qualifications of the appointed supervisor. The court shall notify
2 the supervisor of the court's requirements and the contempt provision.
3 The court shall require supervision by a neutral and independent adult
4 for a minimum of one year.

5 (d) Except as provided in (c) of this subsection, if the court
6 expressly finds that contact between the parent and the child will not
7 cause physical, sexual, or emotional abuse or harm to the child and
8 that the probability that the parent's harmful or abusive conduct will
9 recur is so remote that it would not be in the child's best interests
10 to apply the limitations of (a) and (b) of this subsection, or if the
11 court expressly finds the parent's conduct did not have an impact on
12 the child, then the court need not apply the limitations of (a) and (b)
13 of this subsection. The weight given to the existence of a protection
14 order issued under chapter 26.50 RCW as to domestic violence is within
15 the discretion of the court.

16 (3) A parent's involvement or conduct may have an adverse effect on
17 the child's best interests, and the court may preclude or limit any
18 provisions of the parenting plan, if any of the following factors
19 exist:

20 (a) A parent's neglect or substantial nonperformance of parenting
21 functions;

22 (b) A long-term emotional or physical impairment which interferes
23 with the parent's performance of parenting functions as defined in RCW
24 26.09.004;

25 (c) A long-term impairment resulting from drug, alcohol, or other
26 substance abuse that interferes with the performance of parenting
27 functions;

28 (d) The absence or substantial impairment of emotional ties between
29 the parent and the child;

1 (e) The abusive use of conflict by the parent which creates the
2 danger of serious damage to the child's psychological development;

3 (f) A parent has withheld from the other parent access to the child
4 for a protracted period without good cause; or

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

7 (4) In entering a permanent parenting plan, the court shall not
8 draw any presumptions from the provisions of the temporary parenting
9 plan.

10 (5) In determining whether any of the conduct described in this
11 section has occurred, the court shall apply the civil rules of
12 evidence, proof, and procedure.

13 **Sec. 2.** RCW 26.10.160 and 1989 c 326 s 2 are each amended to read
14 as follows:

15 (1) A parent not granted custody of the child is entitled to
16 reasonable visitation rights except as provided in subsection (2) of
17 this section.

18 (2)(a) Visitation with the child shall be limited if it is found
19 that the parent seeking visitation has engaged in any of the following
20 conduct: (i) Willful abandonment that continues for an extended period
21 of time or substantial refusal to perform parenting functions; (ii)
22 physical, sexual, or a pattern of emotional abuse of a child; or (iii)
23 a history of acts of domestic violence as defined in RCW 26.50.010(1)
24 or an assault or sexual assault which causes grievous bodily harm or
25 the fear of such harm.

26 (b) The limitations imposed by the court shall be reasonably
27 calculated to protect the child from the physical, sexual, or emotional
28 abuse or harm that could result if the child has contact with the
29 parent requesting visitation. If the court expressly finds limitations

1 on visitation with the child will not adequately protect the child from
2 the harm or abuse that could result if the child has contact with the
3 parent requesting visitation, the court shall restrain the person
4 seeking visitation from all contact with the child.

5 (c) The court shall require a neutral and independent adult to
6 supervise any court-ordered visitation time if the court finds that the
7 parent has engaged in sexual abuse of the child or the parent's other
8 children, if any. Unless the person awarded custody under this chapter
9 approves the supervisor, the offending parent has the burden of proving
10 that the proposed supervisor is neutral, independent, willing to
11 supervise, and is capable of intervening between the child and the
12 parent if necessary. The court shall have jurisdiction over the
13 supervisor, may specify minimum requirements of supervision, and may
14 hold the supervisor in contempt if the supervisor fails to adequately
15 supervise the visitation. The court shall enter findings of fact
16 regarding the qualifications of the appointed supervisor. The court
17 shall notify the supervisor of the court's requirements and the
18 contempt provision. The court shall require supervision by a neutral
19 and independent adult for a minimum of one year.

20 (d) Except as provided in (c) of this subsection, if the court
21 expressly finds that contact between the parent and the child will not
22 cause physical, sexual, or emotional abuse or harm to the child and
23 that the probability that the parent's harmful or abusive conduct will
24 recur is so remote that it would not be in the child's best interests
25 to apply the limitations of (a) and (b) of this subsection, or if the
26 court expressly finds the parent's conduct did not have an impact on
27 the child, then the court need not apply the limitations of (a) and (b)
28 of this subsection. The weight given to the existence of a protection
29 order issued under chapter 26.50 RCW as to domestic violence is within
30 the discretion of the court.

1 (3) Any person may petition the court for visitation rights at any
2 time including, but not limited to, custody proceedings. The court may
3 order visitation rights for any person when visitation may serve the
4 best interest of the child whether or not there has been any change of
5 circumstances.

6 (4) The court may modify an order granting or denying visitation
7 rights whenever modification would serve the best interests of the
8 child. Modification of a parent's visitation rights shall be subject
9 to the requirements of subsection (2) of this section.