
SENATE BILL 6246

State of Washington 54th Legislature 1996 Regular Session

By Senators Smith, Winsley, Oke, Long and Johnson

Read first time 01/09/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to false accusations of child abuse or neglect;
2 amending RCW 26.09.191; adding new sections to chapter 26.44 RCW; and
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 26.44 RCW
6 to read as follows:

7 If a court, during a judicial proceeding under this title relating
8 to a parenting plan or child custody, finds by a preponderance of the
9 evidence that a person has intentionally made a false allegation of
10 child abuse or neglect or has induced another person to make a false
11 allegation of child abuse or neglect during the judicial proceeding,
12 the court may impose a monetary penalty not to exceed one thousand
13 dollars against the person making or inducing another to make the
14 accusation. The monetary penalty shall be awarded to the person
15 against whom the false allegation is made. When the court imposes the
16 monetary penalty, the court may also provide that reasonable attorneys'
17 fees may be imposed if the person entitled to the monetary penalty
18 incurs attorneys' fees to recover the penalty. The award may be

1 enforced in the same manner as other civil judgments. A "person" means
2 a witness, a party, or a party's attorney.

3 The remedy provided by this section is in addition to any other
4 remedy provided by law.

5 This section shall not apply to unemancipated minors.

6 **Sec. 2.** RCW 26.09.191 and 1994 c 267 s 1 are each amended to read
7 as follows:

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

17 (2)(a) The parent's residential time with the child shall be
18 limited if it is found that the parent has engaged in any of the
19 following conduct: (i) Willful abandonment that continues for an
20 extended period of time or substantial refusal to perform parenting
21 functions; (ii) physical, sexual, or a pattern of emotional abuse of a
22 child; or (iii) a history of acts of domestic violence as defined in
23 RCW 26.50.010(1) or an assault or sexual assault which causes grievous
24 bodily harm or the fear of such harm. This subsection shall not apply
25 when (c) of this subsection applies.

26 (b) The parent's residential time with the child shall be limited
27 if it is found that the parent resides with a person who has engaged in
28 any of the following conduct: (i) Physical, sexual, or a pattern of
29 emotional abuse of a child; or (ii) a history of acts of domestic
30 violence as defined in RCW 26.50.010(1) or an assault or sexual assault
31 that causes grievous bodily harm or the fear of such harm. This
32 subsection (2)(b) shall not apply when (c) of this subsection applies.

33 (c) If a parent has been convicted as an adult of a sexual offense
34 under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or has been found to
35 be a sexual predator under chapter 71.09 RCW, the court shall restrain
36 the parent from contact with a child that would otherwise be allowed
37 under this chapter. If a parent resides with an adult who has been
38 convicted, or with a juvenile who has been adjudicated, of a sexual

1 offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or who has
2 been found to be a sexual predator under chapter 71.09 RCW, the court
3 shall restrain the parent from contact with the parent's child except
4 contact that occurs outside that person's presence.

5 (d)(i) The limitations imposed by the court under (a) or (b) of
6 this subsection shall be reasonably calculated to protect the child
7 from physical, sexual, or emotional abuse or harm that could result if
8 the child has contact with the parent requesting residential time. If
9 the court expressly finds based on the evidence that limitation on the
10 residential time with the child will not adequately protect the child
11 from the harm or abuse that could result if the child has contact with
12 the parent requesting residential time, the court shall restrain the
13 parent requesting residential time from all contact with the child.

14 (ii) The court shall not enter an order under (a) of this
15 subsection allowing a parent to have contact with a child if the parent
16 has been found by clear and convincing evidence in a civil action or by
17 a preponderance of the evidence in a dependency action to have sexually
18 abused the child, except upon recommendation by an evaluator or
19 therapist for the child that the child is ready for contact with the
20 parent and will not be harmed by the contact. The court shall not
21 enter an order allowing a parent to have contact with the child if the
22 parent resides with a person who has been found by clear and convincing
23 evidence in a civil action or by a preponderance of the evidence in a
24 dependency action to have sexually abused a child, unless the court
25 finds that the parent accepts that the person engaged in the harmful
26 conduct and the parent is willing to and capable of protecting the
27 child from harm from the person.

28 (iii) If the court limits residential time under (a) or (b) of this
29 subsection to require supervised contact between the child and the
30 parent, the court shall not approve of a supervisor for contact between
31 a child and a parent who has engaged in physical, sexual, or a pattern
32 of emotional abuse of the child unless the court finds based upon the
33 evidence that the supervisor accepts that the harmful conduct occurred
34 and is willing to and capable of protecting the child from harm. The
35 court shall revoke court approval of the supervisor upon finding, based
36 on the evidence, that the supervisor has failed to protect the child or
37 is no longer willing to or capable of protecting the child.

38 (e) If the court expressly finds based on the evidence that contact
39 between the parent and the child will not cause physical, sexual, or

1 emotional abuse or harm to the child and that the probability that the
2 parent's or other person's harmful or abusive conduct will recur is so
3 remote that it would not be in the child's best interests to apply the
4 limitations of (a), (b), and (d) (i) and (iii) of this subsection, or
5 if the court expressly finds the parent's conduct did not have an
6 impact on the child, then the court need not apply the limitations of
7 (a), (b), and (d) (i) and (iii) of this subsection. The weight given
8 to the existence of a protection order issued under chapter 26.50 RCW
9 as to domestic violence is within the discretion of the court. This
10 subsection shall not apply when (c) and (d)(ii) of this subsection
11 apply.

12 (3) There shall be a presumption that the parent's residential time
13 with the child should be limited if it is found that the parent has
14 made false accusations of child abuse or neglect during the course of
15 the proceedings, and the parent knew the accusations to be false at the
16 time of making the accusations.

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

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

23 (b) A long-term emotional or physical impairment which interferes
24 with the parent's performance of parenting functions as defined in RCW
25 26.09.004;

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

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

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

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

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

37 ~~((4))~~ (5) In entering a permanent parenting plan, the court shall
38 not draw any presumptions from the provisions of the temporary
39 parenting plan.

1 (~~(5)~~) (6) In determining whether any of the conduct described in
2 this section has occurred, the court shall apply the civil rules of
3 evidence, proof, and procedure.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 26.44 RCW
5 to read as follows:

6 A person is guilty of a class C felony punishable in accordance
7 with chapter 9A.20 RCW if the person intentionally: (1) Makes a false
8 accusation of child abuse or neglect during a judicial proceeding under
9 this title relating to a parenting plan or child custody, or (2)
10 induces another person to make a false allegation of child abuse or
11 neglect during a judicial proceeding under this title relating to a
12 parenting plan or child custody.

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