
SENATE BILL 6344

State of Washington

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By Senators Kastama, Shin, Tom, Haugen, and Parlette

Read first time 01/18/12. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to shared parental responsibility; amending RCW
2 26.09.002 and 26.09.187; reenacting and amending RCW 26.09.004; adding
3 a new section to chapter 26.09 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the
6 shared parental responsibility act.

7 **Sec. 2.** RCW 26.09.002 and 2007 c 496 s 101 are each amended to
8 read as follows:

9 Parents have the responsibility to make decisions and perform other
10 parental functions necessary for the care and growth of their minor
11 children. In any proceeding between parents under this chapter, the
12 best interests of the child shall be the standard by which the court
13 determines and allocates the parties' parental responsibilities. The
14 state recognizes the fundamental importance of the parent-child
15 relationship to the welfare of the child, and that the relationship
16 between the child and each parent should be fostered unless
17 inconsistent with the child's best interests. Residential time and
18 financial support are equally important components of parenting

1 arrangements. The best interests of the child are served by a
2 parenting arrangement that best maintains a child's emotional growth,
3 health and stability, and physical care, therefore there is a
4 presumption in favor of shared parental responsibility unless it is not
5 in the child's best interest. Further, the best interest of the child
6 is ordinarily served when the existing pattern of interaction between
7 a parent and child is altered only to the extent necessitated by the
8 changed relationship of the parents or as required to protect the child
9 from physical, mental, or emotional harm.

10 **Sec. 3.** RCW 26.09.004 and 2009 c 502 s 1 are each reenacted and
11 amended to read as follows:

12 The definitions in this section apply throughout this chapter.

13 (1) "Military duties potentially impacting parenting functions"
14 means those obligations imposed, voluntarily or involuntarily, on a
15 parent serving in the armed forces that may interfere with that
16 parent's abilities to perform his or her parenting functions under a
17 temporary or permanent parenting plan. Military duties potentially
18 impacting parenting functions include, but are not limited to:

19 (a) "Deployment," which means the temporary transfer of a service
20 member serving in an active-duty status to another location in support
21 of a military operation, to include any tour of duty classified by the
22 member's branch of the armed forces as "remote" or "unaccompanied";

23 (b) "Activation" or "mobilization," which means the call-up of a
24 national guard or reserve service member to extended active-duty
25 status. For purposes of this definition, "mobilization" does not
26 include national guard or reserve annual training, inactive duty days,
27 or drill weekends; or

28 (c) "Temporary duty," which means the transfer of a service member
29 from one military base or the service member's home to a different
30 location, usually another base, for a limited period of time to
31 accomplish training or to assist in the performance of a noncombat
32 mission.

33 (2) "Parenting functions" means those aspects of the parent-child
34 relationship in which the parent makes decisions and performs functions
35 necessary for the care and growth of the child. Parenting functions
36 include:

1 (a) Maintaining a loving, stable, consistent, and nurturing
2 relationship with the child;

3 (b) Attending to the daily needs of the child, such as feeding,
4 clothing, physical care and grooming, supervision, health care, and day
5 care, and engaging in other activities which are appropriate to the
6 developmental level of the child and that are within the social and
7 economic circumstances of the particular family;

8 (c) Attending to adequate education for the child, including
9 remedial or other education essential to the best interests of the
10 child;

11 (d) Assisting the child in developing and maintaining appropriate
12 interpersonal relationships;

13 (e) Exercising appropriate judgment regarding the child's welfare,
14 consistent with the child's developmental level and the family's social
15 and economic circumstances; and

16 (f) Providing for the financial support of the child.

17 (3) "Permanent parenting plan" means a plan for parenting the
18 child, including allocation of parenting functions, which plan is
19 incorporated in any final decree or decree of modification in an action
20 for dissolution of marriage or domestic partnership, declaration of
21 invalidity, or legal separation.

22 (4) "Shared parental responsibility" means shared residential
23 placement and mutual decision-making authority.

24 (5) "Shared residential placement" means an order awarding each of
25 the parents periods of time, amounting to at least one-third of a year,
26 in which a child resides with or is under the actual, direct, day-to-
27 day care and supervision of each of the parents. "Shared residential
28 placement" does not necessarily mean the child must alternate his or
29 her residence between the households of the parents for brief periods
30 of time.

31 (6) "Temporary parenting plan" means a plan for parenting of the
32 child pending final resolution of any action for dissolution of
33 marriage or domestic partnership, declaration of invalidity, or legal
34 separation which is incorporated in a temporary order.

35 NEW SECTION. Sec. 4. A new section is added to chapter 26.09 RCW
36 to read as follows:

1 (1) There is a presumption that shared parental responsibility is
2 in the best interests of children unless:

3 (a) The parents have agreed to an alternate award of residential
4 placement or decision-making authority to only one parent;

5 (b) The limitations of RCW 26.09.191 are dispositive of the child's
6 residential schedule; or

7 (c) The court finds that shared parental responsibility would be
8 detrimental due to the age or needs of the child or children.

9 (2) A parent alleging that shared parental responsibility would be
10 detrimental to the child or children has the burden of establishing the
11 allegation by a preponderance of the evidence.

12 (3) If a parent alleges that shared parental responsibility would
13 be detrimental to a particular child, the court, in making a
14 determination whether a shared parental responsibility order is
15 appropriate, may direct that an investigation be conducted in
16 accordance with the provisions of RCW 26.09.220. If the court declines
17 to enter a shared parental responsibility order under this section, the
18 court shall enter findings of fact and conclusions of law stating the
19 reasons that shared parental responsibility is not in the best interest
20 of the child.

21 **Sec. 5.** RCW 26.09.187 and 2007 c 496 s 603 are each amended to
22 read as follows:

23 (1) DISPUTE RESOLUTION PROCESS. The court shall not order a
24 dispute resolution process, except court action, when it finds that any
25 limiting factor under RCW 26.09.191 applies, or when it finds that
26 either parent is unable to afford the cost of the proposed dispute
27 resolution process. If a dispute resolution process is not precluded
28 or limited, then in designating such a process the court shall consider
29 all relevant factors, including:

30 (a) Differences between the parents that would substantially
31 inhibit their effective participation in any designated process;

32 (b) The parents' wishes or agreements and, if the parents have
33 entered into agreements, whether the agreements were made knowingly and
34 voluntarily; and

35 (c) Differences in the parents' financial circumstances that may
36 affect their ability to participate fully in a given dispute resolution
37 process.

1 (2) ALLOCATION OF DECISION-MAKING AUTHORITY.

2 (a) AGREEMENTS BETWEEN THE PARTIES. The court shall approve
3 agreements of the parties allocating decision-making authority, or
4 specifying rules in the areas listed in RCW 26.09.184(5)(a), when it
5 finds that:

6 (i) The agreement is consistent with any limitations on a parent's
7 decision-making authority mandated by RCW 26.09.191; and

8 (ii) The agreement is knowing and voluntary.

9 (b) SOLE DECISION-MAKING AUTHORITY. The court shall order sole
10 decision-making to one parent when it finds that:

11 (i) A limitation on the other parent's decision-making authority is
12 mandated by RCW 26.09.191;

13 (ii) Both parents are opposed to mutual decision making;

14 (iii) One parent is opposed to mutual decision making, and such
15 opposition is reasonable based on the criteria in (c) of this
16 subsection.

17 (c) MUTUAL DECISION-MAKING AUTHORITY. Except as provided in (a)
18 and (b) of this subsection, the court shall consider the following
19 criteria in allocating decision-making authority:

20 (i) The existence of a limitation under RCW 26.09.191;

21 (ii) The history of participation of each parent in decision making
22 in each of the areas in RCW 26.09.184(5)(a);

23 (iii) Whether the parents have a demonstrated ability and desire to
24 cooperate with one another in decision making in each of the areas in
25 RCW 26.09.184(5)(a); and

26 (iv) The parents' geographic proximity to one another, to the
27 extent that it affects their ability to make timely mutual decisions.

28 (3) RESIDENTIAL PROVISIONS.

29 (a) The court shall make residential provisions for each child
30 which encourage each parent to maintain a loving, stable, and nurturing
31 relationship with the child, consistent with the best interests of the
32 child, the child's developmental level, and the family's social and
33 economic circumstances. There is a presumption that the child's
34 residential schedule provides shared parental responsibility in
35 accordance with section 4 of this act. The child's residential
36 schedule shall be consistent with RCW 26.09.191. Where the limitations
37 of RCW 26.09.191 are not dispositive of the child's residential
38 schedule, the court shall consider the following factors:

1 (i) The relative strength, nature, and stability of the child's
2 relationship with each parent;

3 (ii) Which parent is more likely to allow and encourage the child's
4 frequent and continuing contact with the other parent;

5 (iii) The agreements of the parties, provided they were entered
6 into knowingly and voluntarily;

7 ((+iii)) (iv) Each parent's past and potential for future
8 performance of parenting functions as defined in RCW 26.09.004((+3))
9 (2), including whether a parent has taken greater responsibility for
10 performing parenting functions relating to the daily needs of the
11 child;

12 ((+iv)) (v) The emotional needs and developmental level of the
13 child and any special physical needs of the child;

14 ((+v)) (vi) Whether the child is a nursing child;

15 (vii) The child's relationship with siblings and with other
16 significant adults, as well as the child's involvement with his or her
17 physical surroundings, school, or other significant activities;

18 ((+vi)) (viii) The wishes of the parents and the wishes of a child
19 who is sufficiently mature to express reasoned and independent
20 preferences as to his or her residential schedule; and

21 ((+vii)) (ix) Each parent's employment schedule, and shall make
22 accommodations consistent with those schedules.

23 Factor (i) shall be given the greatest weight.

24 (b) ~~((Where the limitations of RCW 26.09.191 are not dispositive,~~
25 ~~the court may order that a child frequently alternate his or her~~
26 ~~residence between the households of the parents for brief and~~
27 ~~substantially equal intervals of time if such provision is in the best~~
28 ~~interests of the child. In determining whether such an arrangement is~~
29 ~~in the best interests of the child, the court may consider the parties~~
30 ~~geographic proximity to the extent necessary to ensure the ability to~~
31 ~~share performance of the parenting functions.~~

32 (+e)) For any child, residential provisions may contain any
33 reasonable terms or conditions that facilitate the orderly and
34 meaningful exercise of residential time by a parent, including ~~((but~~
35 ~~not limited to requirements of reasonable notice when residential time~~
36 ~~will not occur)) one or more of the following:~~

37 (i) Requirements that residential times be specified;

1 (ii) Requirements of reasonable notice when residential time will
2 not occur;
3 (iii) Any other reasonable condition determined to be appropriate
4 in the particular case including but not limited to a domestic violence
5 assessment.
6 (c) In any parenting plan in which the court finds that the parties
7 do not have a satisfactory history of cooperation or the limitations of
8 RCW 26.09.191 are dispositive; to the extent necessary, the parenting
9 plan shall include a safe, neutral, and public location for the
10 exchange of the child such as a school, day care, place of worship, or
11 any other appropriate public facility.

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