

2 SSB 6345 - H COMM AMD  
3 By Committee on Judiciary

4  
5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 26.09.191 and 1989 c 375 s 11 and 1989 c 326 s 1 are  
8 each reenacted and amended to read as follows:

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

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

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

1 parent requesting residential time. If the court expressly finds  
2 limitation on the residential time with the child will not adequately  
3 protect the child from the harm or abuse that could result if the child  
4 has contact with the parent requesting residential time, the court  
5 shall restrain the parent requesting residential time from all contact  
6 with the child.

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

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

1 order issued under chapter 26.50 RCW as to domestic violence is within  
2 the discretion of the court.

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

7 (a) A parent's neglect or substantial nonperformance of parenting  
8 functions;

9 (b) A long-term emotional or physical impairment which interferes  
10 with the parent's performance of parenting functions as defined in RCW  
11 26.09.004;

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

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

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

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

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

23 (4) In entering a permanent parenting plan, the court shall not  
24 draw any presumptions from the provisions of the temporary parenting  
25 plan.

26 (5) In determining whether any of the conduct described in this  
27 section has occurred, the court shall apply the civil rules of  
28 evidence, proof, and procedure."

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

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

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

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

22       (c) The court shall require a neutral and independent adult to  
23 supervise any court-ordered visitation time if the court finds that the  
24 parent has engaged in sexual abuse of the child or the parent's other  
25 children, if any. Unless the person awarded custody under this chapter  
26 approves the supervisor, the offending parent has the burden of proving  
27 that the proposed supervisor is neutral, independent, willing to  
28 supervise, and is capable of intervening between the child and the  
29 parent if necessary. The court shall have jurisdiction over the  
30 supervisor, may specify minimum requirements of supervision, and may

1 hold the supervisor in contempt if the supervisor fails to adequately  
2 supervise the visitation. The court shall enter findings of fact  
3 regarding the qualifications of the appointed supervisor. The court  
4 shall notify the supervisor of the court's requirements and the  
5 contempt provision. The court shall require supervision by a neutral  
6 and independent adult for a minimum of one year.

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

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

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

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4 On page 1, line 1 of the title, after "child;" strike the remainder  
5 of the title and insert "amending RCW 26.10.160; and reenacting and  
6 amending RCW 26.09.191."