
HOUSE BILL 1185

State of Washington

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By Representatives Romero, Riley, Foreman, Appelwick, Forner, J. Kohl, L. Johnson, Karahalios, Chappell, Hansen, G. Cole, Wolfe, Ballasiotes, Long, King, Brough, Johanson, Shin, Jones, Cothorn, Sheahan, Roland, Holm, Tate, Wood, Leonard, Basich, Kremen, Vance, Pruitt and Finkbeiner

Read first time 01/20/93. Referred to Committee on Judiciary.

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
14 an assault or sexual assault which causes grievous bodily harm or the
15 fear of such harm.

16 (2)(a) The court shall deny residential time to a parent and enter
17 a permanent restraining order prohibiting the parent from contacting
18 the child directly or indirectly, if the court finds in an action under
19 this chapter, or another court found in a prior civil or criminal

1 action, that the child was conceived because one parent committed a sex
2 offense, as defined in RCW 9.94A.030, against the child's other parent.

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

11 ~~((b))~~ (c) The limitations imposed by the court shall be
12 reasonably calculated to protect the child from physical, sexual, or
13 emotional abuse or harm that could result if the child has contact with
14 the 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 ~~((e))~~ (d) The court shall require a neutral and independent adult
21 to 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
31 the qualifications of the appointed supervisor. The court shall notify
32 the supervisor of the court's requirements and the contempt provision.
33 The court shall require supervision by a neutral and independent adult
34 for a minimum of one year.

35 (e) Except as provided in (a) and (d) of this subsection, if the
36 court expressly finds that contact between the parent and the child
37 will not cause physical, sexual, or emotional abuse or harm to the
38 child and that the probability that the parent's harmful or abusive
39 conduct will recur is so remote that it would not be in the child's

1 best interests to apply the limitations of (~~(a) and (b)~~) (b) and (c)
2 of this subsection, or if the court expressly finds the parent's
3 conduct did not have an impact on the child, then the court need not
4 apply the limitations of (~~(a) and (b)~~) (b) and (c) of this
5 subsection. The weight given to the existence of a protection order
6 issued under chapter 26.50 RCW as to domestic violence is within the
7 discretion of the court.

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

12 (a) A parent's neglect or substantial nonperformance of parenting
13 functions;

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

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

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

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

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

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

28 (4) In entering a permanent parenting plan, the court shall not
29 draw any presumptions from the provisions of the temporary parenting
30 plan.

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

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

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

1 (2)(a) The court shall deny visitation or residential time to a
2 parent and enter a permanent restraining order prohibiting the parent
3 from contacting the child directly or indirectly, if the court finds in
4 an action under this chapter, or another court found in a prior civil
5 or criminal action, that the child was conceived because one parent
6 committed a sex offense, as defined in RCW 9.94A.030, against the
7 child's other parent.

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

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

24 (~~(e)~~) (d) The court shall require a neutral and independent adult
25 to supervise any court-ordered visitation time if the court finds that
26 the parent has engaged in sexual abuse of the child or the parent's
27 other children, if any. Unless the person awarded custody under this
28 chapter approves the supervisor, the offending parent has the burden of
29 proving that the proposed supervisor is neutral, independent, willing
30 to supervise, and is capable of intervening between the child and the
31 parent if necessary. The court shall have jurisdiction over the
32 supervisor, may specify minimum requirements of supervision, and may
33 hold the supervisor in contempt if the supervisor fails to adequately
34 supervise the visitation. The court shall enter findings of fact
35 regarding the qualifications of the appointed supervisor. The court
36 shall notify the supervisor of the court's requirements and the
37 contempt provision. The court shall require supervision by a neutral
38 and independent adult for a minimum of one year.

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

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

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

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