

2 **SSB 5676 - H COMM AMD ADOPTED 4/11/95**

3 By Committee on Law & Justice

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

7 "**Sec. 1.** RCW 26.09.191 and 1994 c 267 s 1 are each amended to read  
8 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. The parent's residential time  
26 with the child shall be limited if the parent has been convicted as an  
27 adult of a sex offense under RCW 9A.64.020 or chapter 9.68A or 9A.44  
28 RCW. This subsection shall not apply when (c) of this subsection  
29 applies.

30 (b) The parent's residential time with the child shall be limited  
31 if it is found that the parent resides with a person who has engaged in  
32 any of the following conduct: (i) Physical, sexual, or a pattern of  
33 emotional abuse of a child; or (ii) a history of acts of domestic  
34 violence as defined in RCW 26.50.010(1) or an assault or sexual assault  
35 that causes grievous bodily harm or the fear of such harm. If a parent  
36 resides with a person who as an adult has been convicted or as a

1 juvenile has been adjudicated, or with a juvenile who has been  
2 adjudicated, of a sex offense under RCW 9A.64.020 or chapter 9.68A or  
3 9A.44 RCW, the court shall restrain the parent from contact with the  
4 parent's child except contact that occurs outside that person's  
5 presence. This subsection (2)(b) shall not apply when (c) of this  
6 subsection applies.

7 (c) If a parent has been (~~convicted as an adult of a sexual~~  
8 ~~offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or has~~  
9 ~~been~~) found to be a sexual predator under chapter 71.09 RCW, the court  
10 shall restrain the parent from contact with a child that would  
11 otherwise be allowed under this chapter. If a parent resides with an  
12 adult or juvenile who has been (~~convicted, or with a juvenile who has~~  
13 ~~been adjudicated, of a sexual offense under RCW 9A.64.020 or chapter~~  
14 ~~9.68A or 9A.44 RCW, or who has been~~) found to be a sexual predator  
15 under chapter 71.09 RCW, the court shall restrain the parent from  
16 contact with the parent's child except contact that occurs outside that  
17 person's presence.

18 (d)(i) The limitations imposed by the court under (a) or (b) of  
19 this subsection shall be reasonably calculated to protect the child  
20 from physical, sexual, or emotional abuse or harm that could result if  
21 the child has contact with the parent requesting residential time. If  
22 the court expressly finds based on the evidence that limitation on the  
23 residential time with the child will not adequately protect the child  
24 from the harm or abuse that could result if the child has contact with  
25 the parent requesting residential time, the court shall restrain the  
26 parent requesting residential time from all contact with the child.

27 (ii) The court shall not enter an order under (a) of this  
28 subsection allowing a parent to have contact with a child if the parent  
29 has been found by clear and convincing evidence in a civil action or by  
30 a preponderance of the evidence in a dependency action to have sexually  
31 abused the child, except upon recommendation by an evaluator or  
32 therapist for the child that the child is ready for contact with the  
33 parent and will not be harmed by the contact. The court shall not  
34 enter an order allowing a parent to have contact with the child if the  
35 parent resides with a person who has been found by clear and convincing  
36 evidence in a civil action or by a preponderance of the evidence in a  
37 dependency action to have sexually abused a child, unless the court  
38 finds that the parent accepts that the person engaged in the harmful

1 conduct and the parent is willing to and capable of protecting the  
2 child from harm from the person.

3 (iii) If the court limits residential time under (a) or (b) of this  
4 subsection to require supervised contact between the child and the  
5 parent, the court shall not approve of a supervisor for contact between  
6 a child and a parent who has engaged in physical, sexual, or a pattern  
7 of emotional abuse of the child unless the court finds based upon the  
8 evidence that the supervisor accepts that the harmful conduct occurred  
9 and is willing to and capable of protecting the child from harm. The  
10 court shall revoke court approval of the supervisor upon finding, based  
11 on the evidence, that the supervisor has failed to protect the child or  
12 is no longer willing to or capable of protecting the child.

13 (e) If the court expressly finds based on the evidence that contact  
14 between the parent and the child will not cause physical, sexual, or  
15 emotional abuse or harm to the child and that the probability that the  
16 parent's or other person's harmful or abusive conduct will recur is so  
17 remote that it would not be in the child's best interests to apply the  
18 limitations of (a), (b), and (d) (i) and (iii) of this subsection, or  
19 if the court expressly finds the parent's conduct did not have an  
20 impact on the child, then the court need not apply the limitations of  
21 (a), (b), and (d) (i) and (iii) of this subsection. The weight given  
22 to the existence of a protection order issued under chapter 26.50 RCW  
23 as to domestic violence is within the discretion of the court. This  
24 subsection shall not apply when (c) and (d)(ii) of this subsection  
25 apply.

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

30 (a) A parent's neglect or substantial nonperformance of parenting  
31 functions;

32 (b) A long-term emotional or physical impairment which interferes  
33 with the parent's performance of parenting functions as defined in RCW  
34 26.09.004;

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

38 (d) The absence or substantial impairment of emotional ties between  
39 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 1994 c 267 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. The parent's visitation with the child shall be  
26 limited if the parent has been convicted as an adult of a sex offense  
27 under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW. This subsection  
28 shall not apply when (c) of this subsection applies.

29 (b) The parent's (~~residential time~~) visitation with the child  
30 shall be limited if it is found that the parent resides with a person  
31 who has engaged in any of the following conduct: (i) Physical, sexual,  
32 or a pattern of emotional abuse of a child; or (ii) a history of acts  
33 of domestic violence as defined in RCW 26.50.010(1) or an assault or  
34 sexual assault which causes grievous bodily harm or the fear of such  
35 harm. If a parent resides with a person who as an adult has been  
36 convicted or as a juvenile has been adjudicated, or with a juvenile who  
37 has been adjudicated, of a sex offense under RCW 9A.64.020 or chapter  
38 9.68A or 9A.44 RCW, the court shall restrain the parent from contact

1 with the parent's child except contact that occurs outside that  
2 person's presence. This subsection (2)(b) shall not apply when (c) of  
3 this subsection applies.

4 (c) If a parent has been (~~convicted as an adult of a sexual~~  
5 ~~offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or has~~  
6 ~~been~~) found to be a sexual predator under chapter 71.09 RCW, the court  
7 shall restrain the parent from contact with a child that would  
8 otherwise be allowed under this chapter. If a parent resides with an  
9 adult or juvenile who has been (~~convicted, or with a juvenile who has~~  
10 ~~been adjudicated, of a sexual offense under RCW 9A.64.020 or chapter~~  
11 ~~9.68A or 9A.44 RCW, or who has been~~) found to be a sexual predator  
12 under chapter 71.09 RCW, the court shall restrain the parent from  
13 contact with the parent's child except contact that occurs outside that  
14 person's presence.

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

24 (ii) The court shall not enter an order under (a) of this  
25 subsection allowing a parent to have contact with a child if the parent  
26 has been found by clear and convincing evidence in a civil action or by  
27 a preponderance of the evidence in a dependency action to have sexually  
28 abused the child, except upon recommendation by an evaluator or  
29 therapist for the child that the child is ready for contact with the  
30 parent and will not be harmed by the contact. The court shall not  
31 enter an order allowing a parent to have contact with the child if the  
32 parent resides with a person who has been found by clear and convincing  
33 evidence in a civil action or by a preponderance of the evidence in a  
34 dependency action to have sexually abused a child, unless the court  
35 finds that the parent accepts that the person engaged in the harmful  
36 conduct and the parent is willing to and capable of protecting the  
37 child from harm from the person.

38 (iii) If the court limits (~~residential time~~) visitation under (a)  
39 or (b) of this subsection to require supervised contact between the

1 child and the parent, the court shall not approve of a supervisor for  
2 contact between a child and a parent who has engaged in physical,  
3 sexual, or a pattern of emotional abuse of the child unless the court  
4 finds based upon the evidence that the supervisor accepts that the  
5 harmful conduct occurred and is willing to and capable of protecting  
6 the child from harm. The court shall revoke court approval of the  
7 supervisor upon finding, based on the evidence, that the supervisor has  
8 failed to protect the child or is no longer willing to or capable of  
9 protecting the child.

10 (e) If the court expressly finds based on the evidence that contact  
11 between the parent and the child will not cause physical, sexual, or  
12 emotional abuse or harm to the child and that the probability that the  
13 parent's or other person's harmful or abusive conduct will recur is so  
14 remote that it would not be in the child's best interests to apply the  
15 limitations of (a), (b), and (d) (i) and (iii) of this subsection, or  
16 if the court expressly finds based on the evidence that the parent's  
17 conduct did not have an impact on the child, then the court need not  
18 apply the limitations of (a), (b), and (d) (i) and (iii) of this  
19 subsection. The weight given to the existence of a protection order  
20 issued under chapter 26.50 RCW as to domestic violence is within the  
21 discretion of the court. This subsection shall not apply when (c) and  
22 (d)(ii) of this subsection apply.

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

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

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4 On page 1, line 2 of the title, after "parents;" strike the  
5 remainder of the title and insert "and amending RCW 26.09.191 and  
6 26.10.160."

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