

2 **E2SSB 5676** - H AMD 484 ADOPTED 3-5-96  
3 By Representatives Sheahan and Costa

4

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  
24 in RCW 26.50.010(1) or an assault or sexual assault which causes  
25 grievous bodily harm or the fear of such harm; or (iv) the parent has  
26 been convicted as an adult of a sex offense under:

27 (A) RCW 9A.44.076 if, because of the difference in age between the  
28 offender and the victim, no rebuttable presumption exists under (d) of  
29 this subsection;

30 (B) RCW 9A.44.079 if, because of the difference in age between the  
31 offender and the victim, no rebuttable presumption exists under (d) of  
32 this subsection;

33 (C) RCW 9A.44.086 if, because of the difference in age between the  
34 offender and the victim, no rebuttable presumption exists under (d) of  
35 this subsection;

36 (D) RCW 9A.44.089;

1       (E) RCW 9A.44.093;  
2       (F) RCW 9A.44.096;  
3       (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
4 between the offender and the victim, no rebuttable presumption exists  
5 under (d) of this subsection;  
6       (H) Chapter 9.68A RCW;  
7       (I) Any predecessor or antecedent statute for the offenses listed  
8 in (a)(iv)(A) through (H) of this subsection;  
9       (J) Any statute from any other jurisdiction that describes an  
10 offense analogous to the offenses listed in (a)(iv)(A) through (H) of  
11 this subsection.  
12       This subsection (2)(a) shall not apply when (c) or (d) of this  
13 subsection applies.  
14       (b) The parent's residential time with the child shall be limited  
15 if it is found that the parent resides with a person who has engaged in  
16 any of the following conduct: (i) Physical, sexual, or a pattern of  
17 emotional abuse of a child; ~~((or))~~ (ii) a history of acts of domestic  
18 violence as defined in RCW 26.50.010(1) or an assault or sexual assault  
19 that causes grievous bodily harm or the fear of such harm; or (iii) the  
20 person has been convicted as an adult or as a juvenile has been  
21 adjudicated of a sex offense under:  
22       (A) RCW 9A.44.076 if, because of the difference in age between the  
23 offender and the victim, no rebuttable presumption exists under (e) of  
24 this subsection;  
25       (B) RCW 9A.44.079 if, because of the difference in age between the  
26 offender and the victim, no rebuttable presumption exists under (e) of  
27 this subsection;  
28       (C) RCW 9A.44.086 if, because of the difference in age between the  
29 offender and the victim, no rebuttable presumption exists under (e) of  
30 this subsection;  
31       (D) RCW 9A.44.089;  
32       (E) RCW 9A.44.093;  
33       (F) RCW 9A.44.096;  
34       (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
35 between the offender and the victim, no rebuttable presumption exists  
36 under (e) of this subsection;  
37       (H) Chapter 9.68A RCW;  
38       (I) Any predecessor or antecedent statute for the offenses listed  
39 in (b)(iii)(A) through (H) of this subsection;

1 (J) Any statute from any other jurisdiction that describes an  
2 offense analogous to the offenses listed in (b)(iii)(A) through (H) of  
3 this subsection.

4 This subsection (2)(b) shall not apply when (c) or (e) of this  
5 subsection applies.

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

19 (d) There is a rebuttable presumption that a parent who has been  
20 convicted as an adult of a sex offense listed in (d)(i) through (ix) of  
21 this subsection poses a present danger to a child. Unless the parent  
22 rebutts this presumption, the court shall restrain the parent from  
23 contact with a child that would otherwise be allowed under this  
24 chapter:

25 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted  
26 was at least five years older than the other person;

27 (ii) RCW 9A.44.073;

28 (iii) RCW 9A.44.076, provided that the person convicted was at  
29 least eight years older than the victim;

30 (iv) RCW 9A.44.079, provided that the person convicted was at least  
31 eight years older than the victim;

32 (v) RCW 9A.44.083;

33 (vi) RCW 9A.44.086, provided that the person convicted was at least  
34 eight years older than the victim;

35 (vii) RCW 9A.44.100;

36 (viii) Any predecessor or antecedent statute for the offenses  
37 listed in (d)(i) through (vii) of this subsection;

1 (ix) Any statute from any other jurisdiction that describes an  
2 offense analogous to the offenses listed in (d)(i) through (vii) of  
3 this subsection.

4 (e) There is a rebuttable presumption that a parent who resides  
5 with a person who, as an adult, has been convicted, or as a juvenile  
6 has been adjudicated, of the sex offenses listed in (e)(i) through (ix)  
7 of this subsection places a child at risk of abuse or harm when that  
8 parent exercises residential time in the presence of the convicted or  
9 adjudicated person. Unless the parent rebuts the presumption, the  
10 court shall restrain the parent from contact with the parent's child  
11 except for contact that occurs outside of the convicted or adjudicated  
12 person's presence:

13 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted  
14 was at least five years older than the other person;

15 (ii) RCW 9A.44.073;

16 (iii) RCW 9A.44.076, provided that the person convicted was at  
17 least eight years older than the victim;

18 (iv) RCW 9A.44.079, provided that the person convicted was at least  
19 eight years older than the victim;

20 (v) RCW 9A.44.083;

21 (vi) RCW 9A.44.086, provided that the person convicted was at least  
22 eight years older than the victim;

23 (vii) RCW 9A.44.100;

24 (viii) Any predecessor or antecedent statute for the offenses  
25 listed in (e)(i) through (vii) of this subsection;

26 (ix) Any statute from any other jurisdiction that describes an  
27 offense analogous to the offenses listed in (e)(i) through (vii) of  
28 this subsection.

29 (f) The presumption established in (d) of this subsection may be  
30 rebutted only after a written finding that:

31 (i) If the child was not the victim of the sex offense committed by  
32 the parent requesting residential time, (A) contact between the child  
33 and the offending parent is appropriate and poses minimal risk to the  
34 child, and (B) the offending parent has successfully engaged in  
35 treatment for sex offenders or is engaged in and making progress in  
36 such treatment, if any was ordered by a court, and the treatment  
37 provider believes such contact is appropriate and poses minimal risk to  
38 the child; or

1       (ii) If the child was the victim of the sex offense committed by  
2 the parent requesting residential time, (A) contact between the child  
3 and the offending parent is appropriate and poses minimal risk to the  
4 child, (B) if the child is in or has been in therapy for victims of  
5 sexual abuse, the child's counselor believes such contact between the  
6 child and the offending parent is in the child's best interest, and (C)  
7 the offending parent has successfully engaged in treatment for sex  
8 offenders or is engaged in and making progress in such treatment, if  
9 any was ordered by a court, and the treatment provider believes such  
10 contact is appropriate and poses minimal risk to the child.

11       (g) The presumption established in (e) of this subsection may be  
12 rebutted only after a written finding that:

13       (i) If the child was not the victim of the sex offense committed by  
14 the person who is residing with the parent requesting residential time,  
15 (A) contact between the child and the parent residing with the  
16 convicted or adjudicated person is appropriate and that parent is able  
17 to protect the child in the presence of the convicted or adjudicated  
18 person, and (B) the convicted or adjudicated person has successfully  
19 engaged in treatment for sex offenders or is engaged in and making  
20 progress in such treatment, if any was ordered by a court, and the  
21 treatment provider believes such contact is appropriate and poses  
22 minimal risk to the child; or

23       (ii) If the child was the victim of the sex offense committed by  
24 the person who is residing with the parent requesting residential time,  
25 (A) contact between the child and the parent in the presence of the  
26 convicted or adjudicated person is appropriate and poses minimal risk  
27 to the child, (B) if the child is in or has been in therapy for victims  
28 of sexual abuse, the child's counselor believes such contact between  
29 the child and the parent residing with the convicted or adjudicated  
30 person in the presence of the convicted or adjudicated person is in the  
31 child's best interest, and (C) the convicted or adjudicated person has  
32 successfully engaged in treatment for sex offenders or is engaged in  
33 and making progress in such treatment, if any was ordered by a court,  
34 and the treatment provider believes contact between the parent and  
35 child in the presence of the convicted or adjudicated person is  
36 appropriate and poses minimal risk to the child.

37       (h) If the court finds that the parent has met the burden of  
38 rebutting the presumption under (f) of this subsection, the court may  
39 allow a parent who has been convicted as an adult of a sex offense

1 listed in (d)(i) through (ix) of this subsection to have residential  
2 time with the child supervised by a neutral and independent adult and  
3 pursuant to an adequate plan for supervision of such residential time.  
4 The court shall not approve of a supervisor for contact between the  
5 child and the parent unless the court finds, based on the evidence,  
6 that the supervisor is willing and capable of protecting the child from  
7 harm. The court shall revoke court approval of the supervisor upon  
8 finding, based on the evidence, that the supervisor has failed to  
9 protect the child or is no longer willing or capable of protecting the  
10 child.

11 (i) If the court finds that the parent has met the burden of  
12 rebutting the presumption under (g) of this subsection, the court may  
13 allow a parent residing with a person who has been adjudicated as a  
14 juvenile of a sex offense listed in (e)(i) through (ix) of this  
15 subsection to have residential time with the child in the presence of  
16 the person adjudicated as a juvenile, supervised by a neutral and  
17 independent adult and pursuant to an adequate plan for supervision of  
18 such residential time. The court shall not approve of a supervisor for  
19 contact between the child and the parent unless the court finds, based  
20 on the evidence, that the supervisor is willing and capable of  
21 protecting the child from harm. The court shall revoke court approval  
22 of the supervisor upon finding, based on the evidence, that the  
23 supervisor has failed to protect the child or is no longer willing or  
24 capable of protecting the child.

25 (j) If the court finds that the parent has met the burden of  
26 rebutting the presumption under (g) of this subsection, the court may  
27 allow a parent residing with a person who, as an adult, has been  
28 convicted of a sex offense listed in (e)(i) through (ix) of this  
29 subsection to have residential time with the child in the presence of  
30 the convicted person supervised by a neutral and independent adult and  
31 pursuant to an adequate plan for supervision of such residential time.  
32 The court shall not approve of a supervisor for contact between the  
33 child and the parent unless the court finds, based on the evidence,  
34 that the supervisor is willing and capable of protecting the child from  
35 harm. The court shall revoke court approval of the supervisor upon  
36 finding, based on the evidence, that the supervisor has failed to  
37 protect the child or is no longer willing or capable of protecting the  
38 child.

1       (k) A court shall not order unsupervised contact between the  
2 offending parent and a child of the offending parent who was sexually  
3 abused by that parent. A court may order unsupervised contact between  
4 the offending parent and a child who was not sexually abused by the  
5 parent after the presumption under (d) of this subsection has been  
6 rebutted and supervised residential time has occurred for at least two  
7 years with no further arrests or convictions of sex offenses involving  
8 children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW  
9 and (i) the sex offense of the offending parent was not committed  
10 against a child of the offending parent, and (ii) the court finds that  
11 unsupervised contact between the child and the offending parent is  
12 appropriate and poses minimal risk to the child, after consideration of  
13 the testimony of a state-certified therapist, mental health counselor,  
14 or social worker with expertise in treating child sexual abuse victims  
15 who has supervised at least one period of residential time between the  
16 parent and the child, and after consideration of evidence of the  
17 offending parent's compliance with community supervision requirements,  
18 if any. If the offending parent was not ordered by a court to  
19 participate in treatment for sex offenders, then the parent shall  
20 obtain a psychosexual evaluation conducted by a state-certified sex  
21 offender treatment provider indicating that the offender has the lowest  
22 likelihood of risk to reoffend before the court grants unsupervised  
23 contact between the parent and a child.

24       (l) A court may order unsupervised contact between the parent and  
25 a child which may occur in the presence of a juvenile adjudicated of a  
26 sex offense listed in (e)(i) through (ix) of this subsection who  
27 resides with the parent after the presumption under (e) of this  
28 subsection has been rebutted and supervised residential time has  
29 occurred for at least two years during which time the adjudicated  
30 juvenile has had no further arrests, adjudications, or convictions of  
31 sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020,  
32 or chapter 9.68A RCW, and (i) the court finds that unsupervised contact  
33 between the child and the parent that may occur in the presence of the  
34 adjudicated juvenile is appropriate and poses minimal risk to the  
35 child, after consideration of the testimony of a state-certified  
36 therapist, mental health counselor, or social worker with expertise in  
37 treatment of child sexual abuse victims who has supervised at least one  
38 period of residential time between the parent and the child in the  
39 presence of the adjudicated juvenile, and after consideration of

1 evidence of the adjudicated juvenile's compliance with community  
2 supervision or parole requirements, if any. If the adjudicated  
3 juvenile was not ordered by a court to participate in treatment for sex  
4 offenders, then the adjudicated juvenile shall obtain a psychosexual  
5 evaluation conducted by a state-certified sex offender treatment  
6 provider indicating that the adjudicated juvenile has the lowest  
7 likelihood of risk to reoffend before the court grants unsupervised  
8 contact between the parent and a child which may occur in the presence  
9 of the adjudicated juvenile who is residing with the parent.

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

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

33 (iii) If the court limits residential time under (a) or (b) of this  
34 subsection to require supervised contact between the child and the  
35 parent, the court shall not approve of a supervisor for contact between  
36 a child and a parent who has engaged in physical, sexual, or a pattern  
37 of emotional abuse of the child unless the court finds based upon the  
38 evidence that the supervisor accepts that the harmful conduct occurred  
39 and is willing to and capable of protecting the child from harm. The



1 court shall revoke court approval of the supervisor upon finding, based  
2 on the evidence, that the supervisor has failed to protect the child or  
3 is no longer willing to or capable of protecting the child.

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

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

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

24 (b) A long-term emotional or physical impairment which interferes  
25 with the parent's performance of parenting functions as defined in RCW  
26 26.09.004;

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

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

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

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

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

1 (4) In entering a permanent parenting plan, the court shall not  
2 draw any presumptions from the provisions of the temporary parenting  
3 plan.

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

7 (6) For the purposes of this section, a parent's child means that  
8 parent's natural child, adopted child, or stepchild.

9 **Sec. 2.** RCW 26.10.160 and 1994 c 267 s 2 are each amended to read  
10 as follows:

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

14 (2)(a) Visitation with the child shall be limited if it is found  
15 that the parent seeking visitation has engaged in any of the following  
16 conduct: (i) Willful abandonment that continues for an extended period  
17 of time or substantial refusal to perform parenting functions; (ii)  
18 physical, sexual, or a pattern of emotional abuse of a child; ~~((or))~~  
19 (iii) a history of acts of domestic violence as defined in RCW  
20 26.50.010(1) or an assault or sexual assault which causes grievous  
21 bodily harm or the fear of such harm; or (iv) the parent has been  
22 convicted as an adult of a sex offense under:

23 (A) RCW 9A.44.076 if, because of the difference in age between the  
24 offender and the victim, no rebuttable presumption exists under (d) of  
25 this subsection;

26 (B) RCW 9A.44.079 if, because of the difference in age between the  
27 offender and the victim, no rebuttable presumption exists under (d) of  
28 this subsection;

29 (C) RCW 9A.44.086 if, because of the difference in age between the  
30 offender and the victim, no rebuttable presumption exists under (d) of  
31 this subsection;

32 (D) RCW 9A.44.089;

33 (E) RCW 9A.44.093;

34 (F) RCW 9A.44.096;

35 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
36 between the offender and the victim, no rebuttable presumption exists  
37 under (d) of this subsection;

38 (H) Chapter 9.68A RCW;

1       (I) Any predecessor or antecedent statute for the offenses listed  
2 in (a)(iv)(A) through (H) of this subsection;

3       (J) Any statute from any other jurisdiction that describes an  
4 offense analogous to the offenses listed in (a)(iv)(A) through (H) of  
5 this subsection.

6       This subsection (2)(a) shall not apply when (c) or (d) of this  
7 subsection applies.

8       (b) The parent's ~~((residential-time))~~ visitation with the child  
9 shall be limited if it is found that the parent resides with a person  
10 who has engaged in any of the following conduct: (i) Physical, sexual,  
11 or a pattern of emotional abuse of a child; ~~((or))~~ (ii) a history of  
12 acts of domestic violence as defined in RCW 26.50.010(1) or an assault  
13 or sexual assault ~~((which))~~ that causes grievous bodily harm or the  
14 fear of such harm; or (iii) the person has been convicted as an adult  
15 or as a juvenile has been adjudicated of a sex offense under:

16       (A) RCW 9A.44.076 if, because of the difference in age between the  
17 offender and the victim, no rebuttable presumption exists under (e) of  
18 this subsection;

19       (B) RCW 9A.44.079 if, because of the difference in age between the  
20 offender and the victim, no rebuttable presumption exists under (e) of  
21 this subsection;

22       (C) RCW 9A.44.086 if, because of the difference in age between the  
23 offender and the victim, no rebuttable presumption exists under (e) of  
24 this subsection;

25       (D) RCW 9A.44.089;

26       (E) RCW 9A.44.093;

27       (F) RCW 9A.44.096;

28       (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
29 between the offender and the victim, no rebuttable presumption exists  
30 under (e) of this subsection;

31       (H) Chapter 9.68A RCW;

32       (I) Any predecessor or antecedent statute for the offenses listed  
33 in (b)(iii)(A) through (H) of this subsection;

34       (J) Any statute from any other jurisdiction that describes an  
35 offense analogous to the offenses listed in (b)(iii)(A) through (H) of  
36 this subsection.

37       This subsection (2)(b) shall not apply when (c) or (e) of this  
38 subsection applies.

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

14 (d) There is a rebuttable presumption that a parent who has been  
15 convicted as an adult of a sex offense listed in (d)(i) through (ix) of  
16 this subsection poses a present danger to a child. Unless the parent  
17 rebutts this presumption, the court shall restrain the parent from  
18 contact with a child that would otherwise be allowed under this  
19 chapter:

20 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted  
21 was at least five years older than the other person;

22 (ii) RCW 9A.44.073;

23 (iii) RCW 9A.44.076, provided that the person convicted was at  
24 least eight years older than the victim;

25 (iv) RCW 9A.44.079, provided that the person convicted was at least  
26 eight years older than the victim;

27 (v) RCW 9A.44.083;

28 (vi) RCW 9A.44.086, provided that the person convicted was at least  
29 eight years older than the victim;

30 (vii) RCW 9A.44.100;

31 (viii) Any predecessor or antecedent statute for the offenses  
32 listed in (d)(i) through (vii) of this subsection;

33 (ix) Any statute from any other jurisdiction that describes an  
34 offense analogous to the offenses listed in (d)(i) through (vii) of  
35 this subsection.

36 (e) There is a rebuttable presumption that a parent who resides  
37 with a person who, as an adult, has been convicted, or as a juvenile  
38 has been adjudicated, of the sex offenses listed in (e)(i) through (ix)  
39 of this subsection places a child at risk of abuse or harm when that

1 parent exercises visitation in the presence of the convicted or  
2 adjudicated person. Unless the parent rebuts the presumption, the  
3 court shall restrain the parent from contact with the parent's child  
4 except for contact that occurs outside of the convicted or adjudicated  
5 person's presence:

6 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted  
7 was at least five years older than the other person;

8 (ii) RCW 9A.44.073;

9 (iii) RCW 9A.44.076, provided that the person convicted was at  
10 least eight years older than the victim;

11 (iv) RCW 9A.44.079, provided that the person convicted was at least  
12 eight years older than the victim;

13 (v) RCW 9A.44.083;

14 (vi) RCW 9A.44.086, provided that the person convicted was at least  
15 eight years older than the victim;

16 (vii) RCW 9A.44.100;

17 (viii) Any predecessor or antecedent statute for the offenses  
18 listed in (e)(i) through (vii) of this subsection;

19 (ix) Any statute from any other jurisdiction that describes an  
20 offense analogous to the offenses listed in (e)(i) through (vii) of  
21 this subsection.

22 (f) The presumption established in (d) of this subsection may be  
23 rebutted only after a written finding that:

24 (i) If the child was not the victim of the sex offense committed by  
25 the parent requesting visitation, (A) contact between the child and the  
26 offending parent is appropriate and poses minimal risk to the child,  
27 and (B) the offending parent has successfully engaged in treatment for  
28 sex offenders or is engaged in and making progress in such treatment,  
29 if any was ordered by a court, and the treatment provider believes such  
30 contact is appropriate and poses minimal risk to the child; or

31 (ii) If the child was the victim of the sex offense committed by  
32 the parent requesting visitation, (A) contact between the child and the  
33 offending parent is appropriate and poses minimal risk to the child,  
34 (B) if the child is in or has been in therapy for victims of sexual  
35 abuse, the child's counselor believes such contact between the child  
36 and the offending parent is in the child's best interest, and (C) the  
37 offending parent has successfully engaged in treatment for sex  
38 offenders or is engaged in and making progress in such treatment, if

1 any was ordered by a court, and the treatment provider believes such  
2 contact is appropriate and poses minimal risk to the child.

3 (g) The presumption established in (e) of this subsection may be  
4 rebutted only after a written finding that:

5 (i) If the child was not the victim of the sex offense committed by  
6 the person who is residing with the parent requesting visitation, (A)  
7 contact between the child and the parent residing with the convicted or  
8 adjudicated person is appropriate and that parent is able to protect  
9 the child in the presence of the convicted or adjudicated person, and  
10 (B) the convicted or adjudicated person has successfully engaged in  
11 treatment for sex offenders or is engaged in and making progress in  
12 such treatment, if any was ordered by a court, and the treatment  
13 provider believes such contact is appropriate and poses minimal risk to  
14 the child; or

15 (ii) If the child was the victim of the sex offense committed by  
16 the person who is residing with the parent requesting visitation, (A)  
17 contact between the child and the parent in the presence of the  
18 convicted or adjudicated person is appropriate and poses minimal risk  
19 to the child, (B) if the child is in or has been in therapy for victims  
20 of sexual abuse, the child's counselor believes such contact between  
21 the child and the parent residing with the convicted or adjudicated  
22 person in the presence of the convicted or adjudicated person is in the  
23 child's best interest, and (C) the convicted or adjudicated person has  
24 successfully engaged in treatment for sex offenders or is engaged in  
25 and making progress in such treatment, if any was ordered by a court,  
26 and the treatment provider believes contact between the parent and  
27 child in the presence of the convicted or adjudicated person is  
28 appropriate and poses minimal risk to the child.

29 (h) If the court finds that the parent has met the burden of  
30 rebutting the presumption under (f) of this subsection, the court may  
31 allow a parent who has been convicted as an adult of a sex offense  
32 listed in (d)(i) through (ix) of this subsection to have visitation  
33 with the child supervised by a neutral and independent adult and  
34 pursuant to an adequate plan for supervision of such visitation. The  
35 court shall not approve of a supervisor for contact between the child  
36 and the parent unless the court finds, based on the evidence, that the  
37 supervisor is willing and capable of protecting the child from harm.  
38 The court shall revoke court approval of the supervisor upon finding,

1 based on the evidence, that the supervisor has failed to protect the  
2 child or is no longer willing or capable of protecting the child.

3 (i) If the court finds that the parent has met the burden of  
4 rebutting the presumption under (g) of this subsection, the court may  
5 allow a parent residing with a person who has been adjudicated as a  
6 juvenile of a sex offense listed in (e)(i) through (ix) of this  
7 subsection to have visitation with the child in the presence of the  
8 person adjudicated as a juvenile, supervised by a neutral and  
9 independent adult and pursuant to an adequate plan for supervision of  
10 such visitation. The court shall not approve of a supervisor for  
11 contact between the child and the parent unless the court finds, based  
12 on the evidence, that the supervisor is willing and capable of  
13 protecting the child from harm. The court shall revoke court approval  
14 of the supervisor upon finding, based on the evidence, that the  
15 supervisor has failed to protect the child or is no longer willing or  
16 capable of protecting the child.

17 (j) If the court finds that the parent has met the burden of  
18 rebutting the presumption under (g) of this subsection, the court may  
19 allow a parent residing with a person who, as an adult, has been  
20 convicted of a sex offense listed in (e)(i) through (ix) of this  
21 subsection to have visitation with the child in the presence of the  
22 convicted person supervised by a neutral and independent adult and  
23 pursuant to an adequate plan for supervision of such visitation. The  
24 court shall not approve of a supervisor for contact between the child  
25 and the parent unless the court finds, based on the evidence, that the  
26 supervisor is willing and capable of protecting the child from harm.  
27 The court shall revoke court approval of the supervisor upon finding,  
28 based on the evidence, that the supervisor has failed to protect the  
29 child or is no longer willing or capable of protecting the child.

30 (k) A court shall not order unsupervised contact between the  
31 offending parent and a child of the offending parent who was sexually  
32 abused by that parent. A court may order unsupervised contact between  
33 the offending parent and a child who was not sexually abused by the  
34 parent after the presumption under (d) of this subsection has been  
35 rebutted and supervised visitation has occurred for at least two years  
36 with no further arrests or convictions of sex offenses involving  
37 children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW  
38 and (i) the sex offense of the offending parent was not committed  
39 against a child of the offending parent, and (ii) the court finds that

1 unsupervised contact between the child and the offending parent is  
2 appropriate and poses minimal risk to the child, after consideration of  
3 the testimony of a state-certified therapist, mental health counselor,  
4 or social worker with expertise in treating child sexual abuse victims  
5 who has supervised at least one period of visitation between the parent  
6 and the child, and after consideration of evidence of the offending  
7 parent's compliance with community supervision requirements, if any.  
8 If the offending parent was not ordered by a court to participate in  
9 treatment for sex offenders, then the parent shall obtain a  
10 psychosexual evaluation conducted by a state-certified sex offender  
11 treatment provider indicating that the offender has the lowest  
12 likelihood of risk to reoffend before the court grants unsupervised  
13 contact between the parent and a child.

14 (1) A court may order unsupervised contact between the parent and  
15 a child which may occur in the presence of a juvenile adjudicated of a  
16 sex offense listed in (e)(i) through (ix) of this subsection who  
17 resides with the parent after the presumption under (e) of this  
18 subsection has been rebutted and supervised visitation has occurred for  
19 at least two years during which time the adjudicated juvenile has had  
20 no further arrests, adjudications, or convictions of sex offenses  
21 involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter  
22 9.68A RCW, and (i) the court finds that unsupervised contact between  
23 the child and the parent that may occur in the presence of the  
24 adjudicated juvenile is appropriate and poses minimal risk to the  
25 child, after consideration of the testimony of a state-certified  
26 therapist, mental health counselor, or social worker with expertise in  
27 treatment of child sexual abuse victims who has supervised at least one  
28 period of visitation between the parent and the child in the presence  
29 of the adjudicated juvenile, and after consideration of evidence of the  
30 adjudicated juvenile's compliance with community supervision or parole  
31 requirements, if any. If the adjudicated juvenile was not ordered by  
32 a court to participate in treatment for sex offenders, then the  
33 adjudicated juvenile shall obtain a psychosexual evaluation conducted  
34 by a state-certified sex offender treatment provider indicating that  
35 the adjudicated juvenile has the lowest likelihood of risk to reoffend  
36 before the court grants unsupervised contact between the parent and a  
37 child which may occur in the presence of the adjudicated juvenile who  
38 is residing with the parent.



1        (m)(i) The limitations imposed by the court under (a) or (b) of  
2 this subsection shall be reasonably calculated to protect the child  
3 from the physical, sexual, or emotional abuse or harm that could result  
4 if the child has contact with the parent requesting visitation. If the  
5 court expressly finds based on the evidence that limitations on  
6 visitation with the child will not adequately protect the child from  
7 the harm or abuse that could result if the child has contact with the  
8 parent requesting visitation, the court shall restrain the person  
9 seeking visitation from all contact with the child.

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

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

35        (~~(e)~~) (n) If the court expressly finds based on the evidence that  
36 contact between the parent and the child will not cause physical,  
37 sexual, or emotional abuse or harm to the child and that the  
38 probability that the parent's or other person'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), (b), and ~~((d))~~ (m)  
2 (i) and (iii) of this subsection, or if the court expressly finds  
3 ~~((based on the evidence))~~ that the parent's conduct did not have an  
4 impact on the child, then the court need not apply the limitations of  
5 (a), (b), and ~~((d))~~ (m)(i) and (iii) of this subsection. The weight  
6 given to the existence of a protection order issued under chapter 26.50  
7 RCW as to domestic violence is within the discretion of the court.  
8 This subsection shall not apply when (c) ~~((and (d)(ii)))~~, (d), (e),  
9 (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this subsection  
10 apply.

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

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

20 (5) For the purposes of this section, a parent's child means that  
21 parent's natural child, adopted child, or stepchild.

22 NEW SECTION. Sec. 3. This act is necessary for the immediate  
23 preservation of the public peace, health, or safety, or support of the  
24 state government and its existing public institutions, and takes effect  
25 immediately."

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