

2 **E2SSB 5676** - H COMM AMD **ADOPTED 2-28-96**
3 By Committee on Law & Justice

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

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

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

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

34 (h) If the court finds that the parent has met the burden of
35 rebutting the presumption under (f) of this subsection, the court may
36 allow a parent who has been convicted as an adult of a sex offense
37 listed in (d)(i) through (ix) of this subsection to have residential
38 time with the child supervised by a neutral and independent adult and
39 pursuant to an adequate plan for supervision of such residential time.

1 The court shall not approve of a supervisor for contact between the
2 child and the parent unless the court finds, based on the evidence,
3 that the supervisor is willing and capable of protecting the child from
4 harm. The court shall revoke court approval of the supervisor upon
5 finding, based on the evidence, that the supervisor has failed to
6 protect the child or is no longer willing or capable of protecting the
7 child.

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

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

36 (k) A court shall not order unsupervised contact between the
37 offending parent and a child of the offending parent who was sexually
38 abused by that parent. A court may order unsupervised contact between
39 the offending parent and a child who was not sexually abused by the

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

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

1 evaluation conducted by a state-certified sex offender treatment
2 provider indicating that the adjudicated juvenile has the lowest
3 likelihood of risk to reoffend before the court grants unsupervised
4 contact between the parent and a child which may occur in the presence
5 of the adjudicated juvenile who is residing with the parent.

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

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

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

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

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

19 (a) A parent's neglect or substantial nonperformance of parenting
20 functions;

21 (b) A long-term emotional or physical impairment which interferes
22 with the parent's performance of parenting functions as defined in RCW
23 26.09.004;

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

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

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

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

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

35 (4) In entering a permanent parenting plan, the court shall not
36 draw any presumptions from the provisions of the temporary parenting
37 plan.

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

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

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

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

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

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

23 (B) RCW 9A.44.079 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 (C) RCW 9A.44.086 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 (D) RCW 9A.44.089;

30 (E) RCW 9A.44.093;

31 (F) RCW 9A.44.096;

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

35 (H) Chapter 9.68A RCW;

36 (I) Any predecessor or antecedent statute for the offenses listed
37 in (a)(iv)(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 (a)(iv)(A) through (H) of
3 this subsection.

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

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

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

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

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

23 (D) RCW 9A.44.089;

24 (E) RCW 9A.44.093;

25 (F) RCW 9A.44.096;

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

29 (H) Chapter 9.68A RCW;

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

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

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

37 (c) If a parent has been ~~((convicted as an adult of a sexual~~
38 ~~offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or has~~
39 ~~been))~~ found to be a sexual predator under chapter 71.09 RCW or under

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

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

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

19 (ii) RCW 9A.44.073;

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

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

24 (v) RCW 9A.44.083;

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

27 (vii) RCW 9A.44.100;

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

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

33 (e) There is a rebuttable presumption that a parent who resides
34 with a person who, as an adult, has been convicted, or as a juvenile
35 has been adjudicated, of the sex offenses listed in (e)(i) through (ix)
36 of this subsection places a child at risk of abuse or harm when that
37 parent exercises visitation in the presence of the convicted or
38 adjudicated person. Unless the parent rebuts the presumption, the
39 court shall restrain the parent from contact with the parent's child

1 except for contact that occurs outside of the convicted or adjudicated
2 person's presence:

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

5 (ii) RCW 9A.44.073;

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

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

10 (v) RCW 9A.44.083;

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

13 (vii) RCW 9A.44.100;

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

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

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

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

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

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

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

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

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

35 (i) If the court finds that the parent has met the burden of
36 rebutting the presumption under (g) of this subsection, the court may
37 allow a parent residing with a person who has been adjudicated as a
38 juvenile of a sex offense listed in (e)(i) through (ix) of this
39 subsection to have visitation with the child in the presence of the

1 person adjudicated as a juvenile, supervised by a neutral and
2 independent adult and pursuant to an adequate plan for supervision of
3 such visitation. The court shall not approve of a supervisor for
4 contact between the child and the parent unless the court finds, based
5 on the evidence, that the supervisor is willing and capable of
6 protecting the child from harm. The court shall revoke court approval
7 of the supervisor upon finding, based on the evidence, that the
8 supervisor has failed to protect the child or is no longer willing or
9 capable of protecting the child.

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

23 (k) A court shall not order unsupervised contact between the
24 offending parent and a child of the offending parent who was sexually
25 abused by that parent. A court may order unsupervised contact between
26 the offending parent and a child who was not sexually abused by the
27 parent after the presumption under (d) of this subsection has been
28 rebutted and supervised visitation has occurred for at least two years
29 with no further arrests or convictions of sex offenses involving
30 children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW
31 and (i) the sex offense of the offending parent was not committed
32 against a child of the offending parent, and (ii) the court finds that
33 unsupervised contact between the child and the offending parent is
34 appropriate and poses minimal risk to the child, after consideration of
35 the testimony of a state-certified therapist, mental health counselor,
36 or social worker with expertise in treating child sexual abuse victims
37 who has supervised at least one period of visitation between the parent
38 and the child, and after consideration of evidence of the offending
39 parent's compliance with community supervision requirements, if any.

1 If the offending parent was not ordered by a court to participate in
2 treatment for sex offenders, then the parent shall obtain a
3 psychosexual evaluation conducted by a state-certified sex offender
4 treatment provider indicating that the offender has the lowest
5 likelihood of risk to reoffend before the court grants unsupervised
6 contact between the parent and a child.

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

32 (m)(i) The limitations imposed by the court under (a) or (b) of
33 this subsection shall be reasonably calculated to protect the child
34 from the physical, sexual, or emotional abuse or harm that could result
35 if the child has contact with the parent requesting visitation. If the
36 court expressly finds based on the evidence that limitations on
37 visitation with the child will not adequately protect the child from
38 the harm or abuse that could result if the child has contact with the

1 parent requesting visitation, the court shall restrain the person
2 seeking visitation from all contact with the child.

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

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

28 (~~((e))~~) (n) If the court expressly finds based on the evidence that
29 contact between the parent and the child will not cause physical,
30 sexual, or emotional abuse or harm to the child and that the
31 probability that the parent's or other person's harmful or abusive
32 conduct will recur is so remote that it would not be in the child's
33 best interests to apply the limitations of (a), (b), and (~~((d))~~) (m)
34 (i) and (iii) of this subsection, or if the court expressly finds
35 (~~(based on the evidence)~~) that the parent's conduct did not have an
36 impact on the child, then the court need not apply the limitations of
37 (a), (b), and (~~((d))~~) (m)(i) and (iii) of this subsection. The weight
38 given to the existence of a protection order issued under chapter 26.50
39 RCW as to domestic violence is within the discretion of the court.

1 This subsection shall not apply when (c) (~~and (d)(ii)~~), (d), (e),
2 (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this subsection
3 apply.

4 (3) Any person may petition the court for visitation rights at any
5 time including, but not limited to, custody proceedings. The court may
6 order visitation rights for any person when visitation may serve the
7 best interest of the child whether or not there has been any change of
8 circumstances.

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

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

15 NEW SECTION. Sec. 3. This act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of the
17 state government and its existing public institutions, and shall take
18 effect immediately."

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