
HOUSE BILL 2406

State of Washington

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By Representatives McDonald, Kastama, Radcliff, Gombosky, Lantz, Regala, Talcott, Anderson, Wolfe, Thompson and Kessler

Read first time 01/13/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to residential provisions of permanent parenting
2 plans; amending RCW 26.09.187; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** This act shall be known and may be cited as
5 the friendly parent presumption.

6 **Sec. 2.** RCW 26.09.187 and 1989 c 375 s 10 are each amended to read
7 as follows:

8 (1) DISPUTE RESOLUTION PROCESS. The court shall not order a
9 dispute resolution process, except court action, when it finds that any
10 limiting factor under RCW 26.09.191 applies, or when it finds that
11 either parent is unable to afford the cost of the proposed dispute
12 resolution process. If a dispute resolution process is not precluded
13 or limited, then in designating such a process the court shall consider
14 all relevant factors, including:

15 (a) Differences between the parents that would substantially
16 inhibit their effective participation in any designated process;

1 (b) The parents' wishes or agreements and, if the parents have
2 entered into agreements, whether the agreements were made knowingly and
3 voluntarily; and

4 (c) Differences in the parents' financial circumstances that may
5 affect their ability to participate fully in a given dispute resolution
6 process.

7 (2) ALLOCATION OF DECISION-MAKING AUTHORITY.

8 (a) AGREEMENTS BETWEEN THE PARTIES. The court shall approve
9 agreements of the parties allocating decision-making authority, or
10 specifying rules in the areas listed in RCW 26.09.184(4)(a), when it
11 finds that:

12 (i) The agreement is consistent with any limitations on a parent's
13 decision-making authority mandated by RCW 26.09.191; and

14 (ii) The agreement is knowing and voluntary.

15 (b) SOLE DECISION-MAKING AUTHORITY. The court shall order sole
16 decision-making to one parent when it finds that:

17 (i) A limitation on the other parent's decision-making authority is
18 mandated by RCW 26.09.191;

19 (ii) Both parents are opposed to mutual decision making;

20 (iii) One parent is opposed to mutual decision making, and such
21 opposition is reasonable based on the criteria in (c) of this
22 subsection;

23 (c) MUTUAL DECISION-MAKING AUTHORITY. Except as provided in (a)
24 and (b) of this subsection, the court shall consider the following
25 criteria in allocating decision-making authority:

26 (i) The existence of a limitation under RCW 26.09.191;

27 (ii) The history of participation of each parent in decision making
28 in each of the areas in RCW 26.09.184(4)(a);

29 (iii) Whether the parents have a demonstrated ability and desire to
30 cooperate with one another in decision making in each of the areas in
31 RCW 26.09.184(4)(a); and

32 (iv) The parents' geographic proximity to one another, to the
33 extent that it affects their ability to make timely mutual decisions.

34 (3) RESIDENTIAL PROVISIONS.

35 (a) The court shall make residential provisions for each child
36 which encourage each parent to maintain a loving, stable, and nurturing
37 relationship with the child, consistent with the child's developmental
38 level and the family's social and economic circumstances. The child's
39 residential schedule shall be consistent with RCW 26.09.191. Where the

1 limitations of RCW 26.09.191 are not dispositive of the child's
2 residential schedule, the court shall consider the following factors:

3 (i) The relative strength, nature, and stability of the child's
4 relationship with each parent, including whether a parent has taken
5 greater responsibility for performing parenting functions relating to
6 the daily needs of the child;

7 (ii) The agreements of the parties, provided they were entered into
8 knowingly and voluntarily;

9 (iii) Which parent is more likely to allow and encourage the child
10 frequent and continuing contact with the other parent;

11 (iv) Each parent's past and potential for future performance of
12 parenting functions;

13 ~~((iv))~~ (v) The emotional needs and developmental level of the
14 child;

15 ~~((v))~~ (vi) The child's relationship with siblings and with other
16 significant adults, as well as the child's involvement with his or her
17 physical surroundings, school, or other significant activities;

18 ~~((vi))~~ (vii) The wishes of the parents and the wishes of a child
19 who is sufficiently mature to express reasoned and independent
20 preferences as to his or her residential schedule; and

21 ~~((vii))~~ (viii) Each parent's employment schedule, and shall make
22 accommodations consistent with those schedules.

23 ~~((Factor (i) shall be given the greatest weight.))~~

24 (b) The court may order that a child frequently alternate his or
25 her residence between the households of the parents for brief and
26 substantially equal intervals of time only if the court finds the
27 following:

28 (i) No limitation exists under RCW 26.09.191;

29 (ii)(A) The parties have agreed to such provisions and the
30 agreement was knowingly and voluntarily entered into; or

31 (B) The parties have a satisfactory history of cooperation and
32 shared performance of parenting functions; the parties are available to
33 each other, especially in geographic proximity, to the extent necessary
34 to ensure their ability to share performance of the parenting
35 functions; and

36 (iii) The provisions are in the best interests of the child.

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