
HOUSE BILL 2749

State of Washington

55th Legislature

1998 Regular Session

By Representatives Wolfe, Kessler, Ogden, Dickerson, Cooper, Mason, Sullivan, Gardner and Lambert

Read first time 01/19/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to visitation; amending RCW 26.26.130; and adding
2 a new section to chapter 26.26 RCW.

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

4 **Sec. 1.** RCW 26.26.130 and 1997 c 58 s 947 are each amended to read
5 as follows:

6 (1) The judgment and order of the court determining the existence
7 or nonexistence of the parent and child relationship shall be
8 determinative for all purposes.

9 (2) If the judgment and order of the court is at variance with the
10 child's birth certificate, the court shall order that an amended birth
11 certificate be issued.

12 (3) The judgment and order shall contain other appropriate
13 provisions directed to the appropriate parties to the proceeding,
14 concerning the duty of current and future support, the extent of any
15 liability for past support furnished to the child if that issue is
16 before the court, the furnishing of bond or other security for the
17 payment of the judgment, or any other matter in the best interest of
18 the child. The judgment and order may direct the father to pay the
19 reasonable expenses of the mother's pregnancy and confinement. The

1 judgment and order may include a continuing restraining order or
2 injunction. In issuing the order, the court shall consider the
3 provisions of RCW 9.41.800.

4 (4) The judgment and order shall contain the social security
5 numbers of all parties to the order.

6 (5) Support judgment and orders shall be for periodic payments
7 which may vary in amount. The court may limit the father's liability
8 for the past support to the child to the proportion of the expenses
9 already incurred as the court deems just. The court shall not limit or
10 affect in any manner the right of nonparties including the state of
11 Washington to seek reimbursement for support and other services
12 previously furnished to the child.

13 (6) After considering all relevant factors, the court shall order
14 either or both parents to pay an amount determined pursuant to the
15 schedule and standards contained in chapter 26.19 RCW.

16 (7) On the same basis as provided in chapter 26.09 RCW, the court
17 shall make residential provisions with regard to minor children of the
18 parties, except that a parenting plan shall not be required unless
19 requested by a party. The court may order visitation with the child to
20 a party other than a parent as provided in section 2 of this act.

21 (8) In any dispute between the natural parents of a child and a
22 person or persons who have (a) commenced adoption proceedings or who
23 have been granted an order of adoption, and (b) pursuant to a court
24 order, or placement by the department of social and health services or
25 by a licensed agency, have had actual custody of the child for a period
26 of one year or more before court action is commenced by the natural
27 parent or parents, the court shall consider the best welfare and
28 interests of the child, including the child's need for situation
29 stability, in determining the matter of custody, and the parent or
30 person who is more fit shall have the superior right to custody.

31 (9) In entering an order under this chapter, the court may issue
32 any necessary continuing restraining orders, including the restraint
33 provisions of domestic violence protection orders under chapter 26.50
34 RCW or antiharassment protection orders under chapter 10.14 RCW.

35 (10) Restraining orders issued under this section restraining the
36 person from molesting or disturbing another party or from going onto
37 the grounds of or entering the home, workplace, or school of the other
38 party or the day care or school of any child shall prominently bear on
39 the front page of the order the legend: VIOLATION OF THIS ORDER WITH

1 ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.26
2 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

3 (11) The court shall order that any restraining order bearing a
4 criminal offense legend, any domestic violence protection order, or any
5 antiharassment protection order granted under this section be forwarded
6 by the clerk of the court on or before the next judicial day to the
7 appropriate law enforcement agency specified in the order. Upon
8 receipt of the order, the law enforcement agency shall forthwith enter
9 the order into any computer-based criminal intelligence information
10 system available in this state used by law enforcement agencies to list
11 outstanding warrants. The order is fully enforceable in any county in
12 the state.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.26 RCW
14 to read as follows:

15 (1) For the purposes of obtaining visitation with a child, a person
16 other than a parent or alleged parent may intervene in a pending
17 paternity proceeding. A person other than a parent may petition for
18 visitation with a child under this section only if a final order has
19 been entered in a paternity action commenced under this chapter.

20 (2) A petition for visitation with a child by a person other than
21 a parent must be filed in the county in which the child resides.

22 (3) A petition for visitation or a motion to intervene under this
23 section shall be dismissed unless the petitioner or intervenor can
24 demonstrate by clear and convincing evidence that a significant
25 relationship exists with the child with whom visitation is sought. If
26 the petition or motion is dismissed for failure to establish the
27 existence of a significant relationship, the petitioner or intervenor
28 shall be ordered to pay reasonable attorneys' fees and costs to the
29 parents, other custodian, or representative of the child who responds
30 to this petition or motion.

31 (4) The court may order visitation between the petitioner or
32 intervenor and the child between whom a significant relationship exists
33 upon a finding supported by the evidence that the visitation is in the
34 child's best interests.

35 (5)(a) Visitation with a grandparent shall be presumed to be in the
36 child's best interests when a significant relationship has been shown
37 to exist. This presumption may be rebutted by a preponderance of

1 evidence showing that visitation would endanger the child's physical,
2 mental, or emotional health.

3 (b) If the court finds that reasonable visitation by a grandparent
4 would be in the child's best interest except for hostilities that exist
5 between the grandparent and one or both of the parents, or person with
6 whom the child is residing, the court may set the matter for mediation
7 in accordance with RCW 26.09.015.

8 (6) The court may consider the following factors when making a
9 determination of the child's best interests:

10 (a) The strength of the relationship between the child and the
11 petitioner;

12 (b) The relationship between the petitioner and the parents or the
13 person with whom the child is residing;

14 (c) The nature and reason for the objection by the parents or
15 person with whom the child is residing;

16 (d) The effect that granting visitation will have on the
17 relationship between the child and the child's parents or the person
18 with whom the child is residing;

19 (e) The residential time sharing arrangements between the parents;

20 (f) The good faith of the petitioner;

21 (g) Any criminal history or history of physical, emotional, or
22 sexual abuse or neglect by the petitioner; and

23 (h) Any other factor relevant to the child's best interest.

24 (7) The restrictions of RCW 26.09.191 that apply to parents shall
25 be applied to a petitioner or intervenor who is not a parent. The
26 nature and extent of visitation, subject to these restrictions, is in
27 the discretion of the court.

28 (8) The court may order an investigation and report concerning the
29 proposed visitation or may appoint a guardian ad litem as provided in
30 RCW 26.10.130.

31 (9) Visitation granted under this section shall be incorporated
32 into the residential provisions for the child.

33 (10) The court may modify or terminate visitation rights granted
34 pursuant to this section in any subsequent modification action upon a
35 showing that the visitation is no longer in the best interest of the
36 child.

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