
SENATE BILL 5564

State of Washington 55th Legislature 1997 Regular Session

By Senators Stevens, Zarelli, Anderson, Swecker, Hochstatter and Schow

Read first time 01/31/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to petition for divorce; amending RCW 26.09.030,
2 4.24.130, 9A.44.010, 10.99.040, 11.07.010, 11.12.051, 13.64.060,
3 26.09.004, 26.09.010, 26.09.015, 26.09.050, 26.09.060, 26.09.070,
4 26.09.080, 26.09.090, 26.09.100, 26.09.110, 26.09.138, 26.09.175,
5 26.09.194, 26.09.210, 26.09.240, 26.09.280, 26.16.205, 26.19.071,
6 26.27.020, 26.27.070, 26.50.160, 41.28.205, 41.28.207, 41.44.240,
7 41.32.530, 41.32.785, 41.40.188, 41.40.660, 51.32.050, 70.58.005,
8 74.20.220, and 75.30.250; reenacting and amending RCW 26.09.020 and
9 26.09.150; adding new sections to chapter 26.09 RCW; and repealing RCW
10 26.09.900 and 26.09.901.

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

12 NEW SECTION. **Sec. 1.** For the purposes of RCW 26.09.030, a
13 marriage is irretrievably broken when reasonable grounds exist.
14 Reasonable grounds include the following:

- 15 (1) The commission of adultery by the other party;
16 (2) The other party was infected with a sexually transmitted
17 disease before or after the marriage, which disease was not contracted
18 from the spouse filing the petition, and was not known to the spouse

1 filing the petition for divorce at the time the marriage was
2 solemnized;

3 (3) The spouse filing the petition for divorce or legal separation
4 has been abandoned by the other spouse for one or more years preceding
5 the filing of the petition;

6 (4) The other party is habitually addicted to alcohol or drugs;

7 (5) Imprisonment of the other party in a state, federal, or foreign
8 prison for two or more years, during which time the petition for
9 divorce or legal separation is filed;

10 (6) Treatment of the petitioning spouse, or a family member
11 residing in the home of the parties, by the other party, which
12 constitutes physical abuse, extreme mental cruelty, or sexual abuse;

13 (7) Determination that the other party suffers from a mental
14 disorder or is criminally insane and is committed under the commitment
15 laws set forth in RCW 71.05.030; or

16 (8) Incompatibility of husband and wife characterized by rift,
17 discord, or conflict, which has destroyed their relationship as husband
18 and wife and no reasonable possibility for reconciliation exists, and
19 if the conditions set forth in RCW 26.09.030 and section 3 of this act
20 have been met.

21 **Sec. 2.** RCW 26.09.030 and 1996 c 23 s 1 are each amended to read
22 as follows:

23 When a party who (1) is a resident of this state, or (2) is a
24 member of the armed forces and is stationed in this state, or (3) is
25 married to a party who is a resident of this state or who is a member
26 of the armed forces and is stationed in this state, petitions for a
27 dissolution of marriage, and alleges that the marriage is irretrievably
28 broken, there are no dependent children, and the wife is not pregnant,
29 and when ninety days have elapsed since the petition was filed and from
30 the date when service of summons was made upon the respondent or the
31 first publication of summons was made, the court shall proceed as
32 follows:

33 (1) If the other party joins in the petition or does not deny that
34 the marriage is irretrievably broken, the court shall enter a decree of
35 ~~((dissolution))~~ divorce.

36 (2) If the other party alleges that the petitioner was induced to
37 file the petition by fraud, or coercion, the court shall make a finding
38 as to that allegation and, if it so finds shall dismiss the petition.

1 (3) If the other party denies that the marriage is irretrievably
2 broken the court shall consider all relevant factors, including the
3 circumstances that gave rise to the filing of the petition and the
4 prospects for reconciliation and shall:

5 (a) Make a finding that the marriage is irretrievably broken and
6 enter a decree of (~~dissolution of the marriage~~) divorce; or

7 (b) At the request of either party or on its own motion, transfer
8 the cause to the family court, refer them to another counseling service
9 of their choice, and request a report back from the counseling service
10 within sixty days, or continue the matter for not more than sixty days
11 for hearing. If the cause is returned from the family court or at the
12 adjourned hearing, the court shall:

13 (i) Find that the parties have agreed to reconciliation and dismiss
14 the petition; or

15 (ii) Find that the parties have not been reconciled, and that
16 either party continues to allege that the marriage is irretrievably
17 broken. When such facts are found, the court shall enter a decree of
18 (~~dissolution of the marriage~~) divorce.

19 (4) If the petitioner requests the court to decree legal separation
20 in lieu of (~~dissolution~~) divorce, the court shall enter the decree in
21 that form unless the other party objects and petitions for a decree of
22 (~~dissolution~~) divorce or declaration of invalidity.

23 NEW SECTION. Sec. 3. When a party who (1) is a resident of this
24 state, or (2) is a member of the armed forces and is stationed in this
25 state, or (3) is married to a party who is a resident of this state or
26 who is a member of the armed forces and is stationed in this state,
27 petitions for a dissolution of marriage, and alleges that the marriage
28 is irretrievably broken, and there are dependent children or the wife
29 is pregnant, and when one hundred eighty days have elapsed since the
30 petition was filed and from the date when service of summons was made
31 upon the respondent or the first publication of summons was made, the
32 court shall proceed as follows:

33 (a) If the other party alleges that the petitioner was induced to
34 file the petition by fraud or coercion, the court shall make a finding
35 as to that allegation and, if it so finds shall dismiss the petition.

36 (b) Whether the other party denies or does not deny that the
37 marriage is irretrievably broken or joins or does not join in the
38 petition, the court shall consider all relevant factors, including the

1 best interests of the minor children, the circumstances that gave rise
2 to the filing of the petition, and the prospects for reconciliation and
3 shall transfer the cause to the family court for mediation, or refer
4 the parties to another counseling service of their choice until the
5 time the parties have reconciled or one year of mediation or other
6 counseling has been completed, whichever occurs first, and request a
7 report back from the mediator or counseling service at such time. Upon
8 review of the report, the court shall:

9 (i) Find that reasonable grounds exist to find the marriage
10 irretrievably broken under section 1 (1) through (7) of this act and
11 enter a decree of divorce;

12 (ii) Find that the parties have agreed to reconciliation and
13 dismiss the petition; or

14 (iii) Find that the parties have not been reconciled, and that
15 either party continues to allege that the marriage is irretrievably
16 broken. When such facts are found, the court shall enter a decree of
17 divorce.

18 (c) If the petitioner requests the court to decree legal separation
19 in lieu of divorce, the court shall enter the decree in that form
20 unless the other party objects and petitions for a decree of divorce or
21 declaration of invalidity.

22 **Sec. 4.** RCW 4.24.130 and 1995 1st sp.s. c 19 s 14 are each amended
23 to read as follows:

24 (1) Any person desiring a change of his or her name or that of his
25 or her child or ward, may apply therefor to the district court of the
26 judicial district in which he or she resides, by petition setting forth
27 the reasons for such change; thereupon such court in its discretion may
28 order a change of the name and thenceforth the new name shall be in
29 place of the former.

30 (2) An offender under the jurisdiction of the department of
31 corrections who applies to change his or her name under subsection (1)
32 of this section shall submit a copy of the application to the
33 department of corrections not fewer than five days before the entry of
34 an order granting the name change. No offender under the jurisdiction
35 of the department of corrections at the time of application shall be
36 granted an order changing his or her name if the court finds that doing
37 so will interfere with legitimate penological interests, except that no
38 order shall be denied when the name change is requested for religious

1 or legitimate cultural reasons or in recognition of marriage, divorce,
2 or dissolution of marriage. An offender under the jurisdiction of the
3 department of corrections who receives an order changing his or her
4 name shall submit a copy of the order to the department of corrections
5 within five days of the entry of the order. Violation of this
6 subsection is a misdemeanor.

7 (3) The district court shall collect the fees authorized by RCW
8 36.18.010 for filing and recording a name change order, and transmit
9 the fee and the order to the county auditor. The court may collect a
10 reasonable fee to cover the cost of transmitting the order to the
11 county auditor.

12 (4) Name change petitions may be filed and shall be heard in
13 superior court when the person desiring a change of his or her name or
14 that of his or her child or ward is a victim of domestic violence as
15 defined in RCW 26.50.010(1) and the person seeks to have the name
16 change file sealed due to reasonable fear for his or her safety or that
17 of his or her child or ward. Upon granting the name change, the
18 superior court shall seal the file if the court finds that the safety
19 of the person seeking the name change or his or her child or ward
20 warrants sealing the file. In all cases filed under this subsection,
21 whether or not the name change petition is granted, there shall be no
22 public access to any court record of the name change filing,
23 proceeding, or order, unless the name change is granted but the file is
24 not sealed.

25 **Sec. 5.** RCW 9A.44.010 and 1994 c 271 s 302 are each amended to
26 read as follows:

27 As used in this chapter:

28 (1) "Sexual intercourse" (a) has its ordinary meaning and occurs
29 upon any penetration, however slight, and

30 (b) Also means any penetration of the vagina or anus however
31 slight, by an object, when committed on one person by another, whether
32 such persons are of the same or opposite sex, except when such
33 penetration is accomplished for medically recognized treatment or
34 diagnostic purposes, and

35 (c) Also means any act of sexual contact between persons involving
36 the sex organs of one person and the mouth or anus of another whether
37 such persons are of the same or opposite sex.

1 (2) "Sexual contact" means any touching of the sexual or other
2 intimate parts of a person done for the purpose of gratifying sexual
3 desire of either party or a third party.

4 (3) "Married" means one who is legally married to another, but does
5 not include a person who is living separate and apart from his or her
6 spouse and who has filed in an appropriate court for legal separation,
7 for divorce, or for dissolution of his or her marriage.

8 (4) "Mental incapacity" is that condition existing at the time of
9 the offense which prevents a person from understanding the nature or
10 consequences of the act of sexual intercourse whether that condition is
11 produced by illness, defect, the influence of a substance or from some
12 other cause.

13 (5) "Physically helpless" means a person who is unconscious or for
14 any other reason is physically unable to communicate unwillingness to
15 an act.

16 (6) "Forcible compulsion" means physical force which overcomes
17 resistance, or a threat, express or implied, that places a person in
18 fear of death or physical injury to herself or himself or another
19 person, or in fear that she or he or another person will be kidnapped.

20 (7) "Consent" means that at the time of the act of sexual
21 intercourse or sexual contact there are actual words or conduct
22 indicating freely given agreement to have sexual intercourse or sexual
23 contact.

24 (8) "Significant relationship" means a situation in which the
25 perpetrator is:

26 (a) A person who undertakes the responsibility, professionally or
27 voluntarily, to provide education, health, welfare, or organized
28 recreational activities principally for minors; or

29 (b) A person who in the course of his or her employment supervises
30 minors.

31 (9) "Abuse of a supervisory position" means a direct or indirect
32 threat or promise to use authority to the detriment or benefit of a
33 minor.

34 (10) "Developmentally disabled," for purposes of RCW
35 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a
36 developmental disability as defined in RCW 71A.10.020.

37 (11) "Person with supervisory authority," for purposes of RCW
38 9A.44.050(1) (c) or (e) and 9A.44.100(1) (c) or (e), means any
39 proprietor or employee of any public or private care or treatment

1 facility who directly supervises developmentally disabled, mentally
2 disordered, or chemically dependent persons at the facility.

3 (12) "Mentally disordered person" for the purposes of RCW
4 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental
5 disorder" as defined in RCW 71.05.020(2).

6 (13) "Chemically dependent person" for purposes of RCW
7 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically
8 dependent" as defined in RCW 70.96A.020(4).

9 (14) "Health care provider" for purposes of RCW 9A.44.050 and
10 9A.44.100 means a person who is, holds himself or herself out to be, or
11 provides services as if he or she were: (a) A member of a health care
12 profession under chapter 18.130 RCW; or (b) registered or certified
13 under chapter 18.19 RCW, regardless of whether the health care provider
14 is licensed, certified, or registered by the state.

15 (15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100 means
16 the active delivery of professional services by a health care provider
17 which the health care provider holds himself or herself out to be
18 qualified to provide.

19 **Sec. 6.** RCW 10.99.040 and 1996 c 248 s 7 are each amended to read
20 as follows:

21 (1) Because of the serious nature of domestic violence, the court
22 in domestic violence actions:

23 (a) Shall not dismiss any charge or delay disposition because of
24 concurrent dissolution, divorce, or other civil proceedings;

25 (b) Shall not require proof that either party is seeking a divorce
26 or dissolution of marriage prior to instigation of criminal
27 proceedings;

28 (c) Shall waive any requirement that the victim's location be
29 disclosed to any person, other than the attorney of a criminal
30 defendant, upon a showing that there is a possibility of further
31 violence: PROVIDED, That the court may order a criminal defense
32 attorney not to disclose to his or her client the victim's location;
33 and

34 (d) Shall identify by any reasonable means on docket sheets those
35 criminal actions arising from acts of domestic violence.

36 (2) Because of the likelihood of repeated violence directed at
37 those who have been victims of domestic violence in the past, when any
38 person charged with or arrested for a crime involving domestic violence

1 is released from custody before arraignment or trial on bail or
2 personal recognizance, the court authorizing the release may prohibit
3 that person from having any contact with the victim. The jurisdiction
4 authorizing the release shall determine whether that person should be
5 prohibited from having any contact with the victim. If there is no
6 outstanding restraining or protective order prohibiting that person
7 from having contact with the victim, the court authorizing release may
8 issue, by telephone, a no-contact order prohibiting the person charged
9 or arrested from having contact with the victim. In issuing the order,
10 the court shall consider the provisions of RCW 9.41.800. The no-
11 contact order shall also be issued in writing as soon as possible.

12 (3) At the time of arraignment the court shall determine whether a
13 no-contact order shall be issued or extended. If a no-contact order is
14 issued or extended, the court may also include in the conditions of
15 release a requirement that the defendant submit to electronic
16 monitoring. If electronic monitoring is ordered, the court shall
17 specify who shall provide the monitoring services, and the terms under
18 which the monitoring shall be performed. Upon conviction, the court
19 may require as a condition of the sentence that the defendant reimburse
20 the providing agency for the costs of the electronic monitoring.

21 (4)(a) Willful violation of a court order issued under subsection
22 (2) or (3) of this section is a gross misdemeanor except as provided in
23 (b) and (c) of this subsection (4). Upon conviction and in addition to
24 other penalties provided by law, the court may require that the
25 defendant submit to electronic monitoring. The court shall specify who
26 shall provide the electronic monitoring services and the terms under
27 which the monitoring must be performed. The court also may include a
28 requirement that the defendant pay the costs of the monitoring. The
29 court shall consider the ability of the convicted person to pay for
30 electronic monitoring.

31 (b) Any assault that is a violation of an order issued under this
32 section and that does not amount to assault in the first or second
33 degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable
34 under chapter 9A.20 RCW, and any conduct in violation of a protective
35 order issued under this section that is reckless and creates a
36 substantial risk of death or serious physical injury to another person
37 is a class C felony punishable under chapter 9A.20 RCW.

38 (c) A willful violation of a court order issued under this section
39 is a class C felony if the offender has at least two previous

1 convictions for violating the provisions of a no-contact order issued
2 under this chapter, a domestic violence protection order issued under
3 chapter 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-
4 state order that is comparable to a no-contact order or protection
5 order issued under Washington law. The previous convictions may
6 involve the same victim or other victims specifically protected by the
7 no-contact orders or protection orders the offender violated.

8 (d) The written order releasing the person charged or arrested
9 shall contain the court's directives and shall bear the legend:
10 "Violation of this order is a criminal offense under chapter 10.99 RCW
11 and will subject a violator to arrest; any assault or reckless
12 endangerment that is a violation of this order is a felony. You can be
13 arrested even if any person protected by the order invites or allows
14 you to violate the order's prohibitions. You have the sole
15 responsibility to avoid or refrain from violating the order's
16 provisions. Only the court can change the order." A certified copy of
17 the order shall be provided to the victim. If a no-contact order has
18 been issued prior to charging, that order shall expire at arraignment
19 or within seventy-two hours if charges are not filed. Such orders need
20 not be entered into the computer-based criminal intelligence
21 information system in this state which is used by law enforcement
22 agencies to list outstanding warrants.

23 (5) Whenever an order prohibiting contact is issued, modified, or
24 terminated under subsection (2) or (3) of this section, the clerk of
25 the court shall forward a copy of the order on or before the next
26 judicial day to the appropriate law enforcement agency specified in the
27 order. Upon receipt of the copy of the order the law enforcement
28 agency shall forthwith enter the order for one year or until the
29 expiration date specified on the order into any computer-based criminal
30 intelligence information system available in this state used by law
31 enforcement agencies to list outstanding warrants. Entry into the law
32 enforcement information system constitutes notice to all law
33 enforcement agencies of the existence of the order. The order is fully
34 enforceable in any jurisdiction in the state.

35 **Sec. 7.** RCW 11.07.010 and 1994 c 221 s 2 are each amended to read
36 as follows:

37 (1) This section applies to all nonprobate assets, wherever
38 situated, held at the time of entry by a superior court of this state

1 of a decree of divorce or dissolution of marriage or a declaration of
2 invalidity.

3 (2)(a) If (~~a marriage is dissolved or invalidated~~) there is a
4 divorce, dissolution, or invalidation of marriage, a provision made
5 prior to that event that relates to the payment or transfer at death of
6 the decedent's interest in a nonprobate asset in favor of or granting
7 an interest or power to the decedent's former spouse is revoked. A
8 provision affected by this section must be interpreted, and the
9 nonprobate asset affected passes, as if the former spouse failed to
10 survive the decedent, having died at the time of entry of the decree of
11 divorce, dissolution, or declaration of invalidity.

12 (b) This subsection does not apply if and to the extent that:

13 (i) The instrument governing disposition of the nonprobate asset
14 expressly provides otherwise;

15 (ii) The decree of divorce, dissolution, or declaration of
16 invalidity requires that the decedent maintain a nonprobate asset for
17 the benefit of a former spouse or children of the marriage, payable on
18 the decedent's death either outright or in trust, and other nonprobate
19 assets of the decedent fulfilling such a requirement for the benefit of
20 the former spouse or children of the marriage do not exist at the
21 decedent's death; or

22 (iii) If not for this subsection, the decedent could not have
23 effected the revocation by unilateral action because of the terms of
24 the decree or declaration, or for any other reason, immediately after
25 the entry of the decree of divorce, dissolution, or declaration of
26 invalidity.

27 (3)(a) A payor or other third party in possession or control of a
28 nonprobate asset at the time of the decedent's death is not liable for
29 making a payment or transferring an interest in a nonprobate asset to
30 a decedent's former spouse whose interest in the nonprobate asset is
31 revoked under this section, or for taking another action in reliance on
32 the validity of the instrument governing disposition of the nonprobate
33 asset, before the payor or other third party has actual knowledge of
34 the divorce, dissolution, or other invalidation of marriage. A payor
35 or other third party is liable for a payment or transfer made or other
36 action taken after the payor or other third party has actual knowledge
37 of a revocation under this section.

38 (b) This section does not require a payor or other third party to
39 pay or transfer a nonprobate asset to a beneficiary designated in a

1 governing instrument affected by the divorce, dissolution, or other
2 invalidation of marriage, or to another person claiming an interest in
3 the nonprobate asset, if the payor or third party has actual knowledge
4 of the existence of a dispute between the former spouse and the
5 beneficiaries or other persons concerning rights of ownership of the
6 nonprobate asset as a result of the application of this section among
7 the former spouse and the beneficiaries or among other persons, or if
8 the payor or third party is otherwise uncertain as to who is entitled
9 to the nonprobate asset under this section. In such a case, the payor
10 or third party may, without liability, notify in writing all
11 beneficiaries or other persons claiming an interest in the nonprobate
12 asset of either the existence of the dispute or its uncertainty as to
13 who is entitled to payment or transfer of the nonprobate asset. The
14 payor or third party may also, without liability, refuse to pay or
15 transfer a nonprobate asset in such a circumstance to a beneficiary or
16 other person claiming an interest until the time that either:

17 (i) All beneficiaries and other interested persons claiming an
18 interest have consented in writing to the payment or transfer; or

19 (ii) The payment or transfer is authorized or directed by a court
20 of proper jurisdiction.

21 (c) Notwithstanding subsections (1) and (2) of this section and (a)
22 and (b) of this subsection, a payor or other third party having actual
23 knowledge of the existence of a dispute between beneficiaries or other
24 persons concerning rights to a nonprobate asset as a result of the
25 application of this section may condition the payment or transfer of
26 the nonprobate asset on execution, in a form and with security
27 acceptable to the payor or other third party, of a bond in an amount
28 that is double the fair market value of the nonprobate asset at the
29 time of the decedent's death or the amount of an adverse claim,
30 whichever is the lesser, or of a similar instrument to provide security
31 to the payor or other third party, indemnifying the payor or other
32 third party for any liability, loss, damage, costs, and expenses for
33 and on account of payment or transfer of the nonprobate asset.

34 (d) As used in this subsection, "actual knowledge" means, for a
35 payor or other third party in possession or control of the nonprobate
36 asset at or following the decedent's death, written notice to the payor
37 or other third party, or to an officer of a payor or third party in the
38 course of his or her employment, received after the decedent's death
39 and within a time that is sufficient to afford the payor or third party

1 a reasonable opportunity to act upon the knowledge. The notice must
2 identify the nonprobate asset with reasonable specificity. The notice
3 also must be sufficient to inform the payor or other third party of the
4 revocation of the provisions in favor of the decedent's spouse by
5 reason of the divorce, dissolution, or invalidation of marriage, or to
6 inform the payor or third party of a dispute concerning rights to a
7 nonprobate asset as a result of the application of this section.
8 Receipt of the notice for a period of more than thirty days is presumed
9 to be received within a time that is sufficient to afford the payor or
10 third party a reasonable opportunity to act upon the knowledge, but
11 receipt of the notice for a period of less than five business days is
12 presumed not to be a sufficient time for these purposes. These
13 presumptions may be rebutted only by clear and convincing evidence to
14 the contrary.

15 (4)(a) A person who purchases a nonprobate asset from a former
16 spouse or other person, for value and without actual knowledge, or who
17 receives from a former spouse or other person payment or transfer of a
18 nonprobate asset without actual knowledge and in partial or full
19 satisfaction of a legally enforceable obligation, is neither obligated
20 under this section to return the payment, property, or benefit nor is
21 liable under this section for the amount of the payment or the value of
22 the nonprobate asset. However, a former spouse or other person who,
23 with actual knowledge, not for value, or not in satisfaction of a
24 legally enforceable obligation, receives payment or transfer of a
25 nonprobate asset to which that person is not entitled under this
26 section is obligated to return the payment or nonprobate asset, or is
27 personally liable for the amount of the payment or value of the
28 nonprobate asset, to the person who is entitled to it under this
29 section.

30 (b) As used in this subsection, "actual knowledge" means, for a
31 person described in (a) of this subsection who purchases or receives a
32 nonprobate asset from a former spouse or other person, personal
33 knowledge or possession of documents relating to the revocation upon
34 divorce, dissolution, or invalidation of marriage of provisions
35 relating to the payment or transfer at the decedent's death of the
36 nonprobate asset, received within a time after the decedent's death and
37 before the purchase or receipt that is sufficient to afford the person
38 purchasing or receiving the nonprobate asset reasonable opportunity to
39 act upon the knowledge. Receipt of the personal knowledge or

1 possession of the documents for a period of more than thirty days is
2 presumed to be received within a time that is sufficient to afford the
3 payor or third party a reasonable opportunity to act upon the
4 knowledge, but receipt of the notice for a period of less than five
5 business days is presumed not to be a sufficient time for these
6 purposes. These presumptions may be rebutted only by clear and
7 convincing evidence to the contrary.

8 (5) As used in this section, "nonprobate asset" means those rights
9 and interests of a person having beneficial ownership of an asset that
10 pass on the person's death under only the following written instruments
11 or arrangements other than the decedent's will:

12 (a) A payable-on-death provision of a life insurance policy,
13 employee benefit plan, annuity or similar contract, or individual
14 retirement account;

15 (b) A payable-on-death, trust, or joint with right of survivorship
16 bank account;

17 (c) A trust of which the person is a grantor and that becomes
18 effective or irrevocable only upon the person's death; or

19 (d) Transfer on death beneficiary designations of a transfer on
20 death or pay on death security, if such designations are authorized
21 under Washington law.

22 (6) This section is remedial in nature and applies as of July 25,
23 1993, to decrees of divorce, dissolution, and declarations of
24 invalidity entered after July 24, 1993, and this section applies as of
25 January 1, 1995, to decrees of divorce, dissolution, and declarations
26 of invalidity entered before July 25, 1993.

27 **Sec. 8.** RCW 11.12.051 and 1994 c 221 s 11 are each amended to read
28 as follows:

29 (1) If, after making a will, the testator's marriage is dissolved
30 or invalidated, or the testator is divorced, all provisions in the will
31 in favor of or granting any interest or power to the testator's former
32 spouse are revoked, unless the will expressly provides otherwise.
33 Provisions affected by this section must be interpreted, and property
34 affected passes, as if the former spouse failed to survive the
35 testator, having died at the time of entry of the decree of divorce,
36 dissolution, or declaration of invalidity. Provisions revoked by this
37 section are revived by the testator's remarriage to the former spouse.

1 Revocation of certain nonprobate transfers is provided under RCW
2 11.07.010.

3 (2) This section is remedial in nature and applies to decrees of
4 divorce, dissolution, and declarations of invalidity entered before,
5 on, or after January 1, 1995.

6 **Sec. 9.** RCW 13.64.060 and 1994 sp.s. c 7 s 436 are each amended to
7 read as follows:

8 (1) An emancipated minor shall be considered to have the power and
9 capacity of an adult, except as provided in subsection (2) of this
10 section. A minor shall be considered emancipated for the purposes of,
11 but not limited to:

12 (a) The termination of parental obligations of financial support,
13 care, supervision, and any other obligation the parent may have by
14 virtue of the parent-child relationship, including obligations imposed
15 because of marital divorce or dissolution;

16 (b) The right to sue or be sued in his or her own name;

17 (c) The right to retain his or her own earnings;

18 (d) The right to establish a separate residence or domicile;

19 (e) The right to enter into nonvoidable contracts;

20 (f) The right to act autonomously, and with the power and capacity
21 of an adult, in all business relationships, including but not limited
22 to property transactions;

23 (g) The right to work, and earn a living, subject only to the
24 health and safety regulations designed to protect those under age of
25 majority regardless of their legal status; and

26 (h) The right to give informed consent for receiving health care
27 services.

28 (2) An emancipated minor shall not be considered an adult for: (a)
29 The purposes of the adult criminal laws of the state unless the decline
30 of jurisdiction procedures contained in RCW 13.40.110 are used or the
31 minor is tried in criminal court pursuant to RCW 13.04.030(1)(e)(iv);

32 (b) the criminal laws of the state when the emancipated minor is a
33 victim and the age of the victim is an element of the offense; or (c)

34 those specific constitutional and statutory age requirements regarding
35 voting, use of alcoholic beverages, possession of firearms, and other
36 health and safety regulations relevant to the minor because of the
37 minor's age.

1 **Sec. 10.** RCW 26.09.004 and 1987 c 460 s 3 are each amended to read
2 as follows:

3 The definitions in this section apply throughout this chapter.

4 (1) "Temporary parenting plan" means a plan for parenting of the
5 child pending final resolution of any action for divorce, dissolution
6 of marriage, declaration of invalidity, or legal separation which is
7 incorporated in a temporary order.

8 (2) "Permanent parenting plan" means a plan for parenting the
9 child, including allocation of parenting functions, which plan is
10 incorporated in any final decree or decree of modification in an action
11 for divorce, dissolution of marriage, declaration of invalidity, or
12 legal separation.

13 (3) "Parenting functions" means those aspects of the parent-child
14 relationship in which the parent makes decisions and performs functions
15 necessary for the care and growth of the child. Parenting functions
16 include:

17 (a) Maintaining a loving, stable, consistent, and nurturing
18 relationship with the child;

19 (b) Attending to the daily needs of the child, such as feeding,
20 clothing, physical care and grooming, supervision, health care, and day
21 care, and engaging in other activities which are appropriate to the
22 developmental level of the child and that are within the social and
23 economic circumstances of the particular family;

24 (c) Attending to adequate education for the child, including
25 remedial or other education essential to the best interests of the
26 child;

27 (d) Assisting the child in developing and maintaining appropriate
28 interpersonal relationships;

29 (e) Exercising appropriate judgment regarding the child's welfare,
30 consistent with the child's developmental level and the family's social
31 and economic circumstances; and

32 (f) Providing for the financial support of the child.

33 **Sec. 11.** RCW 26.09.010 and 1989 c 375 s 1 are each amended to read
34 as follows:

35 (1) Except as otherwise specifically provided herein, the practice
36 in civil action shall govern all proceedings under this chapter, except
37 that trial by jury is dispensed with.

1 (2) A proceeding for divorce, dissolution of marriage, legal
2 separation or a declaration concerning the validity of a marriage shall
3 be entitled "In re the marriage of and" Such
4 proceeding may be filed in the superior court of the county where the
5 petitioner resides.

6 (3) In cases where there has been no prior proceeding in this state
7 involving the marital status of the parties or support obligations for
8 a minor child, a separate parenting and support proceeding between the
9 parents shall be entitled "In re the parenting and support of
10"

11 (4) The initial pleading in all proceedings under this chapter
12 shall be denominated a petition. A responsive pleading shall be
13 denominated a response. Other pleadings, and all pleadings in other
14 matters under this chapter shall be denominated as provided in the
15 civil rules for superior court.

16 (5) In this chapter, "decree" includes "judgment".

17 (6) A decree of divorce, dissolution, of legal separation, or a
18 declaration concerning the validity of a marriage shall not be awarded
19 to one of the parties, but shall provide that it affects the status
20 previously existing between the parties in the manner decreed.

21 **Sec. 12.** RCW 26.09.015 and 1991 c 367 s 2 are each amended to read
22 as follows:

23 (1) In any proceeding under this chapter, the matter may be set for
24 mediation of the contested issues before or concurrent with the setting
25 of the matter for hearing. The purpose of the mediation proceeding
26 shall be to reduce acrimony which may exist between the parties and to
27 develop an agreement assuring the child's close and continuing contact
28 with both parents after the divorce or dissolution of marriage (~~is~~
29 ~~dissolved~~). The mediator shall use his or her best efforts to effect
30 a settlement of the dispute.

31 (2) Each superior court may make available a mediator. The
32 mediator may be a member of the professional staff of a family court or
33 mental health services agency, or may be any other person or agency
34 designated by the court. In order to provide mediation services, the
35 court is not required to institute a family court.

36 (3) Mediation proceedings shall be held in private and shall be
37 confidential. The mediator shall not testify as to any aspect of the

1 mediation proceedings. This subsection shall not apply to postdecree
2 mediation required pursuant to a parenting plan.

3 (4) The mediator shall assess the needs and interests of the child
4 or children involved in the controversy and may interview the child or
5 children if the mediator deems such interview appropriate or necessary.

6 (5) Any agreement reached by the parties as a result of mediation
7 shall be reported to the court and to counsel for the parties by the
8 mediator on the day set for mediation or any time thereafter designated
9 by the court.

10 **Sec. 13.** RCW 26.09.020 and 1989 1st ex.s. c 9 s 204 and 1989 c 375
11 s 3 are each reenacted and amended to read as follows:

12 (1) A petition in a proceeding for divorce, dissolution of
13 marriage, legal separation, or for a declaration concerning the
14 validity of a marriage, shall allege the following:

15 (a) The last known residence of each party;

16 (b) The date and place of the marriage;

17 (c) If the parties are separated the date on which the separation
18 occurred;

19 (d) The names, ages, and addresses of any child dependent upon
20 either or both spouses and whether the wife is pregnant;

21 (e) Any arrangements as to the residential schedule of, decision
22 making for, dispute resolution for, and support of the children and the
23 maintenance of a spouse;

24 (f) A statement specifying whether there is community or separate
25 property owned by the parties to be disposed of;

26 (g) The relief sought.

27 (2) Either or both parties to the marriage may initiate the
28 proceeding.

29 (3) The petitioner shall complete and file with the petition a
30 certificate ((~~under RCW 70.58.200~~)) on the form provided by the
31 department of health.

32 **Sec. 14.** RCW 26.09.050 and 1995 c 93 s 2 are each amended to read
33 as follows:

34 (1) In entering a decree of divorce, dissolution of marriage, legal
35 separation, or declaration of invalidity, the court shall determine the
36 marital status of the parties, make provision for a parenting plan for
37 any minor child of the marriage, make provision for the support of any

1 child of the marriage entitled to support, consider or approve
2 provision for the maintenance of either spouse, make provision for the
3 disposition of property and liabilities of the parties, make provision
4 for the allocation of the children as federal tax exemptions, make
5 provision for any necessary continuing restraining orders including the
6 provisions contained in RCW 9.41.800, make provision for the issuance
7 within this action of the restraint provisions of a domestic violence
8 protection order under chapter 26.50 RCW or an antiharassment
9 protection order under chapter 10.14 RCW, and make provision for the
10 change of name of any party.

11 (2) Restraining orders issued under this section restraining the
12 person from molesting or disturbing another party or from going onto
13 the grounds of or entering the home, workplace, or school of the other
14 party or the day care or school of any child shall prominently bear on
15 the front page of the order the legend: VIOLATION OF THIS ORDER WITH
16 ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.09
17 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

18 (3) The court shall order that any restraining order bearing a
19 criminal offense legend, any domestic violence protection order, or any
20 antiharassment protection order granted under this section, in addition
21 to the law enforcement information sheet or proof of service of the
22 order, be forwarded by the clerk of the court on or before the next
23 judicial day to the appropriate law enforcement agency specified in the
24 order. Upon receipt of the order, the law enforcement agency shall
25 forthwith enter the order into any computer-based criminal intelligence
26 information system available in this state used by law enforcement
27 agencies to list outstanding warrants. The order is fully enforceable
28 in any county in the state.

29 **Sec. 15.** RCW 26.09.060 and 1995 c 246 s 26 are each amended to
30 read as follows:

31 (1) In a proceeding for:

32 (a) Divorce, dissolution of marriage, legal separation, or a
33 declaration of invalidity; or

34 (b) Disposition of property or liabilities, maintenance, or support
35 following divorce or dissolution of the marriage by a court which
36 lacked personal jurisdiction over the absent spouse; either party may
37 move for temporary maintenance or for temporary support of children
38 entitled to support. The motion shall be accompanied by an affidavit

1 setting forth the factual basis for the motion and the amounts
2 requested.

3 (2) As a part of a motion for temporary maintenance or support or
4 by independent motion accompanied by affidavit, either party may
5 request the court to issue a temporary restraining order or preliminary
6 injunction, providing relief proper in the circumstances, and
7 restraining or enjoining any person from:

8 (a) Transferring, removing, encumbering, concealing, or in any way
9 disposing of any property except in the usual course of business or for
10 the necessities of life, and, if so restrained or enjoined, requiring
11 him or her to notify the moving party of any proposed extraordinary
12 expenditures made after the order is issued;

13 (b) Molesting or disturbing the peace of the other party or of any
14 child;

15 (c) Going onto the grounds of or entering the home, workplace, or
16 school of the other party or the day care or school of any child upon
17 a showing of the necessity therefor;

18 (d) Removing a child from the jurisdiction of the court.

19 (3) Either party may request a domestic violence protection order
20 under chapter 26.50 RCW or an antiharassment protection order under
21 chapter 10.14 RCW on a temporary basis. The court may grant any of the
22 relief provided in RCW 26.50.060 except relief pertaining to
23 residential provisions for the children which provisions shall be
24 provided for under this chapter, and any of the relief provided in RCW
25 10.14.080. Ex parte orders issued under this subsection shall be
26 effective for a fixed period not to exceed fourteen days, or upon court
27 order, not to exceed twenty-four days if necessary to ensure that all
28 temporary motions in the case can be heard at the same time.

29 (4) In issuing the order, the court shall consider the provisions
30 of RCW 9.41.800.

31 (5) The court may issue a temporary restraining order without
32 requiring notice to the other party only if it finds on the basis of
33 the moving affidavit or other evidence that irreparable injury could
34 result if an order is not issued until the time for responding has
35 elapsed.

36 (6) The court may issue a temporary restraining order or
37 preliminary injunction and an order for temporary maintenance or
38 support in such amounts and on such terms as are just and proper in the

1 circumstances. The court may in its discretion waive the filing of the
2 bond or the posting of security.

3 (7) Restraining orders issued under this section restraining the
4 person from molesting or disturbing another party or from going onto
5 the grounds of or entering the home, workplace, or school of the other
6 party or the day care or school of any child shall prominently bear on
7 the front page of the order the legend: VIOLATION OF THIS ORDER WITH
8 ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.09
9 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

10 (8) The court shall order that any temporary restraining order
11 bearing a criminal offense legend, any domestic violence protection
12 order, or any antiharassment protection order granted under this
13 section be forwarded by the clerk of the court on or before the next
14 judicial day to the appropriate law enforcement agency specified in the
15 order. Upon receipt of the order, the law enforcement agency shall
16 forthwith enter the order into any computer-based criminal intelligence
17 information system available in this state used by law enforcement
18 agencies to list outstanding warrants. Entry into the law enforcement
19 information system constitutes notice to all law enforcement agencies
20 of the existence of the order. The order is fully enforceable in any
21 county in the state.

22 (9) A temporary order, temporary restraining order, or preliminary
23 injunction:

24 (a) Does not prejudice the rights of a party or any child which are
25 to be adjudicated at subsequent hearings in the proceeding;

26 (b) May be revoked or modified;

27 (c) Terminates when the final decree is entered, except as provided
28 under subsection (10) of this section, or when the petition for
29 divorce, dissolution, legal separation, or declaration of invalidity is
30 dismissed;

31 (d) May be entered in a proceeding for the modification of an
32 existing decree.

33 (10) Delinquent support payments accrued under an order for
34 temporary support remain collectible and are not extinguished when a
35 final decree is entered unless the decree contains specific language to
36 the contrary. A support debt under a temporary order owed to the state
37 for public assistance expenditures shall not be extinguished by the
38 final decree if:

1 (a) The obligor was given notice of the state's interest under
2 chapter 74.20A RCW; or

3 (b) The temporary order directs the obligor to make support
4 payments to the office of support enforcement or the Washington state
5 support registry.

6 **Sec. 16.** RCW 26.09.070 and 1989 c 375 s 4 are each amended to read
7 as follows:

8 (1) The parties to a marriage, in order to promote the amicable
9 settlement of disputes attendant upon their separation or upon the
10 filing of a petition for divorce, dissolution of their marriage, a
11 decree of legal separation, or declaration of invalidity of their
12 marriage, may enter into a written separation contract providing for
13 the maintenance of either of them, the disposition of any property
14 owned by both or either of them, the parenting plan and support for
15 their children and for the release of each other from all obligation
16 except that expressed in the contract.

17 (2) If the parties to such contract elect to live separate and
18 apart without any court decree, they may record such contract and cause
19 notice thereof to be published in a legal newspaper of the county
20 wherein the parties resided prior to their separation. Recording such
21 contract and publishing notice of the making thereof shall constitute
22 notice to all persons of such separation and of the facts contained in
23 the recorded document.

24 (3) If either or both of the parties to a separation contract shall
25 at the time of the execution thereof, or at a subsequent time, petition
26 the court for divorce or dissolution of their marriage, for a decree of
27 legal separation, or for a declaration of invalidity of their marriage,
28 the contract, except for those terms providing for a parenting plan for
29 their children, shall be binding upon the court unless it finds, after
30 considering the economic circumstances of the parties and any other
31 relevant evidence produced by the parties on their own motion or on
32 request of the court, that the separation contract was unfair at the
33 time of its execution. Child support may be included in the separation
34 contract and shall be reviewed in the subsequent proceeding for
35 compliance with RCW 26.19.020.

36 (4) If the court in an action for divorce, dissolution of marriage,
37 legal separation, or declaration of invalidity finds that the
38 separation contract was unfair at the time of its execution, it may

1 make orders for the maintenance of either party, the disposition of
2 their property and the discharge of their obligations.

3 (5) Unless the separation contract provides to the contrary, the
4 agreement shall be set forth in the decree of divorce, dissolution,
5 legal separation, or declaration of invalidity, or filed in the action
6 or made an exhibit and incorporated by reference, except that in all
7 cases the terms of the parenting plan shall be set out in the decree,
8 and the parties shall be ordered to comply with its terms.

9 (6) Terms of the contract set forth or incorporated by reference in
10 the decree may be enforced by all remedies available for the
11 enforcement of a judgment, including contempt, and are enforceable as
12 contract terms.

13 (7) When the separation contract so provides, the decree may
14 expressly preclude or limit modification of any provision for
15 maintenance set forth in the decree. Terms of a separation contract
16 pertaining to a parenting plan for the children and, in the absence of
17 express provision to the contrary, terms providing for maintenance set
18 forth or incorporated by reference in the decree are automatically
19 modified by modification of the decree.

20 (8) If at any time the parties to the separation contract by mutual
21 agreement elect to terminate the separation contract they may do so
22 without formality unless the contract was recorded as in subsection (2)
23 of this section, in which case a statement should be filed terminating
24 the contract.

25 **Sec. 17.** RCW 26.09.080 and 1989 c 375 s 5 are each amended to read
26 as follows:

27 In a proceeding for divorce, dissolution of the marriage, legal
28 separation, declaration of invalidity, or in a proceeding for
29 disposition of property following divorce or dissolution of the
30 marriage by a court which lacked personal jurisdiction over the absent
31 spouse or lacked jurisdiction to dispose of the property, the court
32 shall, without regard to marital misconduct, make such disposition of
33 the property and the liabilities of the parties, either community or
34 separate, as shall appear just and equitable after considering all
35 relevant factors including, but not limited to:

- 36 (1) The nature and extent of the community property;
37 (2) The nature and extent of the separate property;
38 (3) The duration of the marriage; and

1 (4) The economic circumstances of each spouse at the time the
2 division of property is to become effective, including the desirability
3 of awarding the family home or the right to live therein for reasonable
4 periods to a spouse with whom the children reside the majority of the
5 time.

6 **Sec. 18.** RCW 26.09.090 and 1989 c 375 s 6 are each amended to read
7 as follows:

8 (1) In a proceeding for divorce, dissolution of marriage, legal
9 separation, declaration of invalidity, or in a proceeding for
10 maintenance following divorce or dissolution of the marriage by a court
11 which lacked personal jurisdiction over the absent spouse, the court
12 may grant a maintenance order for either spouse. The maintenance order
13 shall be in such amounts and for such periods of time as the court
14 deems just, without regard to marital misconduct, after considering all
15 relevant factors including but not limited to:

16 (a) The financial resources of the party seeking maintenance,
17 including separate or community property apportioned to him, and his
18 ability to meet his needs independently, including the extent to which
19 a provision for support of a child living with the party includes a sum
20 for that party;

21 (b) The time necessary to acquire sufficient education or training
22 to enable the party seeking maintenance to find employment appropriate
23 to his skill, interests, style of life, and other attendant
24 circumstances;

25 (c) The standard of living established during the marriage;

26 (d) The duration of the marriage;

27 (e) The age, physical and emotional condition, and financial
28 obligations of the spouse seeking maintenance; and

29 (f) The ability of the spouse from whom maintenance is sought to
30 meet his needs and financial obligations while meeting those of the
31 spouse seeking maintenance.

32 **Sec. 19.** RCW 26.09.100 and 1991 sp.s. c 28 s 1 are each amended to
33 read as follows:

34 (1) In a proceeding for divorce, dissolution of marriage, legal
35 separation, declaration of invalidity, maintenance, or child support,
36 after considering all relevant factors but without regard to marital
37 misconduct, the court shall order either or both parents owing a duty

1 of support to any child of the marriage dependent upon either or both
2 spouses to pay an amount determined under chapter 26.19 RCW.

3 (2) The court may require automatic periodic adjustments or
4 modifications of child support. That portion of any decree that
5 requires periodic adjustments or modifications of child support shall
6 use the provisions in chapter 26.19 RCW as the basis for the adjustment
7 or modification. Provisions in the decree for periodic adjustment or
8 modification shall not conflict with RCW 26.09.170 except that the
9 decree may require periodic adjustments or modifications of support
10 more frequently than the time periods established pursuant to RCW
11 26.09.170.

12 (3) Upon motion of a party and without a substantial change of
13 circumstances, the court shall modify the decree to comply with
14 subsection (2) of this section as to installments accruing subsequent
15 to entry of the court's order on the motion for modification.

16 (4) The adjustment or modification provision may be modified by the
17 court due to economic hardship consistent with the provisions of RCW
18 26.09.170(4)(a).

19 **Sec. 20.** RCW 26.09.110 and 1987 c 460 s 11 are each amended to
20 read as follows:

21 The court may appoint an attorney to represent the interests of a
22 minor or dependent child with respect to provision for the parenting
23 plan in an action for divorce, dissolution of marriage, legal
24 separation, or declaration concerning the validity of a marriage. The
25 court shall enter an order for costs, fees, and disbursements in favor
26 of the child's attorney. The order shall be made against either or
27 both parents, except that, if both parties are indigent, the costs,
28 fees, and disbursements shall be borne by the county.

29 **Sec. 21.** RCW 26.09.138 and 1991 c 365 s 24 are each amended to
30 read as follows:

31 (1) Any obligee of a court order or decree establishing a spousal
32 maintenance obligation may seek a mandatory benefits assignment order
33 under chapter 41.50 RCW if any spousal maintenance payment is more than
34 fifteen days past due and the total of such past due payments is equal
35 to or greater than one hundred dollars, or if the obligor requests a
36 withdrawal of accumulated contributions from the department of
37 retirement systems.

1 (2) Any court order or decree establishing a spousal maintenance
2 obligation may state that, if any spousal maintenance payment is more
3 than fifteen days past due and the total of such past due payments is
4 equal to or greater than one hundred dollars, or if the obligor
5 requests a withdrawal of accumulated contributions from the department
6 of retirement systems, the obligee may seek a mandatory benefits
7 assignment order under chapter 41.50 RCW without prior notice to the
8 obligor. Any such court order or decree may also, or in the
9 alternative, contain a provision that would allow the department to
10 make a direct payment of all or part of a withdrawal of accumulated
11 contributions pursuant to RCW 41.50.550(3). Failure to include this
12 provision does not affect the validity of the court order or decree
13 establishing the spousal maintenance, nor does such failure affect the
14 general applicability of RCW 41.50.500 through 41.50.650 to such
15 obligations.

16 (3) The remedies in RCW 41.50.530 through 41.50.630 are the
17 exclusive provisions of law enforceable against the department of
18 retirement systems in connection with any action for enforcement of a
19 spousal maintenance obligation ordered pursuant to a divorce,
20 dissolution, or legal separation, and no other remedy ordered by a
21 court under this chapter shall be enforceable against the department of
22 retirement systems for collection of spousal maintenance.

23 (4)(a) Nothing in this section regarding mandatory assignment of
24 benefits to enforce a spousal maintenance obligation shall abridge the
25 right of an ex spouse to receive direct payment of retirement benefits
26 payable pursuant to: (i) A court decree of divorce, dissolution, or
27 legal separation; or (ii) any court order or court-approved property
28 settlement agreement; or (iii) incident to any court decree of divorce,
29 dissolution, or legal separation, if such (~~dissolution~~) orders fully
30 comply with RCW 41.50.670 and 41.50.700, or as applicable, RCW
31 2.10.180, 2.12.090, 41.04.310, 41.04.320, 41.04.330, (~~41.26.180~~)
32 41.26.053, 41.32.052, 41.40.052, or 43.43.310 as those statutes existed
33 before July 1, 1987, and as those statutes exist on and after July 28,
34 1991.

35 (b) Persons whose dissolution orders as defined in RCW 41.50.500(3)
36 were entered between July 1, 1987, and July 28, 1991, shall be entitled
37 to receive direct payments of retirement benefits to satisfy court-
38 ordered property divisions if the dissolution orders filed with the
39 department comply or are amended to comply with RCW 41.50.670 through

1 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, (~~(41.26.180)~~)
2 41.26.053, 41.32.052, 41.40.052, or 43.43.310.

3 **Sec. 22.** RCW 26.09.150 and 1989 1st ex.s. c 9 s 205 and 1989 c 375
4 s 30 are each reenacted and amended to read as follows:

5 A decree of divorce, dissolution of marriage, legal separation, or
6 declaration of invalidity is final when entered, subject to the right
7 of appeal. An appeal which does not challenge the finding that the
8 marriage is irretrievably broken or was invalid, does not delay the
9 finality of the divorce, dissolution, or declaration of invalidity and
10 either party may remarry pending such an appeal.

11 No earlier than six months after entry of a decree of legal
12 separation, on motion of either party, the court shall convert the
13 decree of legal separation to a decree of divorce or dissolution of
14 marriage. The clerk of court shall complete the certificate as
15 provided (~~(for in RCW 70.58.200)~~) on the form provided by the
16 department of health. On or before the tenth day of each month, the
17 clerk of the court shall forward to the state registrar of vital
18 statistics the certificate of each decree of divorce, dissolution of
19 marriage, annulment, or separate maintenance granted during the
20 preceding month.

21 Upon request of a party who is divorced or whose marriage is
22 dissolved or declared invalid, the court shall order a former name
23 restored or the court may, in its discretion, order a change to another
24 name.

25 **Sec. 23.** RCW 26.09.175 and 1992 c 229 s 3 are each amended to read
26 as follows:

27 (1) A proceeding for the modification of an order of child support
28 shall commence with the filing of a petition and worksheets. The
29 petition shall be in the form prescribed by the administrator for the
30 courts. There shall be a fee of twenty dollars for the filing of a
31 petition for modification of divorce or dissolution.

32 (2) The petitioner shall serve upon the other party the summons, a
33 copy of the petition, and the worksheets in the form prescribed by the
34 administrator for the courts. If the modification proceeding is the
35 first action filed in this state, service shall be made by personal
36 service. If the decree to be modified was entered in this state,
37 service shall be by personal service or by any form of mail requiring

1 a return receipt. If the support obligation has been assigned to the
2 state pursuant to RCW 74.20.330 or the state has a subrogated interest
3 under RCW 74.20A.030, the summons, petition, and worksheets shall also
4 be served on the attorney general. Proof of service shall be filed
5 with the court.

6 (3) The responding party's answer and worksheets shall be served
7 and the answer filed within twenty days after service of the petition
8 or sixty days if served out of state. The responding party's failure
9 to file an answer within the time required shall result in entry of a
10 default judgment for the petitioner.

11 (4) At any time after responsive pleadings are filed, either party
12 may schedule the matter for hearing.

13 (5) Unless both parties stipulate to arbitration or the presiding
14 judge authorizes oral testimony pursuant to subsection (6) of this
15 section, a petition for modification of an order of child support shall
16 be heard by the court on affidavits, the petition, answer, and
17 worksheets only.

18 (6) A party seeking authority to present oral testimony on the
19 petition to modify a support order shall file an appropriate motion not
20 later than ten days after the time of notice of hearing. Affidavits
21 and exhibits setting forth the reasons oral testimony is necessary to
22 a just adjudication of the issues shall accompany the petition. The
23 affidavits and exhibits must demonstrate the extraordinary features of
24 the case. Factors which may be considered include, but are not limited
25 to: (a) Substantial questions of credibility on a major issue; (b)
26 insufficient or inconsistent discovery materials not correctable by
27 further discovery; or (c) particularly complex circumstances requiring
28 expert testimony.

29 **Sec. 24.** RCW 26.09.194 and 1987 c 460 s 13 are each amended to
30 read as follows:

31 (1) A parent seeking a temporary order relating to parenting shall
32 file and serve a proposed temporary parenting plan by motion. The
33 other parent, if contesting the proposed temporary parenting plan,
34 shall file and serve a responsive proposed parenting plan. Either
35 parent may move to have a proposed temporary parenting plan entered as
36 part of a temporary order. The parents may enter an agreed temporary
37 parenting plan at any time as part of a temporary order. The proposed
38 temporary parenting plan may be supported by relevant evidence and

1 shall be accompanied by an affidavit or declaration which shall state
2 at a minimum the following:

3 (a) The name, address, and length of residence with the person or
4 persons with whom the child has lived for the preceding twelve months;

5 (b) The performance by each parent during the last twelve months of
6 the parenting functions relating to the daily needs of the child;

7 (c) The parents' work and child-care schedules for the preceding
8 twelve months;

9 (d) The parents' current work and child-care schedules; and

10 (e) Any of the circumstances set forth in RCW 26.09.191 that are
11 likely to pose a serious risk to the child and that warrant limitation
12 on the award to a parent of temporary residence or time with the child
13 pending entry of a permanent parenting plan.

14 (2) At the hearing, the court shall enter a temporary parenting
15 order incorporating a temporary parenting plan which includes:

16 (a) A schedule for the child's time with each parent when
17 appropriate;

18 (b) Designation of a temporary residence for the child;

19 (c) Allocation of decision-making authority, if any. Absent
20 allocation of decision-making authority consistent with RCW
21 26.09.187(2), neither party shall make any decision for the child other
22 than those relating to day-to-day or emergency care of the child, which
23 shall be made by the party who is present with the child;

24 (d) Provisions for temporary support for the child; and

25 (e) Restraining orders, if applicable, under RCW 26.09.060.

26 (3) A parent may make a motion for an order to show cause and the
27 court may enter a temporary order, including a temporary parenting
28 plan, upon a showing of necessity.

29 (4) A parent may move for amendment of a temporary parenting plan,
30 and the court may order amendment to the temporary parenting plan, if
31 the amendment conforms to the limitations of RCW 26.09.191 and is in
32 the best interest of the child.

33 (5) If a proceeding for divorce, dissolution of marriage, legal
34 separation, or declaration of invalidity is dismissed, any temporary
35 order or temporary parenting plan is vacated.

36 **Sec. 25.** RCW 26.09.210 and 1987 c 460 s 15 are each amended to
37 read as follows:

1 The court may interview the child in chambers to ascertain the
2 child's wishes as to the child's residential schedule in a proceeding
3 for divorce, dissolution of marriage, legal separation, or declaration
4 of invalidity. The court may permit counsel to be present at the
5 interview. The court shall cause a record of the interview to be made
6 and to be made part of the record in the case.

7 The court may seek the advice of professional personnel whether or
8 not they are employed on a regular basis by the court. The advice
9 given shall be in writing and shall be made available by the court to
10 counsel upon request. Counsel may call for cross-examination any
11 professional personnel consulted by the court.

12 **Sec. 26.** RCW 26.09.240 and 1996 c 177 s 1 are each amended to read
13 as follows:

14 (1) A person other than a parent may petition the court for
15 visitation with a child at any time or may intervene in a pending
16 divorce, dissolution, legal separation, or modification of parenting
17 plan proceeding. A person other than a parent may not petition for
18 visitation under this section unless the child's parent or parents have
19 commenced an action 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 pursuant to
23 this 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 attorney's fees and costs to the
29 parent, parents, other custodian, or representative of the child who
30 responds 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 lives, the court may set the matter for mediation under
7 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 each of the child's parents or the
13 person with whom the child is residing and the petitioner;

14 (c) The nature and reason for either parent's objection to granting
15 the petitioner visitation;

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 26.09.220.

31 (9) Visitation granted pursuant to this section shall be
32 incorporated into the parenting plan 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.

37 **Sec. 27.** RCW 26.09.280 and 1991 c 367 s 10 are each amended to
38 read as follows:

1 Every action or proceeding to change, modify, or enforce any final
2 order, judgment, or decree entered in any divorce, dissolution, or
3 legal separation or declaration concerning the validity of a marriage,
4 whether under this chapter or prior law, regarding the parenting plan
5 or child support for the minor children of the marriage may be brought
6 in the county where the minor children are then residing, or in the
7 court in which the final order, judgment, or decree was entered, or in
8 the county where the parent or other person who has the care, custody,
9 or control of the children is then residing.

10 **Sec. 28.** RCW 26.16.205 and 1990 1st ex.s. c 2 s 13 are each
11 amended to read as follows:

12 The expenses of the family and the education of the children,
13 including stepchildren, are chargeable upon the property of both
14 husband and wife, or either of them, and they may be sued jointly or
15 separately. When a petition for divorce, dissolution of marriage, or
16 a petition for legal separation is filed, the court may, upon motion of
17 the stepparent, terminate the obligation to support the stepchildren.
18 The obligation to support stepchildren shall cease upon the entry of a
19 decree of divorce or dissolution, decree of legal separation, or death.

20 **Sec. 29.** RCW 26.19.071 and 1993 c 358 s 4 are each amended to read
21 as follows:

22 (1) **Consideration of all income.** All income and resources of each
23 parent's household shall be disclosed and considered by the court when
24 the court determines the child support obligation of each parent. Only
25 the income of the parents of the children whose support is at issue
26 shall be calculated for purposes of calculating the basic support
27 obligation. Income and resources of any other person shall not be
28 included in calculating the basic support obligation.

29 (2) **Verification of income.** Tax returns for the preceding two
30 years and current paystubs shall be provided to verify income and
31 deductions. Other sufficient verification shall be required for income
32 and deductions which do not appear on tax returns or paystubs.

33 (3) **Income sources included in gross monthly income.** Except as
34 specifically excluded in subsection (4) of this section, monthly gross
35 income shall include income from any source, including:

36 (a) Salaries;

37 (b) Wages;

- 1 (c) Commissions;
- 2 (d) Deferred compensation;
- 3 (e) Overtime;
- 4 (f) Contract-related benefits;
- 5 (g) Income from second jobs;
- 6 (h) Dividends;
- 7 (i) Interest;
- 8 (j) Trust income;
- 9 (k) Severance pay;
- 10 (l) Annuities;
- 11 (m) Capital gains;
- 12 (n) Pension retirement benefits;
- 13 (o) Workers' compensation;
- 14 (p) Unemployment benefits;
- 15 (q) Spousal maintenance actually received;
- 16 (r) Bonuses;
- 17 (s) Social security benefits; and
- 18 (t) Disability insurance benefits.

19 (4) **Income sources excluded from gross monthly income.** The
20 following income and resources shall be disclosed but shall not be
21 included in gross income:

- 22 (a) Income of a new spouse or income of other adults in the
23 household;
- 24 (b) Child support received from other relationships;
- 25 (c) Gifts and prizes;
- 26 (d) Aid to families with dependent children;
- 27 (e) Supplemental security income;
- 28 (f) General assistance; and
- 29 (g) Food stamps.

30 Receipt of income and resources from aid to families with dependent
31 children, supplemental security income, general assistance, and food
32 stamps shall not be a reason to deviate from the standard calculation.

33 (5) **Determination of net income.** The following expenses shall be
34 disclosed and deducted from gross monthly income to calculate net
35 monthly income:

- 36 (a) Federal and state income taxes;
- 37 (b) Federal insurance contributions act deductions;
- 38 (c) Mandatory pension plan payments;
- 39 (d) Mandatory union or professional dues;

1 (e) State industrial insurance premiums;
2 (f) Court-ordered spousal maintenance to the extent actually paid;
3 (g) Up to two thousand dollars per year in voluntary pension
4 payments actually made if the contributions were made for the two tax
5 years preceding the earlier of the (i) tax year in which the parties
6 separated with intent to live separate and apart or (ii) tax year in
7 which the parties filed for divorce or dissolution; and
8 (h) Normal business expenses and self-employment taxes for self-
9 employed persons. Justification shall be required for any business
10 expense deduction about which there is disagreement.

11 Items deducted from gross income under this subsection shall not be
12 a reason to deviate from the standard calculation.

13 (6) **Imputation of income.** The court shall impute income to a
14 parent when the parent is voluntarily unemployed or voluntarily
15 underemployed. The court shall determine whether the parent is
16 voluntarily underemployed or voluntarily unemployed based upon that
17 parent's work history, education, health, and age, or any other
18 relevant factors. A court shall not impute income to a parent who is
19 gainfully employed on a full-time basis, unless the court finds that
20 the parent is voluntarily underemployed and finds that the parent is
21 purposely underemployed to reduce the parent's child support
22 obligation. Income shall not be imputed for an unemployable parent.
23 Income shall not be imputed to a parent to the extent the parent is
24 unemployed or significantly underemployed due to the parent's efforts
25 to comply with court-ordered reunification efforts under chapter 13.34
26 RCW or under a voluntary placement agreement with an agency supervising
27 the child. In the absence of information to the contrary, a parent's
28 imputed income shall be based on the median income of year-round full-
29 time workers as derived from the United States bureau of census,
30 current populations reports, or such replacement report as published by
31 the bureau of census.

32 **Sec. 30.** RCW 26.27.020 and 1979 c 98 s 2 are each amended to read
33 as follows:

34 As used in this chapter:

35 (1) "Contestant" means a person, including a parent, who claims a
36 right to custody or visitation rights with respect to a child;

37 (2) "Custody determination" means a court decision and court orders
38 and instructions providing for the custody of a child, including

1 visitation rights; it does not include a decision relating to child
2 support or any other monetary obligation of any person;

3 (3) "Custody proceeding" includes proceedings in which a custody
4 determination is one of several issues, such as an action for divorce,
5 dissolution of marriage, or legal separation, and includes child
6 neglect and dependency proceedings;

7 (4) "Decree" or "custody decree" means a custody determination
8 contained in a judicial decree or order made in a custody proceeding,
9 and includes an initial decree and a modification decree;

10 (5) "Home state" means the state in which the child immediately
11 preceding the time involved lived with his parents, a parent, or a
12 person acting as parent, for at least six consecutive months, and in
13 the case of a child less than six months old the state in which the
14 child lived from birth with any of the persons mentioned. Periods of
15 temporary absence of any of the named persons are counted as part of
16 the six-month or other period;

17 (6) "Initial decree" means the first custody decree concerning a
18 particular child;

19 (7) "Modification decree" means a custody decree which modifies or
20 replaces a prior decree, whether made by the court which rendered the
21 prior decree or by another court;

22 (8) "Physical custody" means actual possession and control of a
23 child;

24 (9) "Person acting as parent" means a person, other than a parent,
25 who has physical custody of a child and who has either been awarded
26 custody by the court or claims a right to custody; and

27 (10) "State" means any state, territory, or possession of the
28 United States, the Commonwealth of Puerto Rico, and the District of
29 Columbia.

30 **Sec. 31.** RCW 26.27.070 and 1979 c 98 s 7 are each amended to read
31 as follows:

32 (1) A court which has jurisdiction under this chapter to make an
33 initial or modification decree may decline to exercise its jurisdiction
34 any time before making a decree if it finds that it is an inconvenient
35 forum to make a custody determination under the circumstances of the
36 case and that a court of another state is a more appropriate forum.

1 (2) A finding of inconvenient forum may be made upon the court's
2 own motion or upon motion of a party or a guardian ad litem or other
3 representative of the child.

4 (3) In determining if it is an inconvenient forum, the court shall
5 consider if it is in the interest of the child that another state
6 assume jurisdiction. For this purpose it may take into account the
7 following factors, among others:

8 (a) If another state is or recently was the child's home state;

9 (b) If another state has a closer connection with the child and his
10 family or with the child and one or more of the contestants;

11 (c) If substantial evidence concerning the child's present or
12 future care, protection, training, and personal relationships is more
13 readily available in another state;

14 (d) If the parties have agreed on another forum which is no less
15 appropriate; and

16 (e) If the exercise of jurisdiction by a court of this state would
17 contravene any of the purposes stated in RCW 26.27.010.

18 (4) Before determining whether to decline or retain jurisdiction
19 the court may communicate with a court of another state and exchange
20 information pertinent to the assumption of jurisdiction by either court
21 with a view to assuring that jurisdiction will be exercised by the more
22 appropriate court and that a forum will be available to the parties.

23 (5) If the court finds that it is an inconvenient forum and that a
24 court of another state is a more appropriate forum, it may dismiss the
25 proceedings, or it may stay the proceedings upon condition that a
26 custody proceeding be promptly commenced in another named state or upon
27 any other conditions which may be just and proper, including the
28 condition that a moving party stipulate his consent and submission to
29 the jurisdiction of the other forum.

30 (6) The court may decline to exercise its jurisdiction under this
31 chapter if a custody determination is incidental to an action for a
32 divorce or dissolution of marriage, or another proceeding while
33 retaining jurisdiction over the divorce, dissolution of marriage, or
34 other proceeding.

35 (7) If it appears to the court that it is clearly an inappropriate
36 forum it may require the party who commenced the proceedings to pay, in
37 addition to the costs of the proceedings in this state, necessary
38 travel and other expenses, including attorney's fees, incurred by other

1 parties or their witnesses. Payment is to be made to the clerk of the
2 court for remittance to the proper party.

3 (8) Upon dismissal or stay of proceedings under this section the
4 court shall inform the court found to be the more appropriate forum of
5 this fact, or if the court which would have jurisdiction in the other
6 state is not certainly known, shall transmit the information to the
7 court administrator or other appropriate official for forwarding to the
8 appropriate court.

9 (9) Any communication received from another state informing this
10 state of a finding of inconvenient forum because a court of this state
11 is the more appropriate forum shall be filed in the custody registry of
12 the appropriate court. Upon assuming jurisdiction the court of this
13 state shall inform the original court of this fact.

14 **Sec. 32.** RCW 26.50.160 and 1995 c 246 s 18 are each amended to
15 read as follows:

16 To prevent the issuance of competing protection orders in different
17 courts and to give courts needed information for issuance of orders,
18 the judicial information system shall be available in each district,
19 municipal, and superior court by July 1, 1997, and shall include a data
20 base containing the following information:

21 (1) The names of the parties and the cause number for every order
22 of protection issued under this title, every criminal no-contact order
23 issued under chapter 10.99 RCW, every antiharassment order issued under
24 chapter 10.14 RCW, every divorce or dissolution action under chapter
25 26.09 RCW, every third-party custody action under chapter 26.10 RCW,
26 and every parentage action under chapter 26.10 RCW;

27 (2) A criminal history of the parties; and

28 (3) Other relevant information necessary to assist courts in
29 issuing orders under this chapter as determined by the judicial
30 information system committee.

31 **Sec. 33.** RCW 41.28.205 and 1979 ex.s. c 205 s 9 are each amended
32 to read as follows:

33 Benefits under this chapter shall be payable to a spouse or ex-
34 spouse to the extent expressly provided for in any court decree of
35 divorce, dissolution, or legal separation or in any court order or
36 court-approved property settlement agreement incident to any court
37 decree of divorce, dissolution, or legal separation.

1 **Sec. 34.** RCW 41.28.207 and 1987 c 326 s 20 are each amended to
2 read as follows:

3 (1) If the board of administration makes payments to a spouse or ex
4 spouse to the extent expressly provided for in any court decree of
5 divorce, dissolution, or legal separation or in any court order or
6 court-approved property settlement agreement incident to a court decree
7 of divorce, dissolution, or legal separation, it shall be a sufficient
8 answer to any claim of a beneficiary against the board of
9 administration or the retirement system for the board of administration
10 to show that the payments were made pursuant to a court decree.

11 (2) All payments made to a nonmember spouse or ex spouse pursuant
12 to RCW 41.28.205 shall cease upon the death of such a nonmember spouse
13 or ex spouse. Upon such a death, the board of administration shall pay
14 to the member his or her full monthly entitlement of benefits.

15 (3) The provisions of RCW 41.28.205 and this section shall apply to
16 all court decrees of divorce, dissolution, or legal separation and
17 court-approved property settlement agreements, regardless of when
18 entered, but shall apply only to those persons who have actually
19 retired or who have requested withdrawal of any or all of their
20 accumulated contributions: PROVIDED, That the board of administration
21 shall not be responsible for making court-ordered divisions of
22 withdrawals unless the order is filed with the board at least thirty
23 days before the withdrawal payment date.

24 **Sec. 35.** RCW 41.44.240 and 1989 c 360 s 28 are each amended to
25 read as follows:

26 The right of a person to a pension, annuity or a retirement
27 allowance, to the return of contribution, the pension, annuity or
28 retirement allowance itself, any optional benefit, any other right
29 accrued or accruing to any person under the provisions of this chapter,
30 and the moneys in the fund created under this chapter shall not be
31 subject to execution, garnishment, or any other process whatsoever.
32 This section shall not apply to child support collection actions taken
33 under chapter 26.18, 26.23, or 74.20A RCW against benefits payable
34 under any such plan or arrangement. Benefits under this chapter shall
35 be payable to a spouse or ex-spouse to the extent expressly provided
36 for in any court decree of divorce, dissolution, or legal separation or
37 in any court order or court-approved property settlement agreement

1 incident to any court decree of divorce, dissolution, or legal
2 separation.

3 **Sec. 36.** RCW 41.32.530 and 1996 c 175 s 4 are each amended to read
4 as follows:

5 (1) Upon an application for retirement for service under RCW
6 41.32.480 or retirement for disability under RCW 41.32.550, approved by
7 the department, every member shall receive the maximum retirement
8 allowance available to him or her throughout life unless prior to the
9 time the first installment thereof becomes due he or she has elected,
10 by executing the proper application therefor, to receive the actuarial
11 equivalent of his or her retirement allowance in reduced payments
12 throughout his or her life with the following options:

13 (a) Standard allowance. If he or she dies before he or she has
14 received the present value of his or her accumulated contributions at
15 the time of his or her retirement in annuity payments, the unpaid
16 balance shall be paid to his or her estate or to such person, trust, or
17 organization as he or she shall have nominated by written designation
18 executed and filed with the department.

19 (b) The department shall adopt rules that allow a member to select
20 a retirement option that pays the member a reduced retirement allowance
21 and upon death, such portion of the member's reduced retirement
22 allowance as the department by rule designates shall be continued
23 throughout the life of and paid to a person who has an insurable
24 interest in the member's life. Such person shall be nominated by the
25 member by written designation duly executed and filed with the
26 department at the time of retirement. The options adopted by the
27 department shall include, but are not limited to, a joint and one
28 hundred percent survivor option and a joint and fifty percent survivor
29 option.

30 (c) Such other benefits shall be paid to a member receiving a
31 retirement allowance under RCW 41.32.497 as the member may designate
32 for himself, herself, or others equal to the actuarial value of his or
33 her retirement annuity at the time of his retirement: PROVIDED, That
34 the board of trustees shall limit withdrawals of accumulated
35 contributions to such sums as will not reduce the member's retirement
36 allowance below one hundred and twenty dollars per month.

37 (d) A member whose retirement allowance is calculated under RCW
38 41.32.498 may also elect to receive a retirement allowance based on

1 options available under this subsection that includes the benefit
2 provided under RCW 41.32.770. This retirement allowance option shall
3 also be calculated so as to be actuarially equivalent to the maximum
4 retirement allowance and to the options available under this
5 subsection.

6 (2)(a) A member, if married, must provide the written consent of
7 his or her spouse to the option selected under this section, except as
8 provided in (b) of this subsection. If a member is married and both
9 the member and the member's spouse do not give written consent to an
10 option under this section, the department will pay the member a joint
11 and fifty percent survivor benefit and record the member's spouse as
12 the beneficiary. Such benefit shall be calculated to be actuarially
13 equivalent to the benefit options available under subsection (1) of
14 this section unless spousal consent is not required as provided in (b)
15 of this subsection.

16 (b) If a copy of a dissolution order as defined in RCW 41.50.500(3)
17 designating a survivor beneficiary under RCW 41.50.790 has been filed
18 with the department at least thirty days prior to a member's
19 retirement:

20 (i) The department shall honor the designation as if made by the
21 member under subsection (1) of this section; and

22 (ii) The spousal consent provisions of (a) of this subsection do
23 not apply.

24 **Sec. 37.** RCW 41.32.785 and 1996 c 175 s 5 are each amended to read
25 as follows:

26 (1) Upon retirement for service as prescribed in RCW 41.32.765 or
27 retirement for disability under RCW 41.32.790, a member shall elect to
28 have the retirement allowance paid pursuant to the following options,
29 calculated so as to be actuarially equivalent to each other.

30 (a) Standard allowance. A member electing this option shall
31 receive a retirement allowance payable throughout such member's life.
32 However, if the retiree dies before the total of the retirement
33 allowance paid to such retiree equals the amount of such retiree's
34 accumulated contributions at the time of retirement, then the balance
35 shall be paid to the member's estate, or such person or persons, trust,
36 or organization as the retiree shall have nominated by written
37 designation duly executed and filed with the department; or if there be
38 no such designated person or persons still living at the time of the

1 retiree's death, then to the surviving spouse; or if there be neither
2 such designated person or persons still living at the time of death nor
3 a surviving spouse, then to the retiree's legal representative.

4 (b) The department shall adopt rules that allow a member to select
5 a retirement option that pays the member a reduced retirement allowance
6 and upon death, such portion of the member's reduced retirement
7 allowance as the department by rule designates shall be continued
8 throughout the life of and paid to a designated person. Such person
9 shall be nominated by the member by written designation duly executed
10 and filed with the department at the time of retirement. The options
11 adopted by the department shall include, but are not limited to, a
12 joint and one hundred percent survivor option and a joint and fifty
13 percent survivor option.

14 (2)(a) A member, if married, must provide the written consent of
15 his or her spouse to the option selected under this section, except as
16 provided in (b) of this subsection. If a member is married and both
17 the member and member's spouse do not give written consent to an option
18 under this section, the department will pay the member a joint and
19 fifty percent survivor benefit and record the member's spouse as the
20 beneficiary. Such benefit shall be calculated to be actuarially
21 equivalent to the benefit options available under subsection (1) of
22 this section unless spousal consent is not required as provided in (b)
23 of this subsection.

24 (b) If a copy of a dissolution order as defined in RCW 41.50.500(3)
25 designating a survivor beneficiary under RCW 41.50.790 has been filed
26 with the department at least thirty days prior to a member's
27 retirement:

28 (i) The department shall honor the designation as if made by the
29 member under subsection (1) of this section; and

30 (ii) The spousal consent provisions of (a) of this subsection do
31 not apply.

32 **Sec. 38.** RCW 41.40.188 and 1996 c 175 s 6 are each amended to read
33 as follows:

34 (1) Upon retirement for service as prescribed in RCW 41.40.180 or
35 retirement for disability under RCW 41.40.210 or 41.40.230, a member
36 shall elect to have the retirement allowance paid pursuant to one of
37 the following options calculated so as to be actuarially equivalent to
38 each other.

1 (a) Standard allowance. A member electing this option shall
2 receive a retirement allowance payable throughout such member's life.
3 However, if the retiree dies before the total of the retirement
4 allowance paid to such retiree equals the amount of such retiree's
5 accumulated contributions at the time of retirement, then the balance
6 shall be paid to the member's estate, or such person or persons, trust,
7 or organization as the retiree shall have nominated by written
8 designation duly executed and filed with the department; or if there be
9 no such designated person or persons still living at the time of the
10 retiree's death, then to the surviving spouse; or if there be neither
11 such designated person or persons still living at the time of death nor
12 a surviving spouse, then to the retiree's legal representative.

13 (b) The department shall adopt rules that allow a member to select
14 a retirement option that pays the member a reduced retirement allowance
15 and upon death, such portion of the member's reduced retirement
16 allowance as the department by rule designates shall be continued
17 throughout the life of and paid to a person nominated by the member by
18 written designation duly executed and filed with the department at the
19 time of retirement. The options adopted by the department shall
20 include, but are not limited to, a joint and one hundred percent
21 survivor option and a joint and fifty percent survivor option.

22 (c) A member may elect to include the benefit provided under RCW
23 41.40.640 along with the retirement options available under this
24 section. This retirement allowance option shall be calculated so as to
25 be actuarially equivalent to the options offered under this subsection.

26 (2)(a) A member, if married, must provide the written consent of
27 his or her spouse to the option selected under this section, except as
28 provided in (b) of this subsection. If a member is married and both
29 the member and the member's spouse do not give written consent to an
30 option under this section, the department shall pay a joint and fifty
31 percent survivor benefit calculated to be actuarially equivalent to the
32 benefit options available under subsection (1) of this section unless
33 spousal consent is not required as provided in (b) of this subsection.

34 (b) If a copy of a dissolution order as defined in RCW 41.50.500(3)
35 designating a survivor beneficiary under RCW 41.50.790 has been filed
36 with the department at least thirty days prior to a member's
37 retirement:

38 (i) The department shall honor the designation as if made by the
39 member under subsection (1) of this section; and

1 (ii) The spousal consent provisions of (a) of this subsection do
2 not apply.

3 **Sec. 39.** RCW 41.40.660 and 1996 c 175 s 7 are each amended to read
4 as follows:

5 (1) Upon retirement for service as prescribed in RCW 41.40.630 or
6 retirement for disability under RCW 41.40.670, a member shall elect to
7 have the retirement allowance paid pursuant to one of the following
8 options, calculated so as to be actuarially equivalent to each other.

9 (a) Standard allowance. A member electing this option shall
10 receive a retirement allowance payable throughout such member's life.
11 However, if the retiree dies before the total of the retirement
12 allowance paid to such retiree equals the amount of such retiree's
13 accumulated contributions at the time of retirement, then the balance
14 shall be paid to the member's estate, or such person or persons, trust,
15 or organization as the retiree shall have nominated by written
16 designation duly executed and filed with the department; or if there be
17 no such designated person or persons still living at the time of the
18 retiree's death, then to the surviving spouse; or if there be neither
19 such designated person or persons still living at the time of death nor
20 a surviving spouse, then to the retiree's legal representative.

21 (b) The department shall adopt rules that allow a member to select
22 a retirement option that pays the member a reduced retirement allowance
23 and upon death, such portion of the member's reduced retirement
24 allowance as the department by rule designates shall be continued
25 throughout the life of and paid to a person nominated by the member by
26 written designation duly executed and filed with the department at the
27 time of retirement. The options adopted by the department shall
28 include, but are not limited to, a joint and one hundred percent
29 survivor option and a joint and fifty percent survivor option.

30 (2)(a) A member, if married, must provide the written consent of
31 his or her spouse to the option selected under this section, except as
32 provided in (b) of this subsection. If a member is married and both
33 the member and the member's spouse do not give written consent to an
34 option under this section, the department shall pay a joint and fifty
35 percent survivor benefit calculated to be actuarially equivalent to the
36 benefit options available under subsection (1) of this section unless
37 spousal consent is not required as provided in (b) of this subsection.

1 (b) If a copy of a dissolution order as defined in RCW 41.50.500(3)
2 designating a survivor beneficiary under RCW 41.50.790 has been filed
3 with the department at least thirty days prior to a member's
4 retirement:

5 (i) The department shall honor the designation as if made by the
6 member under subsection (1) of this section; and

7 (ii) The spousal consent provisions of (a) of this subsection do
8 not apply.

9 **Sec. 40.** RCW 51.32.050 and 1995 c 199 s 6 are each amended to read
10 as follows:

11 (1) Where death results from the injury the expenses of burial not
12 to exceed two hundred percent of the average monthly wage in the state
13 as defined in RCW 51.08.018 shall be paid.

14 (2)(a) Where death results from the injury, a surviving spouse of
15 a deceased worker eligible for benefits under this title shall receive
16 monthly for life or until remarriage payments according to the
17 following schedule:

18 (i) If there are no children of the deceased worker, sixty percent
19 of the wages of the deceased worker but not less than one hundred
20 eighty-five dollars;

21 (ii) If there is one child of the deceased worker and in the legal
22 custody of such spouse, sixty-two percent of the wages of the deceased
23 worker but not less than two hundred twenty-two dollars;

24 (iii) If there are two children of the deceased worker and in the
25 legal custody of such spouse, sixty-four percent of the wages of the
26 deceased worker but not less than two hundred fifty-three dollars;

27 (iv) If there are three children of the deceased worker and in the
28 legal custody of such spouse, sixty-six percent of the wages of the
29 deceased worker but not less than two hundred seventy-six dollars;

30 (v) If there are four children of the deceased worker and in the
31 legal custody of such spouse, sixty-eight percent of the wages of the
32 deceased worker but not less than two hundred ninety-nine dollars; or

33 (vi) If there are five or more children of the deceased worker and
34 in the legal custody of such spouse, seventy percent of the wages of
35 the deceased worker but not less than three hundred twenty-two dollars.

36 (b) Where the surviving spouse does not have legal custody of any
37 child or children of the deceased worker or where after the death of
38 the worker legal custody of such child or children passes from such

1 surviving spouse to another, any payment on account of such child or
2 children not in the legal custody of the surviving spouse shall be made
3 to the person or persons having legal custody of such child or
4 children. The amount of such payments shall be five percent of the
5 monthly benefits payable as a result of the worker's death for each
6 such child but such payments shall not exceed twenty-five percent.
7 Such payments on account of such child or children shall be subtracted
8 from the amount to which such surviving spouse would have been entitled
9 had such surviving spouse had legal custody of all of the children and
10 the surviving spouse shall receive the remainder after such payments on
11 account of such child or children have been subtracted. Such payments
12 on account of a child or children not in the legal custody of such
13 surviving spouse shall be apportioned equally among such children.

14 (c) Payments to the surviving spouse of the deceased worker shall
15 cease at the end of the month in which remarriage occurs: PROVIDED,
16 That a monthly payment shall be made to the child or children of the
17 deceased worker from the month following such remarriage in a sum equal
18 to five percent of the wages of the deceased worker for one child and
19 a sum equal to five percent for each additional child up to a maximum
20 of five such children. Payments to such child or children shall be
21 apportioned equally among such children. Such sum shall be in place of
22 any payments theretofore made for the benefit of or on account of any
23 such child or children. If the surviving spouse does not have legal
24 custody of any child or children of the deceased worker, or if after
25 the death of the worker, legal custody of such child or children passes
26 from such surviving spouse to another, any payment on account of such
27 child or children not in the legal custody of the surviving spouse
28 shall be made to the person or persons having legal custody of such
29 child or children.

30 (d) In no event shall the monthly payments provided in subsection
31 (2) of this section exceed the applicable percentage of the average
32 monthly wage in the state as computed under RCW 51.08.018 as follows:

33	AFTER	PERCENTAGE
34	June 30, 1993	105%
35	June 30, 1994	110%
36	June 30, 1995	115%
37	June 30, 1996	120%

1 (e) In addition to the monthly payments provided for in subsection
2 (2) (a) through (c) of this section, a surviving spouse or child or
3 children of such worker if there is no surviving spouse, or dependent
4 parent or parents, if there is no surviving spouse or child or children
5 of any such deceased worker shall be forthwith paid a sum equal to one
6 hundred percent of the average monthly wage in the state as defined in
7 RCW 51.08.018, any such children, or parents to share and share alike
8 in said sum.

9 (f) Upon remarriage of a surviving spouse the monthly payments for
10 the child or children shall continue as provided in this section, but
11 the monthly payments to such surviving spouse shall cease at the end of
12 the month during which remarriage occurs. However, after September 8,
13 1975, an otherwise eligible surviving spouse of a worker who died at
14 any time prior to or after September 8, 1975, shall have an option of:

15 (i) Receiving, once and for all, a lump sum of twenty-four times
16 the monthly compensation rate in effect on the date of remarriage
17 allocable to the spouse for himself or herself pursuant to subsection
18 (2)(a)(i) of this section and subject to any modifications specified
19 under subsection (2)(d) of this section and RCW 51.32.075(3) or fifty
20 percent of the then remaining annuity value of his or her pension,
21 whichever is the lesser: PROVIDED, That if the injury occurred prior
22 to July 28, 1991, the remarriage benefit lump sum available shall be as
23 provided in the remarriage benefit schedules then in effect; or

24 (ii) If a surviving spouse does not choose the option specified in
25 subsection (2)(f)(i) of this section to accept the lump sum payment,
26 the remarriage of the surviving spouse of a worker shall not bar him or
27 her from claiming the lump sum payment authorized in subsection
28 (2)(f)(i) of this section during the life of the remarriage, or shall
29 not prevent subsequent monthly payments to him or to her if the
30 remarriage has been terminated by death or has been dissolved or
31 annulled by valid court decree provided he or she has not previously
32 accepted the lump sum payment.

33 (g) If the surviving spouse during the remarriage should die
34 without having previously received the lump sum payment provided in
35 subsection (2)(f)(i) of this section, his or her estate shall be
36 entitled to receive the sum specified under subsection (2)(f)(i) of
37 this section or fifty percent of the then remaining annuity value of
38 his or her pension whichever is the lesser.

1 (h) The effective date of resumption of payments under subsection
2 (2)(f)(ii) of this section to a surviving spouse based upon termination
3 of a remarriage by death, annulment, divorce, or dissolution shall be
4 the date of the death or the date the judicial decree of annulment,
5 divorce, or dissolution becomes final and when application for the
6 payments has been received.

7 (i) If it should be necessary to increase the reserves in the
8 reserve fund or to create a new pension reserve fund as a result of the
9 amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of
10 such increase in pension reserve in any such case shall be transferred
11 to the reserve fund from the supplemental pension fund.

12 (3) If there is a child or children and no surviving spouse of the
13 deceased worker or the surviving spouse is not eligible for benefits
14 under this title, a sum equal to thirty-five percent of the wages of
15 the deceased worker shall be paid monthly for one child and a sum
16 equivalent to fifteen percent of such wage shall be paid monthly for
17 each additional child, the total of such sum to be divided among such
18 children, share and share alike: PROVIDED, That benefits under this
19 subsection or subsection (4) of this section shall not exceed the
20 lesser of sixty-five percent of the wages of the deceased worker at the
21 time of his or her death or the applicable percentage of the average
22 monthly wage in the state as defined in RCW 51.08.018, as follows:

23	AFTER	PERCENTAGE
24	June 30, 1993	105%
25	June 30, 1994	110%
26	June 30, 1995	115%
27	June 30, 1996	120%

28 (4) In the event a surviving spouse receiving monthly payments
29 dies, the child or children of the deceased worker shall receive the
30 same payment as provided in subsection (3) of this section.

31 (5) If the worker leaves no surviving spouse or child, but leaves
32 a dependent or dependents, a monthly payment shall be made to each
33 dependent equal to fifty percent of the average monthly support
34 actually received by such dependent from the worker during the twelve
35 months next preceding the occurrence of the injury, but the total
36 payment to all dependents in any case shall not exceed the lesser of
37 sixty-five percent of the wages of the deceased worker at the time of

1 his or her death or the applicable percentage of the average monthly
2 wage in the state as defined in RCW 51.08.018 as follows:

3	AFTER	PERCENTAGE
4	June 30, 1993	105%
5	June 30, 1994	110%
6	June 30, 1995	115%
7	June 30, 1996	120%

8 If any dependent is under the age of eighteen years at the time of the
9 occurrence of the injury, the payment to such dependent shall cease
10 when such dependent reaches the age of eighteen years except such
11 payments shall continue until the dependent reaches age twenty-three
12 while permanently enrolled at a full time course in an accredited
13 school. The payment to any dependent shall cease if and when, under
14 the same circumstances, the necessity creating the dependency would
15 have ceased if the injury had not happened.

16 (6) For claims filed prior to July 1, 1986, if the injured worker
17 dies during the period of permanent total disability, whatever the
18 cause of death, leaving a surviving spouse, or child, or children, the
19 surviving spouse or child or children shall receive benefits as if
20 death resulted from the injury as provided in subsections (2) through
21 (4) of this section. Upon remarriage or death of such surviving
22 spouse, the payments to such child or children shall be made as
23 provided in subsection (2) of this section when the surviving spouse of
24 a deceased worker remarries.

25 (7) For claims filed on or after July 1, 1986, every worker who
26 becomes eligible for permanent total disability benefits shall elect an
27 option as provided in RCW 51.32.067.

28 **Sec. 41.** RCW 70.58.005 and 1991 c 3 s 342 are each amended to read
29 as follows:

30 Unless the context clearly requires otherwise, the definitions in
31 this section apply throughout this chapter.

32 (1) "Department" means the department of health.

33 (2) "Vital records" means records of birth, death, fetal death,
34 marriage, divorce, dissolution, annulment, and legal separation, as
35 maintained under the supervision of the state registrar of vital
36 statistics.

1 **Sec. 42.** RCW 74.20.220 and 1991 c 367 s 44 are each amended to
2 read as follows:

3 In order to carry out its responsibilities imposed under this
4 chapter and as required by federal law, the state department of social
5 and health services, through the attorney general or prosecuting
6 attorney, is hereby authorized to:

7 (1) Initiate an action in superior court to obtain a support order
8 or obtain other relief related to support for a dependent child on
9 whose behalf the department is providing public assistance or support
10 enforcement services under RCW 74.20.040, or to enforce a superior
11 court order.

12 (2) Appear as a party in divorce, dissolution, child support,
13 parentage, maintenance suits, or other proceedings, for the purpose of
14 representing the financial interest and actions of the state of
15 Washington therein.

16 (3) Petition the court for modification of a superior court order
17 when the office of support enforcement is providing support enforcement
18 services under RCW 74.20.040.

19 (4) When the attorney general or prosecuting attorney appears in,
20 defends, or initiates actions to establish, modify, or enforce child
21 support obligations he or she represents the state, the best interests
22 of the child relating to parentage, and the best interests of the
23 children of the state, but does not represent the interests of any
24 other individual.

25 (5) If public assistance has been applied for or granted on behalf
26 of a child of parents who are divorced or legally separated, the
27 attorney general or prosecuting attorney may apply to the superior
28 court in such action for an order directing either parent or both to
29 show cause:

30 (a) Why an order of support for the child should not be entered, or

31 (b) Why the amount of support previously ordered should not be
32 increased, or

33 (c) Why the parent should not be held in contempt for his or her
34 failure to comply with any order of support previously entered.

35 (6) Initiate any civil proceedings deemed necessary by the
36 department to secure reimbursement from the parent or parents of minor
37 dependent children for all moneys expended by the state in providing
38 assistance or services to said children.

1 (7) Nothing in this section limits the authority of the attorney
2 general or prosecuting attorney to use any and all civil and criminal
3 remedies to enforce, establish, or modify child support obligations
4 whether or not the custodial parent receives public assistance.

5 **Sec. 43.** RCW 75.30.250 and 1993 c 340 s 44 are each amended to
6 read as follows:

7 (1) It is unlawful to commercially take while using shellfish diver
8 gear any species of sea cucumber without first obtaining a sea cucumber
9 dive fishery license.

10 (2) Except as provided in subsection (6) of this section, after
11 December 31, 1991, the director shall issue no new sea cucumber dive
12 fishery licenses. Only a person who meets the following qualifications
13 may renew an existing license:

14 (a) The person shall have held the sea cucumber dive fishery
15 license sought to be renewed during the previous two years or acquired
16 the license by transfer from someone who held it during the previous
17 year; and

18 (b) The person shall establish, by means of dated shellfish
19 receiving documents issued by the department, that thirty landings of
20 sea cucumbers totaling at least ten thousand pounds were made under the
21 license during the previous two-year period ending December 31 of the
22 odd-numbered year.

23 (3) Where the person failed to obtain the license during either of
24 the previous two years because of a license suspension by the
25 department or the court, the person may qualify for a license by
26 establishing that the person held such a license during the last year
27 in which the person was eligible.

28 (4) The director may reduce or waive any landing or poundage
29 requirement established under this section upon the recommendation of
30 a board of review established under RCW 75.30.050. The board of review
31 may recommend a reduction or waiver of any landing or poundage
32 requirement in individual cases if, in the board's judgment,
33 extenuating circumstances prevent achievement of the landing or
34 poundage requirement. The director shall adopt rules governing the
35 operation of the board of review and defining "extenuating
36 circumstances."

37 (5) Sea cucumber dive fishery licenses are not transferable from
38 one license holder to another except from parent to child, from spouse

1 to spouse during marriage or as a result of divorce, marriage
2 dissolution, or upon death of the license holder.

3 (6) If fewer than fifty persons are eligible for sea cucumber dive
4 fishery licenses, the director may accept applications for new licenses
5 from those persons who can demonstrate two years' experience in the
6 Washington state sea cucumber dive fishery. The director shall
7 determine by random selection the successful applicants for the
8 additional licenses. The number of additional licenses issued shall be
9 sufficient to maintain up to fifty licenses in the sea cucumber dive
10 fishery. The director shall adopt rules governing the application,
11 selection, and issuance procedure for new sea cucumber dive fishery
12 licenses, based upon recommendations of a board of review established
13 under RCW 75.30.050.

14 NEW SECTION. Sec. 44. (1) An action for a dissolution of marriage
15 filed prior to the effective date of this act and which a final decree
16 is entered within one hundred eighty days of the effective date of this
17 act is governed by the dissolution proceeding.

18 (2) An action for a divorce filed on or after the effective date of
19 this act or an action that does not meet the requirements of subsection
20 (1) of this section is governed by the divorce proceeding.

21 NEW SECTION. Sec. 45. The following acts or parts of acts are
22 each repealed:

23 (1) RCW 26.09.900 and 1974 ex.s. c 15 s 1; and

24 (2) RCW 26.09.901 and 1974 ex.s. c 15 s 2.

25 NEW SECTION. Sec. 46. Sections 1, 3, and 44 of this act are each
26 added to chapter 26.09 RCW.

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