

---

SENATE BILL 6193

---

State of Washington                      55th Legislature                      1998 Regular Session

By Senators Stevens, Schow, Hargrove and Zarelli

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

1            AN ACT Relating to petition for divorce; amending RCW 26.09.030,  
2 4.24.130, 10.99.040, 11.07.010, 11.12.051, 13.64.060, 26.09.004,  
3 26.09.010, 26.09.015, 26.09.020, 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, 36.18.020, 41.28.205, 41.28.207,  
7 41.44.240, 41.32.530, 41.32.785, 41.40.188, 41.40.660, 51.32.050,  
8 70.58.005, 74.20.220, and 75.30.250; reenacting and amending RCW  
9 9A.44.010 and 26.09.150; adding new sections to chapter 26.09 RCW; and  
10 repealing RCW 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 other party was infected with a sexually transmitted  
16 disease before or after the marriage, which disease was not contracted  
17 from the spouse filing the petition, and was not known to the spouse  
18 filing the petition for divorce at the time the marriage was  
19 solemnized;

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

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

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

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

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

14 (7) Incompatibility of husband and wife characterized by  
15 infidelity, rift, discord, or conflict, which has destroyed their  
16 relationship as husband and wife and no reasonable possibility for  
17 reconciliation exists, and if the conditions set forth in RCW 26.09.030  
18 have been met.

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

21 When a party who (1) is a resident of this state, or (2) is a  
22 member of the armed forces and is stationed in this state, or (3) is  
23 married to a party who is a resident of this state or who is a member  
24 of the armed forces and is stationed in this state, petitions for a  
25 dissolution of marriage, and alleges that the marriage is irretrievably  
26 broken (~~and when ninety days have elapsed since the petition was filed~~  
27 ~~and from the date when service of summons was made upon the respondent~~  
28 ~~or the first publication of summons was made)), the court shall proceed  
29 as follows:~~

30 (1) If the (~~other party joins in the petition or does not deny~~)  
31 court finds that reasonable grounds exist to show that the marriage is  
32 irretrievably broken under section 1 (1) through (6) of this act, the  
33 court shall enter a decree of ((dissolution)) divorce.

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

37 (3) If the court finds that the parties are incompatible under  
38 section 1(7) of this act, whether the other party denies or does not

1 deny that the marriage is irretrievably broken or joins or does not  
2 join in the petition, the court shall consider all relevant factors,  
3 including the best interests of any minor children, the circumstances  
4 that gave rise to the filing of the petition and the prospects for  
5 reconciliation and shall((+)

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

8 ~~(b) At the request of either party or on its own motion,)) transfer~~  
9 the cause to the family court for mediation, or refer ((them)) the  
10 parties to another counseling service of their choice until such time  
11 as the parties have reconciled or twelve months of mediation or other  
12 counseling has been completed, whichever occurs first, and request a  
13 report back from the mediator or the counseling service ((within sixty  
14 days, or continue the matter for not more than sixty days for hearing.  
15 If the cause is returned from the family court or at the adjourned  
16 hearing)) at that time. The mediation or counseling shall focus  
17 exclusively on reconciliation and marriage strengthening during the  
18 first six months of mediation or counseling. Upon review of the  
19 report, the court shall:

20 ~~((+)) (a) Find that the parties have agreed to reconciliation and~~  
21 ~~dismiss the petition; ((or~~

22 ~~(+)) (b) Find that the parties have not been reconciled, and that~~  
23 either party continues to allege that the marriage is irretrievably  
24 broken. When such facts are found, the court shall enter a decree of  
25 ~~((dissolution of the marriage)) divorce; or~~

26 (c) Find that additional counseling is warranted in order to  
27 further efforts at reconciliation or to prepare the family for the  
28 potential impacts of divorce. The court may order up to one year of  
29 additional counseling.

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

34 **Sec. 3.** RCW 4.24.130 and 1995 1st sp.s. c 19 s 14 are each amended  
35 to read as follows:

36 (1) Any person desiring a change of his or her name or that of his  
37 or her child or ward, may apply therefor to the district court of the  
38 judicial district in which he or she resides, by petition setting forth

1 the reasons for such change; thereupon such court in its discretion may  
2 order a change of the name and thenceforth the new name shall be in  
3 place of the former.

4 (2) An offender under the jurisdiction of the department of  
5 corrections who applies to change his or her name under subsection (1)  
6 of this section shall submit a copy of the application to the  
7 department of corrections not fewer than five days before the entry of  
8 an order granting the name change. No offender under the jurisdiction  
9 of the department of corrections at the time of application shall be  
10 granted an order changing his or her name if the court finds that doing  
11 so will interfere with legitimate penological interests, except that no  
12 order shall be denied when the name change is requested for religious  
13 or legitimate cultural reasons or in recognition of marriage, divorce,  
14 or dissolution of marriage. An offender under the jurisdiction of the  
15 department of corrections who receives an order changing his or her  
16 name shall submit a copy of the order to the department of corrections  
17 within five days of the entry of the order. Violation of this  
18 subsection is a misdemeanor.

19 (3) The district court shall collect the fees authorized by RCW  
20 36.18.010 for filing and recording a name change order, and transmit  
21 the fee and the order to the county auditor. The court may collect a  
22 reasonable fee to cover the cost of transmitting the order to the  
23 county auditor.

24 (4) Name change petitions may be filed and shall be heard in  
25 superior court when the person desiring a change of his or her name or  
26 that of his or her child or ward is a victim of domestic violence as  
27 defined in RCW 26.50.010(1) and the person seeks to have the name  
28 change file sealed due to reasonable fear for his or her safety or that  
29 of his or her child or ward. Upon granting the name change, the  
30 superior court shall seal the file if the court finds that the safety  
31 of the person seeking the name change or his or her child or ward  
32 warrants sealing the file. In all cases filed under this subsection,  
33 whether or not the name change petition is granted, there shall be no  
34 public access to any court record of the name change filing,  
35 proceeding, or order, unless the name change is granted but the file is  
36 not sealed.

37 **Sec. 4.** RCW 9A.44.010 and 1997 c 392 s 513 and 1997 c 112 s 37 are  
38 each reenacted and amended to read as follows:

1 As used in this chapter:

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

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

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

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

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

19 (4) "Mental incapacity" is that condition existing at the time of  
20 the offense which prevents a person from understanding the nature or  
21 consequences of the act of sexual intercourse whether that condition is  
22 produced by illness, defect, the influence of a substance or from some  
23 other cause.

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

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

31 (7) "Consent" means that at the time of the act of sexual  
32 intercourse or sexual contact there are actual words or conduct  
33 indicating freely given agreement to have sexual intercourse or sexual  
34 contact.

35 (8) "Significant relationship" means a situation in which the  
36 perpetrator is:

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

1 (b) A person who in the course of his or her employment supervises  
2 minors; or

3 (c) A person who provides welfare, health or residential  
4 assistance, personal care, or organized recreational activities to  
5 frail elders or vulnerable adults, including a provider, employee,  
6 temporary employee, volunteer, or independent contractor who supplies  
7 services to long-term care facilities licensed or required to be  
8 licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home  
9 health, hospice, or home care agencies licensed or required to be  
10 licensed under chapter 70.127 RCW, but not including a consensual  
11 sexual partner.

12 (9) "Abuse of a supervisory position" means a direct or indirect  
13 threat or promise to use authority to the detriment or benefit of a  
14 minor.

15 (10) "Developmentally disabled," for purposes of RCW  
16 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a  
17 developmental disability as defined in RCW 71A.10.020.

18 (11) "Person with supervisory authority," for purposes of RCW  
19 9A.44.050(1) (c) or (e) and 9A.44.100(1) (c) or (e), means any  
20 proprietor or employee of any public or private care or treatment  
21 facility who directly supervises developmentally disabled, mentally  
22 disordered, or chemically dependent persons at the facility.

23 (12) "Mentally disordered person" for the purposes of RCW  
24 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental  
25 disorder" as defined in RCW 71.05.020.

26 (13) "Chemically dependent person" for purposes of RCW  
27 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically  
28 dependent" as defined in RCW 70.96A.020(4).

29 (14) "Health care provider" for purposes of RCW 9A.44.050 and  
30 9A.44.100 means a person who is, holds himself or herself out to be, or  
31 provides services as if he or she were: (a) A member of a health care  
32 profession under chapter 18.130 RCW; or (b) registered or certified  
33 under chapter 18.19 RCW, regardless of whether the health care provider  
34 is licensed, certified, or registered by the state.

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

1 (16) "Frail elder or vulnerable adult" means a person sixty years  
2 of age or older who has the functional, mental, or physical inability  
3 to care for himself or herself. "Frail elder or vulnerable adult" also  
4 includes a person found incapacitated under chapter 11.88 RCW, a person  
5 over eighteen years of age who has a developmental disability under  
6 chapter 71A.10 RCW, a person admitted to a long-term care facility that  
7 is licensed or required to be licensed under chapter 18.20, 18.51,  
8 72.36, or 70.128 RCW, and a person receiving services from a home  
9 health, hospice, or home care agency licensed or required to be  
10 licensed under chapter 70.127 RCW.

11 **Sec. 5.** RCW 10.99.040 and 1997 c 338 s 54 are each amended to read  
12 as follows:

13 (1) Because of the serious nature of domestic violence, the court  
14 in domestic violence actions:

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

17 (b) Shall not require proof that either party is seeking a  
18 dissolution of marriage prior to instigation of criminal proceedings;

19 (c) Shall waive any requirement that the victim's location be  
20 disclosed to any person, other than the attorney of a criminal  
21 defendant, upon a showing that there is a possibility of further  
22 violence: PROVIDED, That the court may order a criminal defense  
23 attorney not to disclose to his or her client the victim's location;  
24 and

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

27 (2) Because of the likelihood of repeated violence directed at  
28 those who have been victims of domestic violence in the past, when any  
29 person charged with or arrested for a crime involving domestic violence  
30 is released from custody before arraignment or trial on bail or  
31 personal recognizance, the court authorizing the release may prohibit  
32 that person from having any contact with the victim. The jurisdiction  
33 authorizing the release shall determine whether that person should be  
34 prohibited from having any contact with the victim. If there is no  
35 outstanding restraining or protective order prohibiting that person  
36 from having contact with the victim, the court authorizing release may  
37 issue, by telephone, a no-contact order prohibiting the person charged  
38 or arrested from having contact with the victim. In issuing the order,

1 the court shall consider the provisions of RCW 9.41.800. The no-  
2 contact order shall also be issued in writing as soon as possible.

3 (3) At the time of arraignment the court shall determine whether a  
4 no-contact order shall be issued or extended. If a no-contact order is  
5 issued or extended, the court may also include in the conditions of  
6 release a requirement that the defendant submit to electronic  
7 monitoring. If electronic monitoring is ordered, the court shall  
8 specify who shall provide the monitoring services, and the terms under  
9 which the monitoring shall be performed. Upon conviction, the court  
10 may require as a condition of the sentence that the defendant reimburse  
11 the providing agency for the costs of the electronic monitoring.

12 (4)(a) Willful violation of a court order issued under subsection  
13 (2) or (3) of this section is a gross misdemeanor except as provided in  
14 (b) and (c) of this subsection (4). Upon conviction and in addition to  
15 other penalties provided by law, the court may require that the  
16 defendant submit to electronic monitoring. The court shall specify who  
17 shall provide the electronic monitoring services and the terms under  
18 which the monitoring must be performed. The court also may include a  
19 requirement that the defendant pay the costs of the monitoring. The  
20 court shall consider the ability of the convicted person to pay for  
21 electronic monitoring.

22 (b) Any assault that is a violation of an order issued under this  
23 section and that does not amount to assault in the first or second  
24 degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable  
25 under chapter 9A.20 RCW, and any conduct in violation of a protective  
26 order issued under this section that is reckless and creates a  
27 substantial risk of death or serious physical injury to another person  
28 is a class C felony punishable under chapter 9A.20 RCW.

29 (c) A willful violation of a court order issued under this section  
30 is a class C felony if the offender has at least two previous  
31 convictions for violating the provisions of a no-contact order issued  
32 under this chapter, a domestic violence protection order issued under  
33 chapter 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-  
34 state order that is comparable to a no-contact order or protection  
35 order issued under Washington law. The previous convictions may  
36 involve the same victim or other victims specifically protected by the  
37 no-contact orders or protection orders the offender violated.

38 (d) The written order releasing the person charged or arrested  
39 shall contain the court's directives and shall bear the legend:



1 "Violation of this order is a criminal offense under chapter 10.99 RCW  
2 and will subject a violator to arrest; any assault, drive-by shooting,  
3 or reckless endangerment that is a violation of this order is a felony.  
4 You can be arrested even if any person protected by the order invites  
5 or allows you to violate the order's prohibitions. You have the sole  
6 responsibility to avoid or refrain from violating the order's  
7 provisions. Only the court can change the order." A certified copy of  
8 the order shall be provided to the victim. If a no-contact order has  
9 been issued prior to charging, that order shall expire at arraignment  
10 or within seventy-two hours if charges are not filed. Such orders need  
11 not be entered into the computer-based criminal intelligence  
12 information system in this state which is used by law enforcement  
13 agencies to list outstanding warrants.

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

26 **Sec. 6.** RCW 11.07.010 and 1997 c 252 s 2 are each amended to read  
27 as follows:

28 (1) This section applies to all nonprobate assets, wherever  
29 situated, held at the time of entry by a superior court of this state  
30 of a decree of divorce or dissolution of marriage or a declaration of  
31 invalidity.

32 (2)(a) If (~~a marriage is dissolved or invalidated~~) there is a  
33 divorce, dissolution, or invalidation of marriage, a provision made  
34 prior to that event that relates to the payment or transfer at death of  
35 the decedent's interest in a nonprobate asset in favor of or granting  
36 an interest or power to the decedent's former spouse is revoked. A  
37 provision affected by this section must be interpreted, and the  
38 nonprobate asset affected passes, as if the former spouse failed to

1 survive the decedent, having died at the time of entry of the decree of  
2 divorce, dissolution, or declaration of invalidity.

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

4 (i) The instrument governing disposition of the nonprobate asset  
5 expressly provides otherwise;

6 (ii) The decree of divorce, dissolution, or declaration of  
7 invalidity requires that the decedent maintain a nonprobate asset for  
8 the benefit of a former spouse or children of the marriage, payable on  
9 the decedent's death either outright or in trust, and other nonprobate  
10 assets of the decedent fulfilling such a requirement for the benefit of  
11 the former spouse or children of the marriage do not exist at the  
12 decedent's death; or

13 (iii) If not for this subsection, the decedent could not have  
14 effected the revocation by unilateral action because of the terms of  
15 the decree or declaration, or for any other reason, immediately after  
16 the entry of the decree of divorce, dissolution, or declaration of  
17 invalidity.

18 (3)(a) A payor or other third party in possession or control of a  
19 nonprobate asset at the time of the decedent's death is not liable for  
20 making a payment or transferring an interest in a nonprobate asset to  
21 a decedent's former spouse whose interest in the nonprobate asset is  
22 revoked under this section, or for taking another action in reliance on  
23 the validity of the instrument governing disposition of the nonprobate  
24 asset, before the payor or other third party has actual knowledge of  
25 the divorce, dissolution, or other invalidation of marriage. A payor  
26 or other third party is liable for a payment or transfer made or other  
27 action taken after the payor or other third party has actual knowledge  
28 of a revocation under this section.

29 (b) This section does not require a payor or other third party to  
30 pay or transfer a nonprobate asset to a beneficiary designated in a  
31 governing instrument affected by the divorce, dissolution, or other  
32 invalidation of marriage, or to another person claiming an interest in  
33 the nonprobate asset, if the payor or third party has actual knowledge  
34 of the existence of a dispute between the former spouse and the  
35 beneficiaries or other persons concerning rights of ownership of the  
36 nonprobate asset as a result of the application of this section among  
37 the former spouse and the beneficiaries or among other persons, or if  
38 the payor or third party is otherwise uncertain as to who is entitled  
39 to the nonprobate asset under this section. In such a case, the payor

1 or third party may, without liability, notify in writing all  
2 beneficiaries or other persons claiming an interest in the nonprobate  
3 asset of either the existence of the dispute or its uncertainty as to  
4 who is entitled to payment or transfer of the nonprobate asset. The  
5 payor or third party may also, without liability, refuse to pay or  
6 transfer a nonprobate asset in such a circumstance to a beneficiary or  
7 other person claiming an interest until the time that either:

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

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

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

25 (d) As used in this subsection, "actual knowledge" means, for a  
26 payor or other third party in possession or control of the nonprobate  
27 asset at or following the decedent's death, written notice to the payor  
28 or other third party, or to an officer of a payor or third party in the  
29 course of his or her employment, received after the decedent's death  
30 and within a time that is sufficient to afford the payor or third party  
31 a reasonable opportunity to act upon the knowledge. The notice must  
32 identify the nonprobate asset with reasonable specificity. The notice  
33 also must be sufficient to inform the payor or other third party of the  
34 revocation of the provisions in favor of the decedent's spouse by  
35 reason of the dissolution or invalidation of marriage, or to inform the  
36 payor or third party of a dispute concerning rights to a nonprobate  
37 asset as a result of the application of this section. Receipt of the  
38 notice for a period of more than thirty days is presumed to be received  
39 within a time that is sufficient to afford the payor or third party a

1 reasonable opportunity to act upon the knowledge, but receipt of the  
2 notice for a period of less than five business days is presumed not to  
3 be a sufficient time for these purposes. These presumptions may be  
4 rebutted only by clear and convincing evidence to the contrary.

5 (4)(a) A person who purchases a nonprobate asset from a former  
6 spouse or other person, for value and without actual knowledge, or who  
7 receives from a former spouse or other person payment or transfer of a  
8 nonprobate asset without actual knowledge and in partial or full  
9 satisfaction of a legally enforceable obligation, is neither obligated  
10 under this section to return the payment, property, or benefit nor is  
11 liable under this section for the amount of the payment or the value of  
12 the nonprobate asset. However, a former spouse or other person who,  
13 with actual knowledge, not for value, or not in satisfaction of a  
14 legally enforceable obligation, receives payment or transfer of a  
15 nonprobate asset to which that person is not entitled under this  
16 section is obligated to return the payment or nonprobate asset, or is  
17 personally liable for the amount of the payment or value of the  
18 nonprobate asset, to the person who is entitled to it under this  
19 section.

20 (b) As used in this subsection, "actual knowledge" means, for a  
21 person described in (a) of this subsection who purchases or receives a  
22 nonprobate asset from a former spouse or other person, personal  
23 knowledge or possession of documents relating to the revocation upon  
24 divorce, dissolution, or invalidation of marriage of provisions  
25 relating to the payment or transfer at the decedent's death of the  
26 nonprobate asset, received within a time after the decedent's death and  
27 before the purchase or receipt that is sufficient to afford the person  
28 purchasing or receiving the nonprobate asset reasonable opportunity to  
29 act upon the knowledge. Receipt of the personal knowledge or  
30 possession of the documents for a period of more than thirty days is  
31 presumed to be received within a time that is sufficient to afford the  
32 payor or third party a reasonable opportunity to act upon the  
33 knowledge, but receipt of the notice for a period of less than five  
34 business days is presumed not to be a sufficient time for these  
35 purposes. These presumptions may be rebutted only by clear and  
36 convincing evidence to the contrary.

37 (5) As used in this section, "nonprobate asset" means those rights  
38 and interests of a person having beneficial ownership of an asset that

1 pass on the person's death under only the following written instruments  
2 or arrangements other than the decedent's will:

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

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

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

10 (d) Transfer on death beneficiary designations of a transfer on  
11 death or pay on death security, if such designations are authorized  
12 under Washington law.

13 However, for the general definition of "nonprobate asset" in this  
14 title, RCW 11.02.005 applies.

15 (6) This section is remedial in nature and applies as of July 25,  
16 1993, to decrees of divorce, dissolution, and declarations of  
17 invalidity entered after July 24, 1993, and this section applies as of  
18 January 1, 1995, to decrees of divorce, dissolution, and declarations  
19 of invalidity entered before July 25, 1993.

20 **Sec. 7.** RCW 11.12.051 and 1994 c 221 s 11 are each amended to read  
21 as follows:

22 (1) If, after making a will, the testator's marriage is dissolved  
23 or invalidated, or the testator is divorced, all provisions in the will  
24 in favor of or granting any interest or power to the testator's former  
25 spouse are revoked, unless the will expressly provides otherwise.  
26 Provisions affected by this section must be interpreted, and property  
27 affected passes, as if the former spouse failed to survive the  
28 testator, having died at the time of entry of the decree of divorce,  
29 dissolution, or declaration of invalidity. Provisions revoked by this  
30 section are revived by the testator's remarriage to the former spouse.  
31 Revocation of certain nonprobate transfers is provided under RCW  
32 11.07.010.

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

36 **Sec. 8.** RCW 13.64.060 and 1994 sp.s. c 7 s 436 are each amended to  
37 read as follows:

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

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

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

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

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

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

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

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

19 (h) The right to give informed consent for receiving health care  
20 services.

21 (2) An emancipated minor shall not be considered an adult for: (a)  
22 The purposes of the adult criminal laws of the state unless the decline  
23 of jurisdiction procedures contained in RCW 13.40.110 are used or the  
24 minor is tried in criminal court pursuant to RCW  
25 13.04.030(1)(e)((~~iv~~)) (v); (b) the criminal laws of the state when  
26 the emancipated minor is a victim and the age of the victim is an  
27 element of the offense; or (c) those specific constitutional and  
28 statutory age requirements regarding voting, use of alcoholic  
29 beverages, possession of firearms, and other health and safety  
30 regulations relevant to the minor because of the minor's age.

31 **Sec. 9.** RCW 26.09.004 and 1987 c 460 s 3 are each amended to read  
32 as follows:

33 The definitions in this section apply throughout this chapter.

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

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

6 (3) "Parenting functions" means those aspects of the parent-child  
7 relationship in which the parent makes decisions and performs functions  
8 necessary for the care and growth of the child. Parenting functions  
9 include:

10 (a) Maintaining a loving, stable, consistent, and nurturing  
11 relationship with the child;

12 (b) Attending to the daily needs of the child, such as feeding,  
13 clothing, physical care and grooming, supervision, health care, and day  
14 care, and engaging in other activities which are appropriate to the  
15 developmental level of the child and that are within the social and  
16 economic circumstances of the particular family;

17 (c) Attending to adequate education for the child, including  
18 remedial or other education essential to the best interests of the  
19 child;

20 (d) Assisting the child in developing and maintaining appropriate  
21 interpersonal relationships;

22 (e) Exercising appropriate judgment regarding the child's welfare,  
23 consistent with the child's developmental level and the family's social  
24 and economic circumstances; and

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

26 **Sec. 10.** RCW 26.09.010 and 1989 c 375 s 1 are each amended to read  
27 as follows:

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

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

36 (3) In cases where there has been no prior proceeding in this state  
37 involving the marital status of the parties or support obligations for  
38 a minor child, a separate parenting and support proceeding between the

1 parents shall be entitled "In re the parenting and support of  
2 . . . . ."

3 (4) The initial pleading in all proceedings under this chapter  
4 shall be denominated a petition. A responsive pleading shall be  
5 denominated a response. Other pleadings, and all pleadings in other  
6 matters under this chapter shall be denominated as provided in the  
7 civil rules for superior court.

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

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

13 **Sec. 11.** RCW 26.09.015 and 1991 c 367 s 2 are each amended to read  
14 as follows:

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

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

28 (3) Mediation proceedings shall be held in private and shall be  
29 confidential. The mediator shall not testify as to any aspect of the  
30 mediation proceedings. This subsection shall not apply to postdecree  
31 mediation required pursuant to a parenting plan.

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

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



1       **Sec. 12.** RCW 26.09.020 and 1997 c 58 s 945 are each amended to  
2 read as follows:

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

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

7       (b) The social security number of each party;

8       (c) The date and place of the marriage;

9       (d) If the parties are separated the date on which the separation  
10 occurred;

11       (e) The names, ages, and addresses of any child dependent upon  
12 either or both spouses and whether the wife is pregnant;

13       (f) Any arrangements as to the residential schedule of, decision  
14 making for, dispute resolution for, and support of the children and the  
15 maintenance of a spouse;

16       (g) A statement specifying whether there is community or separate  
17 property owned by the parties to be disposed of;

18       (h) The relief sought.

19       (2) Either or both parties to the marriage may initiate the  
20 proceeding.

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

24       **Sec. 13.** RCW 26.09.050 and 1995 c 93 s 2 are each amended to read  
25 as follows:

26       (1) In entering a decree of divorce, dissolution of marriage, legal  
27 separation, or declaration of invalidity, the court shall determine the  
28 marital status of the parties, make provision for a parenting plan for  
29 any minor child of the marriage, make provision for the support of any  
30 child of the marriage entitled to support, consider or approve  
31 provision for the maintenance of either spouse, make provision for the  
32 disposition of property and liabilities of the parties, make provision  
33 for the allocation of the children as federal tax exemptions, make  
34 provision for any necessary continuing restraining orders including the  
35 provisions contained in RCW 9.41.800, make provision for the issuance  
36 within this action of the restraint provisions of a domestic violence  
37 protection order under chapter 26.50 RCW or an antiharassment

1 protection order under chapter 10.14 RCW, and make provision for the  
2 change of name of any party.

3 (2) 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 (3) The court shall order that any restraining order bearing a  
11 criminal offense legend, any domestic violence protection order, or any  
12 antiharassment protection order granted under this section, in addition  
13 to the law enforcement information sheet or proof of service of the  
14 order, be forwarded by the clerk of the court on or before the next  
15 judicial day to the appropriate law enforcement agency specified in the  
16 order. Upon receipt of the order, the law enforcement agency shall  
17 forthwith enter the order into any computer-based criminal intelligence  
18 information system available in this state used by law enforcement  
19 agencies to list outstanding warrants. The order is fully enforceable  
20 in any county in the state.

21 **Sec. 14.** RCW 26.09.060 and 1995 c 246 s 26 are each amended to  
22 read as follows:

23 (1) In a proceeding for:

24 (a) Divorce, dissolution of marriage, legal separation, or a  
25 declaration of invalidity; or

26 (b) Disposition of property or liabilities, maintenance, or support  
27 following divorce or dissolution of the marriage by a court which  
28 lacked personal jurisdiction over the absent spouse; either party may  
29 move for temporary maintenance or for temporary support of children  
30 entitled to support. The motion shall be accompanied by an affidavit  
31 setting forth the factual basis for the motion and the amounts  
32 requested.

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

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

6 (b) Molesting or disturbing the peace of the other party or of any  
7 child;

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

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

12 (3) Either party may request a domestic violence protection order  
13 under chapter 26.50 RCW or an antiharassment protection order under  
14 chapter 10.14 RCW on a temporary basis. The court may grant any of the  
15 relief provided in RCW 26.50.060 except relief pertaining to  
16 residential provisions for the children which provisions shall be  
17 provided for under this chapter, and any of the relief provided in RCW  
18 10.14.080. Ex parte orders issued under this subsection shall be  
19 effective for a fixed period not to exceed fourteen days, or upon court  
20 order, not to exceed twenty-four days if necessary to ensure that all  
21 temporary motions in the case can be heard at the same time.

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

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

29 (6) The court may issue a temporary restraining order or  
30 preliminary injunction and an order for temporary maintenance or  
31 support in such amounts and on such terms as are just and proper in the  
32 circumstances. The court may in its discretion waive the filing of the  
33 bond or the posting of security.

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

1 ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.09  
2 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

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

15 (9) A temporary order, temporary restraining order, or preliminary  
16 injunction:

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

19 (b) May be revoked or modified;

20 (c) Terminates when the final decree is entered, except as provided  
21 under subsection (10) of this section, or when the petition for  
22 divorce, dissolution, legal separation, or declaration of invalidity is  
23 dismissed;

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

26 (10) Delinquent support payments accrued under an order for  
27 temporary support remain collectible and are not extinguished when a  
28 final decree is entered unless the decree contains specific language to  
29 the contrary. A support debt under a temporary order owed to the state  
30 for public assistance expenditures shall not be extinguished by the  
31 final decree if:

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

34 (b) The temporary order directs the obligor to make support  
35 payments to the office of support enforcement or the Washington state  
36 support registry.

37 **Sec. 15.** RCW 26.09.070 and 1989 c 375 s 4 are each amended to read  
38 as follows:

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

10 (2) If the parties to such contract elect to live separate and  
11 apart without any court decree, they may record such contract and cause  
12 notice thereof to be published in a legal newspaper of the county  
13 wherein the parties resided prior to their separation. Recording such  
14 contract and publishing notice of the making thereof shall constitute  
15 notice to all persons of such separation and of the facts contained in  
16 the recorded document.

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

29 (4) If the court in an action for divorce, dissolution of marriage,  
30 legal separation, or declaration of invalidity finds that the  
31 separation contract was unfair at the time of its execution, it may  
32 make orders for the maintenance of either party, the disposition of  
33 their property and the discharge of their obligations.

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

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

5 (7) When the separation contract so provides, the decree may  
6 expressly preclude or limit modification of any provision for  
7 maintenance set forth in the decree. Terms of a separation contract  
8 pertaining to a parenting plan for the children and, in the absence of  
9 express provision to the contrary, terms providing for maintenance set  
10 forth or incorporated by reference in the decree are automatically  
11 modified by modification of the decree.

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

17 **Sec. 16.** RCW 26.09.080 and 1989 c 375 s 5 are each amended to read  
18 as follows:

19 In a proceeding for divorce, dissolution of the marriage, legal  
20 separation, declaration of invalidity, or in a proceeding for  
21 disposition of property following divorce or dissolution of the  
22 marriage by a court which lacked personal jurisdiction over the absent  
23 spouse or lacked jurisdiction to dispose of the property, the court  
24 shall, without regard to marital misconduct, make such disposition of  
25 the property and the liabilities of the parties, either community or  
26 separate, as shall appear just and equitable after considering all  
27 relevant factors including, but not limited to:

- 28 (1) The nature and extent of the community property;
- 29 (2) The nature and extent of the separate property;
- 30 (3) The duration of the marriage; and
- 31 (4) The economic circumstances of each spouse at the time the  
32 division of property is to become effective, including the desirability  
33 of awarding the family home or the right to live therein for reasonable  
34 periods to a spouse with whom the children reside the majority of the  
35 time.

36 **Sec. 17.** RCW 26.09.090 and 1989 c 375 s 6 are each amended to read  
37 as follows:

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

9 (a) The financial resources of the party seeking maintenance,  
10 including separate or community property apportioned to him, and his  
11 ability to meet his needs independently, including the extent to which  
12 a provision for support of a child living with the party includes a sum  
13 for that party;

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

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

19 (d) The duration of the marriage;

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

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

25 **Sec. 18.** RCW 26.09.100 and 1991 sp.s. c 28 s 1 are each amended to  
26 read as follows:

27 (1) In a proceeding for divorce, dissolution of marriage, legal  
28 separation, declaration of invalidity, maintenance, or child support,  
29 after considering all relevant factors but without regard to marital  
30 misconduct, the court shall order either or both parents owing a duty  
31 of support to any child of the marriage dependent upon either or both  
32 spouses to pay an amount determined under chapter 26.19 RCW.

33 (2) The court may require automatic periodic adjustments or  
34 modifications of child support. That portion of any decree that  
35 requires periodic adjustments or modifications of child support shall  
36 use the provisions in chapter 26.19 RCW as the basis for the adjustment  
37 or modification. Provisions in the decree for periodic adjustment or  
38 modification shall not conflict with RCW 26.09.170 except that the

1 decree may require periodic adjustments or modifications of support  
2 more frequently than the time periods established pursuant to RCW  
3 26.09.170.

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

8 (4) The adjustment or modification provision may be modified by the  
9 court due to economic hardship consistent with the provisions of RCW  
10 26.09.170(4)(a).

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

13 The court may appoint an attorney to represent the interests of a  
14 minor or dependent child with respect to provision for the parenting  
15 plan in an action for divorce, dissolution of marriage, legal  
16 separation, or declaration concerning the validity of a marriage. The  
17 court shall enter an order for costs, fees, and disbursements in favor  
18 of the child's attorney. The order shall be made against either or  
19 both parents, except that, if both parties are indigent, the costs,  
20 fees, and disbursements shall be borne by the county.

21 **Sec. 20.** RCW 26.09.138 and 1991 c 365 s 24 are each amended to  
22 read as follows:

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

30 (2) Any court order or decree establishing a spousal maintenance  
31 obligation may state that, if any spousal maintenance payment is more  
32 than fifteen days past due and the total of such past due payments is  
33 equal to or greater than one hundred dollars, or if the obligor  
34 requests a withdrawal of accumulated contributions from the department  
35 of retirement systems, the obligee may seek a mandatory benefits  
36 assignment order under chapter 41.50 RCW without prior notice to the  
37 obligor. Any such court order or decree may also, or in the



1 alternative, contain a provision that would allow the department to  
2 make a direct payment of all or part of a withdrawal of accumulated  
3 contributions pursuant to RCW 41.50.550(3). Failure to include this  
4 provision does not affect the validity of the court order or decree  
5 establishing the spousal maintenance, nor does such failure affect the  
6 general applicability of RCW 41.50.500 through 41.50.650 to such  
7 obligations.

8 (3) The remedies in RCW 41.50.530 through 41.50.630 are the  
9 exclusive provisions of law enforceable against the department of  
10 retirement systems in connection with any action for enforcement of a  
11 spousal maintenance obligation ordered pursuant to a divorce,  
12 dissolution, or legal separation, and no other remedy ordered by a  
13 court under this chapter shall be enforceable against the department of  
14 retirement systems for collection of spousal maintenance.

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

27 (b) Persons whose dissolution orders as defined in RCW 41.50.500(3)  
28 were entered between July 1, 1987, and July 28, 1991, shall be entitled  
29 to receive direct payments of retirement benefits to satisfy court-  
30 ordered property divisions if the dissolution orders filed with the  
31 department comply or are amended to comply with RCW 41.50.670 through  
32 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, ((41.26.180))  
33 41.26.053, 41.32.052, 41.40.052, or 43.43.310.

34 **Sec. 21.** RCW 26.09.150 and 1989 1st ex.s. c 9 s 205 and 1989 c 375  
35 s 30 are each reenacted and amended to read as follows:

36 A decree of divorce, dissolution of marriage, legal separation, or  
37 declaration of invalidity is final when entered, subject to the right  
38 of appeal. An appeal which does not challenge the finding that the

1 marriage is irretrievably broken or was invalid, does not delay the  
2 finality of the divorce, dissolution, or declaration of invalidity and  
3 either party may remarry pending such an appeal.

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

14 Upon request of a party who is divorced or whose marriage is  
15 dissolved or declared invalid, the court shall order a former name  
16 restored or the court may, in its discretion, order a change to another  
17 name.

18 **Sec. 22.** RCW 26.09.175 and 1992 c 229 s 3 are each amended to read  
19 as follows:

20 (1) A proceeding for the modification of an order of child support  
21 shall commence with the filing of a petition and worksheets. The  
22 petition shall be in the form prescribed by the administrator for the  
23 courts. There shall be a fee of twenty dollars for the filing of a  
24 petition for modification of divorce or dissolution.

25 (2) The petitioner shall serve upon the other party the summons, a  
26 copy of the petition, and the worksheets in the form prescribed by the  
27 administrator for the courts. If the modification proceeding is the  
28 first action filed in this state, service shall be made by personal  
29 service. If the decree to be modified was entered in this state,  
30 service shall be by personal service or by any form of mail requiring  
31 a return receipt. If the support obligation has been assigned to the  
32 state pursuant to RCW 74.20.330 or the state has a subrogated interest  
33 under RCW 74.20A.030, the summons, petition, and worksheets shall also  
34 be served on the attorney general. Proof of service shall be filed  
35 with the court.

36 (3) The responding party's answer and worksheets shall be served  
37 and the answer filed within twenty days after service of the petition  
38 or sixty days if served out of state. The responding party's failure

1 to file an answer within the time required shall result in entry of a  
2 default judgment for the petitioner.

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

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

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

21 **Sec. 23.** RCW 26.09.194 and 1987 c 460 s 13 are each amended to  
22 read as follows:

23 (1) A parent seeking a temporary order relating to parenting shall  
24 file and serve a proposed temporary parenting plan by motion. The  
25 other parent, if contesting the proposed temporary parenting plan,  
26 shall file and serve a responsive proposed parenting plan. Either  
27 parent may move to have a proposed temporary parenting plan entered as  
28 part of a temporary order. The parents may enter an agreed temporary  
29 parenting plan at any time as part of a temporary order. The proposed  
30 temporary parenting plan may be supported by relevant evidence and  
31 shall be accompanied by an affidavit or declaration which shall state  
32 at a minimum the following:

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

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

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

1 (d) The parents' current work and child-care schedules; and  
2 (e) Any of the circumstances set forth in RCW 26.09.191 that are  
3 likely to pose a serious risk to the child and that warrant limitation  
4 on the award to a parent of temporary residence or time with the child  
5 pending entry of a permanent parenting plan.

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

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

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

11 (c) Allocation of decision-making authority, if any. Absent  
12 allocation of decision-making authority consistent with RCW  
13 26.09.187(2), neither party shall make any decision for the child other  
14 than those relating to day-to-day or emergency care of the child, which  
15 shall be made by the party who is present with the child;

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

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

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

21 (4) A parent may move for amendment of a temporary parenting plan,  
22 and the court may order amendment to the temporary parenting plan, if  
23 the amendment conforms to the limitations of RCW 26.09.191 and is in  
24 the best interest of the child.

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

28 **Sec. 24.** RCW 26.09.210 and 1987 c 460 s 15 are each amended to  
29 read as follows:

30 The court may interview the child in chambers to ascertain the  
31 child's wishes as to the child's residential schedule in a proceeding  
32 for divorce, dissolution of marriage, legal separation, or declaration  
33 of invalidity. The court may permit counsel to be present at the  
34 interview. The court shall cause a record of the interview to be made  
35 and to be made part of the record in the case.

36 The court may seek the advice of professional personnel whether or  
37 not they are employed on a regular basis by the court. The advice  
38 given shall be in writing and shall be made available by the court to

1 counsel upon request. Counsel may call for cross-examination any  
2 professional personnel consulted by the court.

3 **Sec. 25.** RCW 26.09.240 and 1996 c 177 s 1 are each amended to read  
4 as follows:

5 (1) A person other than a parent may petition the court for  
6 visitation with a child at any time or may intervene in a pending  
7 divorce, dissolution, legal separation, or modification of parenting  
8 plan proceeding. A person other than a parent may not petition for  
9 visitation under this section unless the child's parent or parents have  
10 commenced an action under this chapter.

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

13 (3) A petition for visitation or a motion to intervene pursuant to  
14 this section shall be dismissed unless the petitioner or intervenor can  
15 demonstrate by clear and convincing evidence that a significant  
16 relationship exists with the child with whom visitation is sought. If  
17 the petition or motion is dismissed for failure to establish the  
18 existence of a significant relationship, the petitioner or intervenor  
19 shall be ordered to pay reasonable attorney's fees and costs to the  
20 parent, parents, other custodian, or representative of the child who  
21 responds to this petition or motion.

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

26 (5)(a) Visitation with a grandparent shall be presumed to be in the  
27 child's best interests when a significant relationship has been shown  
28 to exist. This presumption may be rebutted by a preponderance of  
29 evidence showing that visitation would endanger the child's physical,  
30 mental, or emotional health.

31 (b) If the court finds that reasonable visitation by a grandparent  
32 would be in the child's best interest except for hostilities that exist  
33 between the grandparent and one or both of the parents or person with  
34 whom the child lives, the court may set the matter for mediation under  
35 RCW 26.09.015.

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

1 (a) The strength of the relationship between the child and the  
2 petitioner;

3 (b) The relationship between each of the child's parents or the  
4 person with whom the child is residing and the petitioner;

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

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

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

11 (f) The good faith of the petitioner;

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

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

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

19 (8) The court may order an investigation and report concerning the  
20 proposed visitation or may appoint a guardian ad litem as provided in  
21 RCW 26.09.220.

22 (9) Visitation granted pursuant to this section shall be  
23 incorporated into the parenting plan for the child.

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

28 **Sec. 26.** RCW 26.09.280 and 1991 c 367 s 10 are each amended to  
29 read as follows:

30 Every action or proceeding to change, modify, or enforce any final  
31 order, judgment, or decree entered in any divorce, dissolution, or  
32 legal separation or declaration concerning the validity of a marriage,  
33 whether under this chapter or prior law, regarding the parenting plan  
34 or child support for the minor children of the marriage may be brought  
35 in the county where the minor children are then residing, or in the  
36 court in which the final order, judgment, or decree was entered, or in  
37 the county where the parent or other person who has the care, custody,  
38 or control of the children is then residing.

1       **Sec. 27.** RCW 26.16.205 and 1990 1st ex.s. c 2 s 13 are each  
2 amended to read as follows:

3       The expenses of the family and the education of the children,  
4 including stepchildren, are chargeable upon the property of both  
5 husband and wife, or either of them, and they may be sued jointly or  
6 separately. When a petition for divorce, dissolution of marriage, or  
7 a petition for legal separation is filed, the court may, upon motion of  
8 the stepparent, terminate the obligation to support the stepchildren.  
9 The obligation to support stepchildren shall cease upon the entry of a  
10 decree of divorce or dissolution, decree of legal separation, or death.

11       **Sec. 28.** RCW 26.19.071 and 1997 c 59 s 4 are each amended to read  
12 as follows:

13       (1) **Consideration of all income.** All income and resources of each  
14 parent's household shall be disclosed and considered by the court when  
15 the court determines the child support obligation of each parent. Only  
16 the income of the parents of the children whose support is at issue  
17 shall be calculated for purposes of calculating the basic support  
18 obligation. Income and resources of any other person shall not be  
19 included in calculating the basic support obligation.

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

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

- 27       (a) Salaries;
- 28       (b) Wages;
- 29       (c) Commissions;
- 30       (d) Deferred compensation;
- 31       (e) Overtime;
- 32       (f) Contract-related benefits;
- 33       (g) Income from second jobs;
- 34       (h) Dividends;
- 35       (i) Interest;
- 36       (j) Trust income;
- 37       (k) Severance pay;
- 38       (l) Annuities;

- 1 (m) Capital gains;
- 2 (n) Pension retirement benefits;
- 3 (o) Workers' compensation;
- 4 (p) Unemployment benefits;
- 5 (q) Spousal maintenance actually received;
- 6 (r) Bonuses;
- 7 (s) Social security benefits; and
- 8 (t) Disability insurance benefits.

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

- 12 (a) Income of a new spouse or income of other adults in the  
13 household;
- 14 (b) Child support received from other relationships;
- 15 (c) Gifts and prizes;
- 16 (d) Temporary assistance for needy families;
- 17 (e) Supplemental security income;
- 18 (f) General assistance; and
- 19 (g) Food stamps.

20 Receipt of income and resources from temporary assistance for needy  
21 families, supplemental security income, general assistance, and food  
22 stamps shall not be a reason to deviate from the standard calculation.

23 (5) **Determination of net income.** The following expenses shall be  
24 disclosed and deducted from gross monthly income to calculate net  
25 monthly income:

- 26 (a) Federal and state income taxes;
- 27 (b) Federal insurance contributions act deductions;
- 28 (c) Mandatory pension plan payments;
- 29 (d) Mandatory union or professional dues;
- 30 (e) State industrial insurance premiums;
- 31 (f) Court-ordered spousal maintenance to the extent actually paid;
- 32 (g) Up to two thousand dollars per year in voluntary pension  
33 payments actually made if the contributions were made for the two tax  
34 years preceding the earlier of the (i) tax year in which the parties  
35 separated with intent to live separate and apart or (ii) tax year in  
36 which the parties filed for divorce or dissolution; and
- 37 (h) Normal business expenses and self-employment taxes for self-  
38 employed persons. Justification shall be required for any business  
39 expense deduction about which there is disagreement.



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

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

22 **Sec. 29.** RCW 26.27.020 and 1979 c 98 s 2 are each amended to read  
23 as follows:

24 As used in this chapter:

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

27 (2) "Custody determination" means a court decision and court orders  
28 and instructions providing for the custody of a child, including  
29 visitation rights; it does not include a decision relating to child  
30 support or any other monetary obligation of any person;

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

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

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

8 (6) "Initial decree" means the first custody decree concerning a  
9 particular child;

10 (7) "Modification decree" means a custody decree which modifies or  
11 replaces a prior decree, whether made by the court which rendered the  
12 prior decree or by another court;

13 (8) "Physical custody" means actual possession and control of a  
14 child;

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

18 (10) "State" means any state, territory, or possession of the  
19 United States, the Commonwealth of Puerto Rico, and the District of  
20 Columbia.

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

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

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

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

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

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

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

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

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

8 (4) Before determining whether to decline or retain jurisdiction  
9 the court may communicate with a court of another state and exchange  
10 information pertinent to the assumption of jurisdiction by either court  
11 with a view to assuring that jurisdiction will be exercised by the more  
12 appropriate court and that a forum will be available to the parties.

13 (5) If the court finds that it is an inconvenient forum and that a  
14 court of another state is a more appropriate forum, it may dismiss the  
15 proceedings, or it may stay the proceedings upon condition that a  
16 custody proceeding be promptly commenced in another named state or upon  
17 any other conditions which may be just and proper, including the  
18 condition that a moving party stipulate his consent and submission to  
19 the jurisdiction of the other forum.

20 (6) The court may decline to exercise its jurisdiction under this  
21 chapter if a custody determination is incidental to an action for a  
22 divorce or dissolution of marriage, or another proceeding while  
23 retaining jurisdiction over the divorce, dissolution of marriage, or  
24 other proceeding.

25 (7) If it appears to the court that it is clearly an inappropriate  
26 forum it may require the party who commenced the proceedings to pay, in  
27 addition to the costs of the proceedings in this state, necessary  
28 travel and other expenses, including attorney's fees, incurred by other  
29 parties or their witnesses. Payment is to be made to the clerk of the  
30 court for remittance to the proper party.

31 (8) Upon dismissal or stay of proceedings under this section the  
32 court shall inform the court found to be the more appropriate forum of  
33 this fact, or if the court which would have jurisdiction in the other  
34 state is not certainly known, shall transmit the information to the  
35 court administrator or other appropriate official for forwarding to the  
36 appropriate court.

37 (9) Any communication received from another state informing this  
38 state of a finding of inconvenient forum because a court of this state  
39 is the more appropriate forum shall be filed in the custody registry of

1 the appropriate court. Upon assuming jurisdiction the court of this  
2 state shall inform the original court of this fact.

3 **Sec. 31.** RCW 26.50.160 and 1995 c 246 s 18 are each amended to  
4 read as follows:

5 To prevent the issuance of competing protection orders in different  
6 courts and to give courts needed information for issuance of orders,  
7 the judicial information system shall be available in each district,  
8 municipal, and superior court by July 1, 1997, and shall include a data  
9 base containing the following information:

10 (1) The names of the parties and the cause number for every order  
11 of protection issued under this title, every criminal no-contact order  
12 issued under chapter 10.99 RCW, every antiharassment order issued under  
13 chapter 10.14 RCW, every divorce or dissolution action under chapter  
14 26.09 RCW, every third-party custody action under chapter 26.10 RCW,  
15 and every parentage action under chapter 26.10 RCW;

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

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

20 **Sec. 32.** RCW 36.18.020 and 1996 c 211 s 2 are each amended to read  
21 as follows:

22 (1) Revenue collected under this section is subject to division  
23 with the state public safety and education account under RCW 36.18.025  
24 and with the county or regional law library fund under RCW 27.24.070.

25 (2) Clerks of superior courts shall collect the following fees for  
26 their official services:

27 (a) The party filing the first or initial paper in any civil  
28 action, including, but not limited to an action for restitution,  
29 adoption, or change of name, shall pay, at the time the paper is filed,  
30 a fee of one hundred ten dollars except, in an unlawful detainer action  
31 under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a  
32 case initiating filing fee of thirty dollars, or in proceedings filed  
33 under RCW 28A.225.030 alleging a violation of the compulsory attendance  
34 laws where the petitioner shall not pay a filing fee. The thirty  
35 dollar filing fee under this subsection for an unlawful detainer action  
36 shall not include an order to show cause or any other order or judgment

1 except a default order or default judgment in an unlawful detainer  
2 action.

3 (b) Any party, except a defendant in a criminal case, filing the  
4 first or initial paper on an appeal from a court of limited  
5 jurisdiction or any party on any civil appeal, shall pay, when the  
6 paper is filed, a fee of one hundred ten dollars.

7 (c) For filing of a petition for judicial review as required under  
8 RCW 34.05.514 a filing fee of one hundred ten dollars.

9 (d) For filing of a petition for unlawful harassment under RCW  
10 10.14.040 a filing fee of one hundred ten dollars.

11 (e) For filing the notice of debt due for the compensation of a  
12 crime victim under RCW 7.68.120(2)(a) a fee of one hundred ten dollars.

13 (f) In probate proceedings, the party instituting such proceedings,  
14 shall pay at the time of filing the first paper therein, a fee of one  
15 hundred ten dollars.

16 (g) For filing any petition to contest a will admitted to probate  
17 or a petition to admit a will which has been rejected, or a petition  
18 objecting to a written agreement or memorandum as provided in RCW  
19 11.96.170, there shall be paid a fee of one hundred ten dollars.

20 (h) Upon conviction or plea of guilty, upon failure to prosecute an  
21 appeal from a court of limited jurisdiction as provided by law, or upon  
22 affirmance of a conviction by a court of limited jurisdiction, a  
23 defendant in a criminal case shall be liable for a fee of one hundred  
24 ten dollars.

25 (i) With the exception of demands for jury hereafter made and  
26 garnishments hereafter issued, civil actions and probate proceedings  
27 filed prior to midnight, July 1, 1972, shall be completed and governed  
28 by the fee schedule in effect as of January 1, 1972: PROVIDED, That no  
29 fee shall be assessed if an order of dismissal on the clerk's record be  
30 filed as provided by rule of the supreme court.

31 (3) Clerks of superior courts may collect an additional one hundred  
32 fifty dollar fee for dissolution petitions filed in order to offset  
33 counseling costs for indigent parties to a dissolution.

34 (4) No fee shall be collected when a petition for relinquishment of  
35 parental rights is filed pursuant to RCW 26.33.080 or for forms and  
36 instructional brochures provided under RCW 26.50.030.

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

1 Benefits under this chapter shall be payable to a spouse or ex-  
2 spouse to the extent expressly provided for in any court decree of  
3 divorce, dissolution, or legal separation or in any court order or  
4 court-approved property settlement agreement incident to any court  
5 decree of divorce, dissolution, or legal separation.

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

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

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

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

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

31 The right of a person to a pension, annuity or a retirement  
32 allowance, to the return of contribution, the pension, annuity or  
33 retirement allowance itself, any optional benefit, any other right  
34 accrued or accruing to any person under the provisions of this chapter,  
35 and the moneys in the fund created under this chapter shall not be  
36 subject to execution, garnishment, or any other process whatsoever.  
37 This section shall not apply to child support collection actions taken

1 under chapter 26.18, 26.23, or 74.20A RCW against benefits payable  
2 under any such plan or arrangement. Benefits under this chapter shall  
3 be payable to a spouse or ex-spouse to the extent expressly provided  
4 for in any court decree of divorce, dissolution, or legal separation or  
5 in any court order or court-approved property settlement agreement  
6 incident to any court decree of divorce, dissolution, or legal  
7 separation.

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

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

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

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

35 (c) Such other benefits shall be paid to a member receiving a  
36 retirement allowance under RCW 41.32.497 as the member may designate  
37 for himself, herself, or others equal to the actuarial value of his or  
38 her retirement annuity at the time of his retirement: PROVIDED, That

1 the board of trustees shall limit withdrawals of accumulated  
2 contributions to such sums as will not reduce the member's retirement  
3 allowance below one hundred and twenty dollars per month.

4 (d) A member whose retirement allowance is calculated under RCW  
5 41.32.498 may also elect to receive a retirement allowance based on  
6 options available under this subsection that includes the benefit  
7 provided under RCW 41.32.770. This retirement allowance option shall  
8 also be calculated so as to be actuarially equivalent to the maximum  
9 retirement allowance and to the options available under this  
10 subsection.

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

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

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

27 (ii) The spousal consent provisions of (a) of this subsection do  
28 not apply.

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

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

35 (a) Standard allowance. A member electing this option shall  
36 receive a retirement allowance payable throughout such member's life.  
37 However, if the retiree dies before the total of the retirement  
38 allowance paid to such retiree equals the amount of such retiree's



1 accumulated contributions at the time of retirement, then the balance  
2 shall be paid to the member's estate, or such person or persons, trust,  
3 or organization as the retiree shall have nominated by written  
4 designation duly executed and filed with the department; or if there be  
5 no such designated person or persons still living at the time of the  
6 retiree's death, then to the surviving spouse; or if there be neither  
7 such designated person or persons still living at the time of death nor  
8 a surviving spouse, then to the retiree's legal representative.

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

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

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

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

35 (ii) The spousal consent provisions of (a) of this subsection do  
36 not apply.

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

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

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

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

27 (c) A member may elect to include the benefit provided under RCW  
28 41.40.640 along with the retirement options available under this  
29 section. This retirement allowance option shall be calculated so as to  
30 be actuarially equivalent to the options offered under this subsection.

31 (2)(a) A member, if married, must provide the written consent of  
32 his or her spouse to the option selected under this section, except as  
33 provided in (b) of this subsection. If a member is married and both  
34 the member and the member's spouse do not give written consent to an  
35 option under this section, the department shall pay a joint and fifty  
36 percent survivor benefit calculated to be actuarially equivalent to the  
37 benefit options available under subsection (1) of this section unless  
38 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. 39.** RCW 41.40.660 and 1996 c 175 s 7 are each amended to read  
10 as follows:

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

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

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

36 (2)(a) A member, if married, must provide the written consent of  
37 his or her spouse to the option selected under this section, except as  
38 provided in (b) of this subsection. If a member is married and both

1 the member and the member's spouse do not give written consent to an  
2 option under this section, the department shall pay a joint and fifty  
3 percent survivor benefit calculated to be actuarially equivalent to the  
4 benefit options available under subsection (1) of this section unless  
5 spousal consent is not required as provided in (b) of this subsection.

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

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

12 (ii) The spousal consent provisions of (a) of this subsection do  
13 not apply.

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

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

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

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

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

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

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

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

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

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

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

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

39 AFTER PERCENTAGE

1	June 30, 1993	105%
2	June 30, 1994	110%
3	June 30, 1995	115%
4	June 30, 1996	120%

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

13 (f) Upon remarriage of a surviving spouse the monthly payments for  
14 the child or children shall continue as provided in this section, but  
15 the monthly payments to such surviving spouse shall cease at the end of  
16 the month during which remarriage occurs. However, after September 8,  
17 1975, an otherwise eligible surviving spouse of a worker who died at  
18 any time prior to or after September 8, 1975, shall have an option of:

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

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

37 (g) If the surviving spouse during the remarriage should die  
38 without having previously received the lump sum payment provided in  
39 subsection (2)(f)(i) of this section, his or her estate shall be

1 entitled to receive the sum specified under subsection (2)(f)(i) of  
2 this section or fifty percent of the then remaining annuity value of  
3 his or her pension whichever is the lesser.

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

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

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

26	AFTER	PERCENTAGE
27	June 30, 1993	105%
28	June 30, 1994	110%
29	June 30, 1995	115%
30	June 30, 1996	120%

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

34 (5) If the worker leaves no surviving spouse or child, but leaves  
35 a dependent or dependents, a monthly payment shall be made to each  
36 dependent equal to fifty percent of the average monthly support  
37 actually received by such dependent from the worker during the twelve  
38 months next preceding the occurrence of the injury, but the total

1 payment to all dependents in any case shall not exceed the lesser of  
2 sixty-five percent of the wages of the deceased worker at the time of  
3 his or her death or the applicable percentage of the average monthly  
4 wage in the state as defined in RCW 51.08.018 as follows:

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

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

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

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

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

32 Unless the context clearly requires otherwise, the definitions in  
33 this section apply throughout this chapter.

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

35 (2) "Vital records" means records of birth, death, fetal death,  
36 marriage, divorce, dissolution, annulment, and legal separation, as



1 maintained under the supervision of the state registrar of vital  
2 statistics.

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

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

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

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

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

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

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

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

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

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

37 (6) Initiate any civil proceedings deemed necessary by the  
38 department to secure reimbursement from the parent or parents of minor

1 dependent children for all moneys expended by the state in providing  
2 assistance or services to said children.

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

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

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

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

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

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

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

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

1 (5) Sea cucumber dive fishery licenses are not transferable from  
2 one license holder to another except from parent to child, from spouse  
3 to spouse during marriage or as a result of divorce, marriage  
4 dissolution, or upon death of the license holder.

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

16 NEW SECTION. Sec. 44. (1) An action for a dissolution of marriage  
17 filed before the effective date of this section and in which a final  
18 decree is entered within one hundred eighty days of the effective date  
19 of this section is governed by the dissolution proceeding.

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

23 NEW SECTION. Sec. 45. The following acts or parts of acts are  
24 each repealed:

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

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

27 NEW SECTION. Sec. 46. Sections 1 and 44 of this act are each  
28 added to chapter 26.09 RCW.

--- END ---