
HOUSE BILL 1470

State of Washington

56th Legislature

1999 Regular Session

By Representatives Kastama, Hurst, Kessler, Miloscia, Dickerson and Campbell

Read first time 01/26/1999. Referred to Committee on Judiciary.

1 AN ACT Relating to shared parental responsibility; amending RCW
2 26.09.004, 26.09.187, and 26.09.170; adding a new section to chapter
3 26.09 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** This act shall be known as the shared
6 parental responsibility act.

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

9 The definitions in this section apply throughout this chapter.

10 (1) "Temporary parenting plan" means a plan for parenting of the
11 child pending final resolution of any action for dissolution of
12 marriage, declaration of invalidity, or legal separation which is
13 incorporated in a temporary order.

14 (2) "Permanent parenting plan" means a plan for parenting the
15 child, including allocation of parenting functions, which plan is
16 incorporated in any final decree or decree of modification in an action
17 for dissolution of marriage, declaration of invalidity, or legal
18 separation.

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

5 (a) Maintaining a loving, stable, consistent, and nurturing
6 relationship with the child;

7 (b) Attending to the daily needs of the child, such as feeding,
8 clothing, physical care and grooming, supervision, health care, and day
9 care, and engaging in other activities which are appropriate to the
10 developmental level of the child and that are within the social and
11 economic circumstances of the particular family;

12 (c) Attending to adequate education for the child, including
13 remedial or other education essential to the best interests of the
14 child;

15 (d) Assisting the child in developing and maintaining appropriate
16 interpersonal relationships;

17 (e) Exercising appropriate judgment regarding the child's welfare,
18 consistent with the child's developmental level and the family's social
19 and economic circumstances; and

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

21 (4) "Shared parental responsibility" means shared residential
22 placement and mutual decision-making authority.

23 (5) "Shared residential placement" means an order awarding each of
24 the parents significant periods of time, in which a child resides with
25 or is under the care and supervision of each of the parents so as to
26 assure the child frequent and continuing contact with both parents.
27 "Shared residential placement" does not necessarily mean the child's
28 time with each parent should be exactly the same in length nor does it
29 necessarily mean the child must alternate his or her residence between
30 the households of the parents for brief and substantially equal
31 intervals of time.

32 NEW SECTION. Sec. 3. A new section is added to chapter 26.09 RCW
33 to read as follows:

34 (1) Except as provided in subsection (2) of this section, absent a
35 preponderance of the evidence to the contrary, there is a presumption
36 that shared parental responsibility is in the best interests of a minor
37 child or children.

1 (2) There shall not be a presumption that shared parental
2 responsibility is in the best interest of the minor child or children
3 when:

4 (a) The parents have agreed to an award of residential placement or
5 decision-making authority to only one parent; or

6 (b) The court finds that shared parental responsibility would be
7 detrimental to the child or children; or

8 (c) One of the parents is found by the court to have a history of
9 acts of domestic violence as defined in RCW 26.50.010.

10 (3) If the court declines to enter a shared parental responsibility
11 order, the court shall enter findings of fact and conclusions of law
12 stating the reasons for declining to enter a shared parental
13 responsibility order.

14 **Sec. 4.** RCW 26.09.187 and 1989 c 375 s 10 are each amended to read
15 as follows:

16 (1) DISPUTE RESOLUTION PROCESS. The court shall not order a
17 dispute resolution process, except court action, when it finds that any
18 limiting factor under RCW 26.09.191 applies, or when it finds that
19 either parent is unable to afford the cost of the proposed dispute
20 resolution process. If a dispute resolution process is not precluded
21 or limited, then in designating such a process the court shall consider
22 all relevant factors, including:

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

25 (b) The parents' wishes or agreements and, if the parents have
26 entered into agreements, whether the agreements were made knowingly and
27 voluntarily; and

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

31 (2) ALLOCATION OF DECISION-MAKING AUTHORITY.

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

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

38 (ii) The agreement is knowing and voluntary.

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

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

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

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

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

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

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

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

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

20 (3) RESIDENTIAL PROVISIONS.

21 (a) The court shall make residential provisions for each child
22 which encourage each parent to maintain a loving, stable, and nurturing
23 relationship with the child, consistent with the child's developmental
24 level and the family's social and economic circumstances. The child's
25 residential schedule shall be consistent with RCW 26.09.191. There is
26 a presumption that the child's residential schedule shall provide
27 shared parental responsibility in accordance with section 3 of this
28 act. Where the limitations of RCW 26.09.191 (~~are not dispositive of~~
29 ~~the child's residential schedule~~) do not apply, the court shall
30 consider the following factors:

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

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

37 (iii) Each parent's past and potential for future performance of
38 parenting functions;

39 (iv) The emotional needs and developmental level of the child;

1 (v) The child's relationship with siblings and with other
2 significant adults, as well as the child's involvement with his or her
3 physical surroundings, school, or other significant activities;

4 (vi) The wishes of the parents and the wishes of a child who is
5 sufficiently mature to express reasoned and independent preferences as
6 to his or her residential schedule; and

7 (vii) Each parent's employment schedule, and shall make
8 accommodations consistent with those schedules.

9 Factor (i) shall be given the greatest weight.

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

14 (i) No limitation exists under RCW 26.09.191;

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

17 (B) The parties have a satisfactory history of cooperation and
18 shared performance of parenting functions; the parties are available to
19 each other, especially in geographic proximity, to the extent necessary
20 to ensure their ability to share performance of the parenting
21 functions; and

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

23 **Sec. 5.** RCW 26.09.170 and 1997 c 58 s 910 are each amended to read
24 as follows:

25 (1) Except as otherwise provided in subsection (7) of RCW
26 26.09.070, the provisions of any decree respecting maintenance or
27 support may be modified: (a) Only as to installments accruing
28 subsequent to the petition for modification or motion for adjustment
29 except motions to compel court-ordered adjustments, which shall be
30 effective as of the first date specified in the decree for implementing
31 the adjustment; and, (b) except as otherwise provided in subsections
32 (4), (5), (8), and (9) of this section, only upon a showing of a
33 substantial change of circumstances. The provisions as to property
34 disposition may not be revoked or modified, unless the court finds the
35 existence of conditions that justify the reopening of a judgment under
36 the laws of this state.

37 (2) Unless otherwise agreed in writing or expressly provided in the
38 decree the obligation to pay future maintenance is terminated upon the

1 death of either party or the remarriage of the party receiving
2 maintenance.

3 (3) Unless otherwise agreed in writing or expressly provided in the
4 decree, provisions for the support of a child are terminated by
5 emancipation of the child or by the death of the parent obligated to
6 support the child.

7 (4) An order of child support may be modified one year or more
8 after it has been entered without showing a substantial change of
9 circumstances:

10 (a) If the order in practice works a severe economic hardship on
11 either party or the child;

12 (b) If a party requests an adjustment in an order for child support
13 which was based on guidelines which determined the amount of support
14 according to the child's age, and the child is no longer in the age
15 category on which the current support amount was based;

16 (c) If a child is still in high school, upon a finding that there
17 is a need to extend support beyond the eighteenth birthday to complete
18 high school; or

19 (d) To add an automatic adjustment of support provision consistent
20 with RCW 26.09.100.

21 (5) An order or decree entered prior to June 7, 1984, may be
22 modified without showing a substantial change of circumstances if the
23 requested modification is to:

24 (a) Require health insurance coverage for a child named therein; or

25 (b) Modify an existing order for health insurance coverage.

26 (6) An obligor's voluntary unemployment or voluntary
27 underemployment, by itself, is not a substantial change of
28 circumstances.

29 (7) The department of social and health services may file an action
30 to modify an order of child support if public assistance money is being
31 paid to or for the benefit of the child and the child support order is
32 twenty-five percent or more below the appropriate child support amount
33 set forth in the standard calculation as defined in RCW 26.19.011 and
34 reasons for the deviation are not set forth in the findings of fact or
35 order. The determination of twenty-five percent or more shall be based
36 on the current income of the parties and the department shall not be
37 required to show a substantial change of circumstances if the reasons
38 for the deviations were not set forth in the findings of fact or order.

1 (8)(a) All child support decrees may be adjusted once every twenty-
2 four months based upon changes in the income of the parents without a
3 showing of substantially changed circumstances. Either party may
4 initiate the adjustment by filing a motion and child support
5 worksheets.

6 (b) A party may petition for modification in cases of substantially
7 changed circumstances under subsection (1) of this section at any time.
8 However, if relief is granted under subsection (1) of this section,
9 twenty-four months must pass before a motion for an adjustment under
10 (a) of this subsection may be filed.

11 (c) If, pursuant to (a) of this subsection or subsection (9) of
12 this section, the court adjusts or modifies a child support obligation
13 by more than thirty percent and the change would cause significant
14 hardship, the court may implement the change in two equal increments,
15 one at the time of the entry of the order and the second six months
16 from the entry of the order. Twenty-four months must pass following
17 the second change before a motion for an adjustment under (a) of this
18 subsection may be filed.

19 (d) A parent who is receiving transfer payments who receives a wage
20 or salary increase may not bring a modification action pursuant to
21 subsection (1) of this section alleging that increase constitutes a
22 substantial change of circumstances.

23 (e) The department of social and health services may file an action
24 at any time to modify an order of child support in cases of
25 substantially changed circumstances if public assistance money is being
26 paid to or for the benefit of the child. The determination of the
27 existence of substantially changed circumstances by the department that
28 lead to the filing of an action to modify the order of child support is
29 not binding upon the court.

30 (9) An order of child support may be adjusted twenty-four months
31 from the date of the entry of the decree or the last adjustment or
32 modification, whichever is later, based upon changes in the economic
33 table or standards in chapter 26.19 RCW.

34 (10) A "substantial change in circumstances" includes but is not
35 limited to a parent's failure to exercise his or her residential time
36 under an order awarding shared residential placement, as defined in RCW

1 26.09.004(5), that results in a substantial increase in expenses to the
2 other parent.

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