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**SUBSTITUTE HOUSE BILL 1514**

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**State of Washington                      56th Legislature                      1999 Regular Session**

**By** House Committee on Judiciary (originally sponsored by Representatives Kastama and Wolfe)

Read first time 03/02/1999.

1            AN ACT Relating to modification of a parenting plan or custody  
2 decree; and amending RCW 26.09.260.

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

4            **Sec. 1.** RCW 26.09.260 and 1991 c 367 s 9 are each amended to read  
5 as follows:

6            (1) Except as otherwise provided in subsections (4), (5), (6), and  
7 (7) of this section, the court shall not modify a prior custody decree  
8 or a parenting plan unless it finds, upon the basis of facts that have  
9 arisen since the prior decree or plan or that were unknown to the court  
10 at the time of the prior decree or plan, that a substantial change has  
11 occurred in the circumstances of the child or the nonmoving party and  
12 that the modification is in the best interest of the child and is  
13 necessary to serve the best interests of the child.

14            (2) In applying these standards, the court shall retain the  
15 residential schedule established by the decree or parenting plan  
16 unless:

17            (a) The parents agree to the modification;

1 (b) The child has been integrated into the family of the petitioner  
2 with the consent of the other parent in substantial deviation from the  
3 parenting plan;

4 (c) The child's present environment is detrimental to the child's  
5 physical, mental, or emotional health and the harm likely to be caused  
6 by a change of environment is outweighed by the advantage of a change  
7 to the child; or

8 (d) The court has found the nonmoving parent in contempt of court  
9 at least twice within three years because the parent failed to comply  
10 with the residential time provisions in the court-ordered parenting  
11 plan, or the parent has been convicted of custodial interference in the  
12 first or second degree under RCW 9A.40.060 or 9A.40.070.

13 (3) A conviction of custodial interference in the first or second  
14 degree under RCW 9A.40.060 or 9A.40.070 shall constitute a substantial  
15 change of circumstances for the purposes of this section.

16 (4) The court may reduce or restrict contact between the nonprimary  
17 residential parent and a child if it finds that the reduction or  
18 restriction would serve and protect the best interests of the child  
19 using the criteria in RCW 26.09.191.

20 (5) The court may order adjustments to the residential aspects of  
21 a parenting plan upon a showing of a substantial change in  
22 circumstances of either parent or of the child, and without  
23 consideration of the factors set forth in subsection (2) of this  
24 section, if the proposed modification is only a(†

25 ~~(a) Modification in the dispute resolution process; or~~

26 ~~(b) Minor modification in the residential schedule that:~~

27 ~~(i) Does not change the residence the child is scheduled to reside~~  
28 ~~in the majority of the time; and~~

29 ~~(ii) Does not exceed twenty four full days in a calendar year or~~  
30 ~~five full days in a calendar month; or~~

31 ~~(iii) Is based on a change of residence or an involuntary change in~~  
32 ~~work schedule by a parent which makes the residential schedule in the~~  
33 ~~parenting plan impractical to follow)) minor modification in the~~  
34 ~~residential schedule that does not change the residence the child is~~  
35 ~~scheduled to reside in the majority of the time and:~~

36 ~~(a) Does not exceed twenty-four days in a calendar year; or~~

37 ~~(b) Is based on a change of residence or an involuntary change in~~  
38 ~~work schedule by a parent which makes the residential schedule in the~~  
39 ~~parenting plan impractical to follow; or~~

1       (c) Does not result in a schedule that exceeds ninety overnights  
2 per year in total, if the court finds that the decree of dissolution or  
3 parenting plan does not provide reasonable time with the nonprimary  
4 residential parent at the time the petition for modification is filed,  
5 and further, the court finds that it is in the best interests of the  
6 child to increase residential time with the nonprimary residential  
7 parent in excess of the residential time period in (a)(ii) of this  
8 subsection. However, any motion under this subsection (5)(c) is  
9 subject to the factors established in subsection (2) of this section if  
10 the party bringing the motion has previously been granted a  
11 modification under this same subsection within twenty-four months of  
12 the current motion. Relief granted under this section shall not be the  
13 sole basis for adjusting or modifying child support.

14       (6) If a nonprimary residential parent voluntarily fails to  
15 exercise residential time for an extended period, that is, one year or  
16 longer, the court upon proper motion may make adjustments to the  
17 parenting plan in keeping with the best interests of the minor child.

18       (7) The court may order adjustments to any of the nonresidential  
19 aspects of a parenting plan upon a showing of a substantial change of  
20 circumstances of either parent or of a child, and the adjustment is in  
21 the best interest of the child. Adjustments ordered under this section  
22 may be made without consideration of the factors set forth in  
23 subsection (2) of this section.

24       ~~((+5))~~ (8) If the court finds that a motion to modify a prior  
25 decree or parenting plan has been brought in bad faith, the court shall  
26 assess the attorney's fees and court costs of the nonmoving parent  
27 against the moving party.

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