
HOUSE BILL 2655

State of Washington

56th Legislature

2000 Regular Session

By Representatives Kastama and Ruderman

Read first time . Referred to Committee on .

1 AN ACT Relating to the geographical relocation of children;
2 amending RCW 26.09.260; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds and declares that:

5 (a) The relocation of children after dissolution is an issue that
6 has been heavily litigated and has caused much confusion in the courts
7 and for families;

8 (b) The parenting act recognizes the fundamental importance of the
9 parent-child relationship to the welfare of the child and that the
10 relationship between the child and each parent should be fostered in
11 parenting plans tailored to involve the child in both parents' lives
12 unless inconsistent with the child's best interest;

13 (c) The December 1999 decision by the state supreme court, *In re*
14 *the Marriage of Pape*, is contrary to the overall policy of the
15 parenting act;

16 (d) The best interest of the child is generally served when the
17 existing patterns between the child and each parent remain stable and
18 predictable;

1 (e) Changing the geographic location of a child after dissolution
2 may have significant impacts on the relationship between the child and
3 the nonmoving parent, and such a decision is not minor and should not
4 be made without careful consideration; and

5 (f) The scope of the minor modification statute was not intended to
6 permit a change in the child's residence, when such relocation would
7 significantly disrupt the relationship between the nonrelocating parent
8 and the child.

9 (2) By this act, the legislature intends to override the court's
10 policy and standards articulated in *Pape*.

11 **Sec. 2.** RCW 26.09.260 and 1999 c 174 s 1 are each amended to read
12 as follows:

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

21 (2) In applying these standards, the court shall retain the
22 residential schedule established by the decree or parenting plan
23 unless:

24 (a) The parents agree to the modification;

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

28 (c) The child's present environment is detrimental to the child's
29 physical, mental, or emotional health and the harm likely to be caused
30 by a change of environment is outweighed by the advantage of a change
31 to the child; or

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

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

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

8 (5) The court may order adjustments to the residential aspects of
9 a parenting plan upon a showing of a substantial change in
10 circumstances of either parent or of the child, and without
11 consideration of the factors set forth in subsection (2) of this
12 section, if the proposed modification is only a minor modification in
13 the residential schedule that does not change the residence the child
14 is scheduled to reside in the majority of the time and:

15 (a) Does not exceed twenty-four full days in a calendar year; or

16 (b) Is based on a change of residence or an involuntary change in
17 work schedule by a parent which:

18 (i) Makes the residential schedule in the parenting plan
19 impractical to follow; and

20 (ii) Does not result in a significant geographical relocation of
21 the child away from the other parent; or

22 (c) Does not result in a schedule that exceeds ninety overnights
23 per year in total, if the court finds that, at the time the petition
24 for modification is filed, the decree of dissolution or parenting plan
25 does not provide reasonable time with the ~~((nonprimary residential~~
26 ~~parent at the time the petition for modification is filed))~~ parent whom
27 the child resides with a minority of the time, and further, the court
28 finds that it is in the best interests of the child to increase
29 residential time with the ~~((nonprimary residential))~~ other parent in
30 excess of the residential time period in (a) of this subsection.
31 However, any motion under this subsection (5)(c) is subject to the
32 factors established in subsection (2) of this section if the party
33 bringing the motion has previously been granted a modification under
34 this same subsection within twenty-four months of the current motion.
35 Relief granted under this section shall not be the sole basis for
36 adjusting or modifying child support.

37 (6) A ~~((nonprimary residential))~~ parent with whom the child resides
38 the minority of the time whose residential time with the child is
39 subject to limitations pursuant to RCW 26.09.191 (2) or (3) may not

1 seek expansion of residential time under subsection (5)(c) of this
2 section unless that parent demonstrates a substantial change in
3 circumstances specifically related to the basis for the limitation.

4 (7) If a (~~nonprimary residential~~) parent with whom the child
5 resides the minority of the time voluntarily fails to exercise
6 residential time for an extended period, that is, one year or longer,
7 the court upon proper motion may make adjustments to the parenting plan
8 in keeping with the best interests of the minor child.

9 (8) A (~~nonprimary parent~~) parent with whom the child resides a
10 minority of the time who is required by the existing parenting plan to
11 complete evaluations, treatment, parenting, or other classes may not
12 seek expansion of residential time under subsection (5)(c) of this
13 section unless that parent has fully complied with such requirements.

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

20 (10) If the court finds that a motion to modify a prior decree or
21 parenting plan has been brought in bad faith, the court shall assess
22 the attorney's fees and court costs of the nonmoving parent against the
23 moving party.

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