
SENATE BILL 5507

State of Washington

57th Legislature

2001 Regular Session

By Senator Kastama

Read first time 01/24/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to establishing parenting plans or residential
2 schedules for parents who have voluntarily acknowledged paternity;
3 amending RCW 26.26.040, 26.26.130, 26.50.025, 26.50.060, 9.41.800,
4 10.14.200, 26.23.020, and 26.23.120; adding a new chapter to Title 26
5 RCW; creating a new section; and prescribing penalties.

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

7 **Sec. 1.** RCW 26.26.040 and 1997 c 58 s 938 are each amended to read
8 as follows:

9 (1) A man is presumed to be the natural father of a child for all
10 intents and purposes if:

11 (a) He and the child's natural mother are or have been married to
12 each other and the child is born during the marriage, or within three
13 hundred days after the marriage is terminated by death, annulment,
14 declaration of invalidity, divorce, or dissolution, or after a decree
15 of separation is entered by a court; or

16 (b) Before the child's birth, he and the child's natural mother
17 have attempted to marry each other by a marriage solemnized in apparent
18 compliance with law, although the attempted marriage is or could be

1 declared invalid, and the child is born within three hundred days after
2 the termination of cohabitation;

3 (c) After the child's birth, he and the child's natural mother have
4 married, or attempted to marry, each other by a marriage solemnized in
5 apparent compliance with law, although the attempted marriage is or
6 could be declared invalid, and

7 (i) He has acknowledged his paternity of the child in writing filed
8 with the state registrar of vital statistics,

9 (ii) With his consent, he is named as the child's father on the
10 child's birth certificate, or

11 (iii) He is obligated to support the child under a written
12 voluntary promise or by court order;

13 (d) While the child is under the age of majority, he receives the
14 child into his home and openly holds out the child as his child;

15 (e) He acknowledges his paternity of the child pursuant to RCW
16 70.58.080 or in a writing filed with the state registrar of vital
17 statistics, which shall promptly inform the mother of the filing of the
18 acknowledgment, if she does not dispute the acknowledgment within a
19 reasonable time after being informed thereof, in a writing filed with
20 the state registrar of vital statistics.

21 (i) An acknowledgment of paternity under RCW 70.58.080 shall be a
22 legal finding of paternity of the child sixty days after the
23 acknowledgment is filed with the center for health statistics unless
24 the acknowledgment is sooner rescinded or challenged.

25 (ii) After the sixty-day period has passed, the acknowledgment may
26 be challenged in court only on the basis of fraud, duress, or material
27 mistake of fact, with the burden of proof upon the challenger.

28 (iii) Legal responsibilities of the challenger, including child
29 support obligations, may not be suspended during the challenge, except
30 for good cause shown.

31 (iv) Judicial and administrative proceedings are neither required
32 nor permitted to ratify an unchallenged acknowledgment of paternity
33 filed after July 27, 1997. In order to enforce or establish rights of
34 residential time, custody, ~~((and))~~ visitation, dispute resolution, or
35 decision-making authority, a man presumed to be the father of a child
36 as a result of filing a written acknowledgment ~~((must))~~ of paternity,
37 or the mother of a child listed on an acknowledgment of paternity, may
38 seek ~~((appropriate judicial orders))~~ either a residential schedule or

1 a parenting plan under ((this title)) chapter 26.-- RCW (sections 9
2 through 24 of this act);

3 (f) The United States immigration and naturalization service made
4 or accepted a determination that he was the father of the child at the
5 time of the child's entry into the United States and he had the
6 opportunity at the time of the child's entry into the United States to
7 admit or deny the paternal relationship; or

8 (g) Genetic testing indicates a ninety-eight percent or greater
9 probability of paternity.

10 (2) A presumption under this section may be rebutted in an
11 appropriate action only by clear, cogent, and convincing evidence. If
12 two or more presumptions arise which conflict with each other, the
13 presumption which on the facts is founded on the weightier
14 considerations of policy and logic controls. The presumption is
15 rebutted by a court decree establishing paternity of the child by
16 another man.

17 **Sec. 2.** RCW 26.26.130 and 2000 c 119 s 10 are each amended to read
18 as follows:

19 (1) The judgment and order of the court determining the existence
20 or nonexistence of the parent and child relationship shall be
21 determinative for all purposes.

22 (2) If the judgment and order of the court is at variance with the
23 child's birth certificate, the court shall order that an amended birth
24 certificate be issued.

25 (3) The judgment and order shall contain other appropriate
26 provisions directed to the appropriate parties to the proceeding,
27 concerning the duty of current and future support, the extent of any
28 liability for past support furnished to the child if that issue is
29 before the court, the furnishing of bond or other security for the
30 payment of the judgment, or any other matter in the best interest of
31 the child. The judgment and order may direct the father to pay the
32 reasonable expenses of the mother's pregnancy and confinement. The
33 judgment and order may include a continuing restraining order or
34 injunction. In issuing the order, the court shall consider the
35 provisions of RCW 9.41.800.

36 (4) The judgment and order shall contain the social security
37 numbers of all parties to the order.

1 (5) Support judgment and orders shall be for periodic payments
2 which may vary in amount. The court may limit the father's liability
3 for the past support to the child to the proportion of the expenses
4 already incurred as the court deems just. The court shall not limit or
5 affect in any manner the right of nonparties including the state of
6 Washington to seek reimbursement for support and other services
7 previously furnished to the child.

8 (6) After considering all relevant factors, the court shall order
9 either or both parents to pay an amount determined pursuant to the
10 schedule and standards contained in chapter 26.19 RCW.

11 (7) On the same basis as provided in chapter 26.09 RCW, the court
12 shall make residential provisions with regard to minor children of the
13 parties, except that a parenting plan shall not be required unless
14 requested by a party. A man presumed to be the father of a child as a
15 result of filing a written acknowledgment of paternity, or the mother
16 of a child listed on an acknowledgment, may seek either a residential
17 schedule or a parenting plan under chapter 26.-- RCW (sections 9
18 through 24 of this act).

19 (8) In any dispute between the natural parents of a child and a
20 person or persons who have (a) commenced adoption proceedings or who
21 have been granted an order of adoption, and (b) pursuant to a court
22 order, or placement by the department of social and health services or
23 by a licensed agency, have had actual custody of the child for a period
24 of one year or more before court action is commenced by the natural
25 parent or parents, the court shall consider the best welfare and
26 interests of the child, including the child's need for situation
27 stability, in determining the matter of custody, and the parent or
28 person who is more fit shall have the superior right to custody.

29 (9) In entering an order under this chapter, the court may issue
30 any necessary continuing restraining orders, including the restraint
31 provisions of domestic violence protection orders under chapter 26.50
32 RCW or antiharassment protection orders under chapter 10.14 RCW.

33 (10) Restraining orders issued under this section restraining or
34 enjoining the person from molesting or disturbing another party, from
35 going onto the grounds of or entering the home, workplace, or school of
36 the other party or the day care or school of any child, or prohibiting
37 the person from knowingly coming within, or knowingly remaining within,
38 a specified distance of a location, shall prominently bear on the front
39 page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL

1 NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND
2 WILL SUBJECT A VIOLATOR TO ARREST.

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

13 (12) If a restraining order issued pursuant to this section is
14 modified or terminated, the clerk of the court shall notify the law
15 enforcement agency specified in the order on or before the next
16 judicial day. Upon receipt of notice that an order has been
17 terminated, the law enforcement agency shall remove the order from any
18 computer-based criminal intelligence system.

19 **Sec. 3.** RCW 26.50.025 and 1995 c 246 s 2 are each amended to read
20 as follows:

21 (1) Any order available under this chapter may be issued in actions
22 under chapter 26.09, 26.10, 26.-- (sections 9 through 24 of this act),
23 or 26.26 RCW. If an order for protection is issued in an action under
24 chapter 26.09, 26.10, 26.-- (sections 9 through 24 of this act), or
25 26.26 RCW, the order shall be issued on the forms mandated by RCW
26 26.50.035(1). An order issued in accordance with this subsection is
27 fully enforceable and shall be enforced under the provisions of this
28 chapter.

29 (2) If a party files an action under chapter 26.09, 26.10, 26.--
30 (sections 9 through 24 of this act), or 26.26 RCW, an order issued
31 previously under this chapter between the same parties may be
32 consolidated by the court under that action and cause number. Any
33 order issued under this chapter after consolidation shall contain the
34 original cause number and the cause number of the action under chapter
35 26.09, 26.10, 26.-- (sections 9 through 24 of this act), or 26.26 RCW.
36 Relief under this chapter shall not be denied or delayed on the grounds
37 that the relief is available in another action.

1 **Sec. 4.** RCW 26.50.060 and 2000 c 119 s 15 are each amended to read
2 as follows:

3 (1) Upon notice and after hearing, the court may provide relief as
4 follows:

5 (a) Restrain the respondent from committing acts of domestic
6 violence;

7 (b) Exclude the respondent from the dwelling that the parties
8 share, from the residence, workplace, or school of the petitioner, or
9 from the day care or school of a child;

10 (c) Prohibit the respondent from knowingly coming within, or
11 knowingly remaining within, a specified distance from a specified
12 location;

13 (d) On the same basis as is provided in chapter 26.09 RCW, the
14 court shall make residential provision with regard to minor children of
15 the parties. However, parenting plans as specified in chapter 26.09
16 RCW shall not be required under this chapter;

17 (e) Order the respondent to participate in a domestic violence
18 perpetrator treatment program approved under RCW 26.50.150;

19 (f) Order other relief as it deems necessary for the protection of
20 the petitioner and other family or household members sought to be
21 protected, including orders or directives to a peace officer, as
22 allowed under this chapter;

23 (g) Require the respondent to pay the administrative court costs
24 and service fees, as established by the county or municipality
25 incurring the expense and to reimburse the petitioner for costs
26 incurred in bringing the action, including reasonable attorneys' fees;

27 (h) Restrain the respondent from having any contact with the victim
28 of domestic violence or the victim's children or members of the
29 victim's household;

30 (i) Require the respondent to submit to electronic monitoring. The
31 order shall specify who shall provide the electronic monitoring
32 services and the terms under which the monitoring must be performed.
33 The order also may include a requirement that the respondent pay the
34 costs of the monitoring. The court shall consider the ability of the
35 respondent to pay for electronic monitoring;

36 (j) Consider the provisions of RCW 9.41.800;

37 (k) Order possession and use of essential personal effects. The
38 court shall list the essential personal effects with sufficient
39 specificity to make it clear which property is included; and

1 (1) Order use of a vehicle.

2 (2) If a protection order restrains the respondent from contacting
3 the respondent's minor children the restraint shall be for a fixed
4 period not to exceed one year. This limitation is not applicable to
5 orders for protection issued under chapter 26.09, 26.10, 26.--
6 (sections 9 through 24 of this act), or 26.26 RCW. With regard to
7 other relief, if the petitioner has petitioned for relief on his or her
8 own behalf or on behalf of the petitioner's family or household members
9 or minor children, and the court finds that the respondent is likely to
10 resume acts of domestic violence against the petitioner or the
11 petitioner's family or household members or minor children when the
12 order expires, the court may either grant relief for a fixed period or
13 enter a permanent order of protection.

14 If the petitioner has petitioned for relief on behalf of the
15 respondent's minor children, the court shall advise the petitioner that
16 if the petitioner wants to continue protection for a period beyond one
17 year the petitioner may either petition for renewal pursuant to the
18 provisions of this chapter or may seek relief pursuant to the
19 provisions of chapter 26.09, 26.-- (sections 9 through 24 of this act),
20 or 26.26 RCW.

21 (3) If the court grants an order for a fixed time period, the
22 petitioner may apply for renewal of the order by filing a petition for
23 renewal at any time within the three months before the order expires.
24 The petition for renewal shall state the reasons why the petitioner
25 seeks to renew the protection order. Upon receipt of the petition for
26 renewal the court shall order a hearing which shall be not later than
27 fourteen days from the date of the order. Except as provided in RCW
28 26.50.085, personal service shall be made on the respondent not less
29 than five days before the hearing. If timely service cannot be made
30 the court shall set a new hearing date and shall either require
31 additional attempts at obtaining personal service or permit service by
32 publication as provided in RCW 26.50.085 or by mail as provided in RCW
33 26.50.123. If the court permits service by publication or mail, the
34 court shall set the new hearing date not later than twenty-four days
35 from the date of the order. If the order expires because timely
36 service cannot be made the court shall grant an ex parte order of
37 protection as provided in RCW 26.50.070. The court shall grant the
38 petition for renewal unless the respondent proves by a preponderance of
39 the evidence that the respondent will not resume acts of domestic

1 violence against the petitioner or the petitioner's children or family
2 or household members when the order expires. The court may renew the
3 protection order for another fixed time period or may enter a permanent
4 order as provided in this section. The court may award court costs,
5 service fees, and reasonable attorneys' fees as provided in subsection
6 (1)(~~(f)~~) (g) of this section.

7 (4) In providing relief under this chapter, the court may realign
8 the designation of the parties as "petitioner" and "respondent" where
9 the court finds that the original petitioner is the abuser and the
10 original respondent is the victim of domestic violence and may issue an
11 ex parte temporary order for protection in accordance with RCW
12 26.50.070 on behalf of the victim until the victim is able to prepare
13 a petition for an order for protection in accordance with RCW
14 26.50.030.

15 (5) Except as provided in subsection (4) of this section, no order
16 for protection shall grant relief to any party except upon notice to
17 the respondent and hearing pursuant to a petition or counter-petition
18 filed and served by the party seeking relief in accordance with RCW
19 26.50.050.

20 (6) The court order shall specify the date the order expires if
21 any. The court order shall also state whether the court issued the
22 protection order following personal service, service by publication, or
23 service by mail and whether the court has approved service by
24 publication or mail of an order issued under this section.

25 (7) If the court declines to issue an order for protection or
26 declines to renew an order for protection, the court shall state in
27 writing on the order the particular reasons for the court's denial.

28 **Sec. 5.** RCW 9.41.800 and 1996 c 295 s 14 are each amended to read
29 as follows:

30 (1) Any court when entering an order authorized under RCW
31 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,
32 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, (~~(e)~~)
33 26.50.070, or section 18 or 19 of this act shall, upon a showing by
34 clear and convincing evidence, that a party has: Used, displayed, or
35 threatened to use a firearm or other dangerous weapon in a felony, or
36 previously committed any offense that makes him or her ineligible to
37 possess a firearm under the provisions of RCW 9.41.040:

1 (a) Require the party to surrender any firearm or other dangerous
2 weapon;

3 (b) Require the party to surrender any concealed pistol license
4 issued under RCW 9.41.070;

5 (c) Prohibit the party from obtaining or possessing a firearm or
6 other dangerous weapon;

7 (d) Prohibit the party from obtaining or possessing a concealed
8 pistol license.

9 (2) Any court when entering an order authorized under RCW
10 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,
11 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, ~~((or))~~
12 26.50.070, or section 18 or 19 of this act may, upon a showing by a
13 preponderance of the evidence but not by clear and convincing evidence,
14 that a party has: Used, displayed, or threatened to use a firearm or
15 other dangerous weapon in a felony, or previously committed any offense
16 that makes him or her ineligible to possess a pistol under the
17 provisions of RCW 9.41.040:

18 (a) Require the party to surrender any firearm or other dangerous
19 weapon;

20 (b) Require the party to surrender a concealed pistol license
21 issued under RCW 9.41.070;

22 (c) Prohibit the party from obtaining or possessing a firearm or
23 other dangerous weapon;

24 (d) Prohibit the party from obtaining or possessing a concealed
25 pistol license.

26 (3) The court may order temporary surrender of a firearm or other
27 dangerous weapon without notice to the other party if it finds, on the
28 basis of the moving affidavit or other evidence, that irreparable
29 injury could result if an order is not issued until the time for
30 response has elapsed.

31 (4) In addition to the provisions of subsections (1), (2), and (3)
32 of this section, the court may enter an order requiring a party to
33 comply with the provisions in subsection (1) of this section if it
34 finds that the possession of a firearm or other dangerous weapon by any
35 party presents a serious and imminent threat to public health or
36 safety, or to the health or safety of any individual.

37 (5) The requirements of subsections (1), (2), and (4) of this
38 section may be for a period of time less than the duration of the
39 order.

1 (6) The court may require the party to surrender any firearm or
2 other dangerous weapon in his or her immediate possession or control or
3 subject to his or her immediate possession or control to the sheriff of
4 the county having jurisdiction of the proceeding, the chief of police
5 of the municipality having jurisdiction, or to the restrained or
6 enjoined party's counsel or to any person designated by the court.

7 **Sec. 6.** RCW 10.14.200 and 1999 c 397 s 4 are each amended to read
8 as follows:

9 Any order available under this chapter may be issued in actions
10 under chapter 13.32A, 26.09, 26.10, 26.-- (sections 9 through 24 of
11 this act), or 26.26 RCW. An order available under this chapter that is
12 issued under those chapters shall be fully enforceable and shall be
13 enforced pursuant to the provisions of this chapter.

14 **Sec. 7.** RCW 26.23.020 and 1987 c 435 s 2 are each amended to read
15 as follows:

16 (1) The definitions contained in RCW 74.20A.020 and section 11 of
17 this act shall be incorporated into and made a part of this chapter.

18 (2) "Support order" means a superior court order or administrative
19 order, as defined in RCW 74.20A.020.

20 (3) "Parenting plan" means a plan for parenting the child,
21 including allocation of parenting functions.

22 (4) "Residential schedule" means a plan essentially the same as a
23 parenting plan without provision relating to parental decision making
24 and resolution of disputes about such decision making. A residential
25 schedule shall designate in which parent's home each minor child shall
26 reside on a given day of the year, including provision for holidays,
27 birthdays of family members, vacations, and other special occasions.

28 (5) "Earnings" means compensation paid or payable for personal
29 services, whether denominated as wages, salary, commission, bonus, or
30 otherwise, and, notwithstanding any other provision of law making the
31 payments exempt from garnishment, attachment, or other process to
32 satisfy support obligations, specifically includes periodic payments
33 pursuant to pension or retirement programs, or insurance policies of
34 any type, but does not include payments made under Title 50 RCW, except
35 as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW. Earnings
36 shall specifically include all gain from capital, from labor, or from

1 both combined, not including profit gained through sale or conversion
2 of capital assets.

3 ~~((+4))~~ (6) "Disposable earnings" means that part of the earnings
4 of an individual remaining after the deduction from those earnings of
5 an amount required by law to be withheld.

6 ~~((+5))~~ (7) "Employer" means any person or entity who pays or owes
7 earnings in employment as defined in Title 50 RCW to the responsible
8 parent including but not limited to the United States government, or
9 any state or local unit of government.

10 ~~((+6))~~ (8) "Employee" means a person in employment as defined in
11 Title 50 RCW to whom an employer is paying, owes or anticipates paying
12 earnings as a result of services performed.

13 **Sec. 8.** RCW 26.23.120 and 1998 c 160 s 4 are each amended to read
14 as follows:

15 (1) Any information or records concerning individuals who owe a
16 support obligation or for whom support enforcement services are being
17 provided which are obtained or maintained by the Washington state
18 support registry, the division of child support, or under chapter 74.20
19 RCW shall be private and confidential and shall only be subject to
20 public disclosure as provided in subsection (2) of this section.

21 (2) The secretary of the department of social and health services
22 may adopt rules:

23 (a) That specify what information is confidential;

24 (b) That specify the individuals or agencies to whom this
25 information and these records may be disclosed;

26 (c) Limiting the purposes for which the information may be
27 disclosed;

28 (d) Establishing procedures to obtain the information or records;
29 or

30 (e) Establishing safeguards necessary to comply with federal law
31 requiring safeguarding of information.

32 (3) The rules adopted under subsection (2) of this section shall
33 provide for disclosure of the information and records, under
34 appropriate circumstances, which shall include, but not be limited to:

35 (a) When authorized or required by federal statute or regulation
36 governing the support enforcement program;

37 (b) To the person the subject of the records or information, unless
38 the information is exempt from disclosure under RCW 42.17.310;

1 (c) To government agencies, whether state, local, or federal, and
2 including federally recognized tribes, law enforcement agencies,
3 prosecuting agencies, and the executive branch, if the disclosure is
4 necessary for child support enforcement purposes or required under
5 Title IV-D of the federal social security act;

6 (d) To the parties in a judicial or adjudicative proceeding upon a
7 specific written finding by the presiding officer that the need for the
8 information outweighs any reason for maintaining the privacy and
9 confidentiality of the information or records;

10 (e) To private persons, federally recognized tribes, or
11 organizations if the disclosure is necessary to permit private
12 contracting parties to assist in the management and operation of the
13 department;

14 (f) Disclosure of address and employment information to the parties
15 to an action for purposes relating to a child support order, subject to
16 the limitations in subsections (4) and (5) of this section;

17 (g) Disclosure of address and employment information to the parties
18 to an action for purposes relating to a temporary or permanent
19 parenting plan or residential schedule, subject to the limitations in
20 subsections (4) and (5) of this section;

21 (h) Disclosure of information or records when necessary to the
22 efficient administration of the support enforcement program or to the
23 performance of functions and responsibilities of the support registry
24 and the division of child support as set forth in state and federal
25 statutes; or

26 (~~(h)~~) (i) Disclosure of the information or records when
27 authorized under RCW 74.04.060.

28 (4) Prior to disclosing the whereabouts of a physical custodian,
29 custodial parent or a child to the other parent or party, a notice
30 shall be mailed, if appropriate under the circumstances, to the parent
31 or physical custodian whose whereabouts are to be disclosed, at that
32 person's last known address. The notice shall advise the parent or
33 physical custodian that a request for disclosure has been made and will
34 be complied with unless the department:

35 (a) Receives a copy of a court order within thirty days which
36 enjoins the disclosure of the information or restricts or limits the
37 requesting party's right to contact or visit the parent or party whose
38 address is to be disclosed or the child;

1 (b) Receives a hearing request within thirty days under subsection
2 (5) of this section; or

3 (c) Has reason to believe that the release of the information may
4 result in physical or emotional harm to the physical custodian whose
5 whereabouts are to be released, or to the child.

6 (5) A person receiving notice under subsection (4) of this section
7 may request an adjudicative proceeding under chapter 34.05 RCW, at
8 which the person may show that there is reason to believe that release
9 of the information may result in physical or emotional harm to the
10 person or the child. The administrative law judge shall determine
11 whether the whereabouts of the person or child should be disclosed
12 based on subsection (4)(c) of this section, however no hearing is
13 necessary if the department has in its possession a protective order or
14 an order limiting visitation or contact.

15 (6) The notice and hearing process in subsections (4) and (5) of
16 this section do not apply to protect the whereabouts of a noncustodial
17 parent, unless that parent has requested notice before whereabouts
18 information is released. A noncustodial parent may request such notice
19 by submitting a written request to the division of child support.

20 (7) Nothing in this section shall be construed as limiting or
21 restricting the effect of RCW 42.17.260(9). Nothing in this section
22 shall be construed to prevent the disclosure of information and records
23 if all details identifying an individual are deleted or the individual
24 consents to the disclosure.

25 (8) It shall be unlawful for any person or agency in violation of
26 this section to solicit, publish, disclose, receive, make use of, or to
27 authorize, knowingly permit, participate in or acquiesce in the use of
28 any lists of names for commercial or political purposes or the use of
29 any information for purposes other than those purposes specified in
30 this section. A violation of this section shall be a gross misdemeanor
31 as provided in chapter 9A.20 RCW.

32 NEW SECTION. **Sec. 9.** The legislature recognizes the fundamental
33 importance of the parent-child relationship to the welfare of children,
34 and that the parent-child relationship extends equally to every child
35 and to every parent. Parents who have filed a written acknowledgment
36 of paternity have been encountering barriers to obtaining a residential
37 schedule or parenting plan that were not intended by the legislature
38 when it revised the acknowledgment of paternity process. These

1 barriers include the lack of clear statutory authority to petition for
2 a residential schedule or a parenting plan without going through a
3 parentage action under chapter 26.26 RCW and the necessity of
4 appointing, and paying for, guardians ad litem and genetic testing.

5 These unintended barriers effectively limit access to the courts
6 because a large number of parents who have filed a written
7 acknowledgment of paternity have been unable or unwilling to proceed
8 with a parentage action solely to obtain a residential schedule or
9 parenting plan. The legislature recognizes that resolving issues and
10 obtaining a residential schedule or parenting plan is important to the
11 welfare of the children of this state.

12 It is the intent of the legislature to provide parents who have
13 filed a written acknowledgment of paternity with a clear and simple
14 procedure to obtain a residential schedule or parenting plan.

15 NEW SECTION. **Sec. 10.** In any proceeding under this chapter, the
16 best interests of the child shall be the standard by which the court
17 determines and allocates the parties' parental responsibilities. The
18 best interests of the child are served by a residential schedule or a
19 parenting plan that best maintains a child's emotional growth, health,
20 stability, and physical care. When determining the best interests of
21 a child, the court shall be guided by the standards in chapter 26.09
22 RCW.

23 NEW SECTION. **Sec. 11.** The definitions in this section apply
24 throughout this chapter unless the context clearly requires otherwise.

25 (1)(a) "Acknowledgment of paternity" means for acknowledgments of
26 paternity filed on or before July 27, 1997, an acknowledgment of
27 paternity filed with the state registrar of vital statistics on which
28 the man listed as the father on the acknowledgment of paternity has not
29 requested blood or genetic testing in any court or administrative
30 proceedings, or has not been named in a paternity action as a possible
31 father of the child listed in the acknowledgment of paternity.

32 (b) "Acknowledgment of paternity" means for acknowledgments of
33 paternity filed after July 27, 1997, an acknowledgment of paternity
34 filed with the state registrar of vital statistics on which more than
35 sixty days have passed since the acknowledgment was filed, and neither
36 the man listed as the father nor the woman listed as the mother on the

1 acknowledgment of paternity has filed a judicial action challenging the
2 acknowledgment based upon fraud, duress, or material mistake of fact.

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

7 (a) Maintaining a loving, stable, consistent, and nurturing
8 relationship with the child;

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

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

17 (d) Assisting the child in developing and maintaining appropriate
18 interpersonal relationships;

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

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

23 (3) "Permanent parenting plan" means a final plan for parenting the
24 child, including allocation of parenting functions.

25 (4) "Presumed father" or "father" means the man listed as the
26 father on an acknowledgment of paternity.

27 (5) "Residential schedule" means a plan essentially the same as a
28 parenting plan without provision relating to parental decision making
29 and resolution of disputes about such decision making. A residential
30 schedule shall designate in which parent's home each minor child shall
31 reside on a given day of the year, including provision for holidays,
32 birthdays of family members, vacations, and other special occasions.

33 (6) "Temporary parenting plan" means a plan for parenting the child
34 pending final resolution of the issues that is incorporated in a
35 temporary order.

36 NEW SECTION. **Sec. 12.** (1) The superior courts have jurisdiction
37 of an action brought under this chapter.

1 (2) The action must be brought in a county in which a child for
2 whom the residential schedule or parenting plan is sought resides.

3 NEW SECTION. **Sec. 13.** (1) An action under this chapter is a civil
4 action governed by the rules of civil procedure.

5 (2) The trial shall be by the court without a jury.

6 (3) A proceeding for a residential schedule or parenting plan under
7 this chapter shall be entitled either "In re a residential schedule for
8" or "In re a parenting plan for" If the
9 proceeding is for two or more children of the parties then a proceeding
10 under this chapter shall be entitled either "In re a residential
11 schedule for , , and" or "In re a
12 parenting plan for , , and"

13 (4) The initial pleading under this chapter is a petition. The
14 responsive pleading is a response. Other pleadings shall be named as
15 provided in the civil rules for superior court.

16 (5) A proposed residential schedule or permanent parenting plan
17 shall be filed along with the initial petition.

18 NEW SECTION. **Sec. 14.** (1) The presumed father listed on an
19 acknowledgment of paternity may seek a residential schedule or
20 parenting plan under this chapter.

21 (2) The mother listed on an acknowledgment of paternity may seek a
22 residential schedule or parenting plan under this chapter

23 (3) Regardless of its terms, no agreement between a presumed
24 father, a mother, and/or a child, shall bar an action under this
25 chapter.

26 (4) Actions under this chapter may be maintained as to any child
27 for which an acknowledgment of paternity has been filed, whether the
28 child was born before or after the effective date of this act.

29 (5) Actions under this chapter may be maintained as to any child
30 for which an acknowledgment of paternity has been filed, whether the
31 acknowledgment of paternity was filed before or after the effective
32 date of this act.

33 NEW SECTION. **Sec. 15.** (1) The child or children for whom a
34 residential schedule or a parenting plan is requested are not parties
35 to an action under this chapter. An attorney or guardian ad litem for
36 the children is not required. However, the court may appoint an

1 attorney or guardian ad litem to represent a child with respect to the
2 provisions of a residential schedule or a parenting plan as it would in
3 an action under chapter 26.09 RCW.

4 (2) The court may enter an order for costs and fees in favor of the
5 child's attorney or guardian ad litem. The order may be made against
6 either or both the presumed father and mother, and in such proportions
7 and at such times as determined by the court.

8 NEW SECTION. **Sec. 16.** The court may award costs as provided in
9 RCW 26.09.140.

10 NEW SECTION. **Sec. 17.** (1) Pleadings filed with the clerk of the
11 court in an action under this chapter shall be on forms approved by the
12 administrator for the courts.

13 (2) The parties shall comply with RCW 26.18.220 when submitting
14 forms to the court.

15 NEW SECTION. **Sec. 18.** (1) As provided in chapter 26.09 RCW, the
16 court may enter a temporary or permanent residential schedule providing
17 where a child shall reside on any given day. A parenting plan is not
18 required unless requested by one of the parties.

19 (2) As provided in chapter 26.09 RCW, the court may enter a
20 temporary or permanent parenting plan providing for resolution of
21 future disputes between the parents, allocation of decision-making
22 authority, and residential provisions.

23 (3) As provided in chapter 26.09 RCW, when entering a temporary or
24 permanent residential schedule or a temporary or permanent parenting
25 plan under this chapter, the court may issue any necessary temporary or
26 continuing restraining orders, including the restraint provisions of
27 domestic violence protection orders under chapter 26.50 RCW or
28 antiharassment protection orders under chapter 10.14 RCW.

29 (4) Restraining orders issued under this chapter restraining the
30 person from molesting or disturbing another party or from going onto
31 the grounds of or entering the home, workplace, or school of the other
32 party or the day care or school of any child shall prominently bear on
33 the front page of the order the legend: VIOLATION OF THIS ORDER WITH
34 ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.--
35 RCW (SECTIONS 9 THROUGH 24 OF THIS ACT) AND WILL SUBJECT A VIOLATOR TO
36 ARREST.

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

11 NEW SECTION. **Sec. 19.** (1) As provided in chapter 26.09 RCW,
12 either party may request the court to issue a temporary restraining
13 order.

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

24 (3) Restraining orders issued under this section shall bear the
25 legend required in section 18 of this act.

26 (4) The court shall order that any temporary restraining order
27 bearing a criminal offense legend, any domestic violence protection
28 order, or any antiharassment protection order granted under this
29 section be forwarded by the clerk of the court as required by section
30 18 of this act.

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

36 (6) A temporary order or temporary restraining order:

37 (a) Does not prejudice the rights of a party or any child that are
38 to be adjudicated at subsequent hearings in the proceeding;

- 1 (b) May be revoked or modified;
- 2 (c) Terminates when the final order is entered or when the petition
3 is dismissed; and
- 4 (d) May be entered in a proceeding for the modification of an
5 existing order.

6 NEW SECTION. **Sec. 20.** (1) Whenever a restraining order is issued
7 under this chapter, and the person to be restrained knows of the order,
8 a violation of its provisions is a misdemeanor.

9 (2) A person is deemed to have notice of a restraining order if:

10 (a) The person to be restrained or the person's attorney signed the
11 order;

12 (b) The order recites that the person to be restrained or the
13 person's attorney appeared in person before the court;

14 (c) The order was served upon the person to be restrained; or

15 (d) The law enforcement officer gives the person oral or written
16 evidence of the order by reading from it or handing to the person a
17 certified copy of the original order, certified to be an accurate copy
18 of the original by a notary public or by the clerk of the court.

19 (3) A law enforcement officer shall verify the existence of a
20 restraining order by:

21 (a) Obtaining information confirming the existence and terms of the
22 order from a law enforcement agency; or

23 (b) Obtaining a certified copy of the order, certified to be an
24 accurate copy of the original by a notary public or by the clerk of the
25 court.

26 (4) A law enforcement officer shall arrest and take into custody,
27 pending release on bail, personal recognizance, or court order, a
28 person without a warrant when the officer has probable cause to believe
29 that:

30 (a) A restraining order has been issued under this chapter;

31 (b) The respondent or person to be restrained knows of the order;
32 and

33 (c) The person to be arrested has violated the terms of the order
34 restraining the person from acts or threats of violence or restraining
35 the person from going onto the grounds of or entering the residence,
36 workplace, school, or day care of another.

37 (5) It is a defense to prosecution under subsection (1) of this
38 section that the court order was issued contrary to law or court rule.

1 (6) No law enforcement officer may be held criminally or civilly
2 liable for making an arrest under subsection (4) of this section if the
3 officer acts in good faith and without malice.

4 NEW SECTION. **Sec. 21.** The court may modify a residential schedule
5 or parenting plan adopted under this chapter in accordance with the
6 provisions of chapter 26.09 RCW.

7 NEW SECTION. **Sec. 22.** The court may, upon proper motion and good
8 cause shown, provide that any hearing or trial held under this chapter
9 be held in closed court without admittance of any person other than
10 those necessary to the action or proceeding or for the orderly
11 administration of justice. Upon entry of such an order, all papers and
12 records, other than the final residential schedule or final parenting
13 plan and matters related to the enforcement of the final residential
14 schedule or final parenting plan, pertaining to the action or
15 proceeding, whether part of the permanent record of the court or of a
16 file in the department of social and health services, are subject to
17 inspection by a nonparty only upon an order of the court for good cause
18 shown following reasonable notice to all parties of the hearing where
19 such order is to be sought.

20 NEW SECTION. **Sec. 23.** Solely for the purposes of all other state
21 and federal statutes which require a designation or determination of
22 custody, a residential schedule or parenting plan issued under this
23 chapter shall designate the parent with whom the child is scheduled to
24 reside a majority of the time as the legal custodian of the child.
25 However, this designation shall not affect either parent's rights and
26 responsibilities under the residential schedule or the parenting plan.
27 In the absence of such a designation, the parent with whom the child is
28 scheduled to reside the majority of the time shall be deemed to be the
29 legal custodian of the child for the purposes of federal and state
30 statutes.

31 NEW SECTION. **Sec. 24.** Any action filed under this chapter for the
32 entry of a residential schedule or a parenting plan is not an action to
33 ratify or challenge an acknowledgment of paternity filed with the state
34 registrar of vital statistics.

1 NEW SECTION. **Sec. 25.** This act may be known and cited as the
2 presumed parents parenting act.

3 NEW SECTION. **Sec. 26.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 27.** Sections 9 through 24 of this act
8 constitute a new chapter in Title 26 RCW.

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