

SHB 1295 - S COMM AMD

By Committee on Health & Long-Term Care

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the health care  
4 work force shortage is contributing to the health care crisis. The  
5 legislature also finds that some unnecessary barriers exist that slow  
6 or prevent qualified applicants from becoming credentialed health care  
7 providers. The legislature further finds that eliminating these  
8 initial barriers to licensure will contribute to state initiatives  
9 directed toward easing the health care personnel shortage in  
10 Washington.

11 **Sec. 2.** RCW 4.24.556 and 2001 2nd sp.s. c 12 s 403 are each  
12 amended to read as follows:

13 (1) A certified sex offender treatment provider or a certified  
14 affiliate sex offender treatment provider, acting in the course of his  
15 or her duties, providing treatment to a person who has been released to  
16 a less restrictive alternative under chapter 71.09 RCW or to a level  
17 III sex offender on community custody as a court or department ordered  
18 condition of sentence is not negligent because he or she treats a high  
19 risk offender; sex offenders are known to have a risk of reoffense.  
20 The treatment provider is not liable for civil damages resulting from  
21 the reoffense of a client unless the treatment provider's acts or  
22 omissions constituted gross negligence or willful or wanton misconduct.  
23 This limited liability provision does not eliminate the treatment  
24 provider's duty to warn of and protect from a client's threatened  
25 violent behavior if the client communicates a serious threat of  
26 physical violence against a reasonably ascertainable victim or victims.  
27 In addition to any other requirements to report violations, the sex  
28 offender treatment provider is obligated to report an offender's

1 expressions of intent to harm or other predatory behavior, whether or  
2 not there is an ascertainable victim, in progress reports and other  
3 established processes that enable courts and supervising entities to  
4 assess and address the progress and appropriateness of treatment. This  
5 limited liability provision applies only to the conduct of certified  
6 sex offender treatment providers and certified affiliate sex offender  
7 treatment providers and not the conduct of the state.

8 (2) Sex offender treatment providers who provide services to the  
9 department of corrections by identifying risk factors and notifying the  
10 department of risks for the subset of high risk offenders who are not  
11 amenable to treatment and who are under court order for treatment or  
12 supervision are practicing within the scope of their profession.

13 **Sec. 3.** RCW 9.94A.670 and 2002 c 175 s 11 are each amended to read  
14 as follows:

15 (1) Unless the context clearly requires otherwise, the definitions  
16 in this subsection apply to this section only.

17 (a) "Sex offender treatment provider" or "treatment provider" means  
18 a certified sex offender treatment provider or a certified affiliate  
19 sex offender treatment provider as defined in RCW 18.155.020.

20 (b) "Victim" means any person who has sustained emotional,  
21 psychological, physical, or financial injury to person or property as  
22 a result of the crime charged. "Victim" also means a parent or  
23 guardian of a victim who is a minor child unless the parent or guardian  
24 is the perpetrator of the offense.

25 (2) An offender is eligible for the special sex offender sentencing  
26 alternative if:

27 (a) The offender has been convicted of a sex offense other than a  
28 violation of RCW 9A.44.050 or a sex offense that is also a serious  
29 violent offense;

30 (b) The offender has no prior convictions for a sex offense as  
31 defined in RCW 9.94A.030 or any other felony sex offenses in this or  
32 any other state; and

33 (c) The offender's standard sentence range for the offense includes  
34 the possibility of confinement for less than eleven years.

35 (3) If the court finds the offender is eligible for this  
36 alternative, the court, on its own motion or the motion of the state or

1 the offender, may order an examination to determine whether the  
2 offender is amenable to treatment.

3 (a) The report of the examination shall include at a minimum the  
4 following:

5 (i) The offender's version of the facts and the official version of  
6 the facts;

7 (ii) The offender's offense history;

8 (iii) An assessment of problems in addition to alleged deviant  
9 behaviors;

10 (iv) The offender's social and employment situation; and

11 (v) Other evaluation measures used.

12 The report shall set forth the sources of the examiner's information.

13 (b) The examiner shall assess and report regarding the offender's  
14 amenability to treatment and relative risk to the community. A  
15 proposed treatment plan shall be provided and shall include, at a  
16 minimum:

17 (i) Frequency and type of contact between offender and therapist;

18 (ii) Specific issues to be addressed in the treatment and  
19 description of planned treatment modalities;

20 (iii) Monitoring plans, including any requirements regarding living  
21 conditions, lifestyle requirements, and monitoring by family members  
22 and others;

23 (iv) Anticipated length of treatment; and

24 (v) Recommended crime-related prohibitions.

25 (c) The court on its own motion may order, or on a motion by the  
26 state shall order, a second examination regarding the offender's  
27 amenability to treatment. The examiner shall be selected by the party  
28 making the motion. The offender shall pay the cost of any second  
29 examination ordered unless the court finds the defendant to be indigent  
30 in which case the state shall pay the cost.

31 (4) After receipt of the reports, the court shall consider whether  
32 the offender and the community will benefit from use of this  
33 alternative and consider the victim's opinion whether the offender  
34 should receive a treatment disposition under this section. If the  
35 court determines that this alternative is appropriate, the court shall  
36 then impose a sentence or, pursuant to RCW 9.94A.712, a minimum term of  
37 sentence, within the standard sentence range. If the sentence imposed

1 is less than eleven years of confinement, the court may suspend the  
2 execution of the sentence and impose the following conditions of  
3 suspension:

4 (a) The court shall place the offender on community custody for the  
5 length of the suspended sentence, the length of the maximum term  
6 imposed pursuant to RCW 9.94A.712, or three years, whichever is  
7 greater, and require the offender to comply with any conditions imposed  
8 by the department under RCW 9.94A.720.

9 (b) The court shall order treatment for any period up to three  
10 years in duration. The court, in its discretion, shall order  
11 outpatient sex offender treatment or inpatient sex offender treatment,  
12 if available. A community mental health center may not be used for  
13 such treatment unless it has an appropriate program designed for sex  
14 offender treatment. The offender shall not change sex offender  
15 treatment providers or treatment conditions without first notifying the  
16 prosecutor, the community corrections officer, and the court. If any  
17 party or the court objects to a proposed change, the offender shall not  
18 change providers or conditions without court approval after a hearing.

19 (5) As conditions of the suspended sentence, the court may impose  
20 one or more of the following:

21 (a) Up to six months of confinement, not to exceed the sentence  
22 range of confinement for that offense;

23 (b) Crime-related prohibitions;

24 (c) Require the offender to devote time to a specific employment or  
25 occupation;

26 (d) Remain within prescribed geographical boundaries and notify the  
27 court or the community corrections officer prior to any change in the  
28 offender's address or employment;

29 (e) Report as directed to the court and a community corrections  
30 officer;

31 (f) Pay all court-ordered legal financial obligations as provided  
32 in RCW 9.94A.030;

33 (g) Perform community restitution work; or

34 (h) Reimburse the victim for the cost of any counseling required as  
35 a result of the offender's crime.

36 (6) At the time of sentencing, the court shall set a treatment  
37 termination hearing for three months prior to the anticipated date for  
38 completion of treatment.

1 (7) The sex offender treatment provider shall submit quarterly  
2 reports on the offender's progress in treatment to the court and the  
3 parties. The report shall reference the treatment plan and include at  
4 a minimum the following: Dates of attendance, offender's compliance  
5 with requirements, treatment activities, the offender's relative  
6 progress in treatment, and any other material specified by the court at  
7 sentencing.

8 (8) Prior to the treatment termination hearing, the treatment  
9 provider and community corrections officer shall submit written reports  
10 to the court and parties regarding the offender's compliance with  
11 treatment and monitoring requirements, and recommendations regarding  
12 termination from treatment, including proposed community custody  
13 conditions. Either party may request, and the court may order, another  
14 evaluation regarding the advisability of termination from treatment.  
15 The offender shall pay the cost of any additional evaluation ordered  
16 unless the court finds the offender to be indigent in which case the  
17 state shall pay the cost. At the treatment termination hearing the  
18 court may: (a) Modify conditions of community custody, and either (b)  
19 terminate treatment, or (c) extend treatment for up to the remaining  
20 period of community custody.

21 (9) If a violation of conditions occurs during community custody,  
22 the department shall either impose sanctions as provided for in RCW  
23 9.94A.737(2)(a) or refer the violation to the court and recommend  
24 revocation of the suspended sentence as provided for in subsections (6)  
25 and (8) of this section.

26 (10) The court may revoke the suspended sentence at any time during  
27 the period of community custody and order execution of the sentence if:  
28 (a) The offender violates the conditions of the suspended sentence, or  
29 (b) the court finds that the offender is failing to make satisfactory  
30 progress in treatment. All confinement time served during the period  
31 of community custody shall be credited to the offender if the suspended  
32 sentence is revoked.

33 (11) Examinations and treatment ordered pursuant to this subsection  
34 shall only be conducted by certified sex offender treatment providers  
35 or certified (~~by the department of health pursuant to~~) affiliate sex  
36 offender treatment providers under chapter 18.155 RCW unless the court  
37 finds that:

1 (a) The offender has already moved to another state or plans to  
2 move to another state for reasons other than circumventing the  
3 certification requirements; or

4 (b)(i) No certified sex offender treatment providers or certified  
5 affiliate sex offender treatment providers are available for treatment  
6 within a reasonable geographical distance of the offender's home; and

7 (ii) The evaluation and treatment plan comply with this section and  
8 the rules adopted by the department of health.

9 (12) If the offender is less than eighteen years of age when the  
10 charge is filed, the state shall pay for the cost of initial evaluation  
11 and treatment.

12 **Sec. 4.** RCW 9.94A.820 and 2000 c 28 s 36 are each amended to read  
13 as follows:

14 (1) Sex offender examinations and treatment ordered as a special  
15 condition of community placement or community custody under this  
16 chapter shall be conducted only by certified sex offender treatment  
17 providers (~~(certified by the department of health)~~) or certified  
18 affiliate sex offender treatment providers under chapter 18.155 RCW  
19 unless the court or the department finds that: (a) The offender has  
20 already moved to another state or plans to move to another state for  
21 reasons other than circumventing the certification requirements; (b)  
22 the treatment provider is employed by the department; or (c)(i) no  
23 certified sex offender treatment providers or certified affiliate sex  
24 offender treatment providers are available to provide treatment within  
25 a reasonable geographic distance of the offender's home, as determined  
26 in rules adopted by the secretary; and (ii) the evaluation and  
27 treatment plan comply with the rules adopted by the department of  
28 health. A treatment provider selected by an offender under (c) of this  
29 subsection, who is not certified by the department of health shall  
30 consult with a certified sex offender treatment provider during the  
31 offender's period of treatment to ensure compliance with the rules  
32 adopted by the department of health. The frequency and content of the  
33 consultation shall be based on the recommendation of the certified sex  
34 offender treatment provider.

35 (2) A sex offender's failure to participate in treatment required  
36 as a condition of community placement or community custody is a

1 violation that will not be excused on the basis that no treatment  
2 provider was located within a reasonable geographic distance of the  
3 offender's home.

4 **Sec. 5.** RCW 13.40.160 and 2002 c 175 s 22 are each amended to read  
5 as follows:

6 (1) The standard range disposition for a juvenile adjudicated of an  
7 offense is determined according to RCW 13.40.0357.

8 (a) When the court sentences an offender to a local sanction as  
9 provided in RCW 13.40.0357 option A, the court shall impose a  
10 determinate disposition within the standard ranges, except as provided  
11 in subsections (2), (3), and (4) of this section. The disposition may  
12 be comprised of one or more local sanctions.

13 (b) When the court sentences an offender to a standard range as  
14 provided in RCW 13.40.0357 option A that includes a term of confinement  
15 exceeding thirty days, commitment shall be to the department for the  
16 standard range of confinement, except as provided in subsections (2),  
17 (3), and (4) of this section.

18 (2) If the court concludes, and enters reasons for its conclusion,  
19 that disposition within the standard range would effectuate a manifest  
20 injustice the court shall impose a disposition outside the standard  
21 range, as indicated in option C of RCW 13.40.0357. The court's finding  
22 of manifest injustice shall be supported by clear and convincing  
23 evidence.

24 A disposition outside the standard range shall be determinate and  
25 shall be comprised of confinement or community supervision, or a  
26 combination thereof. When a judge finds a manifest injustice and  
27 imposes a sentence of confinement exceeding thirty days, the court  
28 shall sentence the juvenile to a maximum term, and the provisions of  
29 RCW 13.40.030(2) shall be used to determine the range. A disposition  
30 outside the standard range is appealable under RCW 13.40.230 by the  
31 state or the respondent. A disposition within the standard range is  
32 not appealable under RCW 13.40.230.

33 (3) When a juvenile offender is found to have committed a sex  
34 offense, other than a sex offense that is also a serious violent  
35 offense as defined by RCW 9.94A.030, and has no history of a prior sex  
36 offense, the court, on its own motion or the motion of the state or the

1 respondent, may order an examination to determine whether the  
2 respondent is amenable to treatment.

3 The report of the examination shall include at a minimum the  
4 following: The respondent's version of the facts and the official  
5 version of the facts, the respondent's offense history, an assessment  
6 of problems in addition to alleged deviant behaviors, the respondent's  
7 social, educational, and employment situation, and other evaluation  
8 measures used. The report shall set forth the sources of the  
9 evaluator's information.

10 The examiner shall assess and report regarding the respondent's  
11 amenability to treatment and relative risk to the community. A  
12 proposed treatment plan shall be provided and shall include, at a  
13 minimum:

14 (a)(i) Frequency and type of contact between the offender and  
15 therapist;

16 (ii) Specific issues to be addressed in the treatment and  
17 description of planned treatment modalities;

18 (iii) Monitoring plans, including any requirements regarding living  
19 conditions, lifestyle requirements, and monitoring by family members,  
20 legal guardians, or others;

21 (iv) Anticipated length of treatment; and

22 (v) Recommended crime-related prohibitions.

23 The court on its own motion may order, or on a motion by the state  
24 shall order, a second examination regarding the offender's amenability  
25 to treatment. The evaluator shall be selected by the party making the  
26 motion. The defendant shall pay the cost of any second examination  
27 ordered unless the court finds the defendant to be indigent in which  
28 case the state shall pay the cost.

29 After receipt of reports of the examination, the court shall then  
30 consider whether the offender and the community will benefit from use  
31 of this special sex offender disposition alternative and consider the  
32 victim's opinion whether the offender should receive a treatment  
33 disposition under this section. If the court determines that this  
34 special sex offender disposition alternative is appropriate, then the  
35 court shall impose a determinate disposition within the standard range  
36 for the offense, or if the court concludes, and enters reasons for its  
37 conclusions, that such disposition would cause a manifest injustice,  
38 the court shall impose a disposition under option C, and the court may



1 suspend the execution of the disposition and place the offender on  
2 community supervision for at least two years. As a condition of the  
3 suspended disposition, the court may impose the conditions of community  
4 supervision and other conditions, including up to thirty days of  
5 confinement and requirements that the offender do any one or more of  
6 the following:

7 (b)(i) Devote time to a specific education, employment, or  
8 occupation;

9 (ii) Undergo available outpatient sex offender treatment for up to  
10 two years, or inpatient sex offender treatment not to exceed the  
11 standard range of confinement for that offense. A community mental  
12 health center may not be used for such treatment unless it has an  
13 appropriate program designed for sex offender treatment. The  
14 respondent shall not change sex offender treatment providers or  
15 treatment conditions without first notifying the prosecutor, the  
16 probation counselor, and the court, and shall not change providers  
17 without court approval after a hearing if the prosecutor or probation  
18 counselor object to the change;

19 (iii) Remain within prescribed geographical boundaries and notify  
20 the court or the probation counselor prior to any change in the  
21 offender's address, educational program, or employment;

22 (iv) Report to the prosecutor and the probation counselor prior to  
23 any change in a sex offender treatment provider. This change shall  
24 have prior approval by the court;

25 (v) Report as directed to the court and a probation counselor;

26 (vi) Pay all court-ordered legal financial obligations, perform  
27 community restitution, or any combination thereof;

28 (vii) Make restitution to the victim for the cost of any counseling  
29 reasonably related to the offense;

30 (viii) Comply with the conditions of any court-ordered probation  
31 bond; or

32 (ix) The court shall order that the offender may not attend the  
33 public or approved private elementary, middle, or high school attended  
34 by the victim or the victim's siblings. The parents or legal guardians  
35 of the offender are responsible for transportation or other costs  
36 associated with the offender's change of school that would otherwise be  
37 paid by the school district. The court shall send notice of the  
38 disposition and restriction on attending the same school as the victim

1 or victim's siblings to the public or approved private school the  
2 juvenile will attend, if known, or if unknown, to the approved private  
3 schools and the public school district board of directors of the  
4 district in which the juvenile resides or intends to reside. This  
5 notice must be sent at the earliest possible date but not later than  
6 ten calendar days after entry of the disposition.

7 The sex offender treatment provider shall submit quarterly reports  
8 on the respondent's progress in treatment to the court and the parties.  
9 The reports shall reference the treatment plan and include at a minimum  
10 the following: Dates of attendance, respondent's compliance with  
11 requirements, treatment activities, the respondent's relative progress  
12 in treatment, and any other material specified by the court at the time  
13 of the disposition.

14 At the time of the disposition, the court may set treatment review  
15 hearings as the court considers appropriate.

16 Except as provided in this subsection (3), after July 1, 1991,  
17 examinations and treatment ordered pursuant to this subsection shall  
18 only be conducted by certified sex offender treatment providers or  
19 certified (~~by the department of health pursuant to~~) affiliate sex  
20 offender treatment providers under chapter 18.155 RCW. A sex offender  
21 therapist who examines or treats a juvenile sex offender pursuant to  
22 this subsection does not have to be certified by the department of  
23 health pursuant to chapter 18.155 RCW if the court finds that: (A) The  
24 offender has already moved to another state or plans to move to another  
25 state for reasons other than circumventing the certification  
26 requirements; (B) no certified sex offender treatment providers or  
27 certified affiliate sex offender treatment providers are available for  
28 treatment within a reasonable geographical distance of the offender's  
29 home; and (C) the evaluation and treatment plan comply with this  
30 subsection (3) and the rules adopted by the department of health.

31 If the offender violates any condition of the disposition or the  
32 court finds that the respondent is failing to make satisfactory  
33 progress in treatment, the court may revoke the suspension and order  
34 execution of the disposition or the court may impose a penalty of up to  
35 thirty days' confinement for violating conditions of the disposition.  
36 The court may order both execution of the disposition and up to thirty  
37 days' confinement for the violation of the conditions of the

1 disposition. The court shall give credit for any confinement time  
2 previously served if that confinement was for the offense for which the  
3 suspension is being revoked.

4 For purposes of this section, "victim" means any person who has  
5 sustained emotional, psychological, physical, or financial injury to  
6 person or property as a direct result of the crime charged. "Victim"  
7 may also include a known parent or guardian of a victim who is a minor  
8 child unless the parent or guardian is the perpetrator of the offense.

9 A disposition entered under this subsection (3) is not appealable  
10 under RCW 13.40.230.

11 (4) If the juvenile offender is subject to a standard range  
12 disposition of local sanctions or 15 to 36 weeks of confinement and has  
13 not committed an A- or B+ offense, the court may impose the disposition  
14 alternative under RCW 13.40.165.

15 (5) RCW 13.40.193 shall govern the disposition of any juvenile  
16 adjudicated of possessing a firearm in violation of RCW  
17 9.41.040(1)(b)(iii) or any crime in which a special finding is entered  
18 that the juvenile was armed with a firearm.

19 (6) Whenever a juvenile offender is entitled to credit for time  
20 spent in detention prior to a dispositional order, the dispositional  
21 order shall specifically state the number of days of credit for time  
22 served.

23 (7) Except as provided under subsection (3) or (4) of this section  
24 or RCW 13.40.127, the court shall not suspend or defer the imposition  
25 or the execution of the disposition.

26 (8) In no case shall the term of confinement imposed by the court  
27 at disposition exceed that to which an adult could be subjected for the  
28 same offense.

29 **Sec. 6.** RCW 18.06.050 and 1991 c 3 s 7 are each amended to read as  
30 follows:

31 Any person seeking to be examined shall present to the secretary at  
32 least forty-five days before the commencement of the examination:

33 (1) A written application on a form or forms provided by the  
34 secretary setting forth under affidavit such information as the  
35 secretary may require; and

36 (2) Proof that the candidate has:

1 (a) Successfully completed a course, approved by the secretary, of  
2 didactic training in basic sciences and acupuncture over a minimum  
3 period of two academic years. The training shall include such subjects  
4 as anatomy, physiology, (~~bacteriology,~~) microbiology, biochemistry,  
5 pathology, hygiene, and a survey of western clinical sciences. The  
6 basic science classes must be equivalent to those offered at the  
7 collegiate level. However, if the applicant is a licensed chiropractor  
8 under chapter 18.25 RCW or a naturopath licensed under chapter 18.36A  
9 RCW, the requirements of this subsection relating to basic sciences may  
10 be reduced by up to one year depending upon the extent of the  
11 candidate's qualifications as determined under rules adopted by the  
12 secretary;

13 (b) Successfully completed (~~a course, approved by the secretary,~~)  
14 five hundred hours of clinical training in acupuncture (~~over a minimum~~  
15 ~~period of one academic year. The training shall include a minimum of:~~  
16 ~~(i) Twenty nine quarter credits of supervised practice, consisting of~~  
17 ~~at least four hundred separate patient treatments involving a minimum~~  
18 ~~of one hundred different patients, and (ii) one hundred hours or nine~~  
19 ~~quarter credits of observation which shall include case presentation~~  
20 ~~and discussion)) that is approved by the secretary.~~

21 **Sec. 7.** RCW 18.34.070 and 1991 c 3 s 76 are each amended to read  
22 as follows:

23 Any applicant for a license shall be examined if he or she pays an  
24 examination fee determined by the secretary as provided in RCW  
25 43.70.250 and certifies under oath that he or she:

- 26 (1) Is eighteen years or more of age; and  
27 (2) Has graduated from an accredited high school; and  
28 (3) (~~Is a citizen of the United States or has declared his or her~~  
29 ~~intention of becoming such citizen in accordance with law; and~~  
30 ~~(4))~~) Is of good moral character; and  
31 (~~(5))~~) (4) Has either:

- 32 (a) Had at least three years of apprenticeship training; or  
33 (b) Successfully completed a prescribed course in opticianry in a  
34 college or university approved by the secretary; or

35 (c) Been principally engaged in practicing as a dispensing optician  
36 not in the state of Washington for five years.

1       **Sec. 8.** RCW 18.79.160 and 1994 sp.s. c 9 s 416 are each amended to  
2 read as follows:

3       (1) An applicant for a license to practice as a registered nurse  
4 shall submit to the commission:

5       (a) An attested written application on a department form;

6       (b) ~~((Written))~~ An official ~~((evidence of a diploma from))~~  
7 transcript demonstrating graduation and successful completion of an  
8 approved ~~((school))~~ program of nursing; and

9       (c) Any other official records specified by the commission.

10       (2) An applicant for a license to practice as an advanced  
11 registered nurse practitioner shall submit to the commission:

12       (a) An attested written application on a department form;

13       (b) ~~((Written))~~ An official ~~((evidence of))~~ transcript  
14 demonstrating graduation and successful completion of an advanced  
15 registered nurse practitioner ~~((training))~~ program meeting criteria  
16 established by the commission; and

17       (c) Any other official records specified by the commission.

18       (3) An applicant for a license to practice as a licensed practical  
19 nurse shall submit to the commission:

20       (a) An attested written application on a department form;

21       (b) ~~((Written official evidence that the applicant is over the age~~  
22 ~~of eighteen;~~

23       ~~(c) Written official evidence of a high school diploma or general~~  
24 ~~education development certificate or diploma;~~

25       ~~(d) Written))~~ An official ~~((evidence of completion of))~~ transcript  
26 demonstrating graduation and successful completion of an approved  
27 practical nursing program, or its equivalent; and

28       ~~((e))~~ (c) Any other official records specified by the commission.

29       (4) At the time of submission of the application, the applicant for  
30 a license to practice as a registered nurse, advanced registered nurse  
31 practitioner, or licensed practical nurse must not be in violation of  
32 chapter 18.130 RCW or this chapter.

33       (5) The commission shall establish by rule the criteria for  
34 evaluating the education of all applicants.

35       NEW SECTION. **Sec. 9.** A new section is added to chapter 18.79 RCW  
36 to read as follows:

37       A licensed practical nurse with an active license who is in the

1 process of completing or has completed the coursework of a  
2 nontraditional registered nurse program approved by the commission can  
3 obtain the required clinical experience when: (1) The experience is  
4 obtained under the immediate supervision of a registered nurse who  
5 agrees to act as the preceptor with the understanding that the licensed  
6 practical nurse is practicing under the preceptor's registered nurse  
7 license. The preceptor must have an unrestricted license with at least  
8 two years of clinical practice in the same type of practice setting  
9 where the preceptorship will occur; and (2) the experience is obtained  
10 within six months of completion of the approved nontraditional program.

11 **Sec. 10.** RCW 18.83.050 and 1994 c 35 s 2 are each amended to read  
12 as follows:

13 (1) The board shall adopt such rules as it deems necessary to carry  
14 out its functions.

15 (2) The board shall examine the qualifications of applicants for  
16 licensing under this chapter, to determine which applicants are  
17 eligible for licensing under this chapter and shall forward to the  
18 secretary the names of applicants so eligible.

19 (3) The board shall administer examinations to qualified applicants  
20 on at least an annual basis. The board shall determine the subject  
21 matter and scope of the examination(~~s and shall require both written~~  
22 ~~and oral examinations of each applicant~~), except as provided in RCW  
23 18.83.170. The board may allow applicants to take the (~~written~~)  
24 examination upon the granting of their doctoral degree before  
25 completion of their internship for supervised experience.

26 (4) The board shall keep a complete record of its own proceedings,  
27 of the questions given in examinations, of the names and qualifications  
28 of all applicants, and the names and addresses of all licensed  
29 psychologists. The examination paper of such applicant shall be kept  
30 on file for a period of at least one year after examination.

31 (5) The board shall, by rule, adopt a code of ethics for  
32 psychologists which is designed to protect the public interest.

33 (6) The board may require that persons licensed under this chapter  
34 as psychologists obtain and maintain professional liability insurance  
35 in amounts determined by the board to be practicable and reasonably  
36 available.

1       **Sec. 11.** RCW 18.83.072 and 1996 c 191 s 65 are each amended to  
2 read as follows:

3       (1) Examination of applicants shall be held in Olympia, Washington,  
4 or at such other place as designated by the secretary, at least  
5 annually at such times as the board may determine.

6       (2) ~~((Any applicant shall have the right to discuss with the board  
7 his or her performance on the examination.~~

8       ~~(3))~~ Any applicant who fails to make a passing grade on the  
9 examination may be allowed to retake the examination. Any applicant  
10 who fails the examination a second time must obtain special permission  
11 from the board to take the examination again.

12       ~~((4))~~ (3) The board may approve an examination prepared or  
13 administered by a private testing agency or association of licensing  
14 authorities.

15       **Sec. 12.** RCW 18.92.070 and 1991 c 3 s 242 are each amended to read  
16 as follows:

17       No person, unless registered or licensed to practice veterinary  
18 medicine, surgery, and dentistry in this state at the time this chapter  
19 shall become operative, shall begin the practice of veterinary  
20 medicine, surgery and dentistry without first applying for and  
21 obtaining a license for such purpose from the secretary. In order to  
22 procure a license to practice veterinary medicine, surgery, and  
23 dentistry in the state of Washington, the applicant for such license  
24 shall file his or her application at least sixty days prior to date of  
25 examination upon a form furnished by the secretary of health, which, in  
26 addition to the fee provided by this chapter, shall be accompanied by  
27 satisfactory evidence that he or she is at least eighteen years of age  
28 and of good moral character, and by official transcripts or other  
29 evidence of graduation from a veterinary college satisfactory to and  
30 approved by the board. Said application shall be signed by the  
31 applicant ~~((and sworn to by him or her before some person authorized to  
32 administer oaths))~~. When such application and the accompanying  
33 evidence are found satisfactory, the secretary shall notify the  
34 applicant to appear before the board for the next examination. In  
35 addition, applicants shall be subject to grounds for denial or issuance  
36 of a conditional license under chapter 18.130 RCW.

1 Nothing in this chapter shall preclude the board from permitting a  
2 person who has completed a portion of his or her educational program as  
3 determined by the board, in a veterinary college recognized by the  
4 board, to take the examination or any part thereof prior to satisfying  
5 the requirements for application for a license: PROVIDED HOWEVER, That  
6 no license shall be issued to such applicant until such requirements  
7 are satisfied.

8 **Sec. 13.** RCW 18.92.100 and 1995 c 198 s 14 are each amended to  
9 read as follows:

10 Examinations for license to practice veterinary medicine, surgery  
11 and dentistry shall be held at least once each year at such times and  
12 places as the secretary may authorize and direct. The examination  
13 shall be on subjects that are ordinarily included in the curricula of  
14 veterinary colleges. ~~((All examinees shall be tested by written  
15 examination, supplemented by such oral interviews and practical  
16 demonstrations as the board deems necessary.))~~

17 **Sec. 14.** RCW 18.130.040 and 2002 c 223 s 6 and 2002 c 216 s 11 are  
18 each reenacted and amended to read as follows:

19 (1) This chapter applies only to the secretary and the boards and  
20 commissions having jurisdiction in relation to the professions licensed  
21 under the chapters specified in this section. This chapter does not  
22 apply to any business or profession not licensed under the chapters  
23 specified in this section.

24 (2)(a) The secretary has authority under this chapter in relation  
25 to the following professions:

- 26 (i) Dispensing opticians licensed under chapter 18.34 RCW;
- 27 (ii) Naturopaths licensed under chapter 18.36A RCW;
- 28 (iii) Midwives licensed under chapter 18.50 RCW;
- 29 (iv) Ocularists licensed under chapter 18.55 RCW;
- 30 (v) Massage operators and businesses licensed under chapter 18.108  
31 RCW;
- 32 (vi) Dental hygienists licensed under chapter 18.29 RCW;
- 33 (vii) Acupuncturists licensed under chapter 18.06 RCW;
- 34 (viii) Radiologic technologists certified and X-ray technicians  
35 registered under chapter 18.84 RCW;



1 (ix) Respiratory care practitioners licensed under chapter 18.89  
2 RCW;

3 (x) Persons registered under chapter 18.19 RCW;

4 (xi) Persons licensed as mental health counselors, marriage and  
5 family therapists, and social workers under chapter 18.225 RCW;

6 (xii) Persons registered as nursing pool operators under chapter  
7 18.52C RCW;

8 (xiii) Nursing assistants registered or certified under chapter  
9 18.88A RCW;

10 (xiv) Health care assistants certified under chapter 18.135 RCW;

11 (xv) Dietitians and nutritionists certified under chapter 18.138  
12 RCW;

13 (xvi) Chemical dependency professionals certified under chapter  
14 18.205 RCW;

15 (xvii) Sex offender treatment providers and certified affiliate sex  
16 offender treatment providers certified under chapter 18.155 RCW;

17 (xviii) Persons licensed and certified under chapter 18.73 RCW or  
18 RCW 18.71.205;

19 (xix) Denturists licensed under chapter 18.30 RCW;

20 (xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;

21 (xxi) Surgical technologists registered under chapter 18.215 RCW;

22 and

23 (xxii) Recreational therapists.

24 (b) The boards and commissions having authority under this chapter  
25 are as follows:

26 (i) The podiatric medical board as established in chapter 18.22  
27 RCW;

28 (ii) The chiropractic quality assurance commission as established  
29 in chapter 18.25 RCW;

30 (iii) The dental quality assurance commission as established in  
31 chapter 18.32 RCW;

32 (iv) The board of hearing and speech as established in chapter  
33 18.35 RCW;

34 (v) The board of examiners for nursing home administrators as  
35 established in chapter 18.52 RCW;

36 (vi) The optometry board as established in chapter 18.54 RCW  
37 governing licenses issued under chapter 18.53 RCW;

1 (vii) The board of osteopathic medicine and surgery as established  
2 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and  
3 18.57A RCW;

4 (viii) The board of pharmacy as established in chapter 18.64 RCW  
5 governing licenses issued under chapters 18.64 and 18.64A RCW;

6 (ix) The medical quality assurance commission as established in  
7 chapter 18.71 RCW governing licenses and registrations issued under  
8 chapters 18.71 and 18.71A RCW;

9 (x) The board of physical therapy as established in chapter 18.74  
10 RCW;

11 (xi) The board of occupational therapy practice as established in  
12 chapter 18.59 RCW;

13 (xii) The nursing care quality assurance commission as established  
14 in chapter 18.79 RCW governing licenses issued under that chapter;

15 (xiii) The examining board of psychology and its disciplinary  
16 committee as established in chapter 18.83 RCW; and

17 (xiv) The veterinary board of governors as established in chapter  
18 18.92 RCW.

19 (3) In addition to the authority to discipline license holders, the  
20 disciplining authority has the authority to grant or deny licenses  
21 based on the conditions and criteria established in this chapter and  
22 the chapters specified in subsection (2) of this section. This chapter  
23 also governs any investigation, hearing, or proceeding relating to  
24 denial of licensure or issuance of a license conditioned on the  
25 applicant's compliance with an order entered pursuant to RCW 18.130.160  
26 by the disciplining authority.

27 (4) All disciplining authorities shall adopt procedures to ensure  
28 substantially consistent application of this chapter, the Uniform  
29 Disciplinary Act, among the disciplining authorities listed in  
30 subsection (2) of this section.

31 **Sec. 15.** RCW 18.155.020 and 2001 2nd sp.s. c 12 s 401 are each  
32 amended to read as follows:

33 Unless the context clearly requires otherwise, the definitions in  
34 this section apply throughout this chapter:

35 (1) "Certified sex offender treatment provider" means a licensed,  
36 certified, or registered health professional who is certified to

1 examine and treat sex offenders pursuant to chapters 9.94A and 13.40  
2 RCW and sexually violent predators under chapter 71.09 RCW.

3 (2) "Certified affiliate sex offender treatment provider" means a  
4 licensed, certified, or registered health professional who is certified  
5 as an affiliate to examine and treat sex offenders pursuant to chapters  
6 9.94A and 13.40 RCW and sexually violent predators under chapter 71.09  
7 RCW under the supervision of a certified sex offender treatment  
8 provider.

9 (3) "Department" means the department of health.

10 ((+3)) (4) "Secretary" means the secretary of health.

11 ((+4)) (5) "Sex offender treatment provider" or "affiliate sex  
12 offender treatment provider" means a person who counsels or treats sex  
13 offenders accused of or convicted of a sex offense as defined by RCW  
14 9.94A.030.

15 **Sec. 16.** RCW 18.155.030 and 2001 2nd sp.s. c 12 s 402 are each  
16 amended to read as follows:

17 (1) No person shall represent himself or herself as a certified sex  
18 offender treatment provider or certified affiliate sex offender  
19 treatment provider without first applying for and receiving a  
20 certificate pursuant to this chapter.

21 (2) Only a certified sex offender treatment provider or certified  
22 affiliate sex offender treatment provider may perform or provide the  
23 following services:

24 (a) Evaluations conducted for the purposes of and pursuant to RCW  
25 9.94A.670 and 13.40.160;

26 (b) Treatment of convicted sex offenders who are sentenced and  
27 ordered into treatment pursuant to chapter 9.94A RCW and adjudicated  
28 juvenile sex offenders who are ordered into treatment pursuant to  
29 chapter 13.40 RCW;

30 (c) Except as provided under subsection (3) of this section,  
31 treatment of sexually violent predators who are conditionally released  
32 to a less restrictive alternative pursuant to chapter 71.09 RCW.

33 (3) A certified sex offender treatment provider or certified  
34 affiliate sex offender treatment provider may not perform or provide  
35 treatment of sexually violent predators under subsection (2)(c) of this  
36 section if the ((certified sex offender)) treatment provider has been:

37 (a) Convicted of a sex offense, as defined in RCW 9.94A.030;

1 (b) Convicted in any other jurisdiction of an offense that under  
2 the laws of this state would be classified as a sex offense as defined  
3 in RCW 9.94A.030; or

4 (c) Suspended or otherwise restricted from practicing any health  
5 care profession by competent authority in any state, federal, or  
6 foreign jurisdiction.

7 **Sec. 17.** RCW 18.155.040 and 1996 c 191 s 86 are each amended to  
8 read as follows:

9 In addition to any other authority provided by law, the secretary  
10 shall have the following authority:

11 (1) To set administrative procedures, administrative requirements,  
12 and fees in accordance with RCW 43.70.250 and 43.70.280;

13 (2) To establish forms necessary to administer this chapter;

14 (3) To issue a certificate or an affiliate certificate to any  
15 applicant who has met the education, training, and examination  
16 requirements for certification or an affiliate certification and deny  
17 a certificate to applicants who do not meet the minimum qualifications  
18 for certification or affiliate certification. Proceedings concerning  
19 the denial of certificates based on unprofessional conduct or impaired  
20 practice shall be governed by the uniform disciplinary act, chapter  
21 18.130 RCW;

22 (4) To hire clerical, administrative, and investigative staff as  
23 needed to implement and administer this chapter and to hire individuals  
24 including those certified under this chapter to serve as examiners or  
25 consultants as necessary to implement and administer this chapter;

26 (5) To maintain the official department record of all applicants  
27 and certifications;

28 (6) To conduct a hearing on an appeal of a denial of a certificate  
29 on the applicant's failure to meet the minimum qualifications for  
30 certification. The hearing shall be conducted pursuant to chapter  
31 34.05 RCW;

32 (7) To issue subpoenas, statements of charges, statements of intent  
33 to deny certificates, and orders and to delegate in writing to a  
34 designee the authority to issue subpoenas, statements of charges, and  
35 statements of intent to deny certificates;

36 (8) To determine the minimum education, work experience, and

1 training requirements for certification or affiliate certification,  
2 including but not limited to approval of educational programs;

3 (9) To prepare and administer or approve the preparation and  
4 administration of examinations for certification;

5 (10) To establish by rule the procedure for appeal of an  
6 examination failure;

7 (11) To adopt rules implementing a continuing competency program;

8 (12) To adopt rules in accordance with chapter 34.05 RCW as  
9 necessary to implement this chapter.

10 NEW SECTION. **Sec. 18.** A new section is added to chapter 18.155  
11 RCW to read as follows:

12 The department shall issue an affiliate certificate to any  
13 applicant who meets the following requirements:

14 (1) Successful completion of an educational program approved by the  
15 secretary or successful completion of alternate training which meets  
16 the criteria of the secretary;

17 (2) Successful completion of an examination administered or  
18 approved by the secretary;

19 (3) Not having engaged in unprofessional conduct or being unable to  
20 practice with reasonable skill and safety as a result of a physical or  
21 mental impairment; and

22 (4) Other requirements as may be established by the secretary that  
23 impact the competence of the sex offender treatment provider.

24 **Sec. 19.** RCW 26.09.191 and 1996 c 303 s 1 are each amended to read  
25 as follows:

26 (1) The permanent parenting plan shall not require mutual decision-  
27 making or designation of a dispute resolution process other than court  
28 action if it is found that a parent has engaged in any of the following  
29 conduct: (a) Willful abandonment that continues for an extended period  
30 of time or substantial refusal to perform parenting functions; (b)  
31 physical, sexual, or a pattern of emotional abuse of a child; or (c) a  
32 history of acts of domestic violence as defined in RCW 26.50.010(1) or  
33 an assault or sexual assault which causes grievous bodily harm or the  
34 fear of such harm.

35 (2)(a) The parent's residential time with the child shall be  
36 limited if it is found that the parent has engaged in any of the

1 following conduct: (i) Willful abandonment that continues for an  
2 extended period of time or substantial refusal to perform parenting  
3 functions; (ii) physical, sexual, or a pattern of emotional abuse of a  
4 child; (iii) a history of acts of domestic violence as defined in RCW  
5 26.50.010(1) or an assault or sexual assault which causes grievous  
6 bodily harm or the fear of such harm; or (iv) the parent has been  
7 convicted as an adult of a sex offense under:

8 (A) RCW 9A.44.076 if, because of the difference in age between the  
9 offender and the victim, no rebuttable presumption exists under (d) of  
10 this subsection;

11 (B) RCW 9A.44.079 if, because of the difference in age between the  
12 offender and the victim, no rebuttable presumption exists under (d) of  
13 this subsection;

14 (C) RCW 9A.44.086 if, because of the difference in age between the  
15 offender and the victim, no rebuttable presumption exists under (d) of  
16 this subsection;

17 (D) RCW 9A.44.089;

18 (E) RCW 9A.44.093;

19 (F) RCW 9A.44.096;

20 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
21 between the offender and the victim, no rebuttable presumption exists  
22 under (d) of this subsection;

23 (H) Chapter 9.68A RCW;

24 (I) Any predecessor or antecedent statute for the offenses listed  
25 in (a)(iv)(A) through (H) of this subsection;

26 (J) Any statute from any other jurisdiction that describes an  
27 offense analogous to the offenses listed in (a)(iv)(A) through (H) of  
28 this subsection.

29 This subsection (2)(a) shall not apply when (c) or (d) of this  
30 subsection applies.

31 (b) The parent's residential time with the child shall be limited  
32 if it is found that the parent resides with a person who has engaged in  
33 any of the following conduct: (i) Physical, sexual, or a pattern of  
34 emotional abuse of a child; (ii) a history of acts of domestic violence  
35 as defined in RCW 26.50.010(1) or an assault or sexual assault that  
36 causes grievous bodily harm or the fear of such harm; or (iii) the  
37 person has been convicted as an adult or as a juvenile has been  
38 adjudicated of a sex offense under:

1 (A) RCW 9A.44.076 if, because of the difference in age between the  
2 offender and the victim, no rebuttable presumption exists under (e) of  
3 this subsection;

4 (B) RCW 9A.44.079 if, because of the difference in age between the  
5 offender and the victim, no rebuttable presumption exists under (e) of  
6 this subsection;

7 (C) RCW 9A.44.086 if, because of the difference in age between the  
8 offender and the victim, no rebuttable presumption exists under (e) of  
9 this subsection;

10 (D) RCW 9A.44.089;

11 (E) RCW 9A.44.093;

12 (F) RCW 9A.44.096;

13 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
14 between the offender and the victim, no rebuttable presumption exists  
15 under (e) of this subsection;

16 (H) Chapter 9.68A RCW;

17 (I) Any predecessor or antecedent statute for the offenses listed  
18 in (b)(iii)(A) through (H) of this subsection;

19 (J) Any statute from any other jurisdiction that describes an  
20 offense analogous to the offenses listed in (b)(iii)(A) through (H) of  
21 this subsection.

22 This subsection (2)(b) shall not apply when (c) or (e) of this  
23 subsection applies.

24 (c) If a parent has been found to be a sexual predator under  
25 chapter 71.09 RCW or under an analogous statute of any other  
26 jurisdiction, the court shall restrain the parent from contact with a  
27 child that would otherwise be allowed under this chapter. If a parent  
28 resides with an adult or a juvenile who has been found to be a sexual  
29 predator under chapter 71.09 RCW or under an analogous statute of any  
30 other jurisdiction, the court shall restrain the parent from contact  
31 with the parent's child except contact that occurs outside that  
32 person's presence.

33 (d) There is a rebuttable presumption that a parent who has been  
34 convicted as an adult of a sex offense listed in (d)(i) through (ix) of  
35 this subsection poses a present danger to a child. Unless the parent  
36 rebuts this presumption, the court shall restrain the parent from  
37 contact with a child that would otherwise be allowed under this  
38 chapter:

1 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted  
2 was at least five years older than the other person;  
3 (ii) RCW 9A.44.073;  
4 (iii) RCW 9A.44.076, provided that the person convicted was at  
5 least eight years older than the victim;  
6 (iv) RCW 9A.44.079, provided that the person convicted was at least  
7 eight years older than the victim;  
8 (v) RCW 9A.44.083;  
9 (vi) RCW 9A.44.086, provided that the person convicted was at least  
10 eight years older than the victim;  
11 (vii) RCW 9A.44.100;  
12 (viii) Any predecessor or antecedent statute for the offenses  
13 listed in (d)(i) through (vii) of this subsection;  
14 (ix) Any statute from any other jurisdiction that describes an  
15 offense analogous to the offenses listed in (d)(i) through (vii) of  
16 this subsection.  
17 (e) There is a rebuttable presumption that a parent who resides  
18 with a person who, as an adult, has been convicted, or as a juvenile  
19 has been adjudicated, of the sex offenses listed in (e)(i) through (ix)  
20 of this subsection places a child at risk of abuse or harm when that  
21 parent exercises residential time in the presence of the convicted or  
22 adjudicated person. Unless the parent rebuts the presumption, the  
23 court shall restrain the parent from contact with the parent's child  
24 except for contact that occurs outside of the convicted or adjudicated  
25 person's presence:  
26 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted  
27 was at least five years older than the other person;  
28 (ii) RCW 9A.44.073;  
29 (iii) RCW 9A.44.076, provided that the person convicted was at  
30 least eight years older than the victim;  
31 (iv) RCW 9A.44.079, provided that the person convicted was at least  
32 eight years older than the victim;  
33 (v) RCW 9A.44.083;  
34 (vi) RCW 9A.44.086, provided that the person convicted was at least  
35 eight years older than the victim;  
36 (vii) RCW 9A.44.100;  
37 (viii) Any predecessor or antecedent statute for the offenses  
38 listed in (e)(i) through (vii) of this subsection;



1 (ix) Any statute from any other jurisdiction that describes an  
2 offense analogous to the offenses listed in (e)(i) through (vii) of  
3 this subsection.

4 (f) The presumption established in (d) of this subsection may be  
5 rebutted only after a written finding that:

6 (i) If the child was not the victim of the sex offense committed by  
7 the parent requesting residential time, (A) contact between the child  
8 and the offending parent is appropriate and poses minimal risk to the  
9 child, and (B) the offending parent has successfully engaged in  
10 treatment for sex offenders or is engaged in and making progress in  
11 such treatment, if any was ordered by a court, and the treatment  
12 provider believes such contact is appropriate and poses minimal risk to  
13 the child; or

14 (ii) If the child was the victim of the sex offense committed by  
15 the parent requesting residential time, (A) contact between the child  
16 and the offending parent is appropriate and poses minimal risk to the  
17 child, (B) if the child is in or has been in therapy for victims of  
18 sexual abuse, the child's counselor believes such contact between the  
19 child and the offending parent is in the child's best interest, and (C)  
20 the offending parent has successfully engaged in treatment for sex  
21 offenders or is engaged in and making progress in such treatment, if  
22 any was ordered by a court, and the treatment provider believes such  
23 contact is appropriate and poses minimal risk to the child.

24 (g) The presumption established in (e) of this subsection may be  
25 rebutted only after a written finding that:

26 (i) If the child was not the victim of the sex offense committed by  
27 the person who is residing with the parent requesting residential time,  
28 (A) contact between the child and the parent residing with the  
29 convicted or adjudicated person is appropriate and that parent is able  
30 to protect the child in the presence of the convicted or adjudicated  
31 person, and (B) the convicted or adjudicated person has successfully  
32 engaged in treatment for sex offenders or is engaged in and making  
33 progress in such treatment, if any was ordered by a court, and the  
34 treatment provider believes such contact is appropriate and poses  
35 minimal risk to the child; or

36 (ii) If the child was the victim of the sex offense committed by  
37 the person who is residing with the parent requesting residential time,  
38 (A) contact between the child and the parent in the presence of the

1 convicted or adjudicated person is appropriate and poses minimal risk  
2 to the child, (B) if the child is in or has been in therapy for victims  
3 of sexual abuse, the child's counselor believes such contact between  
4 the child and the parent residing with the convicted or adjudicated  
5 person in the presence of the convicted or adjudicated person is in the  
6 child's best interest, and (C) the convicted or adjudicated person has  
7 successfully engaged in treatment for sex offenders or is engaged in  
8 and making progress in such treatment, if any was ordered by a court,  
9 and the treatment provider believes contact between the parent and  
10 child in the presence of the convicted or adjudicated person is  
11 appropriate and poses minimal risk to the child.

12 (h) If the court finds that the parent has met the burden of  
13 rebutting the presumption under (f) of this subsection, the court may  
14 allow a parent who has been convicted as an adult of a sex offense  
15 listed in (d)(i) through (ix) of this subsection to have residential  
16 time with the child supervised by a neutral and independent adult and  
17 pursuant to an adequate plan for supervision of such residential time.  
18 The court shall not approve of a supervisor for contact between the  
19 child and the parent unless the court finds, based on the evidence,  
20 that the supervisor is willing and capable of protecting the child from  
21 harm. The court shall revoke court approval of the supervisor upon  
22 finding, based on the evidence, that the supervisor has failed to  
23 protect the child or is no longer willing or capable of protecting the  
24 child.

25 (i) If the court finds that the parent has met the burden of  
26 rebutting the presumption under (g) of this subsection, the court may  
27 allow a parent residing with a person who has been adjudicated as a  
28 juvenile of a sex offense listed in (e)(i) through (ix) of this  
29 subsection to have residential time with the child in the presence of  
30 the person adjudicated as a juvenile, supervised by a neutral and  
31 independent adult and pursuant to an adequate plan for supervision of  
32 such residential time. The court shall not approve of a supervisor for  
33 contact between the child and the parent unless the court finds, based  
34 on the evidence, that the supervisor is willing and capable of  
35 protecting the child from harm. The court shall revoke court approval  
36 of the supervisor upon finding, based on the evidence, that the  
37 supervisor has failed to protect the child or is no longer willing or  
38 capable of protecting the child.

1 (j) If the court finds that the parent has met the burden of  
2 rebutting the presumption under (g) of this subsection, the court may  
3 allow a parent residing with a person who, as an adult, has been  
4 convicted of a sex offense listed in (e)(i) through (ix) of this  
5 subsection to have residential time with the child in the presence of  
6 the convicted person supervised by a neutral and independent adult and  
7 pursuant to an adequate plan for supervision of such residential time.  
8 The court shall not approve of a supervisor for contact between the  
9 child and the parent unless the court finds, based on the evidence,  
10 that the supervisor is willing and capable of protecting the child from  
11 harm. The court shall revoke court approval of the supervisor upon  
12 finding, based on the evidence, that the supervisor has failed to  
13 protect the child or is no longer willing or capable of protecting the  
14 child.

15 (k) A court shall not order unsupervised contact between the  
16 offending parent and a child of the offending parent who was sexually  
17 abused by that parent. A court may order unsupervised contact between  
18 the offending parent and a child who was not sexually abused by the  
19 parent after the presumption under (d) of this subsection has been  
20 rebutted and supervised residential time has occurred for at least two  
21 years with no further arrests or convictions of sex offenses involving  
22 children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW  
23 and (i) the sex offense of the offending parent was not committed  
24 against a child of the offending parent, and (ii) the court finds that  
25 unsupervised contact between the child and the offending parent is  
26 appropriate and poses minimal risk to the child, after consideration of  
27 the testimony of a state-certified therapist, mental health counselor,  
28 or social worker with expertise in treating child sexual abuse victims  
29 who has supervised at least one period of residential time between the  
30 parent and the child, and after consideration of evidence of the  
31 offending parent's compliance with community supervision requirements,  
32 if any. If the offending parent was not ordered by a court to  
33 participate in treatment for sex offenders, then the parent shall  
34 obtain a psychosexual evaluation conducted by a (~~state-certified~~)  
35 certified sex offender treatment provider or a certified affiliate sex  
36 offender treatment provider indicating that the offender has the lowest  
37 likelihood of risk to reoffend before the court grants unsupervised  
38 contact between the parent and a child.

1 (1) A court may order unsupervised contact between the parent and  
2 a child which may occur in the presence of a juvenile adjudicated of a  
3 sex offense listed in (e)(i) through (ix) of this subsection who  
4 resides with the parent after the presumption under (e) of this  
5 subsection has been rebutted and supervised residential time has  
6 occurred for at least two years during which time the adjudicated  
7 juvenile has had no further arrests, adjudications, or convictions of  
8 sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020,  
9 or chapter 9.68A RCW, and (i) the court finds that unsupervised contact  
10 between the child and the parent that may occur in the presence of the  
11 adjudicated juvenile is appropriate and poses minimal risk to the  
12 child, after consideration of the testimony of a state-certified  
13 therapist, mental health counselor, or social worker with expertise in  
14 treatment of child sexual abuse victims who has supervised at least one  
15 period of residential time between the parent and the child in the  
16 presence of the adjudicated juvenile, and after consideration of  
17 evidence of the adjudicated juvenile's compliance with community  
18 supervision or parole requirements, if any. If the adjudicated  
19 juvenile was not ordered by a court to participate in treatment for sex  
20 offenders, then the adjudicated juvenile shall obtain a psychosexual  
21 evaluation conducted by a (~~state-certified~~) certified sex offender  
22 treatment provider or a certified affiliate sex offender treatment  
23 provider indicating that the adjudicated juvenile has the lowest  
24 likelihood of risk to reoffend before the court grants unsupervised  
25 contact between the parent and a child which may occur in the presence  
26 of the adjudicated juvenile who is residing with the parent.

27 (m)(i) The limitations imposed by the court under (a) or (b) of  
28 this subsection shall be reasonably calculated to protect the child  
29 from the physical, sexual, or emotional abuse or harm that could result  
30 if the child has contact with the parent requesting residential time.  
31 If the court expressly finds based on the evidence that limitations on  
32 the residential time with the child will not adequately protect the  
33 child from the harm or abuse that could result if the child has contact  
34 with the parent requesting residential time, the court shall restrain  
35 the parent requesting residential time from all contact with the child.

36 (ii) The court shall not enter an order under (a) of this  
37 subsection allowing a parent to have contact with a child if the parent  
38 has been found by clear and convincing evidence in a civil action or by

1 a preponderance of the evidence in a dependency action to have sexually  
2 abused the child, except upon recommendation by an evaluator or  
3 therapist for the child that the child is ready for contact with the  
4 parent and will not be harmed by the contact. The court shall not  
5 enter an order allowing a parent to have contact with the child in the  
6 offender's presence if the parent resides with a person who has been  
7 found by clear and convincing evidence in a civil action or by a  
8 preponderance of the evidence in a dependency action to have sexually  
9 abused a child, unless the court finds that the parent accepts that the  
10 person engaged in the harmful conduct and the parent is willing to and  
11 capable of protecting the child from harm from the person.

12 (iii) If the court limits residential time under (a) or (b) of this  
13 subsection to require supervised contact between the child and the  
14 parent, the court shall not approve of a supervisor for contact between  
15 a child and a parent who has engaged in physical, sexual, or a pattern  
16 of emotional abuse of the child unless the court finds based upon the  
17 evidence that the supervisor accepts that the harmful conduct occurred  
18 and is willing to and capable of protecting the child from harm. The  
19 court shall revoke court approval of the supervisor upon finding, based  
20 on the evidence, that the supervisor has failed to protect the child or  
21 is no longer willing to or capable of protecting the child.

22 (n) If the court expressly finds based on the evidence that  
23 contact between the parent and the child will not cause physical,  
24 sexual, or emotional abuse or harm to the child and that the  
25 probability that the parent's or other person's harmful or abusive  
26 conduct will recur is so remote that it would not be in the child's  
27 best interests to apply the limitations of (a), (b), and (m)(i) and  
28 (iii) of this subsection, or if the court expressly finds that the  
29 parent's conduct did not have an impact on the child, then the court  
30 need not apply the limitations of (a), (b), and (m)(i) and (iii) of  
31 this subsection. The weight given to the existence of a protection  
32 order issued under chapter 26.50 RCW as to domestic violence is within  
33 the discretion of the court. This subsection shall not apply when (c),  
34 (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this  
35 subsection apply.

36 (3) A parent's involvement or conduct may have an adverse effect on  
37 the child's best interests, and the court may preclude or limit any

1 provisions of the parenting plan, if any of the following factors  
2 exist:

3 (a) A parent's neglect or substantial nonperformance of parenting  
4 functions;

5 (b) A long-term emotional or physical impairment which interferes  
6 with the parent's performance of parenting functions as defined in RCW  
7 26.09.004;

8 (c) A long-term impairment resulting from drug, alcohol, or other  
9 substance abuse that interferes with the performance of parenting  
10 functions;

11 (d) The absence or substantial impairment of emotional ties between  
12 the parent and the child;

13 (e) The abusive use of conflict by the parent which creates the  
14 danger of serious damage to the child's psychological development;

15 (f) A parent has withheld from the other parent access to the child  
16 for a protracted period without good cause; or

17 (g) Such other factors or conduct as the court expressly finds  
18 adverse to the best interests of the child.

19 (4) In entering a permanent parenting plan, the court shall not  
20 draw any presumptions from the provisions of the temporary parenting  
21 plan.

22 (5) In determining whether any of the conduct described in this  
23 section has occurred, the court shall apply the civil rules of  
24 evidence, proof, and procedure.

25 (6) For the purposes of this section, a parent's child means that  
26 parent's natural child, adopted child, or stepchild.

27 **Sec. 20.** RCW 26.10.160 and 1996 c 303 s 2 are each amended to read  
28 as follows:

29 (1) A parent not granted custody of the child is entitled to  
30 reasonable visitation rights except as provided in subsection (2) of  
31 this section.

32 (2)(a) Visitation with the child shall be limited if it is found  
33 that the parent seeking visitation has engaged in any of the following  
34 conduct: (i) Willful abandonment that continues for an extended period  
35 of time or substantial refusal to perform parenting functions; (ii)  
36 physical, sexual, or a pattern of emotional abuse of a child; (iii) a  
37 history of acts of domestic violence as defined in RCW 26.50.010(1) or

1 an assault or sexual assault which causes grievous bodily harm or the  
2 fear of such harm; or (iv) the parent has been convicted as an adult of  
3 a sex offense under:

4 (A) RCW 9A.44.076 if, because of the difference in age between the  
5 offender and the victim, no rebuttable presumption exists under (d) of  
6 this subsection;

7 (B) RCW 9A.44.079 if, because of the difference in age between the  
8 offender and the victim, no rebuttable presumption exists under (d) of  
9 this subsection;

10 (C) RCW 9A.44.086 if, because of the difference in age between the  
11 offender and the victim, no rebuttable presumption exists under (d) of  
12 this subsection;

13 (D) RCW 9A.44.089;

14 (E) RCW 9A.44.093;

15 (F) RCW 9A.44.096;

16 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
17 between the offender and the victim, no rebuttable presumption exists  
18 under (d) of this subsection;

19 (H) Chapter 9.68A RCW;

20 (I) Any predecessor or antecedent statute for the offenses listed  
21 in (a)(iv)(A) through (H) of this subsection;

22 (J) Any statute from any other jurisdiction that describes an  
23 offense analogous to the offenses listed in (a)(iv)(A) through (H) of  
24 this subsection.

25 This subsection (2)(a) shall not apply when (c) or (d) of this  
26 subsection applies.

27 (b) The parent's visitation with the child shall be limited if it  
28 is found that the parent resides with a person who has engaged in any  
29 of the following conduct: (i) Physical, sexual, or a pattern of  
30 emotional abuse of a child; (ii) a history of acts of domestic violence  
31 as defined in RCW 26.50.010(1) or an assault or sexual assault that  
32 causes grievous bodily harm or the fear of such harm; or (iii) the  
33 person has been convicted as an adult or as a juvenile has been  
34 adjudicated of a sex offense under:

35 (A) RCW 9A.44.076 if, because of the difference in age between the  
36 offender and the victim, no rebuttable presumption exists under (e) of  
37 this subsection;

1 (B) RCW 9A.44.079 if, because of the difference in age between the  
2 offender and the victim, no rebuttable presumption exists under (e) of  
3 this subsection;

4 (C) RCW 9A.44.086 if, because of the difference in age between the  
5 offender and the victim, no rebuttable presumption exists under (e) of  
6 this subsection;

7 (D) RCW 9A.44.089;

8 (E) RCW 9A.44.093;

9 (F) RCW 9A.44.096;

10 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
11 between the offender and the victim, no rebuttable presumption exists  
12 under (e) of this subsection;

13 (H) Chapter 9.68A RCW;

14 (I) Any predecessor or antecedent statute for the offenses listed  
15 in (b)(iii)(A) through (H) of this subsection;

16 (J) Any statute from any other jurisdiction that describes an  
17 offense analogous to the offenses listed in (b)(iii)(A) through (H) of  
18 this subsection.

19 This subsection (2)(b) shall not apply when (c) or (e) of this  
20 subsection applies.

21 (c) If a parent has been found to be a sexual predator under  
22 chapter 71.09 RCW or under an analogous statute of any other  
23 jurisdiction, the court shall restrain the parent from contact with a  
24 child that would otherwise be allowed under this chapter. If a parent  
25 resides with an adult or a juvenile who has been found to be a sexual  
26 predator under chapter 71.09 RCW or under an analogous statute of any  
27 other jurisdiction, the court shall restrain the parent from contact  
28 with the parent's child except contact that occurs outside that  
29 person's presence.

30 (d) There is a rebuttable presumption that a parent who has been  
31 convicted as an adult of a sex offense listed in (d)(i) through (ix) of  
32 this subsection poses a present danger to a child. Unless the parent  
33 rebuts this presumption, the court shall restrain the parent from  
34 contact with a child that would otherwise be allowed under this  
35 chapter:

36 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted  
37 was at least five years older than the other person;

38 (ii) RCW 9A.44.073;



1 (iii) RCW 9A.44.076, provided that the person convicted was at  
2 least eight years older than the victim;

3 (iv) RCW 9A.44.079, provided that the person convicted was at least  
4 eight years older than the victim;

5 (v) RCW 9A.44.083;

6 (vi) RCW 9A.44.086, provided that the person convicted was at least  
7 eight years older than the victim;

8 (vii) RCW 9A.44.100;

9 (viii) Any predecessor or antecedent statute for the offenses  
10 listed in (d)(i) through (vii) of this subsection;

11 (ix) Any statute from any other jurisdiction that describes an  
12 offense analogous to the offenses listed in (d)(i) through (vii) of  
13 this subsection.

14 (e) There is a rebuttable presumption that a parent who resides  
15 with a person who, as an adult, has been convicted, or as a juvenile  
16 has been adjudicated, of the sex offenses listed in (e)(i) through (ix)  
17 of this subsection places a child at risk of abuse or harm when that  
18 parent exercises visitation in the presence of the convicted or  
19 adjudicated person. Unless the parent rebuts the presumption, the  
20 court shall restrain the parent from contact with the parent's child  
21 except for contact that occurs outside of the convicted or adjudicated  
22 person's presence:

23 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted  
24 was at least five years older than the other person;

25 (ii) RCW 9A.44.073;

26 (iii) RCW 9A.44.076, provided that the person convicted was at  
27 least eight years older than the victim;

28 (iv) RCW 9A.44.079, provided that the person convicted was at least  
29 eight years older than the victim;

30 (v) RCW 9A.44.083;

31 (vi) RCW 9A.44.086, provided that the person convicted was at least  
32 eight years older than the victim;

33 (vii) RCW 9A.44.100;

34 (viii) Any predecessor or antecedent statute for the offenses  
35 listed in (e)(i) through (vii) of this subsection;

36 (ix) Any statute from any other jurisdiction that describes an  
37 offense analogous to the offenses listed in (e)(i) through (vii) of  
38 this subsection.

1 (f) The presumption established in (d) of this subsection may be  
2 rebutted only after a written finding that:

3 (i) If the child was not the victim of the sex offense committed by  
4 the parent requesting visitation, (A) contact between the child and the  
5 offending parent is appropriate and poses minimal risk to the child,  
6 and (B) the offending parent has successfully engaged in treatment for  
7 sex offenders or is engaged in and making progress in such treatment,  
8 if any was ordered by a court, and the treatment provider believes such  
9 contact is appropriate and poses minimal risk to the child; or

10 (ii) If the child was the victim of the sex offense committed by  
11 the parent requesting visitation, (A) contact between the child and the  
12 offending parent is appropriate and poses minimal risk to the child,  
13 (B) if the child is in or has been in therapy for victims of sexual  
14 abuse, the child's counselor believes such contact between the child  
15 and the offending parent is in the child's best interest, and (C) the  
16 offending parent has successfully engaged in treatment for sex  
17 offenders or is engaged in and making progress in such treatment, if  
18 any was ordered by a court, and the treatment provider believes such  
19 contact is appropriate and poses minimal risk to the child.

20 (g) The presumption established in (e) of this subsection may be  
21 rebutted only after a written finding that:

22 (i) If the child was not the victim of the sex offense committed by  
23 the person who is residing with the parent requesting visitation, (A)  
24 contact between the child and the parent residing with the convicted or  
25 adjudicated person is appropriate and that parent is able to protect  
26 the child in the presence of the convicted or adjudicated person, and  
27 (B) the convicted or adjudicated person has successfully engaged in  
28 treatment for sex offenders or is engaged in and making progress in  
29 such treatment, if any was ordered by a court, and the treatment  
30 provider believes such contact is appropriate and poses minimal risk to  
31 the child; or

32 (ii) If the child was the victim of the sex offense committed by  
33 the person who is residing with the parent requesting visitation, (A)  
34 contact between the child and the parent in the presence of the  
35 convicted or adjudicated person is appropriate and poses minimal risk  
36 to the child, (B) if the child is in or has been in therapy for victims  
37 of sexual abuse, the child's counselor believes such contact between  
38 the child and the parent residing with the convicted or adjudicated

1 person in the presence of the convicted or adjudicated person is in the  
2 child's best interest, and (C) the convicted or adjudicated person has  
3 successfully engaged in treatment for sex offenders or is engaged in  
4 and making progress in such treatment, if any was ordered by a court,  
5 and the treatment provider believes contact between the parent and  
6 child in the presence of the convicted or adjudicated person is  
7 appropriate and poses minimal risk to the child.

8 (h) If the court finds that the parent has met the burden of  
9 rebutting the presumption under (f) of this subsection, the court may  
10 allow a parent who has been convicted as an adult of a sex offense  
11 listed in (d)(i) through (ix) of this subsection to have visitation  
12 with the child supervised by a neutral and independent adult and  
13 pursuant to an adequate plan for supervision of such visitation. The  
14 court shall not approve of a supervisor for contact between the child  
15 and the parent unless the court finds, based on the evidence, that the  
16 supervisor is willing and capable of protecting the child from harm.  
17 The court shall revoke court approval of the supervisor upon finding,  
18 based on the evidence, that the supervisor has failed to protect the  
19 child or is no longer willing or capable of protecting the child.

20 (i) If the court finds that the parent has met the burden of  
21 rebutting the presumption under (g) of this subsection, the court may  
22 allow a parent residing with a person who has been adjudicated as a  
23 juvenile of a sex offense listed in (e)(i) through (ix) of this  
24 subsection to have visitation with the child in the presence of the  
25 person adjudicated as a juvenile, supervised by a neutral and  
26 independent adult and pursuant to an adequate plan for supervision of  
27 such visitation. The court shall not approve of a supervisor for  
28 contact between the child and the parent unless the court finds, based  
29 on the evidence, that the supervisor is willing and capable of  
30 protecting the child from harm. The court shall revoke court approval  
31 of the supervisor upon finding, based on the evidence, that the  
32 supervisor has failed to protect the child or is no longer willing or  
33 capable of protecting the child.

34 (j) If the court finds that the parent has met the burden of  
35 rebutting the presumption under (g) of this subsection, the court may  
36 allow a parent residing with a person who, as an adult, has been  
37 convicted of a sex offense listed in (e)(i) through (ix) of this  
38 subsection to have visitation with the child in the presence of the

1 convicted person supervised by a neutral and independent adult and  
2 pursuant to an adequate plan for supervision of such visitation. The  
3 court shall not approve of a supervisor for contact between the child  
4 and the parent unless the court finds, based on the evidence, that the  
5 supervisor is willing and capable of protecting the child from harm.  
6 The court shall revoke court approval of the supervisor upon finding,  
7 based on the evidence, that the supervisor has failed to protect the  
8 child or is no longer willing or capable of protecting the child.

9 (k) A court shall not order unsupervised contact between the  
10 offending parent and a child of the offending parent who was sexually  
11 abused by that parent. A court may order unsupervised contact between  
12 the offending parent and a child who was not sexually abused by the  
13 parent after the presumption under (d) of this subsection has been  
14 rebutted and supervised visitation has occurred for at least two years  
15 with no further arrests or convictions of sex offenses involving  
16 children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW  
17 and (i) the sex offense of the offending parent was not committed  
18 against a child of the offending parent, and (ii) the court finds that  
19 unsupervised contact between the child and the offending parent is  
20 appropriate and poses minimal risk to the child, after consideration of  
21 the testimony of a state-certified therapist, mental health counselor,  
22 or social worker with expertise in treating child sexual abuse victims  
23 who has supervised at least one period of visitation between the parent  
24 and the child, and after consideration of evidence of the offending  
25 parent's compliance with community supervision requirements, if any.  
26 If the offending parent was not ordered by a court to participate in  
27 treatment for sex offenders, then the parent shall obtain a  
28 psychosexual evaluation conducted by a (~~state-certified~~) certified  
29 sex offender treatment provider or a certified affiliate sex offender  
30 treatment provider indicating that the offender has the lowest  
31 likelihood of risk to reoffend before the court grants unsupervised  
32 contact between the parent and a child.

33 (l) A court may order unsupervised contact between the parent and  
34 a child which may occur in the presence of a juvenile adjudicated of a  
35 sex offense listed in (e)(i) through (ix) of this subsection who  
36 resides with the parent after the presumption under (e) of this  
37 subsection has been rebutted and supervised visitation has occurred for  
38 at least two years during which time the adjudicated juvenile has had

1 no further arrests, adjudications, or convictions of sex offenses  
2 involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter  
3 9.68A RCW, and (i) the court finds that unsupervised contact between  
4 the child and the parent that may occur in the presence of the  
5 adjudicated juvenile is appropriate and poses minimal risk to the  
6 child, after consideration of the testimony of a state-certified  
7 therapist, mental health counselor, or social worker with expertise in  
8 treatment of child sexual abuse victims who has supervised at least one  
9 period of visitation between the parent and the child in the presence  
10 of the adjudicated juvenile, and after consideration of evidence of the  
11 adjudicated juvenile's compliance with community supervision or parole  
12 requirements, if any. If the adjudicated juvenile was not ordered by  
13 a court to participate in treatment for sex offenders, then the  
14 adjudicated juvenile shall obtain a psychosexual evaluation conducted  
15 by a (~~state-certified~~) certified sex offender treatment provider or  
16 a certified affiliate sex offender treatment provider indicating that  
17 the adjudicated juvenile has the lowest likelihood of risk to reoffend  
18 before the court grants unsupervised contact between the parent and a  
19 child which may occur in the presence of the adjudicated juvenile who  
20 is residing with the parent.

21 (m)(i) The limitations imposed by the court under (a) or (b) of  
22 this subsection shall be reasonably calculated to protect the child  
23 from the physical, sexual, or emotional abuse or harm that could result  
24 if the child has contact with the parent requesting visitation. If the  
25 court expressly finds based on the evidence that limitations on  
26 visitation with the child will not adequately protect the child from  
27 the harm or abuse that could result if the child has contact with the  
28 parent requesting visitation, the court shall restrain the person  
29 seeking visitation from all contact with the child.

30 (ii) The court shall not enter an order under (a) of this  
31 subsection allowing a parent to have contact with a child if the parent  
32 has been found by clear and convincing evidence in a civil action or by  
33 a preponderance of the evidence in a dependency action to have sexually  
34 abused the child, except upon recommendation by an evaluator or  
35 therapist for the child that the child is ready for contact with the  
36 parent and will not be harmed by the contact. The court shall not  
37 enter an order allowing a parent to have contact with the child in the  
38 offender's presence if the parent resides with a person who has been

1 found by clear and convincing evidence in a civil action or by a  
2 preponderance of the evidence in a dependency action to have sexually  
3 abused a child, unless the court finds that the parent accepts that the  
4 person engaged in the harmful conduct and the parent is willing to and  
5 capable of protecting the child from harm from the person.

6 (iii) If the court limits visitation under (a) or (b) of this  
7 subsection to require supervised contact between the child and the  
8 parent, the court shall not approve of a supervisor for contact between  
9 a child and a parent who has engaged in physical, sexual, or a pattern  
10 of emotional abuse of the child unless the court finds based upon the  
11 evidence that the supervisor accepts that the harmful conduct occurred  
12 and is willing to and capable of protecting the child from harm. The  
13 court shall revoke court approval of the supervisor upon finding, based  
14 on the evidence, that the supervisor has failed to protect the child or  
15 is no longer willing to or capable of protecting the child.

16 (n) If the court expressly finds based on the evidence that  
17 contact between the parent and the child will not cause physical,  
18 sexual, or emotional abuse or harm to the child and that the  
19 probability that the parent's or other person's harmful or abusive  
20 conduct will recur is so remote that it would not be in the child's  
21 best interests to apply the limitations of (a), (b), and (m)(i) and  
22 (iii) of this subsection, or if the court expressly finds that the  
23 parent's conduct did not have an impact on the child, then the court  
24 need not apply the limitations of (a), (b), and (m)(i) and (iii) of  
25 this subsection. The weight given to the existence of a protection  
26 order issued under chapter 26.50 RCW as to domestic violence is within  
27 the discretion of the court. This subsection shall not apply when (c),  
28 (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this  
29 subsection apply.

30 (3) Any person may petition the court for visitation rights at any  
31 time including, but not limited to, custody proceedings. The court may  
32 order visitation rights for any person when visitation may serve the  
33 best interest of the child whether or not there has been any change of  
34 circumstances.

35 (4) The court may modify an order granting or denying visitation  
36 rights whenever modification would serve the best interests of the  
37 child. Modification of a parent's visitation rights shall be subject  
38 to the requirements of subsection (2) of this section.

1 (5) For the purposes of this section, a parent's child means that  
2 parent's natural child, adopted child, or stepchild.

3 **Sec. 21.** RCW 71.09.350 and 2001 2nd sp.s. c 12 s 404 are each  
4 amended to read as follows:

5 (1) Examinations and treatment of sexually violent predators who  
6 are conditionally released to a less restrictive alternative under this  
7 chapter shall be conducted only by certified sex offender treatment  
8 providers (~~(certified by the department of health)~~) or certified  
9 affiliate sex offender treatment providers under chapter 18.155 RCW  
10 unless the court or the department of social and health services finds  
11 that: (a) The court-ordered less restrictive alternative placement is  
12 located in another state; (b) the treatment provider is employed by the  
13 department; or (c)(i) all certified sex offender treatment providers or  
14 certified affiliate sex offender treatment providers become unavailable  
15 to provide treatment within a reasonable geographic distance of the  
16 person's home, as determined in rules adopted by the department of  
17 social and health services; and (ii) the evaluation and treatment plan  
18 comply with the rules adopted by the department of social and health  
19 services.

20 A treatment provider approved by the department of social and  
21 health services under (c) of this subsection, who is not certified by  
22 the department of health, shall consult with a certified sex offender  
23 treatment provider during the person's period of treatment to ensure  
24 compliance with the rules adopted by the department of health. The  
25 frequency and content of the consultation shall be based on the  
26 recommendation of the certified sex offender treatment provider.

27 (2) A treatment provider, whether or not he or she is employed or  
28 approved by the department of social and health services under  
29 subsection (1) of this section or otherwise certified, may not perform  
30 or provide treatment of sexually violent predators under this section  
31 if the treatment provider has been:

- 32 (a) Convicted of a sex offense, as defined in RCW 9.94A.030;
- 33 (b) Convicted in any other jurisdiction of an offense that under  
34 the laws of this state would be classified as a sex offense as defined  
35 in RCW 9.94A.030; or
- 36 (c) Suspended or otherwise restricted from practicing any health

1 care profession by competent authority in any state, federal, or  
2 foreign jurisdiction.

3 (3) Nothing in this section prohibits a qualified expert from  
4 examining or evaluating a sexually violent predator who has been  
5 conditionally released for purposes of presenting an opinion in court  
6 proceedings."

**SHB 1295** - S COMM AMD

By Committee on Health & Long-Term Care

7 On page 1, line 2 of the title, after "professions;" strike the  
8 remainder of the title and insert "amending RCW 4.24.556, 9.94A.670,  
9 9.94A.820, 13.40.160, 18.06.050, 18.34.070, 18.79.160, 18.83.050,  
10 18.83.072, 18.92.070, 18.92.100, 18.155.020, 18.155.030, 18.155.040,  
11 26.09.191, 26.10.160, and 71.09.350; reenacting and amending RCW  
12 18.130.040; adding a new section to chapter 18.79 RCW; adding a new  
13 section to chapter 18.155 RCW; and creating a new section."

--- END ---