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HOUSE BILL 2068

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State of Washington

59th Legislature

2005 Regular Session

By Representatives Hasegawa and Buri

Read first time 02/16/2005. Referred to Committee on Juvenile Justice & Family Law.

1 AN ACT Relating to children testifying in dissolution proceedings;  
2 and amending RCW 26.09.187.

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

4 **Sec. 1.** RCW 26.09.187 and 1989 c 375 s 10 are each amended to read  
5 as follows:

6 (1) DISPUTE RESOLUTION PROCESS. The court shall not order a  
7 dispute resolution process, except court action, when it finds that any  
8 limiting factor under RCW 26.09.191 applies, or when it finds that  
9 either parent is unable to afford the cost of the proposed dispute  
10 resolution process. If a dispute resolution process is not precluded  
11 or limited, then in designating such a process the court shall consider  
12 all relevant factors, including:

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

15 (b) The parents' wishes or agreements and, if the parents have  
16 entered into agreements, whether the agreements were made knowingly and  
17 voluntarily; and

18 (c) Differences in the parents' financial circumstances that may

1 affect their ability to participate fully in a given dispute resolution  
2 process.

3 (2) ALLOCATION OF DECISION-MAKING AUTHORITY.

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

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

10 (ii) The agreement is knowing and voluntary.

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

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

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

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

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

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

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

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

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

30 (3) RESIDENTIAL PROVISIONS.

31 (a) The court shall make residential provisions for each child  
32 which encourage each parent to maintain a loving, stable, and nurturing  
33 relationship with the child, consistent with the child's developmental  
34 level and the family's social and economic circumstances. The child's  
35 residential schedule shall be consistent with RCW 26.09.191. Where the  
36 limitations of RCW 26.09.191 are not dispositive of the child's  
37 residential schedule, the court shall consider the following factors:

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

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

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

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

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

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

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

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

19 (b) If the child wishes to testify regarding his or her preferences  
20 as to his or her residential schedule, the court shall allow the child  
21 to testify unless the judge has good cause to believe that it would not  
22 be in the best interests of the family to allow the child to do so.

23 (c) The court may order that a child frequently alternate his or  
24 her residence between the households of the parents for brief and  
25 substantially equal intervals of time only if the court finds the  
26 following:

27 (i) No limitation exists under RCW 26.09.191;

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

30 (B) The parties have a satisfactory history of cooperation and  
31 shared performance of parenting functions; the parties are available to  
32 each other, especially in geographic proximity, to the extent necessary  
33 to ensure their ability to share performance of the parenting  
34 functions; and

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

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