
SENATE BILL 6331

State of Washington

60th Legislature

2008 Regular Session

By Senator McCaslin

Read first time 01/15/08. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to the modification of parenting plans based on the
2 military service of a parent; and amending RCW 26.09.260.

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

4 **Sec. 1.** RCW 26.09.260 and 2000 c 21 s 19 are each amended to read
5 as follows:

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

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

17 (a) The parents agree to the modification;

18 (b) The child has been integrated into the family of the petitioner

1 with the consent of the other parent in substantial deviation from the
2 parenting plan;

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

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

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

15 (4) The court may reduce or restrict contact between the child and
16 the parent with whom the child does not reside a majority of the time
17 if it finds that the reduction or restriction would serve and protect
18 the best interests of the child using the criteria in RCW 26.09.191.

19 (5) The court may order adjustments to the residential aspects of
20 a parenting plan upon a showing of a substantial change in
21 circumstances of either parent or of the child, and without
22 consideration of the factors set forth in subsection (2) of this
23 section, if the proposed modification is only a minor modification in
24 the residential schedule that does not change the residence the child
25 is scheduled to reside in the majority of the time and:

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

27 (b) Is based on a change of residence of the parent with whom the
28 child does not reside the majority of the time or an involuntary change
29 in work schedule by a parent which makes the residential schedule in
30 the parenting plan impractical to follow; or

31 (c) Does not result in a schedule that exceeds ninety overnights
32 per year in total, if the court finds that, at the time the petition
33 for modification is filed, the decree of dissolution or parenting plan
34 does not provide reasonable time with the parent with whom the child
35 does not reside a majority of the time, and further, the court finds
36 that it is in the best interests of the child to increase residential
37 time with the parent in excess of the residential time period in (a) of
38 this subsection. However, any motion under this subsection (5)(c) is

1 subject to the factors established in subsection (2) of this section if
2 the party bringing the petition has previously been granted a
3 modification under this same subsection within twenty-four months of
4 the current motion. Relief granted under this section shall not be the
5 sole basis for adjusting or modifying child support.

6 (6) The court may order adjustments to the residential aspects of
7 a parenting plan pursuant to a proceeding to permit or restrain a
8 relocation of the child. The person objecting to the relocation of the
9 child or the relocating person's proposed revised residential schedule
10 may file a petition to modify the parenting plan, including a change of
11 the residence in which the child resides the majority of the time,
12 without a showing of adequate cause other than the proposed relocation
13 itself. A hearing to determine adequate cause for modification shall
14 not be required so long as the request for relocation of the child is
15 being pursued. In making a determination of a modification pursuant to
16 relocation of the child, the court shall first determine whether to
17 permit or restrain the relocation of the child using the procedures and
18 standards provided in RCW 26.09.405 through 26.09.560. Following that
19 determination, the court shall determine what modification pursuant to
20 relocation should be made, if any, to the parenting plan or custody
21 order or visitation order.

22 (7) A parent with whom the child does not reside a majority of the
23 time and whose residential time with the child is subject to
24 limitations pursuant to RCW 26.09.191 (2) or (3) may not seek expansion
25 of residential time under subsection (5)(c) of this section unless that
26 parent demonstrates a substantial change in circumstances specifically
27 related to the basis for the limitation.

28 (8) If a parent with whom the child does not reside a majority of
29 the time voluntarily fails to exercise residential time for an extended
30 period, that is, one year or longer, the court upon proper motion may
31 make adjustments to the parenting plan in keeping with the best
32 interests of the minor child.

33 (9) A parent with whom the child does not reside a majority of the
34 time who is required by the existing parenting plan to complete
35 evaluations, treatment, parenting, or other classes may not seek
36 expansion of residential time under subsection (5)(c) of this section
37 unless that parent has fully complied with such requirements.

1 (10) The court may order adjustments to any of the nonresidential
2 aspects of a parenting plan upon a showing of a substantial change of
3 circumstances of either parent or of a child, and the adjustment is in
4 the best interest of the child. Adjustments ordered under this section
5 may be made without consideration of the factors set forth in
6 subsection (2) of this section.

7 (11)(a) Except as provided in (b) of this subsection, any court-
8 ordered modification of a prior custody decree or parenting plan, based
9 solely on (i) the military service of a parent who is an active or
10 reserve member of any branch of the armed forces of the United States,
11 including the national guard, coast guard, and the armed forces
12 reserves, deployed outside the United States; or (ii) the federal
13 military service of a parent who is a member of a state national guard
14 or a member of a military reserve component, shall be temporary and
15 shall revert back to the prior custody decree or parenting plan at the
16 end of the deployment outside the United States or the federal military
17 service.

18 (b) A parent identified in (a) of this subsection may agree to a
19 modification of a child custody decree or a parenting plan that
20 continues past the end of the deployment outside the United States or
21 the federal military service.

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

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