
HOUSE BILL 1982

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By Representatives Wallace, Kessler, Blake, Hurst, Roach, Rodne, Moeller, and Johnson

Read first time 02/05/09. Referred to Committee on Judiciary.

1 AN ACT Relating to shared parental responsibility; amending RCW
2 26.09.002, 26.09.004, and 26.09.187; adding a new section to chapter
3 26.09 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the
6 shared parental responsibility act.

7 **Sec. 2.** RCW 26.09.002 and 2007 c 496 s 101 are each amended to
8 read as follows:

9 Parents have the responsibility to make decisions and perform other
10 parental functions necessary for the care and growth of their minor
11 children. In any proceeding between parents under this chapter, the
12 best interests of the child shall be the standard by which the court
13 determines and allocates the parties' parental responsibilities. The
14 state recognizes the fundamental importance of the parent-child
15 relationship to the welfare of the child, and that the relationship
16 between the child and each parent should be fostered unless
17 inconsistent with the child's best interests. Residential time and
18 financial support are equally important components of parenting

1 arrangements. The best interests of the child are served by a
2 parenting arrangement that best maintains a child's emotional growth,
3 health and stability, and physical care. Therefore, there is a
4 presumption in favor of shared parental responsibility unless it is not
5 in the child's best interest. Further, the best interest of the child
6 is ordinarily served when the existing pattern of interaction between
7 a parent and child is altered only to the extent necessitated by the
8 changed relationship of the parents or as required to protect the child
9 from physical, mental, or emotional harm.

10 **Sec. 3.** RCW 26.09.004 and 2008 c 6 s 1003 are each amended to read
11 as follows:

12 The definitions in this section apply throughout this chapter.

13 (1) "Temporary parenting plan" means a plan for parenting of the
14 child pending final resolution of any action for dissolution of
15 marriage or domestic partnership, declaration of invalidity, or legal
16 separation which is incorporated in a temporary order.

17 (2) "Permanent parenting plan" means a plan for parenting the
18 child, including allocation of parenting functions, which plan is
19 incorporated in any final decree or decree of modification in an action
20 for dissolution of marriage or domestic partnership, declaration of
21 invalidity, or legal separation.

22 (3) "Parenting functions" means those aspects of the parent-child
23 relationship in which the parent makes decisions and performs functions
24 necessary for the care and growth of the child. Parenting functions
25 include:

26 (a) Maintaining a loving, stable, consistent, and nurturing
27 relationship with the child;

28 (b) Attending to the daily needs of the child, such as feeding,
29 clothing, physical care and grooming, supervision, health care, and day
30 care, and engaging in other activities which are appropriate to the
31 developmental level of the child and that are within the social and
32 economic circumstances of the particular family;

33 (c) Attending to adequate education for the child, including
34 remedial or other education essential to the best interests of the
35 child;

36 (d) Assisting the child in developing and maintaining appropriate
37 interpersonal relationships;

1 (e) Exercising appropriate judgment regarding the child's welfare,
2 consistent with the child's developmental level and the family's social
3 and economic circumstances; and

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

5 (4) "Shared parental responsibility" means shared residential
6 placement and mutual decision-making authority.

7 (5) "Shared residential placement" means an order awarding each of
8 the parents periods of time, amounting to at least one-third of a year,
9 in which a child resides with or is under the actual, direct, day-to-
10 day care and supervision of each of the parents. "Shared residential
11 placement" does not necessarily mean the child must alternate his or
12 her residence between the households of the parents for brief periods
13 of time.

14 NEW SECTION. Sec. 4. A new section is added to chapter 26.09 RCW
15 to read as follows:

16 (1) There is a presumption that shared parental responsibility is
17 in the best interests of children unless:

18 (a) The parents have agreed to an alternate award of residential
19 placement or decision-making authority to only one parent;

20 (b) The limitations of RCW 26.09.191 are dispositive of the child's
21 residential schedule; or

22 (c) The court finds that shared parental responsibility would be
23 detrimental due to the age or needs of the child or children.

24 (2) A parent alleging that shared parental responsibility would be
25 detrimental to the child or children has the burden of establishing the
26 allegation by a preponderance of the evidence.

27 (3) If a parent alleges that shared parental responsibility would
28 be detrimental to a particular child, the court, in making a
29 determination whether a shared parental responsibility order is
30 appropriate, may direct that an investigation be conducted in
31 accordance with the provisions of RCW 26.09.220. If the court declines
32 to enter a shared parental responsibility order under this section, the
33 court shall enter findings of fact and conclusions of law stating the
34 reasons that shared parental responsibility is not in the best interest
35 of the child.

1 **Sec. 5.** RCW 26.09.187 and 2007 c 496 s 603 are each amended to
2 read as follows:

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

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

12 (b) The parents' wishes or agreements and, if the parents have
13 entered into agreements, whether the agreements were made knowingly and
14 voluntarily; and

15 (c) Differences in the parents' financial circumstances that may
16 affect their ability to participate fully in a given dispute resolution
17 process.

18 (2) ALLOCATION OF DECISION-MAKING AUTHORITY.

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

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

25 (ii) The agreement is knowing and voluntary.

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

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

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

31 (iii) One parent is opposed to mutual decision making, and such
32 opposition is reasonable based on the criteria in (c) of this
33 subsection.

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

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

1 (ii) The history of participation of each parent in decision making
2 in each of the areas in RCW 26.09.184(5)(a);

3 (iii) Whether the parents have a demonstrated ability and desire to
4 cooperate with one another in decision making in each of the areas in
5 RCW 26.09.184(5)(a); and

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

8 (3) RESIDENTIAL PROVISIONS.

9 (a) The court shall make residential provisions for each child
10 which encourage each parent to maintain a loving, stable, and nurturing
11 relationship with the child, consistent with the best interests of the
12 child, the child's developmental level, and the family's social and
13 economic circumstances. There is a presumption that the child's
14 residential schedule provides shared parental responsibility in
15 accordance with section 4 of this act. The child's residential
16 schedule shall be consistent with RCW 26.09.191. Where the limitations
17 of RCW 26.09.191 are not dispositive of the child's residential
18 schedule, the court shall consider the following factors:

19 (i) The relative strength, nature, and stability of the child's
20 relationship with each parent;

21 (ii) Which parent is more likely to allow and encourage the child's
22 frequent and continuing contact with the other parent;

23 (iii) The agreements of the parties, provided they were entered
24 into knowingly and voluntarily;

25 ~~((iii))~~ (iv) Each parent's past and potential for future
26 performance of parenting functions as defined in RCW 26.09.004(3)~~((-~~
27 ~~including whether a parent has taken greater responsibility for~~
28 ~~performing parenting functions relating to the daily needs of the~~
29 ~~child))~~;

30 ~~((iv))~~ (v) The emotional needs and developmental level of the
31 child and any special physical needs of the child;

32 ~~((v))~~ (vi) Whether the child is a nursing child;

33 (vii) The child's relationship with siblings and with other
34 significant adults, as well as the child's involvement with his or her
35 physical surroundings, school, or other significant activities;

36 ~~((vi))~~ (viii) The wishes of the parents and the wishes of a child
37 who is sufficiently mature to express reasoned and independent
38 preferences as to his or her residential schedule; and

1 ~~((vii))~~ (ix) Each parent's employment schedule, and shall make
2 accommodations consistent with those schedules.

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

4 ~~(b) ((Where the limitations of RCW 26.09.191 are not dispositive,
5 the court may order that a child frequently alternate his or her
6 residence between the households of the parents for brief and
7 substantially equal intervals of time if such provision is in the best
8 interests of the child. In determining whether such an arrangement is
9 in the best interests of the child, the court may consider the parties
10 geographic proximity to the extent necessary to ensure the ability to
11 share performance of the parenting functions.~~

12 ~~(e))~~ For any child, residential provisions may contain any
13 reasonable terms or conditions that facilitate the orderly and
14 meaningful exercise of residential time by a parent, including ~~((but
15 not limited to requirements of reasonable notice when residential time
16 will not occur))~~ one or more of the following:

17 (i) Requirements that residential times be specified;

18 (ii) Requirements of reasonable notice when residential time will
19 not occur;

20 (iii) Any other reasonable condition determined to be appropriate
21 in the particular case including, but not limited to, a domestic
22 violence assessment.

23 (c) In any parenting plan in which the court finds that the parties
24 do not have a satisfactory history of cooperation or the limitations of
25 RCW 26.09.191 are dispositive, to the extent necessary, the parenting
26 plan must include a safe, neutral, and public location for the exchange
27 of the child, such as a school, day care, place of worship, or any
28 other appropriate facility.

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