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SENATE BILL 5342

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State of Washington

61st Legislature

2009 Regular Session

By Senators Kastama, Shin, and Berkey

Read first time 01/20/09. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to the designation of residential time in parenting  
2 plans; 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 2007 c 496 s 603 are each amended to  
5 read 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(5)(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(5)(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(5)(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;

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

5 (iii) Each parent's past and potential for future performance of  
6 parenting functions as defined in RCW 26.09.004(3), including whether  
7 a parent has taken greater responsibility for performing parenting  
8 functions relating to the daily needs of the child;

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) Except as provided in this section and where the limitations of  
20 RCW 26.09.191 are not dispositive, the court ((may order that a child  
21 frequently alternate his or her residence between the households of the  
22 parents for brief and substantially equal intervals of time if such  
23 provision is in the best interests of the child. In determining  
24 whether such an arrangement is in the best interests of the child, the  
25 court may consider the parties geographic proximity to the extent  
26 necessary to ensure the ability to share performance of the parenting  
27 functions.

28 ~~(c) For any child, residential provisions may contain any~~  
29 ~~reasonable terms or conditions that facilitate the orderly and~~  
30 ~~meaningful exercise of residential time by a parent, including but not~~  
31 ~~limited to requirements of reasonable notice when residential time will~~  
32 ~~not occur)) shall enter the following standard order:~~

33 During the first, third, and fifth weeks of the month, the child  
34 shall reside with the minority residential parent from Thursday after  
35 school or work, whichever is pertinent, until the following Monday  
36 morning, at which time the child must be taken by the minority  
37 residential parent to school, child care, or the majority residential  
38 parent's home. The court may not use the term "every other weekend" or

1 similar imprecise language in describing residential time with a child.  
2 For purposes of this section, "fifth week of the month" means a month  
3 with a fifth Friday.

4 (c) The court may make an exception to this standard order when the  
5 minority residential parent's work schedule or residence location  
6 dictates that a different residential time schedule be entered.

7 (d) If the minority residential parent agrees to the residential  
8 schedule as detailed in (b) of this subsection, the court must provide  
9 the minority residential parent with residential time during the  
10 child's spring break from school and shall provide the minority  
11 residential parent with an opportunity for additional residential time  
12 with the child during the summer months.

13 (e) If a holiday falls on the weekend that the minority residential  
14 parent has residential time with the child, the provisions of (b) of  
15 this subsection must nevertheless be followed.

16 (f) If the minority residential parent does not reside in the same  
17 state as the child, the court shall provide that the minority  
18 residential parent have substantial residential time with the child  
19 during the winter holiday period and during most of the summer months.

20 (g) If the child is less than one year of age, the court may order  
21 frequent exchanges of a period of two or three days with each parent  
22 and alternate Sundays.

23 (h) Absent a showing of good cause, the court shall allow the  
24 minority residential parent to designate a friend or family member to  
25 transport the child during residential time exchanges. In cases of  
26 continuing parental conflict, the court shall order that these  
27 exchanges occur at specific times and in a specific public place.

28 (i) For purposes of this section, "minority residential parent"  
29 means the parent with whom the child does not reside a majority of the  
30 time.

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