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SENATE BILL 6374

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State of Washington

63rd Legislature

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By Senators Roach and Padden

Read first time 01/22/14. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to parent and child relationship termination; and  
2 amending RCW 13.34.132, 13.34.180, 26.09.191, 26.26.505, and 26.33.170.

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

4 **Sec. 1.** RCW 13.34.132 and 2013 c 302 s 11 are each amended to read  
5 as follows:

6 A court may order that a petition seeking termination of the parent  
7 and child relationship be filed if the following requirements are met:

8 (1) The court has removed the child from his or her home pursuant  
9 to RCW 13.34.130;

10 (2) Termination is recommended by the department or the supervising  
11 agency;

12 (3) Termination is in the best interests of the child; and

13 (4) Because of the existence of aggravated circumstances,  
14 reasonable efforts to unify the family are not required.  
15 Notwithstanding the existence of aggravated circumstances, reasonable  
16 efforts may be required if the court or department determines it is in  
17 the best interests of the child. In determining whether aggravated  
18 circumstances exist by clear, cogent, and convincing evidence, the  
19 court shall consider one or more of the following:

1 (a) Conviction of the parent of rape of the child in the first,  
2 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and  
3 9A.44.079;

4 (b) Conviction of the parent of criminal mistreatment of the child  
5 in the first or second degree as defined in RCW 9A.42.020 and  
6 9A.42.030;

7 (c) Conviction of the parent of one of the following assault  
8 crimes, when the child is the victim: Assault in the first or second  
9 degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child  
10 in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

11 (d) Conviction of the parent of murder, manslaughter, or homicide  
12 by abuse of the child's other parent, sibling, or another child;

13 (e) Conviction of the parent of trafficking, or promoting  
14 commercial sexual abuse of a minor when the victim of the crime is the  
15 child, the child's other parent, a sibling of the child, or another  
16 child;

17 (f) Conviction of the parent of attempting, soliciting, or  
18 conspiring to commit a crime listed in (a), (b), (c), or (d) of this  
19 subsection;

20 (g) A finding by a court that a parent is a sexually violent  
21 predator as defined in RCW 71.09.020;

22 (h) Failure of the parent to complete available treatment ordered  
23 under this chapter or the equivalent laws of another state, where such  
24 failure has resulted in a prior termination of parental rights to  
25 another child and the parent has failed to effect significant change in  
26 the interim. In the case of a parent of an Indian child, as defined in  
27 RCW 13.38.040, the court shall also consider tribal efforts to assist  
28 the parent in completing treatment and make it possible for the child  
29 to return home;

30 (i) An infant under three years of age has been abandoned((+)

31 ~~(j) Conviction of the parent, when a child has been born of the~~  
32 ~~offense, of: (A) A sex offense under chapter 9A.44 RCW; or (B) incest~~  
33 ~~under RCW 9A.64.020)).~~

34 A court shall order that a petition seeking termination of the  
35 parent and child relationship be filed upon conviction of the parent,  
36 when a child was conceived as a result of: (i) A sex offense under  
37 chapter 9A.44 RCW; or (ii) incest under RCW 9A.64.020.

1       **Sec. 2.** RCW 13.34.180 and 2013 c 173 s 4 are each amended to read  
2 as follows:

3       (1) A petition seeking termination of a parent and child  
4 relationship may be filed in juvenile court by any party, including the  
5 supervising agency, to the dependency proceedings concerning that  
6 child. Such petition shall conform to the requirements of RCW  
7 13.34.040, shall be served upon the parties as provided in RCW  
8 13.34.070(8), and shall allege all of the following unless subsection  
9 (3) or (4) of this section applies:

10       (a) That the child has been found to be a dependent child;

11       (b) That the court has entered a dispositional order pursuant to  
12 RCW 13.34.130;

13       (c) That the child has been removed or will, at the time of the  
14 hearing, have been removed from the custody of the parent for a period  
15 of at least six months pursuant to a finding of dependency;

16       (d) That the services ordered under RCW 13.34.136 have been  
17 expressly and understandably offered or provided and all necessary  
18 services, reasonably available, capable of correcting the parental  
19 deficiencies within the foreseeable future have been expressly and  
20 understandably offered or provided;

21       (e) That there is little likelihood that conditions will be  
22 remedied so that the child can be returned to the parent in the near  
23 future. A parent's failure to substantially improve parental  
24 deficiencies within twelve months following entry of the dispositional  
25 order shall give rise to a rebuttable presumption that there is little  
26 likelihood that conditions will be remedied so that the child can be  
27 returned to the parent in the near future. The presumption shall not  
28 arise unless the petitioner makes a showing that all necessary services  
29 reasonably capable of correcting the parental deficiencies within the  
30 foreseeable future have been clearly offered or provided. In  
31 determining whether the conditions will be remedied the court may  
32 consider, but is not limited to, the following factors:

33       (i) Use of intoxicating or controlled substances so as to render  
34 the parent incapable of providing proper care for the child for  
35 extended periods of time or for periods of time that present a risk of  
36 imminent harm to the child, and documented unwillingness of the parent  
37 to receive and complete treatment or documented multiple failed  
38 treatment attempts;

1 (ii) Psychological incapacity or mental deficiency of the parent  
2 that is so severe and chronic as to render the parent incapable of  
3 providing proper care for the child for extended periods of time or for  
4 periods of time that present a risk of imminent harm to the child, and  
5 documented unwillingness of the parent to receive and complete  
6 treatment or documentation that there is no treatment that can render  
7 the parent capable of providing proper care for the child in the near  
8 future; or

9 (iii) Failure of the parent to have contact with the child for an  
10 extended period of time after the filing of the dependency petition if  
11 the parent was provided an opportunity to have a relationship with the  
12 child by the department or the court and received documented notice of  
13 the potential consequences of this failure, except that the actual  
14 inability of a parent to have visitation with the child including, but  
15 not limited to, mitigating circumstances such as a parent's current or  
16 prior incarceration or service in the military does not in and of  
17 itself constitute failure to have contact with the child; and

18 (f) That continuation of the parent and child relationship clearly  
19 diminishes the child's prospects for early integration into a stable  
20 and permanent home. If the parent is incarcerated, the court shall  
21 consider whether a parent maintains a meaningful role in his or her  
22 child's life based on factors identified in RCW 13.34.145(5)(b);  
23 whether the department or supervising agency made reasonable efforts as  
24 defined in this chapter; and whether particular barriers existed as  
25 described in RCW 13.34.145(5)(b) including, but not limited to, delays  
26 or barriers experienced in keeping the agency apprised of his or her  
27 location and in accessing visitation or other meaningful contact with  
28 the child.

29 (2) As evidence of rebuttal to any presumption established pursuant  
30 to subsection (1)(e) of this section, the court may consider the  
31 particular constraints of a parent's current or prior incarceration.  
32 Such evidence may include, but is not limited to, delays or barriers a  
33 parent may experience in keeping the agency apprised of his or her  
34 location and in accessing visitation or other meaningful contact with  
35 the child.

36 (3) In lieu of the allegations in subsection (1) of this section,  
37 the petition may allege that the child was found under such

1 circumstances that the whereabouts of the child's parent are unknown  
2 and no person has acknowledged paternity or maternity and requested  
3 custody of the child within two months after the child was found.

4 (4) In lieu of the allegations in subsection (1)(b) through (f) of  
5 this section, the petition may allege that the parent has been  
6 convicted of:

7 (a) Murder in the first degree, murder in the second degree, or  
8 homicide by abuse as defined in chapter 9A.32 RCW against another child  
9 of the parent;

10 (b) Manslaughter in the first degree or manslaughter in the second  
11 degree, as defined in chapter 9A.32 RCW against another child of the  
12 parent;

13 (c) Attempting, conspiring, or soliciting another to commit one or  
14 more of the crimes listed in (a) or (b) of this subsection; (~~(e)~~)

15 (d) Assault in the first or second degree, as defined in chapter  
16 9A.36 RCW, against the surviving child or another child of the parent;  
17 or

18 (e) A sex offense under chapter 9A.44 RCW; or incest under RCW  
19 9A.64.020, against the other parent, when the child was conceived as a  
20 result of the offense.

21 (5) When a parent has been sentenced to a long-term incarceration  
22 and has maintained a meaningful role in the child's life considering  
23 the factors provided in RCW 13.34.145(5)(b), and it is in the best  
24 interest of the child, the department should consider a permanent  
25 placement that allows the parent to maintain a relationship with his or  
26 her child, such as, but not limited to, a guardianship pursuant to  
27 chapter 13.36 RCW.

28 (6) Notice of rights shall be served upon the parent, guardian, or  
29 legal custodian with the petition and shall be in substantially the  
30 following form:

31 "NOTICE

32 A petition for termination of parental rights has been filed  
33 against you. You have important legal rights and you must take  
34 steps to protect your interests. This petition could result in  
35 permanent loss of your parental rights.

36 1. You have the right to a fact-finding hearing before  
37 a judge.

38 2. You have the right to have a lawyer represent you at

1 the hearing. A lawyer can look at the files in your case, talk  
2 to the (~~department of social and health services or the~~)  
3 supervising agency and other agencies, tell you about the law,  
4 help you understand your rights, and help you at hearings. If  
5 you cannot afford a lawyer, the court will appoint one to  
6 represent you. To get a court-appointed lawyer you must  
7 contact: (explain local procedure).

8 3. At the hearing, you have the right to speak on your  
9 own behalf, to introduce evidence, to examine witnesses, and to  
10 receive a decision based solely on the evidence presented to  
11 the judge.

12 You should be present at this hearing.

13 You may call (insert agency) for more information  
14 about your child. The agency's name and telephone number are  
15 (insert name and telephone number)."

16 **Sec. 3.** RCW 26.09.191 and 2011 c 89 s 6 are each amended to read  
17 as follows:

18 (1) The permanent parenting plan shall not require mutual decision-  
19 making or designation of a dispute resolution process other than court  
20 action if it is found that a parent has engaged in any of the following  
21 conduct: (a) Willful abandonment that continues for an extended period  
22 of time or substantial refusal to perform parenting functions; (b)  
23 physical, sexual, or a pattern of emotional abuse of a child; (~~(c)~~)  
24 (c) a history of acts of domestic violence as defined in RCW  
25 26.50.010(1) or an assault or sexual assault which causes grievous  
26 bodily harm or the fear of such harm; or (d) has been found guilty of  
27 a sex offense under chapter 9A.44 RCW; or incest under RCW 9A.64.020,  
28 against the other parent, when the child was born of the offense.

29 (2)(a) The parent's residential time with the child shall be  
30 limited if it is found that the parent has engaged in any of the  
31 following conduct: (i) Willful abandonment that continues for an  
32 extended period of time or substantial refusal to perform parenting  
33 functions; (ii) physical, sexual, or a pattern of emotional abuse of a  
34 child; (iii) a history of acts of domestic violence as defined in RCW  
35 26.50.010(1) or an assault or sexual assault which causes grievous  
36 bodily harm or the fear of such harm; (~~(c)~~) (iv) has been found guilty  
37 of a sex offense under chapter 9A.44 RCW; or incest under RCW

1 9A.64.020, against the other parent, when the child was conceived as a  
2 result of the offense; or (v) the parent has been convicted as an adult  
3 of 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 residential time with the child shall be limited  
28 if it is found that the parent resides with a person who has engaged in  
29 any 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 residential time 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 residential time, (A) contact between the child  
5 and the offending parent is appropriate and poses minimal risk to the  
6 child, and (B) the offending parent has successfully engaged in  
7 treatment for sex offenders or is engaged in and making progress in  
8 such treatment, if any was ordered by a court, and the treatment  
9 provider believes such contact is appropriate and poses minimal risk to  
10 the child; or

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

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

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

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

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

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

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

36 (j) If the court finds that the parent has met the burden of  
37 rebutting the presumption under (g) of this subsection, the court may  
38 allow a parent residing with a person who, as an adult, has been

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

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

36 (l) A court may order unsupervised contact between the parent and  
37 a child which may occur in the presence of a juvenile adjudicated of a  
38 sex offense listed in (e)(i) through (ix) of this subsection who

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

24 (m)(i) The limitations imposed by the court under (a) or (b) of  
25 this subsection shall be reasonably calculated to protect the child  
26 from the physical, sexual, or emotional abuse or harm that could result  
27 if the child has contact with the parent requesting residential time.  
28 The limitations shall also be reasonably calculated to provide for the  
29 safety of the parent who may be at risk of physical, sexual, or  
30 emotional abuse or harm that could result if the parent has contact  
31 with the parent requesting residential time. The limitations the court  
32 may impose include, but are not limited to: Supervised contact between  
33 the child and the parent or completion of relevant counseling or  
34 treatment. If the court expressly finds based on the evidence that  
35 limitations on the residential time with the child will not adequately  
36 protect the child from the harm or abuse that could result if the child  
37 has contact with the parent requesting residential time, the court

1 shall restrain the parent requesting residential time from all contact  
2 with the child.

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

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

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

1 the discretion of the court. This subsection shall not apply when (c),  
2 (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this  
3 subsection apply.

4 (3) A parent's involvement or conduct may have an adverse effect on  
5 the child's best interests, and the court may preclude or limit any  
6 provisions of the parenting plan, if any of the following factors  
7 exist:

8 (a) A parent's neglect or substantial nonperformance of parenting  
9 functions;

10 (b) A long-term emotional or physical impairment which interferes  
11 with the parent's performance of parenting functions as defined in RCW  
12 26.09.004;

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

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

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

20 (f) A parent has withheld from the other parent access to the child  
21 for a protracted period without good cause; (~~(e)~~)

22 (g) A parent has been found guilty of a sex offense under chapter  
23 9A.44 RCW; or incest under RCW 9A.64.020, against the other parent,  
24 when the child was conceived as a result of the offense; or

25 (h) Such other factors or conduct as the court expressly finds  
26 adverse to the best interests of the child.

27 (4) In cases involving allegations of limiting factors under  
28 subsection (2)(a)(ii) and (iii) of this section, both parties shall be  
29 screened to determine the appropriateness of a comprehensive assessment  
30 regarding the impact of the limiting factor on the child and the  
31 parties.

32 (5) In entering a permanent parenting plan, the court shall not  
33 draw any presumptions from the provisions of the temporary parenting  
34 plan.

35 (6) In determining whether any of the conduct described in this  
36 section has occurred, the court shall apply the civil rules of  
37 evidence, proof, and procedure.

38 (7) For the purposes of this section:

1 (a) "A parent's child" means that parent's natural child, adopted  
2 child, or stepchild; and

3 (b) "Social worker" means a person with a master's or further  
4 advanced degree from a social work educational program accredited and  
5 approved as provided in RCW 18.320.010.

6 **Sec. 4.** RCW 26.26.505 and 2011 c 283 s 29 are each amended to read  
7 as follows:

8 Subject to RCW 26.26.300 through 26.26.375, 26.26.530, and  
9 26.26.540, a proceeding to adjudicate parentage may be maintained by:

10 (1) The child;

11 (2) The person who has established a parent-child relationship with  
12 the child;

13 (3) A person whose parentage of the child is to be adjudicated,  
14 except a person convicted of a sex offense under chapter 9A.44 RCW; or  
15 incest under RCW 9A.64.020, against the other parent, may not maintain  
16 a proceeding unless the person proves by clear, cogent, and convincing  
17 evidence that the child was conceived as a result of the criminal  
18 offense;

19 (4) The division of child support;

20 (5) An authorized adoption agency or licensed child-placing agency;

21 (6) A representative authorized by law to act for an individual who  
22 would otherwise be entitled to maintain a proceeding but who is  
23 deceased, incapacitated, or a minor; or

24 (7) An intended parent under a surrogate parentage contract, as  
25 provided in RCW 26.26.210 through 26.26.260.

26 **Sec. 5.** RCW 26.33.170 and 1999 c 173 s 1 are each amended to read  
27 as follows:

28 (1) An agency's, the department's, or a legal guardian's consent to  
29 adoption may be dispensed with if the court determines by clear, cogent  
30 and convincing evidence that the proposed adoption is in the best  
31 interests of the adoptee.

32 (2) An alleged father's, birth parent's, or parent's consent to  
33 adoption may be dispensed with if the court finds that the proposed  
34 adoption is in the best interests of the adoptee and((÷

35 (a→)) the alleged father, birth parent, or parent has been found



1 guilty of rape under chapter 9A.44 RCW or incest under RCW 9A.64.020,  
2 where the adoptee was the victim of the rape or incest((;or

3 ~~(b) The alleged father, birth parent, or parent has been found~~  
4 ~~guilty of rape under chapter 9A.44 RCW or incest under RCW 9A.64.020,~~  
5 ~~where the other parent of the adoptee was the victim of the rape or~~  
6 ~~incest and the adoptee was conceived as a result of the rape or~~  
7 ~~incest)).~~

8 (3) An alleged father's, birth parent's, or parent's consent to  
9 adoption shall be dispensed with if the court finds that the proposed  
10 adoption is in the best interests of the adoptee and the alleged  
11 father, birth parent, or parent has been found guilty of rape under  
12 chapter 9A.44 RCW or incest under RCW 9A.64.020, where the other parent  
13 of the adoptee was the victim of the rape or incest and the adoptee was  
14 conceived as a result of the rape or incest.

15 (4) Nothing in this section shall be construed to eliminate the  
16 notice provisions of this chapter.

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