

SHB 2237 - H AMD 1064

By Representative Rule

NOT CONSIDERED 03/07/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 **"FINDINGS**

4 NEW SECTION. **Sec. 1.** The legislature finds that:

5 (1) Approximately 15,000,000 children in the United States are
6 exposed each year to domestic violence or child abuse, according to
7 the national survey by the office of juvenile justice and delinquency
8 prevention within the United States department of justice and the
9 centers for disease control and prevention.

10 (2) Most child abuse is perpetrated in the family and by a
11 parent. Intimate partner violence and child abuse overlap in the same
12 families at rates of 30 to 60 percent. A child's risk of abuse
13 increases after a perpetrator of intimate partner violence separates
14 from a domestic partner, even when the perpetrator had not previously
15 directly abused the child. Children who have witnessed intimate
16 partner violence are approximately four times more likely to
17 experience direct child maltreatment than children who have not
18 witnessed intimate partner violence.

19 (3) More than 75 percent of child sexual abuse is perpetrated by
20 a family member or a person known to the child. The United States
21 department of justice data shows that family members are almost half
22 of the perpetrators of child sex assault victims under the age of
23 six.

24 (4) Research suggests a child's exposure to a batterer is among
25 the strongest indicators of risk of incest victimization. One study
26 found that female children whose fathers were batterers of the mother
27 were six-and-a-half times more likely to experience father-daughter
28 incest than female children who do not have an abusive father.

29 (5) Child abuse is a major public health issue in the United
30 States. Total lifetime financial costs associated with just one year
31 of confirmed cases of child maltreatment, including child physical

1 abuse, sexual abuse, psychological abuse, and neglect, results in
2 \$124,000,000,000 in annual costs to the United States economy, or
3 approximately one percent of the gross domestic product.

4 (6) Empirical research indicates that allegations of child
5 physical and sexual abuse are regularly discounted by courts across
6 the country when raised in child custody cases. While independent
7 research indicates that child sexual abuse allegations are credible
8 50 to 70 percent of the time, fewer than one-fourth of claims that a
9 father has committed child physical or sexual abuse are believed.
10 Where the allegedly abusive parent claimed the mother was alienating
11 the child, only one in 51 claims of sexual molestation by a father
12 are believed.

13 (7) Empirical research shows that alleged or known abusive
14 parents are often granted custody or unprotected parenting time by
15 courts across the country. Approximately one-third of parents alleged
16 to have committed child abuse took primary custody from the
17 protective parent reporting the abuse, placing children at ongoing
18 risk.

19 (8) The United States child murder data from researchers shows
20 that, since 2008, 21 children have been murdered in Washington and
21 nearly 800 children have been murdered in the United States by a
22 divorcing or separating parent, with more than 100 of these murders
23 known to have occurred after court involvement.

24 (9) Scientifically unsound theories that treat mothers' abuse
25 allegations as likely false attempts to undermine the father are
26 frequently applied in family court to minimize or deny parents' and
27 children's reports of abuse. Many experts who testify against abuse
28 allegations lack expertise in the relevant type of alleged abuse,
29 relying instead on unsound and unproven theories.

30 (10) Judges presiding over custody cases with allegations of
31 child abuse, child sexual abuse, and domestic violence are rarely
32 required to receive training on these subjects, nor has Washington
33 established extensive standards for such trainings.

34 **TRAINING AND EDUCATION PROGRAM**

35 NEW SECTION. **Sec. 2.** (1) To comply with the federal keeping
36 children safe from family violence act, Title 34 U.S.C. Sec. 10446,
37 family court judges, commissioners, guardians ad litem, parenting
38 evaluators, parent coordinators, investigators, and any other

1 relevant court-appointed professionals involved in proceedings
2 concerning the determination or modification of parenting plans,
3 child custody or visitation, child support, or allocation of
4 parenting functions must complete, with respect to the training
5 program described in this section:

6 (a) Not less than 20 hours of initial training; and

7 (b) Not less than 15 hours of ongoing training every five years.

8 (2) The training program required in subsection (1) of this
9 section is an ongoing training and education program that focuses
10 solely on domestic and sexual violence and child abuse, including:

11 (a) Child sexual abuse;

12 (b) Physical abuse;

13 (c) Emotional abuse;

14 (d) Coercive control;

15 (e) Implicit and explicit bias, including biases relating to
16 parents with disabilities;

17 (f) Trauma;

18 (g) Long-term and short-term impacts of domestic violence and
19 child abuse on children;

20 (h) Victim and perpetrator behavioral patterns and relationship
21 dynamics;

22 (i) The detriment to children of residing with a person who
23 perpetrates domestic violence; and

24 (j) That domestic violence can occur without a party seeking or
25 obtaining a restraining or protection order, without a substantiated
26 child protective services finding, and without other documented
27 evidence of abuse.

28 (3) The training and education program must be provided by a
29 professional with substantial experience in assisting survivors of
30 domestic violence or child abuse, including a victim service provider
31 as defined in Title 34 U.S.C. Sec. 12291 and, if possible, a survivor
32 of domestic violence or child physical or sexual abuse.

33 (4) The training and education program:

34 (a) Must rely on evidence-based research by recognized experts in
35 the types of abuse described in subsection (2) of this section; and

36 (c) May not include theories, concepts, or belief systems
37 unsupported by the research described in (a) of this subsection.

38 (5) The training and education must be designed to improve the
39 ability of courts to:

1 (a) Recognize and respond to child physical abuse, child sexual
2 abuse, domestic violence, and trauma in all family victims,
3 particularly children; and

4 (b) Make appropriate child custody decisions that prioritize
5 child safety and well-being and are culturally sensitive and
6 appropriate for diverse communities.

7 **RESTRICTIONS IN TEMPORARY OR PERMANENT PARENTING PLANS**

8 **Sec. 3.** RCW 26.09.191 and 2021 c 215 s 134 are each amended to
9 read as follows:

10 (1) (~~The permanent parenting plan shall not require mutual~~
11 ~~decision-making or designation of a dispute resolution process other~~
12 ~~than court action~~)) GENERAL CONSIDERATIONS.

13 (a) In entering a permanent parenting plan, the court shall not
14 draw any presumptions from the provisions of the temporary parenting
15 plan.

16 (b) The weight given to the existence of a protection order
17 issued under chapter 7.105 RCW or former chapter 26.50 RCW as to
18 domestic violence is within the discretion of the court.

19 (c) In determining whether any of the conduct described in this
20 section or section 8 of this act has occurred, the court shall apply
21 the rules of evidence and civil procedure except where the parties
22 have opted for an informal family law trial pursuant to state or
23 local court rules.

24 (2) DEFINITIONS. The definitions in this subsection apply
25 throughout this section, RCW 26.09.187, and sections 5 through 8 of
26 this act unless the context clearly requires otherwise.

27 (a) "Child" shall also mean "children."

28 (b) "Domestic violence" has the same meaning as in RCW 7.105.010.

29 (c) "Forensic" means court-ordered professional activities, such
30 as evaluation or treatment of parties to the litigation or children
31 of the parties for assistance in a court case.

32 (d) "Knowingly" means knows or reasonably should know.

33 (e) "Parenting functions" has the same meaning as in RCW
34 26.09.004.

35 (f) "Protective actions" are actions taken by a competent,
36 protective, and not physically or sexually abusive parent in good
37 faith for the purpose of protecting themselves or the parent's child
38 from the risk of harm posed by the other parent. "Protective actions"

1 can include, but are not limited to: (i) Reports or complaints
2 regarding child neglect or physical, sexual, or mental abuse of a
3 child to an individual or entity connected to the provision of care
4 or safety of the child such as law enforcement, medical
5 professionals, therapists, schools, day cares, or child protective
6 services; (ii) seeking court orders changing residential time; or
7 (iii) petitions for protection or restraining orders.

8 (g) "Reunification treatment" means a treatment or therapy aimed
9 at reuniting or reestablishing a relationship between a child and an
10 estranged or rejected parent.

11 (h) "Sex offense against a child" means any of the following
12 offenses involving a child victim: (i) Any sex offense as defined in
13 RCW 9.94A.030; (ii) any offense with a finding of sexual motivation;
14 (iii) any offense in violation of chapter 9A.44 RCW other than RCW
15 9A.44.132; (iv) any offense involving the sexual abuse of a minor,
16 including any offense under chapter 9.68A RCW; or (v) any federal or
17 out-of-state offense comparable to any offense under (h)(i) through
18 (iv) of this subsection.

19 (i) "Social worker" means a person with a master's degree or
20 further advanced degree from a social work educational program
21 accredited and approved as provided in RCW 18.320.010.

22 (j) "Willful abandonment" has occurred when the child's parent
23 has expressed, either by statement or conduct, an intent to forego,
24 for an extended period, parental rights or responsibilities despite
25 an ability to exercise such rights and responsibilities. "Willful
26 abandonment" does not include a parent who has been unable to see the
27 child due to incarceration, deportation, inpatient treatment, medical
28 emergency, fleeing to an emergency shelter or domestic violence
29 shelter, or withholding of the child by the other parent.

30 (3) ALLEGATIONS OF DOMESTIC VIOLENCE OR CHILD ABUSE.

31 (a) Legislative Purpose. Understanding the effects of domestic
32 violence and child abuse on all members of a family is crucial to
33 discerning the best interest of a child in cases with evidence of
34 such abuse. The determination of a child's best interest in these
35 cases requires that existing best interest factors be evaluated in
36 light of the domestic violence or child abuse and requires
37 consideration of the additional factors in (b) of this subsection.
38 This subsection sets forth the analysis and findings a court shall
39 undertake if domestic violence or child abuse is present, based on

1 the preponderance of the evidence, in a case in which child custody
2 and parenting time between the parents is at issue.

3 (b) Domestic Violence Factors. Before considering the best
4 interest of the child factors as set forth in RCW 26.09.187, the
5 court shall first consider the following factors and make specific
6 written findings regarding each factor:

7 (i) The nature and context of the domestic violence by one parent
8 against the other or any family member and any abuse experienced by
9 the child from the parent who is abusive;

10 (ii) The historical and present parenting behaviors of each
11 parent;

12 (iii) Any information about current or future risk of harm to the
13 child or the parent or family member who is abused posed by the
14 abusive parent, including a child's expressions of distress about
15 contact with the parent who is abusive; and

16 (iv) The effects of domestic violence or child abuse on the
17 child's physical and psychological well-being.

18 (c) Effects Of Domestic Violence On Best Interest Factors.

19 (i) In addition to the factors in (b) of this subsection, the
20 court shall consider and make written findings regarding how domestic
21 violence affects all best interest of the child factors as set forth
22 in RCW 26.09.187.

23 (ii) The best interests of the child are ordinarily served when
24 the existing pattern of interaction between a parent and child is
25 altered only to the extent necessitated by the changed relationship
26 of the parents or as required to protect the child from physical,
27 mental, or emotional harm.

28 (iii) In addition to the best interest factors set forth in RCW
29 26.09.187, the court shall consider and make written findings
30 regarding how the domestic violence affects each of the following
31 best interest factors:

32 (A) The child's historical and present relationship with each
33 parent and the child's siblings;

34 (B) Any protective behaviors engaged in by a parent who is abused
35 to support the safety and psychological well-being of each child;

36 (C) Each child's adjustment to changes in daily life; and

37 (D) Whether and how each child's physical, social, and
38 psychological needs are or have been met by each parent.

39 (d) Provisions To Address Domestic Violence. After having
40 assessed the nature, context, and effects of the domestic violence,

1 the court shall address the identified effects of the domestic
2 violence or child abuse on the child, including the child's present
3 and future safety, and its effects on the parenting of the parent who
4 is abused. Provisions to promote the safety, recovery, and resilience
5 of the child and the parent who is abused could include, but are not
6 limited to:

7 (i) Ensuring that the parenting plan accommodates the child's
8 interests, activities, cultural traditions, and support systems;

9 (ii) Providing sufficient parenting time flexibility to adapt to
10 the child's age, developmental stage, and social needs;

11 (iii) Connecting the child and the parent who is abused to
12 available community-based resources;

13 (iv) Requiring the parent who is abusive to pay for any
14 associated costs of services needed to respond to the domestic abuse,
15 unless the costs pose an undue hardship. The court may not assess
16 costs against the parent who is abused;

17 (v) If available, requiring the abusive parent to attend a
18 program aimed at raising awareness of the harm domestic violence
19 caused to the child and the family and addressing safe and healthy
20 parenting; and

21 (vi) Any other provision that promotes the safety, resiliency,
22 and well-being of the child and the safety of the parent who is
23 abused, as detailed in (d)(i) through (v) of this subsection and
24 subsection (7) of this section.

25 (e) Matters Not To Be Considered As Evidence Against An Abused
26 Parent. In determining a child's best interest in a case under this
27 section:

28 (i) Efforts by a parent who is abused to protect the parent's own
29 or the parent's child's physical safety or psychological well-being
30 from the other parent may not be considered as evidence of
31 unwillingness to facilitate contact or a positive relationship
32 between the parent who is abusive and the child or to cooperate with
33 the abusive parent. A parent who is abused is exempt from any best
34 interest factor or presumption requiring such willingness; and

35 (ii) Evidence that the parent who is abused suffers from the
36 effects of the abuse by the other parent may not be the sole basis
37 for denying a parent who is abused custody or parenting time
38 including, but not limited to, a finding of emotional impairment.

39 (f) Express Findings Based On Evidence.

1 (i) When a parent has been alleged to have committed domestic
2 violence, sexual assault, physical abuse, a pattern of emotional
3 abuse of a child, or child sexual abuse, the court shall:

4 (A) Make express written findings that are based on evidence
5 regarding any allegation of domestic violence or child abuse,
6 including child sexual abuse and, in addition to any other relevant
7 admissible evidence, consider evidence of past sexual or physical
8 abuse committed by the accused parent, including:

9 (I) Any past or current protection or restraining orders against
10 the accused parent;

11 (II) Sexual assault protection orders against the accused parent;

12 (III) Arrests of the accused parent for domestic violence, sexual
13 violence, or child abuse; or

14 (IV) Convictions of the accused parent for domestic violence,
15 sexual violence, or child abuse;

16 (B) Consider the dynamics of the primary aggressor; and

17 (C) Consider the admission of expert testimony and evidence from
18 a court-appointed or outside professional relating to the alleged
19 abuse only if the expert or professional demonstrates expertise and
20 substantial direct experience working with victims of domestic
21 violence or child abuse, including child sexual abuse, that is not
22 solely forensic in nature.

23 (ii) In compliance with the federal keeping children safe from
24 family violence act, Title 34 U.S.C. Sec. 10446, as amended, any
25 neutral professional appointed by a court to express an opinion
26 relating to abuse, trauma, or the behavior of victims and
27 perpetrators of abuse and trauma must possess demonstrated expertise
28 and experience in working with victims of domestic violence or child
29 abuse, including child sexual abuse, that is not solely forensic in
30 nature.

31 (4) MANDATORY RESIDENTIAL TIME LIMITATIONS.

32 (a) Parental Conduct Requiring Limits On A Parent's Residential
33 Time. A parent's residential time with the parent's child shall be
34 limited if it is found that a parent has engaged in any of the
35 following conduct:

36 ~~((a))~~ (i) Willful abandonment that continues for an extended
37 period of time ~~((or substantial refusal to perform parenting~~
38 ~~functions;~~

39 ~~(b) physical, sexual,);~~

40 (ii) Physical abuse or a pattern of emotional abuse of a child;

1 ~~((or (c) a))~~ (iii) A history of acts of domestic violence as
2 defined in RCW 7.105.010 ~~((or))~~, an assault ~~((or sexual assault))~~
3 that causes grievous bodily harm or the fear of such harm ~~((or that~~
4 ~~results in a pregnancy.~~

5 ~~(2) (a) The~~), or any sexual assault; or

6 (iv) Sexual abuse of a child. Required limitations and
7 considerations for a parent who has been convicted of a sex offense
8 against a child or found to have sexually abused a child in the
9 current case or a prior case are addressed in section 8 of this act.

10 (b) Parent Residing With A Person Whose Conduct Requires
11 Residential Time Limitations. A parent's residential time with the
12 child shall be limited if it is found that the parent knowingly
13 resides with a person who has engaged in any of the following
14 conduct: ~~((i) Willful abandonment that continues for an extended~~
15 ~~period of time or substantial refusal to perform parenting functions;~~
16 ~~(ii) physical, sexual,)~~

17 (i) Physical abuse or a pattern of emotional abuse of a child;

18 ~~((iii) a))~~ (ii) A history of acts of domestic violence as
19 defined in RCW 7.105.010 ~~((or))~~, an assault ~~((or sexual assault))~~
20 that causes grievous bodily harm or the fear of such harm ~~((or that~~
21 ~~results in a pregnancy; or (iv) the parent has been convicted as an~~
22 ~~adult of a sex offense under:~~

23 ~~(A) RCW 9A.44.076 if, because of the difference in age between~~
24 ~~the offender and the victim, no rebuttable presumption exists under~~
25 ~~(d) of this subsection;~~

26 ~~(B) RCW 9A.44.079 if, because of the difference in age between~~
27 ~~the offender and the victim, no rebuttable presumption exists under~~
28 ~~(d) of this subsection;~~

29 ~~(C) RCW 9A.44.086 if, because of the difference in age between~~
30 ~~the offender and the victim, no rebuttable presumption exists under~~
31 ~~(d) of this subsection;~~

32 ~~(D) RCW 9A.44.089;~~

33 ~~(E) RCW 9A.44.093;~~

34 ~~(F) RCW 9A.44.096;~~

35 ~~(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age~~
36 ~~between the offender and the victim, no rebuttable presumption exists~~
37 ~~under (d) of this subsection;~~

38 ~~(H) Chapter 9.68A RCW;~~

39 ~~(I) Any predecessor or antecedent statute for the offenses listed~~
40 ~~in (a) (iv) (A) through (H) of this subsection;~~

1 ~~(J) Any statute from any other jurisdiction that describes an~~
2 ~~offense analogous to the offenses listed in (a) (iv) (A) through (H) of~~
3 ~~this subsection.~~

4 ~~This subsection (2) (a) shall not apply when (c) or (d) of this~~
5 ~~subsection applies.~~

6 ~~(b) The parent's residential time with the child shall be limited~~
7 ~~if it is found that the parent resides with a person who has engaged~~
8 ~~in any of the following conduct: (i) Physical, sexual, or a pattern~~
9 ~~of emotional abuse of a child; (ii) a history of acts of domestic~~
10 ~~violence as defined in RCW 7.105.010 or an assault or sexual assault~~
11 ~~that causes grievous bodily harm or the fear of such harm or that~~
12 ~~results in a pregnancy; or (iii) the person has been convicted as an~~
13 ~~adult or as a juvenile has been adjudicated of a sex offense under:~~

14 ~~(A) RCW 9A.44.076 if, because of the difference in age between~~
15 ~~the offender and the victim, no rebuttable presumption exists under~~
16 ~~(e) of this subsection;~~

17 ~~(B) RCW 9A.44.079 if, because of the difference in age between~~
18 ~~the offender and the victim, no rebuttable presumption exists under~~
19 ~~(e) of this subsection;~~

20 ~~(C) RCW 9A.44.086 if, because of the difference in age between~~
21 ~~the offender and the victim, no rebuttable presumption exists under~~
22 ~~(e) of this subsection;~~

23 ~~(D) RCW 9A.44.089;~~

24 ~~(E) RCW 9A.44.093;~~

25 ~~(F) RCW 9A.44.096;~~

26 ~~(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age~~
27 ~~between the offender and the victim, no rebuttable presumption exists~~
28 ~~under (e) of this subsection;~~

29 ~~(H) Chapter 9.68A RCW;~~

30 ~~(I) Any predecessor or antecedent statute for the offenses listed~~
31 ~~in (b) (iii) (A) through (H) of this subsection;~~

32 ~~(J) Any statute from any other jurisdiction that describes an~~
33 ~~offense analogous to the offenses listed in (b) (iii) (A) through (H)~~
34 ~~of this subsection.~~

35 ~~This subsection (2) (b) shall not apply when (c) or (e) of this~~
36 ~~subsection applies.~~

37 ~~(c) If a parent has been found to be a sexual predator under~~
38 ~~chapter 71.09 RCW or under an analogous statute of any other~~
39 ~~jurisdiction, the court shall restrain the parent from contact with a~~
40 ~~child that would otherwise be allowed under this chapter. If a parent~~

1 ~~resides with an adult or a juvenile who has been found to be a sexual~~
2 ~~predator under chapter 71.09 RCW or under an analogous statute of any~~
3 ~~other jurisdiction, the court shall restrain the parent from contact~~
4 ~~with the parent's child except contact that occurs outside that~~
5 ~~person's presence.~~

6 ~~(d) There is a rebuttable presumption that a parent who has been~~
7 ~~convicted as an adult of a sex offense listed in (d) (i) through (ix)~~
8 ~~of this subsection poses a present danger to a child. Unless the~~
9 ~~parent rebuts this presumption, the court shall restrain the parent~~
10 ~~from contact with a child that would otherwise be allowed under this~~
11 ~~chapter:~~

12 ~~(i) RCW 9A.64.020 (1) or (2), provided that the person convicted~~
13 ~~was at least five years older than the other person;~~

14 ~~(ii) RCW 9A.44.073;~~

15 ~~(iii) RCW 9A.44.076, provided that the person convicted was at~~
16 ~~least eight years older than the victim;~~

17 ~~(iv) RCW 9A.44.079, provided that the person convicted was at~~
18 ~~least eight years older than the victim;~~

19 ~~(v) RCW 9A.44.083;~~

20 ~~(vi) RCW 9A.44.086, provided that the person convicted was at~~
21 ~~least eight years older than the victim;~~

22 ~~(vii) RCW 9A.44.100;~~

23 ~~(viii) Any predecessor or antecedent statute for the offenses~~
24 ~~listed in (d) (i) through (vii) of this subsection;~~

25 ~~(ix) Any statute from any other jurisdiction that describes an~~
26 ~~offense analogous to the offenses listed in (d) (i) through (vii) of~~
27 ~~this subsection.~~

28 ~~(e) There is a rebuttable presumption that a parent who resides~~
29 ~~with a person who, as an adult, has been convicted, or as a juvenile~~
30 ~~has been adjudicated, of the sex offenses listed in (e) (i) through~~
31 ~~(ix) of this subsection places a child at risk of abuse or harm when~~
32 ~~that parent exercises residential time in the presence of the~~
33 ~~convicted or adjudicated person. Unless the parent rebuts the~~
34 ~~presumption, the court shall restrain the parent from contact with~~
35 ~~the parent's child except for contact that occurs outside of the~~
36 ~~convicted or adjudicated person's presence:~~

37 ~~(i) RCW 9A.64.020 (1) or (2), provided that the person convicted~~
38 ~~was at least five years older than the other person;~~

39 ~~(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~~
4 ~~least 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~~
7 ~~least 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 (e) (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 (e) (i) through (vii) of~~
13 ~~this subsection.~~
14 ~~(f) The presumption established in (d) of this subsection may be~~
15 ~~rebutted only after a written finding that the child was not~~
16 ~~conceived and subsequently born as a result of a sexual assault~~
17 ~~committed by the parent requesting residential time and that:~~
18 ~~(i) If the child was not the victim of the sex offense committed~~
19 ~~by the parent requesting residential time, (A) contact between the~~
20 ~~child and the offending parent is appropriate and poses minimal risk~~
21 ~~to the child, and (B) the offending parent has successfully engaged~~
22 ~~in treatment for sex offenders or is engaged in and making progress~~
23 ~~in such treatment, if any was ordered by a court, and the treatment~~
24 ~~provider believes such contact is appropriate and poses minimal risk~~
25 ~~to the child; or~~
26 ~~(ii) If the child was the victim of the sex offense committed by~~
27 ~~the parent requesting residential time, (A) contact between the child~~
28 ~~and the offending parent is appropriate and poses minimal risk to the~~
29 ~~child, (B) if the child is in or has been in therapy for victims of~~
30 ~~sexual abuse, the child's counselor believes such contact between the~~
31 ~~child and the offending parent is in the child's best interest, and~~
32 ~~(C) the offending parent has successfully engaged in treatment for~~
33 ~~sex offenders or is engaged in and making progress in such treatment,~~
34 ~~if any was ordered by a court, and the treatment provider believes~~
35 ~~such contact is appropriate and poses minimal risk to the child.~~
36 ~~(g) The presumption established in (e) of this subsection may be~~
37 ~~rebutted only after a written finding that the child was not~~
38 ~~conceived and subsequently born as a result of a sexual assault~~
39 ~~committed by the parent requesting residential time and that:~~

1 ~~(i) If the child was not the victim of the sex offense committed~~
2 ~~by the person who is residing with the parent requesting residential~~
3 ~~time, (A) contact between the child and the parent residing with the~~
4 ~~convicted or adjudicated person is appropriate and that parent is~~
5 ~~able to protect the child in the presence of the convicted or~~
6 ~~adjudicated person, and (B) the convicted or adjudicated person has~~
7 ~~successfully engaged in treatment for sex offenders or is engaged in~~
8 ~~and making progress in such treatment, if any was ordered by a court,~~
9 ~~and the treatment provider believes such contact is appropriate and~~
10 ~~poses minimal risk to the child; or~~

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

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

39 ~~(i) If the court finds that the parent has met the burden of~~
40 ~~rebutting the presumption under (g) of this subsection, the court may~~

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

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

27 (k) A court shall not order unsupervised contact between the
28 offending parent and a child of the offending parent who was sexually
29 abused by that parent. A court may order unsupervised contact between
30 the offending parent and a child who was not sexually abused by the
31 parent after the presumption under (d) of this subsection has been
32 rebutted and supervised residential time has occurred for at least
33 two years with no further arrests or convictions of sex offenses
34 involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter
35 9.68A RCW and (i) the sex offense of the offending parent was not
36 committed against a child of the offending parent, and (ii) the court
37 finds that unsupervised contact between the child and the offending
38 parent is appropriate and poses minimal risk to the child, after
39 consideration of the testimony of a state-certified therapist, mental
40 health counselor, or social worker with expertise in treating child

1 sexual abuse victims who has supervised at least one period of
2 residential time between the parent and the child, and after
3 consideration of evidence of the offending parent's compliance with
4 community supervision requirements, if any. If the offending parent
5 was not ordered by a court to participate in treatment for sex
6 offenders, then the parent shall obtain a psychosexual evaluation
7 conducted by a certified sex offender treatment provider or a
8 certified affiliate sex offender treatment provider indicating that
9 the offender has the lowest likelihood of risk to reoffend before the
10 court grants unsupervised contact between the parent and a child.

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

38 (m)(i) The limitations imposed by the court under (a) or (b) of
39 this subsection shall be reasonably calculated to protect the child
40 from the physical, sexual, or emotional abuse or harm that could

1 result if the child has contact with the parent requesting
2 residential time. The limitations shall also be reasonably calculated
3 to provide for the safety of the parent who may be at risk of
4 physical, sexual, or emotional abuse or harm that could result if the
5 parent has contact with the parent requesting residential time. The
6 limitations the court may impose include, but are not limited to:
7 Supervised contact between the child and the parent or completion of
8 relevant counseling or treatment. If the court expressly finds based
9 on the evidence that limitations on the residential time with the
10 child will not adequately protect the child from the harm or abuse
11 that could result if the child has contact with the parent requesting
12 residential time, the court shall restrain the parent requesting
13 residential time from all contact with the child.

14 (ii) The court shall not enter an order under (a) of this
15 subsection allowing a parent to have contact with a child if the
16 parent has been found by clear and convincing evidence in a civil
17 action or by a preponderance of the evidence in a dependency action
18 to have sexually abused the child, except upon recommendation by an
19 evaluator or therapist for the child that the child is ready for
20 contact with the parent and will not be harmed by the contact. The
21 court shall not enter an order allowing a parent to have contact with
22 the child in the offender's presence if the parent resides with a
23 person who has been found by clear and convincing evidence in a civil
24 action or by a preponderance of the evidence in a dependency action
25 to have sexually abused a child, unless the court finds that the
26 parent accepts that the person engaged in the harmful conduct and the
27 parent is willing to and capable of protecting the child from harm
28 from the person.

29 (iii) The court shall not enter an order under (a) of this
30 subsection allowing a parent to have contact with a child if the
31 parent has been found by clear and convincing evidence pursuant to
32 RCW 26.26A.465 to have committed sexual assault, as defined in RCW
33 26.26A.465, against the child's parent, and that the child was born
34 within three hundred twenty days of the sexual assault.

35 (iv) If the court limits residential time under (a) or (b) of
36 this subsection to require supervised contact between the child and
37 the parent, the court shall not approve of a supervisor for contact
38 between a child and a parent who has engaged in physical, sexual, or
39 a pattern of emotional abuse of the child unless the court finds
40 based upon the evidence that the supervisor accepts that the harmful

1 ~~conduct occurred and is willing to and capable of protecting the~~
2 ~~child from harm. The court shall revoke court approval of the~~
3 ~~supervisor upon finding, based on the evidence, that the supervisor~~
4 ~~has failed to protect the child or is no longer willing to or capable~~
5 ~~of protecting the child.~~

6 ~~(n) If the court expressly finds based on the evidence that~~
7 ~~contact between the parent and the child will not cause physical,~~
8 ~~sexual, or emotional abuse or harm to the child and that the~~
9 ~~probability that the parent's or other person's harmful or abusive~~
10 ~~conduct will recur is so remote that it would not be in the child's~~
11 ~~best interests to apply the limitations of (a), (b), and (m) (i) and~~
12 ~~(iv) of this subsection, or if the court expressly finds that the~~
13 ~~parent's conduct did not have an impact on the child, then the court~~
14 ~~need not apply the limitations of (a), (b), and (m) (i) and (iv) of~~
15 ~~this subsection. The weight given to the existence of a protection~~
16 ~~order issued under chapter 7.105 RCW or former chapter 26.50 RCW as~~
17 ~~to domestic violence is within the discretion of the court. This~~
18 ~~subsection shall not apply when (c), (d), (e), (f), (g), (h), (i),~~
19 ~~(j), (k), (l), and (m) (ii) of this subsection apply.~~

20 ~~(3) A parent's involvement or conduct may have an adverse effect~~
21 ~~on the child's best interests, and the court may preclude or limit~~
22 ~~any provisions of the parenting plan, if any of the following factors~~
23 ~~exist:~~

24 ~~(a) A parent's neglect or substantial nonperformance of parenting~~
25 ~~functions;~~

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

29 ~~(c) A long-term impairment resulting from drug, alcohol, or other~~
30 ~~substance abuse that interferes with the performance of parenting~~
31 ~~functions;~~

32 ~~(d) The absence or substantial impairment of emotional ties~~
33 ~~between the parent and the child;~~

34 ~~(e) The abusive use of conflict by the parent which creates the~~
35 ~~danger of serious damage to the child's psychological development.~~
36 ~~Abusive use of conflict includes, but is not limited to, abusive~~
37 ~~litigation as defined in RCW 26.51.020. If the court finds a parent~~
38 ~~has engaged in abusive litigation, the court may impose any~~
39 ~~restrictions or remedies set forth in chapter 26.51 RCW in addition~~
40 ~~to including a finding in the parenting plan. Litigation that is~~

~~1 aggressive or improper but that does not meet the definition of
2 abusive litigation shall not constitute a basis for a finding under
3 this section. A report made in good faith to law enforcement, a
4 medical professional, or child protective services of sexual,
5 physical, or mental abuse of a child shall not constitute a basis for
6 a finding of abusive use of conflict;~~

~~7 (f) A parent has withheld from the other parent access to the
8 child for a protracted period without good cause; or~~

~~9 (g) Such other factors or conduct as the court expressly finds
10 adverse to the best interests of the child.~~

~~11 (4) In cases involving allegations of limiting factors under
12 subsection (2) (a) (ii) and (iii) of this section, both parties shall
13 be screened to determine the appropriateness of a comprehensive
14 assessment regarding the impact of the limiting factor on the child
15 and the parties.~~

~~16 (5) In entering a permanent parenting plan, the court shall not
17 draw any presumptions from the provisions of the temporary parenting
18 plan.~~

~~19 (6) In determining whether any of the conduct described in this
20 section has occurred, the court shall apply the civil rules of
21 evidence, proof, and procedure.~~

~~22 (7) For the purposes of this section:~~

~~23 (a) "A parent's child" means that parent's natural child, adopted
24 child, or stepchild; and~~

~~25 (b) "Social worker" means a person with a master's or further
26 advanced degree from a social work educational program accredited and
27 approved as provided in RCW 18.320.010.), or any sexual assault; or~~

~~28 (iii) Sexual abuse of a child. Required limitations and
29 considerations on a parent who resides with someone convicted of a
30 sex offense against a child or found to have sexually abused a child
31 in the current case or a prior case are addressed in section 8 of
32 this act.~~

~~33 (5) PROTECTIVE PARENTS.~~

~~34 (a) The court may not, solely in order to improve a deficient
35 relationship with the other parent:~~

~~36 (i) Remove the child from a parent who is competent, protective,
37 and not physically or sexually abusive, and with whom the child is
38 bonded; or~~

1 (ii) Restrict contact between the child and a parent who is
2 competent, protective, and not physically or sexually abusive, and
3 with whom the child is bonded.

4 (b) The court may not remove the child from a competent,
5 protective, and not physically or sexually abusive parent or restrict
6 contact between the child and a competent, protective, and not
7 physically or sexually abusive parent solely on the basis of
8 protective actions taken by a competent, protective, and not
9 physically or sexually abusive parent.

10 (c) Allegations That A Child Resists, Refuses, Or Shows Fear
11 Toward Contact With A Parent; Permissible Interventions.

12 (i) Allegations of a child's resistance, refusal, or fear toward
13 contact with a parent may not be presumed to be caused by the other
14 parent.

15 (ii) (A) In a case involving allegations of domestic violence or
16 child abuse and where a child is allegedly resisting, refusing, or
17 exhibiting fear toward a parent who is allegedly abusive, the court
18 shall utilize the following analysis:

19 (I) The court shall first determine whether a preponderance of
20 the evidence supports a finding that the child is actually resisting,
21 refusing, or exhibiting fear towards a parent;

22 (II) Second, if the court finds that the child is resisting,
23 refusing, or exhibiting fear toward a parent, then the court shall
24 assess and make written findings regarding any domestic violence and
25 child abuse allegations, as set forth in subsection (3) of this
26 section, and determine whether the child's behavior is a response, in
27 whole or in part, to the domestic violence or child abuse;

28 (III) Next, the court shall address the domestic violence or
29 child abuse in the order as set forth in subsections (4) and (7) of
30 this section;

31 (IV) If the court finds domestic violence or child abuse and the
32 child has exhibited resistance, refusal, or fear, the court, when
33 determining whether to order a program for the child to address the
34 resistance, refusal, or fear behaviors, shall consider and make
35 written findings that the program includes:

36 (1) Components that meet the standards of practice for relevant
37 mental health professional organizations and use approaches and
38 methods generally accepted in valid research and are not associated
39 with causing harm to a child;

1 (2) Approaches designed to address the effects of the abuse and
2 trauma on the child;

3 (3) Processes that protect the safety of the parent who is abused
4 and the child; and

5 (4) Use of risk management for the parent who is abusive, in
6 consideration of current and potential risks of future harm.

7 (B) The court may not:

8 (I) Order a reunification treatment, unless there is generally
9 accepted and valid proof of the safety, effectiveness, and
10 therapeutic value of the reunification treatment and the treatment is
11 not associated with causing harm to children;

12 (II) Order a reunification treatment that is predicated on
13 cutting off a child from a competent, protective, and not physically
14 or sexually abusive parent with whom the child is bonded; or

15 (III) Order family reunification treatments, programs, or
16 services including, but not limited to, camps, workshops, therapeutic
17 vacations, or educational programs that, as a condition of enrollment
18 or participation, require or result in any of the following:

19 (1) A no-contact order;

20 (2) An overnight, out-of-state, or multiday stay;

21 (3) A transfer of physical or legal custody of the child;

22 (4) The use of private youth transporters or private
23 transportation agents engaged in the use of force, threat of force,
24 physical obstruction, acutely distressing circumstances, or
25 circumstances that place the safety of the child at risk; or

26 (5) The use of threats of physical force, undue coercion, verbal
27 abuse, isolation from the child's family, community, or other sources
28 of support, or other acutely distressing circumstances.

29 (iii) Any court order to remediate the resistance of a child to
30 have contact with a violent or abusive parent must include express
31 written findings based on the evidence and must primarily address the
32 behavior of that parent or the contributions of that parent to the
33 resistance of the child before ordering the other parent to take
34 steps to potentially improve the relationship of the child with the
35 parent with whom the child resists contact.

36 (6) LIMITATIONS A COURT MAY IMPOSE ON A PARENT'S RESIDENTIAL TIME
37 WHEN THERE IS A FINDING UNDER SUBSECTION (4) OF THIS SECTION. The
38 limitations that may be imposed by the court under subsection (4) of
39 this section shall be reasonably calculated to protect a child from
40 the physical, sexual, or emotional abuse or harm that could result if

1 a child has contact with the parent requesting residential time. The
2 limitations shall also be reasonably calculated to provide for the
3 safety of the parent who may be at risk of physical, sexual, or
4 emotional abuse or harm that could result if the parent has contact
5 with the other parent. The limitations the court may impose include,
6 but are not limited to:

7 (a) Supervised Visitation. A court may, in its discretion, order
8 supervised contact between a child and the parent.

9 (i) If the court requires supervised visitation, there is a
10 presumption that the supervision shall be provided by a professional
11 supervisor. This presumption is overcome if the court finds: (A)
12 There is a lay person who has demonstrated through sworn testimony
13 and evidence of past interactions with children that they are capable
14 and committed to protecting the child from physical or emotional
15 abuse or harm; and (B) the parent is unable to access professional
16 supervision due to (I) geographic isolation or other factors that
17 would make professionally supervised visitation inaccessible or (II)
18 financial indigency that has been demonstrated by a general rule 34
19 waiver or other evidence that the parent's current income and
20 necessary expenses do not allow for the cost of professional
21 supervision.

22 (ii) For all supervision, the court shall include clear written
23 guidelines and prohibitions to be followed by the supervised party.
24 No visits shall take place until the supervised parent and
25 supervisor, or designated representative of a professional
26 supervision program, have signed an acknowledgment confirming that
27 they have read the court orders and the guidelines and prohibitions
28 regarding visitation and agree to follow them. The court shall only
29 permit supervision by an individual or program that is committed to
30 protecting the child from any physical or emotional abuse or harm and
31 is willing and capable of intervening in behaviors inconsistent with
32 the court orders and guidelines.

33 (iii) A parent may seek an emergency ex parte order temporarily
34 suspending residential time until review by the court if: (A) The
35 supervised parent repeatedly violates the court order or guidelines;
36 (B) the supervised parent threatens the supervisor or child with
37 physical harm, commits an act of domestic violence, or materially
38 violates any treatment condition associated with any restrictions
39 under this section (a missed counseling appointment does not
40 constitute a violation); (C) the supervisor is unable or unwilling to

1 protect the child and/or the protected parent; or (D) the supervisor
2 is no longer willing to provide service to the supervised parent. The
3 court suspending residential time shall set a review hearing to take
4 place within 14 days of entering the ex parte order.

5 (b) Evaluation Or Treatment.

6 (i) Where appropriate, the court may condition residential time
7 on successful completion of a program of intervention for parents who
8 abuse their partners or children, including programs focused on the
9 impact of domestic violence on children and ways to promote safe
10 positive parenting, or other state-certified domestic violence
11 perpetrator treatment programs approved under RCW 43.20A.735.

12 (ii) The court determines whether a parent has successfully
13 completed a program described in (b)(i) of this subsection, with
14 information provided by the program director regarding the
15 participation of the abusive parent in the program and with
16 collateral input provided from the other parent. Any evaluation
17 report that does not include collateral input must provide details as
18 to why and the attempts made to obtain collateral input.

19 (iii) The court may refer, but may not order, a parent who is
20 abused to receive services relating to the impact of current or past
21 domestic violence on the parent who is abused and the child.

22 (iv) A parent's residential time may be conditioned on the
23 parent's completion of an evaluation or treatment ordered by the
24 court.

25 (c) No Contact. If, based on the evidence, the court expressly
26 finds that limitations on the residential time with a child will not
27 adequately protect a child from the harm or abuse that could result
28 if a child has contact with the parent requesting residential time,
29 the court shall restrain the parent requesting residential time from
30 all contact with a child.

31 (7) LIMITATIONS ON DECISION MAKING AND DISPUTE RESOLUTION.

32 (a) The court may not order mutual decision making or dispute
33 resolution other than court action if it is found that a parent has
34 engaged in any of the following conduct:

35 (i) Willful abandonment that continues for an extended period;

36 (ii) Physical, sexual, or a pattern of emotional abuse of a
37 child;

38 (iii) A history of acts of domestic violence as defined in RCW
39 7.105.010; or

1 (iv) An assault that causes grievous bodily harm or the fear of
2 such harm or any sexual assault.

3 (b) Where there has been a finding of domestic violence,
4 including against a primary aggressor parent, there is a rebuttable
5 presumption that sole decision making will be awarded to the other
6 parent and not to the parent against whom a domestic violence finding
7 has been made.

8 (c) The court shall not require face-to-face mediation,
9 arbitration, or interventions, including therapeutic interventions,
10 that require the parties to share the same physical or virtual space
11 if there has been a finding of domestic violence.

12 (8) DETERMINATION NOT TO IMPOSE LIMITATIONS ON RESIDENTIAL TIME.

13 (a) This subsection does not apply to findings of sexual abuse
14 which are governed by section 8 of this act.

15 (b) Determining Whether The Presumption Is Rebutted.

16 (i) In determining whether the parent who has engaged in domestic
17 violence has rebutted a statutory presumption, the court shall
18 consider all of the following factors:

19 (A) The nature and context of the domestic violence involving the
20 parents, parenting behaviors and attributes, and the abuse's effects
21 on the child's physical and psychological well-being;

22 (B) Any current or future risk posed by the parent who is abusive
23 to the physical or psychological well-being of the child or the other
24 parent;

25 (C) Evidence that the parent who engaged in domestic abuse:

26 (I) Can and will prioritize the child's physical and
27 psychological well-being;

28 (II) Is able to make shared decisions about the child in a manner
29 and place that does not pose a risk to the child or to the other
30 parent; and

31 (III) Has adhered and is likely to adhere to court orders; and

32 (D) Whether the parent who is abusive has genuinely acknowledged
33 past harm and, is committed to avoiding it in the future, and has
34 made the necessary changes. A parent's compliance with the
35 requirements for participation in a state-certified domestic violence
36 perpetrator treatment program approved under RCW 43.20A.735 does not,
37 by itself, constitute evidence that they have made the requisite
38 changes.

39 (ii) Regardless of whether the domestic violence presumption is
40 rebutted, the court shall consider the best interest of the child

1 factors as outlined in RCW 26.09.187 and subsection (3) of this
2 section before making decisions related to custody and parenting
3 time.

4 (c) Requirement For Specific Findings On The Record. If a court
5 grants custody or parenting time to a parent who engaged in domestic
6 abuse, as provided in this section, the court shall make specific
7 written findings on the record that detail:

8 (i) The factors in (b) of this subsection that rebut the domestic
9 violence presumption and therefore allow for the custody or parenting
10 time and that such factors are not based on a criteria in subsection
11 (5) of this section;

12 (ii) How the order will promote the child's physical safety and
13 psychological well-being; and

14 (iii) How the order will protect the other parent from harm posed
15 by the parent who is abusive.

16 (d) Once The Presumption Has Been Rebutted.

17 (i) After the court has considered the specific factors related
18 to domestic violence as outlined in subsection (3) of this section
19 addressing the best interest of the child, and determined that it is
20 in the child's best interest for the abusive parent to have parenting
21 time or visitation, a court shall order appropriate residential time
22 provisions to promote the safety and physical and psychological well-
23 being of the child and the parent who is abused, as set forth in
24 (d)(ii) through (ix) of this subsection.

25 (ii) Courts shall set out in the initial order not only the
26 protective provisions and duration, but also the necessary behavioral
27 changes that would support a modification.

28 (iii) Whether or not residential time is allowed, the court may,
29 at the request of a party or on its own, order that specific
30 information be kept confidential.

31 (iv) Courts shall determine and order specific protective
32 measures needed for contact, exchange, and parenting time or
33 visitation.

34 (v) The court should impose, to the extent possible, measures
35 that will provide the safest conditions that promote the safety and
36 physical and psychological well-being of the child and abused parent
37 for the parent who is abusive to have the residential time ordered by
38 the court.

39 (vi) Where appropriate, the court may order that exchanges of
40 children between the parents be supervised, without supervision of

1 the parenting time or visitation. There is a presumption that the
2 supervision of the exchange shall be provided by a professional
3 supervisor. This presumption is overcome if the court finds: (A)
4 There is a lay person who has demonstrated through sworn testimony
5 and evidence of past interactions with children that they are capable
6 and committed to protecting the child from physical or emotional
7 abuse or harm during the exchange; and (B) the parent is unable to
8 access professional exchange supervision due to (I) geographic
9 isolation or other factors that would make professionally supervised
10 exchange inaccessible or (II) financial indigency that has been
11 demonstrated by a general rule 34 waiver or other evidence that the
12 parent's current income and necessary expenses do not allow for the
13 cost of professional exchange supervision.

14 (vii) Where necessary to protect the safety and physical and
15 psychological well-being of the child and the parent who is abused,
16 the court may order supervised parenting time or visitation in
17 compliance with subsection (6)(a) of this section.

18 (viii) The court orders for supervised visitation or exchange
19 should include specific protective measures for arrival and departure
20 at the visitation or exchange location.

21 (ix) Whether or not the court has imposed a required level of
22 supervision for residential time or exchange, the court shall order
23 conditions necessary to promote and enhance the safety and
24 psychological well-being of the child and the parent who is abused.
25 The court should ensure such conditions are met and continue to be
26 met for the duration of the court order. Prohibitions and
27 requirements that may be imposed upon the parent who is abusive as a
28 condition of residential time include, but are not limited to:

29 (A) Prohibiting possession or consumption of alcohol or
30 controlled substances during the residential time and for 24 hours
31 preceding the parenting time or visitation;

32 (B) Requiring surrender of all firearms and ammunition for a
33 period of time determined by the court for the safety of the child
34 and the parent who is abused;

35 (C) Assessing any fees associated with the use of the court-
36 ordered supervised visitation against the parent who is abusive,
37 unless the fees pose a barrier to accessing the services or is an
38 undue hardship. The court shall not assess fees related to
39 supervision against the parent who is abused;

40 (D) Prohibiting overnight parenting time or visitation;

1 (E) Limiting communication with the child or the parent who is
2 abused by specifying the frequency and methods of communication and
3 the permissible reasons for such communication;

4 (F) Requiring location settings or devices be used during the
5 residential time with the parent who is abusive; or

6 (G) Any other condition that is deemed necessary to provide for
7 the physical and psychological safety and well-being of the child,
8 the parent who is abused, or other family or household member.

9 (9) ALLOWING ACCESS. If the court grants any type of residential
10 time to a parent who perpetrated domestic violence or child abuse,
11 whether after a hearing or by agreement between the parents, the
12 court shall make detailed written findings regarding how the custody
13 or parenting time ordered by the court adequately protects the child
14 and the parent who is abused from the risk of future physical or
15 psychological harm and addresses the effects of the domestic violence
16 or child abuse.

17 **Sec. 4.** RCW 26.09.187 and 2007 c 496 s 603 are each amended to
18 read as follows:

19 (1) DISPUTE RESOLUTION PROCESS. The court shall not order a
20 dispute resolution process, except court action, when it finds that
21 any limiting factor under RCW 26.09.191 or section 8 of this act
22 applies, or when it finds that either parent is unable to afford the
23 cost of the proposed dispute resolution process. If a dispute
24 resolution process is not precluded or limited, then in designating
25 such a process the court shall consider all relevant factors,
26 including:

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

29 (b) The parents' wishes or agreements and, if the parents have
30 entered into agreements, whether the agreements were made knowingly
31 and voluntarily; and

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

35 (2) ALLOCATION OF DECISION-MAKING AUTHORITY.

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

1 (i) The agreement is consistent with any limitations on a
2 parent's decision-making authority mandated by RCW 26.09.191 and
3 section 8 of this act; and

4 (ii) The agreement is knowing and voluntary.

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

7 (i) A limitation on the other parent's decision-making authority
8 is mandated by RCW 26.09.191 or section 8 of this act;

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

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

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

16 (i) The existence of a limitation under RCW 26.09.191 or section
17 8 of this act;

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

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

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

25 (3) RESIDENTIAL PROVISIONS.

26 (a) The court shall make residential provisions for each child
27 which encourage each parent to maintain a loving, stable, and
28 nurturing relationship with the child, consistent with the child's
29 developmental level and the family's social and economic
30 circumstances. The child's residential schedule shall be consistent
31 with RCW 26.09.191 and section 8 of this act. Where the limitations
32 of RCW 26.09.191 and section 8 of this act are not dispositive of the
33 child's residential schedule, the court shall consider the following
34 factors:

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

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

39 (iii) Each parent's past and potential for future performance of
40 parenting functions as defined in RCW 26.09.004(~~((+3))~~) (2), including

1 whether a parent has taken greater responsibility for performing
2 parenting functions relating to the daily needs of the child;

3 (iv) Whether a parent's involvement or conduct has had an adverse
4 effect on the child's best interests because of:

5 (A) A parent's substantial nonperformance of parenting functions;

6 (B) A serious mental illness as defined by the Americans with
7 disabilities act, or physical impairment that interferes with the
8 parent's performance of parenting functions; however, a parent's
9 disability shall not serve as the sole basis for limiting residential
10 time;

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

14 (D) The absence or substantial impairment of emotional ties
15 between the parent and the child;

16 (E) Withholding of access to the child by a parent for a
17 protracted period without good cause. Withholding does not include
18 protective actions taken by a parent in good faith for the legitimate
19 and lawful purpose of protecting the parent or the parent's child
20 from the risk of harm posed by the other parent; or

21 (F) Such other factors or conduct as the court expressly finds
22 adverse to the best interests of the child.

23 If the court finds that conduct under this subsection (3)(a)(iv)
24 has had an adverse impact on the child's best interests, the court
25 may craft parenting plan provisions to support the parent and the
26 child to address the conduct;

27 (v) The emotional needs and developmental level of the child;

28 ~~((v))~~ (vi) The child's relationship with siblings and with
29 other significant adults, as well as the child's involvement with his
30 or her physical surroundings, school, or other significant
31 activities;

32 ~~((vi))~~ (vii) The wishes of the parents and the wishes of a
33 child who is sufficiently mature to express reasoned and independent
34 preferences as to his or her residential schedule; and

35 ~~((vii))~~ (viii) Each parent's employment schedule, and shall
36 make accommodations consistent with those schedules.

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

38 (b) Where the limitations of RCW 26.09.191 or section 8 of this
39 act are not dispositive, the court may order that a child frequently
40 alternate his or her residence between the households of the parents

1 for brief and substantially equal intervals of time if such provision
2 is in the best interests of the child. In determining whether such an
3 arrangement is in the best interests of the child, the court may
4 consider the parties geographic proximity to the extent necessary to
5 ensure the ability to share performance of the parenting functions.

6 (c) For any child, residential provisions may contain any
7 reasonable terms or conditions that facilitate the orderly and
8 meaningful exercise of residential time by a parent, including but
9 not limited to requirements of reasonable notice when residential
10 time will not occur.

11 **SPECIALIZED VISITATION CENTERS AND PROVIDERS**

12 NEW SECTION. **Sec. 5.** (1) Courts should refer cases only to
13 supervised visitation or safe exchange centers or providers that
14 adhere to the prevailing guiding principles for supervised visitation
15 and safe exchange (guiding principles) developed by the United States
16 department of justice, office on violence against women.

17 (2) In addition, to help ensure that court-ordered visitation
18 protects the safety of all family members, courts should refer cases
19 only to supervised visitation or safe exchange centers or providers
20 that meet the requirements of this section for parents who are abused
21 and their children.

22 (3) The court making referrals to a visitation center or provider
23 must:

24 (a) Become familiar with the center's or provider's purpose,
25 specific services offered, and how the center or provider addresses
26 the safety of parents and children, and the other requirements set
27 forth in this subsection;

28 (b) Implement a referral process developed in conjunction with
29 the center or provider to provide relevant information regarding the
30 impressions, allegations, or evidence of risk that are relevant to
31 the safety of a child or protected parent in the supervised
32 visitation or exchange program. The referral information from the
33 court to the center or provider should include detailed information
34 related to the supervision;

35 (c) Be aware of the center's or provider's policies on rejecting,
36 suspending, or terminating visits or exchanges;

37 (d) Ensure that courts receive reports, which include only the
38 following information from the center or provider, in order to

1 enforce court orders or modify orders in the event of abusive
2 behavior during the visitation or exchange:

3 (i) Information about any critical incidents;

4 (ii) Any abusive behavior observed during the visitation or
5 exchange; and

6 (iii) Information about a parent's noncompliance with the court-
7 ordered provisions related to the supervised visitation or exchange;

8 (e) Include in any order that requires supervised visitation or
9 exchange the factors the court will consider if a parent requests a
10 modification of the conditions regarding the supervised visitation or
11 exchange, as outlined in this section.

12 (4) A center or provider must:

13 (a) Have policies and procedures that are centered around the
14 safety of the child and the parent who is abused and adhere to the
15 prevailing guiding principles;

16 (b) Provide a secure setting by establishing security protocols
17 and specialized procedures for supervised visitation or exchange,
18 including methods to assist in eliminating the opportunities for
19 parents to come in contact with one another including physical,
20 auditory, and visual contact while on-site;

21 (c) Ensure meaningful access to the center's or provider's
22 services, including services and paperwork in the primary language of
23 the clients, using trained qualified interpreters, and offering
24 culturally responsive services that meet the needs of diverse
25 families;

26 (d) Provide staff specifically trained in domestic violence
27 dynamics in postseparation situations;

28 (e) Implement confidentiality and communication policies to
29 protect the safety and privacy of children and adults who are abused;

30 (f) Collaborate with the court to establish clear reporting
31 guidelines to promote the safety of the child and the parent who is
32 abused and provide clear communication with the court, including
33 identification of abusive behaviors and critical incidents that occur
34 during visitation or exchange;

35 (g) Provide initial and ongoing, comprehensive training to staff
36 regarding recognizing and understanding the dynamics of domestic
37 violence and any risk posed to the child and the parent who is
38 abused, including how abuse may manifest in the supervised visitation
39 or exchange setting;

1 (h) Design services that account for the nature, context, and
2 effects of abuse in each family;

3 (i) Implement documentation practices that avoid endangering
4 children and adult victims while documenting critical incidents and
5 identifying abusive behavior during visitation or exchange; and

6 (j) Collaborate with community organizations to support families
7 and provide referrals responsive to family needs.

8 **USE OF EXPERTS TO ASSIST WITH DECISION MAKING IN CASES INVOLVING**
9 **DOMESTIC VIOLENCE AND CHILD ABUSE**

10 NEW SECTION. **Sec. 6.** (1) DEFINITION AND PURPOSE OF CUSTODY
11 EVALUATION. For purposes of determining the best interest of the
12 child as set forth in RCW 26.09.187, a court may use an expert to
13 collect, analyze, and synthesize information regarding the family and
14 to make recommendations to the court. This process is termed a
15 "custody evaluation."

16 (a) A custody evaluation comprises the following processes:

17 (i) Gathering, organizing, and summarizing relevant information
18 regarding the family to assist with judicial determination of the
19 best interest of the child, including the nature and context of
20 domestic abuse, when present, and its effects on the child and
21 parenting;

22 (ii) Analyzing the information to assess its sufficiency for
23 determining the best interest of the child, including the
24 implications of the domestic violence for children and parenting; and

25 (iii) Synthesis of the information collected to make a
26 recommendation to the court regarding the custody and parenting time
27 arrangement that would serve the best interest of the child.

28 (b) In cases involving domestic abuse, the expert exercises
29 professional judgment to synthesize the information collected
30 regarding the abuse and its effects, to assess the best interest of
31 the child in light of that information, and to make appropriate
32 recommendations to the court, in recognition that the child's
33 physical and psychological welfare is paramount. The custody
34 evaluation focuses on parenting behaviors and attributes, the risks
35 of harm to the children and the parent who is abused, and the child's
36 needs. The court may draw upon the expert's assessment of these
37 factors to reach its own conclusions and render a decision.

1 (2) ROLE OF MENTAL HEALTH PROFESSIONAL AS EXPERT CONDUCTING A
2 FULL CUSTODY EVALUATION.

3 (a) An expert conducting a full custody evaluation is a
4 qualified, licensed mental health professional with the requisite
5 expertise, designated by the court to collect, analyze, and
6 synthesize information to make recommendations to the court regarding
7 the custody or parenting of a child in a written report.

8 (b) The process must be conducted in accordance with state law
9 and the court's order appointing the expert. When ordered, the expert
10 will make written recommendations to the court. The expert will
11 prepare the report detailing the information collected and, when
12 sought by the court, any recommendations regarding child custody,
13 parenting time, and related matters specified by the court. Although
14 an expert's role is to provide the court with recommendations and the
15 underlying information that supports the recommendations, the court
16 makes the final decision as to the ultimate legal issue, including
17 both the final determination of the credibility of either party's
18 allegations and the discretionary decision as to how to order custody
19 and parenting time.

20 (3) QUALIFICATIONS OF MENTAL HEALTH PROFESSIONALS AS EXPERTS FOR
21 CUSTODY EVALUATION IN CASES INVOLVING DOMESTIC ABUSE. To qualify as a
22 nonjudicial expert for a full custody evaluation in a case with
23 domestic violence allegations, an individual must, in addition to any
24 other qualifications required by law:

25 (a) Be a licensed mental health professional and possess, through
26 training and experience, extensive knowledge and understanding of:

27 (i) All forms of domestic violence and child abuse (in cases in
28 which child abuse is an issue), trauma, and the behaviors of parents
29 who are abusive and the effects on parents who are abused;

30 (ii) The effects on children of exposure to abuse of one parent
31 by the other and the effects on a child of physical or sexual abuse,
32 and potential for later development of posttraumatic symptoms or
33 effects;

34 (iii) How domestic violence may affect the parent who is abused
35 and both parents' parenting;

36 (iv) The factors related to risk of lethality for both the parent
37 who is abused and the child;

38 (v) Applicable laws and the legal rights of those who are part of
39 the process;

40 (vi) Forensic interview methods; and

1 (vii) How to recognize the expert's own gender, cultural, and
2 other biases related to domestic violence and child custody and how
3 to take active steps to reduce the influence of personal biases on
4 all parts of the full custody evaluation process;

5 (b) Be competent in gathering and synthesizing information
6 relevant to risk of future abuse to children and parents;

7 (c) Be competent in screening for domestic violence and child
8 abuse, including proper use of screening and assessment methods
9 recognized as best practices in the domestic violence field and child
10 abuse field. Any screening and assessment tools used must be
11 identified to the court;

12 (d) Be competent at identifying and evaluating complex forms of
13 domestic abuse, including coercive controlling abuse;

14 (e) Be able to recognize the effects of trauma, in order to
15 properly contextualize parties' and child's demeanor and behaviors
16 and any psychological test results;

17 (f) Be competent in the safe communication of the report to the
18 parties, including anticipating strong reactions and preparing all
19 involved to plan for their safety and the safety of the child;

20 (g) Obtain consultation from a professional with the requisite
21 expertise if the expert lacks the expertise to evaluate particular
22 relevant areas; and

23 (h) Disclose any:

24 (i) Past or concurrent referrals by attorneys, judges, attorneys
25 for children, or other professionals involved in the case for other
26 evaluations, or other professional appointments;

27 (ii) Professional and personal interactions outside of court,
28 business dealings, and interactions; and

29 (iii) Donations to campaigns. If such disclosures result in a
30 litigant or attorney objecting to the candidate working on the case,
31 the judge should not select that evaluator for the case.

32 (4) ORDER APPOINTING MENTAL HEALTH PROFESSIONAL AS EXPERT TO
33 ASSIST WITH CUSTODY/PARENTING TIME DECISION MAKING. When appointing
34 an expert for a full custody evaluation, the court shall enter an
35 order specifying the following:

36 (a) Qualifications of the expert, ensuring expertise on domestic
37 abuse, child abuse (where it is an issue in the case), cultural
38 considerations, and abuse-related trauma, in compliance with the
39 standards set forth in subsection (3) of this section, and that the
40 expert certify such compliance prior to commencing the process;

1 (b) The requirement that the expert implement measures to ensure
2 the safety of the process;

3 (c) Scope of the information to be collected and issues to be
4 investigated, including domestic abuse, the safety and well-being of
5 children and parents, parent-child relationships, and demonstrated
6 parenting ability;

7 (d) Scope of the issues to be analyzed and synthesized, including
8 domestic abuse, the past and future safety and well-being of children
9 and parents, parent-child relationships, and demonstrated parenting
10 ability;

11 (e) The requirement that the parties cooperate with the expert's
12 reasonable requests to meet the requirements of the court order;

13 (f) Disclosures by the expert as specified in subsection (5) of
14 this section;

15 (g) Screening requirements, including domestic violence and child
16 abuse screening;

17 (h) Expectations for the analysis, synthesis, and recommendations
18 process, the expected content of the report, issues within and beyond
19 the scope of the evaluation, and the use of psychological testing;
20 and

21 (i) Expectations for the communication and release of the report,
22 including that all parties, and self-represented litigants, must be
23 provided a copy, in accordance with the requirements set forth in
24 subsection (8) of this section.

25 (5) DISCLOSURES, SCREENING, AND SAFETY OF PROCESS BY MENTAL
26 HEALTH PROFESSIONALS AS EXPERTS. The expert must screen for the
27 presence of domestic violence and child abuse, initially and
28 throughout the process, regardless of whether the court has indicated
29 that it is an issue in the case or included it in the designated
30 scope of the evaluation.

31 (a) To minimize risks to the disclosing parent and allow safety
32 precautions to be taken, the expert must inform parents and
33 collateral sources about the way the report and any domestic violence
34 and child abuse information will be shared, and with whom (including,
35 where applicable, the court or a parent), and limits on
36 confidentiality, including mandatory reporting requirements, where
37 applicable.

38 (b) The expert must take steps to ensure that the process does
39 not inadvertently increase the risk of threats, harassment,
40 intimidation, or violence to a parent, child, or other person.

1 (6) PROCESS AND RECOMMENDATIONS FOR FULL CUSTODY EVALUATION
2 CONDUCTED BY MENTAL HEALTH PROFESSIONAL.

3 (a) An expert conducting a full custody evaluation must
4 investigate and assess the nature, context, and effects of any
5 domestic abuse, including coercive control and the risk of domestic
6 violence and lethality, for the children, for the parent who is
7 abused, and the implications of past abuse for the parenting of each
8 parent.

9 (b) An expert shall assess how previous domestic violence affects
10 all applicable best interest of the child factors, as specified in
11 RCW 26.09.187.

12 (c) In making any recommendations to the court concerning
13 physical custody and parenting time and decision making, an expert
14 must account for the nature, context, and effects of the domestic
15 violence and the risk posed, by specifying:

16 (i) The explicit links between any abuse history in the report
17 and the expert's parenting recommendations concerning decision making
18 and custody and parenting time;

19 (ii) Measures that address the child's safety and psychological
20 well-being;

21 (iii) Measures that promote the safety and autonomy of the parent
22 who is abused, while minimizing future risk from the parent who is
23 abusive;

24 (iv) Interventions that address the present and potential future
25 risk of abuse posed by the parent who is abusive (including, among
26 other things, requiring supervision of custody and parenting time,
27 limiting decision making by the parent who is abusive, and mandating
28 completion of an abusive partner intervention program for the parent
29 who is abusive prior to contact with children, as appropriate);

30 (v) If available, requiring the parent who is abusive to attend a
31 program aimed at raising awareness of the harm domestic abuse caused
32 to the child and the family and addressing safe and healthy
33 parenting; and

34 (vi) The means of assessing whether a parent who is abusive has
35 genuinely acknowledged past harm and committed to avoiding it in the
36 future, and made the necessary changes, before a court considers any
37 modification in the parenting arrangement.

38 (d) If domestic violence is identified as an issue in a case, an
39 expert must:

1 (i) Ensure that any recommendations regarding a parenting
2 arrangement or other interventions account for the specific nature,
3 context, and effects of the domestic violence as set forth in RCW
4 26.09.191, regardless of any conclusions drawn about other hypotheses
5 explored by the expert; and

6 (ii) Evaluate all hypotheses developed or assessed during the
7 evaluation process in light of the domestic abuse, including its
8 nature, context, and effects, as set forth in RCW 26.09.187.

9 (7) ADMISSIBILITY AND JUDICIAL USE OF REPORT FROM A MENTAL HEALTH
10 PROFESSIONAL.

11 (a) A court should only admit findings, evidence, labels, or any
12 diagnoses offered by an expert if the expert meets the qualifications
13 under subsection (3) of this section, and the findings, labels, or
14 diagnoses and evidence supporting them meet evidentiary admissibility
15 standards for scientific evidence.

16 (b) The court should consider an expert's findings and
17 recommendations when sought, but shall make its own findings and
18 shall not delegate decision making to the expert, instead retaining
19 full authority and discretion over the final decision.

20 (c) The court should consider whether to adopt the
21 recommendations made in an expert's report in light of whether the
22 report and the process used in its development satisfy the
23 requirements set forth in subsection (6) of this section.

24 (8) RELEASE AND DISTRIBUTION OF REPORT. The court, with input
25 from the expert, shall set forth requirements for the release and
26 distribution of the expert's report.

27 (a) The expert, or counsel, should consult with the court
28 regarding how to address potential risks associated with release of
29 the report, including such steps as advance notice of release of the
30 report or the creation of safety plans.

31 (b) The court shall set forth the conditions under which the
32 expert, attorneys, and the parties may review, take notes on,
33 duplicate, or disseminate reports, including an order that the
34 reports shall not be disseminated beyond the expert, parties, and
35 attorneys without express permission of the court.

36 (9) MANDATORY TRAINING FOR MENTAL HEALTH PROFESSIONALS AS
37 EXPERTS. To be appointed by the court for custody evaluations,
38 experts must have received training on all relevant topics under
39 section 2 of this act, including forensic interviewing, coercive
40 controlling abuse, dynamics of domestic violence in custody

1 litigation, stalking, and the risks and impact of domestic violence
2 for children, including postseparation abuse, and of child abuse.

3 (10) USE OF NONMENTAL HEALTH PROFESSIONAL AS EXPERT FOR
4 INFORMATION GATHERING ONLY.

5 (a) If a court chooses to use a nonmental health professional as
6 an expert to conduct the first part of the process described in
7 subsection (1)(a)(i) of this section, or to conduct both that part
8 and the second part of the process described in subsection (1)(a)(ii)
9 of this section, the court shall ensure the nonmental health
10 professional conducts the evaluation in accordance with the
11 requirements set forth in subsection (6)(a) and (b) of this section
12 and meets the qualifications set forth in subsection (3) of this
13 section.

14 (b) Under this approach, the court may draw upon the nonmental
15 health professional's work to conduct its own synthesis of the
16 information and make its own findings, reach its own conclusions, and
17 render a decision regarding the best interest of the child in
18 accordance with the analysis set forth in RCW 26.09.187.

19 (c) To qualify as an expert to conduct only the information
20 gathering process (or the information gathering and analysis process)
21 in a case with domestic violence allegations, an individual must meet
22 all of the expert qualifications set forth in subsection (3) of this
23 section and section 2 of this act, except that the expert role is not
24 limited to mental health professionals. However, a nonmental health
25 professional should work collaboratively with a multidisciplinary
26 team, including mental health professionals and others with relevant
27 expertise, to ensure the requirements set forth in subsection (6) of
28 this section are met. Members of the multidisciplinary team must also
29 be trained in accordance with section 2 of this act.

30 **ALTERNATIVE DISPUTE RESOLUTION PROGRAMS AND REQUIREMENTS; DUTIES OF**
31 **PROFESSIONALS FACILITATING ANY ALTERNATIVE DISPUTE RESOLUTION PROCESS**
32 **(INCLUDING MEDIATORS); DUTIES OF JUDGE**

33 NEW SECTION. **Sec. 7.** (1) All alternative dispute resolution
34 programs, professionals, and courts must recognize that the
35 alternative dispute resolution process is not an appropriate process
36 for all cases and that agreement is not necessarily the appropriate
37 outcome of all alternative dispute resolution processes.

1 (2) Courts may not refer parties to an alternative dispute
2 resolution program that does not meet the requirements of this
3 section.

4 (3) All alternative dispute resolution professionals, in addition
5 to any appropriate training and qualifications related to the type of
6 alternative dispute resolution to be used, must receive a minimum of
7 10 hours of training on domestic violence annually, dynamics of
8 domestic abuse, effects of domestic violence on children and
9 parenting, signs of domestic abuse, future risk of domestic violence
10 and child abuse, and implications of domestic violence for the
11 alternative dispute resolution process, before conducting an
12 alternative dispute resolution process.

13 (4) All alternative dispute resolution programs and professionals
14 must develop and implement:

15 (a) A screening and ongoing assessment of the domestic violence
16 process for all cases that meet the requirements of this section;

17 (b) A policy requiring that alternative dispute resolution
18 services be provided only after each party consents to participate
19 after being informed of the features of the process and what is
20 required for the process to be effective and result in a safe,
21 workable outcome (e.g., good faith and fair dealing by both parties,
22 recognition of each party's autonomy, judgment, complete information,
23 and safety). Consent may be withdrawn at any time and the process
24 ended; and

25 (c) A set of safety procedures intended to minimize the
26 likelihood of harm, harassment, or intimidation throughout the
27 alternative dispute resolution process, including during the
28 orientation session, during the negotiation process, on the way in or
29 out of the building in which the orientation or process occurs, or
30 safely terminating the process if a litigant withdraws consent.

31 (5) A professional facilitating any alternative dispute
32 resolution process may not engage in that process when the
33 professional determines or when either party asserts that domestic
34 abuse, including coercive controlling abuse, has occurred unless: (a)
35 The victim party consents after being fully informed as required in
36 subsection (4)(b) of this section; and (b) the process is conducted
37 in a specialized manner that fully accounts for the abuse. If such
38 adjustments are insufficient to ensure safety from harm, harassment,
39 or intimidation, the alternative dispute resolution process may not
40 be used in that case.

1 (6) A professional facilitating any alternative dispute
2 resolution process shall, in every case, with each party separately,
3 conduct (a) an initial screening to determine whether domestic abuse,
4 including coercive controlling abuse, has occurred and (b) if
5 domestic violence is identified, an assessment of the nature and
6 context of the abuse and its effect on the alternative dispute
7 resolution process, including as a threshold matter, a decision by
8 the party and the professional as to whether to proceed with the
9 process. During this initial screening, the professional shall
10 provide an orientation that describes the process to be used, the
11 prerequisites for successfully conducting the process, the
12 implications of domestic violence for the process, and the advantages
13 and disadvantages of the process. Following the initial screening,
14 the professional shall continue to screen and assess on an ongoing
15 basis for domestic violence that may not have been disclosed during
16 the initial screening.

17 (7) Before finalizing any agreement in a case involving domestic
18 abuse, the alternative dispute resolution professional must
19 specifically notify the parties that resolving the case by agreement
20 ends the case, that there will be no trial or other opportunity to
21 present their case to the judge, and that future changes may be made
22 only if circumstances substantially change and the judge approves the
23 change, unless both parties agree to the change.

24 (8) If the agreement on its face does not appear to serve the
25 best interest of the children or appears manifestly unsafe, the judge
26 may not incorporate the agreement into the final judgment unless,
27 after further inquiry regarding any such provisions, the parties
28 demonstrate to the court's satisfaction that the agreement is safe
29 and serves the child's best interest.

30 **CHILD SEXUAL ABUSE**

31 NEW SECTION. **Sec. 8.** This section governs limitations on
32 residential provisions, decision-making authority, and dispute
33 resolution when a parent, or a person the parent resides with, has
34 been convicted of a sex offense against a child or found to have
35 sexually abused a child.

36 (1) SEXUALLY VIOLENT PREDATORS. If a parent has been found to be
37 a sexually violent predator under chapter 71.09 RCW or under an
38 analogous statute of any other jurisdiction, the court shall restrain

1 the parent from contact with a child that would otherwise be allowed
2 under this chapter. If a parent resides with an adult or a juvenile
3 who has been found to be a sexually violent predator under chapter
4 71.09 RCW or under an analogous statute of any other jurisdiction,
5 the court shall restrain the parent from contact with the parent's
6 child except contact that occurs outside the predator's presence.

7 (2) CHILD SEXUAL ABUSE BY PARENT.

8 (a) There is a rebuttable presumption that a parent who has been
9 convicted as an adult of a sex offense against any child in this or
10 another jurisdiction poses a present danger to a child. Unless the
11 parent rebuts this presumption, the court shall restrain the parent
12 from all contact with the parent's child that would otherwise be
13 allowed under this chapter.

14 (b) The court shall not enter an order allowing a parent to have
15 contact with the parent's child if the parent has been found by a
16 preponderance of the evidence in a dependency or family law action,
17 including in the current case, to have sexually abused that child,
18 except upon recommendation by a therapist for the child that the
19 child is ready for contact with the parent and will not be harmed by
20 the contact.

21 (3) PARENT RESIDING WITH A PERSON FOUND TO HAVE SEXUALLY ABUSED A
22 CHILD.

23 (a) There is a rebuttable presumption that a parent who knowingly
24 resides with a person who, as an adult, has been convicted of a sex
25 offense against a child, or as a juvenile has been adjudicated of a
26 sex offense against a child at least eight years younger, in this or
27 another jurisdiction, places a child at risk of abuse or harm when
28 that parent exercises residential time in the presence of the
29 convicted or adjudicated person. Unless the parent rebuts the
30 presumption, the court shall restrain the parent from contact with
31 the parent's child except for contact that occurs outside of the
32 convicted or adjudicated person's presence.

33 (b) The court shall not enter an order allowing a parent to have
34 contact with the child in the offender's presence if the parent
35 resides with a person who has been found by a preponderance of the
36 evidence in a dependency or family law action, including in the
37 current case, to have sexually abused a child, unless the court finds
38 that the parent accepts that the person engaged in the harmful
39 conduct and the parent is willing to and capable of protecting the
40 child from harm from the person.

1 (4) REBUTTING THE PRESUMPTION OF NO CONTACT.

2 (a) Offending Parent. The presumption established in subsection
3 (2)(a) of this section may be rebutted only after a written finding
4 that:

5 (i) If the child was not the victim of the sex offense committed
6 by the parent requesting residential time, (A) contact between the
7 child and the offending parent is appropriate and poses minimal risk
8 to the child, and (B) the offending parent has provided documentation
9 that they have successfully completed treatment for sex offenders or
10 are engaged in and making progress in such treatment, if any was
11 ordered by a court; or

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

21 (b) Parent Resides With Offending Person. The presumption
22 established in subsection (3)(a) of this section may be rebutted only
23 after a written finding that:

24 (i) If the child was not the victim of the sex offense committed
25 by the person who is residing with the parent requesting residential
26 time, (A) contact between the child and the parent residing with the
27 convicted or adjudicated person is appropriate and that parent is
28 able to protect the child in the presence of the convicted or
29 adjudicated person, and (B) the convicted or adjudicated person has
30 provided documentation that they have successfully completed
31 treatment for sex offenders or are engaged in and making progress in
32 such treatment, if any was ordered by a court; 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
35 time, (A) contact between the child and the parent in the presence of
36 the convicted or adjudicated person is appropriate and poses minimal
37 risk to the child, (B) if the child is in or has been in therapy for
38 victims of sexual abuse, the child's counselor believes such contact
39 between the child and the parent residing with the convicted or
40 adjudicated person in the presence of the convicted or adjudicated

1 person is in the child's best interest, and (C) the convicted or
2 adjudicated person has provided documentation that they have
3 successfully completed treatment for sex offenders or are engaged in
4 and making progress in such treatment, if any was ordered by a court.

5 (c) Contact If Presumption Rebutted.

6 (i) (A) If the court finds that the parent has met the burden of
7 rebutting the presumption under (a) of this subsection, the court may
8 allow a parent who has been convicted as an adult of a sex offense
9 against a child to have residential time with the child supervised by
10 a neutral and independent adult and pursuant to an adequate plan for
11 supervision of such residential time.

12 (B) The court shall not approve of a supervisor for contact
13 between the child and the parent unless the court finds, based on the
14 evidence, that the supervisor is willing and capable of protecting
15 the child from harm. The court shall revoke court approval of the
16 supervisor upon written finding, based on the evidence, that the
17 supervisor has failed to protect the child or is no longer willing or
18 capable of protecting the child;

19 (ii) If the court finds that the parent has met the burden of
20 rebutting the presumption under (b) of this subsection, the court may
21 allow a parent residing with a person who has been convicted of a sex
22 offense against a child or adjudicated of a juvenile sex offense with
23 a child at least eight years younger to have residential time with
24 the child in the presence of that person, supervised by a neutral and
25 independent adult and pursuant to an adequate plan for supervision of
26 such residential time. The supervisor may be the parent if the court
27 finds, based on the evidence, that the parent is willing and capable
28 of protecting the child from harm. The court shall revoke court
29 approval of the supervisor, including the parent, upon written
30 finding, based on the evidence, that the supervisor has failed to
31 protect the child or is no longer willing or capable of protecting
32 the child;

33 (iii) A court shall not order unsupervised contact between the
34 offending parent and a child of the offending parent who was sexually
35 abused by that parent;

36 (iv) A court may order unsupervised contact between the offending
37 parent and a child who was not sexually abused by the parent after
38 the presumption under subsection (2)(a) of this section has been
39 rebutted pursuant to (a) of this subsection and supervised
40 residential time has occurred for at least two years with no further

1 arrests or convictions of sex offenses involving children and (A) the
2 sex offense of the offending parent was not committed against a child
3 of the offending parent, and (B) the court finds that unsupervised
4 contact between the child and the offending parent is appropriate and
5 poses minimal risk to the child, after consideration of the testimony
6 of a state-certified therapist, mental health counselor, or social
7 worker with expertise in treating child sexual abuse victims who has
8 supervised at least one period of residential time between the parent
9 and the child, and after consideration of evidence of the offending
10 parent's compliance with community supervision requirements, if any.
11 If the offending parent was not ordered by a court to participate in
12 treatment for sex offenders, then the parent shall obtain a
13 psychosexual evaluation conducted by a certified sex offender
14 treatment provider or a certified affiliate sex offender treatment
15 provider indicating that the offender has the lowest likelihood of
16 risk to reoffend before the court grants unsupervised contact between
17 the parent and a child.

18 (5) RESTRICTED DECISION MAKING AND DISPUTE RESOLUTION. The
19 parenting plan shall not require mutual decision making or
20 designation of a dispute resolution process other than court action
21 if it is found that a parent has been convicted as an adult of a sex
22 offense against any child in this or any other jurisdiction or has
23 been found to be a sexually violent predator under chapter 71.09 RCW
24 or under an analogous statute of any other jurisdiction.

25 NEW SECTION. **Sec. 9.** Sections 2 and 5 through 8 of this act are
26 each added to chapter 26.09 RCW.

27 **Sec. 10.** RCW 11.130.215 and 2022 c 243 s 8 are each amended to
28 read as follows:

29 (1) After a hearing under RCW 11.130.195, the court may appoint a
30 guardian for a minor, if appointment is proper under RCW 11.130.185,
31 dismiss the proceeding, or take other appropriate action consistent
32 with this chapter or law of this state other than this chapter.

33 (2) In appointing a guardian under subsection (1) of this
34 section, the following rules apply:

35 (a) The court shall appoint a person nominated as guardian by a
36 parent of the minor in a probated will or other record unless the
37 court finds the appointment is contrary to the best interest of the
38 minor. Any "other record" must be a declaration or other sworn

1 document and may include a power of attorney or other sworn statement
2 as to the care, custody, or control of the minor child.

3 (b) If multiple parents have nominated different persons to serve
4 as guardian, the court shall appoint the nominee whose appointment is
5 in the best interest of the minor, unless the court finds that
6 appointment of none of the nominees is in the best interest of the
7 minor.

8 (c) If a guardian is not appointed under (a) or (b) of this
9 subsection, the court shall appoint the person nominated by the minor
10 if the minor is twelve years of age or older unless the court finds
11 that appointment is contrary to the best interest of the minor. In
12 that case, the court shall appoint as guardian a person whose
13 appointment is in the best interest of the minor.

14 (3) In the interest of maintaining or encouraging involvement by
15 a minor's parent in the minor's life, developing self-reliance of the
16 minor, or for other good cause, the court, at the time of appointment
17 of a guardian for the minor or later, on its own or on motion of the
18 minor or other interested person, may create a limited guardianship
19 by limiting the powers otherwise granted by this article to the
20 guardian. Following the same procedure, the court may grant
21 additional powers or withdraw powers previously granted.

22 (4) The court, as part of an order appointing a guardian for a
23 minor, shall state rights retained by any parent of the minor, which
24 shall preserve the parent-child relationship through an order for
25 parent-child visitation and other contact, unless the court finds the
26 relationship should be limited or restricted under RCW 26.09.191 or
27 section 8 of this act; and which may include decision making
28 regarding the minor's health care, education, or other matter, or
29 access to a record regarding the minor.

30 (5) An order granting a guardianship for a minor must state that
31 each parent of the minor is entitled to notice that:

32 (a) The guardian has delegated custody of the minor subject to
33 guardianship;

34 (b) The court has modified or limited the powers of the guardian;
35 or

36 (c) The court has removed the guardian.

37 (6) An order granting a guardianship for a minor must identify
38 any person in addition to a parent of the minor which is entitled to
39 notice of the events listed in subsection (5) of this section.

1 (7) An order granting guardianship for a minor must direct the
2 clerk of the court to issue letters of office to the guardian
3 containing an expiration date which should be the minor's eighteenth
4 birthday.

5 **Sec. 11.** RCW 26.09.194 and 2008 c 6 s 1045 are each amended to
6 read as follows:

7 (1) A parent seeking a temporary order relating to parenting
8 shall file and serve a proposed temporary parenting plan by motion.
9 The other parent, if contesting the proposed temporary parenting
10 plan, shall file and serve a responsive proposed parenting plan.
11 Either parent may move to have a proposed temporary parenting plan
12 entered as part of a temporary order. The parents may enter an agreed
13 temporary parenting plan at any time as part of a temporary order.
14 The proposed temporary parenting plan may be supported by relevant
15 evidence and shall be accompanied by an affidavit or declaration
16 which shall state at a minimum the following:

17 (a) The name, address, and length of residence with the person or
18 persons with whom the child has lived for the preceding twelve
19 months;

20 (b) The performance by each parent during the last twelve months
21 of the parenting functions relating to the daily needs of the child;

22 (c) The parents' work and child-care schedules for the preceding
23 twelve months;

24 (d) The parents' current work and child-care schedules; and

25 (e) Any of the circumstances set forth in RCW 26.09.191 or
26 section 8 of this act that are likely to pose a serious risk to the
27 child and that warrant limitation on the award to a parent of
28 temporary residence or time with the child pending entry of a
29 permanent parenting plan.

30 (2) At the hearing, the court shall enter a temporary parenting
31 order incorporating a temporary parenting plan which includes:

32 (a) A schedule for the child's time with each parent when
33 appropriate;

34 (b) Designation of a temporary residence for the child;

35 (c) Allocation of decision-making authority, if any. Absent
36 allocation of decision-making authority consistent with RCW
37 26.09.187(2), neither party shall make any decision for the child
38 other than those relating to day-to-day or emergency care of the

1 child, which shall be made by the party who is present with the
2 child;

3 (d) Provisions for temporary support for the child; and

4 (e) Restraining orders, if applicable, under RCW 26.09.060.

5 (3) A parent may make a motion for an order to show cause and the
6 court may enter a temporary order, including a temporary parenting
7 plan, upon a showing of necessity.

8 (4) A parent may move for amendment of a temporary parenting
9 plan, and the court may order amendment to the temporary parenting
10 plan, if the amendment conforms to the limitations of RCW 26.09.191
11 and section 8 of this act and is in the best interest of the child.

12 (5) If a proceeding for dissolution of marriage or dissolution of
13 domestic partnership, legal separation, or declaration of invalidity
14 is dismissed, any temporary order or temporary parenting plan is
15 vacated.

16 **Sec. 12.** RCW 26.09.260 and 2009 c 502 s 3 are each amended to
17 read as follows:

18 (1) Except as otherwise provided in subsections (4), (5), (6),
19 (8), and (10) of this section, the court shall not modify a prior
20 custody decree or a parenting plan unless it finds, upon the basis of
21 facts that have arisen since the prior decree or plan or that were
22 unknown to the court at the time of the prior decree or plan, that a
23 substantial change has occurred in the circumstances of the child or
24 the nonmoving party and that the modification is in the best interest
25 of the child and is necessary to serve the best interests of the
26 child. The effect of a parent's military duties potentially impacting
27 parenting functions shall not, by itself, be a substantial change of
28 circumstances justifying a permanent modification of a prior decree
29 or plan.

30 (2) In applying these standards, the court shall retain the
31 residential schedule established by the decree or parenting plan
32 unless:

33 (a) The parents agree to the modification;

34 (b) The child has been integrated into the family of the
35 petitioner with the consent of the other parent in substantial
36 deviation from the parenting plan;

37 (c) The child's present environment is detrimental to the child's
38 physical, mental, or emotional health and the harm likely to be

1 caused by a change of environment is outweighed by the advantage of a
2 change to the child; or

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

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

11 (4) The court may reduce or restrict contact between the child
12 and the parent with whom the child does not reside a majority of the
13 time if it finds that the reduction or restriction would serve and
14 protect the best interests of the child using the criteria in RCW
15 26.09.191 and section 8 of this act.

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

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

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

28 (c) Does not result in a schedule that exceeds ninety overnights
29 per year in total, if the court finds that, at the time the petition
30 for modification is filed, the decree of dissolution or parenting
31 plan does not provide reasonable time with the parent with whom the
32 child does not reside a majority of the time, and further, the court
33 finds that it is in the best interests of the child to increase
34 residential time with the parent in excess of the residential time
35 period in (a) of this subsection. However, any motion under this
36 subsection (5)(c) is subject to the factors established in subsection
37 (2) of this section if the party bringing the petition has previously
38 been granted a modification under this same subsection within twenty-
39 four months of the current motion. Relief granted under this section
40 shall not be the sole basis for adjusting or modifying child support.

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

18 (7) A parent with whom the child does not reside a majority of
19 the time and whose residential time with the child is subject to
20 limitations pursuant to RCW 26.09.191 (~~((2) or (3))~~) or section 8 of
21 this act may not seek expansion of residential time under subsection
22 (5)(c) of this section unless that parent demonstrates a substantial
23 change in circumstances specifically related to the basis for the
24 limitation.

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

30 (b) For the purposes of determining whether the parent has failed
31 to exercise residential time for one year or longer, the court may
32 not count any time periods during which the parent did not exercise
33 residential time due to the effect of the parent's military duties
34 potentially impacting parenting functions.

35 (9) A parent with whom the child does not reside a majority of
36 the time who is required by the existing parenting plan to complete
37 evaluations, treatment, parenting, or other classes may not seek
38 expansion of residential time under subsection (5)(c) of this section
39 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
4 in the best interest of the child. Adjustments ordered under this
5 section may be made without consideration of the factors set forth in
6 subsection (2) of this section.

7 (11) If the parent with whom the child resides a majority of the
8 time receives temporary duty, deployment, activation, or mobilization
9 orders from the military that involve moving a substantial distance
10 away from the parent's residence or otherwise would have a material
11 effect on the parent's ability to exercise parenting functions and
12 primary placement responsibilities, then:

13 (a) Any temporary custody order for the child during the parent's
14 absence shall end no later than ten days after the returning parent
15 provides notice to the temporary custodian, but shall not impair the
16 discretion of the court to conduct an expedited or emergency hearing
17 for resolution of the child's residential placement upon return of
18 the parent and within ten days of the filing of a motion alleging an
19 immediate danger of irreparable harm to the child. If a motion
20 alleging immediate danger has not been filed, the motion for an order
21 restoring the previous residential schedule shall be granted; and

22 (b) The temporary duty, activation, mobilization, or deployment
23 and the temporary disruption to the child's schedule shall not be a
24 factor in a determination of change of circumstances if a motion is
25 filed to transfer residential placement from the parent who is a
26 military service member.

27 (12) If a parent receives military temporary duty, deployment,
28 activation, or mobilization orders that involve moving a substantial
29 distance away from the military parent's residence or otherwise have
30 a material effect on the military parent's ability to exercise
31 residential time or visitation rights, at the request of the military
32 parent, the court may delegate the military parent's residential time
33 or visitation rights, or a portion thereof, to a child's family
34 member, including a stepparent, or another person other than a
35 parent, with a close and substantial relationship to the minor child
36 for the duration of the military parent's absence, if delegating
37 residential time or visitation rights is in the child's best
38 interest. The court may not permit the delegation of residential time
39 or visitation rights to a person who would be subject to limitations
40 on residential time under RCW 26.09.191 or section 8 of this act. The

1 parties shall attempt to resolve disputes regarding delegation of
2 residential time or visitation rights through the dispute resolution
3 process specified in their parenting plan, unless excused by the
4 court for good cause shown. Such a court-ordered temporary delegation
5 of a military parent's residential time or visitation rights does not
6 create separate rights to residential time or visitation for a person
7 other than a parent.

8 (13) If the court finds that a motion to modify a prior decree or
9 parenting plan has been brought in bad faith, the court shall assess
10 the attorney's fees and court costs of the nonmoving parent against
11 the moving party.

12 **Sec. 13.** RCW 26.09.520 and 2019 c 79 s 3 are each amended to
13 read as follows:

14 The person proposing to relocate with the child shall provide his
15 or her reasons for the intended relocation. There is a rebuttable
16 presumption that the intended relocation of the child will be
17 permitted. A person entitled to object to the intended relocation of
18 the child may rebut the presumption by demonstrating that the
19 detrimental effect of the relocation outweighs the benefit of the
20 change to the child and the relocating person, based upon the
21 following factors. The factors listed in this section are not
22 weighted. No inference is to be drawn from the order in which the
23 following factors are listed:

24 (1) The relative strength, nature, quality, extent of
25 involvement, and stability of the child's relationship with each
26 parent, siblings, and other significant persons in the child's life;

27 (2) Prior agreements of the parties;

28 (3) Whether disrupting the contact between the child and the
29 person seeking relocation would be more detrimental to the child than
30 disrupting contact between the child and the person objecting to the
31 relocation;

32 (4) Whether either parent or a person entitled to residential
33 time with the child is subject to limitations under RCW 26.09.191 or
34 section 8 of this act;

35 (5) The reasons of each person for seeking or opposing the
36 relocation and the good faith of each of the parties in requesting or
37 opposing the relocation;

38 (6) The age, developmental stage, and needs of the child, and the
39 likely impact the relocation or its prevention will have on the

1 child's physical, educational, and emotional development, taking into
2 consideration any special needs of the child;

3 (7) The quality of life, resources, and opportunities available
4 to the child and to the relocating party in the current and proposed
5 geographic locations;

6 (8) The availability of alternative arrangements to foster and
7 continue the child's relationship with and access to the other
8 parent;

9 (9) The alternatives to relocation and whether it is feasible and
10 desirable for the other party to relocate also;

11 (10) The financial impact and logistics of the relocation or its
12 prevention; and

13 (11) For a temporary order, the amount of time before a final
14 decision can be made at trial.

15 **Sec. 14.** RCW 26.12.177 and 2011 c 292 s 7 are each amended to
16 read as follows:

17 (1) All guardians ad litem appointed under this title must comply
18 with the training requirements established under RCW 2.56.030(15),
19 prior to their appointment in cases under Title 26 RCW, except that
20 volunteer guardians ad litem or court-appointed special advocates may
21 comply with alternative training requirements approved by the
22 administrative office of the courts that meet or exceed the statewide
23 requirements. In cases involving allegations of limiting factors
24 under RCW 26.09.191 or section 8 of this act, the guardians ad litem
25 appointed under this title must have additional relevant training
26 under RCW 2.56.030(15) when it is available.

27 (2)(a) Each guardian ad litem program for compensated guardians
28 ad litem shall establish a rotational registry system for the
29 appointment of guardians ad litem under this title. If a judicial
30 district does not have a program the court shall establish the
31 rotational registry system. Guardians ad litem under this title shall
32 be selected from the registry except in exceptional circumstances as
33 determined and documented by the court. The parties may make a joint
34 recommendation for the appointment of a guardian ad litem from the
35 registry.

36 (b) In judicial districts with a population over one hundred
37 thousand, a list of three names shall be selected from the registry
38 and given to the parties along with the background information record
39 as specified in RCW 26.12.175(3), including their hourly rate for

1 services. Each party may, within three judicial days, strike one name
2 from the list. If more than one name remains on the list, the court
3 shall make the appointment from the names on the list. In the event
4 all three names are stricken the person whose name appears next on
5 the registry shall be appointed.

6 (c) If a party reasonably believes that the appointed guardian ad
7 litem is inappropriate or unqualified, charges an hourly rate higher
8 than what is reasonable for the particular proceeding, or has a
9 conflict of interest, the party may, within three judicial days from
10 the appointment, move for substitution of the appointed guardian ad
11 litem by filing a motion with the court.

12 (d) Under this section, within either registry referred to in (a)
13 of this subsection, a subregistry may be created that consists of
14 guardians ad litem under contract with the department of social and
15 health services' division of child support. Guardians ad litem on
16 such a subregistry shall be selected and appointed in state-initiated
17 paternity cases only.

18 (e) The superior court shall remove any person from the guardian
19 ad litem registry who has been found to have misrepresented his or
20 her qualifications.

21 (3) The rotational registry system shall not apply to court-
22 appointed special advocate programs.

23 **Sec. 15.** RCW 26.51.020 and 2021 c 215 s 143 and 2021 c 65 s 103
24 are each reenacted and amended to read as follows:

25 The definitions in this section apply throughout this chapter
26 unless the context clearly requires otherwise.

27 (1) "Abusive litigation" means litigation where the following
28 apply:

29 (a)(i) The opposing parties have a current or former intimate
30 partner relationship;

31 (ii) The party who is filing, initiating, advancing, or
32 continuing the litigation has been found by a court to have committed
33 domestic violence against the other party pursuant to: (A) An order
34 entered under chapter 7.105 RCW or former chapter 26.50 RCW; (B) a
35 parenting plan with restrictions based on RCW
36 26.09.191(~~((2)(a)(iii))~~) (4)(a)(iii); or (C) a restraining order
37 entered under chapter 26.09, 26.26A, or 26.26B RCW, provided that the
38 issuing court made a specific finding that the restraining order was
39 necessary due to domestic violence; and

1 (iii) The litigation is being initiated, advanced, or continued
2 primarily for the purpose of harassing, intimidating, or maintaining
3 contact with the other party; and

4 (b) At least one of the following factors apply:

5 (i) Claims, allegations, and other legal contentions made in the
6 litigation are not warranted by existing law or by a reasonable
7 argument for the extension, modification, or reversal of existing
8 law, or the establishment of new law;

9 (ii) Allegations and other factual contentions made in the
10 litigation are without the existence of evidentiary support; or

11 (iii) An issue or issues that are the basis of the litigation
12 have previously been filed in one or more other courts or
13 jurisdictions and the actions have been litigated and disposed of
14 unfavorably to the party filing, initiating, advancing, or continuing
15 the litigation.

16 (2) "Intimate partner" is defined in RCW 7.105.010.

17 (3) "Litigation" means any kind of legal action or proceeding
18 including, but not limited to: (a) Filing a summons, complaint,
19 demand, or petition; (b) serving a summons, complaint, demand, or
20 petition, regardless of whether it has been filed; (c) filing a
21 motion, notice of court date, note for motion docket, or order to
22 appear; (d) serving a motion, notice of court date, note for motion
23 docket, or order to appear, regardless of whether it has been filed
24 or scheduled; (e) filing a subpoena, subpoena duces tecum, request
25 for interrogatories, request for production, notice of deposition, or
26 other discovery request; or (f) serving a subpoena, subpoena duces
27 tecum, request for interrogatories, request for production, notice of
28 deposition, or other discovery request.

29 (4) "Perpetrator of abusive litigation" means a person who files,
30 initiates, advances, or continues litigation in violation of an order
31 restricting abusive litigation."

32 Correct the title.

EFFECT: (1) Adds detailed intent language and removes language
stating the general purpose of parenting plan limitations.

(2) Requires family court judicial officers, guardians ad litem,
parenting evaluators, parent coordinators, investigators, and other
court-appointed professionals involved in proceedings addressing
parenting plans, child custody or visitation, child support, or
allocation of parenting functions to complete a training program that
consists of at least 20 hours of initial training and at least 15
hours of ongoing training every five years. Provides that the

required training program focuses solely on domestic and sexual violence and child abuse and must be provided by a professional with substantial experience in assisting survivors of domestic violence or child abuse.

(3) Amends the definition of "protective actions" to indicate they are actions taken by a competent, protective, and not physically or sexually abusive parent. Adds definitions for "domestic violence," "forensic," and "reunification treatment."

(4) Adds new provisions addressing the analysis and findings a court must undertake if domestic violence or child abuse is present in a case. Requires the court to first consider and make specific findings on specified domestic violence factors and then address how domestic violence affects the best interest of the child factors. Requires the court to address provisions that will promote the safety, recovery, and resilience of the child and the parent who is abused, and specifies such provisions. Specifies matters that the court may not consider as evidence against an abused parent, including actions taken by the abused parent to protect the parent's own or the parent's child's physical safety or psychological well-being. Requires the court to make written findings based on evidence regarding alleged domestic violence or child abuse, and specifies the types of evidence to be considered by the court. Provides that any professional appointed to express an opinion relating to abuse, trauma, or the behavior of victims and perpetrators must possess demonstrated expertise and experience in working with victims of domestic violence or child abuse that is not solely forensic in nature.

(5) Adds new provisions relating to protective parents. Prohibits a court from restricting contact with or removing the child from a parent who is competent, protective, and not physically or sexually abusive, and with whom the child is bonded, solely to improve a deficient relationship with the other parent or solely on the basis of protective actions taken by the parent. Specifies the analysis a court must use when there are allegations of domestic violence or child abuse and where a child is allegedly resisting, refusing, or exhibiting fear toward an allegedly abusive parent. Prohibits a court from ordering reunification treatment unless there is valid proof of its safety and therapeutic value, and prohibits certain types of reunification treatment, including those predicated on cutting off a child from a competent, protective, and nonabusive parent with whom the child is bonded, or those that require or result in a no-contact order, a transfer of custody, the use of private transportation agents engaged in the use of force or threats, or the use of threats, undue coercion, verbal abuse, or isolation from the child's family.

(6) With respect to limitations that the court may impose, revises standards for court-ordered evaluation and treatment. Removes language allowing a court to order a parent to undergo evaluations for domestic violence, substance use disorder, mental health, or anger management with input from collateral sources, and to order treatment if the evidence supports a finding of the need for treatment and that the issue interferes with parenting functions. Provides instead that the court may condition residential time on successful completion of a program of intervention for parents who abuse their partners or children. Provides that successful completion must be determined by information provided by the program director regarding the participation of the abusive parent in the program and with collateral input provided from the other parent. Provides that the court may refer, but must not order, a parent who is abused to receive services relating to the impact of domestic violence on the parent who is abused and the child.

(7) Removes provisions that allow a court to not impose limitations on residential time, and that allow a court to not impose limitations on decision making and dispute resolution, based on clear and convincing evidence that specified factors exist.

(8) Removes provisions that allow a court to make exceptions in applying limitations where both parents are subject to either mandatory or discretionary limitations.

(9) Establishes new provisions addressing when a court may allow a parent who has engaged in domestic violence to have custody or residential time with a child. Requires the court, when determining whether a parent has rebutted a statutory presumption, to consider specified factors, including: The effect of the abuse on the child's well-being; evidence that the parent can and will prioritize the child's well-being and is able to make shared decisions about the child; and whether the parent has genuinely acknowledged past harm and is committed to avoiding it in the future. Requires any court order granting custody or parenting time to a parent who engaged in domestic violence to include specific written findings that detail the factors that rebut the domestic violence presumption, how the order will promote the child's physical safety and psychological well-being, and how the order will protect the other parent from harm posed by the parent who is abusive. Requires the court to include residential time provisions that promote the safety and physical and psychological well-being of the child and the parent who is abused, including supervised visitation or supervised exchanges. Creates a presumption that any requirement for supervised exchanges should be provided by a professional supervisor and provides factors for overcoming the presumption. Allows a court to impose specified prohibitions or requirements on an abusive parent as a condition of residential time, including: Prohibiting possession or consumption of alcohol or controlled substances during and for 24 hours preceding the parenting time or visitation; requiring surrender of all firearms and ammunition for a period of time determined by the court; prohibiting overnight parenting time or visitation; and requiring location settings or devices be used during the residential time with the parent who is abusive. The court must determine which parent is the primary aggressor and provides that mandatory limitations on residential time, decision-making, and dispute resolution may only be entered against the primary aggressor.

(10) Removes provisions that allow a court to impose discretionary parenting plan limitations based on a number of factors, such as: Nonperformance of parenting functions; a long-term emotional, physical or substance use impairment that interferes with parenting functions; abusive use of conflict; or withholding of access to the child. Instead amends current law governing the factors a court must consider in determining residential provisions for a child to include consideration of whether a parent's involvement or conduct has an adverse effect on the child's best interest due to these factors: Substantial nonperformance of parenting functions; a serious mental illness as defined by the Americans with Disabilities Act, physical impairment, or substance abuse impairment, that interferes with the performance of parenting functions; absence or substantial impairment of emotional ties between the parent and the child; withholding of the child from the other parent for a protracted period; or other factors or conduct as the court finds adverse to the child's best interests.

(11) Establishes new provisions relating to specialized visitation centers and providers. Provides that courts should refer cases only to supervised visitation or safe exchange centers or providers that adhere to the prevailing guiding principles. Imposes a

number of requirements on a court making referrals to a visitation center or provider, including becoming familiar with the center's or provider's services and safety procedures, providing relevant referral information, and being aware of the center's or provider's policies on suspending or terminating visitation. Imposes a number of requirements on visitation centers and providers, including: Having policies and procedures that are centered around the safety of the child and the parent who is abused; establishing security protocols and specialized procedures for supervised visitation or exchanges; providing staff specifically trained in domestic violence dynamics in postseparation situations; and providing comprehensive training to staff regarding recognizing and understanding the dynamics of domestic violence and any risk posed to the child and the parent who is abused, including how abuse may manifest in the supervised visitation or exchange setting.

(12) Establishes new provisions with detailed requirements relating to custody evaluations and use of experts to assist with decision making in cases involving domestic violence and child abuse. Provides that the court may use an expert to collect, analyze, and synthesize information regarding the family and to make recommendations to the court through a custody evaluation, and describes the processes that comprise a custody evaluation. Specifies the role of the mental health professional conducting a full custody evaluation. Provides that an expert appointed to conduct a full custody evaluation must be a licensed mental health professional with specified training and experience, with competency in a number of identified matters, and meet a number of other requirements. Requires a court when appointing an expert for a full custody evaluation to enter an order that specifies a number of requirements and parameters for the custody evaluation. Requires the expert to screen for domestic violence and child abuse initially and throughout the process, provide parents with specified information, and take steps to ensure the process does not increase risks for a parent or child. In addition, specifies numerous required assessments and considerations for an expert conducting a custody evaluation and making recommendations, including specific requirements if domestic violence is identified as an issue. Addresses admissibility and judicial use of the expert's report and release and distribution of the report. Requires mandatory training for experts on all relevant topics, including forensic interviewing, coercive controlling abuse, dynamics of domestic violence in custody cases, and the risks and impact of domestic violence for children. Specifies a number of requirements where the court appoints a nonmental health professional as an expert to conduct custody evaluations.

(13) Establishes new provisions addressing alternative dispute resolution (ADR) program requirements and duties of ADR professionals and judges. Establishes a number of requirements for ADR programs and prohibits courts from referring parties to an ADR program that does not meet the requirements. Requires ADR professionals to receive specified training and ADR programs to develop and implement specified policies and procedures, including: Screening and ongoing assessment of the domestic violence process; and safety procedures to minimize the likelihood of harm, harassment, or intimidation. Requires an ADR professional in every case to screen for domestic violence and conduct an assessment of the nature and context of any domestic violence and its effect on the ADR process. Provides that in cases where domestic violence has occurred, the ADR process may not be used unless the victim consents and the process is conducted in a specialized manner that accounts for the abuse. Requires the ADR professional in any case involving domestic violence to inform the

parties that an ADR agreement ends the case without any trial or opportunity to present the case to a judge. Allows a judge to not incorporate an ADR agreement if the agreement on its face does not appear to serve the best interest of the children or appears manifestly unsafe, unless after further inquiry the parties demonstrate to the court the agreement is safe and serves the child's best interest.

(14) Updates citations to RCW 26.09.191 to also include references to section 2 of the act given that some provisions of current RCW 26.09.191 are moved into a new section of law.

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