
SENATE BILL 5879

State of Washington

68th Legislature

2024 Regular Session

By Senator Fortunato

Prefiled 12/19/23.

1 AN ACT Relating to establishing standards for civil proceedings
2 and unprofessional conduct involving child abuse and domestic
3 violence; amending RCW 13.34.102, 26.09.191, and 26.09.197;
4 reenacting and amending RCW 18.130.180 and 26.09.004; adding a new
5 section to chapter 2.56 RCW; and adding new sections to chapter 26.09
6 RCW.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 2.56 RCW
9 to read as follows:

10 (1) The administrative office of the courts may develop and
11 implement an ongoing education and training program for judges,
12 magistrates, and other relevant court personnel, including guardians
13 ad litem, counsel for children, and mediators regarding child abuse.
14 The education and training program must include all aspects of the
15 maltreatment of children, including:

- 16 (a) Sexual abuse;
17 (b) Physical abuse;
18 (c) Psychological and emotional abuse;
19 (d) Implicit and explicit bias;
20 (e) Trauma and neglect; and
21 (f) The impact of child abuse and domestic violence on children.

1 (2) The education and training program under subsection (1) of
2 this section must include the latest best practices from evidence-
3 based, peer-reviewed research by recognized experts, including
4 statewide family violence experts, in the types of child abuse
5 specified under subsection (1) of this section. The education and
6 training program under subsection (1) of this section must be
7 designed to educate and train relevant court personnel on all of the
8 factors listed under RCW 26.09.187 and improve the ability of courts
9 to make appropriate custody decisions that are in the best interest
10 of the child, including education and training regarding the impact
11 of child abuse, domestic abuse, and trauma on a victim.

12 (3) Child and family court investigators, guardians ad litem,
13 evaluators, judicial officers, and commissioners, must complete:

14 (a) No less than 20 hours of initial training; and

15 (b) No less than 15 hours of ongoing training every five years.

16 (4) The education and training program under subsection (1) of
17 this section must conform with the requirements for increased federal
18 grant funding under 34 U.S.C. Sec. 10446(k).

19 **Sec. 2.** RCW 13.34.102 and 2005 c 282 s 26 are each amended to
20 read as follows:

21 (1) All guardians ad litem must comply with the following
22 training requirements (~~(established under RCW 2.56.030(15),~~) prior
23 to their appointment in cases under Title 13 RCW, except that
24 volunteer guardians ad litem or court-appointed special advocates may
25 comply with alternative training requirements approved by the
26 administrative office of the courts that meet or exceed the statewide
27 requirements:

28 (a) Training requirements established under RCW 2.56.030(15); and

29 (b) Training requirements established under section 1 of this
30 act.

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

1 (b) In judicial districts with a population over one hundred
2 thousand, a list of three names shall be selected from the registry
3 and given to the parties along with the background information as
4 specified in RCW 13.34.100(3), including their hourly rate for
5 services. Each party may, within three judicial days, strike one name
6 from the list. If more than one name remains on the list, the court
7 shall make the appointment from the names on the list. In the event
8 all three names are stricken the person whose name appears next on
9 the registry shall be appointed.

10 (c) If a party reasonably believes that the appointed guardian ad
11 litem lacks the necessary expertise for the proceeding, charges an
12 hourly rate higher than what is reasonable for the particular
13 proceeding, or has a conflict of interest, the party may, within
14 three judicial days from the appointment, move for substitution of
15 the appointed guardian ad litem by filing a motion with the court.

16 (d) The superior court shall remove any person from the guardian
17 ad litem registry who misrepresents his or her qualifications
18 pursuant to a grievance procedure established by the court.

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

21 **Sec. 3.** RCW 18.130.180 and 2023 c 192 s 2 and 2023 c 122 s 4 are
22 each reenacted and amended to read as follows:

23 Except as provided in RCW 18.130.450, the following conduct,
24 acts, or conditions constitute unprofessional conduct for any license
25 holder under the jurisdiction of this chapter:

26 (1) The commission of any act involving moral turpitude,
27 dishonesty, or corruption relating to the practice of the person's
28 profession, whether the act constitutes a crime or not. If the act
29 constitutes a crime, conviction in a criminal proceeding is not a
30 condition precedent to disciplinary action. Upon such a conviction,
31 however, the judgment and sentence is conclusive evidence at the
32 ensuing disciplinary hearing of the guilt of the license holder of
33 the crime described in the indictment or information, and of the
34 person's violation of the statute on which it is based. For the
35 purposes of this section, conviction includes all instances in which
36 a plea of guilty or nolo contendere is the basis for the conviction
37 and all proceedings in which the sentence has been deferred or
38 suspended. Nothing in this section abrogates rights guaranteed under
39 chapter 9.96A RCW;

1 (2) Misrepresentation or concealment of a material fact in
2 obtaining a license or in reinstatement thereof;

3 (3) All advertising which is false, fraudulent, or misleading;

4 (4) Incompetence, negligence, or malpractice which results in
5 injury to a patient or which creates an unreasonable risk that a
6 patient may be harmed. The use of a nontraditional treatment by
7 itself shall not constitute unprofessional conduct, provided that it
8 does not result in injury to a patient or create an unreasonable risk
9 that a patient may be harmed;

10 (5) Suspension, revocation, or restriction of the individual's
11 license to practice any health care profession by competent authority
12 in any state, federal, or foreign jurisdiction, a certified copy of
13 the order, stipulation, or agreement being conclusive evidence of the
14 revocation, suspension, or restriction;

15 (6) The possession, use, prescription for use, or distribution of
16 controlled substances or legend drugs in any way other than for
17 legitimate or therapeutic purposes, diversion of controlled
18 substances or legend drugs, the violation of any drug law, or
19 prescribing controlled substances for oneself;

20 (7) Violation of any state or federal statute or administrative
21 rule regulating the profession in question, including any statute or
22 rule defining or establishing standards of patient care or
23 professional conduct or practice;

24 (8) Failure to cooperate with the disciplining authority by:

25 (a) Not furnishing any papers, documents, records, or other
26 items;

27 (b) Not furnishing in writing a full and complete explanation
28 covering the matter contained in the complaint filed with the
29 disciplining authority;

30 (c) Not responding to subpoenas issued by the disciplining
31 authority, whether or not the recipient of the subpoena is the
32 accused in the proceeding; or

33 (d) Not providing reasonable and timely access for authorized
34 representatives of the disciplining authority seeking to perform
35 practice reviews at facilities utilized by the license holder;

36 (9) Failure to comply with an order issued by the disciplining
37 authority or a stipulation for informal disposition entered into with
38 the disciplining authority;

39 (10) Aiding or abetting an unlicensed person to practice when a
40 license is required;

- 1 (11) Violations of rules established by any health agency;
- 2 (12) Practice beyond the scope of practice as defined by law or
3 rule;
- 4 (13) Misrepresentation or fraud in any aspect of the conduct of
5 the business or profession;
- 6 (14) Failure to adequately supervise auxiliary staff to the
7 extent that the consumer's health or safety is at risk;
- 8 (15) Engaging in a profession involving contact with the public
9 while suffering from a contagious or infectious disease involving
10 serious risk to public health;
- 11 (16) Promotion for personal gain of any unnecessary or
12 inefficacious drug, device, treatment, procedure, or service;
- 13 (17) Conviction of any gross misdemeanor or felony relating to
14 the practice of the person's profession. For the purposes of this
15 subsection, conviction includes all instances in which a plea of
16 guilty or nolo contendere is the basis for conviction and all
17 proceedings in which the sentence has been deferred or suspended.
18 Nothing in this section abrogates rights guaranteed under chapter
19 9.96A RCW;
- 20 (18) The offering, undertaking, or agreeing to cure or treat
21 disease by a secret method, procedure, treatment, or medicine, or the
22 treating, operating, or prescribing for any health condition by a
23 method, means, or procedure which the licensee refuses to divulge
24 upon demand of the disciplining authority;
- 25 (19) The willful betrayal of a practitioner-patient privilege as
26 recognized by law;
- 27 (20) Violation of chapter 19.68 RCW or a pattern of violations of
28 RCW 41.05.700(8), 48.43.735(8), 48.49.020, 48.49.030, 71.24.335(8),
29 or 74.09.325(8);
- 30 (21) Interference with an investigation or disciplinary
31 proceeding by willful misrepresentation of facts before the
32 disciplining authority or its authorized representative, or by the
33 use of threats or harassment against any patient or witness to
34 prevent them from providing evidence in a disciplinary proceeding or
35 any other legal action, or by the use of financial inducements to any
36 patient or witness to prevent or attempt to prevent him or her from
37 providing evidence in a disciplinary proceeding;
- 38 (22) Current misuse of:
- 39 (a) Alcohol;
- 40 (b) Controlled substances; or

- 1 (c) Legend drugs;
- 2 (23) Abuse of a client or patient or sexual contact with a client
3 or patient;
- 4 (24) Acceptance of more than a nominal gratuity, hospitality, or
5 subsidy offered by a representative or vendor of medical or health-
6 related products or services intended for patients, in contemplation
7 of a sale or for use in research publishable in professional
8 journals, where a conflict of interest is presented, as defined by
9 rules of the disciplining authority, in consultation with the
10 department, based on recognized professional ethical standards;
- 11 (25) Violation of RCW 18.130.420;
- 12 (26) Performing conversion therapy on a patient under age
13 eighteen;
- 14 (27) Violation of RCW 18.130.430;
- 15 (28) Violation of RCW 18.130.460;
- 16 (29) Performing reunification therapy with a parent and child,
17 whereby the parent has physically or sexually abused that child, or
18 has committed acts of domestic violence and has not yet satisfied
19 requirements under RCW 7.105.405(4)(a).

20 **Sec. 4.** RCW 26.09.004 and 2009 c 502 s 1 are each reenacted and
21 amended to read as follows:

22 The definitions in this section apply throughout this chapter.

23 (1) "Military duties potentially impacting parenting functions"
24 means those obligations imposed, voluntarily or involuntarily, on a
25 parent serving in the armed forces that may interfere with that
26 parent's abilities to perform his or her parenting functions under a
27 temporary or permanent parenting plan. Military duties potentially
28 impacting parenting functions include, but are not limited to:

29 (a) "Deployment," which means the temporary transfer of a service
30 member serving in an active-duty status to another location in
31 support of a military operation, to include any tour of duty
32 classified by the member's branch of the armed forces as "remote" or
33 "unaccompanied";

34 (b) "Activation" or "mobilization," which means the call-up of a
35 national guard or reserve service member to extended active-duty
36 status. For purposes of this definition, "mobilization" does not
37 include national guard or reserve annual training, inactive duty
38 days, or drill weekends; or

1 (c) "Temporary duty," which means the transfer of a service
2 member from one military base or the service member's home to a
3 different location, usually another base, for a limited period of
4 time to accomplish training or to assist in the performance of a
5 noncombat mission.

6 (2) "Parenting functions" means those aspects of the parent-child
7 relationship in which the parent makes decisions and performs
8 functions necessary for the care and growth of the child. Parenting
9 functions include:

10 (a) Maintaining a loving, stable, consistent, and nurturing
11 relationship with the child;

12 (b) Attending to the daily needs of the child, such as feeding,
13 clothing, physical care and grooming, supervision, health care, and
14 day care, and engaging in other activities which are appropriate to
15 the developmental level of the child and that are within the social
16 and economic circumstances of the particular family;

17 (c) Attending to adequate education for the child, including
18 remedial or other education essential to the best interests of the
19 child;

20 (d) Assisting the child in developing and maintaining appropriate
21 interpersonal relationships;

22 (e) Exercising appropriate judgment regarding the child's
23 welfare, consistent with the child's developmental level and the
24 family's social and economic circumstances; and

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

26 (3) "Permanent parenting plan" means a plan for parenting the
27 child, including allocation of parenting functions, which plan is
28 incorporated in any final decree or decree of modification in an
29 action for dissolution of marriage or domestic partnership,
30 declaration of invalidity, or legal separation.

31 (4) "Temporary parenting plan" means a plan for parenting of the
32 child pending final resolution of any action for dissolution of
33 marriage or domestic partnership, declaration of invalidity, or legal
34 separation which is incorporated in a temporary order.

35 (5) "Accused party" means a parent in a case to determine
36 parental responsibilities who has been accused of domestic violence
37 or child abuse, including child sexual abuse.

38 (6) "Protective party" means a parent in a case to determine
39 parental responsibilities who is competent, protective, not sexually
40 or physically abusive, and with whom a child is bonded or attached.

1 **Sec. 5.** RCW 26.09.191 and 2021 c 215 s 134 are each amended to
2 read as follows:

3 (1) The permanent parenting plan shall not require mutual
4 decision-making or designation of a dispute resolution process other
5 than court action if it is found that a parent has engaged in any of
6 the following conduct: (a) Willful abandonment that continues for an
7 extended period of time or substantial refusal to perform parenting
8 functions; (b) physical, sexual, or a pattern of emotional abuse of a
9 child; or (c) a history of acts of domestic violence as defined in
10 RCW 7.105.010 or an assault or sexual assault that causes grievous
11 bodily harm or the fear of such harm or that results in a pregnancy.

12 (2)(a) The parent's residential time with the child shall be
13 limited if it is found that the parent has engaged in any of the
14 following conduct: (i) Willful abandonment that continues for an
15 extended period of time or substantial refusal to perform parenting
16 functions; (ii) physical, sexual, or a pattern of emotional abuse of
17 a child; (iii) a history of acts of domestic violence as defined in
18 RCW 7.105.010 or an assault or sexual assault that causes grievous
19 bodily harm or the fear of such harm or that results in a pregnancy;
20 or (iv) the parent has been convicted as an adult of a sex offense
21 under:

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

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

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

31 (D) RCW 9A.44.089;

32 (E) RCW 9A.44.093;

33 (F) RCW 9A.44.096;

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

37 (H) Chapter 9.68A RCW;

38 (I) Any predecessor or antecedent statute for the offenses listed
39 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)~~):

13 (a) Both parties shall be screened to determine the
14 appropriateness of a comprehensive assessment regarding the impact of
15 the limiting factor on the child and the parties; and

16 (b) The court shall consider the evidence outlined in section 7
17 of this act.

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

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

24 (7) The court may not use the parenting plan for purposes
25 prohibited in section 8(1) of this act and any reunification plan
26 must comply with section 8(2) of this act.

27 (8) For the purposes of this section:

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

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

33 **Sec. 6.** RCW 26.09.197 and 2007 c 496 s 604 are each amended to
34 read as follows:

35 After considering the affidavit required by RCW 26.09.194(1)
36 (~~and~~), other relevant evidence presented, and any evident mandatory
37 limitations under RCW 26.09.191, the court shall make a temporary
38 parenting plan that is in the best interest of the child. In making
39 this determination, the court shall give particular consideration to:

1 (1) The relative strength, nature, and stability of the child's
2 relationship with each parent; and

3 (2) Which parenting arrangements will cause the least disruption
4 to the child's emotional stability while the action is pending.

5 The court shall also consider the factors used to determine
6 residential provisions in the permanent parenting plan.

7 NEW SECTION. **Sec. 7.** A new section is added to chapter 26.09
8 RCW to read as follows:

9 (1) In all proceedings brought pursuant to this title concerning
10 the allocation of parental responsibilities with respect to a child
11 in which a claim of domestic violence or child abuse, including child
12 sexual abuse, has been made to the court, or the court has reason to
13 believe that a party has committed domestic violence or child abuse,
14 including child sexual abuse, the court shall:

15 (a) Consider the admission of expert testimony and evidence if
16 the expert demonstrates expertise and experience working with victims
17 of domestic violence or child abuse, including child sexual abuse,
18 that is not solely forensic in nature; and

19 (b) Consider evidence of past sexual or physical abuse committed
20 by the accused party, including:

21 (i) Any past or current protection or restraining orders against
22 the accused party, including protection or restraining orders that
23 raise sexual violence or abuse;

24 (ii) Arrests of the accused party for domestic violence, sexual
25 violence, or child abuse;

26 (iii) Convictions of the accused party for domestic violence,
27 sexual violence, or child abuse; or

28 (iv) Other documentation, including letters from a victim
29 advocate or victim service provider, if the victim consents to such
30 disclosure; medical records; or a letter to a landlord to break a
31 lease.

32 (2) In compliance with the federal keeping children safe from
33 family violence act, Title 34 U.S.C. Sec. 10446, as amended, any
34 neutral professional appointed by a court to express an opinion
35 relating to abuse, trauma, or the behaviors of victims and
36 perpetrators of abuse and trauma during a proceeding to allocate
37 parental responsibilities shall possess demonstrated expertise and
38 experience in working with victims of domestic violence or child

1 abuse, including child sexual abuse, that is not solely of a forensic
2 nature.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 26.09
4 RCW to read as follows:

5 (1) In determining allocation of parental responsibilities in
6 proceedings brought pursuant to this chapter in which a claim of
7 domestic violence or child abuse, including child sexual abuse, has
8 been made to the court, or the court has reason to believe that a
9 party has committed domestic violence or child abuse, including child
10 sexual abuse, a court shall not:

11 (a) Remove a child from a protective party solely to improve a
12 deficient relationship with an accused party;

13 (b) Restrict contact between a child and a protective party
14 solely to improve a deficient relationship with an accused party;

15 (c) Order reunification treatment, unless there is generally
16 accepted and scientifically valid proof of the safety, effectiveness,
17 and therapeutic value of the reunification treatment; or

18 (d) Order reunification treatment that is predicated on cutting
19 off the relationship between a child and the protective party.

20 (2) If a court issues an order to remediate the resistance of a
21 child to have contact with an accused party, the order must primarily
22 address the behavior of the accused party, who shall accept
23 responsibility for the accused party's actions that negatively
24 affected the accused party's relationship with the child, and the
25 offender shall satisfy the requirements of RCW 7.105.405(4)(a) before
26 the court orders a protective party to take steps to improve the
27 relationship with the accused party. The court may not issue an order
28 to remediate the resistance of a child to have contact with an
29 accused party, who was found to have sexually abused the child.

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