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**SENATE BILL 5706**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senator Fortunato

AN ACT Relating to determining child custody; and adding a new section to chapter 26.09 RCW.

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

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

(1) The paramount concern of all child custody decisions must be to provide complete health and safety when determining the best interests of the child.

(2) Whenever domestic violence or child abuse is raised as an issue either during or before a child custody matter is litigated, any professional who provides advice or recommendations to the court must have substantial training and experience about domestic violence and child abuse to fully understand safety issues, including: Behaviors that are associated with higher lethality or injury risks; domestic violence dynamics; effects of domestic violence on children; and ability to recognize domestic violence and research about batterer narratives. Any professional without this necessary expertise must consult with someone who has this knowledge prior to giving any recommendation to the court.

(3) A postgraduate degree in mental health, including psychology, psychiatry, or social work, absent specialized and approved training may not be considered proof of domestic violence expertise. A court may not refuse to qualify a professional as a domestic violence expert because the professional does not possess a postgraduate degree if the professional can demonstrate expertise based upon training and experience.

(4) In any custody case where either domestic violence or child abuse is raised during the litigation process and even where a court may have already heard and determined there is not significant enough domestic violence to warrant a restraining order and in which there is no substantial basis to believe the parties or children have a significant mental health impairment likely to interfere with parenting ability, courts should not order a mental health evaluation. The court may appoint a domestic violence expert to help the court understand the significance of evidence related to domestic violence and must permit parties to present evidence from a domestic violence expert.

(5) Courts shall look to current, valid scientific research concerning domestic violence to help inform its decisions in all cases where domestic violence or child abuse is raised during the course of custody litigation. Courts may not permit practices or approaches that do not have scientific bases and are not accepted practice within the specialized field of practice of domestic violence and child abuse. Professionals who engage in practices based upon such unscientific beliefs may not be qualified to participate in custody cases where domestic violence or child abuse is raised during the course of litigation.

(6) In cases in which allegations of domestic violence are supported by the preponderance of the evidence, the safe, or safer, parent must receive sole custody absent clear and convincing proof that the parent creates an imminent safety risk to the children. The parent who has committed domestic violence must be permitted only supervised visitation pending a risk assessment by a domestic violence/child abuse professional. In order for the abusive parent to obtain unsupervised visitation, the parent shall complete at least a six-month accountability program, accept full responsibility for past abuse, commit to never abusing the children or future partners, understand the harm the abuse caused, and convince the court that the benefit of unsupervised visitation outweighs any risk. Termination of all visitation should be considered upon proofs of failure to comply as it will present the children with a known dangerous circumstance.

(7) A parent may not be penalized for making a good faith complaint about domestic violence or child abuse.

(8) Courts may not use approaches developed for "high conflict" cases designed to encourage parents to cooperate in any litigated custody case if there have been allegations of domestic violence and/or child abuse which have been supported with an expert report opining there is a reasonable risk to children and shared parenting may not be permitted in these cases absent voluntary consent of both parties. Consent must be determined to be without coercion or undue pressure.

(9) In cases in which there are allegations of domestic violence, a history between the parties that includes restraining orders, criminal charges, or other evidence of possible domestic violence, early in the proceeding, before the appointment of any guardian ad litem, evaluator, or other neutral professional the court shall conduct an evidentiary hearing to determine if one of the parties has engaged in a pattern of domestic violence. If the court finds domestic violence and the non or less abusive parent is safe the court shall award custody to the safe parent and supervised visitation to the abusive parent. A finding denying the allegations of domestic violence may not prevent the court from considering additional evidence of domestic violence later in the case.

(10) In any case in which the trial judge engaged in or tolerated gender-biased practices or permitted practices or approaches based on myths, stereotypes, or other bias, an appellate court may not defer to the judgment of the trial court.

(11) In any case involving allegations of child sexual abuse, any professionals asked by the court for a risk assessment or evaluation must have specialized training and experience of a minimum of five years after completing training working with children and expertise in child sexual abuse. Investigators must take sufficient time to develop a trusting relationship before expecting the child to speak about the allegations. A recantation by a child of a valid allegation of child abuse may not by itself be treated as absolute proof that the allegation was false. No negative inferences may be drawn from a decision by a prosecutor or child protective agency not to file charges against a named perpetrator of domestic violence or child abuse and may not be treated as proof the allegations are untrue. Given the difficulty of proving valid complaints about child sexual abuse, judges who make a finding that the allegations were deliberately false must demonstrate they considered not only if the allegations are true but other common circumstances such as violation of boundaries, inadequate information to determine the validity of the allegations, and mistaken allegations made in good faith. In cases in which a court determined sexual abuse allegations cannot be proven, the court shall consider new evidence in the context of the evidence previously considered. No decision may be made by a court absent a full evidentiary hearing with the parent having a right to have an expert of their choosing heard by the court. No preference and no deference may be given to any expert selected by the court and the trial court must apply identical standards of review and credibility.

(12)(a) The purpose of this section is to correct common present practices that have been shown to work poorly for the protection of children. The legislature encourages custody court professionals to look to current, valid, scientific research to inform their decisions and stop using the outdated and discredited practices described in the legislative history. The use of such flawed practices in prior decisions are considered a change of circumstance that entitles the parties to request the court to reconsider arrangements that were created based upon flawed practices.

(b) Any judge who hears a case involving the issue of domestic violence and/or child abuse as part of judicial responsibility shall receive specialized training regarding the new practices adopted by this section and the specialized information it is based upon. Judges must receive retraining concerning prior practices which have not worked to sufficiently protect children. Guardians ad litem appointed to represent children where domestic violence and/or child abuse is raised during the course of litigation must receive specialized training and retraining.

(13)(a) Domestic violence advocates or other similar experts knowledgeable about the safety practices described in this section and current scientific research shall provide trainings to judges and guardians ad litem.

(b) Subject to the availability of funds appropriated for this specific purpose, the state shall provide additional funding to domestic violence agencies to train advocates to serve as domestic violence experts in court and to help train court personnel.

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