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**SENATE BILL 5575**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senators Dhingra, Cortes, and Nobles

Read first time 01/29/25. Referred to Committee on Law & Justice.

1 AN ACT Relating to limitations in parenting plans; amending RCW  
2 26.09.191, 11.130.215, 26.09.187, 26.09.194, 26.09.260, 26.09.520,  
3 and 26.12.177; reenacting and amending RCW 26.51.020; and adding a  
4 new section to chapter 26.09 RCW.

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

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

8 (1) (~~The permanent parenting plan shall not require mutual~~  
9 ~~decision-making or designation of a dispute resolution process other~~  
10 ~~than court action)) PURPOSE. Parents are responsible for protecting  
11 and preserving the health and well-being of their minor children.  
12 When a parent acts contrary to the health and well-being of the  
13 parent's child, or engages in conduct that creates an unreasonable  
14 risk of harm to a child, the court may, and in some situations must,  
15 impose limitations intended to protect the child from harm as  
16 described in this section and section 2 of this act.~~

17 (2) GENERAL CONSIDERATIONS.

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

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

4 (c) In determining whether any of the conduct described in this  
5 section or section 2 of this act has occurred, the court shall apply  
6 the rules of evidence and civil procedure except where the parties  
7 have opted for an informal family law trial pursuant to state or  
8 local court rules.

9 (3) DEFINITIONS. The definitions in this subsection apply  
10 throughout this section and section 2 of this act unless the context  
11 clearly requires otherwise.

12 (a) "Abusive use of conflict" refers to a party engaging in  
13 ongoing and deliberate actions to misuse conflict. This includes, but  
14 is not limited to: (i) Repeated bad faith violations of court orders  
15 regarding the child or the protection of the child or other parent;  
16 (ii) credible threats of physical, emotional, or financial harm to  
17 the other parent or to family, friends, or professionals providing  
18 support to the child or other parent; (iii) intentional use of the  
19 child in conflict; or (iv) abusive litigation as defined in RCW  
20 26.51.020. Litigation that is aggressive or improper but does not  
21 meet the definition of abusive litigation shall not constitute a  
22 basis for finding abusive use of conflict under this section.  
23 Protective actions as defined in this section shall not constitute a  
24 basis for a finding of abusive use of conflict.

25 (b) "Child" shall also mean "children."

26 (c) "Knowingly" means knows or reasonably should know.

27 (d) "Parenting functions" has the same meaning as in RCW  
28 26.09.004.

29 (e) "Protective actions" are actions taken by a parent in good  
30 faith for the purpose of protecting themselves or the parent's child  
31 from the risk of harm posed by the other parent. "Protective actions"  
32 can include, but are not limited to: (i) Reports or complaints  
33 regarding physical, sexual, or mental abuse of a child or child  
34 neglect to an individual or entity connected to the provision of care  
35 or safety of the child such as law enforcement, medical  
36 professionals, therapists, schools, day cares, or child protective  
37 services; (ii) seeking court orders changing residential time; or  
38 (iii) petitions for protection or restraining orders.

39 (f) "Sex offense against a child" means any of the following  
40 offenses involving a child victim: (i) Any sex offense as defined in

1 RCW 9.94A.030; (ii) any offense with a finding of sexual motivation;  
2 (iii) any offense in violation of chapter 9A.44 RCW other than RCW  
3 9A.44.132; (iv) any offense involving the sexual abuse of a minor,  
4 including any offense under chapter 9.68A RCW; or (v) any federal or  
5 out-of-state offense comparable to any offense under (f)(i) through  
6 (iv) of this subsection.

7 (g) "Social worker" means a person with a master's degree or  
8 further advanced degree from a social work educational program  
9 accredited and approved as provided in RCW 18.320.010.

10 (h) "Willful abandonment" has occurred when the child's parent  
11 has expressed, either by statement or conduct, an intent to forego,  
12 for an extended period, parental rights or responsibilities despite  
13 an ability to exercise such rights and responsibilities. "Willful  
14 abandonment" does not include a parent who has been unable to see the  
15 child due to circumstances that include, but are not limited to:  
16 Incarceration, deportation, inpatient treatment, medical emergency,  
17 fleeing to an emergency shelter or domestic violence shelter, or  
18 withholding of the child by the other parent.

19 (4) RESIDENTIAL TIME LIMITATIONS.

20 (a) PARENTAL CONDUCT REQUIRING LIMITS ON A PARENT'S RESIDENTIAL  
21 TIME. A parent's residential time with the parent's child shall be  
22 limited if it is found that a parent has engaged in any of the  
23 following conduct:

24 ~~((a))~~ (i) Willful abandonment that continues for an extended  
25 period of time ~~((or substantial refusal to perform parenting~~  
26 ~~functions;~~

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

28 (ii) Physical abuse or a pattern of emotional abuse of a child;  
29 ~~((or (c) a))~~ (iii) A history of acts of domestic violence as  
30 defined in RCW 7.105.010 ~~((or)),~~ an assault ~~((or sexual assault))~~  
31 that causes grievous bodily harm or the fear of such harm ~~((or that~~  
32 ~~results in a pregnancy.~~

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

34 (iv) Sexual abuse of a child. Required limitations and  
35 considerations for a parent who has been convicted of a sex offense  
36 against a child or found to have sexually abused a child in the  
37 current case or a prior case are addressed in section 2 of this act.

38 (b) PARENT RESIDING WITH A PERSON WHOSE CONDUCT REQUIRES  
39 RESIDENTIAL TIME LIMITATIONS. A parent's residential time with the  
40 child shall be limited if it is found that the parent knowingly

1 resides with a person who has engaged in any of the following  
2 conduct: ~~((i) Willful abandonment that continues for an extended  
3 period of time or substantial refusal to perform parenting functions;  
4 (ii) physical, sexual,)~~  
5 (i) Physical abuse or a pattern of emotional abuse of a child;  
6 ~~((iii) a)~~ (ii) A history of acts of domestic violence as  
7 defined in RCW 7.105.010 ~~((or))~~, an assault ~~((or sexual assault))~~  
8 that causes grievous bodily harm or the fear of such harm ~~((or that  
9 results in a pregnancy; or (iv) the parent has been convicted as an  
10 adult of a sex offense under:~~  
11 ~~(A) RCW 9A.44.076 if, because of the difference in age between  
12 the offender and the victim, no rebuttable presumption exists under  
13 (d) of this subsection;~~  
14 ~~(B) RCW 9A.44.079 if, because of the difference in age between  
15 the offender and the victim, no rebuttable presumption exists under  
16 (d) of this subsection;~~  
17 ~~(C) RCW 9A.44.086 if, because of the difference in age between  
18 the offender and the victim, no rebuttable presumption exists under  
19 (d) of this subsection;~~  
20 ~~(D) RCW 9A.44.089;~~  
21 ~~(E) RCW 9A.44.093;~~  
22 ~~(F) RCW 9A.44.096;~~  
23 ~~(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
24 between the offender and the victim, no rebuttable presumption exists  
25 under (d) of this subsection;~~  
26 ~~(H) Chapter 9.68A RCW;~~  
27 ~~(I) Any predecessor or antecedent statute for the offenses listed  
28 in (a) (iv) (A) through (H) of this subsection;~~  
29 ~~(J) Any statute from any other jurisdiction that describes an  
30 offense analogous to the offenses listed in (a) (iv) (A) through (H) of  
31 this subsection.~~  
32 ~~This subsection (2) (a) shall not apply when (c) or (d) of this  
33 subsection applies.~~  
34 ~~(b) The parent's residential time with the child shall be limited  
35 if it is found that the parent resides with a person who has engaged  
36 in any of the following conduct: (i) Physical, sexual, or a pattern  
37 of emotional abuse of a child; (ii) a history of acts of domestic  
38 violence as defined in RCW 7.105.010 or an assault or sexual assault  
39 that causes grievous bodily harm or the fear of such harm or that~~

1 ~~results in a pregnancy; or (iii) the person has been convicted as an~~  
2 ~~adult or as a juvenile has been adjudicated of a sex offense under:~~

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

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

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

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

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

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

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

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

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

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

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

26 ~~(c) If a parent has been found to be a sexual predator under~~  
27 ~~chapter 71.09 RCW or under an analogous statute of any other~~  
28 ~~jurisdiction, the court shall restrain the parent from contact with a~~  
29 ~~child that would otherwise be allowed under this chapter. If a parent~~  
30 ~~resides with an adult or a juvenile who has been found to be a sexual~~  
31 ~~predator under chapter 71.09 RCW or under an analogous statute of any~~  
32 ~~other jurisdiction, the court shall restrain the parent from contact~~  
33 ~~with the parent's child except contact that occurs outside that~~  
34 ~~person's presence.~~

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

1       ~~(i) RCW 9A.64.020 (1) or (2), provided that the person convicted~~  
2 ~~was at least five years older than the other person;~~  
3       ~~(ii) RCW 9A.44.073;~~  
4       ~~(iii) RCW 9A.44.076, provided that the person convicted was at~~  
5 ~~least eight years older than the victim;~~  
6       ~~(iv) RCW 9A.44.079, provided that the person convicted was at~~  
7 ~~least eight years older than the victim;~~  
8       ~~(v) RCW 9A.44.083;~~  
9       ~~(vi) RCW 9A.44.086, provided that the person convicted was at~~  
10 ~~least eight years older than the victim;~~  
11       ~~(vii) RCW 9A.44.100;~~  
12       ~~(viii) Any predecessor or antecedent statute for the offenses~~  
13 ~~listed in (d) (i) through (vii) of this subsection;~~  
14       ~~(ix) Any statute from any other jurisdiction that describes an~~  
15 ~~offense analogous to the offenses listed in (d) (i) through (vii) of~~  
16 ~~this subsection.~~  
17       ~~(e) There is a rebuttable presumption that a parent who resides~~  
18 ~~with a person who, as an adult, has been convicted, or as a juvenile~~  
19 ~~has been adjudicated, of the sex offenses listed in (e) (i) through~~  
20 ~~(ix) of this subsection places a child at risk of abuse or harm when~~  
21 ~~that parent exercises residential time in the presence of the~~  
22 ~~convicted or adjudicated person. Unless the parent rebuts the~~  
23 ~~presumption, the court shall restrain the parent from contact with~~  
24 ~~the parent's child except for contact that occurs outside of the~~  
25 ~~convicted or adjudicated person's presence:~~  
26       ~~(i) RCW 9A.64.020 (1) or (2), provided that the person convicted~~  
27 ~~was at least five years older than the other person;~~  
28       ~~(ii) RCW 9A.44.073;~~  
29       ~~(iii) RCW 9A.44.076, provided that the person convicted was at~~  
30 ~~least eight years older than the victim;~~  
31       ~~(iv) RCW 9A.44.079, provided that the person convicted was at~~  
32 ~~least eight years older than the victim;~~  
33       ~~(v) RCW 9A.44.083;~~  
34       ~~(vi) RCW 9A.44.086, provided that the person convicted was at~~  
35 ~~least eight years older than the victim;~~  
36       ~~(vii) RCW 9A.44.100;~~  
37       ~~(viii) Any predecessor or antecedent statute for the offenses~~  
38 ~~listed in (e) (i) through (vii) of this subsection;~~

1       ~~(ix) Any statute from any other jurisdiction that describes an~~  
2 ~~offense analogous to the offenses listed in (e) (i) through (vii) of~~  
3 ~~this subsection.~~

4       ~~(f) The presumption established in (d) of this subsection may be~~  
5 ~~rebutted only after a written finding that the child was not~~  
6 ~~conceived and subsequently born as a result of a sexual assault~~  
7 ~~committed by the parent requesting residential time and that:~~

8       ~~(i) If the child was not the victim of the sex offense committed~~  
9 ~~by the parent requesting residential time, (A) contact between the~~  
10 ~~child and the offending parent is appropriate and poses minimal risk~~  
11 ~~to the child, and (B) the offending parent has successfully engaged~~  
12 ~~in treatment for sex offenders or is engaged in and making progress~~  
13 ~~in such treatment, if any was ordered by a court, and the treatment~~  
14 ~~provider believes such contact is appropriate and poses minimal risk~~  
15 ~~to the child; or~~

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

26       ~~(g) The presumption established in (e) of this subsection may be~~  
27 ~~rebutted only after a written finding that the child was not~~  
28 ~~conceived and subsequently born as a result of a sexual assault~~  
29 ~~committed by the parent requesting residential time and that:~~

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

1       ~~(ii) If the child was the victim of the sex offense committed by~~  
2 ~~the person who is residing with the parent requesting residential~~  
3 ~~time, (A) contact between the child and the parent in the presence of~~  
4 ~~the convicted or adjudicated person is appropriate and poses minimal~~  
5 ~~risk to the child, (B) if the child is in or has been in therapy for~~  
6 ~~victims of sexual abuse, the child's counselor believes such contact~~  
7 ~~between the child and the parent residing with the convicted or~~  
8 ~~adjudicated person in the presence of the convicted or adjudicated~~  
9 ~~person is in the child's best interest, and (C) the convicted or~~  
10 ~~adjudicated person has successfully engaged in treatment for sex~~  
11 ~~offenders or is engaged in and making progress in such treatment, if~~  
12 ~~any was ordered by a court, and the treatment provider believes~~  
13 ~~contact between the parent and child in the presence of the convicted~~  
14 ~~or adjudicated person is appropriate and poses minimal risk to the~~  
15 ~~child.~~

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

29       ~~(i) If the court finds that the parent has met the burden of~~  
30 ~~rebutting the presumption under (g) of this subsection, the court may~~  
31 ~~allow a parent residing with a person who has been adjudicated as a~~  
32 ~~juvenile of a sex offense listed in (e) (i) through (ix) of this~~  
33 ~~subsection to have residential time with the child in the presence of~~  
34 ~~the person adjudicated as a juvenile, supervised by a neutral and~~  
35 ~~independent adult and pursuant to an adequate plan for supervision of~~  
36 ~~such residential time. The court shall not approve of a supervisor~~  
37 ~~for contact between the child and the parent unless the court finds,~~  
38 ~~based on the evidence, that the supervisor is willing and capable of~~  
39 ~~protecting the child from harm. The court shall revoke court approval~~  
40 ~~of the supervisor upon finding, based on the evidence, that the~~

1 supervisor has failed to protect the child or is no longer willing or  
2 capable of protecting the child.

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

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

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

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

1 ~~that could result if the child has contact with the parent requesting~~  
2 ~~residential time, the court shall restrain the parent requesting~~  
3 ~~residential time from all contact with the child.~~

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

19 ~~(iii) The court shall not enter an order under (a) of this~~  
20 ~~subsection allowing a parent to have contact with a child if the~~  
21 ~~parent has been found by clear and convincing evidence pursuant to~~  
22 ~~RCW 26.26A.465 to have committed sexual assault, as defined in RCW~~  
23 ~~26.26A.465, against the child's parent, and that the child was born~~  
24 ~~within three hundred twenty days of the sexual assault.~~

25 ~~(iv) If the court limits residential time under (a) or (b) of~~  
26 ~~this subsection to require supervised contact between the child and~~  
27 ~~the parent, the court shall not approve of a supervisor for contact~~  
28 ~~between a child and a parent who has engaged in physical, sexual, or~~  
29 ~~a pattern of emotional abuse of the child unless the court finds~~  
30 ~~based upon the evidence that the supervisor accepts that the harmful~~  
31 ~~conduct occurred and is willing to and capable of protecting the~~  
32 ~~child from harm. The court shall revoke court approval of the~~  
33 ~~supervisor upon finding, based on the evidence, that the supervisor~~  
34 ~~has failed to protect the child or is no longer willing to or capable~~  
35 ~~of protecting the child.~~

36 ~~(n) If the court expressly finds based on the evidence that~~  
37 ~~contact between the parent and the child will not cause physical,~~  
38 ~~sexual, or emotional abuse or harm to the child and that the~~  
39 ~~probability that the parent's or other person's harmful or abusive~~  
40 ~~conduct will recur is so remote that it would not be in the child's~~

1 best interests to apply the limitations of (a), (b), and (m) (i) and  
2 (iv) of this subsection, or if the court expressly finds that the  
3 parent's conduct did not have an impact on the child, then the court  
4 need not apply the limitations of (a), (b), and (m) (i) and (iv) of  
5 this subsection. The weight given to the existence of a protection  
6 order issued under chapter 7.105 RCW or former chapter 26.50 RCW as  
7 to domestic violence is within the discretion of the court. This  
8 subsection shall not apply when (c), (d), (e), (f), (g), (h), (i),  
9 (j), (k), (l), and (m) (ii) of this subsection apply.

10 ~~(3))~~, or any sexual assault; or

11 (iii) Sexual abuse of a child. Required limitations and  
12 considerations on a parent who resides with someone convicted of a  
13 sex offense against a child or found to have sexually abused a child  
14 in the current case or a prior case are addressed in section 2 of  
15 this act.

16 (c) PARENTAL CONDUCT THAT MAY RESULT IN LIMITATIONS ON A PARENT'S  
17 RESIDENTIAL TIME. A parent's involvement or conduct may have an  
18 adverse effect on the child's best interests, and the court may  
19 preclude or limit any provisions of the parenting plan, if any of the  
20 following factors exist:

21 ~~((a))~~ (i) A parent's neglect or substantial nonperformance of  
22 parenting functions;

23 ~~((b))~~ (ii) A long-term emotional or physical impairment  
24 ~~((which))~~ that interferes with the parent's performance of parenting  
25 functions ~~((as defined in RCW 26.09.004))~~;

26 ~~((c))~~ (iii) A long-term impairment resulting from drug,  
27 alcohol, or other substance abuse that interferes with the  
28 performance of parenting functions;

29 ~~((d))~~ (iv) The absence or substantial impairment of emotional  
30 ties between the parent and the child;

31 ~~((e) The))~~ (v) A parent has engaged in the abusive use of  
32 conflict ~~((by the parent))~~ which creates the danger of serious damage  
33 to the child's psychological development ~~((Abusive use of conflict~~  
34 ~~includes, but is not limited to, abusive litigation as defined in RCW~~  
35 ~~26.51.020. If the court finds a parent has engaged in abusive~~  
36 ~~litigation, the court may impose any restrictions or remedies set~~  
37 ~~forth in chapter 26.51 RCW in addition to including a finding in the~~  
38 ~~parenting plan. Litigation that is aggressive or improper but that~~  
39 ~~does not meet the definition of abusive litigation shall not~~  
40 ~~constitute a basis for a finding under this section. A report made in~~

1 ~~good faith to law enforcement, a medical professional, or child~~  
2 ~~protective services of sexual, physical, or mental abuse of a child~~  
3 ~~shall not constitute a basis for a finding of abusive use of~~  
4 ~~conflict;~~

5 ~~(f))~~;

6 (vi) A parent has withheld from the other parent access to the  
7 child for a protracted period without good cause. Withholding does  
8 not include protective actions taken by a parent in good faith for  
9 the legitimate and lawful purpose of protecting themselves or the  
10 parent's child from the risk of harm posed by the other parent; or

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

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

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) For the purposes of this section:~~

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

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

30 (d) LIMITATIONS A COURT MAY IMPOSE ON A PARENT'S RESIDENTIAL  
31 TIME. The limitations that may be imposed by the court under this  
32 section shall be reasonably calculated to protect a child from the  
33 physical, sexual, or emotional abuse or harm that could result if a  
34 child has contact with the parent requesting residential time. The  
35 limitations shall also be reasonably calculated to provide for the  
36 safety of the parent who may be at risk of physical, sexual, or  
37 emotional abuse or harm that could result if the parent has contact  
38 with the other parent. The limitations the court may impose include,  
39 but are not limited to:

1 (i) SUPERVISED VISITATION. A court may, in its discretion, order  
2 supervised contact between a child and the parent.

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

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

27 (C) A parent may seek an emergency ex parte order temporarily  
28 suspending residential time until review by the court if: (I) The  
29 supervised parent repeatedly violates the court order or guidelines;  
30 (II) the supervised parent threatens the supervisor or child with  
31 physical harm, commits an act of domestic violence, or materially  
32 violates any treatment condition associated with any restrictions  
33 under this section (a missed counseling appointment does not  
34 constitute a violation); (III) the supervisor is unable or unwilling  
35 to protect the child and/or the protected parent; or (IV) the  
36 supervisor is no longer willing to provide service to the supervised  
37 parent. The court suspending residential time shall set a review  
38 hearing to take place within 14 days of entering the ex parte order.

39 (ii) EVALUATION OR TREATMENT. The court may order a parent to  
40 undergo evaluations for such issues as domestic violence

1 perpetration, substance use disorder, mental health, or anger  
2 management, with collateral input provided from the other parent. Any  
3 evaluation report that does not include collateral input must provide  
4 details as to why and the attempts made to obtain collateral input.

5 (A) The court may also order that a parent complete treatment for  
6 any of these issues if the need for treatment is supported by the  
7 evidence and the evidence supports a finding that the issue  
8 interferes with parenting functions.

9 (B) A parent's residential time and decision-making authority may  
10 be conditioned on the parent's completion of an evaluation or  
11 treatment ordered by the court.

12 (iii) NO CONTACT. If, based on the evidence, the court expressly  
13 finds that limitations on the residential time with a child will not  
14 adequately protect a child from the harm or abuse that could result  
15 if a child has contact with the parent requesting residential time,  
16 the court shall restrain the parent requesting residential time from  
17 all contact with a child.

18 (5) LIMITATIONS ON DECISION MAKING AND DISPUTE RESOLUTION. Except  
19 for circumstances provided in subsection (6)(b) of this section, the  
20 court shall order sole decision making and no dispute resolution  
21 other than court action if it is found that a parent has engaged in  
22 any of the following conduct:

- 23 (a) Willful abandonment that continues for an extended period;  
24 (b) Physical, sexual, or a pattern of emotional abuse of a child;  
25 (c) A history of acts of domestic violence as defined in RCW  
26 7.105.010; or  
27 (d) An assault that causes grievous bodily harm or the fear of  
28 such harm or any sexual assault.

29 (6) DETERMINATION NOT TO IMPOSE LIMITATIONS.

30 (a) If the court makes express written findings based on clear  
31 and convincing evidence that contact between the parent and the child  
32 will not cause physical, sexual, or emotional abuse or harm to the  
33 child and that the probability that the parent's or other person's  
34 harmful or abusive conduct will recur is so remote that it would not  
35 be in the child's best interests to apply limitations to residential  
36 time under subsection (4) of this section, then the court need not  
37 apply the limitations of subsection (4) of this section. This  
38 subsection shall not apply to findings of sexual abuse which are  
39 governed by section 2 of this act.

1 (b) If the court makes express written findings based on clear  
2 and convincing evidence that it would be contrary to the child's best  
3 interests to order sole decision making or preclude dispute  
4 resolution under subsection (5) of this section, the court need not  
5 apply those limitations. Where there has been a finding of domestic  
6 violence, there is a rebuttable presumption that there will be sole  
7 decision making. The court shall not require face-to-face mediation,  
8 arbitration, or interventions, including therapeutic interventions,  
9 that require the parties to share the same physical or virtual space  
10 if there has been a finding of domestic violence.

11 (c) In determining whether there is clear and convincing evidence  
12 supporting a determination not to impose limitations, the court shall  
13 consider and make express written findings on all of the following  
14 factors:

15 (i) Any current risk posed by the parent to the physical or  
16 psychological well-being of the child or other parent;

17 (ii) Whether a parent has demonstrated that they can and will  
18 prioritize the child's physical and psychological well-being;

19 (iii) Whether a parent has adhered to and is likely to adhere to  
20 court orders;

21 (iv) Whether a parent has genuinely acknowledged past harm and is  
22 committed to avoiding harm in the future; and

23 (v) A parent's compliance with any previously court-ordered  
24 treatment. A parent's compliance with the requirements for  
25 participation in a treatment program does not, by itself, constitute  
26 evidence that the parent has made the requisite changes.

27 (7) WHEN LIMITATIONS APPLY TO BOTH PARENTS.

28 (a) When mandatory limitations in subsection (4)(a) or (b) of  
29 this section apply to both parents, the court may make an exception  
30 in applying mandatory limitations. The court shall make detailed  
31 written findings regarding the comparative risk of harm to the child  
32 posed by each parent, and shall explain the limitations imposed on  
33 each parent, including any decision not to impose restrictions on a  
34 parent or to award decision making to a parent who is subject to  
35 limitations.

36 (b) When mandatory limitations under subsection (4)(a) or (b) of  
37 this section apply to one parent and discretionary limitations under  
38 subsection (4)(c) of this section apply to another parent, there is a  
39 presumption that the mandatory limitations shall have priority in  
40 setting the limitations of the residential schedule, decision making,

1 and dispute resolution. If the court deviates from this presumption,  
2 the court shall make detailed written findings as to the reasons for  
3 the deviation.

4 (c) When discretionary limitations in subsection (4)(c) of this  
5 section apply to both parents, the court shall make detailed written  
6 findings regarding the comparative risk of harm to the child posed by  
7 each parent, and shall explain the limitations imposed on each  
8 parent, including any decision not to impose restrictions on a parent  
9 or to award decision making to a parent who is subject to limitations  
10 in subsection (4)(c) of this section.

11 (d) In making the determinations under (a), (b), or (c) of this  
12 subsection, the court shall consider the best interests of the child  
13 and which parenting arrangement best maintains a child's emotional  
14 growth, health and stability, and physical care. Further, the best  
15 interests of the child are ordinarily served when the existing  
16 pattern of interaction between a parent and child is altered only to  
17 the extent necessitated by the changed relationship of the parents or  
18 as required to protect the child from physical, mental, or emotional  
19 harm.

20 NEW SECTION. Sec. 2. A new section is added to chapter 26.09  
21 RCW to read as follows:

22 This section governs limitations on residential provisions,  
23 decision-making authority, and dispute resolution when a parent, or a  
24 person the parent resides with, has been convicted of a sex offense  
25 against a child or found to have sexually abused a child.

26 (1) SEXUALLY VIOLENT PREDATORS. If a parent has been found to be  
27 a sexually violent predator under chapter 71.09 RCW or under an  
28 analogous statute of any other jurisdiction, the court shall restrain  
29 the parent from contact with a child that would otherwise be allowed  
30 under this chapter. If a parent resides with an adult or a juvenile  
31 who has been found to be a sexually violent predator under chapter  
32 71.09 RCW or under an analogous statute of any other jurisdiction,  
33 the court shall restrain the parent from contact with the parent's  
34 child except contact that occurs outside the predator's presence.

35 (2) CHILD SEXUAL ABUSE BY PARENT.

36 (a) There is a rebuttable presumption that a parent who has been  
37 convicted as an adult of a sex offense against any child in this or  
38 another jurisdiction poses a present danger to a child. Unless the  
39 parent rebuts this presumption, the court shall restrain the parent

1 from all contact with the parent's child that would otherwise be  
2 allowed under this chapter.

3 (b) The court shall not enter an order allowing a parent to have  
4 contact with the parent's child if the parent has been found by a  
5 preponderance of the evidence in a dependency or family law action,  
6 including in the current case, to have sexually abused that child,  
7 except upon recommendation by an evaluator or therapist for the child  
8 that the child is ready for contact with the parent and will not be  
9 harmed by the contact.

10 (3) PARENT RESIDING WITH A PERSON FOUND TO HAVE SEXUALLY ABUSED A  
11 CHILD.

12 (a) There is a rebuttable presumption that a parent who knowingly  
13 resides with a person who, as an adult, has been convicted of a sex  
14 offense against a child, or as a juvenile has been adjudicated of a  
15 sex offense against a child at least eight years younger, in this or  
16 another jurisdiction, places a child at risk of abuse or harm when  
17 that parent exercises residential time in the presence of the  
18 convicted or adjudicated person. Unless the parent rebuts the  
19 presumption, the court shall restrain the parent from contact with  
20 the parent's child except for contact that occurs outside of the  
21 convicted or adjudicated person's presence.

22 (b) The court shall not enter an order allowing a parent to have  
23 contact with the child in the offender's presence if the parent  
24 resides with a person who has been found by a preponderance of the  
25 evidence in a dependency or family law action, including in the  
26 current case, to have sexually abused a child, unless the court finds  
27 that the parent accepts that the person engaged in the harmful  
28 conduct and the parent is willing to and capable of protecting the  
29 child from harm from the person.

30 (4) REBUTTING THE PRESUMPTION OF NO CONTACT.

31 (a) OFFENDING PARENT. The presumption established in subsection  
32 (2)(a) of this section may be rebutted only after a written finding  
33 that:

34 (i) If the child was not the victim of the sex offense committed  
35 by the parent requesting residential time, (A) contact between the  
36 child and the offending parent is appropriate and poses minimal risk  
37 to the child, and (B) the offending parent has provided documentation  
38 that they have successfully completed treatment for sex offenders or  
39 are engaged in and making progress in such treatment, if any was  
40 ordered by a court; or

1 (ii) If the child was the victim of the sex offense committed by  
2 the parent requesting residential time, (A) contact between the child  
3 and the offending parent is appropriate and poses minimal risk to the  
4 child, (B) if the child is in or has been in therapy for victims of  
5 sexual abuse, the child's counselor believes such contact between the  
6 child and the offending parent is in the child's best interest, and  
7 (C) the offending parent has provided documentation that they have  
8 successfully completed treatment for sex offenders or are engaged in  
9 and making progress in such treatment, if any was ordered by a court.

10 (b) PARENT RESIDES WITH OFFENDING PERSON. The presumption  
11 established in subsection (3)(a) of this section may be rebutted only  
12 after a written finding that:

13 (i) If the child was not the victim of the sex offense committed  
14 by the person who is residing with the parent requesting residential  
15 time, (A) contact between the child and the parent residing with the  
16 convicted or adjudicated person is appropriate and that parent is  
17 able to protect the child in the presence of the convicted or  
18 adjudicated person, and (B) the convicted or adjudicated person has  
19 provided documentation that they have successfully completed  
20 treatment for sex offenders or are engaged in and making progress in  
21 such treatment, if any was ordered by a court; or

22 (ii) If the child was the victim of the sex offense committed by  
23 the person who is residing with the parent requesting residential  
24 time, (A) contact between the child and the parent in the presence of  
25 the convicted or adjudicated person is appropriate and poses minimal  
26 risk to the child, (B) if the child is in or has been in therapy for  
27 victims of sexual abuse, the child's counselor believes such contact  
28 between the child and the parent residing with the convicted or  
29 adjudicated person in the presence of the convicted or adjudicated  
30 person is in the child's best interest, and (C) the convicted or  
31 adjudicated person has provided documentation that they have  
32 successfully completed treatment for sex offenders or are engaged in  
33 and making progress in such treatment, if any was ordered by a court.

34 (c) CONTACT IF PRESUMPTION REBUTTED.

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

1 (B) The court shall not approve of a supervisor for contact  
2 between the child and the parent unless the court finds, based on the  
3 evidence, that the supervisor is willing and capable of protecting  
4 the child from harm. The court shall revoke court approval of the  
5 supervisor upon finding, based on the evidence, that the supervisor  
6 has failed to protect the child or is no longer willing or capable of  
7 protecting the child;

8 (ii) If the court finds that the parent has met the burden of  
9 rebutting the presumption under (b) of this subsection, the court may  
10 allow a parent residing with a person who has been convicted of a sex  
11 offense against a child or adjudicated of a juvenile sex offense with  
12 a child at least eight years younger to have residential time with  
13 the child in the presence of that person, supervised by a neutral and  
14 independent adult and pursuant to an adequate plan for supervision of  
15 such residential time. The supervisor may be the parent if the court  
16 finds, based on the evidence, that the parent is willing and capable  
17 of protecting the child from harm. The court shall revoke court  
18 approval of the supervisor, including the parent, upon finding, based  
19 on the evidence, that the supervisor has failed to protect the child  
20 or is no longer willing or capable of protecting the child;

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

24 (iv) A court may order unsupervised contact between the offending  
25 parent and a child who was not sexually abused by the parent after  
26 the presumption under subsection (2)(a) of this section has been  
27 rebutted pursuant to (a) of this subsection and supervised  
28 residential time has occurred for at least two years with no further  
29 arrests or convictions of sex offenses involving children and (A) the  
30 sex offense of the offending parent was not committed against a child  
31 of the offending parent, and (B) the court finds that unsupervised  
32 contact between the child and the offending parent is appropriate and  
33 poses minimal risk to the child, after consideration of the testimony  
34 of a state-certified therapist, mental health counselor, or social  
35 worker with expertise in treating child sexual abuse victims who has  
36 supervised at least one period of residential time between the parent  
37 and the child, and after consideration of evidence of the offending  
38 parent's compliance with community supervision requirements, if any.  
39 If the offending parent was not ordered by a court to participate in  
40 treatment for sex offenders, then the parent shall obtain a

1 psychosexual evaluation conducted by a certified sex offender  
2 treatment provider or a certified affiliate sex offender treatment  
3 provider indicating that the offender has the lowest likelihood of  
4 risk to reoffend before the court grants unsupervised contact between  
5 the parent and a child.

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

13 **Sec. 3.** RCW 11.130.215 and 2022 c 243 s 8 are each amended to  
14 read as follows:

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

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

21 (a) The court shall appoint a person nominated as guardian by a  
22 parent of the minor in a probated will or other record unless the  
23 court finds the appointment is contrary to the best interest of the  
24 minor. Any "other record" must be a declaration or other sworn  
25 document and may include a power of attorney or other sworn statement  
26 as to the care, custody, or control of the minor child.

27 (b) If multiple parents have nominated different persons to serve  
28 as guardian, the court shall appoint the nominee whose appointment is  
29 in the best interest of the minor, unless the court finds that  
30 appointment of none of the nominees is in the best interest of the  
31 minor.

32 (c) If a guardian is not appointed under (a) or (b) of this  
33 subsection, the court shall appoint the person nominated by the minor  
34 if the minor is twelve years of age or older unless the court finds  
35 that appointment is contrary to the best interest of the minor. In  
36 that case, the court shall appoint as guardian a person whose  
37 appointment is in the best interest of the minor.

38 (3) In the interest of maintaining or encouraging involvement by  
39 a minor's parent in the minor's life, developing self-reliance of the

1 minor, or for other good cause, the court, at the time of appointment  
2 of a guardian for the minor or later, on its own or on motion of the  
3 minor or other interested person, may create a limited guardianship  
4 by limiting the powers otherwise granted by this article to the  
5 guardian. Following the same procedure, the court may grant  
6 additional powers or withdraw powers previously granted.

7 (4) The court, as part of an order appointing a guardian for a  
8 minor, shall state rights retained by any parent of the minor, which  
9 shall preserve the parent-child relationship through an order for  
10 parent-child visitation and other contact, unless the court finds the  
11 relationship should be limited or restricted under RCW 26.09.191 or  
12 section 2 of this act; and which may include decision making  
13 regarding the minor's health care, education, or other matter, or  
14 access to a record regarding the minor.

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

17 (a) The guardian has delegated custody of the minor subject to  
18 guardianship;

19 (b) The court has modified or limited the powers of the guardian;  
20 or

21 (c) The court has removed the guardian.

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

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

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

31 (1) DISPUTE RESOLUTION PROCESS. The court shall not order a  
32 dispute resolution process, except court action, when it finds that  
33 any limiting factor under RCW 26.09.191 or section 2 of this act  
34 applies, or when it finds that either parent is unable to afford the  
35 cost of the proposed dispute resolution process. If a dispute  
36 resolution process is not precluded or limited, then in designating  
37 such a process the court shall consider all relevant factors,  
38 including:

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

3 (b) The parents' wishes or agreements and, if the parents have  
4 entered into agreements, whether the agreements were made knowingly  
5 and voluntarily; and

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

9 (2) ALLOCATION OF DECISION-MAKING AUTHORITY.

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

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

17 (ii) The agreement is knowing and voluntary.

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

20 (i) A limitation on the other parent's decision-making authority  
21 is mandated by RCW 26.09.191 or section 2 of this act;

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

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

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

29 (i) The existence of a limitation under RCW 26.09.191 or section  
30 2 of this act;

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

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

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

38 (3) RESIDENTIAL PROVISIONS.

39 (a) The court shall make residential provisions for each child  
40 which encourage each parent to maintain a loving, stable, and

1 nurturing relationship with the child, consistent with the child's  
2 developmental level and the family's social and economic  
3 circumstances. The child's residential schedule shall be consistent  
4 with RCW 26.09.191 and section 2 of this act. Where the limitations  
5 of RCW 26.09.191 or section 2 of this act are not dispositive of the  
6 child's residential schedule, the court shall consider the following  
7 factors:

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

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

12 (iii) Each parent's past and potential for future performance of  
13 parenting functions as defined in RCW 26.09.004(~~((3))~~) (2), including  
14 whether a parent has taken greater responsibility for performing  
15 parenting functions relating to the daily needs of the child;

16 (iv) The emotional needs and developmental level of the child;

17 (v) The child's relationship with siblings and with other  
18 significant adults, as well as the child's involvement with his or  
19 her physical surroundings, school, or other significant activities;

20 (vi) The wishes of the parents and the wishes of a child who is  
21 sufficiently mature to express reasoned and independent preferences  
22 as to his or her residential schedule; and

23 (vii) Each parent's employment schedule, and shall make  
24 accommodations consistent with those schedules.

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

26 (b) Where the limitations of RCW 26.09.191 or section 2 of this  
27 act are not dispositive, the court may order that a child frequently  
28 alternate his or her residence between the households of the parents  
29 for brief and substantially equal intervals of time if such provision  
30 is in the best interests of the child. In determining whether such an  
31 arrangement is in the best interests of the child, the court may  
32 consider the parties geographic proximity to the extent necessary to  
33 ensure the ability to share performance of the parenting functions.

34 (c) For any child, residential provisions may contain any  
35 reasonable terms or conditions that facilitate the orderly and  
36 meaningful exercise of residential time by a parent, including but  
37 not limited to requirements of reasonable notice when residential  
38 time will not occur.

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

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

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

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

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

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

21       (e) Any of the circumstances set forth in RCW 26.09.191 or  
22 section 2 of this act that are likely to pose a serious risk to the  
23 child and that warrant limitation on the award to a parent of  
24 temporary residence or time with the child pending entry of a  
25 permanent parenting plan.

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

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

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

31       (c) Allocation of decision-making authority, if any. Absent  
32 allocation of decision-making authority consistent with RCW  
33 26.09.187(2), neither party shall make any decision for the child  
34 other than those relating to day-to-day or emergency care of the  
35 child, which shall be made by the party who is present with the  
36 child;

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

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

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

4 (4) A parent may move for amendment of a temporary parenting  
5 plan, and the court may order amendment to the temporary parenting  
6 plan, if the amendment conforms to the limitations of RCW 26.09.191  
7 and section 2 of this act and is in the best interest of the child.

8 (5) If a proceeding for dissolution of marriage or dissolution of  
9 domestic partnership, legal separation, or declaration of invalidity  
10 is dismissed, any temporary order or temporary parenting plan is  
11 vacated.

12 **Sec. 6.** RCW 26.09.260 and 2009 c 502 s 3 are each amended to  
13 read as follows:

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

26 (2) In applying these standards, the court shall retain the  
27 residential schedule established by the decree or parenting plan  
28 unless:

29 (a) The parents agree to the modification;

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

33 (c) The child's present environment is detrimental to the child's  
34 physical, mental, or emotional health and the harm likely to be  
35 caused by a change of environment is outweighed by the advantage of a  
36 change to the child; or

37 (d) The court has found the nonmoving parent in contempt of court  
38 at least twice within three years because the parent failed to comply  
39 with the residential time provisions in the court-ordered parenting

1 plan, or the parent has been convicted of custodial interference in  
2 the first or second degree under RCW 9A.40.060 or 9A.40.070.

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

6 (4) The court may reduce or restrict contact between the child  
7 and the parent with whom the child does not reside a majority of the  
8 time if it finds that the reduction or restriction would serve and  
9 protect the best interests of the child using the criteria in RCW  
10 26.09.191 and section 2 of this act.

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

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

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

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

36 (6) The court may order adjustments to the residential aspects of  
37 a parenting plan pursuant to a proceeding to permit or restrain a  
38 relocation of the child. The person objecting to the relocation of  
39 the child or the relocating person's proposed revised residential  
40 schedule may file a petition to modify the parenting plan, including

1 a change of the residence in which the child resides the majority of  
2 the time, without a showing of adequate cause other than the proposed  
3 relocation itself. A hearing to determine adequate cause for  
4 modification shall not be required so long as the request for  
5 relocation of the child is being pursued. In making a determination  
6 of a modification pursuant to relocation of the child, the court  
7 shall first determine whether to permit or restrain the relocation of  
8 the child using the procedures and standards provided in RCW  
9 26.09.405 through 26.09.560. Following that determination, the court  
10 shall determine what modification pursuant to relocation should be  
11 made, if any, to the parenting plan or custody order or visitation  
12 order.

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

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

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

30 (9) A parent with whom the child does not reside a majority of  
31 the time who is required by the existing parenting plan to complete  
32 evaluations, treatment, parenting, or other classes may not seek  
33 expansion of residential time under subsection (5)(c) of this section  
34 unless that parent has fully complied with such requirements.

35 (10) The court may order adjustments to any of the nonresidential  
36 aspects of a parenting plan upon a showing of a substantial change of  
37 circumstances of either parent or of a child, and the adjustment is  
38 in the best interest of the child. Adjustments ordered under this  
39 section may be made without consideration of the factors set forth in  
40 subsection (2) of this section.

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

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

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

21 (12) If a parent receives military temporary duty, deployment,  
22 activation, or mobilization orders that involve moving a substantial  
23 distance away from the military parent's residence or otherwise have  
24 a material effect on the military parent's ability to exercise  
25 residential time or visitation rights, at the request of the military  
26 parent, the court may delegate the military parent's residential time  
27 or visitation rights, or a portion thereof, to a child's family  
28 member, including a stepparent, or another person other than a  
29 parent, with a close and substantial relationship to the minor child  
30 for the duration of the military parent's absence, if delegating  
31 residential time or visitation rights is in the child's best  
32 interest. The court may not permit the delegation of residential time  
33 or visitation rights to a person who would be subject to limitations  
34 on residential time under RCW 26.09.191 or section 2 of this act. The  
35 parties shall attempt to resolve disputes regarding delegation of  
36 residential time or visitation rights through the dispute resolution  
37 process specified in their parenting plan, unless excused by the  
38 court for good cause shown. Such a court-ordered temporary delegation  
39 of a military parent's residential time or visitation rights does not

1 create separate rights to residential time or visitation for a person  
2 other than a parent.

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

7 **Sec. 7.** RCW 26.09.520 and 2019 c 79 s 3 are each amended to read  
8 as follows:

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

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

22 (2) Prior agreements of the parties;

23 (3) Whether disrupting the contact between the child and the  
24 person seeking relocation would be more detrimental to the child than  
25 disrupting contact between the child and the person objecting to the  
26 relocation;

27 (4) Whether either parent or a person entitled to residential  
28 time with the child is subject to limitations under RCW 26.09.191 or  
29 section 2 of this act;

30 (5) The reasons of each person for seeking or opposing the  
31 relocation and the good faith of each of the parties in requesting or  
32 opposing the relocation;

33 (6) The age, developmental stage, and needs of the child, and the  
34 likely impact the relocation or its prevention will have on the  
35 child's physical, educational, and emotional development, taking into  
36 consideration any special needs of the child;

37 (7) The quality of life, resources, and opportunities available  
38 to the child and to the relocating party in the current and proposed  
39 geographic locations;

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

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

6 (10) The financial impact and logistics of the relocation or its  
7 prevention; and

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

10 **Sec. 8.** RCW 26.12.177 and 2011 c 292 s 7 are each amended to  
11 read as follows:

12 (1) All guardians ad litem appointed under this title must comply  
13 with the training requirements established under RCW 2.56.030(15),  
14 prior to their appointment in cases under Title 26 RCW, except that  
15 volunteer guardians ad litem or court-appointed special advocates may  
16 comply with alternative training requirements approved by the  
17 administrative office of the courts that meet or exceed the statewide  
18 requirements. In cases involving allegations of limiting factors  
19 under RCW 26.09.191 or section 2 of this act, the guardians ad litem  
20 appointed under this title must have additional relevant training  
21 under RCW 2.56.030(15) when it is available.

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

31 (b) In judicial districts with a population over one hundred  
32 thousand, a list of three names shall be selected from the registry  
33 and given to the parties along with the background information record  
34 as specified in RCW 26.12.175(3), including their hourly rate for  
35 services. Each party may, within three judicial days, strike one name  
36 from the list. If more than one name remains on the list, the court  
37 shall make the appointment from the names on the list. In the event  
38 all three names are stricken the person whose name appears next on  
39 the registry shall be appointed.

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

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

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

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

18 **Sec. 9.** RCW 26.51.020 and 2021 c 215 s 143 and 2021 c 65 s 103  
19 are each reenacted and amended to read as follows:

20 The definitions in this section apply throughout this chapter  
21 unless the context clearly requires otherwise.

22 (1) "Abusive litigation" means litigation where the following  
23 apply:

24 (a)(i) The opposing parties have a current or former intimate  
25 partner relationship;

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

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

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

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

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

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

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

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

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

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