
SENATE BILL 5706

State of Washington

69th Legislature

2025 Regular Session

By Senator Fortunato

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

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 26.09
5 RCW to read as follows:

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

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

20 (3) A postgraduate degree in mental health, including psychology,
21 psychiatry, or social work, absent specialized and approved training

1 may not be considered proof of domestic violence expertise. A court
2 may not refuse to qualify a professional as a domestic violence
3 expert because the professional does not possess a postgraduate
4 degree if the professional can demonstrate expertise based upon
5 training and experience.

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

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

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

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

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

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

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

27 (11) In any case involving allegations of child sexual abuse, any
28 professionals asked by the court for a risk assessment or evaluation
29 must have specialized training and experience of a minimum of five
30 years after completing training working with children and expertise
31 in child sexual abuse. Investigators must take sufficient time to
32 develop a trusting relationship before expecting the child to speak
33 about the allegations. A recantation by a child of a valid allegation
34 of child abuse may not by itself be treated as absolute proof that
35 the allegation was false. No negative inferences may be drawn from a
36 decision by a prosecutor or child protective agency not to file
37 charges against a named perpetrator of domestic violence or child
38 abuse and may not be treated as proof the allegations are untrue.
39 Given the difficulty of proving valid complaints about child sexual
40 abuse, judges who make a finding that the allegations were

1 deliberately false must demonstrate they considered not only if the
2 allegations are true but other common circumstances such as violation
3 of boundaries, inadequate information to determine the validity of
4 the allegations, and mistaken allegations made in good faith. In
5 cases in which a court determined sexual abuse allegations cannot be
6 proven, the court shall consider new evidence in the context of the
7 evidence previously considered. No decision may be made by a court
8 absent a full evidentiary hearing with the parent having a right to
9 have an expert of their choosing heard by the court. No preference
10 and no deference may be given to any expert selected by the court and
11 the trial court must apply identical standards of review and
12 credibility.

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

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

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

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

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