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ENGROSSED SUBSTITUTE HOUSE BILL 2155

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State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Scott, Appelwick, R. King and Miller). Read first time March 6, 1991.

1 AN ACT Relating to expanding family courts and family court  
2 services; amending RCW 26.12.010, 26.12.060, 26.12.170, 26.12.190, and  
3 26.12.220; adding new sections to chapter 26.12 RCW; creating a new  
4 section; repealing RCW 26.12.090, 26.12.100, 26.12.110, 26.12.120,  
5 26.12.130, 26.12.140, 26.12.150, 26.12.180, 26.12.200, and 26.12.210;  
6 and declaring an emergency.

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

8 **Sec. 1.** RCW 26.12.010 and 1983 c 219 s 1 are each amended to read  
9 as follows:

10 Each superior court shall exercise the jurisdiction conferred by  
11 this chapter and while sitting in the exercise of such jurisdiction  
12 shall be known and referred to as the "family court." A family law  
13 proceeding under this chapter is any proceeding under this title or any  
14 proceeding in which the family court is requested to adjudicate or  
15 enforce the rights of the parties or their children regarding the

1 determination or modification of parenting plans, child custody,  
2 visitation, or support, or the distribution of property or obligations.

3 **Sec. 2.** RCW 26.12.060 and 1988 c 232 s 4 are each amended to read  
4 as follows:

5 The family court commissioners shall: (1) ~~((Receive all~~  
6 ~~applications and complaints filed in the family court for the purpose~~  
7 ~~of disposing of them pursuant to this chapter)) Provide for~~  
8 reconciliation services; (2) ~~((investigate))~~ provide for investigation  
9 and reporting of the facts upon which to base warrants, subpoenas,  
10 orders or directions in actions or proceedings ~~((filed in or~~  
11 ~~transferred to the family court pursuant to))~~ under this chapter; (3)  
12 provide for mediation services except for child support which shall not  
13 be subject to mediation; (4) provide for drug and alcohol abuse  
14 evaluations and monitoring of parties if necessary through public or  
15 private treatment services; (5) for the purpose of this chapter,  
16 exercise all the powers and perform all the duties of regular court  
17 commissioners; ~~((4) hold conciliation conferences with parties to and~~  
18 ~~hearings in proceedings under this chapter and))~~ (6) make written  
19 reports of all proceedings had which shall become a part of the record  
20 of the family court; ~~((5))~~ (7) provide ~~((such))~~ supervision ~~((in~~  
21 ~~connection with))~~ over the exercise of its jurisdiction as the judge of  
22 the family court may order; ~~((6))~~ (8) cause the orders and findings  
23 of the family court to be entered in the same manner as orders and  
24 findings are entered in cases in the superior court; ~~((7))~~ (9) cause  
25 ~~((such))~~ other reports to be made and records kept as will indicate the  
26 value and extent of ~~((such conciliation service))~~ reconciliation,  
27 mediation, investigation, and treatment services; and ~~((8))~~ (10)  
28 conduct hearings under chapter 13.34 RCW as provided in RCW 13.04.021.

1       **Sec. 3.** RCW 26.12.170 and 1983 c 219 s 5 are each amended to read  
2 as follows:

3       ~~((The hearing shall be conducted informally as a conference or  
4 series of conferences to effect the reconciliation of the parties or an  
5 amicable adjustment or settlement of the issues of the controversy.))~~  
6 To facilitate and promote the purposes of this chapter, the court may  
7 order or recommend family court services, the aid of physicians,  
8 psychiatrists, ~~((or))~~ other specialists, or other services or may  
9 recommend the aid of the pastor or director of any religious  
10 denomination to which the parties may belong. ~~((Such aid, however,  
11 shall be at the expense of the parties involved and shall not be at the  
12 expense of the court or of the county unless the board of county  
13 commissioners shall specifically authorize such aid))~~ The parties shall  
14 bear all or a portion of the cost of the services according to the  
15 parties' ability to pay as provided in RCW 26.12.220.

16       If the court has reasonable cause to believe that a child of the  
17 parties has suffered abuse or neglect it may file a report with the  
18 proper law enforcement agency or the department of social and health  
19 services as provided in RCW 26.44.040. Upon receipt of such a report  
20 the law enforcement agency or the department of social and health  
21 services will conduct an investigation into the cause and extent of the  
22 abuse or neglect. The findings of the investigation may be made  
23 available to the court if ordered by the court as provided in RCW  
24 42.17.310(3). The findings shall be restricted to the issue of abuse  
25 and neglect and shall not be considered custody investigations.

26       **Sec. 4.** RCW 26.12.190 and 1983 c 219 s 7 are each amended to read  
27 as follows:

28       (1) ~~((During the period of thirty days after filing a petition for  
29 conciliation no family law proceeding shall be filed by either party~~

1 ~~and further proceedings in a family law proceeding then pending in the~~  
2 ~~superior court shall be stayed and the case transferred to the family~~  
3 ~~court.))~~ The family court shall have jurisdiction and full power in  
4 all pending cases to make, alter, modify, and enforce all temporary and  
5 permanent orders(, orders for)) regarding the following: Parenting  
6 plans, child support, custody of children, visitation, possession of  
7 property, maintenance, contempt, custodial interference, and orders for  
8 attorneys' fees, suit money or costs as may appear just and equitable.  
9 The family court commissioners shall not have authority to enter  
10 permanent parenting plan orders. The family court commissioners or  
11 judges shall not have authority to require the parties to mediate  
12 disputes concerning child support.

13 (2) ~~((If, after the expiration of such thirty day period or the~~  
14 ~~formal conclusion of the proceedings for conciliation, the controversy~~  
15 ~~between the parties has not been terminated, either party may apply for~~  
16 ~~further relief by filing in the clerk's office additional pleadings or~~  
17 ~~by asking that the pending case be set for trial. The family court has~~  
18 ~~full jurisdiction to hear, try, and determine family law proceedings~~  
19 ~~under the laws relating thereto, and to retain jurisdiction of the case~~  
20 ~~for further hearings on decrees or orders to be made therein.~~

21 (3) ~~The conciliation provisions of this chapter may be used~~  
22 ~~concerning support, visitation, contempt, or for modification based on~~  
23 ~~changed conditions or for other problems between the parties related to~~  
24 ~~the family law proceeding.~~

25 (4) ~~Except as specifically so provided nothing in this chapter~~  
26 ~~shall be construed to repeal, nullify or change the law and procedure~~  
27 ~~relating to family law proceedings. The family court shall, when~~  
28 ~~application for relief is made under this chapter, apply provisions~~  
29 ~~governing family law proceedings in the same manner as if the action~~  
30 ~~had been brought thereunder in the superior court, save that the~~

1 ~~conciliation procedures of the family court shall be applied so far as~~  
2 ~~appropriate to arrive at an amicable settlement of all issues in~~  
3 ~~controversy))~~ The investigation, evaluation, mediation, treatment, and  
4 conciliation services of the family court services may be used to  
5 assist the court to develop order as the court deems necessary to  
6 preserve the marriage or to implement an amicable settlement of the  
7 issues in controversy.

8       **Sec. 5.** RCW 26.12.220 and 1980 c 124 s 1 are each amended to read  
9 as follows:

10       (1) The legislative authority of any county may authorize family  
11 court services as provided in RCW 26.12.230. The legislative authority  
12 may impose a fee in excess of that prescribed in RCW 36.18.010 for the  
13 issuance of a marriage license(~~(:— PROVIDED, That such)~~). The fee  
14 shall not exceed eight dollars.

15       (2) In addition to any other funds used therefor, the governing  
16 body of any county shall use the proceeds from the fee increase  
17 authorized by this section to pay the expenses of the family court and  
18 the family court services under chapter 26.12 RCW. If there is no  
19 family court in the county, the legislative authority may provide such  
20 services through other county agencies or may contract with a public or  
21 private agency or person to provide such services. Family court  
22 services also may be provided jointly with other counties as provided  
23 in RCW 26.12.230.

24       (3) The family court services program in the county may hire  
25 professional employees to provide the investigation, evaluation, and  
26 mediation services, or the county may contract for these services, or  
27 both. To facilitate and promote the purposes of this chapter, the  
28 court may order or recommend the aid of physicians, psychiatrists, or  
29 other specialists.

1        (4) The family court services program may provide or contract for  
2 the following services for: (a) Mediation; (b) investigation,  
3 evaluation, and reporting to the court; (c) reconciliation; (d) drug  
4 and alcohol testing, monitoring, and treatment; and (e) any other  
5 treatment, parenting, or anger management programs the family court  
6 professional considers necessary or appropriate.

7        (5) The county legislative authority may establish rules of  
8 eligibility for ((conciliation)) the services funded under this section  
9 ((so long as its)). The rules ((do)) shall not conflict with rules of  
10 the court adopted under chapter 26.12 RCW or any other statute.

11        ((+4)) (6) The legislative authority may establish fees for  
12 services under this chapter according to the parties' ability to pay  
13 for the services. Fees collected under this section shall be collected  
14 and deposited in the same manner as other county funds are collected  
15 and deposited, and shall be maintained in a separate account to be used  
16 as provided in this section.

17        NEW SECTION. Sec. 6.        The family court shall give proceedings  
18 involving children priority over cases without children.

19        NEW SECTION. Sec. 7.        The court may appoint a guardian ad  
20 litem to represent the interests of a minor or dependent child when the  
21 court believes the appointment of a guardian is in the best interests  
22 of the child in any proceeding under this chapter. The family court  
23 services professionals shall make a recommendation to the court  
24 regarding whether a guardian ad litem should be appointed for the  
25 child. The court shall enter an order for costs, fees, and  
26 disbursements to cover the costs of the guardian ad litem. The court  
27 may order either or both parents to pay for the costs of the guardian  
28 ad litem, according to their ability to pay. If both parents are

1 indigent, the county shall bear the cost of the guardian, subject to  
2 appropriation for guardians' ad litem services by the county  
3 legislative authority.

4 NEW SECTION. **Sec. 8.** All acts and proceedings of the court  
5 commissioners shall be subject to revision by the superior court as  
6 provided in RCW 2.24.050.

7 NEW SECTION. **Sec. 9.** (1) Any state funds appropriated in the  
8 omnibus operating budget appropriations act for the 1991-93 biennium to  
9 the office of the administrator for the courts for the purposes of  
10 funding county family courts and county family court services shall be  
11 distributed to the eligible counties as provided in this section.

12 (2) Any appropriation in the omnibus operating budget  
13 appropriations act for the purposes of implementing this section is  
14 contingent on an equal amount of money being provided by the county  
15 from nonstate sources, whether public or private.

16 (3) Any county that has implemented or has committed to implement  
17 a family court and family court services on or before January 1, 1993,  
18 is eligible for available appropriated state funds if the county: (a)  
19 Obtains approval of an application under subsection (4) of this  
20 section; and (b) Commits to spend money from public or private nonstate  
21 funding sources over a one-year period beginning on the date the county  
22 receives state funding, in an amount that is equal to or greater than  
23 the state funds distributed to the county under subsection (4) of this  
24 section. Any state funding is contingent on the county maintaining the  
25 family court and the family court services over the one-year period  
26 after disbursement of state funds to the county.

27 (4) The office of the administrator for the courts shall accept  
28 applications for state funds until March 1, 1992. After the

1 application period expires, the office of the administrator for the  
2 courts shall determine each eligible county's percentage of the funds  
3 appropriated for family courts and family court services. An eligible  
4 county's percentage share of the appropriated funds shall be the same  
5 percentage as the number of cases filed in that county under Title 26  
6 RCW, divided by the number of cases filed under Title 26 RCW in all the  
7 eligible counties. The initial determination of the number of case  
8 filings in each eligible county shall be based upon the office of the  
9 administrator for the courts' most recent annual report. The office of  
10 the administrator for the courts shall adjust the calculation of the  
11 number of filings in each county if any county has a disproportionate  
12 number of filings due to changes of venue or cases in which both  
13 parties live in another county. The office of the administrator for  
14 the courts may begin disbursing the state funds by July 1, 1992, to  
15 eligible counties. The office of the administrator for the courts  
16 shall disburse the state funds not later than January 1, 1993, to  
17 eligible counties. The counties must use the state funds over a one-  
18 year period from the date of disbursement.

19 (5) The office of the administrator for the courts shall develop an  
20 application form for applying for state funds under this subsection.  
21 The office of the administrator for the courts shall develop rules to  
22 determine whether a county applying for state funds (a) has implemented  
23 or has committed to implement a family court and family court services  
24 under this chapter; (b) has committed nonstate funds for a one-year  
25 period following disbursement of the state funds to continue the family  
26 court and the family court services through that one-year period; and  
27 (c) has spent the matching funds required to obtain the state funds.

28 NEW SECTION. **Sec. 10.** The following acts or parts of acts are  
29 each repealed:

- 1 (1) RCW 26.12.090 and 1983 c 219 s 2 & 1949 c 50 s 9;
- 2 (2) RCW 26.12.100 and 1983 c 219 s 3 & 1949 c 50 s 10;
- 3 (3) RCW 26.12.110 and 1949 c 50 s 11;
- 4 (4) RCW 26.12.120 and 1983 c 219 s 4 & 1949 c 50 s 12;
- 5 (5) RCW 26.12.130 and 1949 c 50 s 13;
- 6 (6) RCW 26.12.140 and 1980 c 124 s 2, 1971 ex.s. c 151 s 1, & 1949
- 7 c 50 s 14;
- 8 (7) RCW 26.12.150 and 1949 c 50 s 15;
- 9 (8) RCW 26.12.180 and 1983 c 219 s 6 & 1949 c 50 s 18;
- 10 (9) RCW 26.12.200 and 1983 c 219 s 8 & 1949 c 50 s 20; and
- 11 (10) RCW 26.12.210 and 1983 c 219 s 9 & 1949 c 50 s 21.

12 NEW SECTION. **Sec. 11.** Sections 6 through 8 of this act are  
13 each added to chapter 26.12 RCW.

14 NEW SECTION. **Sec. 12.** If by June 30, 1991, the omnibus  
15 operating budget appropriations act for the 1991-93 biennium does not  
16 provide specific funding for section 9 of this act, referencing this  
17 act by bill number, section 9 of this act is null and void.

18 NEW SECTION. **Sec. 13.** This act is necessary for the immediate  
19 preservation of the public peace, health, or safety, or support of the  
20 state government and its existing public institutions, and shall take  
21 effect immediately.