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## Judiciary Committee

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### 2SSB 5470

**Title:** An act relating to dissolution proceedings.

**Brief Description:** Revising provisions concerning dissolution proceedings.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Stevens, McAuliffe, Brown and Regala).

#### Brief Summary of Second Substitute Bill

- Allows courts to establish family liaison programs to, among other things, be the initial point of contact for parties in dissolutions; provide information to parties on alternatives to dissolution; and screen cases for domestic violence, child abuse, substance abuse, and mental health issues.
- Amends the factors the court must consider when determining a child's residential schedule in temporary and permanent parenting plans.
- Establishes procedures, such as safe exchange places and supervised visitation, for courts to address domestic violence and child abuse issues.
- Contains mediation provisions, creates a dissolution task force, requires tracking of dissolution information, and contains other provisions related to dissolution issues.

**Hearing Date:** 3/21/07

**Staff:** Trudes Tango (786-7384).

#### **Background:**

Petitioning for dissolution: A person may petition the superior court for a dissolution of marriage (divorce) when at least one of the parties is a resident of Washington or in the armed forces and stationed in the state. A petition for dissolution must contain certain information and may be filed in the county where the petitioner resides. Personal service of the petition on the other party is

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generally required. However, service by other means is allowed, including service by publication in cases where the respondent cannot be found within the state. Generally, the court will enter a dissolution decree no sooner than ninety days from the date the petition was filed and served on the other party.

Courthouse facilitator programs and family court services: Counties may create courthouse facilitator programs to provide basic services to pro se litigants in family law cases. According to the Washington Courts website, most counties have courthouse facilitators. Services provided by courthouse facilitators can vary from county to county, and include, but are not limited to:

- referral to legal, social service, and alternate dispute resolution resources;
- assistance in calculating child support;
- process requests for interpreters;
- assistance in completing forms;
- explanation of legal terms;
- information on basic court procedures including requirements for service, filing, scheduling hearings and complying with local procedures;
- review of forms to determine whether forms have been completely filled out;
- previewing pro se pleadings prior to hearings to determine whether they comply with procedural requirements.

Counties may also authorize family court services. The family court services program may provide or contract for investigation, evaluation and reporting, mediation, and reconciliation services. Family court services programs may also provide for referrals to drug and alcohol treatment and monitoring, parenting classes, and anger management programs.

Residential time: When there are minor children of the marriage, the court must make residential provisions in a parenting plan based on the best interests of the child. For permanent parenting plans, the court must consider the following factors:

- (1) The relative strength, nature, and stability of the child's relationship with each parent, including whether a parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child. This first factor is given the greatest weight.
- (2) The agreements of the parties;
- (3) Each parent's past and potential for future performance of parenting functions;
- (4) The emotional needs and developmental level of the child;
- (5) The child's relationship with siblings and with other significant adults, as well as the child's involvement with his or her physical surroundings, school, or other significant activities;
- (6) The wishes of the parents and wishes of a child who is sufficiently mature to express reasoned and independent preferences; and
- (7) Each parent's employment schedule.

When entering a temporary parenting plan, the court must consider the above factors, but must give particular consideration to:

- (1) which parent has taken greater responsibility during the last twelve months for performing parenting functions relating to the daily needs of the child; and
- (2) which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.

There is a presumption against residential provisions that require the child to frequently alternative his or her residence between the parents for brief and substantially equal intervals of time (sometimes referred to as "shared parenting"). The court may order shared parenting only if it finds that: (a) there has been no parental misconduct that requires the court to limit residential time; (b) either the parties have knowingly and voluntarily agreed to such provisions or the parties have a satisfactory history of cooperation and shared performance of parenting functions and are available to each other; and (c) the provisions are in the child's best interest.

Limitations on residential time: The court must limit residential time between a parent and child if the parent has engaged in certain specified misconduct, including if there has been physical, sexual, or a pattern of emotional abuse of the child; a history of acts of domestic violence or an assault that causes grievous bodily harm or the fear of such harm; or the parent has been convicted as an adult of certain sex offenses. For a parent who has been convicted of a sex offense, there is a rebuttable presumption that the parent poses a present danger to the child, and the court must restrain the parent from contact with the child unless the parent meets certain conditions to rebut that presumption.

For other misconduct, the court must impose limitations that are reasonably calculated to protect the child. Limitations may include requiring supervised contact with a court-approved supervisor. If the court finds that limitations on residential time will not protect the child from harm or abuse, the court must restrain the parent from all contact with the child.

Mediation: The court may set any contested matter pertaining to the dissolution for mediation before or concurrent with the setting of the matter for hearing. Courts may make available a mediator, who can be a member of the professional staff of the court or mental health services agency or any other person designated by the court.

Other: Courts may appoint a guardian ad litem (GAL) or an investigator to assist the court in determining the best interest of the child. The GALs and investigators report factual information to the court regarding parenting arrangements. The court may order either or both parents to pay for the costs of the GAL, according to their ability to pay. Some courts have volunteer GAL services. GALs and investigators must complete the statewide training developed by the Administrative Office of the Courts (AOC).

When a person applies for a marriage license, the county auditor must give the person a family law handbook created by the AOC. The handbook must contain information about marriage, dissolution, child support, and other family law information.

### **Summary of Bill:**

Family court liaison program: Effective January 1, 2008, superior courts are authorized to establish family liaison programs to provide basic services to all parties filing for dissolutions. If state funding is provided, courts must establish a liaison program. Courts may impose user fees or impose a surcharge up to \$20 on dissolution cases, or both, to pay for the liaison program. Liaisons must provide services to indigent persons at no expense.

Liaisons are appointed by a majority vote of the judges and must: (a) be the initial point of contact for parties in dissolution proceedings; (b) provide parties with certain information, including alternatives to dissolution, such as marriage counseling, mediation, and legal

separation; (c) provide pro se litigants with information regarding venue and residency requirements; and (d) assist the court.

The AOC must develop training for liaisons that will enable liaisons to screen for domestic violence, child abuse, substance abuse, and mental health issues. Liaisons must not provide legal advice, and no attorney-client privilege is created between a liaison and the parties.

Petitioning for dissolution: A petition for dissolution must allege that the petitioner has met with a family court liaison at least 15 days prior to filing the petition, if the county has a liaison program.

If the petitioner for dissolution files the petition in a county where neither party or the child resides, the petition must be personally served on the nonmoving party. For cases filed after the effective date of the act, motions to modify may only be brought in the county where the petition was filed, unless one of the parties has moved to a different county, in which case modifications may be filed in the new county.

Effective January 1, 2008, the family law handbook must be provided to both parties when a dissolution petition is filed. Before the court enters a decree of dissolution, both parties must acknowledge in writing that they have received the family law handbook and other information regarding alternatives, such as counseling, legal separation, and mediation, and, where appropriate, information regarding supervised visitation and safe exchange programs. The AOC must reimburse counties for each copy of the handbook that is distributed directly to parties.

Residential Time: The factors the court must consider when determining residential provisions under a parenting plan is amended. Whether a parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child is removed from the first factor and must still be considered, but not given the greatest weight. When entering a temporary parenting plan, the court must give particular consideration to the relative strength, nature, and stability of the child's relationship with each parent, rather than which parent has provided for the daily needs of the child within the last 12 months.

The presumption against "shared parenting" is removed. The court may order that the child frequently alternate his or her residence between the parents for brief and substantially equal intervals of time if it is in the child's best interest.

Limitations on residential time: Before entering a permanent parenting plan, the court must determine the existence of any information and proceedings available in the judicial information system that are relevant to the placement of the child.

When there are allegations of child abuse, domestic violence, or a parent's conviction of a sex offense, both parties must be screened to determine the appropriateness of a comprehensive assessment regarding the impact of the limiting factor on the child and the parties. The GALs and investigators appointed to those cases must have additional training when it is available. If any of the limiting factors exist, the court must require that a safety plan be completed. The limitations that the court imposes concerning residential time with the child must also be reasonably calculated to provide for the safety of the parent who may be at risk of abuse or harm that could result from the parents having contact with each other. Limitations the court may impose include, but are not limited to, supervised contact and completion of relevant counseling or treatment.

Courts may order the exchange of the child to occur in protected settings and order supervised residential time in cases where there is domestic violence or child abuse. In cases where the court finds the parties do not have a satisfactory history of cooperation or there is a high level of parental conflict, supervised visitation and safe exchange centers or alternative safe locations must be used to facilitate the exercise of residential time if ordered.

Mediation: In order to identify cases where domestic violence and child abuse are present, parties must meet with a family court liaison prior to entering mediation. When appropriate, parties shall be provided access to trained domestic violence advocates. If a victim requests mediation, the court may permit mediation if the court finds that mediation is appropriate and the victim is permitted to have a supporting person present during mediation.

Effective January 1, 2009, courts may provide pre-decree and post-decree mediation at reduced or waived fees to the parties within one year of filing the dissolution petition. Courts must provide such services if state funding is provided for that purpose. Courts must use the most cost-effective mediation services that are readily available unless there is good cause to use an alternative provider. Parties who choose to participate in good faith in mediation within one month of filing the dissolution petition remain eligible to finalize the dissolution 90 days after filing the petition.

Other provisions: Parties and witnesses who require court interpreters shall be provided access to qualified interpreters. Interpreters must also be made available at dissolution-related proceedings to the extent practicable and within available resources. Parties and witnesses who require literacy assistance shall be referred to service centers established under the Displaced Homemaker Act, which provides job counseling, training, and placement services, skills training, and other services.

Courts may allow parties and witnesses to participate in proceedings through telephone or interactive video conference.

Courts must provide indigent parties with GAL services at a reduced or waived fee if state funds are provided for that purpose.

The courts must advise all parties that a person can be guilty of perjury if he or she makes a false statement under oath.

Task Force: The Legislature requests the Washington Supreme Court to convene a task force to establish statewide protocols for dissolution cases. If the supreme court does not convene a task force within 90 days of the effective date of the act, the Office of Civil Legal Aid must convene and support the task force if state funds are appropriated for that purpose.

The task force shall develop dispute resolution procedures; a sexual assault training curriculum; standards for parenting evaluators; and domestic violence training curriculum for evaluators in dissolution cases. The task force must also make recommendations regarding specialized evaluators for dissolution cases, dissolution forms and procedures, and fees. A total of 19 persons representing various groups will be appointed to the task force by the Governor, the Speaker of the House, the President of the Senate, and the Supreme Court. Membership in the task force may also include members of the Civil Legal Aid Oversight Committee (Committee), including but not limited to the legislative members of the Committee. The task force must present preliminary findings by September 1, 2008 and a final report and recommendations by December 1, 2008.

**Data Tracking:** If state funds are appropriated for this purpose, the AOC and Department of Social and Health Services (DSHS) must begin compiling and tracking certain dissolution and residential time data. Parties to a dissolution must file a residential time summary report with the court that includes information on: (a) the actual time each parent is awarded residential time; (b) enforcement practices; (c) whether the parties were represented; (d) whether domestic violence, child abuse, chemical dependency, or mental health issues exist; and (e) whether the case was agreed or contested. The DSHS must compile the information and transmit the information electronically to the AOC for purposes of tracking. At least once a year, the AOC must report the information organized by a judicial officer and make the report available to the public.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed, except Sections 202 and 204 through 206 take effect January 1, 2008, and Section 501 takes effect January 1, 2009.