
SENATE BILL 5506

State of Washington

54th Legislature

1995 Regular Session

By Senators Smith, Quigley and Roach

Read first time 01/25/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to restrictions in parenting plans; and amending
2 RCW 26.09.191.

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

4 **Sec. 1.** RCW 26.09.191 and 1994 c 267 s 1 are each amended to read
5 as follows:

6 (1) The permanent parenting plan shall not require mutual decision-
7 making or designation of a dispute resolution process other than court
8 action if it is found that a parent has engaged in any of the following
9 conduct: (a) Willful abandonment that continues for an extended period
10 of time or substantial refusal to perform parenting functions; (b)
11 physical, sexual, or a pattern of emotional abuse of a child; or (c) a
12 history of acts of domestic violence as defined in RCW 26.50.010(1) or
13 an assault or sexual assault which causes grievous bodily harm or the
14 fear of such harm.

15 (2)(a) The parent's residential time with the child shall be
16 limited if it is found that the parent has engaged in any of the
17 following conduct: (i) Willful abandonment that continues for an
18 extended period of time or substantial refusal to perform parenting
19 functions; (ii) physical, sexual, or a pattern of emotional abuse of a

1 child; or (iii) a history of acts of domestic violence as defined in
2 RCW 26.50.010(1) or an assault or sexual assault which causes grievous
3 bodily harm or the fear of such harm. This subsection shall not apply
4 when (c) of this subsection applies.

5 (b) The parent's residential time with the child shall be limited
6 if it is found that the parent resides with a person who has engaged in
7 any of the following conduct: (i) Physical, sexual, or a pattern of
8 emotional abuse of a child; or (ii) a history of acts of domestic
9 violence as defined in RCW 26.50.010(1) or an assault or sexual assault
10 that causes grievous bodily harm or the fear of such harm. This
11 subsection (2)(b) shall not apply when (c) of this subsection applies.

12 (c) If a parent has been convicted as an adult of a sexual offense
13 under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or has been found to
14 be a sexual predator under chapter 71.09 RCW, the court shall restrain
15 the parent from contact with a child that would otherwise be allowed
16 under this chapter. If a parent resides with an adult who has been
17 convicted, or with a juvenile who has been adjudicated, of a sexual
18 offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or who has
19 been found to be a sexual predator under chapter 71.09 RCW, the court
20 shall restrain the parent from contact with the parent's child except
21 contact that occurs outside that person's presence.

22 (d)(i) The limitations imposed by the court under (a) or (b) of
23 this subsection shall be reasonably calculated to protect the child
24 from physical, sexual, or emotional abuse or harm that could result if
25 the child has contact with the parent requesting residential time. If
26 the court expressly finds based on the evidence that limitation on the
27 residential time with the child will not adequately protect the child
28 from the harm or abuse that could result if the child has contact with
29 the parent requesting residential time, the court shall restrain the
30 parent requesting residential time from all contact with the child.

31 (ii) The court shall not enter an order under (a) of this
32 subsection allowing a parent to have contact with a child if the parent
33 has been found by clear and convincing evidence in a civil action or by
34 a preponderance of the evidence in a dependency action to have sexually
35 abused the child, except upon recommendation by an evaluator or
36 therapist for the child that the child is ready for contact with the
37 parent and will not be harmed by the contact. The court shall not
38 enter an order allowing a parent to have contact with the child if the
39 parent resides with a person who has been found by clear and convincing

1 evidence in a civil action or by a preponderance of the evidence in a
2 dependency action to have sexually abused a child, unless the court
3 finds that the parent accepts that the person engaged in the harmful
4 conduct and the parent is willing to and capable of protecting the
5 child from harm from the person.

6 (iii) If the court limits residential time under (a) or (b) of this
7 subsection to require supervised contact between the child and the
8 parent, the court shall not approve of a supervisor for contact between
9 a child and a parent who has engaged in physical, sexual, or a pattern
10 of emotional abuse of the child unless the court finds based upon the
11 evidence that the supervisor accepts that the harmful conduct occurred
12 and is willing to and capable of protecting the child from harm. The
13 court shall revoke court approval of the supervisor upon finding, based
14 on the evidence, that the supervisor has failed to protect the child or
15 is no longer willing to or capable of protecting the child.

16 (e) If the court expressly finds based on the evidence that contact
17 between the parent and the child will not cause physical, sexual, or
18 emotional abuse or harm to the child and that the probability that the
19 parent's or other person's harmful or abusive conduct will recur is so
20 remote that it would not be in the child's best interests to apply the
21 limitations of (a), (b), and (d) (i) and (iii) of this subsection, or
22 if the court expressly finds the parent's conduct did not have an
23 impact on the child, then the court need not apply the limitations of
24 (a), (b), and (d) (i) and (iii) of this subsection. The weight given
25 to the existence of a protection order issued under chapter 26.50 RCW
26 as to domestic violence is within the discretion of the court. This
27 subsection shall not apply when (c) and (d)(ii) of this subsection
28 apply.

29 (3) A parent's involvement or conduct may have an adverse effect on
30 the child's best interests, and the court may preclude or limit any
31 provisions of the parenting plan, if any of the following factors
32 exist:

33 (a) A parent's neglect or substantial nonperformance of parenting
34 functions;

35 (b) A long-term emotional or physical impairment which interferes
36 with the parent's performance of parenting functions as defined in RCW
37 26.09.004;

1 (c) A long-term impairment resulting from drug, alcohol, or other
2 substance abuse that interferes with the performance of parenting
3 functions;

4 (d) The absence or substantial impairment of emotional ties between
5 the parent and the child;

6 (e) The abusive use of conflict by the parent which creates the
7 danger of serious damage to the child's psychological development;

8 (f) A parent, who in bad faith, has made false allegations of
9 physical or sexual abuse of the child by the other parent;

10 (g) A parent has withheld from the other parent access to the child
11 for a protracted period without good cause; or

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

14 (4) In entering a permanent parenting plan, the court shall not
15 draw any presumptions from the provisions of the temporary parenting
16 plan.

17 (5) In determining whether any of the conduct described in this
18 section has occurred, the court shall apply the civil rules of
19 evidence, proof, and procedure.

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