
SECOND SUBSTITUTE SENATE BILL 5676

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Fraser and Kohl)

Read first time 02/02/96.

1 AN ACT Relating to restrictions on residential time and visitation
2 for abusive parents; and amending RCW 26.09.191 and 26.10.160.

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
2 in RCW 26.50.010(1) or an assault or sexual assault which causes
3 grievous bodily harm or the fear of such harm; or (iv) the parent has
4 been convicted as an adult of a sex offense under:

5 (A) RCW 9A.44.076 if, because of the age of the offender, no
6 rebuttable presumption exists under (d) of this subsection;

7 (B) RCW 9A.44.079 if, because of the age of the offender, no
8 rebuttable presumption exists under (d) of this subsection;

9 (C) RCW 9A.44.086 if, because of the age of the offender, no
10 rebuttable presumption exists under (d) of this subsection;

11 (D) RCW 9A.44.089;

12 (E) RCW 9A.44.093;

13 (F) RCW 9A.44.096;

14 (G) RCW 9A.64.020 (1) or (2) if, because of the age of the
15 offender, no rebuttable presumption exists under (d) of this
16 subsection;

17 (H) Chapter 9.68A RCW;

18 (I) Any predecessor or antecedent statute for the offenses listed
19 in (a)(iv)(A) through (H) of this subsection;

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

23 This subsection (2)(a) shall not apply when (c) or (d) of this
24 subsection applies.

25 (b) The parent's residential time with the child shall be limited
26 if it is found that the parent resides with a person who has engaged in
27 any of the following conduct: (i) Physical, sexual, or a pattern of
28 emotional abuse of a child; ~~((or))~~ (ii) a history of acts of domestic
29 violence as defined in RCW 26.50.010(1) or an assault or sexual assault
30 that causes grievous bodily harm or the fear of such harm; or (iii) the
31 person has been convicted as an adult or as a juvenile has been
32 adjudicated of a sex offense under:

33 (A) RCW 9A.44.076 if, because of the age of the offender, no
34 rebuttable presumption exists under (e) of this subsection;

35 (B) RCW 9A.44.079 if, because of the age of the offender, no
36 rebuttable presumption exists under (e) of this subsection;

37 (C) RCW 9A.44.086 if, because of the age of the offender, no
38 rebuttable presumption exists under (e) of this subsection;

39 (D) RCW 9A.44.089;

1 (E) RCW 9A.44.093;

2 (F) RCW 9A.44.096;

3 (G) RCW 9A.64.020 (1) or (2) if, because of the age of the
4 offender, no rebuttable presumption exists under (e) of this
5 subsection;

6 (H) Chapter 9.68A RCW;

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

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

12 This subsection (2)(b) shall not apply when (c) or (e) of this
13 subsection applies.

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

27 (d) There is a rebuttable presumption that a parent who has been
28 convicted as an adult of a sex offense listed in (d)(i) through (ix) of
29 this subsection poses a present danger to a child. Unless the parent
30 rebutts this presumption, the court shall restrain the parent from
31 contact with a child that would otherwise be allowed under this
32 chapter:

33 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted
34 was at least five years older than the other person;

35 (ii) RCW 9A.44.073;

36 (iii) RCW 9A.44.076, provided that the person convicted was at
37 least eight years older than the victim;

38 (iv) RCW 9A.44.079, provided that the person convicted was at least
39 eight years older than the victim;

1 (v) RCW 9A.44.083;
2 (vi) RCW 9A.44.086, provided that the person convicted was at least
3 eight years older than the victim;
4 (vii) RCW 9A.44.100;
5 (viii) Any predecessor or antecedent statute for the offenses
6 listed in (d)(i) through (vii) of this subsection;
7 (ix) Any statute from any other jurisdiction that describes an
8 offense analogous to the offenses listed in (d)(i) through (vii) of
9 this subsection.
10 (e) There is a rebuttable presumption that a parent who resides
11 with a person who, as an adult, has been convicted, or as a juvenile
12 has been adjudicated, of the sex offenses listed in (e)(i) through (ix)
13 of this subsection places a child at risk of abuse or harm when that
14 parent exercises residential time in the presence of the convicted or
15 adjudicated person. Unless the parent rebuts the presumption, the
16 court shall restrain the parent from contact with the parent's child
17 except for contact that occurs outside of the convicted or adjudicated
18 person's presence:
19 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted
20 was at least five years older than the other person;
21 (ii) RCW 9A.44.073;
22 (iii) RCW 9A.44.076, provided that the person convicted was at
23 least eight years older than the victim;
24 (iv) RCW 9A.44.079, provided that the person convicted was at least
25 eight years older than the victim;
26 (v) RCW 9A.44.083;
27 (vi) RCW 9A.44.086, provided that the person convicted was at least
28 eight years older than the victim;
29 (vii) RCW 9A.44.100;
30 (viii) Any predecessor or antecedent statute for the offenses
31 listed in (e)(i) through (vii) of this subsection;
32 (ix) Any statute from any other jurisdiction that describes an
33 offense analogous to the offenses listed in (e)(i) through (vii) of
34 this subsection.
35 (f) The presumption established in (d) of this subsection may be
36 rebutted only after a written finding that:
37 (i) If the child was not sexually abused by the parent requesting
38 residential time, (A) contact between the child and the offending
39 parent is appropriate and poses minimal risk to the child, and (B) the

1 offending parent has successfully engaged in treatment for sex
2 offenders or is engaged in and making progress in such treatment, if
3 any was ordered by a court, and the treatment provider believes such
4 contact is appropriate and poses minimal risk to the child; or

5 (ii) If the child was sexually abused by the parent requesting
6 residential time, (A) if the child is in or has been in therapy for
7 victims of sexual abuse, the child's counselor believes such contact
8 between the child and the offending parent is in the child's best
9 interest, and (B) the offending parent has successfully engaged in
10 treatment for sex offenders or is engaged in and making progress in
11 such treatment, if any was ordered by a court, and the treatment
12 provider believes such contact is appropriate and poses minimal risk to
13 the child.

14 (g) The presumption established in (e) of this subsection may be
15 rebutted only after a written finding that:

16 (i) If the child was not sexually abused by the person who is
17 residing with the parent requesting residential time and who, as an
18 adult, has been convicted, or as a juvenile has been adjudicated, of a
19 sex offense listed in (e)(i) through (ix) of this subsection, (A)
20 contact between the child and the parent residing with the convicted or
21 adjudicated person is appropriate and that parent is able to protect
22 the child in the presence of the convicted or adjudicated person, and
23 (B) the convicted or adjudicated person has successfully engaged in
24 treatment for sex offenders or is engaged in and making progress in
25 such treatment, if any was ordered by a court, and the treatment
26 provider believes such contact is appropriate and poses minimal risk to
27 the child; or

28 (ii) If the child was sexually abused by the person who is residing
29 with the parent requesting residential time and who, as an adult, has
30 been convicted, or as a juvenile has been adjudicated, of a sex offense
31 listed in (e)(i) through (ix) of this subsection, (A) if the child is
32 in or has been in therapy for victims of sexual abuse, the child's
33 counselor believes such contact between the child and the parent
34 residing with the convicted or adjudicated person in the presence of
35 the convicted or adjudicated person is in the child's best interest,
36 and (B) the convicted or adjudicated person has successfully engaged in
37 treatment for sex offenders or is engaged in and making progress in
38 such treatment, if any was ordered by a court, and the treatment
39 provider believes contact between the parent and child in the presence

1 of the convicted or adjudicated person is appropriate and poses minimal
2 risk to the child.

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

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

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

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

3 (k) A court shall not order unsupervised contact between the
4 offending parent and a child, stepchild, or adopted child of the
5 offending parent who was sexually abused by that parent. A court may
6 order unsupervised contact between the offending parent and a child who
7 was not sexually abused by the parent after the presumption has been
8 rebutted and supervised residential time has occurred for at least one
9 year with no further arrests or convictions of sex offenses involving
10 children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW
11 and (i) the sex offense of the offending parent was not committed
12 against a child, stepchild, or adopted child of the offending parent,
13 and (ii) the court finds that unsupervised contact between the child
14 and the offending parent is appropriate and poses minimal risk to the
15 child, after consideration of the testimony of a state-certified
16 therapist, mental health counselor, or social worker with expertise in
17 treating child sexual abuse victims who has supervised at least one
18 period of residential time between the parent and the child, and after
19 consideration of evidence of the offending parent's compliance with
20 community supervision requirements, if any. If the offending parent
21 was not ordered by a court to participate in treatment for sex
22 offenders, then the parent shall obtain a psychosexual evaluation
23 conducted by a state-certified sex offender treatment provider
24 indicating that the offender has the lowest likelihood of risk to
25 reoffend before the court grants unsupervised contact between the
26 parent and a child.

27 (l) A court may order unsupervised contact between the parent and
28 a child which may occur in the presence of a juvenile adjudicated of a
29 sex offense who resides with the parent after the presumption has been
30 rebutted and supervised residential time has occurred for at least one
31 year during which time the juvenile adjudicated of a sex offense has
32 had no further arrests or convictions of sex offenses involving
33 children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW,
34 and (i) the court finds that unsupervised contact between the child and
35 the parent that may occur in the presence of the juvenile adjudicated
36 of a sex offense is appropriate and poses minimal risk to the child,
37 after consideration of the testimony of a state-certified therapist,
38 mental health counselor, or social worker with expertise in treatment
39 of child sexual abuse victims who has supervised at least one period of

1 residential time between the parent and the child in the presence of
2 the juvenile adjudicated of a sex offense, and after consideration of
3 evidence of the adjudicated juvenile's compliance with probation or
4 parole requirements, if any. If the juvenile adjudicated of a sex
5 offense was not ordered by a court to participate in treatment for sex
6 offenders, then the adjudicated juvenile shall obtain a psychosexual
7 evaluation conducted by a state-certified sex offender treatment
8 provider indicating that the offender has the lowest likelihood of risk
9 to reoffend before the court grants unsupervised contact between the
10 parent and a child which may occur in the presence of a juvenile
11 adjudicated of a sex offense who is residing with the parent.

12 (m)(i) The limitations imposed by the court under (a) or (b) of
13 this subsection shall be reasonably calculated to protect the child
14 from the physical, sexual, or emotional abuse or harm that could result
15 if the child has contact with the parent requesting residential time.
16 If the court expressly finds based on the evidence that limitations on
17 the residential time with the child will not adequately protect the
18 child from the harm or abuse that could result if the child has contact
19 with the parent requesting residential time, the court shall restrain
20 the parent requesting residential time from all contact with the child.

21 (ii) The court shall not enter an order under (a) of this
22 subsection allowing a parent to have contact with a child if the parent
23 has been found by clear and convincing evidence in a civil action or by
24 a preponderance of the evidence in a dependency action to have sexually
25 abused the child, except upon recommendation by an evaluator or
26 therapist for the child that the child is ready for contact with the
27 parent and will not be harmed by the contact. The court shall not
28 enter an order allowing a parent to have contact with the child in the
29 offender's presence if the parent resides with a person who has been
30 found by clear and convincing evidence in a civil action or by a
31 preponderance of the evidence in a dependency action to have sexually
32 abused a child, unless the court finds that the parent accepts that the
33 person engaged in the harmful conduct and the parent is willing to and
34 capable of protecting the child from harm from the person.

35 (iii) If the court limits residential time under (a) or (b) of this
36 subsection to require supervised contact between the child and the
37 parent, the court shall not approve of a supervisor for contact between
38 a child and a parent who has engaged in physical, sexual, or a pattern
39 of emotional abuse of the child unless the court finds based upon the

1 evidence that the supervisor accepts that the harmful conduct occurred
2 and is willing to and capable of protecting the child from harm. The
3 court shall revoke court approval of the supervisor upon finding, based
4 on the evidence, that the supervisor has failed to protect the child or
5 is no longer willing to or capable of protecting the child.

6 ~~((e))~~ (n) If the court expressly finds based on the evidence that
7 contact between the parent and the child will not cause physical,
8 sexual, or emotional abuse or harm to the child and that the
9 probability that the parent's or other person's harmful or abusive
10 conduct will recur is so remote that it would not be in the child's
11 best interests to apply the limitations of (a), (b), and ~~((d))~~ (m)(i)
12 and (iii) of this subsection, or if the court expressly finds that the
13 parent's conduct did not have an impact on the child, then the court
14 need not apply the limitations of (a), (b), and ~~((d))~~ (m)(i) and
15 (iii) of this subsection. The weight given to the existence of a
16 protection order issued under chapter 26.50 RCW as to domestic violence
17 is within the discretion of the court. This subsection shall not apply
18 when (c) ~~((and d)(ii))~~, (d), (e), (f), (g), (h), (i), (j), (k), (l),
19 and (m)(ii) of this subsection apply.

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

24 (a) A parent's neglect or substantial nonperformance of parenting
25 functions;

26 (b) A long-term emotional or physical impairment which interferes
27 with the parent's performance of parenting functions as defined in RCW
28 26.09.004;

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

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

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

36 (f) A parent has withheld from the other parent access to the child
37 for a protracted period without good cause; or

38 (g) Such other factors or conduct as the court expressly finds
39 adverse to the best interests of the child.

1 (4) In entering a permanent parenting plan, the court shall not
2 draw any presumptions from the provisions of the temporary parenting
3 plan.

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

7 **Sec. 2.** RCW 26.10.160 and 1994 c 267 s 2 are each amended to read
8 as follows:

9 (1) A parent not granted custody of the child is entitled to
10 reasonable visitation rights except as provided in subsection (2) of
11 this section.

12 (2)(a) Visitation with the child shall be limited if it is found
13 that the parent seeking visitation has engaged in any of the following
14 conduct: (i) Willful abandonment that continues for an extended period
15 of time or substantial refusal to perform parenting functions; (ii)
16 physical, sexual, or a pattern of emotional abuse of a child; ~~((or))~~
17 (iii) a history of acts of domestic violence as defined in RCW
18 26.50.010(1) or an assault or sexual assault which causes grievous
19 bodily harm or the fear of such harm; or (iv) the parent has been
20 convicted as an adult of a sex offense under:

21 (A) RCW 9A.44.076 if, because of the age of the offender, no
22 rebuttable presumption exists under (d) of this subsection;

23 (B) RCW 9A.44.079 if, because of the age of the offender, no
24 rebuttable presumption exists under (d) of this subsection;

25 (C) RCW 9A.44.086 if, because of the age of the offender, no
26 rebuttable presumption exists under (d) of this subsection;

27 (D) RCW 9A.44.089;

28 (E) RCW 9A.44.093;

29 (F) RCW 9A.44.096;

30 (G) RCW 9A.64.020 (1) or (2) if, because of the age of the
31 offender, no rebuttable presumption exists under (d) of this
32 subsection;

33 (H) Chapter 9.68A RCW;

34 (I) Any predecessor or antecedent statute for the offenses listed
35 in (a)(iv)(A) through (H) of this subsection;

36 (J) Any statute from any other jurisdiction that describes an
37 offense analogous to the offenses listed in (a)(iv)(A) through (H) of
38 this subsection.

1 This subsection (2)(a) shall not apply when (c) or (d) of this
2 subsection applies.

3 (b) The parent's ~~((residential time))~~ visitation with the child
4 shall be limited if it is found that the parent resides with a person
5 who has engaged in any of the following conduct: (i) Physical, sexual,
6 or a pattern of emotional abuse of a child; ~~((or))~~ (ii) a history of
7 acts of domestic violence as defined in RCW 26.50.010(1) or an assault
8 or sexual assault ~~((which))~~ that causes grievous bodily harm or the
9 fear of such harm; or (iii) the person has been convicted as an adult
10 or as a juvenile has been adjudicated of a sex offense under:

11 (A) RCW 9A.44.076 if, because of the age of the offender, no
12 rebuttable presumption exists under (e) of this subsection;

13 (B) RCW 9A.44.079 if, because of the age of the offender, no
14 rebuttable presumption exists under (e) of this subsection;

15 (C) RCW 9A.44.086 if, because of the age of the offender, no
16 rebuttable presumption exists under (e) of this subsection;

17 (D) RCW 9A.44.089;

18 (E) RCW 9A.44.093;

19 (F) RCW 9A.44.096;

20 (G) RCW 9A.64.020 (1) or (2) if, because of the age of the
21 offender, no rebuttable presumption exists under (e) of this
22 subsection;

23 (H) Chapter 9.68A RCW;

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

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

29 This subsection (2)(b) shall not apply when (c) or (e) of this
30 subsection applies.

31 (c) If a parent has been ~~((convicted as an adult of a sexual~~
32 ~~offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or has~~
33 ~~been))~~ found to be a sexual predator under chapter 71.09 RCW or under
34 an analogous statute of any other jurisdiction, the court shall
35 restrain the parent from contact with a child that would otherwise be
36 allowed under this chapter. If a parent resides with an adult or a
37 juvenile who has been ~~((convicted, or with a juvenile who has been~~
38 ~~adjudicated, of a sexual offense under RCW 9A.64.020 or chapter 9.68A~~
39 ~~or 9A.44 RCW, or who has been))~~ found to be a sexual predator under

1 chapter 71.09 RCW or under an analogous statute of any other
2 jurisdiction, the court shall restrain the parent from contact with the
3 parent's child except contact that occurs outside that person's
4 presence.

5 (d) There is a rebuttable presumption that a parent who has been
6 convicted as an adult of a sex offense listed in (d)(i) through (ix) of
7 this subsection poses a present danger to a child. Unless the parent
8 rebutts this presumption, the court shall restrain the parent from
9 contact with a child that would otherwise be allowed under this
10 chapter:

11 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted
12 was at least five years older than the other person;

13 (ii) RCW 9A.44.073;

14 (iii) RCW 9A.44.076, provided that the person convicted was at
15 least eight years older than the victim;

16 (iv) RCW 9A.44.079, provided that the person convicted was at least
17 eight years older than the victim;

18 (v) RCW 9A.44.083;

19 (vi) RCW 9A.44.086, provided that the person convicted was at least
20 eight years older than the victim;

21 (vii) RCW 9A.44.100;

22 (viii) Any predecessor or antecedent statute for the offenses
23 listed in (d)(i) through (vii) of this subsection;

24 (ix) Any statute from any other jurisdiction that describes an
25 offense analogous to the offenses listed in (d)(i) through (vii) of
26 this subsection.

27 (e) There is a rebuttable presumption that a parent who resides
28 with a person who, as an adult, has been convicted, or as a juvenile
29 has been adjudicated, of the sex offenses listed in (e)(i) through (ix)
30 of this subsection places a child at risk of abuse or harm when that
31 parent exercises visitation in the presence of the convicted or
32 adjudicated person. Unless the parent rebuts the presumption, the
33 court shall restrain the parent from contact with the parent's child
34 except for contact that occurs outside of the convicted or adjudicated
35 person's presence:

36 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted
37 was at least five years older than the other person;

38 (ii) RCW 9A.44.073;

1 (iii) RCW 9A.44.076, provided that the person convicted was at
2 least eight years older than the victim;
3 (iv) RCW 9A.44.079, provided that the person convicted was at least
4 eight years older than the victim;
5 (v) RCW 9A.44.083;
6 (vi) RCW 9A.44.086, provided that the person convicted was at least
7 eight years older than the victim;
8 (vii) RCW 9A.44.100;
9 (viii) Any predecessor or antecedent statute for the offenses
10 listed in (e)(i) through (vii) of this subsection;
11 (ix) Any statute from any other jurisdiction that describes an
12 offense analogous to the offenses listed in (e)(i) through (vii) of
13 this subsection.
14 (f) The presumption established in (d) of this subsection may be
15 rebutted only after a written finding that:
16 (i) If the child was not sexually abused by the parent requesting
17 visitation, (A) contact between the child and the offending parent is
18 appropriate and poses minimal risk to the child, and (B) the offending
19 parent has successfully engaged in treatment for sex offenders or is
20 engaged in and making progress in such treatment, if any was ordered by
21 a court, and the treatment provider believes such contact is
22 appropriate and poses minimal risk to the child; or
23 (ii) If the child was sexually abused by the parent requesting
24 visitation, (A) if the child is in or has been in therapy for victims
25 of sexual abuse, the child's counselor believes such contact between
26 the child and the offending parent is in the child's best interest, and
27 (B) the offending parent has successfully engaged in treatment for sex
28 offenders or is engaged in and making progress in such treatment, if
29 any was ordered by a court, and the treatment provider believes such
30 contact is appropriate and poses minimal risk to the child.
31 (g) The presumption established in (e) of this subsection may be
32 rebutted only after a written finding that:
33 (i) If the child was not sexually abused by the person who is
34 residing with the parent requesting visitation and who, as an adult,
35 has been convicted, or as a juvenile has been adjudicated, of a sex
36 offense listed in (e)(i) through (ix) of this subsection, (A) contact
37 between the child and the parent residing with the convicted or
38 adjudicated person is appropriate and that parent is able to protect
39 the child in the presence of the convicted or adjudicated person, and

1 (B) the convicted or adjudicated person has successfully engaged in
2 treatment for sex offenders or is engaged in and making progress in
3 such treatment, if any was ordered by a court, and the treatment
4 provider believes such contact is appropriate and poses minimal risk to
5 the child; or

6 (ii) If the child was sexually abused by the person who is residing
7 with the parent requesting visitation and who, as an adult, has been
8 convicted, or as a juvenile has been adjudicated, of a sex offense
9 listed in (e)(i) through (ix) of this subsection, (A) if the child is
10 in or has been in therapy for victims of sexual abuse, the child's
11 counselor believes such contact between the child and the parent
12 residing with the convicted or adjudicated person in the presence of
13 the convicted or adjudicated person is in the child's best interest,
14 and (B) the convicted or adjudicated person has successfully engaged in
15 treatment for sex offenders or is engaged in and making progress in
16 such treatment, if any was ordered by a court, and the treatment
17 provider believes contact between the parent and child in the presence
18 of the convicted or adjudicated person is appropriate and poses minimal
19 risk to the child.

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

32 (i) If the court finds that the parent has met the burden of
33 rebutting the presumption, the court may allow a parent residing with
34 a juvenile who has been adjudicated of a sex offense listed in (e)(i)
35 through (ix) of this subsection to have visitation with the child in
36 the presence of the adjudicated juvenile supervised by a neutral and
37 independent adult and pursuant to an adequate plan for supervision of
38 such visitation. The court shall not approve of a supervisor for
39 contact between the child and the parent unless the court finds, based

1 on the evidence, that the supervisor is willing and capable of
2 protecting the child from harm. The court shall revoke court approval
3 of the supervisor upon finding, based on the evidence, that the
4 supervisor has failed to protect the child or is no longer willing or
5 capable of protecting the child.

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

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

1 indicating that the offender has the lowest likelihood of risk to
2 reoffend before the court grants unsupervised contact between the
3 parent and a child.

4 (l) A court may order unsupervised contact between the parent and
5 a child which may occur in the presence of a juvenile adjudicated of a
6 sex offense who resides with the parent after the presumption has been
7 rebutted and supervised visitation has occurred for at least one year
8 during which time the juvenile adjudicated of a sex offense has had no
9 further arrests or convictions of sex offenses involving children under
10 chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW, and (i) the
11 court finds that unsupervised contact between the child and the parent
12 that may occur in the presence of the juvenile adjudicated of a sex
13 offense is appropriate and poses minimal risk to the child, after
14 consideration of the testimony of a state-certified therapist, mental
15 health counselor, or social worker with expertise in treatment of child
16 sexual abuse victims who has supervised at least one period of
17 visitation between the parent and the child in the presence of the
18 juvenile adjudicated of a sex offense, and after consideration of
19 evidence of the adjudicated juvenile's compliance with probation or
20 parole requirements, if any. If the juvenile adjudicated of a sex
21 offense was not ordered by a court to participate in treatment for sex
22 offenders, then the adjudicated juvenile shall obtain a psychosexual
23 evaluation conducted by a state-certified sex offender treatment
24 provider indicating that the offender has the lowest likelihood of risk
25 to reoffend before the court grants unsupervised contact between the
26 parent and a child which may occur in the presence of a juvenile
27 adjudicated of a sex offense who is residing with the 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 result
31 if the child has contact with the parent requesting visitation. If the
32 court expressly finds based on the evidence that limitations on
33 visitation with the child will not adequately protect the child from
34 the harm or abuse that could result if the child has contact with the
35 parent requesting visitation, the court shall restrain the person
36 seeking visitation from all contact with the child.

37 (ii) The court shall not enter an order under (a) of this
38 subsection allowing a parent to have contact with a child if the parent
39 has been found by clear and convincing evidence in a civil action or by

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

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

23 (~~((e))~~) (n) If the court expressly finds based on the evidence that
24 contact between the parent and the child will not cause physical,
25 sexual, or emotional abuse or harm to the child and that the
26 probability that the parent's or other person's harmful or abusive
27 conduct will recur is so remote that it would not be in the child's
28 best interests to apply the limitations of (a), (b), and (~~((d))~~) (m)
29 (i) and (iii) of this subsection, or if the court expressly finds
30 (~~(based on the evidence)~~) that the parent's conduct did not have an
31 impact on the child, then the court need not apply the limitations of
32 (a), (b), and (~~((d))~~) (m)(i) and (iii) of this subsection. The weight
33 given to the existence of a protection order issued under chapter 26.50
34 RCW as to domestic violence is within the discretion of the court.
35 This subsection shall not apply when (c) (~~(and (d)(ii))~~), (d), (e),
36 (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this subsection
37 apply.

38 (3) Any person may petition the court for visitation rights at any
39 time including, but not limited to, custody proceedings. The court may

1 order visitation rights for any person when visitation may serve the
2 best interest of the child whether or not there has been any change of
3 circumstances.

4 (4) The court may modify an order granting or denying visitation
5 rights whenever modification would serve the best interests of the
6 child. Modification of a parent's visitation rights shall be subject
7 to the requirements of subsection (2) of this section.

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