

2 **ESHB 1514 - CC** - S COMM AMD
3 By Committee on Judiciary

4 ADOPTED 4/13/99

5 Strike everything after the enacting clause and insert the
6 following:

7 **"Sec. 1.** RCW 26.09.260 and 1991 c 367 s 9 are each amended to read
8 as follows:

9 (1) Except as otherwise provided in subsections (4), (5), (7), and
10 (9) of this section, the court shall not modify a prior custody decree
11 or a parenting plan unless it finds, upon the basis of facts that have
12 arisen since the prior decree or plan or that were unknown to the court
13 at the time of the prior decree or plan, that a substantial change has
14 occurred in the circumstances of the child or the nonmoving party and
15 that the modification is in the best interest of the child and is
16 necessary to serve the best interests of the child.

17 (2) In applying these standards, the court shall retain the
18 residential schedule established by the decree or parenting plan
19 unless:

20 (a) The parents agree to the modification;

21 (b) The child has been integrated into the family of the petitioner
22 with the consent of the other parent in substantial deviation from the
23 parenting plan;

24 (c) The child's present environment is detrimental to the child's
25 physical, mental, or emotional health and the harm likely to be caused
26 by a change of environment is outweighed by the advantage of a change
27 to the child; or

28 (d) The court has found the nonmoving parent in contempt of court
29 at least twice within three years because the parent failed to comply
30 with the residential time provisions in the court-ordered parenting
31 plan, or the parent has been convicted of custodial interference in the
32 first or second degree under RCW 9A.40.060 or 9A.40.070.

33 (3) A conviction of custodial interference in the first or second
34 degree under RCW 9A.40.060 or 9A.40.070 shall constitute a substantial
35 change of circumstances for the purposes of this section.

1 (4) The court may reduce or restrict contact between the nonprimary
2 residential parent and a child if it finds that the reduction or
3 restriction would serve and protect the best interests of the child
4 using the criteria in RCW 26.09.191.

5 (5) The court may order adjustments to the residential aspects of
6 a parenting plan upon a showing of a substantial change in
7 circumstances of either parent or of the child, and without
8 consideration of the factors set forth in subsection (2) of this
9 section, if the proposed modification is only a((:

10 ~~(a) Modification in the dispute resolution process; or~~

11 ~~(b) Minor modification in the residential schedule that:~~

12 ~~(i) Does not change the residence the child is scheduled to reside~~
13 ~~in the majority of the time; and~~

14 ~~(ii) Does not exceed twenty-four full days in a calendar year or~~
15 ~~five full days in a calendar month; or~~

16 ~~(iii) Is based on a change of residence or an involuntary change in~~
17 ~~work schedule by a parent which makes the residential schedule in the~~
18 ~~parenting plan impractical to follow)) minor modification in the~~
19 residential schedule that does not change the residence the child is
20 scheduled to reside in the majority of the time and:

21 (a) Does not exceed twenty-four full days in a calendar year; or

22 (b) Is based on a change of residence or an involuntary change in
23 work schedule by a parent which makes the residential schedule in the
24 parenting plan impractical to follow; or

25 (c) Does not result in a schedule that exceeds ninety overnights
26 per year in total, if the court finds that the decree of dissolution or
27 parenting plan does not provide reasonable time with the nonprimary
28 residential parent at the time the petition for modification is filed,
29 and further, the court finds that it is in the best interests of the
30 child to increase residential time with the nonprimary residential
31 parent in excess of the residential time period in (a) of this
32 subsection. However, any motion under this subsection (5)(c) is
33 subject to the factors established in subsection (2) of this section if
34 the party bringing the motion has previously been granted a
35 modification under this same subsection within twenty-four months of
36 the current motion. Relief granted under this section shall not be the
37 sole basis for adjusting or modifying child support.

38 (6) A nonprimary residential parent whose residential time with the
39 child is subject to limitations pursuant to RCW 26.09.191 (2) or (3)

1 may not seek expansion of residential time under subsection (5)(c) of
2 this section unless that parent demonstrates a substantial change in
3 circumstances specifically related to the basis for the limitation.

4 (7) If a nonprimary residential parent voluntarily fails to
5 exercise residential time for an extended period, that is, one year or
6 longer, the court upon proper motion may make adjustments to the
7 parenting plan in keeping with the best interests of the minor child.

8 (8) A nonprimary parent who is required by the existing parenting
9 plan to complete evaluations, treatment, parenting, or other classes
10 may not seek expansion of residential time under subsection (5)(c) of
11 this section unless that parent has fully complied with such
12 requirements.

13 (9) The court may order adjustments to any of the nonresidential
14 aspects of a parenting plan upon a showing of a substantial change of
15 circumstances of either parent or of a child, and the adjustment is in
16 the best interest of the child. Adjustments ordered under this section
17 may be made without consideration of the factors set forth in
18 subsection (2) of this section.

19 ~~((+5))~~ (10) If the court finds that a motion to modify a prior
20 decree or parenting plan has been brought in bad faith, the court shall
21 assess the attorney's fees and court costs of the nonmoving parent
22 against the moving party."

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25 **ADOPTED 4/13/99**

26 **On page 1, line 2 of the title, after "decree;" strike the**
27 **remainder of the title and insert "and amending RCW 26.09.260."**

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