
HOUSE BILL 1514

State of Washington

56th Legislature

1999 Regular Session

By Representatives Kastama and Wolfe

Read first time 01/27/1999. Referred to Committee on Judiciary.

1 AN ACT Relating to modification of a parenting plan or custody
2 decree; and amending RCW 26.09.260.

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

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

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

14 (2) In applying these standards, the court shall retain the
15 residential schedule established by the decree or parenting plan
16 unless:

17 (a) The parents agree to the modification;

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

4 (c) The child's present environment is detrimental to the child's
5 physical, mental, or emotional health and the harm likely to be caused
6 by a change of environment is outweighed by the advantage of a change
7 to the child; or

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

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

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

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

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

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

27 (i) Does not change the residence the child is scheduled to reside
28 in the majority of the time; and

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

31 (iii) Is based on a change of residence or an involuntary change in
32 work schedule by a parent which makes the residential schedule in the
33 parenting plan impractical to follow; or

34 (iv) Does not result in a schedule that exceeds ninety overnights
35 per year in total, if the court finds that the decree of dissolution or
36 parenting plan does not provide reasonable time with the nonprimary
37 residential parent at the time the petition for modification is filed,
38 and further, the court finds that it is in the best interests of the
39 child to increase residential time with the nonprimary residential

1 parent in excess of the residential time period in (a)(ii) of this
2 subsection. Relief granted under this section shall not be the sole
3 basis for adjusting or modifying child support.

4 (6) 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 (7) The court may order adjustments to any of the nonresidential
9 aspects of a parenting plan upon a showing of a substantial change of
10 circumstances of either parent or of a child, and the adjustment is in
11 the best interest of the child. Adjustments ordered under this section
12 may be made without consideration of the factors set forth in
13 subsection (2) of this section.

14 ~~((+5))~~ (8) If the court finds that a motion to modify a prior
15 decree or parenting plan has been brought in bad faith, the court shall
16 assess the attorney's fees and court costs of the nonmoving parent
17 against the moving party.

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