

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 5470

Chapter 496, Laws of 2007

60th Legislature
2007 Regular Session

DISSOLUTION PROCEEDINGS

EFFECTIVE DATE: 07/22/07 - Except sections 201 and 204, which become effective 07/01/09; and section 202, which becomes effective 01/01/08; and section 501, which becomes effective 01/01/09.

Passed by the Senate April 19, 2007
YEAS 44 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 18, 2007
YEAS 95 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 15, 2007, 2:38 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5470** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 16, 2007

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5470

AS AMENDED BY THE HOUSE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Ways Means (originally sponsored by Senators Hargrove, Stevens, McAuliffe, Brown and Regala)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to dissolution proceedings; amending RCW 26.09.002,
2 2.56.180, 26.09.020, 36.18.016, 26.09.191, 26.12.177, 26.09.015,
3 26.09.184, 26.09.015, 26.09.187, and 26.09.197; reenacting and amending
4 RCW 2.56.030; adding new sections to chapter 26.09 RCW; adding a new
5 section to chapter 26.12 RCW; adding a new section to chapter 2.53 RCW;
6 adding a new section to chapter 26.18 RCW; creating new sections;
7 providing effective dates; and providing an expiration date.

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

9 **PART I - Intent**

10 **Sec. 101.** RCW 26.09.002 and 1987 c 460 s 2 are each amended to
11 read as follows:

12 Parents have the responsibility to make decisions and perform other
13 parental functions necessary for the care and growth of their minor
14 children. In any proceeding between parents under this chapter, the
15 best interests of the child shall be the standard by which the court
16 determines and allocates the parties' parental responsibilities. The
17 state recognizes the fundamental importance of the parent-child
18 relationship to the welfare of the child, and that the relationship

1 between the child and each parent should be fostered unless
2 inconsistent with the child's best interests. Residential time and
3 financial support are equally important components of parenting
4 arrangements. The best interests of the child are served by a
5 parenting arrangement that best maintains a child's emotional growth,
6 health and stability, and physical care. Further, the best interest of
7 the child is ordinarily served when the existing pattern of interaction
8 between a parent and child is altered only to the extent necessitated
9 by the changed relationship of the parents or as required to protect
10 the child from physical, mental, or emotional harm.

11 NEW SECTION. **Sec. 102.** A new section is added to chapter 26.09
12 RCW to read as follows:

13 The legislature reaffirms the intent of the current law as
14 expressed in RCW 26.09.002. However, after review, the legislature
15 finds that there are certain components of the existing law which do
16 not support the original legislative intent. In order to better
17 implement the existing legislative intent the legislature finds that
18 incentives for parties to reduce family conflict and additional
19 alternative dispute resolution options can assist in reducing the
20 number of contested trials. Furthermore, the legislature finds that
21 the identification of domestic violence as defined in RCW 26.50.010 and
22 the treatment needs of the parties to dissolutions are necessary to
23 improve outcomes for children. When judicial officers have the
24 discretion to tailor individualized resolutions, the legislative intent
25 expressed in RCW 26.09.002 can more readily be achieved. Judicial
26 officers should have the discretion and flexibility to assess each case
27 based on the merits of the individual cases before them.

28 **PART II - Family Court Provisions**

29 NEW SECTION. **Sec. 201.** A new section is added to chapter 26.12
30 RCW to read as follows:

31 (1) After July 1, 2009, but no later than November 1, 2009, a
32 county may, and to the extent state funding is provided to meet the
33 minimum requirements of the program a county shall, create a program to
34 provide services to all parties involved in proceedings under chapter
35 26.09 RCW. Minimum components of this program shall include: (a) An

1 individual to serve as an initial point of contact for parties filing
2 petitions for dissolutions or legal separations under chapter 26.09
3 RCW; (b) informing parties about courthouse facilitation programs and
4 orientations; (c) informing parties of alternatives to filing a
5 dissolution petition, such as marriage counseling; (d) informing
6 parties of alternatives to litigation including counseling, legal
7 separation, and mediation services if appropriate; (e) informing
8 parties of supportive family services available in the community; (f)
9 screening for referral for services in the areas of domestic violence
10 as defined in RCW 26.50.010, child abuse, substance abuse, and mental
11 health; and (g) assistance to the court in superior court cases filed
12 under chapter 26.09 RCW.

13 (2) This program shall not provide legal advice. No attorney-
14 client relationship or privilege is created, by implication or by
15 inference, between persons providing basic information under this
16 section and the participants in the program.

17 (3) The legislative authority of any county may impose user fees or
18 may impose a surcharge of up to twenty dollars on only those superior
19 court cases filed under this title, or both, to pay for the expenses of
20 this program. Fees collected under this section shall be collected and
21 deposited in the same manner as other county funds are collected and
22 deposited, and shall be maintained in a separate account to be used as
23 provided in this section. The program shall provide services to
24 indigent persons at no expense.

25 (4) Persons who implement the program shall be appointed in the
26 same manner as investigators, stenographers, and clerks as described in
27 RCW 26.12.050.

28 (5) If the county has a program under this section, any petition
29 under RCW 26.09.020 must allege that the moving party met and conferred
30 with the program prior to the filing of the petition.

31 (6) If the county has a program under this section, parties shall
32 meet and confer with the program prior to participation in mediation
33 under section 301 of this act.

34 **Sec. 202.** RCW 2.56.180 and 2005 c 282 s 10 are each amended to
35 read as follows:

36 (1) The administrative office of the courts shall create a handbook
37 explaining the sections of Washington law pertaining to the rights and

1 responsibilities of marital partners to each other and to any children
2 during a marriage and a dissolution of marriage. The handbook may also
3 be provided in videotape or other electronic form.

4 (2) The handbook created under subsection (1) of this section shall
5 be provided by the county auditor when an individual applies for a
6 marriage license under RCW 26.04.140.

7 (3) The handbook created under subsection (1) of this section shall
8 also be provided to the petitioner when he or she files a petition for
9 dissolution, and to the respondent, unless the respondent did not file
10 a response, notice of appearance, or any other paper in the case or did
11 not appear in court. The administrative office of the courts shall on
12 an annual basis reimburse the counties for each copy of the handbook
13 that is distributed directly to family law parties under this section,
14 provided that the county submits documentation of the number of
15 handbooks distributed on an annual basis.

16 (4) The information contained in the handbook created under
17 subsection (1) of this section shall be reviewed and updated annually.
18 The handbook must contain the following information:

19 (a) Information on prenuptial agreements as contracts and as a
20 means of structuring financial arrangements and other aspects of the
21 marital relationship;

22 (b) Information on shared parental responsibility for children,
23 including establishing a residential schedule for the child in the
24 event of the dissolution of the marriage;

25 (c) Information on notice requirements and standards for parental
26 relocation;

27 (d) Information on child support for minor children;

28 (e) Information on property rights, including equitable
29 distribution of assets and premarital and postmarital property rights;

30 (f) Information on spousal maintenance;

31 (g) Information on domestic violence, child abuse, and neglect,
32 including penalties;

33 (h) Information on the court process for dissolution;

34 (i) Information on the effects of dissolution on children;

35 (j) Information on community resources that are available to
36 separating or divorcing persons and their children.

1 **Sec. 203.** RCW 26.09.020 and 2001 c 42 s 1 are each amended to read
2 as follows:

3 (1) A petition in a proceeding for dissolution of marriage, legal
4 separation, or for a declaration concerning the validity of a marriage
5 shall allege:

6 (a) The last known state of residence of each party, and if a
7 party's last known state of residence is Washington, the last known
8 county of residence;

9 (b) The date and place of the marriage;

10 (c) If the parties are separated the date on which the separation
11 occurred;

12 (d) The names and ages of any child dependent upon either or both
13 spouses and whether the wife is pregnant;

14 (e) Any arrangements as to the residential schedule of, decision
15 making for, dispute resolution for, and support of the children and the
16 maintenance of a spouse;

17 (f) A statement specifying whether there is community or separate
18 property owned by the parties to be disposed of;

19 (g) If the county has established a program under section 201 of
20 this act, a statement affirming that the moving party met and conferred
21 with the program prior to filing the petition;

22 (h) The relief sought.

23 (2) Either or both parties to the marriage may initiate the
24 proceeding.

25 (3) The petitioner shall complete and file with the petition a
26 certificate under RCW 43.70.150 on the form provided by the department
27 of health and the confidential information form under RCW 26.23.050.

28 (4) Nothing in this section shall be construed to limit or prohibit
29 the ability of parties to obtain appropriate emergency orders.

30 **Sec. 204.** RCW 36.18.016 and 2006 c 192 s 2 are each amended to
31 read as follows:

32 (1) Revenue collected under this section is not subject to division
33 under RCW 36.18.025 or 27.24.070.

34 (2)(a) For the filing of a petition for modification of a decree of
35 dissolution or paternity, within the same case as the original action,
36 and any party filing a counterclaim, cross-claim, or third-party claim
37 in any such action, a fee of thirty-six dollars must be paid.

1 (b) The party filing the first or initial petition for dissolution,
2 legal separation, or declaration concerning the validity of marriage
3 shall pay, at the time and in addition to the filing fee required under
4 RCW 36.18.020, a fee of thirty dollars. The clerk of the superior
5 court shall transmit monthly twenty-four dollars of the thirty-dollar
6 fee collected under this subsection to the state treasury for deposit
7 in the domestic violence prevention account. The remaining six dollars
8 shall be retained by the county for the purpose of supporting
9 community-based services within the county for victims of domestic
10 violence, except for five percent of the six dollars, which may be
11 retained by the court for administrative purposes.

12 (3)(a) The party making a demand for a jury of six in a civil
13 action shall pay, at the time, a fee of one hundred twenty-five
14 dollars; if the demand is for a jury of twelve, a fee of two hundred
15 fifty dollars. If, after the party demands a jury of six and pays the
16 required fee, any other party to the action requests a jury of twelve,
17 an additional one hundred twenty-five dollar fee will be required of
18 the party demanding the increased number of jurors.

19 (b) Upon conviction in criminal cases a jury demand charge of one
20 hundred twenty-five dollars for a jury of six, or two hundred fifty
21 dollars for a jury of twelve may be imposed as costs under RCW
22 10.46.190.

23 (4) For preparing a certified copy of an instrument on file or of
24 record in the clerk's office, for the first page or portion of the
25 first page, a fee of five dollars, and for each additional page or
26 portion of a page, a fee of one dollar must be charged. For
27 authenticating or exemplifying an instrument, a fee of two dollars for
28 each additional seal affixed must be charged. For preparing a copy of
29 an instrument on file or of record in the clerk's office without a
30 seal, a fee of fifty cents per page must be charged. When copying a
31 document without a seal or file that is in an electronic format, a fee
32 of twenty-five cents per page must be charged. For copies made on a
33 compact disc, an additional fee of twenty dollars for each compact disc
34 must be charged.

35 (5) For executing a certificate, with or without a seal, a fee of
36 two dollars must be charged.

37 (6) For a garnishee defendant named in an affidavit for garnishment
38 and for a writ of attachment, a fee of twenty dollars must be charged.

- 1 (7) For filing a supplemental proceeding, a fee of twenty dollars
2 must be charged.
- 3 (8) For approving a bond, including justification on the bond, in
4 other than civil actions and probate proceedings, a fee of two dollars
5 must be charged.
- 6 (9) For the issuance of a certificate of qualification and a
7 certified copy of letters of administration, letters testamentary, or
8 letters of guardianship, there must be a fee of two dollars.
- 9 (10) For the preparation of a passport application, the clerk may
10 collect an execution fee as authorized by the federal government.
- 11 (11) For clerk's services such as processing ex parte orders,
12 performing historical searches, compiling statistical reports, and
13 conducting exceptional record searches, the clerk may collect a fee not
14 to exceed twenty dollars per hour or portion of an hour.
- 15 (12) For duplicated recordings of court's proceedings there must be
16 a fee of ten dollars for each audio tape and twenty-five dollars for
17 each video tape or other electronic storage medium.
- 18 (13) For registration of land titles, Torrens Act, under RCW
19 65.12.780, a fee of twenty dollars must be charged.
- 20 (14) For the issuance of extension of judgment under RCW 6.17.020
21 and chapter 9.94A RCW, a fee of two hundred dollars must be charged.
22 When the extension of judgment is at the request of the clerk, the two
23 hundred dollar charge may be imposed as court costs under RCW
24 10.46.190.
- 25 (15) A facilitator surcharge of up to twenty dollars must be
26 charged as authorized under RCW 26.12.240.
- 27 (16) For filing a water rights statement under RCW 90.03.180, a fee
28 of twenty-five dollars must be charged.
- 29 (17) For filing a claim of frivolous lien under RCW 60.04.081, a
30 fee of thirty-five dollars must be charged.
- 31 (18) For preparation of a change of venue, a fee of twenty dollars
32 must be charged by the originating court in addition to the per page
33 charges in subsection (4) of this section.
- 34 (19) A service fee of three dollars for the first page and one
35 dollar for each additional page must be charged for receiving faxed
36 documents, pursuant to Washington state rules of court, general rule
37 17.

1 (20) For preparation of clerk's papers under RAP 9.7, a fee of
2 fifty cents per page must be charged.

3 (21) For copies and reports produced at the local level as
4 permitted by RCW 2.68.020 and supreme court policy, a variable fee must
5 be charged.

6 (22) Investment service charge and earnings under RCW 36.48.090
7 must be charged.

8 (23) Costs for nonstatutory services rendered by clerk by authority
9 of local ordinance or policy must be charged.

10 (24) For filing a request for mandatory arbitration, a filing fee
11 may be assessed against the party filing a statement of arbitrability
12 not to exceed two hundred twenty dollars as established by authority of
13 local ordinance. This charge shall be used solely to offset the cost
14 of the mandatory arbitration program.

15 (25) For filing a request for trial de novo of an arbitration
16 award, a fee not to exceed two hundred fifty dollars as established by
17 authority of local ordinance must be charged.

18 (26) A public agency may not charge a fee to a law enforcement
19 agency, for preparation, copying, or mailing of certified copies of the
20 judgment and sentence, information, affidavit of probable cause, and/or
21 the notice of requirement to register, of a sex offender convicted in
22 a Washington court, when such records are necessary for risk
23 assessment, preparation of a case for failure to register, or
24 maintenance of a sex offender's registration file.

25 (27) For the filing of a will or codicil under the provisions of
26 chapter 11.12 RCW, a fee of twenty dollars must be charged.

27 (28) A surcharge of up to twenty dollars may be charged as
28 authorized by section 201 of this act.

29 The revenue to counties from the fees established in this section
30 shall be deemed to be complete reimbursement from the state for the
31 state's share of benefits paid to the superior court judges of the
32 state prior to July 24, 2005, and no claim shall lie against the state
33 for such benefits.

34 **PART III - Domestic Violence and Child Abuse**

35 NEW SECTION. **Sec. 301.** A new section is added to chapter 26.09
36 RCW to read as follows:

1 Mediation is generally inappropriate in cases involving domestic
2 violence and child abuse. In order to effectively identify cases where
3 issues of domestic violence and child abuse are present and reduce
4 conflict in dissolution matters: (1) Where appropriate parties shall
5 be provided access to trained domestic violence advocates; and (2) in
6 cases where a victim requests mediation the court may make exceptions
7 and permit mediation, so long as the court makes a finding that
8 mediation is appropriate under the circumstances and the victim is
9 permitted to have a supporting person present during the mediation
10 proceedings.

11 **Sec. 302.** RCW 2.56.030 and 2005 c 457 s 7 and 2005 c 282 s 7 are
12 each reenacted and amended to read as follows:

13 The administrator for the courts shall, under the supervision and
14 direction of the chief justice:

15 (1) Examine the administrative methods and systems employed in the
16 offices of the judges, clerks, stenographers, and employees of the
17 courts and make recommendations, through the chief justice, for the
18 improvement of the same;

19 (2) Examine the state of the dockets of the courts and determine
20 the need for assistance by any court;

21 (3) Make recommendations to the chief justice relating to the
22 assignment of judges where courts are in need of assistance and carry
23 out the direction of the chief justice as to the assignments of judges
24 to counties and districts where the courts are in need of assistance;

25 (4) Collect and compile statistical and other data and make reports
26 of the business transacted by the courts and transmit the same to the
27 chief justice to the end that proper action may be taken in respect
28 thereto;

29 (5) Prepare and submit budget estimates of state appropriations
30 necessary for the maintenance and operation of the judicial system and
31 make recommendations in respect thereto;

32 (6) Collect statistical and other data and make reports relating to
33 the expenditure of public moneys, state and local, for the maintenance
34 and operation of the judicial system and the offices connected
35 therewith;

36 (7) Obtain reports from clerks of courts in accordance with law or
37 rules adopted by the supreme court of this state on cases and other

1 judicial business in which action has been delayed beyond periods of
2 time specified by law or rules of court and make report thereof to
3 supreme court of this state;

4 (8) Act as secretary of the judicial conference referred to in RCW
5 2.56.060;

6 (9) Submit annually, as of February 1st, to the chief justice, a
7 report of the activities of the administrator's office for the
8 preceding calendar year including activities related to courthouse
9 security;

10 (10) Administer programs and standards for the training and
11 education of judicial personnel;

12 (11) Examine the need for new superior court and district court
13 judge positions under an objective workload analysis. The results of
14 the objective workload analysis shall be reviewed by the board for
15 judicial administration which shall make recommendations to the
16 legislature. It is the intent of the legislature that an objective
17 workload analysis become the basis for creating additional district and
18 superior court positions, and recommendations should address that
19 objective;

20 (12) Provide staff to the judicial retirement account plan under
21 chapter 2.14 RCW;

22 (13) Attend to such other matters as may be assigned by the supreme
23 court of this state;

24 (14) Within available funds, develop a curriculum for a general
25 understanding of child development, placement, and treatment resources,
26 as well as specific legal skills and knowledge of relevant statutes
27 including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules,
28 interviewing skills, and special needs of the abused or neglected
29 child. This curriculum shall be completed and made available to all
30 juvenile court judges, court personnel, and service providers and be
31 updated yearly to reflect changes in statutes, court rules, or case
32 law;

33 (15) Develop, in consultation with the entities set forth in RCW
34 2.56.150(3), a comprehensive statewide curriculum for persons who act
35 as guardians ad litem under Title 13 or 26 RCW. The curriculum shall
36 be made available July 1, (~~1997~~) 2008, and include specialty sections
37 on child development, child sexual abuse, child physical abuse, child
38 neglect, domestic violence, clinical and forensic investigative and

1 interviewing techniques, family reconciliation and mediation services,
2 and relevant statutory and legal requirements. The curriculum shall be
3 made available to all superior court judges, court personnel, and all
4 persons who act as guardians ad litem;

5 (16) Develop a curriculum for a general understanding of crimes of
6 malicious harassment, as well as specific legal skills and knowledge of
7 RCW 9A.36.080, relevant cases, court rules, and the special needs of
8 malicious harassment victims. This curriculum shall be made available
9 to all superior court and court of appeals judges and to all justices
10 of the supreme court;

11 (17) Develop, in consultation with the criminal justice training
12 commission and the commissions established under chapters 43.113,
13 43.115, and 43.117 RCW, a curriculum for a general understanding of
14 ethnic and cultural diversity and its implications for working with
15 youth of color and their families. The curriculum shall be available
16 to all superior court judges and court commissioners assigned to
17 juvenile court, and other court personnel. Ethnic and cultural
18 diversity training shall be provided annually so as to incorporate
19 cultural sensitivity and awareness into the daily operation of juvenile
20 courts statewide;

21 (18) Authorize the use of closed circuit television and other
22 electronic equipment in judicial proceedings. The administrator shall
23 promulgate necessary standards and procedures and shall provide
24 technical assistance to courts as required;

25 (19) Develop a Washington family law handbook in accordance with
26 RCW 2.56.180;

27 (20) Administer state funds for improving the operation of the
28 courts and provide support for court coordinating councils, under the
29 direction of the board for judicial administration;

30 (21)(a) Administer and distribute amounts appropriated from the
31 equal justice subaccount under RCW 43.08.250(2) for district court
32 judges' and qualifying elected municipal court judges' salary
33 contributions. The administrator for the courts shall develop a
34 distribution formula for these amounts that does not differentiate
35 between district and elected municipal court judges.

36 (b) A city qualifies for state contribution of elected municipal
37 court judges' salaries under (a) of this subsection if:

38 (i) The judge is serving in an elected position;

1 (ii) The city has established by ordinance that a full-time judge
2 is compensated at a rate equivalent to at least ninety-five percent,
3 but not more than one hundred percent, of a district court judge salary
4 or for a part-time judge on a pro rata basis the same equivalent; and
5 (iii) The city has certified to the office of the administrator for
6 the courts that the conditions in (b)(i) and (ii) of this subsection
7 have been met.

8 **Sec. 303.** RCW 26.09.191 and 2004 c 38 s 12 are each amended to
9 read as follows:

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

19 (2)(a) The parent's residential time with the child shall be
20 limited if it is found that the parent has engaged in any of the
21 following conduct: (i) Willful abandonment that continues for an
22 extended period of time or substantial refusal to perform parenting
23 functions; (ii) physical, sexual, or a pattern of emotional abuse of a
24 child; (iii) a history of acts of domestic violence as defined in RCW
25 26.50.010(1) or an assault or sexual assault which causes grievous
26 bodily harm or the fear of such harm; or (iv) the parent has been
27 convicted as an adult of a sex offense under:

28 (A) RCW 9A.44.076 if, because of the difference in age between the
29 offender and the victim, no rebuttable presumption exists under (d) of
30 this subsection;

31 (B) RCW 9A.44.079 if, because of the difference in age between the
32 offender and the victim, no rebuttable presumption exists under (d) of
33 this subsection;

34 (C) RCW 9A.44.086 if, because of the difference in age between the
35 offender and the victim, no rebuttable presumption exists under (d) of
36 this subsection;

37 (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 difference in age
4 between the offender and the victim, no rebuttable presumption exists
5 under (d) of this subsection;
6 (H) Chapter 9.68A RCW;
7 (I) Any predecessor or antecedent statute for the offenses listed
8 in (a)(iv)(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 (a)(iv)(A) through (H) of
11 this subsection.
12 This subsection (2)(a) shall not apply when (c) or (d) of this
13 subsection applies.
14 (b) The parent's residential time with the child shall be limited
15 if it is found that the parent resides with a person who has engaged in
16 any of the following conduct: (i) Physical, sexual, or a pattern of
17 emotional abuse of a child; (ii) a history of acts of domestic violence
18 as defined in RCW 26.50.010(1) or an assault or sexual assault that
19 causes grievous bodily harm or the fear of such harm; or (iii) the
20 person has been convicted as an adult or as a juvenile has been
21 adjudicated of a sex offense under:
22 (A) RCW 9A.44.076 if, because of the difference in age between the
23 offender and the victim, no rebuttable presumption exists under (e) of
24 this subsection;
25 (B) RCW 9A.44.079 if, because of the difference in age between the
26 offender and the victim, no rebuttable presumption exists under (e) of
27 this subsection;
28 (C) RCW 9A.44.086 if, because of the difference in age between the
29 offender and the victim, no rebuttable presumption exists under (e) of
30 this subsection;
31 (D) RCW 9A.44.089;
32 (E) RCW 9A.44.093;
33 (F) RCW 9A.44.096;
34 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age
35 between the offender and the victim, no rebuttable presumption exists
36 under (e) of this subsection;
37 (H) Chapter 9.68A RCW;

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

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

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

8 (c) If a parent has been found to be a sexual predator under
9 chapter 71.09 RCW or under an analogous statute of any other
10 jurisdiction, the court shall restrain the parent from contact with a
11 child that would otherwise be allowed under this chapter. If a parent
12 resides with an adult or a juvenile who has been found to be a sexual
13 predator under chapter 71.09 RCW or under an analogous statute of any
14 other jurisdiction, the court shall restrain the parent from contact
15 with the parent's child except contact that occurs outside that
16 person's presence.

17 (d) There is a rebuttable presumption that a parent who has been
18 convicted as an adult of a sex offense listed in (d)(i) through (ix) of
19 this subsection poses a present danger to a child. Unless the parent
20 rebuts this presumption, the court shall restrain the parent from
21 contact with a child that would otherwise be allowed under this
22 chapter:

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

25 (ii) RCW 9A.44.073;

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

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

30 (v) RCW 9A.44.083;

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

33 (vii) RCW 9A.44.100;

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

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

1 (e) There is a rebuttable presumption that a parent who resides
2 with a person who, as an adult, has been convicted, or as a juvenile
3 has been adjudicated, of the sex offenses listed in (e)(i) through (ix)
4 of this subsection places a child at risk of abuse or harm when that
5 parent exercises residential time in the presence of the convicted or
6 adjudicated person. Unless the parent rebuts the presumption, the
7 court shall restrain the parent from contact with the parent's child
8 except for contact that occurs outside of the convicted or adjudicated
9 person's presence:

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

12 (ii) RCW 9A.44.073;

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

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

17 (v) RCW 9A.44.083;

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

20 (vii) RCW 9A.44.100;

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

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

26 (f) The presumption established in (d) of this subsection may be
27 rebutted only after a written finding that:

28 (i) If the child was not the victim of the sex offense committed by
29 the parent requesting residential time, (A) contact between the child
30 and the offending parent is appropriate and poses minimal risk to the
31 child, and (B) the offending parent has successfully engaged in
32 treatment for sex offenders or is engaged in and making progress in
33 such treatment, if any was ordered by a court, and the treatment
34 provider believes such contact is appropriate and poses minimal risk to
35 the child; or

36 (ii) If the child was the victim of the sex offense committed by
37 the parent requesting residential time, (A) contact between the child
38 and the offending parent is appropriate and poses minimal risk to the

1 child, (B) if the child is in or has been in therapy for victims of
2 sexual abuse, the child's counselor believes such contact between the
3 child and the offending parent is in the child's best interest, and (C)
4 the offending parent has successfully engaged in treatment for sex
5 offenders or is engaged in and making progress in such treatment, if
6 any was ordered by a court, and the treatment provider believes such
7 contact is appropriate and poses minimal risk to the child.

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

10 (i) If the child was not the victim of the sex offense committed by
11 the person who is residing with the parent requesting residential time,
12 (A) contact between the child and the parent residing with the
13 convicted or adjudicated person is appropriate and that parent is able
14 to protect the child in the presence of the convicted or adjudicated
15 person, and (B) the convicted or adjudicated person has successfully
16 engaged in treatment for sex offenders or is engaged in and making
17 progress in such treatment, if any was ordered by a court, and the
18 treatment provider believes such contact is appropriate and poses
19 minimal risk to the child; or

20 (ii) If the child was the victim of the sex offense committed by
21 the person who is residing with the parent requesting residential time,
22 (A) contact between the child and the parent in the presence of the
23 convicted or adjudicated person is appropriate and poses minimal risk
24 to the child, (B) 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 parent residing with the convicted or adjudicated
27 person in the presence of the convicted or adjudicated person is in the
28 child's best interest, and (C) the convicted or adjudicated person has
29 successfully engaged in treatment for sex offenders or is engaged in
30 and making progress in such treatment, if any was ordered by a court,
31 and the treatment provider believes contact between the parent and
32 child in the presence of the convicted or adjudicated person is
33 appropriate and poses minimal risk to the child.

34 (h) If the court finds that the parent has met the burden of
35 rebutting the presumption under (f) of this subsection, the court may
36 allow a parent who has been convicted as an adult of a sex offense
37 listed in (d)(i) through (ix) of this subsection to have residential
38 time with the child supervised by a neutral and independent adult and

1 pursuant to an adequate plan for supervision of such residential time.
2 The court shall not approve of a supervisor for contact between the
3 child and the parent unless the court finds, based on the evidence,
4 that the supervisor is willing and capable of protecting the child from
5 harm. The court shall revoke court approval of the supervisor upon
6 finding, based on the evidence, that the supervisor has failed to
7 protect the child or is no longer willing or capable of protecting the
8 child.

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

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

37 (k) A court shall not order unsupervised contact between the
38 offending parent and a child of the offending parent who was sexually

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

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

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

11 (m)(i) The limitations imposed by the court under (a) or (b) of
12 this subsection shall be reasonably calculated to protect the child
13 from the physical, sexual, or emotional abuse or harm that could result
14 if the child has contact with the parent requesting residential time.
15 The limitations shall also be reasonably calculated to provide for the
16 safety of the parent who may be at risk of physical, sexual, or
17 emotional abuse or harm that could result if the parent has contact
18 with the parent requesting residential time. The limitations the court
19 may impose include, but are not limited to: Supervised contact between
20 the child and the parent or completion of relevant counseling or
21 treatment. If the court expressly finds based on the evidence that
22 limitations on the residential time with the child will not adequately
23 protect the child from the harm or abuse that could result if the child
24 has contact with the parent requesting residential time, the court
25 shall restrain the parent requesting residential time from all contact
26 with the child.

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

1 abused a child, unless the court finds that the parent accepts that the
2 person engaged in the harmful conduct and the parent is willing to and
3 capable of protecting the child from harm from the person.

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

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

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

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

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

37 (c) A long-term impairment resulting from drug, alcohol, or other

1 substance abuse that interferes with the performance of parenting
2 functions;

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

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

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

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

11 (4) In cases involving allegations of limiting factors under
12 subsection (2)(a)(ii) and (iii) of this section, both parties shall be
13 screened to determine the appropriateness of a comprehensive assessment
14 regarding the impact of the limiting factor on the child and the
15 parties.

16 (5) In entering a permanent parenting plan, the court shall not
17 draw any presumptions from the provisions of the temporary parenting
18 plan.

19 ((+5)) (6) In determining whether any of the conduct described in
20 this section has occurred, the court shall apply the civil rules of
21 evidence, proof, and procedure.

22 ((+6)) (7) For the purposes of this section, a parent's child
23 means that parent's natural child, adopted child, or stepchild.

24 NEW SECTION. Sec. 304. A new section is added to chapter 26.09
25 RCW to read as follows:

26 Before entering a permanent parenting plan, the court shall
27 determine the existence of any information and proceedings relevant to
28 the placement of the child that are available in the judicial
29 information system and databases.

30 **Sec. 305.** RCW 26.12.177 and 2005 c 282 s 30 are each amended to
31 read as follows:

32 (1) All guardians ad litem and investigators appointed under this
33 title must comply with the training requirements established under RCW
34 2.56.030(15), prior to their appointment in cases under Title 26 RCW,
35 except that volunteer guardians ad litem or court-appointed special
36 advocates may comply with alternative training requirements approved by

1 the administrative office of the courts that meet or exceed the
2 statewide requirements. In cases involving allegations of limiting
3 factors under RCW 26.09.191, the guardians ad litem and investigators
4 appointed under this title must have additional relevant training under
5 RCW 2.56.030(15) and as recommended under section 306 of this act, when
6 it is available.

7 (2)(a) Each guardian ad litem program for compensated guardians ad
8 litem shall establish a rotational registry system for the appointment
9 of guardians ad litem and investigators under this title. If a
10 judicial district does not have a program the court shall establish the
11 rotational registry system. Guardians ad litem and investigators under
12 this title shall be selected from the registry except in exceptional
13 circumstances as determined and documented by the court. The parties
14 may make a joint recommendation for the appointment of a guardian ad
15 litem from the registry.

16 (b) In judicial districts with a population over one hundred
17 thousand, a list of three names shall be selected from the registry and
18 given to the parties along with the background information as specified
19 in RCW 26.12.175(3), including their hourly rate for services. Each
20 party may, within three judicial days, strike one name from the list.
21 If more than one name remains on the list, the court shall make the
22 appointment from the names on the list. In the event all three names
23 are stricken the person whose name appears next on the registry shall
24 be appointed.

25 (c) If a party reasonably believes that the appointed guardian ad
26 litem lacks the necessary expertise for the proceeding, charges an
27 hourly rate higher than what is reasonable for the particular
28 proceeding, or has a conflict of interest, the party may, within three
29 judicial days from the appointment, move for substitution of the
30 appointed guardian ad litem by filing a motion with the court.

31 (d) Under this section, within either registry referred to in (a)
32 of this subsection, a subregistry may be created that consists of
33 guardians ad litem under contract with the department of social and
34 health services' division of child support. Guardians ad litem on such
35 a subregistry shall be selected and appointed in state-initiated
36 paternity cases only.

37 (e) The superior court shall remove any person from the guardian ad

1 litem registry who misrepresents his or her qualifications pursuant to
2 a grievance procedure established by the court.

3 (3) The rotational registry system shall not apply to court-
4 appointed special advocate programs.

5 NEW SECTION. **Sec. 306.** A new section is added to chapter 2.53 RCW
6 to read as follows:

7 (1)(a) The legislature requests that the supreme court convene and
8 support a task force to establish statewide protocols for dissolution
9 cases.

10 (b) The task force shall develop: (i) Clear and concise dispute
11 resolution procedures; (ii) in conjunction with the office of crime
12 victims advocacy, a sexual assault training curriculum; (iii)
13 consistent standards for parenting evaluators; and (iv) a domestic
14 violence training curriculum for individuals making evaluations in
15 dissolution cases. The task force shall make recommendations
16 concerning specialized evaluators for dissolution cases, dissolution
17 forms and procedures, and fees.

18 (c) The task force shall also study issues related to: (i) Venue
19 for filing and modifying petitions; and (ii) the program established
20 under section 201 of this act, including but not limited to: (A) The
21 minimum components of the program; (B) the extent of the program; (C)
22 the administration of the program; (D) the handling of confidential
23 information obtained; and (E) the selection of appropriate short screen
24 tools to be utilized in the administration of the program.

25 (2) The governor shall appoint the following members of the task
26 force:

- 27 (a) A representative of the office of crime victims advocacy;
- 28 (b) A professor of law specializing in family law;
- 29 (c) A representative from a statewide domestic violence advocacy
30 group;
- 31 (d) A representative from a community sexual assault program;
- 32 (e) Two noncustodial parents with at least one representing the
33 interests of low-income noncustodial parents; and
- 34 (f) Two custodial parents with at least one representing the
35 interests of low-income custodial parents.

36 (3) The chief justice of the supreme court is requested to appoint
37 the following members of the task force:

1 (a) Two representatives from the superior court judges association,
2 including a superior court judge and a court commissioner who is
3 familiar with dissolution issues;

4 (b) A representative from the administrative office of the courts;

5 (c) A representative from the Washington state bar association's
6 family law executive committee;

7 (d) A representative from a qualified legal aid provider that
8 receives funding from the office of civil legal aid;

9 (e) A representative of the Washington state association of county
10 clerks; and

11 (f) A guardian ad litem.

12 (4) The president of the senate shall appoint one member from each
13 of the two largest caucuses of the senate.

14 (5) The speaker of the house of representatives shall appoint one
15 member from each of the two largest caucuses of the house of
16 representatives, with at least one member.

17 (6) Membership of the task force may also include members of the
18 civil legal aid oversight committee, including but not limited to the
19 legislative members of the committee.

20 (7) The task force shall carefully consider all input received from
21 interested organizations and individuals during the task force process.

22 (8) The task force may form an executive committee, create
23 subcommittees, designate alternative representatives, and define other
24 procedures, as needed, for operation of the task force.

25 (9) Legislative members of the task force shall be reimbursed for
26 travel expenses under RCW 44.04.120. Nonlegislative members, except
27 those representing an employee or organization, are entitled to be
28 reimbursed for travel expenses in accordance with RCW 43.03.050 and
29 43.03.060.

30 (10) The task force shall present preliminary findings and
31 conclusions to the governor's office, the supreme court, and the
32 appropriate committees of the legislature by September 1, 2008. A
33 final report and recommendations, including recommendations for
34 legislative action, if necessary, and recommendations regarding the
35 program under section 201 of this act, shall be completed by December
36 1, 2008.

37 (11) This section expires June 30, 2009.

1 **PART IV - Additional Services**

2 NEW SECTION. **Sec. 401.** A new section is added to chapter 26.09
3 RCW to read as follows:

4 In order to provide judicial officers with better information and
5 to facilitate decision making which allows for the protection of
6 children from physical, mental, or emotional harm and in order to
7 facilitate consistent healthy contact between both parents and their
8 children:

9 (1) Parties and witnesses who require the assistance of
10 interpreters shall be provided access to qualified interpreters
11 pursuant to chapter 2.42 or 2.43 RCW. To the extent practicable and
12 within available resources, interpreters shall also be made available
13 at dissolution-related proceedings.

14 (2) Parties and witnesses who require literacy assistance shall be
15 referred to the multipurpose service centers established in chapter
16 28B.04 RCW.

17 (3) In matters involving guardian ad litem, the court shall
18 specify the hourly rate the guardian ad litem may charge for his or her
19 services, and shall specify the maximum amount the guardian ad litem
20 may charge without additional review. Counties may, and to the extent
21 state funding is provided therefor counties shall, provide indigent
22 parties with guardian ad litem services at a reduced or waived fee.

23 (4) Parties may request to participate by telephone or interactive
24 videoconference. The court may allow telephonic or interactive
25 videoconference participation of one or more parties at any proceeding
26 in its discretion. The court may also allow telephonic or interactive
27 videoconference participation of witnesses.

28 (5) In cases involving domestic violence or child abuse, if
29 residential time is ordered, the court may:

30 (a) Order exchange of a child to occur in a protected setting;

31 (b) Order residential time supervised by a neutral and independent
32 adult and pursuant to an adequate plan for supervision of such
33 residential time. The court shall not approve of a supervisor for
34 contact between the child and the parent unless the supervisor is
35 willing to and capable of protecting the child from harm. The court
36 shall revoke court approval of the supervisor if the court determines,
37 after a hearing, that the supervisor has failed to protect the child or
38 is no longer willing or capable of protecting the child. If the court

1 allows a family or household member to supervise residential time, the
2 court shall establish conditions to be followed during residential
3 time.

4 (6) In cases in which the court finds that the parties do not have
5 a satisfactory history of cooperation or there is a high level of
6 parental conflict, the court may order the parties to use supervised
7 visitation and safe exchange centers or alternative safe locations to
8 facilitate the exercise of residential time.

9 **PART V - Mediation**

10 **Sec. 501.** RCW 26.09.015 and 2005 c 172 s 17 are each amended to
11 read as follows:

12 (1) In any proceeding under this chapter, the matter may be set for
13 mediation of the contested issues before or concurrent with the setting
14 of the matter for hearing. The purpose of the mediation proceeding
15 shall be to reduce acrimony which may exist between the parties and to
16 develop an agreement assuring the child's close and continuing contact
17 with both parents after the marriage is dissolved. The mediator shall
18 use his or her best efforts to effect a settlement of the dispute.

19 (2)(a) Each superior court may make available a mediator. The
20 court shall use the most cost-effective mediation services that are
21 readily available unless there is good cause to access alternative
22 providers. The mediator may be a member of the professional staff of
23 a family court or mental health services agency, or may be any other
24 person or agency designated by the court. In order to provide
25 mediation services, the court is not required to institute a family
26 court.

27 (b) In any proceeding involving issues relating to residential time
28 or other matters governed by a parenting plan, the matter may be set
29 for mediation of the contested issues before or concurrent with the
30 setting of the matter for hearing. Counties may, and to the extent
31 state funding is provided therefor counties shall, provide both
32 predecree and postdecree mediation at reduced or waived fee to the
33 parties within one year of the filing of the dissolution petition.

34 (3)(a) Mediation proceedings under this chapter shall be governed
35 in all respects by chapter 7.07 RCW, except as follows:

1 (i) Mediation communications in postdecree mediations mandated by
2 a parenting plan are admissible in subsequent proceedings for the
3 limited purpose of proving:

4 (A) Abuse, neglect, abandonment, exploitation, or unlawful
5 harassment as defined in RCW 9A.46.020(1), of a child;

6 (B) Abuse or unlawful harassment as defined in RCW 9A.46.020(1), of
7 a family or household member as defined in RCW 26.50.010(2); or

8 (C) That a parent used or frustrated the dispute resolution process
9 without good reason for purposes of RCW 26.09.184(3)(d).

10 (ii) If a postdecree mediation-arbitration proceeding is required
11 pursuant to a parenting plan and the same person acts as both mediator
12 and arbitrator, mediation communications in the mediation phase of such
13 a proceeding may be admitted during the arbitration phase, and shall be
14 admissible in the judicial review of such a proceeding under RCW
15 26.09.184(3)(e) to the extent necessary for such review to be
16 effective.

17 (b) None of the exceptions under (a)(i) and (ii) of this subsection
18 shall subject a mediator to compulsory process to testify except by
19 court order for good cause shown, taking into consideration the need
20 for the mediator's testimony and the interest in the mediator
21 maintaining an appearance of impartiality. If a mediation
22 communication is not privileged under (a)(i) of this subsection or that
23 portion of (a)(ii) of this subsection pertaining to judicial review,
24 only the portion of the communication necessary for the application of
25 the exception may be admitted, and such admission of evidence shall not
26 render any other mediation communication discoverable or admissible
27 except as may be provided in chapter 7.07 RCW.

28 (4) The mediator shall assess the needs and interests of the child
29 or children involved in the controversy and may interview the child or
30 children if the mediator deems such interview appropriate or necessary.

31 (5) Any agreement reached by the parties as a result of mediation
32 shall be reported to the court and to counsel for the parties by the
33 mediator on the day set for mediation or any time thereafter designated
34 by the court.

35 **PART VI - Residential Time**

1 **Sec. 601.** RCW 26.09.184 and 1991 c 367 s 7 are each amended to
2 read as follows:

3 (1) OBJECTIVES. The objectives of the permanent parenting plan are
4 to:

5 (a) Provide for the child's physical care;

6 (b) Maintain the child's emotional stability;

7 (c) Provide for the child's changing needs as the child grows and
8 matures, in a way that minimizes the need for future modifications to
9 the permanent parenting plan;

10 (d) Set forth the authority and responsibilities of each parent
11 with respect to the child, consistent with the criteria in RCW
12 26.09.187 and 26.09.191;

13 (e) Minimize the child's exposure to harmful parental conflict;

14 (f) Encourage the parents, where appropriate under RCW 26.09.187
15 and 26.09.191, to meet their responsibilities to their minor children
16 through agreements in the permanent parenting plan, rather than by
17 relying on judicial intervention; and

18 (g) To otherwise protect the best interests of the child consistent
19 with RCW 26.09.002.

20 (2) CONTENTS OF THE PERMANENT PARENTING PLAN. The permanent
21 parenting plan shall contain provisions for resolution of future
22 disputes between the parents, allocation of decision-making authority,
23 and residential provisions for the child.

24 (3) CONSIDERATION IN ESTABLISHING THE PERMANENT PARENTING PLAN. In
25 establishing a permanent parenting plan, the court may consider the
26 cultural heritage and religious beliefs of a child.

27 (4) DISPUTE RESOLUTION. A process for resolving disputes, other
28 than court action, shall be provided unless precluded or limited by RCW
29 26.09.187 or 26.09.191. A dispute resolution process may include
30 counseling, mediation, or arbitration by a specified individual or
31 agency, or court action. In the dispute resolution process:

32 (a) Preference shall be given to carrying out the parenting plan;

33 (b) The parents shall use the designated process to resolve
34 disputes relating to implementation of the plan, except those related
35 to financial support, unless an emergency exists;

36 (c) A written record shall be prepared of any agreement reached in
37 counseling or mediation and of each arbitration award and shall be
38 provided to each party;

1 (d) If the court finds that a parent has used or frustrated the
2 dispute resolution process without good reason, the court shall award
3 attorneys' fees and financial sanctions to the prevailing parent;

4 (e) The parties have the right of review from the dispute
5 resolution process to the superior court; and

6 (f) The provisions of (a) through (e) of this subsection shall be
7 set forth in the decree.

8 ~~((4))~~ (5) ALLOCATION OF DECISION-MAKING AUTHORITY.

9 (a) The plan shall allocate decision-making authority to one or
10 both parties regarding the children's education, health care, and
11 religious upbringing. The parties may incorporate an agreement related
12 to the care and growth of the child in these specified areas, or in
13 other areas, into their plan, consistent with the criteria in RCW
14 26.09.187 and 26.09.191. Regardless of the allocation of decision-
15 making in the parenting plan, either parent may make emergency
16 decisions affecting the health or safety of the child.

17 (b) Each parent may make decisions regarding the day-to-day care
18 and control of the child while the child is residing with that parent.

19 (c) When mutual decision making is designated but cannot be
20 achieved, the parties shall make a good-faith effort to resolve the
21 issue through the dispute resolution process.

22 ~~((5))~~ (6) RESIDENTIAL PROVISIONS FOR THE CHILD. The plan shall
23 include a residential schedule which designates in which parent's home
24 each minor child shall reside on given days of the year, including
25 provision for holidays, birthdays of family members, vacations, and
26 other special occasions, consistent with the criteria in RCW 26.09.187
27 and 26.09.191.

28 ~~((6))~~ (7) PARENTS' OBLIGATION UNAFFECTED. If a parent fails to
29 comply with a provision of a parenting plan or a child support order,
30 the other parent's obligations under the parenting plan or the child
31 support order are not affected. Failure to comply with a provision in
32 a parenting plan or a child support order may result in a finding of
33 contempt of court, under RCW 26.09.160.

34 ~~((7))~~ (8) PROVISIONS TO BE SET FORTH IN PERMANENT PARENTING PLAN.
35 The permanent parenting plan shall set forth the provisions of
36 subsections ~~((3))~~ (4)(a) through (c), ~~((4))~~ (5)(b) and (c), and
37 ~~((6))~~ (7) of this section.

1 **Sec. 602.** RCW 26.09.015 and 2005 c 172 s 17 are each amended to
2 read as follows:

3 (1) In any proceeding under this chapter, the matter may be set for
4 mediation of the contested issues before or concurrent with the setting
5 of the matter for hearing. The purpose of the mediation proceeding
6 shall be to reduce acrimony which may exist between the parties and to
7 develop an agreement assuring the child's close and continuing contact
8 with both parents after the marriage is dissolved. The mediator shall
9 use his or her best efforts to effect a settlement of the dispute.

10 (2) Each superior court may make available a mediator. The
11 mediator may be a member of the professional staff of a family court or
12 mental health services agency, or may be any other person or agency
13 designated by the court. In order to provide mediation services, the
14 court is not required to institute a family court.

15 (3)(a) Mediation proceedings under this chapter shall be governed
16 in all respects by chapter 7.07 RCW, except as follows:

17 (i) Mediation communications in postdecree mediations mandated by
18 a parenting plan are admissible in subsequent proceedings for the
19 limited purpose of proving:

20 (A) Abuse, neglect, abandonment, exploitation, or unlawful
21 harassment as defined in RCW 9A.46.020(1), of a child;

22 (B) Abuse or unlawful harassment as defined in RCW 9A.46.020(1), of
23 a family or household member as defined in RCW 26.50.010(2); or

24 (C) That a parent used or frustrated the dispute resolution process
25 without good reason for purposes of RCW 26.09.184(~~(+3)~~) (4)(d).

26 (ii) If a postdecree mediation-arbitration proceeding is required
27 pursuant to a parenting plan and the same person acts as both mediator
28 and arbitrator, mediation communications in the mediation phase of such
29 a proceeding may be admitted during the arbitration phase, and shall be
30 admissible in the judicial review of such a proceeding under RCW
31 26.09.184(~~(+3)~~) (4)(e) to the extent necessary for such review to be
32 effective.

33 (b) None of the exceptions under (a)(i) and (ii) of this subsection
34 shall subject a mediator to compulsory process to testify except by
35 court order for good cause shown, taking into consideration the need
36 for the mediator's testimony and the interest in the mediator
37 maintaining an appearance of impartiality. If a mediation
38 communication is not privileged under (a)(i) of this subsection or that

1 portion of (a)(ii) of this subsection pertaining to judicial review,
2 only the portion of the communication necessary for the application of
3 the exception may be admitted, and such admission of evidence shall not
4 render any other mediation communication discoverable or admissible
5 except as may be provided in chapter 7.07 RCW.

6 (4) The mediator shall assess the needs and interests of the child
7 or children involved in the controversy and may interview the child or
8 children if the mediator deems such interview appropriate or necessary.

9 (5) Any agreement reached by the parties as a result of mediation
10 shall be reported to the court and to counsel for the parties by the
11 mediator on the day set for mediation or any time thereafter designated
12 by the court.

13 **Sec. 603.** RCW 26.09.187 and 1989 c 375 s 10 are each amended to
14 read as follows:

15 (1) DISPUTE RESOLUTION PROCESS. The court shall not order a
16 dispute resolution process, except court action, when it finds that any
17 limiting factor under RCW 26.09.191 applies, or when it finds that
18 either parent is unable to afford the cost of the proposed dispute
19 resolution process. If a dispute resolution process is not precluded
20 or limited, then in designating such a process the court shall consider
21 all relevant factors, including:

22 (a) Differences between the parents that would substantially
23 inhibit their effective participation in any designated process;

24 (b) The parents' wishes or agreements and, if the parents have
25 entered into agreements, whether the agreements were made knowingly and
26 voluntarily; and

27 (c) Differences in the parents' financial circumstances that may
28 affect their ability to participate fully in a given dispute resolution
29 process.

30 (2) ALLOCATION OF DECISION-MAKING AUTHORITY.

31 (a) AGREEMENTS BETWEEN THE PARTIES. The court shall approve
32 agreements of the parties allocating decision-making authority, or
33 specifying rules in the areas listed in RCW 26.09.184(~~(4)~~) (5)(a),
34 when it finds that:

35 (i) The agreement is consistent with any limitations on a parent's
36 decision-making authority mandated by RCW 26.09.191; and

37 (ii) The agreement is knowing and voluntary.

1 (b) SOLE DECISION-MAKING AUTHORITY. The court shall order sole
2 decision-making to one parent when it finds that:

3 (i) A limitation on the other parent's decision-making authority is
4 mandated by RCW 26.09.191;

5 (ii) Both parents are opposed to mutual decision making;

6 (iii) One parent is opposed to mutual decision making, and such
7 opposition is reasonable based on the criteria in (c) of this
8 subsection;

9 (c) MUTUAL DECISION-MAKING AUTHORITY. Except as provided in (a)
10 and (b) of this subsection, the court shall consider the following
11 criteria in allocating decision-making authority:

12 (i) The existence of a limitation under RCW 26.09.191;

13 (ii) The history of participation of each parent in decision making
14 in each of the areas in RCW 26.09.184(~~(+4)~~) (5)(a);

15 (iii) Whether the parents have a demonstrated ability and desire to
16 cooperate with one another in decision making in each of the areas in
17 RCW 26.09.184(~~(+4)~~) (5)(a); and

18 (iv) The parents' geographic proximity to one another, to the
19 extent that it affects their ability to make timely mutual decisions.

20 (3) RESIDENTIAL PROVISIONS.

21 (a) The court shall make residential provisions for each child
22 which encourage each parent to maintain a loving, stable, and nurturing
23 relationship with the child, consistent with the child's developmental
24 level and the family's social and economic circumstances. The child's
25 residential schedule shall be consistent with RCW 26.09.191. Where the
26 limitations of RCW 26.09.191 are not dispositive of the child's
27 residential schedule, the court shall consider the following factors:

28 (i) The relative strength, nature, and stability of the child's
29 relationship with each parent(~~(, including whether a parent has taken~~
30 ~~greater responsibility for performing parenting functions relating to~~
31 ~~the daily needs of the child))~~);

32 (ii) The agreements of the parties, provided they were entered into
33 knowingly and voluntarily;

34 (iii) Each parent's past and potential for future performance of
35 parenting functions as defined in RCW 26.09.004(3), including whether
36 a parent has taken greater responsibility for performing parenting
37 functions relating to the daily needs of the child;

38 (iv) The emotional needs and developmental level of the child;

1 (v) The child's relationship with siblings and with other
2 significant adults, as well as the child's involvement with his or her
3 physical surroundings, school, or other significant activities;

4 (vi) The wishes of the parents and the wishes of a child who is
5 sufficiently mature to express reasoned and independent preferences as
6 to his or her residential schedule; and

7 (vii) Each parent's employment schedule, and shall make
8 accommodations consistent with those schedules.

9 Factor (i) shall be given the greatest weight.

10 (b) Where the limitations of RCW 26.09.191 are not dispositive, the
11 court may order that a child frequently alternate his or her residence
12 between the households of the parents for brief and substantially equal
13 intervals of time ((only if the court finds the following:

14 ~~(i) No limitation exists under RCW 26.09.191;~~

15 ~~(ii)(A) The parties have agreed to such provisions and the~~
16 ~~agreement was knowingly and voluntarily entered into; or~~

17 ~~(B) The parties have a satisfactory history of cooperation and~~
18 ~~shared performance of parenting functions; the parties are available to~~
19 ~~each other, especially in geographic proximity, to the extent necessary~~
20 ~~to ensure their ability to share performance of the parenting~~
21 ~~functions; and~~

22 ~~(iii) The provisions are in the best interests of the child))~~ if
23 such provision is in the best interests of the child. In determining
24 whether such an arrangement is in the best interests of the child, the
25 court may consider the parties geographic proximity to the extent
26 necessary to ensure the ability to share performance of the parenting
27 functions.

28 (c) For any child, residential provisions may contain any
29 reasonable terms or conditions that facilitate the orderly and
30 meaningful exercise of residential time by a parent, including but not
31 limited to requirements of reasonable notice when residential time will
32 not occur.

33 **Sec. 604.** RCW 26.09.197 and 1987 c 460 s 14 are each amended to
34 read as follows:

35 After considering the affidavit required by RCW 26.09.194(1) and
36 other relevant evidence presented, the court shall make a temporary

1 parenting plan that is in the best interest of the child. In making
2 this determination, the court shall give particular consideration to:

3 (1) (~~Which parent has taken greater responsibility during the last~~
4 ~~twelve months for performing parenting functions relating to the daily~~
5 ~~needs of the child~~) The relative strength, nature, and stability of
6 the child's relationship with each parent; and

7 (2) Which parenting arrangements will cause the least disruption to
8 the child's emotional stability while the action is pending.

9 The court shall also consider the factors used to determine
10 residential provisions in the permanent parenting plan.

11 **PART VII - Data Tracking**

12 NEW SECTION. **Sec. 701.** A new section is added to chapter 26.09
13 RCW to read as follows:

14 The parties to dissolution matters shall file with the clerk of the
15 court the residential time summary report. The summary report shall be
16 on the form developed by the administrative office of the courts in
17 consultation with the department of social and health services division
18 of child support. The parties must complete the form and file the form
19 with the court order. The clerk of the court must forward the form to
20 the division of child support on at least a monthly basis.

21 NEW SECTION. **Sec. 702.** A new section is added to chapter 26.18
22 RCW to read as follows:

23 (1) The administrative office of the courts in consultation with
24 the department of social and health services, division of child
25 support, shall develop a residential time summary report form to
26 provide for the reporting of summary information in every case in which
27 residential time with children is to be established or modified.

28 (2) The residential time summary report must include at a minimum:
29 A breakdown of residential schedules with a reasonable degree of
30 specificity regarding actual time with each parent, including
31 enforcement practices, representation status of the parties, whether
32 domestic violence, child abuse, chemical dependency, or mental health
33 issues exist, and whether the matter was agreed or contested.

34 (3) The division of child support shall compile and electronically
35 transmit the information in the residential time summary reports to the

1 administrative office of the courts for purposes of tracking
2 residential time awards by parent, enforcement practices,
3 representation status of the parties, the existence of domestic
4 violence, child abuse, chemical dependency, or mental health issues and
5 whether the matter was agreed or contested.

6 (4) The administrative office of the courts shall report the
7 compiled information, organized by each county, on at least an annual
8 basis. The information shall be itemized by quarter. These reports
9 shall be made publicly available through the judicial information
10 public access services and shall not contain any personal identifying
11 information of parties in the proceedings.

12 **PART VIII - Miscellaneous**

13 NEW SECTION. **Sec. 801.** Part headings used in this act are not any
14 part of the law.

15 NEW SECTION. **Sec. 802.** If specific funding for the purposes of
16 section 306 of this act, referencing section 306 of this act by bill or
17 chapter number and section number, is not provided by June 30, 2007, in
18 the omnibus appropriations act, section 306 of this act is null and
19 void.

20 NEW SECTION. **Sec. 803.** If specific funding for the purposes of
21 section 701 of this act, referencing section 701 of this act by bill or
22 chapter number and section number, is not provided by June 30, 2007, in
23 the omnibus appropriations act, section 701 of this act is null and
24 void.

25 NEW SECTION. **Sec. 804.** If specific funding for the purposes of
26 section 702 of this act, referencing section 702 of this act by bill or
27 chapter number and section number, is not provided by June 30, 2007, in
28 the omnibus appropriations act, section 702 of this act is null and
29 void.

30 NEW SECTION. **Sec. 805.** (1) Sections 201 and 204 of this act take
31 effect July 1, 2009.

1 (2) Section 202 of this act takes effect January 1, 2008.

2 (3) Section 501 of this act takes effect January 1, 2009.

Passed by the Senate April 19, 2007.

Passed by the House April 18, 2007.

Approved by the Governor May 15, 2007.

Filed in Office of Secretary of State May 16, 2007.