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HOUSE BILL 1554

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By Representatives Haler, Shea, Klippert, Van Werven, Muri, J. Walsh, Stambaugh, Young, and Short

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1 AN ACT Relating to parenting plans; and amending RCW 26.09.187,  
2 26.09.197, 26.09.260, and 2.56.180.

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

4 **Sec. 1.** RCW 26.09.187 and 2007 c 496 s 603 are each amended to  
5 read as follows:

6 (1) DISPUTE RESOLUTION PROCESS. The court shall not order a  
7 dispute resolution process, except court action, when it finds that  
8 any limiting factor under RCW 26.09.191 applies, or when it finds  
9 that either parent is unable to afford the cost of the proposed  
10 dispute resolution process. If a dispute resolution process is not  
11 precluded or limited, then in designating such a process the court  
12 shall consider all relevant factors, including:

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

15 (b) The parents' wishes or agreements and, if the parents have  
16 entered into agreements, whether the agreements were made knowingly  
17 and voluntarily; and

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

21 (2) ALLOCATION OF DECISION-MAKING AUTHORITY.

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

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

7 (ii) The agreement is knowing and voluntary.

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

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

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

13 (iii) One parent (~~is opposed to mutual decision making, and such~~  
14 ~~opposition is reasonable based on the criteria in (c) of this~~  
15 ~~subsection)) knowingly and voluntarily agrees to concede decision-  
16 making authority to the other parent. The court shall verify that any  
17 voluntary concession of decision-making authority is of that parent's  
18 own volition.~~

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

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

23 (ii) The history of participation of each parent in decision  
24 making in each of the areas in RCW 26.09.184(5)(a);

25 (iii) Whether (~~the parents have~~) each parent has a demonstrated  
26 ability, interest, and desire to cooperate with (~~one another~~) the  
27 other parent in decision making in each of the areas in RCW  
28 26.09.184(5)(a); and

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

31 (d) The court shall not presume that a parent, solely because of  
32 his or her sex, is more qualified than the other parent to make  
33 decisions regarding the child's care, education, health care, and  
34 religious upbringing.

35 (e) The court shall enter written findings stating its reasons,  
36 including the facts and evidence considered, supporting any finding  
37 that sole decision making is in the best interest of the child.

38 (3) RESIDENTIAL PROVISIONS.

39 (a) The court shall make residential provisions for each child  
40 which encourage each parent to maintain a loving, stable, and

1 nurturing relationship with the child, consistent with the child's  
2 developmental level and the family's social and economic  
3 circumstances. The court shall not presume that a parent, solely  
4 because of his or her sex, is more qualified than the other parent to  
5 engage in parenting functions or be provided with more residential  
6 time with the child. The child's residential schedule shall be  
7 consistent with RCW 26.09.191. Where the limitations of RCW 26.09.191  
8 are not dispositive of the child's residential schedule, the court  
9 shall consider the following factors:

10 (i) The relative strength, nature, and stability of the child's  
11 relationship with each parent;

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

14 (iii) Each parent's past and potential for future performance of  
15 parenting functions as defined in RCW 26.09.004(~~((3))~~) (2), including  
16 whether a parent has taken greater responsibility for performing  
17 parenting functions relating to the daily needs of the child;

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

19 (v) The child's need for a frequent, continuing, and meaningful  
20 relationship with both parents and the ability and willingness of  
21 each parent to actively perform parenting functions for the needs of  
22 the child;

23 (vi) The child's relationship with siblings and with other  
24 significant adults, as well as the child's involvement with his or  
25 her physical surroundings, school, or other significant activities;

26 (~~((vi))~~) (vii) The wishes of the parents and the wishes of a  
27 child who is sufficiently mature to express reasoned and independent  
28 preferences as to his or her residential schedule; and

29 (~~((vii))~~) (viii) Each parent's employment schedule, and shall  
30 make accommodations consistent with those schedules.

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

32 (b) (~~(Where the limitations of RCW 26.09.191 are not dispositive,~~  
33 ~~the court may order that a child frequently alternate his or her~~  
34 ~~residence between the households of the parents for brief and~~  
35 ~~substantially equal intervals of time if such provision is in the~~  
36 ~~best interests of the child. In determining whether such an~~  
37 ~~arrangement is in the best interests of the child, the court may~~  
38 ~~consider the parties geographic proximity to the extent necessary to~~  
39 ~~ensure the ability to share performance of the parenting functions.))  
40 There is a presumption that it is in the best interest of the child~~

1 to establish an equal residential schedule that provides each parent  
2 with equal time and contact with the child unless:

3 (i) Factors present under RCW 26.09.191 require restrictions on  
4 the child's residential schedule; or

5 (ii) The parents have agreed on a parenting plan that allocates a  
6 greater share of residential time with one parent.

7 (c) A parent alleging that an equal residential schedule that  
8 provides each parent with equal time and contact with the child would  
9 not be in the best interest of the child has the burden of  
10 establishing the allegation by clear and convincing evidence.

11 ~~((e))~~ (d) For any child, residential provisions may contain any  
12 reasonable terms or conditions that facilitate the orderly and  
13 meaningful exercise of residential time by a parent, including but  
14 not limited to requirements of reasonable notice when residential  
15 time will not occur.

16 (e) If the court does not enter a parenting plan providing for an  
17 equal residential schedule that provides each parent with equal time  
18 and contact with the child, the court shall enter written findings  
19 stating its reason, including the facts and evidence considered that  
20 support the finding that an equal residential schedule is not in the  
21 best interest of the child. The court shall verify that any parenting  
22 plan that is knowingly and voluntarily agreed upon by both parties is  
23 made of their own volition.

24 **Sec. 2.** RCW 26.09.197 and 2007 c 496 s 604 are each amended to  
25 read as follows:

26 After considering the affidavit required by RCW 26.09.194(1) and  
27 other relevant evidence presented, the court shall make a temporary  
28 parenting plan that is in the best interest of the child. In making  
29 this determination, the court shall give particular consideration to:

30 (1) The presumption that it is in the best interest of the child  
31 to establish an equal residential schedule that provides each parent  
32 with equal time and contact with the child;

33 (2) The relative strength, nature, and stability of the child's  
34 relationship with each parent; and

35 ~~((2))~~ (3) Which parenting arrangements will cause the least  
36 disruption to the child's emotional stability while the action is  
37 pending.

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

1 shall enter written findings stating its reasons, including the facts  
2 and evidence considered supporting any finding that the temporary  
3 parenting plan is in the best interest of the child. The court shall  
4 verify that any temporary parenting plan that is knowingly and  
5 voluntarily agreed upon by both parties is made of their own  
6 volition.

7 **Sec. 3.** RCW 26.09.260 and 2009 c 502 s 3 are each amended to  
8 read as follows:

9 (1) Except as otherwise provided in subsections (4), (5), (6),  
10 (8), and (10) of this section, the court shall not modify a prior  
11 custody decree or a parenting plan unless it finds, upon the basis of  
12 facts that have arisen since the prior decree or plan or that were  
13 unknown to the court at the time of the prior decree or plan, that a  
14 substantial change has occurred in the circumstances of the child or  
15 the nonmoving party and that the modification is in the best interest  
16 of the child and is necessary to serve the best interests of the  
17 child. The effect of a parent's military duties potentially impacting  
18 parenting functions shall not, by itself, be a substantial change of  
19 circumstances justifying a permanent modification of a prior decree  
20 or plan.

21 (2) In applying these standards, the court shall retain the  
22 residential schedule established by the decree or parenting plan  
23 unless:

24 (a) The parents agree to the modification;

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

28 (c) The child's present environment is detrimental to the child's  
29 physical, mental, or emotional health and the harm likely to be  
30 caused by a change of environment is outweighed by the advantage of a  
31 change to the child; ((~~or~~))

32 (d) The court finds that the nonmoving parent has demonstrated an  
33 inability or unwillingness to allow the child frequent and meaningful  
34 contact with the other parent based on the nonmoving parent's  
35 violation, without good cause, of a provision of the residential  
36 schedule of the parenting plan; or

37 (e) The court has found the nonmoving parent in contempt of court  
38 at least twice within three years because the parent failed to comply  
39 with the residential time provisions in the court-ordered parenting

1 plan, or the parent has been convicted of custodial interference in  
2 the first or second degree under RCW 9A.40.060 or 9A.40.070.

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

6 (4) The court may reduce or restrict contact between the child  
7 and the parent with whom the child does not reside a majority of the  
8 time if it finds that the reduction or restriction would serve and  
9 protect the best interests of the child using the criteria in RCW  
10 26.09.191.

11 (5) The court may order adjustments to the residential aspects of  
12 a parenting plan upon a showing of a substantial change in  
13 circumstances of either parent or of the child, and without  
14 consideration of the factors set forth in subsection (2) of this  
15 section, if the proposed modification is only a minor modification in  
16 the residential schedule that does not change the residence the child  
17 is scheduled to reside in the majority of the time and:

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

19 (b) Is based on a change of residence of the parent with whom the  
20 child does not reside the majority of the time or an involuntary  
21 change in work schedule by a parent which makes the residential  
22 schedule in the parenting plan impractical to follow; or

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

36 (6) The court may order adjustments to the residential aspects of  
37 a parenting plan pursuant to a proceeding to permit or restrain a  
38 relocation of the child. The person objecting to the relocation of  
39 the child or the relocating person's proposed revised residential  
40 schedule may file a petition to modify the parenting plan, including

1 a change of the residence in which the child resides the majority of  
2 the time, without a showing of adequate cause other than the proposed  
3 relocation itself. A hearing to determine adequate cause for  
4 modification shall not be required so long as the request for  
5 relocation of the child is being pursued. In making a determination  
6 of a modification pursuant to relocation of the child, the court  
7 shall first determine whether to permit or restrain the relocation of  
8 the child using the procedures and standards provided in RCW  
9 26.09.405 through 26.09.560. Following that determination, the court  
10 shall determine what modification pursuant to relocation should be  
11 made, if any, to the parenting plan or custody order or visitation  
12 order.

13 (7) A parent with whom the child does not reside a majority of  
14 the time and whose residential time with the child is subject to  
15 limitations pursuant to RCW 26.09.191 (2) or (3) may not seek  
16 expansion of residential time under subsection (5)(c) of this section  
17 unless that parent demonstrates a substantial change in circumstances  
18 specifically related to the basis for the limitation.

19 (8)(a) If a parent with whom the child does not reside a majority  
20 of the time voluntarily fails to exercise residential time for an  
21 extended period, that is, one year or longer, the court upon proper  
22 motion may make adjustments to the parenting plan in keeping with the  
23 best interests of the minor child.

24 (b) For the purposes of determining whether the parent has failed  
25 to exercise residential time for one year or longer, the court may  
26 not count any time periods during which the parent did not exercise  
27 residential time due to the effect of the parent's military duties  
28 potentially impacting parenting functions.

29 (9) A parent with whom the child does not reside a majority of  
30 the time who is required by the existing parenting plan to complete  
31 evaluations, treatment, parenting, or other classes may not seek  
32 expansion of residential time under subsection (5)(c) of this section  
33 unless that parent has fully complied with such requirements.

34 (10) The court may order adjustments to any of the nonresidential  
35 aspects of a parenting plan upon a showing of a substantial change of  
36 circumstances of either parent or of a child, and the adjustment is  
37 in the best interest of the child. Adjustments ordered under this  
38 section may be made without consideration of the factors set forth in  
39 subsection (2) of this section.

1 (11) If the parent with whom the child resides a majority of the  
2 time receives temporary duty, deployment, activation, or mobilization  
3 orders from the military that involve moving a substantial distance  
4 away from the parent's residence or otherwise would have a material  
5 effect on the parent's ability to exercise parenting functions and  
6 primary placement responsibilities, then:

7 (a) Any temporary custody order for the child during the parent's  
8 absence shall end no later than ten days after the returning parent  
9 provides notice to the temporary custodian, but shall not impair the  
10 discretion of the court to conduct an expedited or emergency hearing  
11 for resolution of the child's residential placement upon return of  
12 the parent and within ten days of the filing of a motion alleging an  
13 immediate danger of irreparable harm to the child. If a motion  
14 alleging immediate danger has not been filed, the motion for an order  
15 restoring the previous residential schedule shall be granted; and

16 (b) The temporary duty, activation, mobilization, or deployment  
17 and the temporary disruption to the child's schedule shall not be a  
18 factor in a determination of change of circumstances if a motion is  
19 filed to transfer residential placement from the parent who is a  
20 military service member.

21 (12) If a parent receives military temporary duty, deployment,  
22 activation, or mobilization orders that involve moving a substantial  
23 distance away from the military parent's residence or otherwise have  
24 a material effect on the military parent's ability to exercise  
25 residential time or visitation rights, at the request of the military  
26 parent, the court may delegate the military parent's residential time  
27 or visitation rights, or a portion thereof, to a child's family  
28 member, including a stepparent, or another person other than a  
29 parent, with a close and substantial relationship to the minor child  
30 for the duration of the military parent's absence, if delegating  
31 residential time or visitation rights is in the child's best  
32 interest. The court may not permit the delegation of residential time  
33 or visitation rights to a person who would be subject to limitations  
34 on residential time under RCW 26.09.191. The parties shall attempt to  
35 resolve disputes regarding delegation of residential time or  
36 visitation rights through the dispute resolution process specified in  
37 their parenting plan, unless excused by the court for good cause  
38 shown. Such a court-ordered temporary delegation of a military  
39 parent's residential time or visitation rights does not create



1 separate rights to residential time or visitation for a person other  
2 than a parent.

3 (13) If the court finds that a motion to modify a prior decree or  
4 parenting plan has been brought in bad faith, the court shall assess  
5 the attorney's fees and court costs of the nonmoving parent against  
6 the moving party.

7 **Sec. 4.** RCW 2.56.180 and 2007 c 496 s 202 are each amended to  
8 read as follows:

9 (1) The administrative office of the courts shall create a  
10 handbook explaining the sections of Washington law pertaining to the  
11 rights and responsibilities of marital partners to each other and to  
12 any children during a marriage and a dissolution of marriage. The  
13 handbook may also be provided in videotape or other electronic form  
14 and must be made available and easily accessible on the  
15 administrative office of the courts' web site.

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

19 (3) In a dissolution or legal separation action filed under this  
20 chapter, the petitioner's counsel shall provide to the petitioner a  
21 copy of the handbook created under subsection (1) of this section  
22 ((shall also be provided to the petitioner when)) at the time he or  
23 she files ((a)) the petition ((for dissolution, and to the  
24 respondent, unless the respondent did not file a response, notice of  
25 appearance, or any other paper in the case or did not appear in  
26 court)) and provide a copy of the handbook to be served along with  
27 the petition and summons upon the respondent. If the petitioner is  
28 unrepresented by counsel at the time the petition is filed, the court  
29 shall provide the petitioner with a copy of the handbook and direct  
30 that a copy of the handbook be served along with the petition and  
31 summons upon the respondent. The administrative office of the courts  
32 shall on an annual basis reimburse the counties for each copy of the  
33 handbook that is distributed by the court directly to family law  
34 parties under this section, provided that the county submits  
35 documentation of the number of handbooks distributed on an annual  
36 basis.

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

- 1           (a) Information on prenuptial agreements as contracts and as a  
2 means of structuring financial arrangements and other aspects of the  
3 marital relationship;
- 4           (b) Information on shared parental responsibility for children,  
5 including establishing a residential schedule for the child in the  
6 event of the dissolution of the marriage, and guidelines on what is  
7 included in the parenting plan in order to maximize to the highest  
8 degree the amount of time the child may spend with each parent;
- 9           (c) Information on notice requirements and standards for parental  
10 relocation;
- 11          (d) Information on child support for minor children;
- 12          (e) Information on property rights, including equitable  
13 distribution of assets and premarital and postmarital property  
14 rights;
- 15          (f) Information on spousal maintenance;
- 16          (g) Information on domestic violence, child abuse, and neglect,  
17 including penalties;
- 18          (h) Information on the court process for dissolution;
- 19          (i) Information on the effects of dissolution on children;
- 20          (j) Information on community resources that are available to  
21 separating or divorcing persons and their children.

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