

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1543**

Chapter 234, Laws of 2017

65th Legislature  
2017 Regular Session

SEXUAL ASSAULT--PARENTAL RIGHTS AND RESPONSIBILITIES

EFFECTIVE DATE: 7/23/2017

Passed by the House April 21, 2017  
Yeas 96 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate April 20, 2017  
Yeas 49 Nays 0

CYRUS HABIB

**President of the Senate**

Approved May 5, 2017 3:11 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1543** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 5, 2017

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1543**

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AS AMENDED BY THE SENATE

Passed Legislature - 2017 Regular Session

**State of Washington                      65th Legislature                      2017 Regular Session**

**By House Judiciary** (originally sponsored by Representatives Doglio, Jinkins, Goodman, Senn, Robinson, Stonier, Kagi, Cody, Macri, Bergquist, Slatter, McBride, Peterson, Hudgins, Stanford, Frame, and Appleton)

READ FIRST TIME 02/13/17.

1            AN ACT Relating to parental rights and responsibilities of sexual  
2 assault perpetrators and survivors; amending RCW 26.09.191 and  
3 26.33.170; and adding a new section to chapter 26.26 RCW.

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

5            NEW SECTION.    **Sec. 1.**    A new section is added to chapter 26.26  
6 RCW to read as follows:

7            (1) This section applies in cases when a person alleged or  
8 presumed to be a legal parent to a child is alleged to have committed  
9 a sexual assault that resulted in the victim of the assault becoming  
10 pregnant and subsequently giving birth to the child.

11            (2) For the purposes of this section, "sexual assault" means  
12 nonconsensual sexual penetration that results in pregnancy.

13            (3) For the purposes of this section, the fact that the person  
14 seeking parental rights or presumed to be a legal parent committed a  
15 sexual assault that resulted in the victim of the assault becoming  
16 pregnant and subsequently giving birth to the child may be proved by  
17 either:

18            (a) Evidence that the person seeking parental rights or presumed  
19 to be a legal parent was convicted of or pleaded guilty to a sexual  
20 assault under RCW 9A.44.040, 9A.44.050, 9A.44.060, or a comparable  
21 crime of sexual assault in any jurisdiction, against the child's

1 parent, and that the child was born within three hundred twenty days  
2 after the sexual assault; or

3 (b) Clear, cogent, and convincing evidence that the person  
4 seeking parental rights or presumed to be a legal parent committed  
5 sexual assault, as defined in this section, against the child's  
6 parent, and that the child was born within three hundred twenty days  
7 after the sexual assault.

8 (4) An allegation that the child was born as the result of a  
9 sexual assault may be raised under this chapter:

10 (a) In a petition to adjudicate parentage; or

11 (b) In response to a petition to adjudicate parentage.

12 The pleading making the allegation must be filed in a petition or  
13 in a response to a petition in proceedings filed no later than four  
14 years after the birth of the child, except that (i) the pleading  
15 making the allegation that the child was born as a result of a sexual  
16 assault may be filed at any time in proceedings pursuant to RCW  
17 26.26.525; or (ii) for a period of two years after the effective date  
18 of this section, a court may waive the time bar in cases in which a  
19 presumed, acknowledged, or adjudicated parent was found in a criminal  
20 or separate civil proceeding to have committed a sexual assault  
21 against the parent alleging that the child was born as a result of  
22 the sexual assault.

23 (5) If there is an allegation that the child was born as a result  
24 of a sexual assault against the child's parent by the person seeking  
25 parentage or presumed to be the parent of the child, the court must  
26 conduct a fact-finding hearing on the allegation.

27 (a) The court may not enter any temporary orders providing  
28 residential time or decision making to the alleged perpetrator prior  
29 to the fact-finding hearing on the sexual assault allegation unless  
30 both of the following criteria are satisfied: (i) The alleged  
31 perpetrator is a presumed parent of the child; and (ii) the court  
32 specifically finds that it would be in the best interests of the  
33 child if such temporary orders are entered.

34 (b) Prior to the fact-finding hearing, the court may order  
35 genetic testing to determine whether the alleged perpetrator is  
36 biologically related to the child. If genetic testing reveals that  
37 the alleged perpetrator is not biologically related to the child, the  
38 fact-finding hearing must be stricken.

39 (c) Fourteen days prior to the fact-finding hearing, the party  
40 alleging that the child was born as a result of a sexual assault

1 shall submit affidavits setting forth facts supporting the allegation  
2 and shall give notice, together with a copy of the affidavit, to  
3 other parties to the proceedings, who may file opposing affidavits.  
4 Opposing affidavits must be submitted and served to other parties to  
5 the proceeding five days prior to the fact-finding hearing.

6 (d) The court shall determine on the record whether affidavits  
7 and documents submitted for the fact-finding hearing should be  
8 sealed.

9 (6) If, after the fact-finding hearing or after a bench trial,  
10 the court finds that the person seeking parental rights or presumed  
11 to be a legal parent committed sexual assault, pursuant to the  
12 standards set forth in subsection (3)(a) or (b) of this section,  
13 against the child's parent, and that the child was born within three  
14 hundred twenty days of the sexual assault the court must:

15 (a) Enter an order holding that the person seeking parental  
16 rights or presumed to be a legal parent is not a parent of the child,  
17 if such an order is requested by the child's legal parent or  
18 guardian; or

19 (b) Enter an order consistent with the relief requested by the  
20 child's legal parent or guardian, provided that the court determines  
21 that the relief requested is in the best interests of the child.

22 (7) Absent the express written consent of the child's legal  
23 parent or guardian, a person who is found to have committed a sexual  
24 assault, as defined in this section, against the child's parent, and  
25 that the child was born within three hundred twenty days of the  
26 sexual assault has:

27 (a) No right to an allocation of parental rights, including  
28 residential time or decision-making responsibilities for the child;

29 (b) No right to inheritance from the child; and

30 (c) No right to notification of, or standing to object to, the  
31 adoption of the child.

32 (8) If the court enters an order under subsection (6) of this  
33 section that is inconsistent with the information on the child's  
34 birth certificate, the court shall also order the birth certificate  
35 be amended in a manner that is consistent with the child's best  
36 interests and the wishes of the child's legal parent or guardian.

37 (9) If the court finds that the person seeking parentage or  
38 presumed to be the parent committed a sexual assault, as defined in  
39 this section, against the child's parent, and that the child was born  
40 within three hundred twenty days of the sexual assault, and the legal

1 parent or guardian requests it, the court must order the person  
2 seeking parentage or presumed to be the parent to pay child support  
3 or birth-related costs or both.

4 (10) The legal parent or guardian may decline an order for child  
5 support or birth-related costs. If the legal parent or guardian  
6 declines an order for child support, and is either currently  
7 receiving public assistance or later applies for it for the child  
8 born as a result of the sexual assault, support enforcement agencies  
9 as defined in this chapter shall not file administrative or court  
10 proceedings to establish or collect child support, including medical  
11 support, from the person seeking parentage or presumed to be the  
12 parent who has been found to have committed a sexual assault, as  
13 defined in this section, against the child's parent, and that the  
14 child was born within three hundred twenty days of the sexual  
15 assault.

16 (11) If the court enters an order under subsection (10) of this  
17 section providing that no child support obligation may be established  
18 or collected from the person seeking parentage or presumed to be the  
19 parent who has been found to have committed a sexual assault, the  
20 court shall forward a copy of the order to the Washington state  
21 support registry.

22 (12) The court may order an award of attorneys' fees under this  
23 section on the same basis as attorneys' fees are awarded under RCW  
24 26.09.140.

25 (13) Any party may move to close the fact-finding hearing and any  
26 related proceedings under this section to the public. If no party  
27 files such a motion, the court shall determine on its own initiative  
28 whether the fact-finding hearing and any related proceedings under  
29 this section should be closed to the public. Upon finding good cause  
30 for closing the proceeding, and if consistent with Article I, section  
31 10 of the state Constitution, the court may: (a) Restrict admission  
32 to only those persons whom the court finds to have a direct interest  
33 in the case or in the work of the court, including witnesses deemed  
34 necessary to the disposition of the case; and (b) restrict persons  
35 who are admitted from disclosing any information obtained at the  
36 hearing that would identify the parties involved or the child.

37 **Sec. 2.** RCW 26.09.191 and 2011 c 89 s 6 are each amended to read  
38 as follows:

1 (1) The permanent parenting plan shall not require mutual  
2 decision-making or designation of a dispute resolution process other  
3 than court action if it is found that a parent has engaged in any of  
4 the following conduct: (a) Willful abandonment that continues for an  
5 extended period of time or substantial refusal to perform parenting  
6 functions; (b) physical, sexual, or a pattern of emotional abuse of a  
7 child; or (c) a history of acts of domestic violence as defined in  
8 RCW 26.50.010(~~((1))~~) (3) or an assault or sexual assault (~~((which))~~)  
9 that causes grievous bodily harm or the fear of such harm or that  
10 results in a pregnancy.

11 (2)(a) The parent's residential time with the child shall be  
12 limited if it is found that the parent has engaged in any of the  
13 following conduct: (i) Willful abandonment that continues for an  
14 extended period of time or substantial refusal to perform parenting  
15 functions; (ii) physical, sexual, or a pattern of emotional abuse of  
16 a child; (iii) a history of acts of domestic violence as defined in  
17 RCW 26.50.010(~~((1))~~) (3) or an assault or sexual assault (~~((which))~~)  
18 that causes grievous bodily harm or the fear of such harm or that  
19 results in a pregnancy; or (iv) the parent has been convicted as an  
20 adult of a sex offense under:

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

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

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

30 (D) RCW 9A.44.089;

31 (E) RCW 9A.44.093;

32 (F) RCW 9A.44.096;

33 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
34 between the offender and the victim, no rebuttable presumption exists  
35 under (d) of this subsection;

36 (H) Chapter 9.68A RCW;

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

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

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

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

15 (A) RCW 9A.44.076 if, because of the difference in age between  
16 the offender and the victim, no rebuttable presumption exists under  
17 (e) of this subsection;

18 (B) RCW 9A.44.079 if, because of the difference in age between  
19 the offender and the victim, no rebuttable presumption exists under  
20 (e) of this subsection;

21 (C) RCW 9A.44.086 if, because of the difference in age between  
22 the offender and the victim, no rebuttable presumption exists under  
23 (e) of this subsection;

24 (D) RCW 9A.44.089;

25 (E) RCW 9A.44.093;

26 (F) RCW 9A.44.096;

27 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
28 between the offender and the victim, no rebuttable presumption exists  
29 under (e) of this subsection;

30 (H) Chapter 9.68A RCW;

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

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

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

38 (c) If a parent has been found to be a sexual predator under  
39 chapter 71.09 RCW or under an analogous statute of any other  
40 jurisdiction, the court shall restrain the parent from contact with a

1 child that would otherwise be allowed under this chapter. If a parent  
2 resides with an adult or a juvenile who has been found to be a sexual  
3 predator under chapter 71.09 RCW or under an analogous statute of any  
4 other jurisdiction, the court shall restrain the parent from contact  
5 with the parent's child except contact that occurs outside that  
6 person's presence.

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

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

15 (ii) RCW 9A.44.073;

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

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

20 (v) RCW 9A.44.083;

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

23 (vii) RCW 9A.44.100;

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

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

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

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

40 (ii) RCW 9A.44.073;



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

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

5 (v) RCW 9A.44.083;

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

8 (vii) RCW 9A.44.100;

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

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

14 (f) The presumption established in (d) of this subsection may be  
15 rebutted only after a written finding that the child was not  
16 conceived and subsequently born as a result of a sexual assault  
17 committed by the parent requesting residential time and that:

18 (i) If the child was not the victim of the sex offense committed  
19 by the parent requesting residential time, (A) contact between the  
20 child and the offending parent is appropriate and poses minimal risk  
21 to the child, and (B) the offending parent has successfully engaged  
22 in treatment for sex offenders or is engaged in and making progress  
23 in such treatment, if any was ordered by a court, and the treatment  
24 provider believes such contact is appropriate and poses minimal risk  
25 to the child; or

26 (ii) If the child was the victim of the sex offense committed by  
27 the parent requesting residential time, (A) contact between the child  
28 and the offending parent is appropriate and poses minimal risk to the  
29 child, (B) if the child is in or has been in therapy for victims of  
30 sexual abuse, the child's counselor believes such contact between the  
31 child and the offending parent is in the child's best interest, and  
32 (C) the offending parent has successfully engaged in treatment for  
33 sex offenders or is engaged in and making progress in such treatment,  
34 if any was ordered by a court, and the treatment provider believes  
35 such contact is appropriate and poses minimal risk to the child.

36 (g) The presumption established in (e) of this subsection may be  
37 rebutted only after a written finding that the child was not  
38 conceived and subsequently born as a result of a sexual assault  
39 committed by the parent requesting residential time and that:

1 (i) If the child was not the victim of the sex offense committed  
2 by the person who is residing with the parent requesting residential  
3 time, (A) contact between the child and the parent residing with the  
4 convicted or adjudicated person is appropriate and that parent is  
5 able to protect the child in the presence of the convicted or  
6 adjudicated person, and (B) the convicted or adjudicated person has  
7 successfully engaged in treatment for sex offenders or is engaged in  
8 and making progress in such treatment, if any was ordered by a court,  
9 and the treatment provider believes such contact is appropriate and  
10 poses minimal risk to the child; or

11 (ii) If the child was the victim of the sex offense committed by  
12 the person who is residing with the parent requesting residential  
13 time, (A) contact between the child and the parent in the presence of  
14 the convicted or adjudicated person is appropriate and poses minimal  
15 risk to the child, (B) if the child is in or has been in therapy for  
16 victims of sexual abuse, the child's counselor believes such contact  
17 between the child and the parent residing with the convicted or  
18 adjudicated person in the presence of the convicted or adjudicated  
19 person is in the child's best interest, and (C) the convicted or  
20 adjudicated person has successfully engaged in treatment for sex  
21 offenders or is engaged in and making progress in such treatment, if  
22 any was ordered by a court, and the treatment provider believes  
23 contact between the parent and child in the presence of the convicted  
24 or adjudicated person is appropriate and poses minimal risk to the  
25 child.

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

39 (i) If the court finds that the parent has met the burden of  
40 rebutting the presumption under (g) of this subsection, the court may

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

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

27 (k) A court shall not order unsupervised contact between the  
28 offending parent and a child of the offending parent who was sexually  
29 abused by that parent. A court may order unsupervised contact between  
30 the offending parent and a child who was not sexually abused by the  
31 parent after the presumption under (d) of this subsection has been  
32 rebutted and supervised residential time has occurred for at least  
33 two years with no further arrests or convictions of sex offenses  
34 involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter  
35 9.68A RCW and (i) the sex offense of the offending parent was not  
36 committed against a child of the offending parent, and (ii) the court  
37 finds that unsupervised contact between the child and the offending  
38 parent is appropriate and poses minimal risk to the child, after  
39 consideration of the testimony of a state-certified therapist, mental  
40 health counselor, or social worker with expertise in treating child

1 sexual abuse victims who has supervised at least one period of  
2 residential time between the parent and the child, and after  
3 consideration of evidence of the offending parent's compliance with  
4 community supervision requirements, if any. If the offending parent  
5 was not ordered by a court to participate in treatment for sex  
6 offenders, then the parent shall obtain a psychosexual evaluation  
7 conducted by a certified sex offender treatment provider or a  
8 certified affiliate sex offender treatment provider indicating that  
9 the offender has the lowest likelihood of risk to reoffend before the  
10 court grants unsupervised contact between the parent and a child.

11 (l) A court may order unsupervised contact between the parent and  
12 a child which may occur in the presence of a juvenile adjudicated of  
13 a sex offense listed in (e)(i) through (ix) of this subsection who  
14 resides with the parent after the presumption under (e) of this  
15 subsection has been rebutted and supervised residential time has  
16 occurred for at least two years during which time the adjudicated  
17 juvenile has had no further arrests, adjudications, or convictions of  
18 sex offenses involving children under chapter 9A.44 RCW, RCW  
19 9A.64.020, or chapter 9.68A RCW, and (i) the court finds that  
20 unsupervised contact between the child and the parent that may occur  
21 in the presence of the adjudicated juvenile is appropriate and poses  
22 minimal risk to the child, after consideration of the testimony of a  
23 state-certified therapist, mental health counselor, or social worker  
24 with expertise in treatment of child sexual abuse victims who has  
25 supervised at least one period of residential time between the parent  
26 and the child in the presence of the adjudicated juvenile, and after  
27 consideration of evidence of the adjudicated juvenile's compliance  
28 with community supervision or parole requirements, if any. If the  
29 adjudicated juvenile was not ordered by a court to participate in  
30 treatment for sex offenders, then the adjudicated juvenile shall  
31 obtain a psychosexual evaluation conducted by a certified sex  
32 offender treatment provider or a certified affiliate sex offender  
33 treatment provider indicating that the adjudicated juvenile has the  
34 lowest likelihood of risk to reoffend before the court grants  
35 unsupervised contact between the parent and a child which may occur  
36 in the presence of the adjudicated juvenile who is residing with the  
37 parent.

38 (m)(i) The limitations imposed by the court under (a) or (b) of  
39 this subsection shall be reasonably calculated to protect the child  
40 from the physical, sexual, or emotional abuse or harm that could

1 result if the child has contact with the parent requesting  
2 residential time. The limitations shall also be reasonably calculated  
3 to provide for the safety of the parent who may be at risk of  
4 physical, sexual, or emotional abuse or harm that could result if the  
5 parent has contact with the parent requesting residential time. The  
6 limitations the court may impose include, but are not limited to:  
7 Supervised contact between the child and the parent or completion of  
8 relevant counseling or treatment. If the court expressly finds based  
9 on the evidence that limitations on the residential time with the  
10 child will not adequately protect the child from the harm or abuse  
11 that could result if the child has contact with the parent requesting  
12 residential time, the court shall restrain the parent requesting  
13 residential time from all contact with the child.

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

29 (iii) The court shall not enter an order under (a) of this  
30 subsection allowing a parent to have contact with a child if the  
31 parent has been found by clear and convincing evidence pursuant to  
32 section 1 of this act to have committed sexual assault, as defined in  
33 section 1 of this act, against the child's parent, and that the child  
34 was born within three hundred twenty days of the sexual assault.

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

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

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

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

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

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

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

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

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

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

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

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

6 (5) In entering a permanent parenting plan, the court shall not  
7 draw any presumptions from the provisions of the temporary parenting  
8 plan.

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

12 (7) For the purposes of this section:

13 (a) "A parent's child" means that parent's natural child, adopted  
14 child, or stepchild; and

15 (b) "Social worker" means a person with a master's or further  
16 advanced degree from a social work educational program accredited and  
17 approved as provided in RCW 18.320.010.

18 **Sec. 3.** RCW 26.33.170 and 1999 c 173 s 1 are each amended to  
19 read as follows:

20 (1) An agency's, the department's, or a legal guardian's consent  
21 to adoption may be dispensed with if the court determines by clear,  
22 cogent and convincing evidence that the proposed adoption is in the  
23 best interests of the adoptee.

24 (2) An alleged father's, birth parent's, or parent's consent to  
25 adoption (~~may~~) shall be dispensed with if the court finds that the  
26 proposed adoption is in the best interests of the adoptee and:

27 (a) The alleged father, birth parent, or parent has been found  
28 guilty of rape under chapter 9A.44 RCW or incest under RCW 9A.64.020,  
29 where the adoptee was the victim of the rape or incest; or

30 (b) The alleged father, birth parent, or parent has been found  
31 guilty of rape under chapter 9A.44 RCW or incest under RCW 9A.64.020,  
32 or has been found by clear and convincing evidence to have committed  
33 a sexual assault, where the other parent of the adoptee was the  
34 victim of the rape (~~or~~) incest, or sexual assault and the adoptee  
35 was conceived as a result of the rape (~~or~~) incest, or sexual  
36 assault, unless the parent who is the victim indicates by affidavit  
37 or sworn testimony that consent to adoption by the person who  
38 committed the rape, incest, or sexual assault should occur.

1           (3) Nothing in this section shall be construed to eliminate the  
2 notice provisions of this chapter.

3           NEW SECTION.    **Sec. 4.**    If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

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Passed by the Senate April 20, 2017.

Approved by the Governor May 5, 2017.

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