
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5676

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Fraser and Kohl)

Read first time 02/02/96.

1 AN ACT Relating to restrictions on residential time and visitation
2 for abusive parents; amending RCW 26.09.191 and 26.10.160; and
3 declaring an emergency.

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

5 **Sec. 1.** RCW 26.09.191 and 1994 c 267 s 1 are each amended to read
6 as follows:

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

16 (2)(a) The parent's residential time with the child shall be
17 limited if it is found that the parent has engaged in any of the
18 following conduct: (i) Willful abandonment that continues for an
19 extended period of time or substantial refusal to perform parenting

1 functions; (ii) physical, sexual, or a pattern of emotional abuse of a
2 child; (~~(e)~~) (iii) a history of acts of domestic violence as defined
3 in RCW 26.50.010(1) or an assault or sexual assault which causes
4 grievous bodily harm or the fear of such harm; or (iv) the parent has
5 been convicted as an adult of a sex offense under:

6 (A) RCW 9A.44.076 if, because of the age of the offender, no
7 rebuttable presumption exists under (d) of this subsection;

8 (B) RCW 9A.44.079 if, because of the age of the offender, no
9 rebuttable presumption exists under (d) of this subsection;

10 (C) RCW 9A.44.086 if, because of the age of the offender, no
11 rebuttable presumption exists under (d) of this subsection;

12 (D) RCW 9A.44.089;

13 (E) RCW 9A.44.093;

14 (F) RCW 9A.44.096;

15 (G) RCW 9A.64.020 (1) or (2) if, because of the age of the
16 offender, no rebuttable presumption exists under (d) of this
17 subsection;

18 (H) Chapter 9.68A RCW;

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

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

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

26 (b) The parent's residential time with the child shall be limited
27 if it is found that the parent resides with a person who has engaged in
28 any of the following conduct: (i) Physical, sexual, or a pattern of
29 emotional abuse of a child; (~~(e)~~) (ii) a history of acts of domestic
30 violence as defined in RCW 26.50.010(1) or an assault or sexual assault
31 that causes grievous bodily harm or the fear of such harm; or (iii) the
32 person has been convicted as an adult or as a juvenile has been
33 adjudicated of a sex offense under:

34 (A) RCW 9A.44.076 if, because of the age of the offender, no
35 rebuttable presumption exists under (e) of this subsection;

36 (B) RCW 9A.44.079 if, because of the age of the offender, no
37 rebuttable presumption exists under (e) of this subsection;

38 (C) RCW 9A.44.086 if, because of the age of the offender, no
39 rebuttable presumption exists under (e) of this subsection;

1 (D) RCW 9A.44.089;

2 (E) RCW 9A.44.093;

3 (F) RCW 9A.44.096;

4 (G) RCW 9A.64.020 (1) or (2) if, because of the age of the
5 offender, no rebuttable presumption exists under (e) of this
6 subsection;

7 (H) Chapter 9.68A RCW;

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

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

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

15 (c) If a parent has been ~~((convicted as an adult of a sexual~~
16 ~~offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or has~~
17 ~~been))~~ found to be a sexual predator under chapter 71.09 RCW or under
18 an analogous statute of any other jurisdiction, the court shall
19 restrain the parent from contact with a child that would otherwise be
20 allowed under this chapter. If a parent resides with an adult or a
21 juvenile who has been ~~((convicted, or with a juvenile who has been~~
22 ~~adjudicated, of a sexual offense under RCW 9A.64.020 or chapter 9.68A~~
23 ~~or 9A.44 RCW, or who has been))~~ found to be a sexual predator under
24 chapter 71.09 RCW or under an analogous statute of any other
25 jurisdiction, the court shall restrain the parent from contact with the
26 parent's child except contact that occurs outside that person's
27 presence.

28 (d) There is a rebuttable presumption that a parent who has been
29 convicted as an adult of a sex offense listed in (d)(i) through (ix) of
30 this subsection poses a present danger to a child. Unless the parent
31 rebutts this presumption, the court shall restrain the parent from
32 contact with a child that would otherwise be allowed under this
33 chapter:

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

36 (ii) RCW 9A.44.073;

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

1 (iv) RCW 9A.44.079, provided that the person convicted was at least
2 eight years older than the victim;
3 (v) RCW 9A.44.083;
4 (vi) RCW 9A.44.086, provided that the person convicted was at least
5 eight years older than the victim;
6 (vii) RCW 9A.44.100;
7 (viii) Any predecessor or antecedent statute for the offenses
8 listed in (d)(i) through (vii) of this subsection;
9 (ix) Any statute from any other jurisdiction that describes an
10 offense analogous to the offenses listed in (d)(i) through (vii) of
11 this subsection.
12 (e) There is a rebuttable presumption that a parent who resides
13 with a person who, as an adult, has been convicted, or as a juvenile
14 has been adjudicated, of the sex offenses listed in (e)(i) through (ix)
15 of this subsection places a child at risk of abuse or harm when that
16 parent exercises residential time in the presence of the convicted or
17 adjudicated person. Unless the parent rebuts the presumption, the
18 court shall restrain the parent from contact with the parent's child
19 except for contact that occurs outside of the convicted or adjudicated
20 person's presence:
21 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted
22 was at least five years older than the other person;
23 (ii) RCW 9A.44.073;
24 (iii) RCW 9A.44.076, provided that the person convicted was at
25 least eight years older than the victim;
26 (iv) RCW 9A.44.079, provided that the person convicted was at least
27 eight years older than the victim;
28 (v) RCW 9A.44.083;
29 (vi) RCW 9A.44.086, provided that the person convicted was at least
30 eight years older than the victim;
31 (vii) RCW 9A.44.100;
32 (viii) Any predecessor or antecedent statute for the offenses
33 listed in (e)(i) through (vii) of this subsection;
34 (ix) Any statute from any other jurisdiction that describes an
35 offense analogous to the offenses listed in (e)(i) through (vii) of
36 this subsection.
37 (f) The presumption established in (d) of this subsection may be
38 rebutted only after a written finding that:

1 (i) If the child was not sexually abused by the parent requesting
2 residential time, (A) contact between the child and the offending
3 parent is appropriate and poses minimal risk to the child, and (B) the
4 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; or

8 (ii) If the child was sexually abused by the parent requesting
9 residential time, (A) if the child is in or has been in therapy for
10 victims of sexual abuse, the child's counselor believes such contact
11 between the child and the offending parent is in the child's best
12 interest, and (B) the offending parent has successfully engaged in
13 treatment for sex offenders or is engaged in and making progress in
14 such treatment, if any was ordered by a court, and the treatment
15 provider believes such contact is appropriate and poses minimal risk to
16 the child.

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

19 (i) If the child was not sexually abused by the person who is
20 residing with the parent requesting residential time and who, as an
21 adult, has been convicted, or as a juvenile has been adjudicated, of a
22 sex offense listed in (e)(i) through (ix) of this subsection, (A)
23 contact between the child and the parent residing with the convicted or
24 adjudicated person is appropriate and that parent is able to protect
25 the child in the presence of the convicted or adjudicated person, and
26 (B) the convicted or adjudicated person has successfully engaged in
27 treatment for sex offenders or is engaged in and making progress in
28 such treatment, if any was ordered by a court, and the treatment
29 provider believes such contact is appropriate and poses minimal risk to
30 the child; or

31 (ii) If the child was sexually abused by the person who is residing
32 with the parent requesting residential time and who, as an adult, has
33 been convicted, or as a juvenile has been adjudicated, of a sex offense
34 listed in (e)(i) through (ix) of this subsection, (A) if the child is
35 in or has been in therapy for victims of sexual abuse, the child's
36 counselor believes such contact between the child and the parent
37 residing with the convicted or adjudicated person in the presence of
38 the convicted or adjudicated person is in the child's best interest,
39 and (B) the convicted or adjudicated person has successfully engaged in

1 treatment for sex offenders or is engaged in and making progress in
2 such treatment, if any was ordered by a court, and the treatment
3 provider believes contact between the parent and child in the presence
4 of the convicted or adjudicated person is appropriate and poses minimal
5 risk to the child.

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

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

31 (j) If the court finds that the parent has met the burden of
32 rebutting the presumption, the court may allow a parent residing with
33 a person who, as an adult, has been convicted of a sex offense listed
34 in (e)(i) through (ix) of this subsection to have residential time with
35 the child in the presence of the convicted person supervised by a
36 neutral and independent adult and pursuant to an adequate plan for
37 supervision of such residential time. The court shall not approve of
38 a supervisor for contact between the child and the parent unless the
39 court finds, based on the evidence, that the supervisor is willing and

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

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

29 (l) A court may order unsupervised contact between the parent and
30 a child which may occur in the presence of a juvenile adjudicated of a
31 sex offense who resides with the parent after the presumption has been
32 rebutted and supervised residential time has occurred for at least one
33 year during which time the juvenile adjudicated of a sex offense has
34 had no further arrests or convictions of sex offenses involving
35 children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW,
36 and (i) the court finds that unsupervised contact between the child and
37 the parent that may occur in the presence of the juvenile adjudicated
38 of a sex offense is appropriate and poses minimal risk to the child,
39 after consideration of the testimony of a state-certified therapist,

1 mental health counselor, or social worker with expertise in treatment
2 of child sexual abuse victims who has supervised at least one period of
3 residential time between the parent and the child in the presence of
4 the juvenile adjudicated of a sex offense, and after consideration of
5 evidence of the adjudicated juvenile's compliance with probation or
6 parole requirements, if any. If the juvenile adjudicated of a sex
7 offense was not ordered by a court to participate in treatment for sex
8 offenders, then the adjudicated juvenile shall obtain a psychosexual
9 evaluation conducted by a state-certified sex offender treatment
10 provider indicating that the offender has the lowest likelihood of risk
11 to reoffend before the court grants unsupervised contact between the
12 parent and a child which may occur in the presence of a juvenile
13 adjudicated of a sex offense who is residing with the parent.

14 (m)(i) The limitations imposed by the court under (a) or (b) of
15 this subsection shall be reasonably calculated to protect the child
16 from the physical, sexual, or emotional abuse or harm that could result
17 if the child has contact with the parent requesting residential time.
18 If the court expressly finds based on the evidence that limitations on
19 the residential time with the child will not adequately protect the
20 child from the harm or abuse that could result if the child has contact
21 with the parent requesting residential time, the court shall restrain
22 the parent requesting residential time from all contact with the child.

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

37 (iii) If the court limits residential time under (a) or (b) of this
38 subsection to require supervised contact between the child and the
39 parent, the court shall not approve of a supervisor for contact between

1 a child and a parent who has engaged in physical, sexual, or a pattern
2 of emotional abuse of the child unless the court finds based upon the
3 evidence that the supervisor accepts that the harmful conduct occurred
4 and is willing to and capable of protecting the child from harm. The
5 court shall revoke court approval of the supervisor upon finding, based
6 on the evidence, that the supervisor has failed to protect the child or
7 is no longer willing to or capable of protecting the child.

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

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

26 (a) A parent's neglect or substantial nonperformance of parenting
27 functions;

28 (b) A long-term emotional or physical impairment which interferes
29 with the parent's performance of parenting functions as defined in RCW
30 26.09.004;

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

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

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

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

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

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

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

9 **Sec. 2.** RCW 26.10.160 and 1994 c 267 s 2 are each amended to read
10 as follows:

11 (1) A parent not granted custody of the child is entitled to
12 reasonable visitation rights except as provided in subsection (2) of
13 this section.

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

23 (A) RCW 9A.44.076 if, because of the age of the offender, no
24 rebuttable presumption exists under (d) of this subsection;

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

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

29 (D) RCW 9A.44.089;

30 (E) RCW 9A.44.093;

31 (F) RCW 9A.44.096;

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

35 (H) Chapter 9.68A RCW;

36 (I) Any predecessor or antecedent statute for the offenses listed
37 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))~~ visitation with the child
7 shall be limited if it is found that the parent resides with a person
8 who has engaged in any of the following conduct: (i) Physical, sexual,
9 or a pattern of emotional abuse of a child; ~~((or))~~ (ii) a history of
10 acts of domestic violence as defined in RCW 26.50.010(1) or an assault
11 or sexual assault ~~((which))~~ that causes grievous bodily harm or the
12 fear of such harm; or (iii) the person has been convicted as an adult
13 or as a juvenile has been adjudicated of a sex offense under:

14 (A) RCW 9A.44.076 if, because of the age of the offender, no
15 rebuttable presumption exists under (e) of this subsection;

16 (B) RCW 9A.44.079 if, because of the age of the offender, no
17 rebuttable presumption exists under (e) of this subsection;

18 (C) RCW 9A.44.086 if, because of the age of the offender, no
19 rebuttable presumption exists under (e) of this subsection;

20 (D) RCW 9A.44.089;

21 (E) RCW 9A.44.093;

22 (F) RCW 9A.44.096;

23 (G) RCW 9A.64.020 (1) or (2) if, because of the age of the
24 offender, no rebuttable presumption exists under (e) of this
25 subsection;

26 (H) Chapter 9.68A RCW;

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

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

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

34 (c) If a parent has been ~~((convicted as an adult of a sexual~~
35 ~~offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or has~~
36 ~~been))~~ found to be a sexual predator under chapter 71.09 RCW or under
37 an analogous statute of any other jurisdiction, the court shall
38 restrain the parent from contact with a child that would otherwise be
39 allowed under this chapter. If a parent resides with an adult or a

1 ~~juvenile who has been ((convicted, or with a juvenile who has been~~
2 ~~adjudicated, of a sexual offense under RCW 9A.64.020 or chapter 9.68A~~
3 ~~or 9A.44 RCW, or who has been))~~ found to be a sexual predator under
4 chapter 71.09 RCW or under an analogous statute of any other
5 jurisdiction, the court shall restrain the parent from contact with the
6 parent's child except contact that occurs outside that person's
7 presence.

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

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

16 (ii) RCW 9A.44.073;

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

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

21 (v) RCW 9A.44.083;

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

24 (vii) RCW 9A.44.100;

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

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

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

1 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted
2 was at least five years older than the other person;
3 (ii) RCW 9A.44.073;
4 (iii) RCW 9A.44.076, provided that the person convicted was at
5 least eight years older than the victim;
6 (iv) RCW 9A.44.079, provided that the person convicted was at least
7 eight years older than the victim;
8 (v) RCW 9A.44.083;
9 (vi) RCW 9A.44.086, provided that the person convicted was at least
10 eight years older than the victim;
11 (vii) RCW 9A.44.100;
12 (viii) Any predecessor or antecedent statute for the offenses
13 listed in (e)(i) through (vii) of this subsection;
14 (ix) Any statute from any other jurisdiction that describes an
15 offense analogous to the offenses listed in (e)(i) through (vii) of
16 this subsection.
17 (f) The presumption established in (d) of this subsection may be
18 rebutted only after a written finding that:
19 (i) If the child was not sexually abused by the parent requesting
20 visitation, (A) contact between the child and the offending parent is
21 appropriate and poses minimal risk to the child, and (B) the offending
22 parent has successfully engaged in treatment for sex offenders or is
23 engaged in and making progress in such treatment, if any was ordered by
24 a court, and the treatment provider believes such contact is
25 appropriate and poses minimal risk to the child; or
26 (ii) If the child was sexually abused by the parent requesting
27 visitation, (A) if the child is in or has been in therapy for victims
28 of sexual abuse, the child's counselor believes such contact between
29 the child and the offending parent is in the child's best interest, and
30 (B) the offending parent has successfully engaged in treatment for sex
31 offenders or is engaged in and making progress in such treatment, if
32 any was ordered by a court, and the treatment provider believes such
33 contact is appropriate and poses minimal risk to the child.
34 (g) The presumption established in (e) of this subsection may be
35 rebutted only after a written finding that:
36 (i) If the child was not sexually abused by the person who is
37 residing with the parent requesting visitation and who, as an adult,
38 has been convicted, or as a juvenile has been adjudicated, of a sex
39 offense listed in (e)(i) through (ix) of this subsection, (A) contact

1 between the child and the parent residing with the convicted or
2 adjudicated person is appropriate and that parent is able to protect
3 the child in the presence of the convicted or adjudicated person, and
4 (B) the convicted or adjudicated person has successfully engaged in
5 treatment for sex offenders or is engaged in and making progress in
6 such treatment, if any was ordered by a court, and the treatment
7 provider believes such contact is appropriate and poses minimal risk to
8 the child; or

9 (ii) If the child was sexually abused by the person who is residing
10 with the parent requesting visitation and who, as an adult, has been
11 convicted, or as a juvenile has been adjudicated, of a sex offense
12 listed in (e)(i) through (ix) of this subsection, (A) if the child is
13 in or has been in therapy for victims of sexual abuse, the child's
14 counselor believes such contact between the child and the parent
15 residing with the convicted or adjudicated person in the presence of
16 the convicted or adjudicated person is in the child's best interest,
17 and (B) the convicted or adjudicated person has successfully engaged in
18 treatment for sex offenders or is engaged in and making progress in
19 such treatment, if any was ordered by a court, and the treatment
20 provider believes contact between the parent and child in the presence
21 of the convicted or adjudicated person is appropriate and poses minimal
22 risk to the child.

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

35 (i) If the court finds that the parent has met the burden of
36 rebutting the presumption, the court may allow a parent residing with
37 a juvenile who has been adjudicated of a sex offense listed in (e)(i)
38 through (ix) of this subsection to have visitation with the child in
39 the presence of the adjudicated juvenile supervised by a neutral and

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

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

22 (k) A court shall not order unsupervised contact between the
23 offending parent and a child, stepchild, or adopted child of the
24 offending parent who was sexually abused by that parent. A court may
25 order unsupervised contact between the offending parent and a child who
26 was not sexually abused by the parent after the presumption has been
27 rebutted and supervised visitation has occurred for at least one year
28 with no further arrests or convictions of sex offenses involving
29 children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW
30 and (i) the sex offense of the offending parent was not committed
31 against a child, stepchild, or adopted child of the offending parent,
32 and (ii) the court finds that unsupervised contact between the child
33 and the offending parent 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 treating child sexual abuse victims who has supervised at least one
37 period of visitation between the parent and the child, and after
38 consideration of evidence of the offending parent's compliance with
39 community supervision requirements, if any. If the offending parent

1 was not ordered by a court to participate in treatment for sex
2 offenders, then the parent shall obtain a psychosexual evaluation
3 conducted by a state-certified sex offender treatment provider
4 indicating that the offender has the lowest likelihood of risk to
5 reoffend before the court grants unsupervised contact between the
6 parent and a child.

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

31 (m)(i) The limitations imposed by the court under (a) or (b) of
32 this subsection shall be reasonably calculated to protect the child
33 from the physical, sexual, or emotional abuse or harm that could result
34 if the child has contact with the parent requesting visitation. If the
35 court expressly finds based on the evidence that limitations on
36 visitation with the child will not adequately protect the child from
37 the harm or abuse that could result if the child has contact with the
38 parent requesting visitation, the court shall restrain the person
39 seeking visitation from all contact with the child.

1 (ii) The court shall not enter an order under (a) of this
2 subsection allowing a parent to have contact with a child if the parent
3 has been found by clear and convincing evidence in a civil action or by
4 a preponderance of the evidence in a dependency action to have sexually
5 abused the child, except upon recommendation by an evaluator or
6 therapist for the child that the child is ready for contact with the
7 parent and will not be harmed by the contact. The court shall not
8 enter an order allowing a parent to have contact with the child in the
9 offender's presence if the parent resides with a person who has been
10 found by clear and convincing evidence in a civil action or by a
11 preponderance of the evidence in a dependency action to have sexually
12 abused a child, unless the court finds that the parent accepts that the
13 person engaged in the harmful conduct and the parent is willing to and
14 capable of protecting the child from harm from the person.

15 (iii) If the court limits (~~(residential time)~~) visitation under (a)
16 or (b) of this subsection to require supervised contact between the
17 child and the parent, the court shall not approve of a supervisor for
18 contact between a child and a parent who has engaged in physical,
19 sexual, or a pattern of emotional abuse of the child unless the court
20 finds based upon the evidence that the supervisor accepts that the
21 harmful conduct occurred and is willing to and capable of protecting
22 the child from harm. The court shall revoke court approval of the
23 supervisor upon finding, based on the evidence, that the supervisor has
24 failed to protect the child or is no longer willing to or capable of
25 protecting the child.

26 (~~((e))~~) (n) If the court expressly finds based on the evidence that
27 contact between the parent and the child will not cause physical,
28 sexual, or emotional abuse or harm to the child and that the
29 probability that the parent's or other person's harmful or abusive
30 conduct will recur is so remote that it would not be in the child's
31 best interests to apply the limitations of (a), (b), and (~~((d))~~) (m)
32 (i) and (iii) of this subsection, or if the court expressly finds
33 (~~(based on the evidence)~~) that the parent's conduct did not have an
34 impact on the child, then the court need not apply the limitations of
35 (a), (b), and (~~((d))~~) (m)(i) and (iii) of this subsection. The weight
36 given to the existence of a protection order issued under chapter 26.50
37 RCW as to domestic violence is within the discretion of the court.
38 This subsection shall not apply when (c) (~~(and (d)(ii))~~), (d), (e),

1 (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this subsection
2 apply.

3 (3) Any person may petition the court for visitation rights at any
4 time including, but not limited to, custody proceedings. The court may
5 order visitation rights for any person when visitation may serve the
6 best interest of the child whether or not there has been any change of
7 circumstances.

8 (4) The court may modify an order granting or denying visitation
9 rights whenever modification would serve the best interests of the
10 child. Modification of a parent's visitation rights shall be subject
11 to the requirements of subsection (2) of this section.

12 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
13 preservation of the public peace, health, or safety, or support of the
14 state government and its existing public institutions, and shall take
15 effect immediately.

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