

CERTIFICATION OF ENROLLMENT

**ENGROSSED SENATE BILL 5610**

54th Legislature  
1995 Regular Session

Passed by the Senate April 19, 1995  
YEAS 46 NAYS 0

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**President of the Senate**

Passed by the House April 7, 1995  
YEAS 91 NAYS 4

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**Speaker of the  
House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5610** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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ENGROSSED SENATE BILL 5610

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AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

State of Washington                      54th Legislature                      1995 Regular Session

By Senators Smith, Deccio, Oke, Winsley, Roach and Schow

Read first time 01/30/95. Referred to Committee on Law & Justice.

1            AN ACT Relating to false accusations of child abuse or neglect;  
2 amending RCW 26.09.191; adding new sections to chapter 26.44 RCW; and  
3 prescribing penalties.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 26.44 RCW  
6 to read as follows:

7            If a court, during a judicial proceeding under this title relating  
8 to a parenting plan or child custody, finds by a preponderance of the  
9 evidence that a person has intentionally made a false allegation of  
10 child abuse or neglect or has induced another person to make a false  
11 allegation of child abuse or neglect during the judicial proceeding,  
12 the court may impose a monetary penalty not to exceed one thousand  
13 dollars against the person making or inducing another to make the  
14 accusation. The monetary penalty shall be awarded to the person  
15 against whom the false allegation is made. When the court imposes the  
16 monetary penalty, the court may also provide that reasonable attorneys'  
17 fees may be imposed if the person entitled to the monetary penalty  
18 incurs attorneys' fees to recover the penalty. The award may be

1 enforced in the same manner as other civil judgments. A "person" means  
2 a witness, a party, or a party's attorney.

3 The remedy provided by this section is in addition to any other  
4 remedy provided by law.

5 This section shall not apply to unemancipated minors.

6 **Sec. 2.** RCW 26.09.191 and 1994 c 267 s 1 are each amended to read  
7 as follows:

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

17 (2)(a) The parent's residential time with the child shall be  
18 limited if it is found that the parent has engaged in any of the  
19 following conduct: (i) Willful abandonment that continues for an  
20 extended period of time or substantial refusal to perform parenting  
21 functions; (ii) physical, sexual, or a pattern of emotional abuse of a  
22 child; or (iii) a history of acts of domestic violence as defined in  
23 RCW 26.50.010(1) or an assault or sexual assault which causes grievous  
24 bodily harm or the fear of such harm. This subsection shall not apply  
25 when (c) of this 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; or (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. This  
32 subsection (2)(b) shall not apply when (c) of this subsection applies.

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

1 offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or who has  
2 been found to be a sexual predator under chapter 71.09 RCW, the court  
3 shall restrain the parent from contact with the parent's child except  
4 contact that occurs outside that person's presence.

5 (d)(i) The limitations imposed by the court under (a) or (b) of  
6 this subsection shall be reasonably calculated to protect the child  
7 from physical, sexual, or emotional abuse or harm that could result if  
8 the child has contact with the parent requesting residential time. If  
9 the court expressly finds based on the evidence that limitation on the  
10 residential time with the child will not adequately protect the child  
11 from the harm or abuse that could result if the child has contact with  
12 the parent requesting residential time, the court shall restrain the  
13 parent requesting 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 parent  
16 has been found by clear and convincing evidence in a civil action or by  
17 a preponderance of the evidence in a dependency action to have sexually  
18 abused the child, except upon recommendation by an evaluator or  
19 therapist for the child that the child is ready for contact with the  
20 parent and will not be harmed by the contact. The court shall not  
21 enter an order allowing a parent to have contact with the child if the  
22 parent resides with a person who has been found by clear and convincing  
23 evidence in a civil action or by a preponderance of the evidence in a  
24 dependency action to have sexually abused a child, unless the court  
25 finds that the parent accepts that the person engaged in the harmful  
26 conduct and the parent is willing to and capable of protecting the  
27 child from harm from the person.

28 (iii) If the court limits residential time under (a) or (b) of this  
29 subsection to require supervised contact between the child and the  
30 parent, the court shall not approve of a supervisor for contact between  
31 a child and a parent who has engaged in physical, sexual, or a pattern  
32 of emotional abuse of the child unless the court finds based upon the  
33 evidence that the supervisor accepts that the harmful conduct occurred  
34 and is willing to and capable of protecting the child from harm. The  
35 court shall revoke court approval of the supervisor upon finding, based  
36 on the evidence, that the supervisor has failed to protect the child or  
37 is no longer willing to or capable of protecting the child.

38 (e) If the court expressly finds based on the evidence that contact  
39 between the parent and the child will not cause physical, sexual, or

1 emotional abuse or harm to the child and that the probability that the  
2 parent's or other person's harmful or abusive conduct will recur is so  
3 remote that it would not be in the child's best interests to apply the  
4 limitations of (a), (b), and (d) (i) and (iii) of this subsection, or  
5 if the court expressly finds the parent's conduct did not have an  
6 impact on the child, then the court need not apply the limitations of  
7 (a), (b), and (d) (i) and (iii) of this subsection. The weight given  
8 to the existence of a protection order issued under chapter 26.50 RCW  
9 as to domestic violence is within the discretion of the court. This  
10 subsection shall not apply when (c) and (d)(ii) of this subsection  
11 apply.

12 (3) There shall be a presumption that the parent's residential time  
13 with the child should be limited if it is found that the parent has  
14 made false accusations of child abuse or neglect during the course of  
15 the proceedings, and the parent knew the accusations to be false at the  
16 time of making the accusations.

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

21 (a) A parent's neglect or substantial nonperformance of parenting  
22 functions;

23 (b) A long-term emotional or physical impairment which interferes  
24 with the parent's performance of parenting functions as defined in RCW  
25 26.09.004;

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

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

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

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

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

37 ~~((4))~~ (5) In entering a permanent parenting plan, the court shall  
38 not draw any presumptions from the provisions of the temporary  
39 parenting plan.

1        (~~(5)~~) (6) In determining whether any of the conduct described in  
2 this section has occurred, the court shall apply the civil rules of  
3 evidence, proof, and procedure.

4        NEW SECTION.    **Sec. 3.** A new section is added to chapter 26.44 RCW  
5 to read as follows:

6        A person is guilty of a class C felony punishable in accordance  
7 with chapter 9A.20 RCW if the person intentionally: (1) Makes a false  
8 accusation of child abuse or neglect during a judicial proceeding under  
9 this title relating to a parenting plan or child custody, or (2)  
10 induces another person to make a false allegation of child abuse or  
11 neglect during a judicial proceeding under this title relating to a  
12 parenting plan or child custody.

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