

SB 5598 - H COMM AMD
By Committee on Judiciary

ADOPTED 03/02/2018

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

6 (1) "Parent" means a legal parent whose rights have not been
7 terminated, relinquished, or declared not to exist.

8 "(2)(a) "Relative" means:

9 (i) Any blood relative, including those of half-blood, and
10 including first cousins, second cousins, nephews or nieces, and
11 persons of preceding generations as denoted by prefixes of grand,
12 great, or great-great;

13 (ii) Stepfather, stepmother, stepbrother, and stepsister;

14 (iii) A person who legally adopts a child or the child's parent
15 as well as the biological and other legally adopted children of such
16 persons, and other relatives of the adoptive parents in accordance
17 with state law;

18 (iv) Spouses of any persons named in (a)(i), (ii), or (iii) of
19 this subsection, even after the marriage is terminated;

20 (v) Relatives, as named in (a)(i), (ii), or (iii) of this
21 subsection, of any half sibling of the child; or

22 (vi) Extended family members, as defined by the law or custom of
23 an Indian child's tribe or, in the absence of such law or custom, a
24 person who has reached the age of eighteen and who is the Indian
25 child's grandparent, aunt or uncle, brother or sister, brother-in-law
26 or sister-in-law, niece or nephew, first or second cousin, or
27 stepparent who provides care in the family abode on a twenty-four
28 hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4).

29 (b) "Relative" does not include a person whose parental rights
30 have been terminated, relinquished, or determined not to exist with
31 respect to a child who is the subject of a petition under this
32 chapter.

1 NEW SECTION. **Sec. 2.** (1) A person who is not the parent of the
2 child may petition for visitation with the child if:

3 (a) The petitioner has an ongoing and substantial relationship
4 with the child;

5 (b) The petitioner is a relative of the child or a parent of the
6 child; and

7 (c) The child is likely to suffer harm or a substantial risk of
8 harm if visitation is denied.

9 (2) A person has established an ongoing and substantial
10 relationship with a child if the person and the child have had a
11 relationship formed and sustained through interaction, companionship,
12 and mutuality of interest and affection, without expectation of
13 financial compensation, with substantial continuity for at least two
14 years unless the child is under the age of two years, in which case
15 there must be substantial continuity for at least half of the child's
16 life, and with a shared expectation of and desire for an ongoing
17 relationship.

18 NEW SECTION. **Sec. 3.** (1) If a court has jurisdiction over the
19 child pursuant to chapter 26.27 RCW, a petition for visitation under
20 section 2 of this act must be filed with that court.

21 (2) Except as otherwise provided in subsection (1) of this
22 section, if a court has exclusive original jurisdiction over the
23 child under RCW 13.04.030(1) (a) through (d), (h), or (j), a petition
24 for visitation under section 2 of this act must be filed with that
25 court. Granting of a petition for visitation under this chapter does
26 not entitle the petitioner to party status in a child custody
27 proceeding under Title 13 RCW.

28 (3) Except as otherwise provided in subsections (1) and (2) of
29 this section, a petition for visitation under section 2 of this act
30 must be filed in the county where the child primarily resides.

31 (4) The petitioner may not file a petition for visitation more
32 than once.

33 (5) The petitioner must file with the petition an affidavit
34 alleging that:

35 (a) A relationship with the child that satisfies the requirements
36 of section 2 of this act exists or existed before action by the
37 respondent; and

38 (b) The child would likely suffer harm or the substantial risk of
39 harm if visitation between the petitioner and child was not granted.

1 (6) The petitioner shall set forth facts in the affidavit
2 supporting the petitioner's requested order for visitation.

3 (7) The petitioner shall serve notice of the filing to each
4 person having legal custody of, or court-ordered residential time
5 with, the child. A person having legal custody or residential time
6 with the child may file an opposing affidavit.

7 (8) If, based on the petition and affidavits, the court finds
8 that it is more likely than not that visitation will be granted, the
9 court shall hold a hearing.

10 (9) The court may not enter any temporary orders to establish,
11 enforce, or modify visitation under this section.

12 NEW SECTION. **Sec. 4.** (1)(a) At a hearing pursuant to section
13 3(8) of this act, the court shall enter an order granting visitation
14 if it finds that the child would likely suffer harm or the
15 substantial risk of harm if visitation between the petitioner and the
16 child is not granted and that granting visitation between the child
17 and the petitioner is in the best interest of the child.

18 (b) An order granting visitation does not confer upon the
19 petitioner the rights and duties of a parent.

20 (2) In making its determination, the court shall consider the
21 respondent's reasons for denying visitation. It is presumed that a
22 fit parent's decision to deny visitation is in the best interest of
23 the child and does not create a likelihood of harm or a substantial
24 risk of harm to the child.

25 (3) To rebut the presumption in subsection (2) of this section,
26 the petitioner must prove by clear and convincing evidence that the
27 child would likely suffer harm or the substantial risk of harm if
28 visitation between the petitioner and the child were not granted.

29 (4) If the court finds that the petitioner has met the standard
30 for rebutting the presumption in subsection (2) of this section, or
31 if there is no presumption because no parent has custody of the
32 child, the court shall consider whether it is in the best interest of
33 the child to enter an order granting visitation. The petitioner must
34 prove by clear and convincing evidence that visitation is in the
35 child's best interest. In determining whether it is in the best
36 interest of the child, the court shall consider the following,
37 nonexclusive factors:

1 (a) The love, affection, and strength of the current relationship
2 between the child and the petitioner and how the relationship is
3 beneficial to the child;

4 (b) The length and quality of the prior relationship between the
5 child and the petitioner before the respondent denied visitation,
6 including the role performed by the petitioner and the emotional ties
7 that existed between the child and the petitioner;

8 (c) The relationship between the petitioner and the respondent;

9 (d) The love, affection, and strength of the current relationship
10 between the child and the respondent;

11 (e) The nature and reason for the respondent's objection to
12 granting the petitioner visitation;

13 (f) The effect that granting visitation will have on the
14 relationship between the child and the respondent;

15 (g) The residential time-sharing arrangements between the parties
16 having residential time with the child;

17 (h) The good faith of the petitioner and respondent;

18 (i) Any history of physical, emotional, or sexual abuse or
19 neglect by the petitioner, or any history of physical, emotional, or
20 sexual abuse or neglect by a person residing with the petitioner if
21 visitation would involve contact between the child and the person
22 with such history;

23 (j) The child's reasonable preference, if the court considers the
24 child to be of sufficient age to express a preference;

25 (k) Any other factor relevant to the child's best interest; and

26 (l) The fact that the respondent has not lost his or her parental
27 rights by being adjudicated as an unfit parent.

28 NEW SECTION. **Sec. 5.** (1)(a) For the purposes of sections 2
29 through 4 of this act, the court shall, on motion of the respondent,
30 order the petitioner to pay a reasonable amount for costs and
31 reasonable attorneys' fees to the respondent in advance and prior to
32 any hearing, unless the court finds, considering the financial
33 resources of all parties, that it would be unjust to do so.

34 (b) Regardless of the financial resources of the parties, if the
35 court finds that a petition for visitation was brought in bad faith
36 or without reasonable basis in light of the requirements of sections
37 2 through 4 of this act, the court shall order the petitioner to pay
38 a reasonable amount for costs and reasonable attorneys' fees to the
39 respondent.

1 (2) If visitation is granted, the court shall order the
2 petitioner to pay all transportation costs associated with
3 visitation.

4 NEW SECTION. **Sec. 6.** (1) A court may not modify or terminate an
5 order granting visitation under section 4 of this act unless it
6 finds, on the basis of facts that have arisen since the entry of the
7 order or were unknown to the court at the time it entered the order,
8 that a substantial change of circumstances has occurred in the
9 circumstances of the child or nonmoving party and that modification
10 or termination of the order is necessary for the best interest of the
11 child.

12 (2)(a) If a court has jurisdiction over the child pursuant to
13 chapter 26.27 RCW, a petition for modification or termination under
14 this section must be filed with that court.

15 (b) Except as otherwise provided in (a) of this subsection, if a
16 court has exclusive original jurisdiction over the child under RCW
17 13.04.030(1) (a) through (d), (h), or (j), a petition for
18 modification or termination under this section must be filed with
19 that court.

20 (c) Except as otherwise provided in (a) or (b) of this
21 subsection, a petition for modification or termination under this
22 section must be filed in the county where the child primarily
23 resides.

24 (3) The petitioner must file with the petition an affidavit
25 alleging that, on the basis of facts that have arisen since the entry
26 of the order or were unknown to the court at the time it entered the
27 order, there is a substantial change of circumstances of the child or
28 nonmoving party and that modification or termination of the order is
29 necessary for the best interest of the child. The petitioner shall
30 set forth facts in the affidavit supporting the petitioner's
31 requested order.

32 (4) The petitioner shall serve notice of the petition to each
33 person having legal custody of, or court-ordered residential time or
34 court-ordered visitation with, the child. A person having legal
35 custody or residential or visitation time with the child may file an
36 opposing affidavit.

37 (5) If, based on the petition and affidavits, the court finds
38 that it is more likely than not that a modification or termination
39 will be granted, the court shall hold a hearing.

1 (6) The court may award reasonable attorneys' fees and costs to
2 either party.

3 **Sec. 7.** RCW 26.10.160 and 2011 c 89 s 7 are each amended to read
4 as follows:

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

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

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

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

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

26 (D) RCW 9A.44.089;

27 (E) RCW 9A.44.093;

28 (F) RCW 9A.44.096;

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

32 (H) Chapter 9.68A RCW;

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

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

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

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

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

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

15 (C) RCW 9A.44.086 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 (D) RCW 9A.44.089;

19 (E) RCW 9A.44.093;

20 (F) RCW 9A.44.096;

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

24 (H) Chapter 9.68A RCW;

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

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

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

32 (c) If a parent has been found to be a sexual predator under
33 chapter 71.09 RCW or under an analogous statute of any other
34 jurisdiction, the court shall restrain the parent from contact with a
35 child that would otherwise be allowed under this chapter. If a parent
36 resides with an adult or a juvenile who has been found to be a sexual
37 predator under chapter 71.09 RCW or under an analogous statute of any
38 other jurisdiction, the court shall restrain the parent from contact
39 with the parent's child except contact that occurs outside that
40 person's presence.

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

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

9 (ii) RCW 9A.44.073;

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

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

14 (v) RCW 9A.44.083;

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

17 (vii) RCW 9A.44.100;

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

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

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

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

34 (ii) RCW 9A.44.073;

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

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

39 (v) RCW 9A.44.083;

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

3 (vii) RCW 9A.44.100;

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

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

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

11 (i) If the child was not the victim of the sex offense committed
12 by the parent requesting visitation, (A) contact between the child
13 and the offending parent is appropriate and poses minimal risk to the
14 child, and (B) the offending parent has successfully engaged in
15 treatment for sex offenders or is engaged in and making progress in
16 such treatment, if any was ordered by a court, and the treatment
17 provider believes such contact is appropriate and poses minimal risk
18 to the child; or

19 (ii) If the child was the victim of the sex offense committed by
20 the parent requesting visitation, (A) contact between the child and
21 the offending parent is appropriate and poses minimal risk to the
22 child, (B) if the child is in or has been in therapy for victims of
23 sexual abuse, the child's counselor believes such contact between the
24 child and the offending parent is in the child's best interest, and
25 (C) the offending parent has successfully engaged in treatment for
26 sex offenders or is engaged in and making progress in such treatment,
27 if any was ordered by a court, and the treatment provider believes
28 such contact is appropriate and poses minimal risk to the child.

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

31 (i) If the child was not the victim of the sex offense committed
32 by the person who is residing with the parent requesting visitation,
33 (A) contact between the child and the parent residing with the
34 convicted or adjudicated person is appropriate and that parent is
35 able to protect the child in the presence of the convicted or
36 adjudicated person, and (B) the convicted or adjudicated person has
37 successfully engaged in treatment for sex offenders or is engaged in
38 and making progress in such treatment, if any was ordered by a court,
39 and the treatment provider believes such contact is appropriate and
40 poses minimal risk to the child; or

1 (ii) If the child was the victim of the sex offense committed by
2 the person who is residing with the parent requesting visitation, (A)
3 contact between the child and the parent in the presence of the
4 convicted or adjudicated person is appropriate and poses minimal risk
5 to the child, (B) if the child is in or has been in therapy for
6 victims of sexual abuse, the child's counselor believes such contact
7 between the child and the parent residing with the convicted or
8 adjudicated person in the presence of the convicted or adjudicated
9 person is in the child's best interest, and (C) the convicted or
10 adjudicated person has successfully engaged in treatment for sex
11 offenders or is engaged in and making progress in such treatment, if
12 any was ordered by a court, and the treatment provider believes
13 contact between the parent and child in the presence of the convicted
14 or adjudicated person is appropriate and poses minimal risk to the
15 child.

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

29 (i) If the court finds that the parent has met the burden of
30 rebutting the presumption under (g) of this subsection, the court may
31 allow a parent residing with a person who has been adjudicated as a
32 juvenile of a sex offense listed in (e)(i) through (ix) of this
33 subsection to have visitation with the child in the presence of the
34 person adjudicated as a juvenile, supervised by a neutral and
35 independent adult and pursuant to an adequate plan for supervision of
36 such visitation. The court shall not approve of a supervisor for
37 contact between the child and the parent unless the court finds,
38 based on the evidence, that the supervisor is willing and capable of
39 protecting the child from harm. The court shall revoke court approval
40 of the supervisor upon finding, based on the evidence, that the

1 supervisor has failed to protect the child or is no longer willing or
2 capable of protecting the child.

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

17 (k) A court shall not order unsupervised contact between the
18 offending parent and a child of the offending parent who was sexually
19 abused by that parent. A court may order unsupervised contact between
20 the offending parent and a child who was not sexually abused by the
21 parent after the presumption under (d) of this subsection has been
22 rebutted and supervised visitation has occurred for at least two
23 years with no further arrests or convictions of sex offenses
24 involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter
25 9.68A RCW and (i) the sex offense of the offending parent was not
26 committed against a child of the offending parent, and (ii) the court
27 finds that unsupervised contact between the child and the offending
28 parent is appropriate and poses minimal risk to the child, after
29 consideration of the testimony of a state-certified therapist, mental
30 health counselor, or social worker with expertise in treating child
31 sexual abuse victims who has supervised at least one period of
32 visitation between the parent and the child, and after consideration
33 of evidence of the offending parent's compliance with community
34 supervision requirements, if any. If the offending parent was not
35 ordered by a court to participate in treatment for sex offenders,
36 then the parent shall obtain a psychosexual evaluation conducted by a
37 certified sex offender treatment provider or a certified affiliate
38 sex offender treatment provider indicating that the offender has the
39 lowest likelihood of risk to reoffend before the court grants
40 unsupervised contact between the parent and a child.

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

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

37 (ii) The court shall not enter an order under (a) of this
38 subsection allowing a parent to have contact with a child if the
39 parent has been found by clear and convincing evidence in a civil
40 action or by a preponderance of the evidence in a dependency action

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

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

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

37 ~~(3) ((Any person may petition the court for visitation rights at~~
38 ~~any time including, but not limited to, custody proceedings. The~~
39 ~~court may order visitation rights for any person when visitation may~~

1 ~~serve the best interest of the child whether or not there has been~~
2 ~~any change of circumstances.~~

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

8 ((+5)) (4) For the purposes of this section:

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

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

14 NEW SECTION. **Sec. 8.** RCW 26.09.240 (Visitation rights—Person
15 other than parent—Grandparents' visitation rights) and 1996 c 177 s
16 1, 1989 c 375 s 13, 1987 c 460 s 18, 1977 ex.s. c 271 s 1, & 1973 1st
17 ex.s. c 157 s 24 are each repealed.

18 NEW SECTION. **Sec. 9.** Sections 1 through 6 of this act
19 constitute a new chapter in Title 26 RCW."

20 Correct the title.

EFFECT: (1) Provides that if a juvenile court has exclusive
original jurisdiction over the child in proceedings relating to
dependency, termination of parental rights, or out-of-home placement,
a petition for visitation, or a petition for modification of a
visitation order, must be filed with that court. A person granted
visitation is not entitled to party status in a child custody
proceeding.

(2) Strikes a provision in the nonparental child custody statute
that allows any person to petition for visitation with a child at any
time and that allows a court to grant visitation if it is in the best
interest of the child.

(3) Provides that the term "relative" does not include a person
whose parental rights have been terminated, relinquished, or
determined not to exist with respect to a child who is the subject of
a petition under the act.

--- END ---