
HOUSE BILL 2237

State of Washington

68th Legislature

2024 Regular Session

By Representatives Taylor and Walen

Read first time 01/09/24. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to limitations in parenting plans; amending RCW
2 26.09.191; and adding a new section to chapter 26.09 RCW.

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

4 **Sec. 1.** RCW 26.09.191 and 2021 c 215 s 134 are each amended to
5 read as follows:

6 (1) ~~((The permanent parenting plan shall not require mutual
7 decision-making or designation of a dispute resolution process other
8 than court action))~~ PURPOSE. Parents are responsible for protecting
9 and preserving the health and well-being of their minor children.
10 When a parent acts contrary to the health and well-being of the
11 parent's child, or engages in conduct that creates an unreasonable
12 risk of harm to a child, the court may, and in some situations must,
13 impose limitations intended to protect the child from harm as
14 described in this section and section 2 of this act.

15 (2) GENERAL CONSIDERATIONS.

16 (a) In entering a permanent parenting plan, the court shall not
17 draw any presumptions from the provisions of the temporary parenting
18 plan.

19 (b) The weight given to the existence of a protection order
20 issued under chapter 7.105 RCW or former chapter 26.50 RCW as to
21 domestic violence is within the discretion of the court.

1 (c) In determining whether any of the conduct described in this
2 section or section 2 of this act has occurred, the court shall apply
3 the rules of evidence and civil procedure except where the parties
4 have opted for an informal family law trial pursuant to state or
5 local court rules.

6 (3) DEFINITIONS. The definitions in this subsection apply
7 throughout this section and section 2 of this act unless the context
8 clearly requires otherwise.

9 (a) "Abusive use of conflict" refers to a party engaging in
10 ongoing and deliberate actions to misuse conflict. This includes, but
11 is not limited to: (i) Repeated bad faith violations of court orders
12 regarding the child or the protection of the child or other parent;
13 (ii) credible threats of physical, emotional, or financial harm to
14 the other parent or to family, friends, or professionals providing
15 support to the child or other parent; (iii) intentional use of the
16 child in conflict; or (iv) abusive litigation as defined in RCW
17 26.51.020. Litigation that is aggressive or improper but does not
18 meet the definition of abusive litigation shall not constitute a
19 basis for finding abusive use of conflict under this section.
20 Protective actions as defined in this section shall not constitute a
21 basis for a finding of abusive use of conflict.

22 (b) "Child" shall also mean "children."

23 (c) "Knowingly" means knows or reasonably should know.

24 (d) "Parenting functions" has the same meaning as in RCW
25 26.09.004.

26 (e) "Protective actions" are actions taken by a parent in good
27 faith for the purpose of protecting themselves or the parent's child
28 from the risk of harm posed by the other parent. "Protective actions"
29 can include, but are not limited to: (i) Reports or complaints
30 regarding physical, sexual, or mental abuse of a child or child
31 neglect to an individual or entity connected to the provision of care
32 or safety of the child such as law enforcement, medical
33 professionals, therapists, schools, day cares, or child protective
34 services; (ii) seeking court orders changing residential time; or
35 (iii) petitions for protection or restraining orders.

36 (f) "Social worker" means a person with a master's degree or
37 further advanced degree from a social work educational program
38 accredited and approved as provided in RCW 18.320.010.

39 (g) "Willful abandonment" has occurred when the child's parent
40 has expressed, either by statement or conduct, an intent to forego,

1 for an extended period, parental rights or responsibilities despite
2 an ability to exercise such rights and responsibilities. "Willful
3 abandonment" does not include a parent who has been unable to see the
4 child due to incarceration, deportation, inpatient treatment, medical
5 emergency, fleeing to an emergency shelter or domestic violence
6 shelter, or withholding of the child by the other parent.

7 (4) RESIDENTIAL TIME LIMITATIONS.

8 (a) PARENTAL CONDUCT REQUIRING LIMITS ON A PARENT'S RESIDENTIAL
9 TIME. A parent's residential time with the parent's child shall be
10 limited if it is found that a parent has engaged in any of the
11 following conduct:

12 ~~((a))~~ (i) Willful abandonment that continues for an extended
13 period of time ~~((or substantial refusal to perform parenting~~
14 ~~functions;~~

15 ~~(b) physical, sexual,);~~

16 (ii) Physical abuse or a pattern of emotional abuse of a child;

17 ~~((or (c) a))~~ (iii) A history of acts of domestic violence as
18 defined in RCW 7.105.010 ~~((or))~~ , an assault ~~((or sexual assault))~~
19 that causes grievous bodily harm or the fear of such harm ~~((or that~~
20 ~~results in a pregnancy.~~

21 ~~(2) (a) The),~~ or any sexual assault; or

22 (iv) Sexual abuse of a child. Required limitations and
23 considerations for a parent who has been convicted of a sexual
24 offense against a child or found to have sexually abused a child in
25 the current case or a prior case are addressed in section 2 of this
26 act.

27 (b) PARENT RESIDING WITH A PERSON WHOSE CONDUCT REQUIRES
28 RESIDENTIAL TIME LIMITATIONS. A parent's residential time with the
29 child shall be limited if it is found that the parent knowingly
30 resides with a person who has engaged in any of the following
31 conduct: ~~((i) Willful abandonment that continues for an extended~~
32 ~~period of time or substantial refusal to perform parenting functions;~~
33 ~~(ii) physical, sexual,))~~

34 (i) Physical abuse or a pattern of emotional abuse of a child;

35 ~~((iii) a))~~ (ii) A history of acts of domestic violence as
36 defined in RCW 7.105.010 ~~((or))~~ , an assault ~~((or sexual assault))~~
37 that causes grievous bodily harm or the fear of such harm ~~((or that~~
38 ~~results in a pregnancy; or (iv) the parent has been convicted as an~~
39 ~~adult of a sex offense under:~~

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

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

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

10 ~~(D) RCW 9A.44.089;~~

11 ~~(E) RCW 9A.44.093;~~

12 ~~(F) RCW 9A.44.096;~~

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

16 ~~(H) Chapter 9.68A RCW;~~

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

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

22 ~~This subsection (2) (a) shall not apply when (c) or (d) of this~~
23 ~~subsection applies.~~

24 ~~(b) The parent's residential time with the child shall be limited~~
25 ~~if it is found that the parent resides with a person who has engaged~~
26 ~~in any of the following conduct: (i) Physical, sexual, or a pattern~~
27 ~~of emotional abuse of a child; (ii) a history of acts of domestic~~
28 ~~violence as defined in RCW 7.105.010 or an assault or sexual assault~~
29 ~~that causes grievous bodily harm or the fear of such harm or that~~
30 ~~results in a pregnancy; or (iii) the person has been convicted as an~~
31 ~~adult or as a juvenile has been adjudicated of a sex offense under:~~

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

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

38 ~~(C) RCW 9A.44.086 if, because of the difference in age between~~
39 ~~the offender and the victim, no rebuttable presumption exists under~~
40 ~~(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 difference in age~~
5 ~~between the offender and the victim, no rebuttable presumption exists~~
6 ~~under (c) of this 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)~~
12 ~~of 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 found to be a sexual predator under~~
16 ~~chapter 71.09 RCW or under an analogous statute of any other~~
17 ~~jurisdiction, the court shall restrain the parent from contact with a~~
18 ~~child that would otherwise be allowed under this chapter. If a parent~~
19 ~~resides with an adult or a juvenile who has been found to be a sexual~~
20 ~~predator under chapter 71.09 RCW or under an analogous statute of any~~
21 ~~other jurisdiction, the court shall restrain the parent from contact~~
22 ~~with the parent's child except contact that occurs outside that~~
23 ~~person's presence.~~
24 ~~(d) There is a rebuttable presumption that a parent who has been~~
25 ~~convicted as an adult of a sex offense listed in (d) (i) through (ix)~~
26 ~~of this subsection poses a present danger to a child. Unless the~~
27 ~~parent rebuts this presumption, the court shall restrain the parent~~
28 ~~from contact with a child that would otherwise be allowed under this~~
29 ~~chapter:~~
30 ~~(i) RCW 9A.64.020 (1) or (2), provided that the person convicted~~
31 ~~was at least five years older than the other person;~~
32 ~~(ii) RCW 9A.44.073;~~
33 ~~(iii) RCW 9A.44.076, provided that the person convicted was at~~
34 ~~least eight years older than the victim;~~
35 ~~(iv) RCW 9A.44.079, provided that the person convicted was at~~
36 ~~least eight years older than the victim;~~
37 ~~(v) RCW 9A.44.083;~~
38 ~~(vi) RCW 9A.44.086, provided that the person convicted was at~~
39 ~~least eight years older than the victim;~~
40 ~~(vii) RCW 9A.44.100;~~

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

3 ~~(ix) Any statute from any other jurisdiction that describes an~~
4 ~~offense analogous to the offenses listed in (d)(i) through (vii) of~~
5 ~~this subsection.~~

6 ~~(e) There is a rebuttable presumption that a parent who resides~~
7 ~~with a person who, as an adult, has been convicted, or as a juvenile~~
8 ~~has been adjudicated, of the sex offenses listed in (e)(i) through~~
9 ~~(ix) of this subsection places a child at risk of abuse or harm when~~
10 ~~that parent exercises residential time in the presence of the~~
11 ~~convicted or adjudicated person. Unless the parent rebuts the~~
12 ~~presumption, the court shall restrain the parent from contact with~~
13 ~~the parent's child except for contact that occurs outside of the~~
14 ~~convicted or adjudicated person's presence:~~

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

17 ~~(ii) RCW 9A.44.073;~~

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

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

22 ~~(v) RCW 9A.44.083;~~

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

25 ~~(vii) RCW 9A.44.100;~~

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

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

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

35 ~~(i) If the child was not the victim of the sex offense committed~~
36 ~~by the parent requesting residential time, (A) contact between the~~
37 ~~child and the offending parent is appropriate and poses minimal risk~~
38 ~~to the child, and (B) the offending parent has successfully engaged~~
39 ~~in treatment for sex offenders or is engaged in and making progress~~
40 ~~in such treatment, if any was ordered by a court, and the treatment~~

1 provider believes such contact is appropriate and poses minimal risk
2 to the child; or

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

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

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

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

1 ~~or adjudicated person is appropriate and poses minimal risk to the~~
2 ~~child.~~

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

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

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

1 supervisor upon finding, based on the evidence, that the supervisor
2 has failed to protect the child or is no longer willing or capable of
3 protecting the child.

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

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

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

15 (m)(i) The limitations imposed by the court under (a) or (b) of
16 this subsection shall be reasonably calculated to protect the child
17 from the physical, sexual, or emotional abuse or harm that could
18 result if the child has contact with the parent requesting
19 residential time. The limitations shall also be reasonably calculated
20 to provide for the safety of the parent who may be at risk of
21 physical, sexual, or emotional abuse or harm that could result if the
22 parent has contact with the parent requesting residential time. The
23 limitations the court may impose include, but are not limited to:
24 Supervised contact between the child and the parent or completion of
25 relevant counseling or treatment. If the court expressly finds based
26 on the evidence that limitations on the residential time with the
27 child will not adequately protect the child from the harm or abuse
28 that could result if the child has contact with the parent requesting
29 residential time, the court shall restrain the parent requesting
30 residential time from all contact with the child.

31 (ii) The court shall not enter an order under (a) of this
32 subsection allowing a parent to have contact with a child if the
33 parent has been found by clear and convincing evidence in a civil
34 action or by a preponderance of the evidence in a dependency action
35 to have sexually abused the child, except upon recommendation by an
36 evaluator or therapist for the child that the child is ready for
37 contact with the parent and will not be harmed by the contact. The
38 court shall not enter an order allowing a parent to have contact with
39 the child in the offender's presence if the parent resides with a
40 person who has been found by clear and convincing evidence in a civil

1 ~~action or by a preponderance of the evidence in a dependency action~~
2 ~~to have sexually abused a child, unless the court finds that the~~
3 ~~parent accepts that the person engaged in the harmful conduct and the~~
4 ~~parent is willing to and capable of protecting the child from harm~~
5 ~~from the person.~~

6 ~~(iii) The court shall not enter an order under (a) of this~~
7 ~~subsection allowing a parent to have contact with a child if the~~
8 ~~parent has been found by clear and convincing evidence pursuant to~~
9 ~~RCW 26.26A.465 to have committed sexual assault, as defined in RCW~~
10 ~~26.26A.465, against the child's parent, and that the child was born~~
11 ~~within three hundred twenty days of the sexual assault.~~

12 ~~(iv) If the court limits residential time under (a) or (b) of~~
13 ~~this subsection to require supervised contact between the child and~~
14 ~~the 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 ~~(iv) 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 (iv) of~~
32 ~~this subsection. The weight given to the existence of a protection~~
33 ~~order issued under chapter 7.105 RCW or former chapter 26.50 RCW as~~
34 ~~to domestic violence is within the discretion of the court. This~~
35 ~~subsection shall not apply when (c), (d), (e), (f), (g), (h), (i),~~
36 ~~(j), (k), (l), and (m)(ii) of this subsection apply.~~

37 ~~(3))~~, or any sexual assault; or

38 (iii) Sexual abuse of a child. Required limitations and
39 considerations on a parent who resides with someone convicted of a
40 sexual offense against a child or found to have sexually abused a

1 child in the current case or a prior case are addressed in section 2
2 of this act.

3 (c) PARENTAL CONDUCT THAT MAY RESULT IN LIMITATIONS ON A PARENT'S
4 RESIDENTIAL TIME. A parent's involvement or conduct may have an
5 adverse effect on the child's best interests, and the court may
6 preclude or limit any provisions of the parenting plan, if any of the
7 following factors exist:

8 ~~((a))~~ (i) A parent's neglect or substantial nonperformance of
9 parenting functions;

10 ~~((b))~~ (ii) A long-term emotional or physical impairment
11 ~~((which))~~ that interferes with the parent's performance of parenting
12 functions ~~((as defined in RCW 26.09.004));~~

13 ~~((c))~~ (iii) A long-term impairment resulting from drug,
14 alcohol, or other substance abuse that interferes with the
15 performance of parenting functions;

16 ~~((d))~~ (iv) The absence or substantial impairment of emotional
17 ties between the parent and the child;

18 ~~((e) — The))~~ (v) A parent has engaged in the abusive use of
19 conflict ~~((by the parent))~~ which creates the danger of serious damage
20 to the child's psychological development ~~((— Abusive use of conflict~~
21 ~~includes, but is not limited to, abusive litigation as defined in RCW~~
22 ~~26.51.020. If the court finds a parent has engaged in abusive~~
23 ~~litigation, the court may impose any restrictions or remedies set~~
24 ~~forth in chapter 26.51 RCW in addition to including a finding in the~~
25 ~~parenting plan. Litigation that is aggressive or improper but that~~
26 ~~does not meet the definition of abusive litigation shall not~~
27 ~~constitute a basis for a finding under this section. A report made in~~
28 ~~good faith to law enforcement, a medical professional, or child~~
29 ~~protective services of sexual, physical, or mental abuse of a child~~
30 ~~shall not constitute a basis for a finding of abusive use of~~
31 ~~conflict;~~

32 ~~(f))~~;

33 (vi) A parent has withheld from the other parent access to the
34 child for a protracted period without good cause. Withholding does
35 not include protective actions taken by a parent in good faith for
36 the legitimate and lawful purpose of protecting themselves or the
37 parent's child from the risk of harm posed by the other parent; or

38 ~~((g))~~ (vii) Such other factors or conduct as the court
39 expressly finds 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 ~~(d) LIMITATIONS A COURT MAY IMPOSE ON A PARENT'S RESIDENTIAL~~
19 ~~TIME. The limitations that may be imposed by the court under this~~
20 ~~section shall be reasonably calculated to protect a child from the~~
21 ~~physical, sexual, or emotional abuse or harm that could result if a~~
22 ~~child has contact with the parent requesting residential time. The~~
23 ~~limitations shall also be reasonably calculated to provide for the~~
24 ~~safety of the parent who may be at risk of physical, sexual, or~~
25 ~~emotional abuse or harm that could result if the parent has contact~~
26 ~~with the other parent. The limitations the court may impose include,~~
27 ~~but are not limited to:~~

28 ~~(i) SUPERVISED VISITATION. A court may, in its discretion, order~~
29 ~~supervised contact between a child and the parent.~~

30 ~~(A) If the court requires supervised visitation, there is a~~
31 ~~presumption that the supervision shall be provided by a professional~~
32 ~~supervisor. For all supervision, the court shall include clear~~
33 ~~written guidelines and prohibitions to be followed by the supervised~~
34 ~~party. No visits shall take place until the supervised parent and~~
35 ~~supervisor, or designated representative of a professional~~
36 ~~supervision program, have signed an acknowledgment confirming that~~
37 ~~they have read the court orders and the guidelines and prohibitions~~
38 ~~regarding visitation and agree to follow them. The court shall only~~
39 ~~permit supervision by an individual or program that is committed to~~
40 ~~protecting the child from any physical or emotional abuse or harm and~~

1 is willing and capable of intervening in behaviors inconsistent with
2 the court orders and guidelines.

3 (B) A parent may seek an emergency ex parte order temporarily
4 suspending residential time until review by the court if: (A) The
5 supervised parent repeatedly violates the court order or guidelines;
6 (B) the supervised parent threatens the supervisor or child with
7 physical harm, commits an act of domestic violence, or materially
8 violates any treatment condition associated with any restrictions
9 under this section (a missed counseling appointment does not
10 constitute a violation); (C) the supervisor is unable or unwilling to
11 protect the child and/or the protected parent; or (D) the supervisor
12 is no longer willing to provide service to the supervised parent. The
13 court suspending residential time shall set a review hearing to take
14 place within 14 days of entering the ex parte order.

15 (ii) EVALUATION OR TREATMENT. The court may order a parent to
16 undergo evaluations for such issues as domestic violence
17 perpetration, substance use disorder, mental health, or anger
18 management, with collateral input provided from the other parent. Any
19 evaluation report that does not include collateral input must provide
20 details as to why and the attempts made to obtain collateral input.

21 (A) The court may also order that a parent complete treatment for
22 any of these issues if the need for treatment is supported by the
23 evidence and the evidence supports a finding that the issue
24 interferes with parenting functions.

25 (B) A parent's residential time and decision-making authority may
26 be conditioned on the parent's completion of an evaluation or
27 treatment ordered by the court.

28 (iii) NO CONTACT. If, based on the evidence, the court expressly
29 finds that limitations on the residential time with a child will not
30 adequately protect a child from the harm or abuse that could result
31 if a child has contact with the parent requesting residential time,
32 the court shall restrain the parent requesting residential time from
33 all contact with a child.

34 (5) LIMITATIONS ON DECISION MAKING AND DISPUTE RESOLUTION. Except
35 for circumstances provided in subsection (6)(b) of this section, the
36 court shall order sole decision making and no dispute resolution
37 other than court action if it is found that a parent has engaged in
38 any of the following conduct:

39 (a) Willful abandonment that continues for an extended period;

40 (b) Physical, sexual, or a pattern of emotional abuse of a child;

1 (c) A history of acts of domestic violence as defined in RCW
2 7.105.010; or

3 (d) An assault that causes grievous bodily harm or the fear of
4 such harm or any sexual assault.

5 (6) DETERMINATION NOT TO IMPOSE LIMITATIONS.

6 (a) If the parents agree or the court makes express written
7 findings based on clear and convincing evidence that contact between
8 the parent and the child will not cause physical, sexual, or
9 emotional abuse or harm to the child and that the probability that
10 the parent's or other person's harmful or abusive conduct will recur
11 is so remote that it would not be in the child's best interests to
12 apply limitations to residential time under subsection (4) of this
13 section, then the court need not apply the limitations of subsection
14 (4) of this section. This subsection shall not apply to findings of
15 sexual abuse which are governed by section 2 of this act.

16 (b) If the parents agree or the court makes express written
17 findings based on clear and convincing evidence that it would be
18 contrary to the child's best interests to order sole decision making
19 or preclude dispute resolution under subsection (5) of this section,
20 the court need not apply those limitations. Where there has been a
21 finding of domestic violence, there is a rebuttable presumption that
22 there will be sole decision making. The court shall not require face-
23 to-face mediation, arbitration, or interventions, including
24 therapeutic interventions, that require the parties to share the same
25 physical or virtual space if there has been a finding of domestic
26 violence.

27 (c) In determining whether there is clear and convincing evidence
28 supporting a determination not to impose limitations, the court shall
29 consider and make express written findings on all of the following
30 factors:

31 (i) Any current risk posed by the parent to the physical or
32 psychological well-being of the child or other parent;

33 (ii) Whether a parent has demonstrated that they can and will
34 prioritize the child's physical and psychological well-being;

35 (iii) Whether a parent has adhered to and is likely to adhere to
36 court orders;

37 (iv) Whether a parent has genuinely acknowledged past harm and is
38 committed to avoiding harm in the future; and

39 (v) A parent's compliance with any previously court-ordered
40 treatment. A parent's compliance with the requirements for

1 participation in a treatment program does not, by itself, constitute
2 evidence that the parent has made the requisite changes.

3 (7) WHEN LIMITATIONS APPLY TO BOTH PARENTS.

4 (a) When mandatory limitations in subsection (4)(a) or (b) of
5 this section apply to both parents, the court may make an exception
6 in applying mandatory limitations. The court shall make detailed
7 written findings regarding the comparative risk of harm to the child
8 posed by each parent, and shall explain the limitations imposed on
9 each parent, including any decision not to impose restrictions on a
10 parent or to award decision making to a parent who is subject to
11 limitations.

12 (b) When mandatory limitations under subsection (4)(a) or (b) of
13 this section apply to one parent and discretionary limitations under
14 subsection (4)(c) of this section apply to another parent, there is a
15 presumption that the mandatory limitations shall have priority in
16 setting the limitations of the residential schedule, decision making,
17 and dispute resolution. If the court deviates from this presumption,
18 the court shall make detailed written findings as to the reasons for
19 the deviation.

20 (c) When discretionary limitations in subsection (4)(c) of this
21 section apply to both parents, the court shall make detailed written
22 findings regarding the comparative risk of harm to the child posed by
23 each parent, and shall explain the limitations imposed on each
24 parent, including any decision not to impose restrictions on a parent
25 or to award decision making to a parent who is subject to limitations
26 in subsection (4)(c) of this section.

27 (d) In making the determinations under (a), (b), or (c) of this
28 subsection, the court shall consider the best interests of the child
29 and which parenting arrangement best maintains a child's emotional
30 growth, health and stability, and physical care. Further, the best
31 interests of the child are ordinarily served when the existing
32 pattern of interaction between a parent and child is altered only to
33 the extent necessitated by the changed relationship of the parents or
34 as required to protect the child from physical, mental, or emotional
35 harm.

36 NEW SECTION. Sec. 2. A new section is added to chapter 26.09
37 RCW to read as follows:

38 This section governs limitations on residential provisions,
39 decision-making authority, and dispute resolution when a parent, or a

1 person the parent resides with, has been convicted of a sexual
2 offense against a child or found to have sexually abused a child.

3 (1) SEXUALLY VIOLENT PREDATORS. If a parent has been found to be
4 a sexually violent predator under chapter 71.09 RCW or under an
5 analogous statute of any other jurisdiction, the court shall restrain
6 the parent from contact with a child that would otherwise be allowed
7 under this chapter. If a parent resides with an adult or a juvenile
8 who has been found to be a sexually violent predator under chapter
9 71.09 RCW or under an analogous statute of any other jurisdiction,
10 the court shall restrain the parent from contact with the parent's
11 child except contact that occurs outside the predator's presence.

12 (2) CHILD SEXUAL ABUSE BY PARENT.

13 (a) There is a rebuttable presumption that a parent who has been
14 convicted as an adult of a sex offense against any child in this or
15 another jurisdiction poses a present danger to a child. Unless the
16 parent rebuts this presumption, the court shall restrain the parent
17 from all contact with the parent's child that would otherwise be
18 allowed under this chapter.

19 (b) The court shall not enter an order allowing a parent to have
20 contact with the parent's child if the parent has been found by a
21 preponderance of the evidence in a dependency or family law action,
22 including in the current case, to have sexually abused that child,
23 except upon recommendation by an evaluator or therapist for the child
24 that the child is ready for contact with the parent and will not be
25 harmed by the contact.

26 (3) PARENT RESIDING WITH A PERSON FOUND TO HAVE SEXUALLY ABUSED A
27 CHILD.

28 (a) There is a rebuttable presumption that a parent who knowingly
29 resides with a person who, as an adult, has been convicted of a sex
30 offense against a child, or as a juvenile has been adjudicated of a
31 sex offense against a child at least eight years younger, in this or
32 another jurisdiction, 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 (b) The court shall not enter an order allowing a parent to have
39 contact with the child in the offender's presence if the parent
40 resides with a person who has been found by a preponderance of the

1 evidence in a dependency or family law action, including in the
2 current case, to have sexually abused a child, unless the court finds
3 that the parent accepts that the person engaged in the harmful
4 conduct and the parent is willing to and capable of protecting the
5 child from harm from the person.

6 (4) REBUTTING THE PRESUMPTION OF NO CONTACT.

7 (a) OFFENDING PARENT. The presumption established in subsection
8 (2)(a) of this section may be rebutted only after a written finding
9 that:

10 (i) If the child was not the victim of the sex offense committed
11 by the parent requesting residential time, (A) contact between the
12 child and the offending parent is appropriate and poses minimal risk
13 to the child, and (B) the offending parent has provided documentation
14 that they have successfully completed treatment for sex offenders or
15 are engaged in and making progress in such treatment, if any was
16 ordered by a court; or

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

26 (b) PARENT RESIDES WITH OFFENDING PERSON. The presumption
27 established in subsection (3)(a) of this section may be rebutted only
28 after a written finding that:

29 (i) If the child was not the victim of the sex offense committed
30 by the person who is residing with the parent requesting residential
31 time, (A) contact between the child and the parent residing with the
32 convicted or adjudicated person is appropriate and that parent is
33 able to protect the child in the presence of the convicted or
34 adjudicated person, and (B) the convicted or adjudicated person has
35 provided documentation that they have successfully completed
36 treatment for sex offenders or are engaged in and making progress in
37 such treatment, if any was ordered by a court; or

38 (ii) If the child was the victim of the sex offense committed by
39 the person who is residing with the parent requesting residential
40 time, (A) contact between the child and the parent in the presence of

1 the convicted or adjudicated person is appropriate and poses minimal
2 risk to the child, (B) if the child is in or has been in therapy for
3 victims of sexual abuse, the child's counselor believes such contact
4 between the child and the parent residing with the convicted or
5 adjudicated person in the presence of the convicted or adjudicated
6 person is in the child's best interest, and (C) the convicted or
7 adjudicated person has provided documentation that they have
8 successfully completed treatment for sex offenders or are engaged in
9 and making progress in such treatment, if any was ordered by a court.

10 (c) CONTACT IF PRESUMPTION REBUTTED.

11 (i) (A) If the court finds that the parent has met the burden of
12 rebutting the presumption under (a) of this subsection, the court may
13 allow a parent who has been convicted as an adult of a sex offense
14 against a child to have residential time with the child supervised by
15 a neutral and independent adult and pursuant to an adequate plan for
16 supervision of such residential time.

17 (B) The court shall not approve of a supervisor for contact
18 between the child and the parent unless the court finds, based on the
19 evidence, that the supervisor is willing and capable of protecting
20 the child from harm. The court shall revoke court approval of the
21 supervisor upon finding, based on the evidence, that the supervisor
22 has failed to protect the child or is no longer willing or capable of
23 protecting the child;

24 (ii) If the court finds that the parent has met the burden of
25 rebutting the presumption under (b) of this subsection, the court may
26 allow a parent residing with a person who has been convicted of a sex
27 offense against a child or adjudicated of a juvenile sex offense with
28 a child at least eight years younger to have residential time with
29 the child in the presence of that person, supervised by a neutral and
30 independent adult and pursuant to an adequate plan for supervision of
31 such residential time. The supervisor may be the parent if the court
32 finds, based on the evidence, that the parent is willing and capable
33 of protecting the child from harm. The court shall revoke court
34 approval of the supervisor, including the parent, upon finding, based
35 on the evidence, that the supervisor has failed to protect the child
36 or is no longer willing or capable of protecting the child;

37 (iii) A court shall not order unsupervised contact between the
38 offending parent and a child of the offending parent who was sexually
39 abused by that parent;

1 (iv) A court may order unsupervised contact between the offending
2 parent and a child who was not sexually abused by the parent after
3 the presumption under subsection (2)(a) of this section has been
4 rebutted pursuant to (a) of this subsection and supervised
5 residential time has occurred for at least two years with no further
6 arrests or convictions of sex offenses involving children and (A) the
7 sex offense of the offending parent was not committed against a child
8 of the offending parent, and (B) the court finds that unsupervised
9 contact between the child and the offending parent is appropriate and
10 poses minimal risk to the child, after consideration of the testimony
11 of a state-certified therapist, mental health counselor, or social
12 worker with expertise in treating child sexual abuse victims who has
13 supervised at least one period of residential time between the parent
14 and the child, and after consideration of evidence of the offending
15 parent's compliance with community supervision requirements, if any.
16 If the offending parent was not ordered by a court to participate in
17 treatment for sex offenders, then the parent shall obtain a
18 psychosexual evaluation conducted by a certified sex offender
19 treatment provider or a certified affiliate sex offender treatment
20 provider indicating that the offender has the lowest likelihood of
21 risk to reoffend before the court grants unsupervised contact between
22 the parent and a child.

23 (5) RESTRICTED DECISION MAKING AND DISPUTE RESOLUTION. The
24 parenting plan shall not require mutual decision making or
25 designation of a dispute resolution process other than court action
26 if it is found that a parent has been convicted as an adult of a sex
27 offense against any child in this or any other jurisdiction or has
28 been found to be a sexually violent predator under chapter 71.09 RCW
29 or under an analogous statute of any other jurisdiction.

--- END ---