

2SSB 5470 - H AMD TO JUD AMD (5470-S2 AMH JUDI TANGO 056) **599**
By Representative Hasegawa

ADOPTED 4/9/2007

1 On page 22, after line 26 of the amendment, insert the
2 following:

3 "**Sec. 601.** RCW 26.09.184 and 1991 c 367 s 7 are each amended
4 to read as follows:

5 (1) OBJECTIVES. The objectives of the permanent parenting plan
6 are to:

7 (a) Provide for the child's physical care;

8 (b) Maintain the child's emotional stability;

9 (c) Provide for the child's changing needs as the child grows
10 and matures, in a way that minimizes the need for future
11 modifications to the permanent parenting plan;

12 (d) Set forth the authority and responsibilities of each parent
13 with respect to the child, consistent with the criteria in RCW
14 26.09.187 and 26.09.191;

15 (e) Minimize the child's exposure to harmful parental conflict;

16 (f) Encourage the parents, where appropriate under RCW
17 26.09.187 and 26.09.191, to meet their responsibilities to their
18 minor children through agreements in the permanent parenting plan,
19 rather than by relying on judicial intervention; and

20 (g) To otherwise protect the best interests of the child
21 consistent with RCW 26.09.002.

22 (2) CONTENTS OF THE PERMANENT PARENTING PLAN. The permanent
23 parenting plan shall contain provisions for resolution of future
24 disputes between the parents, allocation of decision-making
25 authority, and residential provisions for the child.

26 (3) CONSIDERATION IN ESTABLISHING THE PERMANENT PARENTING PLAN.
27 In establishing a permanent parenting plan, the court shall
28 consider the cultural heritage and religious beliefs of a child.

1 (4) DISPUTE RESOLUTION. A process for resolving disputes,
2 other than court action, shall be provided unless precluded or
3 limited by RCW 26.09.187 or 26.09.191. A dispute resolution
4 process may include counseling, mediation, or arbitration by a
5 specified individual or agency, or court action. In the dispute
6 resolution process:

7 (a) Preference shall be given to carrying out the parenting
8 plan;

9 (b) The parents shall use the designated process to resolve
10 disputes relating to implementation of the plan, except those
11 related to financial support, unless an emergency exists;

12 (c) A written record shall be prepared of any agreement reached
13 in counseling or mediation and of each arbitration award and shall
14 be provided to each party;

15 (d) If the court finds that a parent has used or frustrated the
16 dispute resolution process without good reason, the court shall
17 award attorneys' fees and financial sanctions to the prevailing
18 parent;

19 (e) The parties have the right of review from the dispute
20 resolution process to the superior court; and

21 (f) The provisions of (a) through (e) of this subsection shall
22 be set forth in the decree.

23 (~~(4)~~) (5) ALLOCATION OF DECISION-MAKING AUTHORITY.

24 (a) The plan shall allocate decision-making authority to one or
25 both parties regarding the children's education, health care, and
26 religious upbringing. The parties may incorporate an agreement
27 related to the care and growth of the child in these specified
28 areas, or in other areas, into their plan, consistent with the
29 criteria in RCW 26.09.187 and 26.09.191. Regardless of the
30 allocation of decision-making in the parenting plan, either parent
31 may make emergency decisions affecting the health or safety of the
32 child.

33 (b) Each parent may make decisions regarding the day-to-day
34 care and control of the child while the child is residing with that
35 parent.

36 (c) When mutual decision making is designated but cannot be
37 achieved, the parties shall make a good-faith effort to resolve the
38 issue through the dispute resolution process.

1 (~~(5)~~) (6) RESIDENTIAL PROVISIONS FOR THE CHILD. The plan
2 shall include a residential schedule which designates in which
3 parent's home each minor child shall reside on given days of the
4 year, including provision for holidays, birthdays of family
5 members, vacations, and other special occasions, consistent with
6 the criteria in RCW 26.09.187 and 26.09.191.

7 (~~(6)~~) (7) PARENTS' OBLIGATION UNAFFECTED. If a parent fails
8 to comply with a provision of a parenting plan or a child support
9 order, the other parent's obligations under the parenting plan or
10 the child support order are not affected. Failure to comply with
11 a provision in a parenting plan or a child support order may result
12 in a finding of contempt of court, under RCW 26.09.160.

13 (~~(7)~~) (8) PROVISIONS TO BE SET FORTH IN PERMANENT PARENTING
14 PLAN. The permanent parenting plan shall set forth the provisions
15 of subsections (~~(3)~~) (4)(a) through (c), (~~(4)~~) (5)(b) and (c),
16 and (~~(6)~~) (7) of this section.

17 **Sec. 602.** RCW 26.09.015 and 2005 c 172 s 17 are each amended
18 to read as follows:

19 (1) In any proceeding under this chapter, the matter may be set
20 for mediation of the contested issues before or concurrent with the
21 setting of the matter for hearing. The purpose of the mediation
22 proceeding shall be to reduce acrimony which may exist between the
23 parties and to develop an agreement assuring the child's close and
24 continuing contact with both parents after the marriage is
25 dissolved. The mediator shall use his or her best efforts to effect
26 a settlement of the dispute.

27 (2) Each superior court may make available a mediator. The
28 mediator may be a member of the professional staff of a family
29 court or mental health services agency, or may be any other person
30 or agency designated by the court. In order to provide mediation
31 services, the court is not required to institute a family court.

32 (3)(a) Mediation proceedings under this chapter shall be
33 governed in all respects by chapter 7.07 RCW, except as follows:

34 (i) Mediation communications in postdecree mediations mandated
35 by a parenting plan are admissible in subsequent proceedings for
36 the limited purpose of proving:

37 (A) Abuse, neglect, abandonment, exploitation, or unlawful
38 harassment as defined in RCW 9A.46.020(1), of a child;

1 (B) Abuse or unlawful harassment as defined in RCW
2 9A.46.020(1), of a family or household member as defined in RCW
3 26.50.010(2); or

4 (C) That a parent used or frustrated the dispute resolution
5 process without good reason for purposes of RCW 26.09.184(~~(+3)~~)
6 (4)(d).

7 (ii) If a postdecree mediation-arbitration proceeding is
8 required pursuant to a parenting plan and the same person acts as
9 both mediator and arbitrator, mediation communications in the
10 mediation phase of such a proceeding may be admitted during the
11 arbitration phase, and shall be admissible in the judicial review
12 of such a proceeding under RCW 26.09.184(~~(+3)~~) (4)(e) to the
13 extent necessary for such review to be effective.

14 (b) None of the exceptions under (a)(i) and (ii) of this
15 subsection shall subject a mediator to compulsory process to
16 testify except by court order for good cause shown, taking into
17 consideration the need for the mediator's testimony and the
18 interest in the mediator maintaining an appearance of impartiality.
19 If a mediation communication is not privileged under (a)(i) of this
20 subsection or that portion of (a)(ii) of this subsection pertaining
21 to judicial review, only the portion of the communication necessary
22 for the application of the exception may be admitted, and such
23 admission of evidence shall not render any other mediation
24 communication discoverable or admissible except as may be provided
25 in chapter 7.07 RCW.

26 (4) The mediator shall assess the needs and interests of the
27 child or children involved in the controversy and may interview the
28 child or children if the mediator deems such interview appropriate
29 or necessary.

30 (5) Any agreement reached by the parties as a result of
31 mediation shall be reported to the court and to counsel for the
32 parties by the mediator on the day set for mediation or any time
33 thereafter designated by the court."

34 On page 23, line 10 of the amendment, after "26.09.184" strike
35 "(4)" and insert "~~(+4)~~) (5)"

36 On page 23, line 28 of the amendment, after "26.09.184" strike
37 "(4)" and insert "~~(+4)~~) (5)"

- 1 On page 23, line 31 of the amendment, after "26.09.184" strike
2 "(4)" and insert "~~((4))~~ (5)"
- 3 Renumber the remaining sections accordingly.

EFFECT: Requires the court to consider the cultural heritage and religious beliefs of the child when establishing a permanent parenting plan. Corrects cross references.