

2SSB 5470 - H AMD 876

By Representative Lantz

ADOPTED 4/18/2007

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

3 **"PART I - Intent**

4 **Sec. 101.** RCW 26.09.002 and 1987 c 460 s 2 are each amended to
5 read as follows:

6 Parents have the responsibility to make decisions and perform
7 other parental functions necessary for the care and growth of their
8 minor children. In any proceeding between parents under this
9 chapter, the best interests of the child shall be the standard by
10 which the court determines and allocates the parties' parental
11 responsibilities. The state recognizes the fundamental importance
12 of the parent-child relationship to the welfare of the child, and
13 that the relationship between the child and each parent should be
14 fostered unless inconsistent with the child's best interests.
15 Residential time and financial support are equally important
16 components of parenting arrangements. The best interests of the
17 child are served by a parenting arrangement that best maintains a
18 child's emotional growth, health and stability, and physical care.
19 Further, the best interest of the child is ordinarily served when
20 the existing pattern of interaction between a parent and child is
21 altered only to the extent necessitated by the changed relationship
22 of the parents or as required to protect the child from physical,
23 mental, or emotional harm.

24 NEW SECTION. **Sec. 102.** A new section is added to chapter 26.09
25 RCW to read as follows:

26 The legislature reaffirms the intent of the current law as
27 expressed in RCW 26.09.002. However, after review, the legislature
28 finds that there are certain components of the existing law which
29 do not support the original legislative intent. In order to better

1 implement the existing legislative intent the legislature finds
2 that incentives for parties to reduce family conflict and
3 additional alternative dispute resolution options can assist in
4 reducing the number of contested trials. Furthermore, the
5 legislature finds that the identification of domestic violence as
6 defined in RCW 26.50.010 and the treatment needs of the parties to
7 dissolutions are necessary to improve outcomes for children. When
8 judicial officers have the discretion to tailor individualized
9 resolutions, the legislative intent expressed in RCW 26.09.002 can
10 more readily be achieved. Judicial officers should have the
11 discretion and flexibility to assess each case based on the merits
12 of the individual cases before them.

13 **PART II - Family Court Provisions**

14 NEW SECTION. **Sec. 201.** A new section is added to chapter 26.12
15 RCW to read as follows:

16 (1) After July 1, 2009, but no later than November 1, 2009, a
17 county may, and to the extent state funding is provided to meet the
18 minimum requirements of the program a county shall, create a
19 program to provide services to all parties involved in proceedings
20 under chapter 26.09 RCW. Minimum components of this program shall
21 include: (a) An individual to serve as an initial point of contact
22 for parties filing petitions for dissolutions or legal separations
23 under chapter 26.09 RCW; (b) informing parties about courthouse
24 facilitation programs and orientations; (c) informing parties of
25 alternatives to filing a dissolution petition, such as marriage
26 counseling; (d) informing parties of alternatives to litigation
27 including counseling, legal separation and mediation services if
28 appropriate; (e) informing parties of supportive family services
29 available in the community; (f) screening for referral for services
30 in the areas of domestic violence as defined in RCW 26.50.010,
31 child abuse, substance abuse, and mental health; and (g) assistance
32 to the court in superior court cases filed under 26.09 RCW.

33 (2) This program shall not provide legal advice. No
34 attorney-client relationship or privilege is created, by
35 implication or by inference, between persons providing basic
36 information under this section and the participants in the program.

1 (3) The legislative authority of any county may impose user
2 fees or may impose a surcharge of up to twenty dollars on only
3 those superior court cases filed under this title, or both, to pay
4 for the expenses of this program. Fees collected under this
5 section shall be collected and deposited in the same manner as
6 other county funds are collected and deposited, and shall be
7 maintained in a separate account to be used as provided in this
8 section. The program shall provide services to indigent persons at
9 no expense.

10 (4) Persons who implement the program shall be appointed in the
11 same manner as investigators, stenographers and clerks as described
12 in RCW 26.12.050.

13 (5) If the county has a program under this section, any
14 petition under RCW 26.09.020 must allege that the moving party met
15 and conferred with the program prior to the filing of the petition.

16 (6) If the county has a program under this section, parties
17 shall meet and confer with the program prior to participation in
18 mediation under section 301 of this act.

19
20 **Sec. 202.** RCW 2.56.180 and 2005 c 282 s 10 are each amended to
21 read as follows:

22 (1) The administrative office of the courts shall create a
23 handbook explaining the sections of Washington law pertaining to
24 the rights and responsibilities of marital partners to each other
25 and to any children during a marriage and a dissolution of
26 marriage. The handbook may also be provided in videotape or other
27 electronic form.

28 (2) The handbook created under subsection (1) of this section
29 shall be provided by the county auditor when an individual applies
30 for a marriage license under RCW 26.04.140.

31 (3) The handbook created under subsection (1) of this section
32 shall also be provided to the petitioner when he or she files a
33 petition for dissolution, and to the respondent, unless the
34 respondent did not file a response, notice of appearance, or any
35 other paper in the case or did not appear in court. The
36 administrative office of the courts shall on an annual basis
37 reimburse the counties for each copy of the handbook that is
38 distributed directly to family law parties under this section,

1 provided that the county submits documentation of the number of
2 handbooks distributed on an annual basis.

3 (4) The information contained in the handbook created under
4 subsection (1) of this section shall be reviewed and updated
5 annually. The handbook must contain the following information:

6 (a) Information on prenuptial agreements as contracts and as a
7 means of structuring financial arrangements and other aspects of
8 the marital relationship;

9 (b) Information on shared parental responsibility for children,
10 including establishing a residential schedule for the child in the
11 event of the dissolution of the marriage;

12 (c) Information on notice requirements and standards for
13 parental relocation;

14 (d) Information on child support for minor children;

15 (e) Information on property rights, including equitable
16 distribution of assets and premarital and postmarital property
17 rights;

18 (f) Information on spousal maintenance;

19 (g) Information on domestic violence, child abuse, and neglect,
20 including penalties;

21 (h) Information on the court process for dissolution;

22 (i) Information on the effects of dissolution on children;

23 (j) Information on community resources that are available to
24 separating or divorcing persons and their children.

25 **Sec. 203.** RCW 26.09.020 and 2001 c 42 s 1 are each amended to
26 read as follows:

27 (1) A petition in a proceeding for dissolution of marriage,
28 legal separation, or for a declaration concerning the validity of
29 a marriage shall allege:

30 (a) The last known state of residence of each party, and if a
31 party's last known state of residence is Washington, the last known
32 county of residence;

33 (b) The date and place of the marriage;

34 (c) If the parties are separated the date on which the
35 separation occurred;

36 (d) The names and ages of any child dependent upon either or
37 both spouses and whether the wife is pregnant;

1 (e) Any arrangements as to the residential schedule of, decision
2 making for, dispute resolution for, and support of the children and
3 the maintenance of a spouse;

4 (f) A statement specifying whether there is community or
5 separate property owned by the parties to be disposed of;

6 (g) If the county has established a program under section 201 of
7 this act, a statement affirming that the moving party met and
8 conferred with the program prior to filing the petition;

9 (h) The relief sought.

10 (2) Either or both parties to the marriage may initiate the
11 proceeding.

12 (3) The petitioner shall complete and file with the petition a
13 certificate under RCW 43.70.150 on the form provided by the
14 department of health and the confidential information form under
15 RCW 26.23.050.

16 (4) Nothing in this section shall be construed to limit or
17 prohibit the ability of parties to obtain appropriate emergency
18 orders.

19 **Sec. 204.** RCW 36.18.016 and 2006 c 192 s 2 are each amended to
20 read as follows:

21 (1) Revenue collected under this section is not subject to
22 division under RCW 36.18.025 or 27.24.070.

23 (2)(a) For the filing of a petition for modification of a decree
24 of dissolution or paternity, within the same case as the original
25 action, and any party filing a counterclaim, cross-claim, or third-
26 party claim in any such action, a fee of thirty-six dollars must be
27 paid.

28 (b) The party filing the first or initial petition for
29 dissolution, legal separation, or declaration concerning the
30 validity of marriage shall pay, at the time and in addition to the
31 filing fee required under RCW 36.18.020, a fee of thirty dollars.
32 The clerk of the superior court shall transmit monthly twenty-four
33 dollars of the thirty-dollar fee collected under this subsection to
34 the state treasury for deposit in the domestic violence prevention
35 account. The remaining six dollars shall be retained by the county
36 for the purpose of supporting community-based services within the
37 county for victims of domestic violence, except for five percent of

1 the six dollars, which may be retained by the court for
2 administrative purposes.

3 (3)(a) The party making a demand for a jury of six in a civil
4 action shall pay, at the time, a fee of one hundred twenty-five
5 dollars; if the demand is for a jury of twelve, a fee of two
6 hundred fifty dollars. If, after the party demands a jury of six
7 and pays the required fee, any other party to the action requests
8 a jury of twelve, an additional one hundred twenty-five dollar fee
9 will be required of the party demanding the increased number of
10 jurors.

11 (b) Upon conviction in criminal cases a jury demand charge of
12 one hundred twenty-five dollars for a jury of six, or two hundred
13 fifty dollars for a jury of twelve may be imposed as costs under
14 RCW 10.46.190.

15 (4) For preparing a certified copy of an instrument on file or
16 of record in the clerk's office, for the first page or portion of
17 the first page, a fee of five dollars, and for each additional page
18 or portion of a page, a fee of one dollar must be charged. For
19 authenticating or exemplifying an instrument, a fee of two dollars
20 for each additional seal affixed must be charged. For preparing a
21 copy of an instrument on file or of record in the clerk's office
22 without a seal, a fee of fifty cents per page must be charged.
23 When copying a document without a seal or file that is in an
24 electronic format, a fee of twenty-five cents per page must be
25 charged. For copies made on a compact disc, an additional fee of
26 twenty dollars for each compact disc must be charged.

27 (5) For executing a certificate, with or without a seal, a fee
28 of two dollars must be charged.

29 (6) For a garnishee defendant named in an affidavit for
30 garnishment and for a writ of attachment, a fee of twenty dollars
31 must be charged.

32 (7) For filing a supplemental proceeding, a fee of twenty
33 dollars must be charged.

34 (8) For approving a bond, including justification on the bond,
35 in other than civil actions and probate proceedings, a fee of two
36 dollars must be charged.

37 (9) For the issuance of a certificate of qualification and a
38 certified copy of letters of administration, letters testamentary,
39 or letters of guardianship, there must be a fee of two dollars.

1 (10) For the preparation of a passport application, the clerk
2 may collect an execution fee as authorized by the federal
3 government.

4 (11) For clerk's services such as processing ex parte orders,
5 performing historical searches, compiling statistical reports, and
6 conducting exceptional record searches, the clerk may collect a fee
7 not to exceed twenty dollars per hour or portion of an hour.

8 (12) For duplicated recordings of court's proceedings there must
9 be a fee of ten dollars for each audio tape and twenty-five dollars
10 for each video tape or other electronic storage medium.

11 (13) For registration of land titles, Torrens Act, under RCW
12 65.12.780, a fee of twenty dollars must be charged.

13 (14) For the issuance of extension of judgment under RCW
14 6.17.020 and chapter 9.94A RCW, a fee of two hundred dollars must
15 be charged. When the extension of judgment is at the request of
16 the clerk, the two hundred dollar charge may be imposed as court
17 costs under RCW 10.46.190.

18 (15) A facilitator surcharge of up to twenty dollars must be
19 charged as authorized under RCW 26.12.240.

20 (16) For filing a water rights statement under RCW 90.03.180, a
21 fee of twenty-five dollars must be charged.

22 (17) For filing a claim of frivolous lien under RCW 60.04.081,
23 a fee of thirty-five dollars must be charged.

24 (18) For preparation of a change of venue, a fee of twenty
25 dollars must be charged by the originating court in addition to the
26 per page charges in subsection (4) of this section.

27 (19) A service fee of three dollars for the first page and one
28 dollar for each additional page must be charged for receiving faxed
29 documents, pursuant to Washington state rules of court, general
30 rule 17.

31 (20) For preparation of clerk's papers under RAP 9.7, a fee of
32 fifty cents per page must be charged.

33 (21) For copies and reports produced at the local level as
34 permitted by RCW 2.68.020 and supreme court policy, a variable fee
35 must be charged.

36 (22) Investment service charge and earnings under RCW 36.48.090
37 must be charged.

38 (23) Costs for nonstatutory services rendered by clerk by
39 authority of local ordinance or policy must be charged.

1 (24) For filing a request for mandatory arbitration, a filing
2 fee may be assessed against the party filing a statement of
3 arbitrability not to exceed two hundred twenty dollars as
4 established by authority of local ordinance. This charge shall be
5 used solely to offset the cost of the mandatory arbitration
6 program.

7 (25) For filing a request for trial de novo of an arbitration
8 award, a fee not to exceed two hundred fifty dollars as established
9 by authority of local ordinance must be charged.

10 (26) A public agency may not charge a fee to a law enforcement
11 agency, for preparation, copying, or mailing of certified copies of
12 the judgment and sentence, information, affidavit of probable
13 cause, and/or the notice of requirement to register, of a sex
14 offender convicted in a Washington court, when such records are
15 necessary for risk assessment, preparation of a case for failure to
16 register, or maintenance of a sex offender's registration file.

17 (27) For the filing of a will or codicil under the provisions of
18 chapter 11.12 RCW, a fee of twenty dollars must be charged.

19 (28) A surcharge of up to twenty dollars may be charged as
20 authorized by section 201 of this act.

21 The revenue to counties from the fees established in this
22 section shall be deemed to be complete reimbursement from the state
23 for the state's share of benefits paid to the superior court judges
24 of the state prior to July 24, 2005, and no claim shall lie against
25 the state for such benefits.

26 **PART III - Domestic Violence and Child Abuse**

27 NEW SECTION. Sec. 301. A new section is added to chapter 26.09
28 RCW to read as follows:

29 Mediation is generally inappropriate in cases involving domestic
30 violence and child abuse. In order to effectively identify cases
31 where issues of domestic violence and child abuse are present and
32 reduce conflict in dissolution matters: (1) Where appropriate
33 parties shall be provided access to trained domestic violence
34 advocates; and (2) in cases where a victim requests mediation the
35 court may make exceptions and permit mediation, so long as the
36 court makes a finding that mediation is appropriate under the

1 circumstances and the victim is permitted to have a supporting
2 person present during the mediation proceedings.

3 **Sec. 302.** RCW 2.56.030 and 2005 c 457 s 7 and 2005 c 282 s 7
4 are each reenacted and amended to read as follows:

5 The administrator for the courts shall, under the supervision
6 and direction of the chief justice:

7 (1) Examine the administrative methods and systems employed in
8 the offices of the judges, clerks, stenographers, and employees of
9 the courts and make recommendations, through the chief justice, for
10 the improvement of the same;

11 (2) Examine the state of the dockets of the courts and determine
12 the need for assistance by any court;

13 (3) Make recommendations to the chief justice relating to the
14 assignment of judges where courts are in need of assistance and
15 carry out the direction of the chief justice as to the assignments
16 of judges to counties and districts where the courts are in need of
17 assistance;

18 (4) Collect and compile statistical and other data and make
19 reports of the business transacted by the courts and transmit the
20 same to the chief justice to the end that proper action may be
21 taken in respect thereto;

22 (5) Prepare and submit budget estimates of state appropriations
23 necessary for the maintenance and operation of the judicial system
24 and make recommendations in respect thereto;

25 (6) Collect statistical and other data and make reports relating
26 to the expenditure of public moneys, state and local, for the
27 maintenance and operation of the judicial system and the offices
28 connected therewith;

29 (7) Obtain reports from clerks of courts in accordance with law
30 or rules adopted by the supreme court of this state on cases and
31 other judicial business in which action has been delayed beyond
32 periods of time specified by law or rules of court and make report
33 thereof to supreme court of this state;

34 (8) Act as secretary of the judicial conference referred to in
35 RCW 2.56.060;

36 (9) Submit annually, as of February 1st, to the chief justice,
37 a report of the activities of the administrator's office for the

1 preceding calendar year including activities related to courthouse
2 security;

3 (10) Administer programs and standards for the training and
4 education of judicial personnel;

5 (11) Examine the need for new superior court and district court
6 judge positions under an objective workload analysis. The results
7 of the objective workload analysis shall be reviewed by the board
8 for judicial administration which shall make recommendations to the
9 legislature. It is the intent of the legislature that an objective
10 workload analysis become the basis for creating additional district
11 and superior court positions, and recommendations should address
12 that objective;

13 (12) Provide staff to the judicial retirement account plan under
14 chapter 2.14 RCW;

15 (13) Attend to such other matters as may be assigned by the
16 supreme court of this state;

17 (14) Within available funds, develop a curriculum for a general
18 understanding of child development, placement, and treatment
19 resources, as well as specific legal skills and knowledge of
20 relevant statutes including chapters 13.32A, 13.34, and 13.40 RCW,
21 cases, court rules, interviewing skills, and special needs of the
22 abused or neglected child. This curriculum shall be completed and
23 made available to all juvenile court judges, court personnel, and
24 service providers and be updated yearly to reflect changes in
25 statutes, court rules, or case law;

26 (15) Develop, in consultation with the entities set forth in RCW
27 2.56.150(3), a comprehensive statewide curriculum for persons who
28 act as guardians ad litem under Title 13 or 26 RCW. The curriculum
29 shall be made available July 1, ((1997)) 2008, and include
30 specialty sections on child development, child sexual abuse, child
31 physical abuse, child neglect, domestic violence, clinical and
32 forensic investigative and interviewing techniques, family
33 reconciliation and mediation services, and relevant statutory and
34 legal requirements. The curriculum shall be made available to all
35 superior court judges, court personnel, and all persons who act as
36 guardians ad litem;

37 (16) Develop a curriculum for a general understanding of crimes
38 of malicious harassment, as well as specific legal skills and
39 knowledge of RCW 9A.36.080, relevant cases, court rules, and the

1 special needs of malicious harassment victims. This curriculum
2 shall be made available to all superior court and court of appeals
3 judges and to all justices of the supreme court;

4 (17) Develop, in consultation with the criminal justice training
5 commission and the commissions established under chapters 43.113,
6 43.115, and 43.117 RCW, a curriculum for a general understanding of
7 ethnic and cultural diversity and its implications for working with
8 youth of color and their families. The curriculum shall be
9 available to all superior court judges and court commissioners
10 assigned to juvenile court, and other court personnel. Ethnic and
11 cultural diversity training shall be provided annually so as to
12 incorporate cultural sensitivity and awareness into the daily
13 operation of juvenile courts statewide;

14 (18) Authorize the use of closed circuit television and other
15 electronic equipment in judicial proceedings. The administrator
16 shall promulgate necessary standards and procedures and shall
17 provide technical assistance to courts as required;

18 (19) Develop a Washington family law handbook in accordance with
19 RCW 2.56.180;

20 (20) Administer state funds for improving the operation of the
21 courts and provide support for court coordinating councils, under
22 the direction of the board for judicial administration;

23 (21)(a) Administer and distribute amounts appropriated from the
24 equal justice subaccount under RCW 43.08.250(2) for district court
25 judges' and qualifying elected municipal court judges' salary
26 contributions. The administrator for the courts shall develop a
27 distribution formula for these amounts that does not differentiate
28 between district and elected municipal court judges.

29 (b) A city qualifies for state contribution of elected municipal
30 court judges' salaries under (a) of this subsection if:

31 (i) The judge is serving in an elected position;

32 (ii) The city has established by ordinance that a full-time
33 judge is compensated at a rate equivalent to at least ninety-five
34 percent, but not more than one hundred percent, of a district court
35 judge salary or for a part-time judge on a pro rata basis the same
36 equivalent; and

37 (iii) The city has certified to the office of the administrator
38 for the courts that the conditions in (b)(i) and (ii) of this
39 subsection have been met.

1 **Sec. 303.** RCW 26.09.191 and 2004 c 38 s 12 are each amended to
2 read as follows:

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

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

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

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

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

30 (D) RCW 9A.44.089;

31 (E) RCW 9A.44.093;

32 (F) RCW 9A.44.096;

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

36 (H) Chapter 9.68A RCW;

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

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

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

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

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

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

20 (C) RCW 9A.44.086 if, because of the difference in age between
21 the offender and the victim, no rebuttable presumption exists under
22 (e) of this subsection;

23 (D) RCW 9A.44.089;

24 (E) RCW 9A.44.093;

25 (F) RCW 9A.44.096;

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

29 (H) Chapter 9.68A RCW;

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

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

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

37 (c) If a parent has been found to be a sexual predator under
38 chapter 71.09 RCW or under an analogous statute of any other
39 jurisdiction, the court shall restrain the parent from contact with

1 a child that would otherwise be allowed under this chapter. If a
2 parent resides with an adult or a juvenile who has been found to be
3 a sexual predator under chapter 71.09 RCW or under an analogous
4 statute of any other jurisdiction, the court shall restrain the
5 parent from contact with the parent's child except contact that
6 occurs outside that person's presence.

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

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

15 (ii) RCW 9A.44.073;

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

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

20 (v) RCW 9A.44.083;

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

23 (vii) RCW 9A.44.100;

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

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

29 (e) There is a rebuttable presumption that a parent who resides
30 with a person who, as an adult, has been convicted, or as a
31 juvenile has been adjudicated, of the sex offenses listed in (e)(i)
32 through (ix) of this subsection places a child at risk of abuse or
33 harm when that parent exercises residential time in the presence of
34 the 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 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted
39 was at least five years older than the other person;

1 (ii) RCW 9A.44.073;

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

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

6 (v) RCW 9A.44.083;

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

9 (vii) RCW 9A.44.100;

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

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

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

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

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

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

38 (i) If the child was not the victim of the sex offense committed
39 by the person who is residing with the parent requesting

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

9 (ii) If the child was the victim of the sex offense committed by
10 the person who is residing with the parent requesting residential
11 time, (A) contact between the child and the parent in the presence
12 of the convicted or adjudicated person is appropriate and poses
13 minimal risk to the child, (B) if the child is in or has been in
14 therapy for victims of sexual abuse, the child's counselor believes
15 such contact between the child and the parent residing with the
16 convicted or adjudicated person in the presence of the convicted or
17 adjudicated person is in the child's best interest, and (C) the
18 convicted or adjudicated person has successfully engaged in
19 treatment for sex offenders or is engaged in and making progress in
20 such treatment, if any was ordered by a court, and the treatment
21 provider believes contact between the parent and child in the
22 presence of the convicted or adjudicated person is appropriate and
23 poses minimal risk to the child.

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

37 (i) If the court finds that the parent has met the burden of
38 rebutting the presumption under (g) of this subsection, the court
39 may allow a parent residing with a person who has been adjudicated

1 as a juvenile of a sex offense listed in (e)(i) through (ix) of
2 this subsection to have residential time with the child in the
3 presence of the person adjudicated as a juvenile, supervised by a
4 neutral and independent adult and pursuant to an adequate plan for
5 supervision of such residential time. The court shall not approve
6 of a supervisor for contact between the child and the parent unless
7 the court finds, based on the evidence, that the supervisor is
8 willing and capable of protecting the child from harm. The court
9 shall revoke court approval of the supervisor upon finding, based
10 on the evidence, that the supervisor has failed to protect the
11 child or is no longer willing or capable of protecting the child.

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

26 (k) A court shall not order unsupervised contact between the
27 offending parent and a child of the offending parent who was
28 sexually abused by that parent. A court may order unsupervised
29 contact between the offending parent and a child who was not
30 sexually abused by the parent after the presumption under (d) of
31 this subsection has been rebutted and supervised residential time
32 has occurred for at least two years with no further arrests or
33 convictions of sex offenses involving children under chapter 9A.44
34 RCW, RCW 9A.64.020, or chapter 9.68A RCW and (i) the sex offense of
35 the offending parent was not committed against a child of the
36 offending parent, and (ii) the court finds that unsupervised
37 contact between the child and the offending parent is appropriate
38 and poses minimal risk to the child, after consideration of the
39 testimony of a state-certified therapist, mental health counselor,

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

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

1 (m)(i) The limitations imposed by the court under (a) or (b) of
2 this subsection shall be reasonably calculated to protect the child
3 from the physical, sexual, or emotional abuse or harm that could
4 result if the child has contact with the parent requesting
5 residential time. The limitations shall also be reasonably
6 calculated to provide for the safety of the parent who may be at
7 risk of physical, sexual, or emotional abuse or harm that could
8 result if the parent has contact with the parent requesting
9 residential time. The limitations the court may impose include,
10 but are not limited to: Supervised contact between the child and
11 the parent or completion of relevant counseling or treatment. If
12 the court expressly finds based on the evidence that limitations on
13 the residential time with the child will not adequately protect the
14 child from the harm or abuse that could result if the child has
15 contact with the parent requesting residential time, the court
16 shall restrain the parent requesting residential time from all
17 contact with the child.

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

33 (iii) If the court limits residential time under (a) or (b) of
34 this subsection to require supervised contact between the child and
35 the parent, the court shall not approve of a supervisor for contact
36 between a child and a parent who has engaged in physical, sexual,
37 or a pattern of emotional abuse of the child unless the court finds
38 based upon the evidence that the supervisor accepts that the
39 harmful conduct occurred and is willing to and capable of

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

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

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

23 (a) A parent's neglect or substantial nonperformance of
24 parenting functions;

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

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

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

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

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

37 (g) Such other factors or conduct as the court expressly finds
38 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
8 parenting plan.

9 (~~(5)~~) (6) In determining whether any of the conduct described
10 in this section has occurred, the court shall apply the civil rules
11 of evidence, proof, and procedure.

12 (~~(6)~~) (7) For the purposes of this section, a parent's child
13 means that parent's natural child, adopted child, or stepchild.

14 NEW SECTION. Sec. 304. A new section is added to chapter 26.09
15 RCW to read as follows:

16 Before entering a permanent parenting plan, the court shall
17 determine the existence of any information and proceedings relevant
18 to the placement of the child that are available in the judicial
19 information system and databases.

20 **Sec. 305.** RCW 26.12.177 and 2005 c 282 s 30 are each amended to
21 read as follows:

22 (1) All guardians ad litem and investigators appointed under
23 this title must comply with the training requirements established
24 under RCW 2.56.030(15), prior to their appointment in cases under
25 Title 26 RCW, except that volunteer guardians ad litem or court-
26 appointed special advocates may comply with alternative training
27 requirements approved by the administrative office of the courts
28 that meet or exceed the statewide requirements. In cases involving
29 allegations of limiting factors under RCW 26.09.191, the guardians
30 ad litem and investigators appointed under this title must have
31 additional relevant training under RCW 2.56.030(15) and as
32 recommended under section 306 of this act, when it is available.

33 (2)(a) Each guardian ad litem program for compensated guardians
34 ad litem shall establish a rotational registry system for the
35 appointment of guardians ad litem and investigators under this
36 title. If a judicial district does not have a program the court
37 shall establish the rotational registry system. Guardians ad litem

1 and investigators under this title shall be selected from the
2 registry except in exceptional circumstances as determined and
3 documented by the court. The parties may make a joint
4 recommendation for the appointment of a guardian ad litem from the
5 registry.

6 (b) In judicial districts with a population over one hundred
7 thousand, a list of three names shall be selected from the registry
8 and given to the parties along with the background information as
9 specified in RCW 26.12.175(3), including their hourly rate for
10 services. Each party may, within three judicial days, strike one
11 name from the list. If more than one name remains on the list, the
12 court shall make the appointment from the names on the list. In
13 the event all three names are stricken the person whose name
14 appears next on the registry shall be appointed.

15 (c) If a party reasonably believes that the appointed guardian
16 ad litem lacks the necessary expertise for the proceeding, charges
17 an hourly rate higher than what is reasonable for the particular
18 proceeding, or has a conflict of interest, the party may, within
19 three judicial days from the appointment, move for substitution of
20 the appointed guardian ad litem by filing a motion with the court.

21 (d) Under this section, within either registry referred to in
22 (a) of this subsection, a subregistry may be created that consists
23 of guardians ad litem under contract with the department of social
24 and health services' division of child support. Guardians ad litem
25 on such a subregistry shall be selected and appointed in state-
26 initiated paternity cases only.

27 (e) The superior court shall remove any person from the guardian
28 ad litem registry who misrepresents his or her qualifications
29 pursuant to a grievance procedure established by the court.

30 (3) The rotational registry system shall not apply to court-
31 appointed special advocate programs.

32 NEW SECTION. **Sec. 306.** A new section is added to chapter 2.53
33 RCW to read as follows:

34 (1)(a) The legislature requests that the supreme court convene
35 and support a task force to establish statewide protocols for
36 dissolution cases.

37 (b) The task force shall develop: (i) Clear and concise dispute
38 resolution procedures; (ii) in conjunction with the office of crime

1 victims advocacy, a sexual assault training curriculum; (iii)
2 consistent standards for parenting evaluators; and (iv) a domestic
3 violence training curriculum for individuals making evaluations in
4 dissolution cases. The task force shall make recommendations
5 concerning specialized evaluators for dissolution cases,
6 dissolution forms and procedures, and fees.

7 (c) The task force shall also study issues related to: (i)
8 Venue for filing and modifying petitions; and (ii) the program
9 established under section 201 of this act, including but not
10 limited to: (A) the minimum components of the program; (B) the
11 extent of the program; (C) the administration of the program; (D)
12 the handling of confidential information obtained; and (E) the
13 selection of appropriate short screen tools to be utilized in the
14 administration of the program.

15 (2) The governor shall appoint the following members of the task
16 force:

17 (a) A representative of the office of crime victims advocacy;

18 (b) A professor of law specializing in family law;

19 (c) A representative from a statewide domestic violence advocacy
20 group;

21 (d) A representative from a community sexual assault program;

22 (e) Two noncustodial parents with at least one representing the
23 interests of low-income noncustodial parents; and

24 (f) Two custodial parents with at least one representing the
25 interests of low-income custodial parents.

26 (3) The chief justice of the supreme court is requested to
27 appoint the following members of the task force:

28 (a) Two representatives from the superior court judges
29 association, including a superior court judge and a court
30 commissioner who is familiar with dissolution issues;

31 (b) A representative from the administrative office of the
32 courts;

33 (c) A representative from the Washington state bar association's
34 family law executive committee;

35 (d) A representative from a qualified legal aid provider that
36 receives funding from the office of civil legal aid;

37 (e) A representative of the Washington state association of
38 county clerks; and

39 (f) A guardian ad litem.

1 (4) The president of the senate shall appoint one member from
2 each of the two largest caucuses of the senate.

3 (5) The speaker of the house of representatives shall appoint
4 one member from each of the two largest caucuses of the house of
5 representatives, with at least one member.

6 (6) Membership of the task force may also include members of the
7 civil legal aid oversight committee, including but not limited to
8 the legislative members of the committee.

9 (7) The task force shall carefully consider all input received
10 from interested organizations and individuals during the task force
11 process.

12 (8) The task force may form an executive committee, create
13 subcommittees, designate alternative representatives, and define
14 other procedures, as needed, for operation of the task force.

15 (9) Legislative members of the task force shall be reimbursed
16 for travel expenses under RCW 44.04.120. Nonlegislative members,
17 except those representing an employee or organization, are entitled
18 to be reimbursed for travel expenses in accordance with RCW
19 43.03.050 and 43.03.060.

20 (10) The task force shall present preliminary findings and
21 conclusions to the governor's office, the supreme court, and the
22 appropriate committees of the legislature by September 1, 2008. A
23 final report and recommendations, including recommendations for
24 legislative action, if necessary, and recommendations regarding the
25 program under section 201 of this act, shall be completed by
26 December 1, 2008.

27 (11) This section expires June 30, 2009.

28 **PART IV - Additional Services**

29 NEW SECTION. **Sec. 401.** A new section is added to chapter 26.09
30 RCW to read as follows:

31 In order to provide judicial officers with better information
32 and to facilitate decision making which allows for the protection
33 of children from physical, mental, or emotional harm and in order
34 to facilitate consistent healthy contact between both parents and
35 their children:

36 (1) Parties and witnesses who require the assistance of
37 interpreters shall be provided access to qualified interpreters

1 pursuant to chapter 2.42 or 2.43 RCW. To the extent practicable
2 and within available resources, interpreters shall also be made
3 available at dissolution-related proceedings.

4 (2) Parties and witnesses who require literacy assistance shall
5 be referred to the multipurpose service centers established in
6 chapter 28B.04 RCW.

7 (3) In matters involving guardian ad litem, the court shall
8 specify the hourly rate the guardian ad litem may charge for his or
9 her services, and shall specify the maximum amount the guardian ad
10 litem may charge without additional review. Counties may, and to
11 the extent state funding is provided therefor counties shall,
12 provide indigent parties with guardian ad litem services at a
13 reduced or waived fee.

14 (4) Parties may request to participate by telephone or
15 interactive videoconference. The court may allow telephonic or
16 interactive videoconference participation of one or more parties at
17 any proceeding in its discretion. The court may also allow
18 telephonic or interactive videoconference participation of
19 witnesses.

20 (5) In cases involving domestic violence or child abuse, if
21 residential time is ordered, the court may:

22 (a) Order exchange of a child to occur in a protected setting;

23 (b) Order residential time supervised by a neutral and
24 independent adult and pursuant to an adequate plan for supervision
25 of such residential time. The court shall not approve of a
26 supervisor for contact between the child and the parent unless the
27 supervisor is willing to and capable of protecting the child from
28 harm. The court shall revoke court approval of the supervisor if
29 the court determines, after a hearing, that the supervisor has
30 failed to protect the child or is no longer willing or capable of
31 protecting the child. If the court allows a family or household
32 member to supervise residential time, the court shall establish
33 conditions to be followed during residential time.

34 (6) In cases in which the court finds that the parties do not
35 have a satisfactory history of cooperation or there is a high level
36 of parental conflict, the court may order the parties to use
37 supervised visitation and safe exchange centers or alternative safe
38 locations to facilitate the exercise of residential time.

PART V - Mediation

Sec. 501. RCW 26.09.015 and 2005 c 172 s 17 are each amended to read as follows:

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

(2)(a) Each superior court may make available a mediator. The court shall use the most cost-effective mediation services that are readily available unless there is good cause to access alternative providers. The mediator may be a member of the professional staff of a family court or mental health services agency, or may be any other person or agency designated by the court. In order to provide mediation services, the court is not required to institute a family court.

(b) In any proceeding involving issues relating to residential time or other matters governed by a parenting plan, the matter may be set for mediation of the contested issues before or concurrent with the setting of the matter for hearing. Counties may, and to the extent state funding is provided therefor counties shall, provide both predecree and postdecree mediation at reduced or waived fee to the parties within one year of the filing of the dissolution petition.

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

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

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

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

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

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

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

20 (4) The mediator shall assess the needs and interests of the
21 child or children involved in the controversy and may interview the
22 child or children if the mediator deems such interview appropriate
23 or necessary.

24 (5) Any agreement reached by the parties as a result of
25 mediation shall be reported to the court and to counsel for the
26 parties by the mediator on the day set for mediation or any time
27 thereafter designated by the court.

28 **PART VI - Residential Time**

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

31 (1) OBJECTIVES. The objectives of the permanent parenting plan
32 are to:

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

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

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

1 (d) Set forth the authority and responsibilities of each parent
2 with respect to the child, consistent with the criteria in RCW
3 26.09.187 and 26.09.191;

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

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

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

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

15 (3) CONSIDERATION IN ESTABLISHING THE PERMANENT PARENTING PLAN.
16 In establishing a permanent parenting plan, the court may consider
17 the cultural heritage and religious beliefs of a child.

18 (4) DISPUTE RESOLUTION. A process for resolving disputes, other
19 than court action, shall be provided unless precluded or limited by
20 RCW 26.09.187 or 26.09.191. A dispute resolution process may
21 include counseling, mediation, or arbitration by a specified
22 individual or agency, or court action. In the dispute resolution
23 process:

24 (a) Preference shall be given to carrying out the parenting
25 plan;

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

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

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

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

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

1 ((+4+)) (5) ALLOCATION OF DECISION-MAKING AUTHORITY.

2 (a) The plan shall allocate decision-making authority to one or
3 both parties regarding the children's education, health care, and
4 religious upbringing. The parties may incorporate an agreement
5 related to the care and growth of the child in these specified
6 areas, or in other areas, into their plan, consistent with the
7 criteria in RCW 26.09.187 and 26.09.191. Regardless of the
8 allocation of decision-making in the parenting plan, either parent
9 may make emergency decisions affecting the health or safety of the
10 child.

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

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

17 ((+5+)) (6) RESIDENTIAL PROVISIONS FOR THE CHILD. The plan
18 shall include a residential schedule which designates in which
19 parent's home each minor child shall reside on given days of the
20 year, including provision for holidays, birthdays of family
21 members, vacations, and other special occasions, consistent with
22 the criteria in RCW 26.09.187 and 26.09.191.

23 ((+6+)) (7) PARENTS' OBLIGATION UNAFFECTED. If a parent fails
24 to comply with a provision of a parenting plan or a child support
25 order, the other parent's obligations under the parenting plan or
26 the child support order are not affected. Failure to comply with
27 a provision in a parenting plan or a child support order may result
28 in a finding of contempt of court, under RCW 26.09.160.

29 ((+7+)) (8) PROVISIONS TO BE SET FORTH IN PERMANENT PARENTING
30 PLAN. The permanent parenting plan shall set forth the provisions
31 of subsections ((+3+)) (4)(a) through (c), ((+4+)) (5)(b) and (c),
32 and ((+6+)) (7) of this section.

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

35 (1) In any proceeding under this chapter, the matter may be set
36 for mediation of the contested issues before or concurrent with the
37 setting of the matter for hearing. The purpose of the mediation
38 proceeding shall be to reduce acrimony which may exist between the

1 parties and to develop an agreement assuring the child's close and
2 continuing contact with both parents after the marriage is
3 dissolved. The mediator shall use his or her best efforts to effect
4 a settlement of the dispute.

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

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

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

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

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

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

22 (ii) If a postdecree mediation-arbitration proceeding is
23 required pursuant to a parenting plan and the same person acts as
24 both mediator and arbitrator, mediation communications in the
25 mediation phase of such a proceeding may be admitted during the
26 arbitration phase, and shall be admissible in the judicial review
27 of such a proceeding under RCW 26.09.184(~~(+3)~~) (4)(e) to the
28 extent necessary for such review to be effective.

29 (b) None of the exceptions under (a)(i) and (ii) of this
30 subsection shall subject a mediator to compulsory process to
31 testify except by court order for good cause shown, taking into
32 consideration the need for the mediator's testimony and the
33 interest in the mediator maintaining an appearance of impartiality.
34 If a mediation communication is not privileged under (a)(i) of this
35 subsection or that portion of (a)(ii) of this subsection pertaining
36 to judicial review, only the portion of the communication necessary
37 for the application of the exception may be admitted, and such
38 admission of evidence shall not render any other mediation

1 communication discoverable or admissible except as may be provided
2 in chapter 7.07 RCW.

3 (4) The mediator shall assess the needs and interests of the
4 child or children involved in the controversy and may interview the
5 child or children if the mediator deems such interview appropriate
6 or necessary.

7 (5) Any agreement reached by the parties as a result of
8 mediation shall be reported to the court and to counsel for the
9 parties by the mediator on the day set for mediation or any time
10 thereafter designated by the court.

11 **Sec. 603.** RCW 26.09.187 and 1989 c 375 s 10 are each amended to
12 read as follows:

13 (1) DISPUTE RESOLUTION PROCESS. The court shall not order a
14 dispute resolution process, except court action, when it finds that
15 any limiting factor under RCW 26.09.191 applies, or when it finds
16 that either parent is unable to afford the cost of the proposed
17 dispute resolution process. If a dispute resolution process is not
18 precluded or limited, then in designating such a process the court
19 shall consider all relevant factors, including:

20 (a) Differences between the parents that would substantially
21 inhibit their effective participation in any designated process;

22 (b) The parents' wishes or agreements and, if the parents have
23 entered into agreements, whether the agreements were made knowingly
24 and voluntarily; and

25 (c) Differences in the parents' financial circumstances that may
26 affect their ability to participate fully in a given dispute
27 resolution process.

28 (2) ALLOCATION OF DECISION-MAKING AUTHORITY.

29 (a) AGREEMENTS BETWEEN THE PARTIES. The court shall approve
30 agreements of the parties allocating decision-making authority, or
31 specifying rules in the areas listed in RCW 26.09.184(~~(+4)~~)
32 (5)(a), when it finds that:

33 (i) The agreement is consistent with any limitations on a
34 parent's decision-making authority mandated by RCW 26.09.191; and

35 (ii) The agreement is knowing and voluntary.

36 (b) SOLE DECISION-MAKING AUTHORITY. The court shall order sole
37 decision-making to one parent when it finds that:

1 (i) A limitation on the other parent's decision-making authority
2 is mandated by RCW 26.09.191;

3 (ii) Both parents are opposed to mutual decision making;

4 (iii) One parent is opposed to mutual decision making, and such
5 opposition is reasonable based on the criteria in (c) of this
6 subsection;

7 (c) MUTUAL DECISION-MAKING AUTHORITY. Except as provided in (a)
8 and (b) of this subsection, the court shall consider the following
9 criteria in allocating decision-making authority:

10 (i) The existence of a limitation under RCW 26.09.191;

11 (ii) The history of participation of each parent in decision
12 making in each of the areas in RCW 26.09.184(~~((+4+))~~) (5)(a);

13 (iii) Whether the parents have a demonstrated ability and desire
14 to cooperate with one another in decision making in each of the
15 areas in RCW 26.09.184(~~((+4+))~~) (5)(a); and

16 (iv) The parents' geographic proximity to one another, to the
17 extent that it affects their ability to make timely mutual
18 decisions.

19 (3) RESIDENTIAL PROVISIONS.

20 (a) The court shall make residential provisions for each child
21 which encourage each parent to maintain a loving, stable, and
22 nurturing relationship with the child, consistent with the child's
23 developmental level and the family's social and economic
24 circumstances. The child's residential schedule shall be
25 consistent with RCW 26.09.191. Where the limitations of RCW
26 26.09.191 are not dispositive of the child's residential schedule,
27 the court shall consider the following factors:

28 (i) The relative strength, nature, and stability of the child's
29 relationship with each parent(~~(, including whether a parent has
30 taken greater responsibility for performing parenting functions
31 relating to the daily needs of the child)~~);

32 (ii) The agreements of the parties, provided they were entered
33 into knowingly and voluntarily;

34 (iii) Each parent's past and potential for future performance of
35 parenting functions as defined in RCW 26.09.004(3), including
36 whether a parent has taken greater responsibility for performing
37 parenting functions relating to the daily needs of the child;

38 (iv) The emotional needs and developmental level of the child;

1 (v) The child's relationship with siblings and with other
2 significant adults, as well as the child's involvement with his or
3 her physical surroundings, school, or other significant activities;

4 (vi) The wishes of the parents and the wishes of a child who is
5 sufficiently mature to express reasoned and independent preferences
6 as to his or her residential schedule; and

7 (vii) Each parent's employment schedule, and shall make
8 accommodations consistent with those schedules.

9 Factor (i) shall be given the greatest weight.

10 (b) Where the limitations of RCW 26.09.191 are not dispositive,
11 the court may order that a child frequently alternate his or her
12 residence between the households of the parents for brief and
13 substantially equal intervals of time ((only if the court finds the
14 following):

15 ~~— (i) No limitation exists under RCW 26.09.191;~~

16 ~~— (ii)(A) The parties have agreed to such provisions and the~~
17 ~~agreement was knowingly and voluntarily entered into; or~~

18 ~~— (B) The parties have a satisfactory history of cooperation and~~
19 ~~shared performance of parenting functions; the parties are~~
20 ~~available to each other, especially in geographic proximity, to the~~
21 ~~extent necessary to ensure their ability to share performance of~~
22 ~~the parenting functions; and~~

23 ~~— (iii) The provisions are in the best interests of the child)) if~~
24 such provision is in the best interests of the child. In
25 determining whether such an arrangement is in the best interests of
26 the child, the court may consider the parties geographic proximity
27 to the extent necessary to ensure the ability to share performance
28 of the parenting functions.

29 (c) For any child, residential provisions may contain any
30 reasonable terms or conditions that facilitate the orderly and
31 meaningful exercise of residential time by a parent, including but
32 not limited to requirements of reasonable notice when residential
33 time will not occur.

34 **Sec. 604.** RCW 26.09.197 and 1987 c 460 s 14 are each amended to
35 read as follows:

36 After considering the affidavit required by RCW 26.09.194(1) and
37 other relevant evidence presented, the court shall make a temporary
38 parenting plan that is in the best interest of the child. In

1 making this determination, the court shall give particular
2 consideration to:

3 (1) (~~which parent has taken greater responsibility during the~~
4 ~~last twelve months for performing parenting functions relating to~~
5 ~~the daily needs of the child~~) The relative strength, nature, and
6 stability of the child's relationship with each parent; and

7 (2) Which parenting arrangements will cause the least disruption
8 to the child's emotional stability while the action is pending.

9 The court shall also consider the factors used to determine
10 residential provisions in the permanent parenting plan.

11 **PART VII - Data Tracking**

12 NEW SECTION. Sec. 701. A new section is added to chapter 26.09
13 RCW to read as follows:

14 The parties to dissolution matters shall file with the clerk of
15 the court the residential time summary report. The summary report
16 shall be on the form developed by the administrative office of the
17 courts in consultation with the department of social and health
18 services division of child support. The parties must complete the
19 form and file the form with the court order. The clerk of the
20 court must forward the form to the division of child support on at
21 least a monthly basis.

22 NEW SECTION. Sec. 702. A new section is added to chapter 26.18
23 RCW to read as follows:

24 (1) The administrative office of the courts in consultation with
25 the department of social and health services, division of child
26 support, shall develop a residential time summary report form to
27 provide for the reporting of summary information in every case in
28 which residential time with children is to be established or
29 modified.

30 (2) The residential time summary report must include at a
31 minimum: A breakdown of residential schedules with a reasonable
32 degree of specificity regarding actual time with each parent,
33 including enforcement practices, representation status of the
34 parties, whether domestic violence, child abuse, chemical
35 dependency, or mental health issues exist, and whether the matter
36 was agreed or contested.

1 (3) The division of child support shall compile and
2 electronically transmit the information in the residential time
3 summary reports to the administrative office of the courts for
4 purposes of tracking residential time awards by parent, enforcement
5 practices, representation status of the parties, the existence of
6 domestic violence, child abuse, chemical dependency, or mental
7 health issues and whether the matter was agreed or contested.

8 (4) The administrative office of the courts shall report the
9 compiled information, organized by each county, on at least an
10 annual basis. The information shall be itemized by quarter. These
11 reports shall be made publicly available through the judicial
12 information public access services and shall not contain any
13 personal identifying information of parties in the proceedings.

14 **PART VIII - Miscellaneous**

15 NEW SECTION. **Sec. 801.** Part headings used in this act are not
16 any part of the law.

17 NEW SECTION. **Sec. 802.** If specific funding for the purposes of
18 section 306 of this act, referencing section 306 of this act by
19 bill or chapter number and section number, is not provided by June
20 30, 2007, in the omnibus appropriations act, section 306 of this
21 act is null and void.

22 NEW SECTION. **Sec. 803.** If specific funding for the purposes of
23 section 701 of this act, referencing section 701 of this act by
24 bill or chapter number and section number, is not provided by June
25 30, 2007, in the omnibus appropriations act, section 701 of this
26 act is null and void.

27 NEW SECTION. **Sec. 804.** If specific funding for the purposes of
28 section 702 of this act, referencing section 702 of this act by
29 bill or chapter number and section number, is not provided by June
30 30, 2007, in the omnibus appropriations act, section 702 of this
31 act is null and void.

32 NEW SECTION. **Sec. 805.** (1) Sections 201 and 204 of this act
33 take effect July 1, 2009.

1 (2) Section 202 of this act takes effect January 1, 2008.
2 (3) Section 501 of this act takes effect January 1, 2009."
3 Correct the title.

4 --- END ---

EFFECT: The striking amendment incorporates the striking amendment as it passed the House, with the following additions and changes:

After July 1, 2009, but no later than November 1, 2009, counties may, and to the extent state funding is provided counties must, establish a program to provide services to all parties filing dissolutions and legal separations. At a minimum the program must include components for: (a) an individual to serve as an initial point of contact for parties; (b) informing parties of courthouse facilitation programs; (c) informing parties of alternatives to filing for dissolution, such as marriage counseling, and other information; (d) screening for referrals for services in the areas of domestic violence, child abuse, substance abuse, and mental health; and (e) assistance to the court. Counties may charge user fees and impose a surcharge of up to \$20 on family law filings to pay for the program. Program services must be provided to indigent persons at no expense. Petitioners must meet and confer with the program prior to filing a petition for dissolution or legal separation and parties must meet and confer with the program before participating in mediation when there is domestic violence or child abuse.

The task force must study issues related to the program, including the minimum requirements of the program, administration of the program, the handling of confidential information, and the selection of appropriate screening tools to be used. The task force must make recommendations regarding the program by December 1, 2008.

In establishing a parenting plan, the court *may* consider the cultural heritage and religious beliefs of a child (the striking amendment as passed the House made it mandatory rather than discretionary).

The residential time information compiled by the Administrative Office of the Courts must be itemized by quarter.