

FINAL BILL REPORT

2SSB 5470

C 496 L 07
Synopsis as Enacted

Brief Description: Revising provisions concerning dissolution proceedings.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Stevens, McAuliffe, Brown and Regala).

Senate Committee on Human Services & Corrections

Senate Committee on Ways & Means

House Committee on Judiciary

House Committee on Appropriations

Brief Summary of Bill

- Includes provisions to support the courts' ability to screen for complex cases, assist pro-se litigants, reduce conflict, and provide safe visitation and exchange alternatives for children.
- Creates a task force convened by the Supreme Court to: (1) review and adopt best practices regarding a clear and concise dispute resolution process; (2) develop standardized and consistent sexual assault and domestic violence training curriculums; and (3) assess the need for additional changes in family law matters, such as specialized evaluators, modification of forms, and assessment of fees.
- Provides for mediation at no or reduced expense to the parties in cases involving the allocation of residential time or other matters related to parenting plans.

Background: In 1987, the Legislature enacted Substitute House Bill 48, the Dissolution of Marriage and Legal Separation Act. The act includes a legislative finding that the "best interest of the child is ordinarily served when the existing pattern of interaction between a parent and child is altered only to the extent necessitated by the changed relationship of the parents or as required to protect the child from physical, mental, or emotional harm."

In an action for dissolution of marriage (divorce) when minor children are involved, a permanent parenting plan must be incorporated into the final decree. The permanent parenting plan addresses parenting functions such as maintaining a nurturing relationship with the child, attending to the child's daily needs, education, and financial support. The court uses the best interests of the child as the policy standard by which parental responsibilities are allocated. In establishing the child's residential schedule, the court is to consider the following seven factors [Factor 1 must be given the greatest weight]:

- 1) the relative strength, nature, and stability of the child's relationship with each parent, including whether a parent has taken the greater responsibility for performing parenting functions relating to the daily needs of the child;
- 2) the agreements of the parties, provided they were entered into knowingly and voluntarily;

- 3) each parent's past and potential for future performance of parenting functions;
- 4) the emotional needs and developmental level of the child;
- 5) the child's relationship with siblings and with other significant adults, as well as the child's involvement with his or her physical surroundings, school, or other significant activities;
- 6) the wishes of the parents and the wishes of a child who is sufficiently mature to express reasoned and independent preferences as to his or her residential schedule; and
- 7) each parent's employment schedule, and must make accommodations consistent with those schedules.

The Dissolution of Marriage chapter defines "Parenting functions" as those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the child. Parenting functions include:

- 1) maintaining a loving, stable, consistent, and nurturing relationship with the child;
- 2) attending to the daily needs of the child, such as feeding, clothing, physical care and grooming, supervision, health care, and day care, and engaging in other activities which are appropriate to the developmental level of the child and that are within the social and economic circumstances of the particular family;
- 3) attending to adequate education for the child, including remedial or other education essential to the best interests of the child;
- 4) assisting the child in developing and maintaining appropriate interpersonal relationships;
- 5) exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and the family's social and economic circumstances; and
- 6) providing for the financial support of the child.

In establishing a parenting plan, the court may limit decision-making authority and limit or preclude residential time if the court finds that there has been physical, sexual or a pattern of emotional abuse of the child, neglect, abandonment, or a history of domestic violence. The court may also limit or preclude residential time if the parent's conduct may have an adverse effect on the child. Factors to be considered include: neglect or substantial nonperformance of parenting functions; the parent's long-term emotional or physical impairment; the parent's long-term substance abuse; the absence of emotional ties; an abusive use of conflict which creates a danger to the child's psychological development; a parent's withholding the child from the other parent without good cause; and any other factor the court finds adverse to the child's best interest.

The parties involved in a dissolution with children may use mediation to resolve contested issues. The superior court may make a mediator available. The mediator may be a staff member of the court or may be a person or agency designated by the court.

A city, county, or nonprofit may create a dispute resolution center to provide mediation and dispute settlement services. Services are to be provided without charge or based upon the participant's ability to pay. To fund the center, a county may impose a surcharge of up to \$10 on each civil filing fee in district court. The county may also impose a surcharge of up to \$15 for the filing of a small claims action.

Counties may create a courthouse facilitator program to provide basic services to self-represented litigants in family law cases. The counties may fund these facilitator programs through user fees, a surcharge of up to \$20 on family law cases filed in superior court, or both. Thirty-five of the state's 39 counties have created a facilitator program.

The Administrative Office of the Courts (AOC) produces a family law handbook to explain the state's laws regarding the rights and responsibilities of marital partners to each other and to any children during a marriage and a dissolution of marriage. County auditors provide a copy to any individuals applying for a marriage license.

In Washington State, interpreter services for legal proceedings may be paid by the government or the individual, depending on the party initiating the proceedings and the person requiring the services. For non-English speaking persons, the government pays for interpreter services when it initiated the legal proceeding. For any other legal proceeding, the non-English speaking person pays for the interpreter services unless found to be indigent. For hearing or speech impaired persons, the state pays for interpreter services when the person is a party or witness at any stage of a judicial or quasi-judicial proceeding in the state.

Summary: Dissolution/Parenting Plans: All presumptions regarding the residential provisions of the Dissolution of Marriage and Legal Separation Act are eliminated. The daily needs factor may be considered but not as a weighted factor. The ability of the court to order that a child frequently alternate between residences if in the best interest of a child is emphasized. Limitations placed on visitation should be reasonably calculated to protect the child and the parents. Prior to entering a permanent parenting plan, the court must determine the existence of any information and proceedings available in the judicial information system relevant to the child's placement. A safety plan may be filed with the court. The court may order supervised visitation and safe exchange centers or alternative safe neutral locations for visitation for cases with a history of high conflict or for parties without a satisfactory history of cooperation. Both parties are to be screened if there are allegations of certain limiting factors.

Initial Point of Contact Program: Starting July 1, 2009, and no later than November 1, 2009, counties may create a first point of contact program for parties filing petitions for dissolution or legal separation, and if state funding is provided, counties must create such a program. A party is required to meet and confer with the program prior to filing. The program will provide information about facilitation programs, orientations, alternatives to petitions for dissolution, alternatives to litigation, and screen for referral for services in the areas of domestic violence, child abuse, substance abuse, and mental health. To fund the liaison program, a county may impose user fees, impose a surcharge of up to \$20 on the superior court family law cases, or both.

Mediation: Pre-decree and post-decree mediation may be provided to parties for issues involving the residential time or other matters related to the parenting plan. It is limited to within one year of filing the dissolution petition. Pre-decree and post-decree mediation may be provided by the county at a reduced or waived fee. If state funding is provided, then the mediation must be provided by the county at a reduced or waived fee. Each superior court must make a mediator available and must use the most cost-effective mediation service available. The effective date for the mediation section is January 1, 2009.

Family Law Handbook: The family law handbook must be made available to both parties when a dissolution is filed. AOC must annually reimburse the counties for the cost of the family law handbook distributed to parties involved in dissolution cases.

Guardian Ad Litem: AOC is required to include domestic violence training in the curriculum for Guardian Ad Litem training. AOC must annually reimburse the counties for the cost of the family law handbook distributed to parties involved in dissolution cases. Guardian Ad Litem for the indigent may be provided by the county at a reduced or waived fee. If state funding is provided, then the services must be provided by the county at a reduced or waived fee.

Dissolution Proceedings: Qualified interpreters must be made available to parties and witnesses who require assistance. Within available resources, interpreters must be made available in dissolution-related proceedings. Those needing literacy assistance are referred to multipurpose service centers. Parties may participate via video-conference as well as telephonically where available.

Task Force: A task force on dissolution, dispute resolution, and domestic violence is to be convened and supported by the Supreme Court. The task force expires June 30, 2009. The section creating the task force is null and void if specific funding is not provided in the operating budget by June 30, 2007.

Data Tracking: AOC will consult with the Department of Social and Health Services' Division of Child Support (DCS) and develop a residential time summary report. The parties involved in the dissolution must complete the form. DCS must compile and electronically transmit the information to AOC. AOC must report the information annually by county, and itemized by quarter.

Votes on Final Passage:

Senate	47	0	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House	95	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 22, 2007

January 1, 2008 (Section 202)

January 1, 2009 (Section 501)

July 1, 2009 (Sections 201 and 204)