**2237-S AMH GRIF H3266.1 - NOT FOR FLOOR USE**

**SHB 2237** - H AMD **1061**

By Representative Griffey

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  GENERAL CONSIDERATIONS—DEFINITIONS. (1)(a) In entering a permanent parenting plan, the court may not draw any presumptions from the provisions of the temporary parenting plan.

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

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

(d)(i) In cases involving allegations of limiting factors under sections 2 through 4 of this act, both parties must be screened to determine the appropriateness of a comprehensive assessment regarding the impact of the limiting factor on the child and the parties.

(ii) In cases involving allegations of limiting factors under section 2(2)(a)(ii) and (iii) of this act, the court shall consider the evidence outlined in section 5 of this act.

(2) The definitions in this subsection apply throughout this section and sections 2 through 5 of this act unless the context clearly requires otherwise.

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

(b) "Child" also means "children."

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

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

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

(f) "Willful abandonment" has occurred when the child's parent has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. "Willful abandonment" does not include a parent who has been unable to see the child due to incarceration, deportation, inpatient treatment, medical emergency, fleeing to an emergency shelter or domestic violence shelter, or withholding of the child by the other parent.

NEW SECTION. **Sec.**  MANDATORY FACTORS—CONDUCT REQUIRING LIMITATIONS AND RESTRICTIONS. (1) The permanent parenting plan may not require mutual decision making or designation of a dispute resolution process other than court action if it is found that a parent has engaged in any of the following conduct: (a) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (b) physical, sexual, or a pattern of emotional abuse of a child; or (c) a history of acts of domestic violence as defined in RCW 7.105.010 or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy.

(2)(a) The parent's residential time with the child must be limited if it is found that the parent has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; (iii) a history of acts of domestic violence as defined in RCW 7.105.010 or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy; or (iv) the parent has been convicted of a sex offense against a child. Required limitations for a parent who has been convicted of a sex offense against a child are addressed in section 3 of this act.

(b) The parent's residential time with the child must be limited if it is found that the parent knowingly resides with a person who has engaged in any of the following conduct: (i) Physical, sexual, or a pattern of emotional abuse of a child; (ii) a history of acts of domestic violence as defined in RCW 7.105.010 or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy; or (iii) the person residing with the parent has been convicted of a sex offense against a child. Required limitations for a parent who resides with a person who has been convicted of a sex offense against a child are addressed in section 3 of this act.

(3)(a) The limitations imposed by the court under subsection (2) of this section must be reasonably calculated to protect the child from the physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting residential time. The limitations must also be reasonably calculated to provide for the safety of the parent who may be at risk of physical, sexual, or emotional abuse or harm that could result if the parent has contact with the parent requesting residential time. The limitations the court may impose include, but are not limited to: Supervised contact between the child and the parent or completion of relevant counseling or treatment. If the court expressly finds based on the evidence that limitations on the residential time with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting residential time, the court shall restrain the parent requesting residential time from all contact with the child.

(b) The court may not enter an order under subsection (2) of this section allowing a parent to have contact with a child if the parent has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused the child, except upon recommendation by a therapist for the child that the child is ready for contact with the parent and will not be harmed by the contact. The court may not enter an order allowing a parent to have contact with the child in the offender's presence if the parent resides with a person who has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused a child, unless the court finds that the parent accepts that the person engaged in the harmful conduct and the parent is willing to and capable of protecting the child from harm from the person.

(c) The court may not enter an order under subsection (2) of this section allowing a parent to have contact with a child if the parent has been found by clear and convincing evidence pursuant to RCW 26.26A.465 to have committed sexual assault, as defined in RCW 26.26A.465, against the child's parent, and that the child was born within 320 days of the sexual assault.

(d) If the court limits residential time under subsection (2) of this section to require supervised contact between the child and the parent, the court may not approve of a supervisor for contact between a child and a parent who has engaged in physical, sexual, or a pattern of emotional abuse of the child unless the court finds based upon the evidence that the supervisor accepts that the harmful conduct occurred and is willing to and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing to or capable of protecting the child.

(4) If the court expressly finds based on the evidence that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's or other person's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations of subsection (2) or (3)(a) or (d) of this section, or if the court expressly finds that the parent's conduct did not have an impact on the child, then the court need not apply the limitations of subsection (2) or (3)(a) or (d) of this section.

NEW SECTION. **Sec.**  SEX OFFENSES AGAINST A CHILD. (1)(a) The parent's residential time with the child must be limited if it is found that the parent has been convicted as an adult of a sex offense under:

(i) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under subsection (4) of this section;

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

(iii) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under subsection (4) of this section;

(iv) RCW 9A.44.089;

(v) RCW 9A.44.093;

(vi) RCW 9A.44.096;

(vii) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under subsection (4) of this section;

(viii) Chapter 9.68A RCW;

(ix) Any predecessor or antecedent statute for the offenses listed in (a)(i) through (viii) of this subsection; or

(x) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (a)(i) through (viii) of this subsection.

(b) This subsection does not apply when subsection (3) or (4) of this section applies.

(2)(a) The parent's residential time with the child must be limited if it is found that the parent knowingly resides with a person who has been convicted as an adult or as a juvenile has been adjudicated of a sex offense under:

(i) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under subsection (5) of this section;

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

(iii) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under subsection (5) of this section;

(iv) RCW 9A.44.089;

(v) RCW 9A.44.093;

(vi) RCW 9A.44.096;

(vii) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under subsection (5) of this section;

(viii) Chapter 9.68A RCW;

(ix) Any predecessor or antecedent statute for the offenses listed in (a)(i) through (viii) of this subsection; or

(x) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (a)(i) through (viii) of this subsection.

(b) This subsection does not apply when subsection (3) or (5) of this section applies.

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

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

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

(b) RCW 9A.44.073;

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

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

(e) RCW 9A.44.083;

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

(g) RCW 9A.44.100;

(h) Any predecessor or antecedent statute for the offenses listed in (a) through (g) of this subsection;

(i) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (a) through (g) of this subsection.

(5) There is a rebuttable presumption that a parent who knowingly resides with a person who, as an adult, has been convicted, or as a juvenile has been adjudicated, of the sex offenses listed in subsection (4)(a) through (i) of this section places a child at risk of abuse or harm when that parent exercises residential time in the presence of the convicted or adjudicated person. Unless the parent rebuts the presumption, the court shall restrain the parent from contact with the parent's child except for contact that occurs outside of the convicted or adjudicated person's presence.

(6) The presumption established in subsection (4) of this section may be rebutted only after a written finding that the child was not conceived and subsequently born as a result of a sexual assault committed by the parent requesting residential time and that:

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

(b) If the child was the victim of the sex offense committed by the parent requesting residential time, (i) contact between the child and the offending parent is appropriate and poses minimal risk to the child, (ii) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the offending parent is in the child's best interest, and (iii) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child.

(7) The presumption established in subsection (5) of this section may be rebutted only after a written finding that the child was not conceived and subsequently born as a result of a sexual assault committed by the parent requesting residential time and that:

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

(b) If the child was the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (i) contact between the child and the parent in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child, (ii) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the parent residing with the convicted or adjudicated person in the presence of the convicted or adjudicated person is in the child's best interest, and (iii) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes contact between the parent and child in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child.

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

(9) If the court finds that the parent has met the burden of rebutting the presumption under subsection (7) of this section, the court may allow a parent residing with a person who has been convicted as an adult, or a person who has been adjudicated as a juvenile, of a sex offense listed in subsection (4)(a) through (i) of this section to have residential time with the child in the presence of the person adjudicated as a juvenile, supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court may not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(10) A court may not order unsupervised contact between the offending parent and a child of the offending parent who was sexually abused by that parent. A court may order unsupervised contact between the offending parent and a child who was not sexually abused by the parent after the presumption under subsection (4) of this section has been rebutted and supervised residential time has occurred for at least two years with no further arrests or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW and (a) the sex offense of the offending parent was not committed against a child of the offending parent, and (b) the court finds that unsupervised contact between the child and the offending parent is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treating child sexual abuse victims who has supervised at least one period of residential time between the parent and the child, and after consideration of evidence of the offending parent's compliance with community supervision requirements, if any. If the offending parent was not ordered by a court to participate in treatment for sex offenders, then the parent must obtain a psychosexual evaluation conducted by a certified sex offender treatment provider or a certified affiliate sex offender treatment provider indicating that the offender has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child.

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

NEW SECTION. **Sec.**  DISCRETIONARY FACTORS—PARENTAL CONDUCT THAT MAY RESULT IN LIMITATIONS ON A PARENT'S RESIDENTIAL TIME. If a parent's involvement or conduct may have an adverse effect on the child's best interests, the court may preclude or limit any provisions of the parenting plan if any of the following factors exist:

(1) A parent's neglect or substantial nonperformance of parenting functions;

(2) A long-term emotional or physical impairment that interferes with the parent's performance of parenting functions as defined in RCW 26.09.004;

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

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

(5) A parent has engaged in the abusive use of conflict that creates the danger of serious damage to the child's psychological development;

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

(7) Such other factors or conduct as the court expressly finds adverse to the best interests of the child.

NEW SECTION. **Sec.**  ALLEGATIONS OF DOMESTIC VIOLENCE OR CHILD ABUSE. (1) In all proceedings brought pursuant to this title concerning the allocation of parental responsibilities with respect to a child in which a claim of domestic violence or child abuse, including child sexual abuse, has been made to the court, or the court has reason to believe that a party has committed domestic violence or child abuse, including child sexual abuse, the court shall:

(a) Consider the admission of expert testimony and evidence if the expert demonstrates expertise and experience working with victims of domestic violence or child abuse, including child sexual abuse, that is not solely forensic in nature; and

(b) Consider evidence of past sexual or physical abuse committed by the accused party, including:

(i) Any past or current protection or restraining orders against the accused party, including protection or restraining orders that raise sexual violence or abuse;

(ii) Arrests of the accused party for domestic violence, sexual violence, or child abuse;

(iii) Convictions of the accused party for domestic violence, sexual violence, or child abuse; or

(iv) Other documentation, including letters from a victim advocate or victim service provider, if the victim consents to such disclosure; medical records; or a letter to a landlord to break a lease.

(2) In compliance with the federal keeping children safe from family violence act, Title 34 U.S.C. Sec. 10446, as amended, any neutral professional appointed by a court to express an opinion relating to abuse, trauma, or the behaviors of victims and perpetrators of abuse and trauma during a proceeding to allocate parental responsibilities must possess demonstrated expertise and experience in working with victims of domestic violence or child abuse, including child sexual abuse, that is not solely of a forensic nature.

NEW SECTION. **Sec.**  A new section is added to chapter 2.56 RCW to read as follows:

(1) The administrative office of the courts may develop and implement an ongoing education and training program for judges, magistrates, and other relevant court personnel, including guardians ad litem, counsel for children, and mediators regarding child abuse. The education and training program must include all aspects of the maltreatment of children, including:

(a) Sexual abuse;

(b) Physical abuse;

(c) Psychological and emotional abuse;

(d) Implicit and explicit bias;

(e) Trauma and neglect; and

(f) The impact of child abuse and domestic violence on children.

(2) The education and training program under subsection (1) of this section must include the latest best practices from evidence-based, peer-reviewed research by recognized experts, including statewide family violence experts, in the types of child abuse specified under subsection (1) of this section. The education and training program under subsection (1) of this section must be designed to educate and train relevant court personnel on all of the factors listed under RCW 26.09.187 and improve the ability of courts to make appropriate custody decisions that are in the best interest of the child, including education and training regarding the impact of child abuse, domestic abuse, and trauma on a victim.

(3) Once available, the training for judicial officers under subsection (1) of this section must be included as a component of training for judicial officers offered by the Washington judicial college.

(4) Child and family court investigators, guardians ad litem, evaluators, judicial officers, and commissioners, must complete:

(a) No less than 20 hours of initial training; and

(b) No less than 15 hours of ongoing training every five years.

(5) The education and training program under subsection (1) of this section must conform with the requirements for increased federal grant funding under 34 U.S.C. Sec. 10446(k).

**Sec.**  RCW 11.130.215 and 2022 c 243 s 8 are each amended to read as follows:

(1) After a hearing under RCW 11.130.195, the court may appoint a guardian for a minor, if appointment is proper under RCW 11.130.185, dismiss the proceeding, or take other appropriate action consistent with this chapter or law of this state other than this chapter.

(2) In appointing a guardian under subsection (1) of this section, the following rules apply:

(a) The court shall appoint a person nominated as guardian by a parent of the minor in a probated will or other record unless the court finds the appointment is contrary to the best interest of the minor. Any "other record" must be a declaration or other sworn document and may include a power of attorney or other sworn statement as to the care, custody, or control of the minor child.

(b) If multiple parents have nominated different persons to serve as guardian, the court shall appoint the nominee whose appointment is in the best interest of the minor, unless the court finds that appointment of none of the nominees is in the best interest of the minor.

(c) If a guardian is not appointed under (a) or (b) of this subsection, the court shall appoint the person nominated by the minor if the minor is twelve years of age or older unless the court finds that appointment is contrary to the best interest of the minor. In that case, the court shall appoint as guardian a person whose appointment is in the best interest of the minor.

(3) In the interest of maintaining or encouraging involvement by a minor's parent in the minor's life, developing self-reliance of the minor, or for other good cause, the court, at the time of appointment of a guardian for the minor or later, on its own or on motion of the minor or other interested person, may create a limited guardianship by limiting the powers otherwise granted by this article to the guardian. Following the same procedure, the court may grant additional powers or withdraw powers previously granted.

(4) The court, as part of an order appointing a guardian for a minor, shall state rights retained by any parent of the minor, which shall preserve the parent-child relationship through an order for parent-child visitation and other contact, unless the court finds the relationship should be limited or restricted under ((~~RCW 26.09.191~~)) sections 2 through 4 of this act; and which may include decision making regarding the minor's health care, education, or other matter, or access to a record regarding the minor.

(5) An order granting a guardianship for a minor must state that each parent of the minor is entitled to notice that:

(a) The guardian has delegated custody of the minor subject to guardianship;

(b) The court has modified or limited the powers of the guardian; or

(c) The court has removed the guardian.

(6) An order granting a guardianship for a minor must identify any person in addition to a parent of the minor which is entitled to notice of the events listed in subsection (5) of this section.

(7) An order granting guardianship for a minor must direct the clerk of the court to issue letters of office to the guardian containing an expiration date which should be the minor's eighteenth birthday.

**Sec.**  RCW 26.09.187 and 2007 c 496 s 603 are each amended to read as follows:

(1) DISPUTE RESOLUTION PROCESS. The court shall not order a dispute resolution process, except court action, when it finds that any limiting factor under ((~~RCW 26.09.191~~)) sections 2 through 4 of this act applies, or when it finds that either parent is unable to afford the cost of the proposed dispute resolution process. If a dispute resolution process is not precluded or limited, then in designating such a process the court shall consider all relevant factors, including:

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

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

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

(2) ALLOCATION OF DECISION-MAKING AUTHORITY.

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

(i) The agreement is consistent with any limitations on a parent's decision-making authority mandated by ((~~RCW 26.09.191~~)) sections 2 through 4 of this act; and

(ii) The agreement is knowing and voluntary.

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

(i) A limitation on the other parent's decision-making authority is mandated by ((~~RCW 26.09.191~~)) sections 2 through 4 of this act;

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

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

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

(i) The existence of a limitation under ((~~RCW 26.09.191~~)) sections 2 through 4 of this act;

(ii) The history of participation of each parent in decision making in each of the areas in RCW 26.09.184(5)(a);

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

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

(3) RESIDENTIAL PROVISIONS.

(a) The court shall make residential provisions for each child which encourage each parent to maintain a loving, stable, and nurturing relationship with the child, consistent with the child's developmental level and the family's social and economic circumstances. The child's residential schedule shall be consistent with ((~~RCW 26.09.191~~)) sections 2 through 4 of this act. Where the limitations of ((~~RCW 26.09.191~~)) sections 2 through 4 of this act are not dispositive of the child's residential schedule, the court shall consider the following factors:

(i) The relative strength, nature, and stability of the child's relationship with each parent;

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

(iii) Each parent's past and potential for future performance of parenting functions as defined in RCW 26.09.004((~~(3)~~)) (2), including whether a parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child;

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

(v) 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;

(vi) 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

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

Factor (i) shall be given the greatest weight.

(b) Where the limitations of ((~~RCW 26.09.191~~)) sections 2 through 4 of this act are not dispositive, the court may order that a child frequently alternate his or her residence between the households of the parents for brief and substantially equal intervals of time if such provision is in the best interests of the child. In determining whether such an arrangement is in the best interests of the child, the court may consider the parties geographic proximity to the extent necessary to ensure the ability to share performance of the parenting functions.

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

**Sec.**  RCW 26.09.194 and 2008 c 6 s 1045 are each amended to read as follows:

(1) A parent seeking a temporary order relating to parenting shall file and serve a proposed temporary parenting plan by motion. The other parent, if contesting the proposed temporary parenting plan, shall file and serve a responsive proposed parenting plan. Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order. The proposed temporary parenting plan may be supported by relevant evidence and shall be accompanied by an affidavit or declaration which shall state at a minimum the following:

(a) The name, address, and length of residence with the person or persons with whom the child has lived for the preceding twelve months;

(b) The performance by each parent during the last twelve months of the parenting functions relating to the daily needs of the child;

(c) The parents' work and child-care schedules for the preceding twelve months;

(d) The parents' current work and child-care schedules; and

(e) Any of the circumstances set forth in ((~~RCW 26.09.191~~)) sections 2 through 4 of this act that are likely to pose a serious risk to the child and that warrant limitation on the award to a parent of temporary residence or time with the child pending entry of a permanent parenting plan.

(2) At the hearing, the court shall enter a temporary parenting order incorporating a temporary parenting plan which includes:

(a) A schedule for the child's time with each parent when appropriate;

(b) Designation of a temporary residence for the child;

(c) Allocation of decision-making authority, if any. Absent allocation of decision-making authority consistent with RCW 26.09.187(2), neither party shall make any decision for the child other than those relating to day-to-day or emergency care of the child, which shall be made by the party who is present with the child;

(d) Provisions for temporary support for the child; and

(e) Restraining orders, if applicable, under RCW 26.09.060.

(3) A parent may make a motion for an order to show cause and the court may enter a temporary order, including a temporary parenting plan, upon a showing of necessity.

(4) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment conforms to the limitations of ((~~RCW 26.09.191~~)) sections 2 through 4 of this act and is in the best interest of the child.

(5) If a proceeding for dissolution of marriage or dissolution of domestic partnership, legal separation, or declaration of invalidity is dismissed, any temporary order or temporary parenting plan is vacated.

**Sec.**  RCW 26.09.260 and 2009 c 502 s 3 are each amended to read as follows:

(1) Except as otherwise provided in subsections (4), (5), (6), (8), and (10) of this section, the court shall not modify a prior custody decree or a parenting plan unless it finds, upon the basis of facts that have arisen since the prior decree or plan or that were unknown to the court at the time of the prior decree or plan, that a substantial change has occurred in the circumstances of the child or the nonmoving party and that the modification is in the best interest of the child and is necessary to serve the best interests of the child. The effect of a parent's military duties potentially impacting parenting functions shall not, by itself, be a substantial change of circumstances justifying a permanent modification of a prior decree or plan.

(2) In applying these standards, the court shall retain the residential schedule established by the decree or parenting plan unless:

(a) The parents agree to the modification;

(b) The child has been integrated into the family of the petitioner with the consent of the other parent in substantial deviation from the parenting plan;

(c) The child's present environment is detrimental to the child's physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; or

(d) The court has found the nonmoving parent in contempt of court at least twice within three years because the parent failed to comply with the residential time provisions in the court-ordered parenting plan, or the parent has been convicted of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070.

(3) A conviction of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070 shall constitute a substantial change of circumstances for the purposes of this section.

(4) The court may reduce or restrict contact between the child and the parent with whom the child does not reside a majority of the time if it finds that the reduction or restriction would serve and protect the best interests of the child using the criteria in ((~~RCW 26.09.191~~)) sections 2 through 4 of this act.

(5) The court may order adjustments to the residential aspects of a parenting plan upon a showing of a substantial change in circumstances of either parent or of the child, and without consideration of the factors set forth in subsection (2) of this section, if the proposed modification is only a minor modification in the residential schedule that does not change the residence the child is scheduled to reside in the majority of the time and:

(a) Does not exceed twenty-four full days in a calendar year; or

(b) Is based on a change of residence of the parent with whom the child does not reside the majority of the time or an involuntary change in work schedule by a parent which makes the residential schedule in the parenting plan impractical to follow; or

(c) Does not result in a schedule that exceeds ninety overnights per year in total, if the court finds that, at the time the petition for modification is filed, the decree of dissolution or parenting plan does not provide reasonable time with the parent with whom the child does not reside a majority of the time, and further, the court finds that it is in the best interests of the child to increase residential time with the parent in excess of the residential time period in (a) of this subsection. However, any motion under this subsection (5)(c) is subject to the factors established in subsection (2) of this section if the party bringing the petition has previously been granted a modification under this same subsection within twenty-four months of the current motion. Relief granted under this section shall not be the sole basis for adjusting or modifying child support.

(6) The court may order adjustments to the residential aspects of a parenting plan pursuant to a proceeding to permit or restrain a relocation of the child. The person objecting to the relocation of the child or the relocating person's proposed revised residential schedule may file a petition to modify the parenting plan, including a change of the residence in which the child resides the majority of the time, without a showing of adequate cause other than the proposed relocation itself. A hearing to determine adequate cause for modification shall not be required so long as the request for relocation of the child is being pursued. In making a determination of a modification pursuant to relocation of the child, the court shall first determine whether to permit or restrain the relocation of the child using the procedures and standards provided in RCW 26.09.405 through 26.09.560. Following that determination, the court shall determine what modification pursuant to relocation should be made, if any, to the parenting plan or custody order or visitation order.

(7) A parent with whom the child does not reside a majority of the time and whose residential time with the child is subject to limitations pursuant to ((~~RCW 26.09.191 (2) or (3)~~)) sections 2 through 4 of this act may not seek expansion of residential time under subsection (5)(c) of this section unless that parent demonstrates a substantial change in circumstances specifically related to the basis for the limitation.

(8)(a) If a parent with whom the child does not reside a majority of the time voluntarily fails to exercise residential time for an extended period, that is, one year or longer, the court upon proper motion may make adjustments to the parenting plan in keeping with the best interests of the minor child.

(b) For the purposes of determining whether the parent has failed to exercise residential time for one year or longer, the court may not count any time periods during which the parent did not exercise residential time due to the effect of the parent's military duties potentially impacting parenting functions.

(9) A parent with whom the child does not reside a majority of the time who is required by the existing parenting plan to complete evaluations, treatment, parenting, or other classes may not seek expansion of residential time under subsection (5)(c) of this section unless that parent has fully complied with such requirements.

(10) The court may order adjustments to any of the nonresidential aspects of a parenting plan upon a showing of a substantial change of circumstances of either parent or of a child, and the adjustment is in the best interest of the child. Adjustments ordered under this section may be made without consideration of the factors set forth in subsection (2) of this section.

(11) If the parent with whom the child resides a majority of the time receives temporary duty, deployment, activation, or mobilization orders from the military that involve moving a substantial distance away from the parent's residence or otherwise would have a material effect on the parent's ability to exercise parenting functions and primary placement responsibilities, then:

(a) Any temporary custody order for the child during the parent's absence shall end no later than ten days after the returning parent provides notice to the temporary custodian, but shall not impair the discretion of the court to conduct an expedited or emergency hearing for resolution of the child's residential placement upon return of the parent and within ten days of the filing of a motion alleging an immediate danger of irreparable harm to the child. If a motion alleging immediate danger has not been filed, the motion for an order restoring the previous residential schedule shall be granted; and

(b) The temporary duty, activation, mobilization, or deployment and the temporary disruption to the child's schedule shall not be a factor in a determination of change of circumstances if a motion is filed to transfer residential placement from the parent who is a military service member.

(12) If a parent receives military temporary duty, deployment, activation, or mobilization orders that involve moving a substantial distance away from the military parent's residence or otherwise have a material effect on the military parent's ability to exercise residential time or visitation rights, at the request of the military parent, the court may delegate the military parent's residential time or visitation rights, or a portion thereof, to a child's family member, including a stepparent, or another person other than a parent, with a close and substantial relationship to the minor child for the duration of the military parent's absence, if delegating residential time or visitation rights is in the child's best interest. The court may not permit the delegation of residential time or visitation rights to a person who would be subject to limitations on residential time under ((~~RCW 26.09.191~~)) sections 2 through 4 of this act. The parties shall attempt to resolve disputes regarding delegation of residential time or visitation rights through the dispute resolution process specified in their parenting plan, unless excused by the court for good cause shown. Such a court‑ordered temporary delegation of a military parent's residential time or visitation rights does not create separate rights to residential time or visitation for a person other than a parent.

(13) If the court finds that a motion to modify a prior decree or parenting plan has been brought in bad faith, the court shall assess the attorney's fees and court costs of the nonmoving parent against the moving party.

**Sec.**  RCW 26.09.520 and 2019 c 79 s 3 are each amended to read as follows:

The person proposing to relocate with the child shall provide his or her reasons for the intended relocation. There is a rebuttable presumption that the intended relocation of the child will be permitted. A person entitled to object to the intended relocation of the child may rebut the presumption by demonstrating that the detrimental effect of the relocation outweighs the benefit of the change to the child and the relocating person, based upon the following factors. The factors listed in this section are not weighted. No inference is to be drawn from the order in which the following factors are listed:

(1) The relative strength, nature, quality, extent of involvement, and stability of the child's relationship with each parent, siblings, and other significant persons in the child's life;

(2) Prior agreements of the parties;

(3) Whether disrupting the contact between the child and the person seeking relocation would be more detrimental to the child than disrupting contact between the child and the person objecting to the relocation;

(4) Whether either parent or a person entitled to residential time with the child is subject to limitations under ((~~RCW 26.09.191~~)) sections 2 through 4 of this act;

(5) The reasons of each person for seeking or opposing the relocation and the good faith of each of the parties in requesting or opposing the relocation;

(6) The age, developmental stage, and needs of the child, and the likely impact the relocation or its prevention will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child;

(7) The quality of life, resources, and opportunities available to the child and to the relocating party in the current and proposed geographic locations;

(8) The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent;

(9) The alternatives to relocation and whether it is feasible and desirable for the other party to relocate also;

(10) The financial impact and logistics of the relocation or its prevention; and

(11) For a temporary order, the amount of time before a final decision can be made at trial.

**Sec.**  RCW 26.12.177 and 2011 c 292 s 7 are each amended to read as follows:

(1) All guardians ad litem appointed under this title must comply with the training requirements established under RCW 2.56.030(15), prior to their appointment in cases under Title 26 RCW, except that volunteer guardians ad litem or court-appointed special advocates may comply with alternative training requirements approved by the administrative office of the courts that meet or exceed the statewide requirements. In cases involving allegations of limiting factors under ((~~RCW 26.09.191~~)) sections 2 through 4 of this act, the guardians ad litem appointed under this title must have additional relevant training under RCW 2.56.030(15) when it is available.

(2)(a) Each guardian ad litem program for compensated guardians ad litem shall establish a rotational registry system for the appointment of guardians ad litem under this title. If a judicial district does not have a program the court shall establish the rotational registry system. Guardians ad litem under this title shall be selected from the registry except in exceptional circumstances as determined and documented by the court. The parties may make a joint recommendation for the appointment of a guardian ad litem from the registry.

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

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

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

(e) The superior court shall remove any person from the guardian ad litem registry who has been found to have misrepresented his or her qualifications.

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

**Sec.**  RCW 26.51.020 and 2021 c 215 s 143 and 2021 c 65 s 103 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abusive litigation" means litigation where the following apply:

(a)(i) The opposing parties have a current or former intimate partner relationship;

(ii) The party who is filing, initiating, advancing, or continuing the litigation has been found by a court to have committed domestic violence against the other party pursuant to: (A) An order entered under chapter 7.105 RCW or former chapter 26.50 RCW; (B) a parenting plan with restrictions based on ((~~RCW 26.09.191(2)(a)(iii)~~)) section 2(2)(a)(iii) of this act; or (C) a restraining order entered under chapter 26.09, 26.26A, or 26.26B RCW, provided that the issuing court made a specific finding that the restraining order was necessary due to domestic violence; and

(iii) The litigation is being initiated, advanced, or continued primarily for the purpose of harassing, intimidating, or maintaining contact with the other party; and

(b) At least one of the following factors apply:

(i) Claims, allegations, and other legal contentions made in the litigation are not warranted by existing law or by a reasonable argument for the extension, modification, or reversal of existing law, or the establishment of new law;

(ii) Allegations and other factual contentions made in the litigation are without the existence of evidentiary support; or

(iii) An issue or issues that are the basis of the litigation have previously been filed in one or more other courts or jurisdictions and the actions have been litigated and disposed of unfavorably to the party filing, initiating, advancing, or continuing the litigation.

(2) "Intimate partner" is defined in RCW 7.105.010.

(3) "Litigation" means any kind of legal action or proceeding including, but not limited to: (a) Filing a summons, complaint, demand, or petition; (b) serving a summons, complaint, demand, or petition, regardless of whether it has been filed; (c) filing a motion, notice of court date, note for motion docket, or order to appear; (d) serving a motion, notice of court date, note for motion docket, or order to appear, regardless of whether it has been filed or scheduled; (e) filing a subpoena, subpoena duces tecum, request for interrogatories, request for production, notice of deposition, or other discovery request; or (f) serving a subpoena, subpoena duces tecum, request for interrogatories, request for production, notice of deposition, or other discovery request.

(4) "Perpetrator of abusive litigation" means a person who files, initiates, advances, or continues litigation in violation of an order restricting abusive litigation.

NEW SECTION. **Sec.**  Sections 1 through 5 of this act are each added to chapter 26.09 RCW.

NEW SECTION. **Sec.**  RCW 26.09.191 (Restrictions in temporary or permanent parenting plans) and 2021 c 215 s 134, 2020 c 311 s 8, 2019 c 46 s 5020, 2017 c 234 s 2, 2011 c 89 s 6, 2007 c 496 s 303, 2004 c 38 s 12, 1996 c 303 s 1, & 1994 c 267 s 1 are each repealed."

Correct the title.

EFFECT: (1) Reorganizes the statute governing limitations that a court must or may impose on parenting plans into separate sections addressing: General provisions and definitions; mandatory factors requiring limitations; cases involving allegations of domestic violence or child abuse; limitations based on sex offenses against a child; and discretionary limitations.

(2) Creates new provisions addressing evidence a court must consider in cases involving allegations of domestic violence or child abuse. Requires the court to consider expert testimony and evidence if the expert demonstrates expertise and experience working with victims of domestic violence or child abuse. Requires the court to consider specific evidence of past sexual or physical abuse committed by the accused party, including: Past or current protection or restraining orders against the accused party; arrests or convictions of the accused party for domestic violence, sexual violence, or child abuse; or other documentation, including letters from a victim advocate or victim service provider if the victim consents to such disclosure, medical records, or a letter to a landlord to break a lease. Provides that any professional appointed to express an opinion relating to abuse, trauma, or the behaviors of victims and perpetrators of abuse must possess demonstrated expertise and experience in working with victims of domestic violence or child abuse.

(3) Removes specific provisions relating to standards and requirements for visitation and court-ordered evaluation and treatment, including the presumption of professional supervision and the ability of a parent to seek an ex parte order temporarily suspending residential time. Instead, retains current law that the limitations the court may impose include, but are not limited to, supervised contact between the child and the parent, completion of relevant counseling or treatment, or no contact with the child in certain cases. Also retains current law specifying that supervision must be provided by a neutral and independent adult pursuant to an adequate plan of supervision, and that a court unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm.

(4) Reinstates current law provision that a court must not allow a parent to have contact with a child if the parent has been found by clear and convincing evidence to have committed sexual assault against the child's parent, and that the child was born within 320 days of the sexual assault.

(5) Removes provisions that allow a court to not impose limitations on residential time, decision making, and dispute resolution based on a finding of specific factors by clear and convincing evidence. Instead, retains current law that the court need not impose limitations if the court expressly finds that contact between the parent and the child will not cause abuse or harm to the child and that the probability that the parent's or other person's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations, or if the court expressly finds that the parent's conduct did not have an impact on the child.

(6) Removes provisions that created new standards allowing a court to make exceptions in applying limitations where both parents are subject to mandatory or discretionary limitations.

(7) Provides that the Administrative Office of the Courts may develop and implement an ongoing education and training program for judges, magistrates, and other relevant court personnel. Provides that the training program must include the following factors: Sexual abuse; physical abuse; psychological and emotional abuse; implicit and explicit bias; trauma and neglect; and the impact of child abuse and domestic violence on children. Provides that the training program must include the latest best practices from evidence-based, peer-reviewed research by recognized experts on all types of child abuse and must be designed to improve the ability of courts to make appropriate custody decisions that are in the best interest of the child. Requires judicial officers and court personnel to complete 20 hours of initial training and at least 15 hours of ongoing training every 5 years.