

**SHB 2237 - H AMD 1061**

By Representative Griffey

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

3 "NEW SECTION. **Sec. 1.** GENERAL CONSIDERATIONS—DEFINITIONS.

4 (1)(a) In entering a permanent parenting plan, the court may not draw  
5 any presumptions from the provisions of the temporary parenting plan.

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

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

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

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

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

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

1 section. Protective actions as defined in this section shall not  
2 constitute a basis for a finding of abusive use of conflict.

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

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

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

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

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

26 NEW SECTION. **Sec. 2.** MANDATORY FACTORS—CONDUCT REQUIRING  
27 LIMITATIONS AND RESTRICTIONS. (1) The permanent parenting plan may  
28 not require mutual decision making or designation of a dispute  
29 resolution process other than court action if it is found that a  
30 parent has engaged in any of the following conduct: (a) Willful  
31 abandonment that continues for an extended period of time or  
32 substantial refusal to perform parenting functions; (b) physical,  
33 sexual, or a pattern of emotional abuse of a child; or (c) a history  
34 of acts of domestic violence as defined in RCW 7.105.010 or an  
35 assault or sexual assault that causes grievous bodily harm or the  
36 fear of such harm or that results in a pregnancy.

37 (2)(a) The parent's residential time with the child must be  
38 limited if it is found that the parent has engaged in any of the  
39 following conduct: (i) Willful abandonment that continues for an

1 extended period of time or substantial refusal to perform parenting  
2 functions; (ii) physical, sexual, or a pattern of emotional abuse of  
3 a child; (iii) a history of acts of domestic violence as defined in  
4 RCW 7.105.010 or an assault or sexual assault that causes grievous  
5 bodily harm or the fear of such harm or that results in a pregnancy;  
6 or (iv) the parent has been convicted of a sex offense against a  
7 child. Required limitations for a parent who has been convicted of a  
8 sex offense against a child are addressed in section 3 of this act.

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

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

36 (b) The court may not enter an order under subsection (2) of this  
37 section allowing a parent to have contact with a child if the parent  
38 has been found by clear and convincing evidence in a civil action or  
39 by a preponderance of the evidence in a dependency action to have  
40 sexually abused the child, except upon recommendation by a therapist

1 for the child that the child is ready for contact with the parent and  
2 will not be harmed by the contact. The court may not enter an order  
3 allowing a parent to have contact with the child in the offender's  
4 presence if the parent resides with a person who has been found by  
5 clear and convincing evidence in a civil action or by a preponderance  
6 of the evidence in a dependency action to have sexually abused a  
7 child, unless the court finds that the parent accepts that the person  
8 engaged in the harmful conduct and the parent is willing to and  
9 capable of protecting the child from harm from the person.

10 (c) The court may not enter an order under subsection (2) of this  
11 section allowing a parent to have contact with a child if the parent  
12 has been found by clear and convincing evidence pursuant to RCW  
13 26.26A.465 to have committed sexual assault, as defined in RCW  
14 26.26A.465, against the child's parent, and that the child was born  
15 within 320 days of the sexual assault.

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

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

37 NEW SECTION. **Sec. 3.** SEX OFFENSES AGAINST A CHILD. (1)(a) The  
38 parent's residential time with the child must be limited if it is

1 found that the parent has been convicted as an adult of a sex offense  
2 under:

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

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

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

12 (iv) RCW 9A.44.089;

13 (v) RCW 9A.44.093;

14 (vi) RCW 9A.44.096;

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

18 (viii) Chapter 9.68A RCW;

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

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

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

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

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

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

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

39 (iv) RCW 9A.44.089;

40 (v) RCW 9A.44.093;

1 (vi) RCW 9A.44.096;

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

5 (viii) Chapter 9.68A RCW;

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

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

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

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

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

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

30 (b) RCW 9A.44.073;

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

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

35 (e) RCW 9A.44.083;

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

38 (g) RCW 9A.44.100;

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

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

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

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

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

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

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

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

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

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

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

37 (9) If the court finds that the parent has met the burden of  
38 rebutting the presumption under subsection (7) of this section, the  
39 court may allow a parent residing with a person who has been  
40 convicted as an adult, or a person who has been adjudicated as a

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

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

36 (11) A court may order unsupervised contact between the parent  
37 and a child which may occur in the presence of a juvenile adjudicated  
38 of a sex offense listed in subsection (4)(a) through (i) of this  
39 section who resides with the parent after the presumption under  
40 subsection (5) of this section has been rebutted and supervised

1 residential time has occurred for at least two years during which  
2 time the adjudicated juvenile has had no further arrests,  
3 adjudications, or convictions of sex offenses involving children  
4 under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW, and the  
5 court finds that unsupervised contact between the child and the  
6 parent that may occur in the presence of the adjudicated juvenile is  
7 appropriate and poses minimal risk to the child, after consideration  
8 of the testimony of a state-certified therapist, mental health  
9 counselor, or social worker with expertise in treatment of child  
10 sexual abuse victims who has supervised at least one period of  
11 residential time between the parent and the child in the presence of  
12 the adjudicated juvenile, and after consideration of evidence of the  
13 adjudicated juvenile's compliance with community supervision or  
14 parole requirements, if any. If the adjudicated juvenile was not  
15 ordered by a court to participate in treatment for sex offenders,  
16 then the adjudicated juvenile shall obtain a psychosexual evaluation  
17 conducted by a certified sex offender treatment provider or a  
18 certified affiliate sex offender treatment provider indicating that  
19 the adjudicated juvenile has the lowest likelihood of risk to  
20 reoffend before the court grants unsupervised contact between the  
21 parent and a child which may occur in the presence of the adjudicated  
22 juvenile who is residing with the parent.

23 NEW SECTION. **Sec. 4.** DISCRETIONARY FACTORS—PARENTAL CONDUCT  
24 THAT MAY RESULT IN LIMITATIONS ON A PARENT'S RESIDENTIAL TIME. If a  
25 parent's involvement or conduct may have an adverse effect on the  
26 child's best interests, the court may preclude or limit any  
27 provisions of the parenting plan if any of the following factors  
28 exist:

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

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

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

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

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

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

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

11 NEW SECTION. **Sec. 5.** ALLEGATIONS OF DOMESTIC VIOLENCE OR CHILD  
12 ABUSE. (1) In all proceedings brought pursuant to this title  
13 concerning the allocation of parental responsibilities with respect  
14 to a child in which a claim of domestic violence or child abuse,  
15 including child sexual abuse, has been made to the court, or the  
16 court has reason to believe that a party has committed domestic  
17 violence or child abuse, including child sexual abuse, the court  
18 shall:

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

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

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

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

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

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

36 (2) In compliance with the federal keeping children safe from  
37 family violence act, Title 34 U.S.C. Sec. 10446, as amended, any  
38 neutral professional appointed by a court to express an opinion  
39 relating to abuse, trauma, or the behaviors of victims and

1 perpetrators of abuse and trauma during a proceeding to allocate  
2 parental responsibilities must possess demonstrated expertise and  
3 experience in working with victims of domestic violence or child  
4 abuse, including child sexual abuse, that is not solely of a forensic  
5 nature.

6 NEW SECTION. **Sec. 6.** A new section is added to chapter 2.56 RCW  
7 to read as follows:

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

- 14 (a) Sexual abuse;
- 15 (b) Physical abuse;
- 16 (c) Psychological and emotional abuse;
- 17 (d) Implicit and explicit bias;
- 18 (e) Trauma and neglect; and
- 19 (f) The impact of child abuse and domestic violence on children.

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

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

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

- 37 (a) No less than 20 hours of initial training; and
- 38 (b) No less than 15 hours of ongoing training every five years.

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

4 **Sec. 7.** RCW 11.130.215 and 2022 c 243 s 8 are each amended to  
5 read as follows:

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

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

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

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

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

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

37 (4) The court, as part of an order appointing a guardian for a  
38 minor, shall state rights retained by any parent of the minor, which  
39 shall preserve the parent-child relationship through an order for

1 parent-child visitation and other contact, unless the court finds the  
2 relationship should be limited or restricted under (~~RCW 26.09.191~~)  
3 sections 2 through 4 of this act; and which may include decision  
4 making regarding the minor's health care, education, or other matter,  
5 or access to a record regarding the minor.

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

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

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

12 (c) The court has removed the guardian.

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

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

20 **Sec. 8.** RCW 26.09.187 and 2007 c 496 s 603 are each amended to  
21 read as follows:

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

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

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

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

38 (2) ALLOCATION OF DECISION-MAKING AUTHORITY.

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

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

8 (ii) The agreement is knowing and voluntary.

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

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

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

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

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

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

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

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

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

29 (3) RESIDENTIAL PROVISIONS.

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

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

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

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

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

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

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

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

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

17 (b) Where the limitations of (~~RCW 26.09.191~~) sections 2 through  
18 4 of this act are not dispositive, the court may order that a child  
19 frequently alternate his or her residence between the households of  
20 the parents for brief and substantially equal intervals of time if  
21 such provision is in the best interests of the child. In determining  
22 whether such an arrangement is in the best interests of the child,  
23 the court may consider the parties geographic proximity to the extent  
24 necessary to ensure the ability to share performance of the parenting  
25 functions.

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

31 **Sec. 9.** RCW 26.09.194 and 2008 c 6 s 1045 are each amended to  
32 read as follows:

33 (1) A parent seeking a temporary order relating to parenting  
34 shall file and serve a proposed temporary parenting plan by motion.  
35 The other parent, if contesting the proposed temporary parenting  
36 plan, shall file and serve a responsive proposed parenting plan.  
37 Either parent may move to have a proposed temporary parenting plan  
38 entered as part of a temporary order. The parents may enter an agreed  
39 temporary parenting plan at any time as part of a temporary order.

1 The proposed temporary parenting plan may be supported by relevant  
2 evidence and shall be accompanied by an affidavit or declaration  
3 which shall state at a minimum the following:

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

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

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

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

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

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

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

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

22 (c) Allocation of decision-making authority, if any. Absent  
23 allocation of decision-making authority consistent with RCW  
24 26.09.187(2), neither party shall make any decision for the child  
25 other than those relating to day-to-day or emergency care of the  
26 child, which shall be made by the party who is present with the  
27 child;

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

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

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

33 (4) A parent may move for amendment of a temporary parenting  
34 plan, and the court may order amendment to the temporary parenting  
35 plan, if the amendment conforms to the limitations of ((~~RCW~~  
36 ~~26.09.191~~)) sections 2 through 4 of this act and is in the best  
37 interest of the child.

38 (5) If a proceeding for dissolution of marriage or dissolution of  
39 domestic partnership, legal separation, or declaration of invalidity

1 is dismissed, any temporary order or temporary parenting plan is  
2 vacated.

3 **Sec. 10.** RCW 26.09.260 and 2009 c 502 s 3 are each amended to  
4 read as follows:

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

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

20 (a) The parents agree to the modification;

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

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

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

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

36 (4) The court may reduce or restrict contact between the child  
37 and the parent with whom the child does not reside a majority of the  
38 time if it finds that the reduction or restriction would serve and

1 protect the best interests of the child using the criteria in ((RCW  
2 ~~26.09.191~~) sections 2 through 4 of this act.

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

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

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

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

28 (6) The court may order adjustments to the residential aspects of  
29 a parenting plan pursuant to a proceeding to permit or restrain a  
30 relocation of the child. The person objecting to the relocation of  
31 the child or the relocating person's proposed revised residential  
32 schedule may file a petition to modify the parenting plan, including  
33 a change of the residence in which the child resides the majority of  
34 the time, without a showing of adequate cause other than the proposed  
35 relocation itself. A hearing to determine adequate cause for  
36 modification shall not be required so long as the request for  
37 relocation of the child is being pursued. In making a determination  
38 of a modification pursuant to relocation of the child, the court  
39 shall first determine whether to permit or restrain the relocation of  
40 the child using the procedures and standards provided in RCW

1 26.09.405 through 26.09.560. Following that determination, the court  
2 shall determine what modification pursuant to relocation should be  
3 made, if any, to the parenting plan or custody order or visitation  
4 order.

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

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

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

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

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

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

39 (a) Any temporary custody order for the child during the parent's  
40 absence shall end no later than ten days after the returning parent

1 provides notice to the temporary custodian, but shall not impair the  
2 discretion of the court to conduct an expedited or emergency hearing  
3 for resolution of the child's residential placement upon return of  
4 the parent and within ten days of the filing of a motion alleging an  
5 immediate danger of irreparable harm to the child. If a motion  
6 alleging immediate danger has not been filed, the motion for an order  
7 restoring the previous residential schedule shall be granted; and

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

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

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

38 **Sec. 11.** RCW 26.09.520 and 2019 c 79 s 3 are each amended to  
39 read as follows:

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

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

14       (2) Prior agreements of the parties;

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

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

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

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

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

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

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

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

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

1       **Sec. 12.** RCW 26.12.177 and 2011 c 292 s 7 are each amended to  
2 read as follows:

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

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

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

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

37       (d) Under this section, within either registry referred to in (a)  
38 of this subsection, a subregistry may be created that consists of  
39 guardians ad litem under contract with the department of social and  
40 health services' division of child support. Guardians ad litem on

1 such a subregistry shall be selected and appointed in state-initiated  
2 paternity cases only.

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

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

8 **Sec. 13.** RCW 26.51.020 and 2021 c 215 s 143 and 2021 c 65 s 103  
9 are each reenacted and amended to read as follows:

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

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

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

16 (ii) The party who is filing, initiating, advancing, or  
17 continuing the litigation has been found by a court to have committed  
18 domestic violence against the other party pursuant to: (A) An order  
19 entered under chapter 7.105 RCW or former chapter 26.50 RCW; (B) a  
20 parenting plan with restrictions based on ((RCW  
21 ~~26.09.191(2)(a)(iii)~~) section 2(2)(a)(iii) of this act; or (C) a  
22 restraining order entered under chapter 26.09, 26.26A, or 26.26B RCW,  
23 provided that the issuing court made a specific finding that the  
24 restraining order was necessary due to domestic violence; and

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

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

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

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

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

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

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

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

17 NEW SECTION. **Sec. 14.** Sections 1 through 5 of this act are each  
18 added to chapter 26.09 RCW.

19 NEW SECTION. **Sec. 15.** RCW 26.09.191 (Restrictions in temporary  
20 or permanent parenting plans) and 2021 c 215 s 134, 2020 c 311 s 8,  
21 2019 c 46 s 5020, 2017 c 234 s 2, 2011 c 89 s 6, 2007 c 496 s 303,  
22 2004 c 38 s 12, 1996 c 303 s 1, & 1994 c 267 s 1 are each repealed."

23 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.

--- END ---