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By Representatives Rule, Mosbrucker, Ryu, Eslick, Chambers, Barnard, Graham, Cheney, Doglio, Sandlin, Orwall, Caldier, Reeves, and Hackney

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1 AN ACT Relating to keeping children safe from family violence;
2 adding new sections to chapter 26.09 RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that:

5 (1) Approximately 15,000,000 children in the United States are
6 exposed each year to domestic violence or child abuse, according to
7 the national survey by the office of juvenile justice and delinquency
8 prevention within the United States department of justice and the
9 centers for disease control and prevention.

10 (2) Most child abuse is perpetrated in the family and by a
11 parent. Intimate partner violence and child abuse overlap in the same
12 families at rates of 30 to 60 percent. A child's risk of abuse
13 increases after a perpetrator of intimate partner violence separates
14 from a domestic partner, even when the perpetrator had not previously
15 directly abused the child. Children who have witnessed intimate
16 partner violence are approximately four times more likely to
17 experience direct child maltreatment than children who have not
18 witnessed intimate partner violence.

19 (3) More than 75 percent of child sexual abuse is perpetrated by
20 a family member or a person known to the child. The United States
21 department of justice data shows that family members are almost half

1 of the perpetrators of child sex assault victims under the age of
2 six.

3 (4) Research suggests a child's exposure to a batterer is among
4 the strongest indicators of risk of incest victimization. One study
5 found that female children whose fathers were batterers of the mother
6 were six-and-a-half times more likely to experience father-daughter
7 incest than female children who do not have an abusive father.

8 (5) Child abuse is a major public health issue in the United
9 States. Total lifetime financial costs associated with just one year
10 of confirmed cases of child maltreatment, including child physical
11 abuse, sexual abuse, psychological abuse, and neglect, results in
12 \$124,000,000,000 in annual costs to the United States economy, or
13 approximately one percent of the gross domestic product.

14 (6) Empirical research indicates that allegations of child
15 physical and sexual abuse are regularly discounted by courts across
16 the country when raised in child custody cases. While independent
17 research indicates that child sexual abuse allegations are credible
18 50 to 70 percent of the time, fewer than one-fourth of claims that a
19 father has committed child physical or sexual abuse are believed.
20 Where the allegedly abusive parent claimed the mother was alienating
21 the child, only one in 51 claims of sexual molestation by a father
22 are believed.

23 (7) Empirical research shows that alleged or known abusive
24 parents are often granted custody or unprotected parenting time by
25 courts across the country. Approximately one-third of parents alleged
26 to have committed child abuse took primary custody from the
27 protective parent reporting the abuse, placing children at ongoing
28 risk.

29 (8) The United States child murder data from the center for
30 judicial excellence shows that, since 2008, 21 children have been
31 murdered in Washington and nearly 800 children have been murdered in
32 the United States by a divorcing or separating parent, with more than
33 100 of these murders known to have occurred after a court ordered the
34 child into contact with the dangerous parent over the objection of
35 the safe parent or caregiver.

36 (9) Scientifically unsound theories that treat mothers' abuse
37 allegations as likely false attempts to undermine the father are
38 frequently applied in family court to minimize or deny parents' and
39 children's reports of abuse. Many experts who testify against abuse

1 allegations lack expertise in the relevant type of alleged abuse,
2 relying instead on unsound and unproven theories.

3 (10) Judges presiding over custody cases with allegations of
4 child abuse, child sexual abuse, and domestic violence are rarely
5 required to receive training on these subjects, nor has Washington
6 established extensive standards for such trainings.

7 NEW SECTION. **Sec. 2.** (1) In a proceeding concerning the
8 determination or modification of parenting plans, child custody or
9 visitation, child support, or allocation of parenting functions in
10 which a parent has been alleged to have committed domestic violence
11 or child abuse, including child sexual abuse, the court shall:

12 (a) Make express written findings that are based on evidence
13 regarding any allegation of domestic violence or child abuse,
14 including child sexual abuse and, in addition to any other relevant
15 admissible evidence, consider evidence of past sexual or physical
16 abuse committed by the accused parent, including:

17 (i) Any past or current protection or restraining orders against
18 the accused parent;

19 (ii) Sexual violence abuse protection orders against the accused
20 parent;

21 (iii) Arrests of the accused parent for domestic violence, sexual
22 violence, or child abuse; or

23 (iv) Convictions of the accused parent for domestic violence,
24 sexual violence, or child abuse; and

25 (b) Consider the admission of expert testimony and evidence from
26 a court-appointed or outside professional relating to the alleged
27 abuse only if the expert or professional demonstrates expertise and
28 substantial direct experience working with victims of domestic
29 violence or child abuse, including child sexual abuse, that is not
30 solely forensic in nature.

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

1 (3) For the purposes of this section, "forensic" means court-
2 ordered professional activities, such as evaluation or treatment of
3 parties to the litigation or children of the parties for assistance
4 in a court case.

5 NEW SECTION. **Sec. 3.** (1) In a proceeding concerning the
6 determination or modification of parenting plans, child custody or
7 visitation, child support, or allocation of parenting functions, the
8 court may not, solely in order to improve a deficient relationship
9 with the other parent:

10 (a) Remove the child from a parent who is competent, protective,
11 and not physically or sexually abusive, and with whom the child is
12 bonded; or

13 (b) Restrict contact between the child and a parent who is
14 competent, protective, and not physically or sexually abusive, and
15 with whom the child is bonded.

16 (2) The court may not remove the child from a competent,
17 protective, and not physically or sexually abusive parent or restrict
18 contact between the child and a competent, protective, and not
19 physically or sexually abusive parent solely on the basis of
20 protective actions taken by a competent, protective, and not
21 physically or sexually abusive parent. Protective actions are actions
22 that are taken by a competent, protective, and not physically or
23 sexually abusive parent in good faith for the purpose of protecting
24 that parent or the child from the risk of harm posed by the other
25 parent. Protective actions include, but are not limited to:

26 (a) Submitting reports or filing complaints regarding child
27 neglect or physical, sexual, or mental abuse of a child to an
28 individual or entity connected to the provision of care or safety of
29 the child, such as law enforcement, child protective services,
30 medical professionals, therapists, schools, or day care facilities;

31 (b) Seeking modification of residential time provisions of the
32 parenting plan; or

33 (c) Petitioning for protection or restraining orders.

34 NEW SECTION. **Sec. 4.** (1) In a proceeding concerning the
35 determination or modification of parenting plans, child custody or
36 visitation, child support, or allocation of parenting functions, the
37 court may not:

1 (a) Order a reunification treatment, unless there is generally
2 accepted and valid proof of the safety, effectiveness, and
3 therapeutic value of the reunification treatment and the treatment is
4 not associated with causing harm to children;

5 (b) Order a reunification treatment that is predicated on cutting
6 off a child from a competent, protective, and not physically or
7 sexually abusive parent with whom the child is bonded; or

8 (c) Order family reunification treatments, programs, or services,
9 including, but not limited to, camps, workshops, therapeutic
10 vacations, or educational programs that, as a condition of enrollment
11 or participation, require or result in any of the following:

12 (i) A no-contact order;

13 (ii) An overnight, out-of-state, or multiday stay;

14 (iii) A transfer of physical or legal custody of the child;

15 (iv) The use of private youth transporters or private
16 transportation agents engaged in the use of force, threat of force,
17 physical obstruction, acutely distressing circumstances, or
18 circumstances that place the safety of the child at risk; or

19 (v) The use of threats of physical force, undue coercion, verbal
20 abuse, isolation from the child's family, community, or other sources
21 of support, or other acutely distressing circumstances.

22 (2) Any court order to remediate the resistance of a child to
23 have contact with a violent or abusive parent must include express
24 written findings based on the evidence and must primarily address the
25 behavior of that parent or the contributions of that parent to the
26 resistance of the child before ordering the other parent to take
27 steps to potentially improve the relationship of the child with the
28 parent with whom the child resists contact.

29 (3) For the purposes of this section, "reunification treatment"
30 means a treatment or therapy aimed at reuniting or reestablishing a
31 relationship between a child and an estranged or rejected parent.

32 NEW SECTION. **Sec. 5.** (1) To comply with the federal keeping
33 children safe from family violence act, Title 34 U.S.C. Sec. 10446,
34 family court judges, commissioners, guardians ad litem,
35 investigators, and any other relevant court-appointed professionals
36 involved in proceedings concerning the determination or modification
37 of parenting plans, child custody or visitation, child support, or
38 allocation of parenting functions must complete, with respect to the
39 training program described in this section:

1 (a) Not less than 20 hours of initial training; and
2 (b) Not less than 15 hours of ongoing training every five years.
3 (2) The training program required in subsection (1) of this
4 section is an ongoing training and education program that focuses
5 solely on domestic and sexual violence and child abuse, including:
6 (a) Child sexual abuse;
7 (b) Physical abuse;
8 (c) Emotional abuse;
9 (d) Coercive control;
10 (e) Implicit and explicit bias, including biases relating to
11 parents with disabilities;
12 (f) Trauma;
13 (g) Long-term and short-term impacts of domestic violence and
14 child abuse on children;
15 (h) Victim and perpetrator behavioral patterns and relationship
16 dynamics within the cycle of violence;
17 (i) The detriment to children of residing with a person who
18 perpetrates domestic violence; and
19 (j) That domestic violence can occur without a party seeking or
20 obtaining a restraining order, without a substantiated child
21 protective services finding, and without other documented evidence of
22 abuse.
23 (3) The training and education program must be provided by a
24 professional with substantial experience in assisting survivors of
25 domestic violence or child abuse, including a victim service provider
26 as defined in Title 34 U.S.C. Sec. 12291 and, if possible, a survivor
27 of domestic violence or child physical or sexual abuse.
28 (4) The training and education program:
29 (a) Must rely on evidence-based research by recognized experts in
30 the types of abuse described in subsection (2) of this section; and
31 (c) May not include theories, concepts, or belief systems
32 unsupported by the research described in (a) of this subsection.
33 (5) The training and education must be designed to improve the
34 ability of courts to:
35 (a) Recognize and respond to child physical abuse, child sexual
36 abuse, domestic violence, and trauma in all family victims,
37 particularly children; and
38 (b) Make appropriate child custody decisions that prioritize
39 child safety and well-being and are culturally sensitive and
40 appropriate for diverse communities.

1 NEW SECTION. **Sec. 6.** Sections 2 through 5 of this act are each
2 added to chapter 26.09 RCW.

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