ESHB 1620 - S COMM AMD
By Committee on Law & Justice

ADOPTED AS AMENDED 04/02/2025

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 26.09.191 and 2021 c 215 s 134 are each amended to read as follows:

(1) ((~~The permanent parenting plan shall not require mutual decision-making or designation of a dispute resolution process other than court action~~)) PURPOSE. Parents are responsible for protecting and preserving the health and well-being of their minor children. When a parent acts contrary to the health and well-being of the parent's child, or engages in conduct that creates an unreasonable risk of harm to a child, the court may, and in some situations must, impose limitations intended to protect the child from harm as described in this section and section 2 of this act.

(2) GENERAL CONSIDERATIONS.

(a) In entering a permanent parenting plan, the court shall 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 former 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 this section or section 2 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.

(3) DEFINITIONS. The definitions in this subsection apply throughout this section and section 2 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; (iii) intentional use of the child in conflict; or (iv) 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" shall also mean "children."

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

(d) "Parenting functions" has the same meaning as in RCW 26.09.004.

(e) "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.

(f) "Sex offense against a child" means any of the following offenses involving a child victim: (i) Any sex offense as defined in RCW 9.94A.030; (ii) any offense with a finding of sexual motivation; (iii) any offense in violation of chapter 9A.44 RCW other than RCW 9A.44.132; (iv) any offense involving the sexual abuse of a minor, including any offense under chapter 9.68A RCW; or (v) any federal or out-of-state offense comparable to any offense under (f)(i) through (iv) of this subsection.

(g) "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.

(h) "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 circumstances that include, but are not limited 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.

(4) RESIDENTIAL TIME LIMITATIONS.

(a) PARENTAL CONDUCT REQUIRING LIMITS ON A PARENT'S RESIDENTIAL TIME. A parent's residential time with the parent's child shall be limited if it is found that a parent has engaged in any of the following conduct:

((~~(a)~~)) (i) Willful abandonment that continues for an extended period of time ((~~or substantial refusal to perform parenting functions;~~

~~(b) physical, sexual,~~));

(ii) Physical abuse or a pattern of emotional abuse of a child;

((~~or (c) a~~)) (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.~~

~~(2)(a) The~~)), or any sexual assault; or

(iv) Sexual abuse of a child. Required limitations and considerations for a parent who has been convicted of a sex offense against a child or found to have sexually abused a child in the current case or a prior case are addressed in section 2 of this act.

(b) PARENT RESIDING WITH A PERSON WHOSE CONDUCT REQUIRES RESIDENTIAL TIME LIMITATIONS. A parent's residential time with the child shall be limited if it is found that the parent knowingly resides with a person who 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,~~))

(i) Physical abuse or a pattern of emotional abuse of a child;

((~~(iii) a~~)) (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 (iv) the parent has been convicted as an adult of a sex offense under:~~

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

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

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

~~(D) RCW 9A.44.089;~~

~~(E) RCW 9A.44.093;~~

~~(F) RCW 9A.44.096;~~

~~(G) 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 (d) of this subsection;~~

~~(H) Chapter 9.68A RCW;~~

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

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

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

~~(b) The parent's residential time with the child shall be limited if it is found that the parent 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 has been convicted as an adult or as a juvenile has been adjudicated of a sex offense under:~~

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

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

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

~~(D) RCW 9A.44.089;~~

~~(E) RCW 9A.44.093;~~

~~(F) RCW 9A.44.096;~~

~~(G) 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 (e) of this subsection;~~

~~(H) Chapter 9.68A RCW;~~

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

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

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

~~(c) 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.~~

~~(d) There is a rebuttable presumption that a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) 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:~~

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

~~(ii) RCW 9A.44.073;~~

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

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

~~(v) RCW 9A.44.083;~~

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

~~(vii) RCW 9A.44.100;~~

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

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

~~(e) There is a rebuttable presumption that a parent who resides with a person who, as an adult, has been convicted, or as a juvenile has been adjudicated, of the sex offenses listed in (e)(i) through (ix) of this subsection 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:~~

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

~~(ii) RCW 9A.44.073;~~

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

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

~~(v) RCW 9A.44.083;~~

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

~~(vii) RCW 9A.44.100;~~

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

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

~~(f) The presumption established in (d) of this subsection 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:~~

~~(i) If the child was not the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, and (B) 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~~

~~(ii) If the child was the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, (B) 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 (C) 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.~~

~~(g) The presumption established in (e) of this subsection 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:~~

~~(i) If the child was not the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (A) 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 (B) 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~~

~~(ii) If the child was the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (A) 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, (B) 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 (C) 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.~~

~~(h) If the court finds that the parent has met the burden of rebutting the presumption under (f) of this subsection, the court may allow a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection 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 shall 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.~~

~~(i) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who has been adjudicated as a juvenile of a sex offense listed in (e)(i) through (ix) of this subsection 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 shall 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.~~

~~(j) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who, as an adult, has been convicted of a sex offense listed in (e)(i) through (ix) of this subsection to have residential time with the child in the presence of the convicted person supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall 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.~~

~~(k) A court shall 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 (d) of this subsection 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 (i) the sex offense of the offending parent was not committed against a child of the offending parent, and (ii) 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 shall 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.~~

~~(l) 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 (e)(i) through (ix) of this subsection who resides with the parent after the presumption under (e) of this subsection 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 (i) 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.~~

~~(m)(i) The limitations imposed by the court under (a) or (b) of this subsection shall 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 shall 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.~~

~~(ii) The court shall not enter an order under (a) of this subsection 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 an evaluator or therapist for the child that the child is ready for contact with the parent and will not be harmed by the contact. The court shall 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.~~

~~(iii) The court shall not enter an order under (a) of this subsection 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 three hundred twenty days of the sexual assault.~~

~~(iv) If the court limits residential time under (a) or (b) of this subsection to require supervised contact between the child and the parent, the court shall 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.~~

~~(n) 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 (a), (b), and (m)(i) and (iv) of this subsection, 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 (a), (b), and (m)(i) and (iv) of this subsection. The weight given to the existence of a protection order issued under chapter 7.105 RCW or former chapter 26.50 RCW as to domestic violence is within the discretion of the court. This subsection shall not apply when (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this subsection apply.~~

~~(3)~~)), or any sexual assault; or

(iii) Sexual abuse of a child. Required limitations and considerations on a parent who resides with someone convicted of a sex offense against a child or found to have sexually abused a child

in the current case or a prior case are addressed in section 2 of this act.

(c) PARENTAL CONDUCT THAT MAY RESULT IN LIMITATIONS ON A PARENT'S RESIDENTIAL TIME. A parent's involvement or conduct may have an adverse effect on the child's best interests, and the court may preclude or limit any provisions of the parenting plan, if any of the following factors exist:

((~~(a)~~)) (i) A parent's neglect or substantial nonperformance of parenting functions;

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

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

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

((~~(e) The~~)) (v) A parent has engaged in the abusive use of conflict ((~~by the parent~~)) which creates the danger of serious damage to the child's psychological development((~~. Abusive use of conflict includes, but is not limited to, abusive litigation as defined in RCW 26.51.020. If the court finds a parent has engaged in abusive litigation, the court may impose any restrictions or remedies set forth in chapter 26.51 RCW in addition to including a finding in the parenting plan. Litigation that is aggressive or improper but that does not meet the definition of abusive litigation shall not constitute a basis for a finding under this section. A report made in good faith to law enforcement, a medical professional, or child protective services of sexual, physical, or mental abuse of a child shall not constitute a basis for a finding of abusive use of conflict;~~

~~(f)~~));

(vi) 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

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

((~~(4) In cases involving allegations of limiting factors under subsection (2)(a)(ii) and (iii) of this section, both parties shall be screened to determine the appropriateness of a comprehensive assessment regarding the impact of the limiting factor on the child and the parties.~~

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

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

~~(7) For the purposes of this section:~~

~~(a) "A parent's child" means that parent's natural child, adopted child, or stepchild; and~~

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

(d) LIMITATIONS A COURT MAY IMPOSE ON A PARENT'S RESIDENTIAL TIME. The limitations that may be imposed by the court under this section shall be reasonably calculated to protect a child from the physical, sexual, or emotional abuse or harm that could result if a child has contact with the parent requesting residential time. The limitations shall 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 other parent. The limitations the court may impose include, but are not limited to:

(i) SUPERVISED VISITATION. A court may, in its discretion, order supervised contact between a child and the parent.

(A) If the court requires supervised visitation, there is a presumption that the supervision shall be provided by a professional supervisor. This presumption is overcome if the court finds: (I) There is a lay person who has demonstrated through sworn testimony and evidence of past interactions with children that they are capable and committed to protecting the child from physical or emotional abuse or harm; and (II) the parent is unable to access professional supervision due to (1) geographic isolation or other factors that would make professionally supervised visitation inaccessible or (2) financial indigency that has been demonstrated by a general rule 34 waiver or other evidence that the parent's current income and

necessary expenses do not allow for the cost of professional supervision.

(B) For all supervision, the court shall include clear written guidelines and prohibitions to be followed by the supervised party. No visits shall take place until the supervised parent and supervisor, or designated representative of a professional supervision program, have signed an acknowledgment confirming that they have read the court orders and the guidelines and prohibitions regarding visitation and agree to follow them. The court shall only permit supervision by an individual or program that is committed to protecting the child from any physical or emotional abuse or harm and is willing and capable of intervening in behaviors inconsistent with the court orders and guidelines.

(C) A parent may seek an emergency ex parte order temporarily suspending residential time until review by the court if: (I) The supervised parent repeatedly violates the court order or guidelines; (II) the supervised parent threatens the supervisor or child with physical harm, commits an act of domestic violence, or materially violates any treatment condition associated with any restrictions under this section (a missed counseling appointment does not constitute a violation); (III) the supervisor is unable or unwilling to protect the child and/or the protected parent; or (IV) the supervisor is no longer willing to provide service to the supervised parent. The court suspending residential time shall set a review hearing to take place within 14 days of entering the ex parte order.

(ii) EVALUATION OR TREATMENT. The court may order a parent to undergo evaluations for such issues as domestic violence perpetration, substance use disorder, mental health, or anger management, with collateral input provided from the other parent. Any evaluation report that does not include collateral input must provide details as to why and the attempts made to obtain collateral input.

(A) The court may also order that a parent complete treatment for any of these issues if the need for treatment is supported by the evidence and the evidence supports a finding that the issue interferes with parenting functions.

(B) A parent's residential time and decision-making authority may be conditioned on the parent's completion of an evaluation or treatment ordered by the court.

(iii) NO CONTACT. If, based on the evidence, the court expressly finds that limitations on the residential time with a child will not

adequately protect a child from the harm or abuse that could result if a child has contact with the parent requesting residential time, the court shall restrain the parent requesting residential time from all contact with a child.

(5) LIMITATIONS ON DECISION MAKING AND DISPUTE RESOLUTION. Except for circumstances provided in subsection (6)(b) of this section, the court shall order sole decision making and no dispute resolution 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;

(b) Physical, sexual, or a pattern of emotional abuse of a child;

(c) A history of acts of domestic violence as defined in RCW 7.105.010; or

(d) An assault that causes grievous bodily harm or the fear of such harm or any sexual assault.

(6) DETERMINATION NOT TO IMPOSE LIMITATIONS.

(a) If the court makes express written findings based on clear and convincing 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 limitations to residential time under subsection (4) of this section, then the court need not apply the limitations of subsection (4) of this section. This subsection shall not apply to findings of sexual abuse which are governed by section 2 of this act.

(b) If the court makes express written findings based on clear and convincing evidence that it would be contrary to the child's best interests to order sole decision making or preclude dispute resolution under subsection (5) of this section, the court need not apply those limitations. Where there has been a finding of domestic violence, there is a rebuttable presumption that there will be sole decision making. The court shall not require face-to-face mediation, arbitration, or interventions, including therapeutic interventions, that require the parties to share the same physical or virtual space if there has been a finding of domestic violence.

(c) In determining whether there is clear and convincing evidence supporting a determination not to impose limitations, the court shall consider and make express written findings on all of the following factors:

(i) Any current risk posed by the parent to the physical or psychological well-being of the child or other parent;

(ii) Whether a parent has demonstrated that they can and will prioritize the child's physical and psychological well-being;

(iii) Whether a parent has adhered to and is likely to adhere to court orders;

(iv) Whether a parent has genuinely acknowledged past harm and is committed to avoiding harm in the future; and

(v) A parent's compliance with any previously court-ordered treatment. A parent's compliance with the requirements for participation in a treatment program does not, by itself, constitute evidence that the parent has made the requisite changes.

(7) WHEN LIMITATIONS APPLY TO BOTH PARENTS.

(a) When mandatory limitations in subsection (4)(a) or (b) of this section apply to both parents, the court may make an exception in applying mandatory limitations. The court shall make detailed written findings regarding the comparative risk of harm to the child posed by each parent, and shall explain the limitations imposed on each parent, including any decision not to impose restrictions on a parent or to award decision making to a parent who is subject to limitations.

(b) When mandatory limitations under subsection (4)(a) or (b) of this section apply to one parent and discretionary limitations under subsection (4)(c) of this section apply to another parent, there is a presumption that the mandatory limitations shall have priority in setting the limitations of the residential schedule, decision making, and dispute resolution. If the court deviates from this presumption, the court shall make detailed written findings as to the reasons for the deviation.

(c) When discretionary limitations in subsection (4)(c) of this section apply to both parents, the court shall make detailed written findings regarding the comparative risk of harm to the child posed by each parent, and shall explain the limitations imposed on each parent, including any decision not to impose restrictions on a parent or to award decision making to a parent who is subject to limitations in subsection (4)(c) of this section.

(d) In making the determinations under (a), (b), or (c) of this subsection, the court shall consider the best interests of the child and which parenting arrangement best maintains a child's emotional growth, health and stability, and physical care. Further, the best

interests of the child are ordinarily served when the existing pattern of interaction between a parent and child is altered only to the extent necessitated by the changed relationship of the parents or as required to protect the child from physical, mental, or emotional harm.

NEW SECTION. **Sec. 2.** A new section is added to chapter 26.09 RCW to read as follows:

This section governs limitations on residential provisions, decision-making authority, and dispute resolution when a parent, or a person the parent resides with, has been convicted of a sex offense against a child or found to have sexually abused a child.

(1) SEXUALLY VIOLENT PREDATORS. If a parent has been found to be a sexually violent 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 sexually violent 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 the predator's presence.

(2) CHILD SEXUAL ABUSE BY PARENT.

(a) There is a rebuttable presumption that a parent who has been convicted as an adult of a sex offense against any child in this or another jurisdiction poses a present danger to a child. Unless the parent rebuts this presumption, the court shall restrain the parent from all contact with the parent's child that would otherwise be allowed under this chapter.

(b) The court shall not enter an order allowing a parent to have contact with the parent's child if the parent has been found by a preponderance of the evidence in a dependency or family law action, including in the current case, to have sexually abused that child, except upon recommendation by an evaluator or therapist for the child that the child is ready for contact with the parent and will not be harmed by the contact.

(3) PARENT RESIDING WITH A PERSON FOUND TO HAVE SEXUALLY ABUSED A CHILD.

(a) There is a rebuttable presumption that a parent who knowingly resides with a person who, as an adult, has been convicted of a sex offense against a child, or as a juvenile has been adjudicated of a

sex offense against a child at least eight years younger, in this or another jurisdiction, 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.

(b) The court shall 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 a preponderance of the evidence in a dependency or family law action, including in the current case, 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.

(4) REBUTTING THE PRESUMPTION OF NO CONTACT.

(a) OFFENDING PARENT. The presumption established in subsection (2)(a) of this section may be rebutted only after a written finding based on clear and convincing evidence that:

(i) If the child was not the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, and (B) the offending parent has provided documentation that they have successfully completed treatment for sex offenders or are engaged in and making progress in such treatment, if any was ordered by a court; or

(ii) If the child was the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, (B) 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 (C) the offending parent has provided documentation that they have successfully completed treatment for sex offenders or are engaged in and making progress in such treatment, if any was ordered by a court.

(b) PARENT RESIDES WITH OFFENDING PERSON. The presumption established in subsection (3)(a) of this section may be rebutted only after a written finding based on clear and convincing evidence that:

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

time, (A) 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 (B) the convicted or adjudicated person has provided documentation that they have successfully completed treatment for sex offenders or are engaged in and making progress in such treatment, if any was ordered by a court; or

(ii) If the child was the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (A) 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, (B) 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 (C) the convicted or adjudicated person has provided documentation that they have successfully completed treatment for sex offenders or are engaged in and making progress in such treatment, if any was ordered by a court.

(c) CONTACT IF PRESUMPTION REBUTTED.

(i)(A) If the court finds that the parent has met the burden of rebutting the presumption under (a) of this subsection, the court may allow a parent who has been convicted as an adult of a sex offense against a child 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.

(B) The court shall 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;

(ii) If the court finds that the parent has met the burden of rebutting the presumption under (b) of this subsection, the court may allow a parent residing with a person who has been convicted of a sex offense against a child or adjudicated of a juvenile sex offense with a child at least eight years younger to have residential time with the child in the presence of that person, supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of

such residential time. The supervisor may be the parent if the court finds, based on the evidence, that the parent is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor, including the parent, 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;

(iii) A court shall not order unsupervised contact between the offending parent and a child of the offending parent who was sexually abused by that parent;

(iv) 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 (2)(a) of this section has been rebutted pursuant to (a) of this subsection and supervised residential time has occurred for at least two years with no further arrests or convictions of sex offenses involving children 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 shall 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.

(5) RESTRICTED DECISION MAKING AND DISPUTE RESOLUTION. The parenting plan shall not require mutual decision making or designation of a dispute resolution process other than court action if it is found that a parent has been convicted as an adult of a sex offense against any child in this or any other jurisdiction or has been found to be a sexually violent predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction.

Sec. 3. 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 or section 2 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. 4. 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 or section 2 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 and section 2 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 or section 2 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 or section 2 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 and section 2 of this act. Where the limitations of RCW 26.09.191 or section 2 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 or section 2 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. 5. 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 or section 2 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 and section 2 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. 6. 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 and section 2 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)~~)) or section 2 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 or section 2 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. 7. 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 or section 2 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. 8. 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 or section 2 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. 9. 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)~~)) (4)(a)(iii); 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."

ESHB 1620 - S COMM AMD
By Committee on Law & Justice

ADOPTED AS AMENDED 04/02/2025

On page 1, line 1 of the title, after "plans;" strike the remainder of the title and insert "amending RCW 26.09.191, 11.130.215, 26.09.187, 26.09.194, 26.09.260, 26.09.520, and 26.12.177; reenacting and amending RCW 26.51.020; and adding a new section to chapter 26.09 RCW."

EFFECT: Changes purpose statement;
Adds abusive use of conflict provisions and definition;
Adds criteria for discretionary limitations in parenting plans;
Adds rebuttable presumptions in sex offense circumstances;
Adds exception allowing contact with parent who sexually abused the child upon professional recommendation;
Removes neutral professional requirement for orders allowing contact in presence of resident who committed sexual abuse of a child;
Changes criteria for mandatory limitations on residential time;
Changes criteria for sole decision making and dispute resolution limitations;
Changes evaluation or treatment orders;
Narrows criteria requiring no mutual decision making or alternative dispute resolution;
Changes court discretion, criteria, and procedural requirements for determining not to impose certain limitations;
Removes provision on mutual allegations of domestic abuse and adds provisions addressing when limitations apply to both parents; and

Adds court discretion regarding weight of protection orders.

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