HOUSE BILL REPORT
HB 1620

As Reported by House Committee On:
Civil Rights & Judiciary

Title: An act relating to limitations in parenting plans.

Brief Description: Concerning limitations in parenting plans.

Sponsors: Representatives Taylor, Goodman, Reed and Hill.

Brief History:
Committee Activity:
Civil Rights & Judiciary: 1/29/25, 2/7/25 [DPS].

Brief Summary of Substitute Bill

- Amends provisions governing limitations a court may impose in a parenting plan on residential time with a child, decision-making authority, and dispute resolution by reorganizing language and making revisions and additions to substantive provisions.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Taylor, Chair; Farivar, Vice Chair; Abell, Assistant Ranking Minority Member; Burnett, Entenman, Goodman, Peterson, Salahuddin, Thai and Walen.

Minority Report: Do not pass. Signed by 2 members: Representatives Walsh, Ranking Minority Member; Graham.

Minority Report: Without recommendation. Signed by 1 member: Representative Jacobsen.

Staff: Edie Adams (786-7180).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Parenting Plans.
In dissolution or legal separation cases, the court must establish a parenting plan that provides for the care of any minor children. The parenting plan must include an allocation of decision-making authority to one or both parents, establish a residential schedule for the child, and provide for the resolution of future disputes between the parents. In establishing a parenting plan, the court is either required or allowed to impose limitations on residential time, decision-making, and dispute resolution based on specified conduct of the parent or a person with whom the parent resides.

Mandatory Limitations on Decision-Making and Dispute Resolution.
The parenting plan must not establish mutual decision-making or a dispute resolution process other than court action if a parent has engaged in: willful abandonment that continues for an extended period or substantial refusal to perform parenting functions; physical, sexual, or a pattern of emotional abuse of a child; or a history of acts of domestic violence or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy.

Mandatory Limitations on Residential Time.
A parent's residential time with a child must be limited if the parent has engaged in the following conduct: willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; physical, sexual, or a pattern of emotional abuse of a child; a history of acts of domestic violence or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy; or a conviction as an adult of specified sex offenses.

A parent's residential time with a child must be limited if the parent resides with a person who has engaged in the following conduct: physical, sexual, or a pattern of emotional abuse of a child; a history of acts of domestic violence or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy; or conviction or adjudication of specified sex offenses.

The court must not enter an order allowing 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.

Limitations Based on Sex Offenses or Sexual Abuse of a Child.
Sexual Predator. If a parent has been found to be a sexual predator, the court must restrain the parent from contact with a child, and if the parent resides with a person who has been found to be a sexual predator, the court must restrain the parent from contact with the child except contact that occurs outside that person's presence.

Rebuttable Presumption Based on Sex Offenses. There is a rebuttable presumption that: (1)

a parent who has been convicted as an adult of specified sex offenses poses a present danger to a child; and (2) a parent who resides with a person who has been convicted as an adult or adjudicated as a juvenile of specified sex offenses places a child at risk of abuse or harm when that parent exercises residential time in the presence of the person.

Unless the parent rebuts the presumption, the court must restrain the parent from contact with a child. If the parent rebuts the presumption, the court may allow the parent to have residential time with the child, or to have residential time with the child in the presence of the person convicted or adjudicated of the offense, supervised by a neutral and independent adult pursuant to an adequate plan for supervision. The court must not approve a supervisor unless the supervisor is willing and capable of protecting the child from harm.

Rebutting the Presumption. The presumption arising from commission of a sex offense by a parent or by a person who resides with the parent may be rebutted only after a written finding based on clear and convincing evidence that the child was not conceived and born as a result of a sexual assault committed by the parent, that contact is appropriate and poses minimal risk to the child, the parent or person has successfully engaged in sex offender treatment or is making progress in treatment, and the treatment provider believes contact is appropriate and poses minimal risk to the child. If the child was the victim of the sex offense and the child is in or has been in therapy for victims of sexual abuse, the child's counselor must believe contact is in the child's best interest.

No Presumption. If no presumption of danger is created by a parent's prior offenses, or the prior offenses of a person residing with the parent, the parent's residential time with the child must nonetheless be limited if the parent has been convicted as an adult, or the person who resides with the parent has been convicted as an adult or adjudicated as a juvenile, of specified sex offenses.

Limitations imposed by the court must be reasonably calculated to protect the child from physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent, and 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. 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 that limitations on 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, the court must restrain the parent from all contact with the child.

Sexual Abuse. The court must not allow a parent to have contact with a child if the parent has been found by clear and convincing evidence in a civil action or a preponderance of the evidence in a dependency action to have sexually abused that child, except upon recommendation by an evaluator or therapist that the child is ready for contact with the parent and will not be harmed by the contact. The court must not allow a parent to have contact with the child in the presence of a person who resides with the parent and who has

been found by clear and convincing evidence in a civil action or a preponderance of the evidence in a dependency action to have sexually abused a child, unless the court finds the parent accepts that the person engaged in the harmful conduct and the parent is willing and capable of protecting the child from harm.

Discretionary Limitations.
The court may limit or preclude residential time if the parent's involvement or conduct may have an adverse effect on the child's best interests. Factors to be considered include: neglect or substantial nonperformance of parenting functions; a long-term emotional or physical impairment that interferes with the performance of parenting functions; a long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions; the absence or substantial impairment of emotional ties; the abusive use of conflict that creates a danger of serious damage to the child's psychological development; a parent's withholding the child from the other parent without good cause; and any other factor the court finds adverse to the child's best interest.

Unsupervised Contact.
A court must not order unsupervised contact between a parent and a child who was sexually abused by that parent.

If a parent subject to supervised residential time based on a sex offense committed by the parent or by a juvenile who resides with the parent, unsupervised contact may be ordered if supervised residential time has occurred for at least two years and the parent, or the person who resides with the parent, has no further arrests or convictions of sex offenses involving children and certain other conditions are met.

Determination Not to Impose Limitations.
A court may elect not to impose required limitations under some cases, excluding those where: a rebuttable presumption applies, the parent or person who resides with a parent has been found to be a sexual predator, or the child was sexually abused by the parent. The court need not apply limitations if it expressly finds that contact will not cause abuse or harm to the child and the probability that the abusive conduct will recur is so remote that limitations would not be in the child's best interests, or that the parent's conduct did not have an impact on the child.

Summary of Substitute Bill:

Provisions of law governing when a court either must or may impose limitations in parenting plans are reorganized and updated. Provisions governing limitations that arise as a result of sexual abuse of a child or sex offenses committed against a child are separated into a separate section of law. Many provisions remain substantially the same or similar to requirements under current law but are restructured and given subject headings for readability. New definitions are added for "abusive use of conflict," "protective actions,"

"willful abandonment," and "sex offense against a child," and a number of other substantive changes or additions are made.

Limitations Based on Conduct Other Than Sex Offenses or Sexual Abuse of a Child.
A court must impose limitations on decision-making, dispute resolution, and residential time if a parent has engaged in any sexual assault, not just those that result in grievous bodily harm or the fear of such harm or that result in pregnancy. Substantial refusal to perform parenting functions is removed from mandatory limitation requirements but remains a basis for discretionary limitations.

Limitations on Residential Time Based on Sex Offenses or Sexual Abuse of a Child.
There is a rebuttable presumption that a parent must be restrained from contact with a child if the parent or a person the parent resides with has been convicted of any sex offense against a child. With respect to a parent who resides with a juvenile adjudicated of a sex offense, the presumption applies only if the juvenile was at least eight years older than the victim of the offense. A clear and convincing standard of proof is required in order to rebut these presumptions. Standards for rebutting the presumption are revised by removing the requirement that: there must be a written finding that the child was not conceived and born as a result of a sexual assault committed by the parent; and the person's treatment provider believes contact between the parent and child is appropriate and poses minimal risk.

Contact if Presumption is Rebutted.
If a court orders supervised residential time because the parent resides with a person who has been convicted as an adult or adjudicated as a juvenile of a sex offense against a child, the supervisor may be the parent if the court finds the parent is willing and capable of protecting the child from harm. Provisions governing when a court may allow unsupervised contact between a parent and child in the presence of a juvenile adjudicated of a sex offense who resides with the parent are removed.

Sexual Abuse by a Parent or Person Who Resides With the Parent.
The burden of proof for a finding of sexual abuse of a child in a civil action or dependency case is revised. The finding must be based on a preponderance of the evidence in a family law or dependency case, rather than clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action.

Limitations That May Be Imposed.
More specific requirements are established governing supervised visitation and court orders for evaluation and treatment.

Supervised Visitation. If a court orders supervised visitation, there is a presumption of supervision by a professional supervisor. The presumption is overcome if the court finds: there is a lay person who has demonstrated through sworn testimony and evidence of past interactions with children that the lay person is capable of and committed to protecting the child, and the parent is unable to access professional supervision due to geographic isolation

or other factors, or due to financial indigency.

The court must include clear written guidelines and prohibitions to be followed by the supervised party. Supervised visits may not occur until the parties have signed an acknowledgment confirming that they have read and agree to follow the court orders and the guidelines and prohibitions regarding visitation. The court may only permit supervision by an individual or program that is committed to protecting the child from physical or emotional abuse or harm and is willing and capable of intervening in behaviors inconsistent with the court orders and guidelines.

A parent may seek an emergency ex parte order temporarily suspending residential time in certain circumstances. The court must set a review hearing to take place within 14 days of entering an ex parte order. The ex parte order may be requested if: the supervised parent repeatedly violates the court order or guidelines; the supervised parent threatens the supervisor or child with physical harm, commits an act of domestic violence, or materially violates a treatment condition; or the supervisor is unable or unwilling to protect the child and/or the protected parent, or no longer willing to provide service to the supervised parent.

Evaluation or treatment. The court may order a parent to undergo evaluations for such issues as domestic violence, substance use disorder, mental health, or anger management, with collateral input provided from the other parent. Reasons for any lack of collateral input from the other parent must be documented in the evaluation report. The court may order a parent to complete treatment if the need for treatment is supported by the evidence and the evidence supports a finding that the issue interferes with parenting functions. A parent's residential time and decision-making authority may be conditioned upon completion of court-ordered evaluation or treatment.

Determination Not to Impose Limitations.
A court may decide not to impose limitations on residential time in cases where the limitations are not based on sexual abuse of a child or a sex offense against a child. The court's determination may be based upon express written findings based on clear and convincing evidence that contact will not cause abuse or harm to the child and the probability that the abusive conduct will recur is so remote that limitations would not be in the child's best interests. Language is removed that allows a court to not impose limitations based on an express finding that the parent's conduct did not have an impact on the child.

The court is given discretion to decide not to impose limitations on decision-making or dispute resolution 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 limit dispute resolution. If there has been a finding of domestic violence, the court must not require face-to-face mediation, arbitration, or interventions that require the parties to share the same physical or virtual space.

A number of factors are established for the court to consider in determining whether there is

clear and convincing evidence supporting a determination not to impose limitations.

When Limitations Apply to Both Parents.
New provisions are established allowing a court to make exceptions in applying limitations when both parents are subject to limitations.

If mandatory residential time limitations apply to both parents, the court may make an exception in applying the limitations. The court must make detailed written findings regarding the comparative risk of harm posed by each parent and 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.

If mandatory residential time limitations apply to one parent and discretionary limitations on decision-making and dispute resolution apply to the other parent, there is a presumption that mandatory limitations have priority in setting the limitations of the residential schedule, decision-making, and dispute resolution. The court must make detailed written findings of reasons for any deviation from the presumption.

When discretionary limitations on decision-making and dispute resolution apply to both parents, the court must make detailed written findings regarding the comparative risk of harm to the child posed by each parent, and 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 making these determinations, the court must consider the best interests of the child and which parenting arrangement best maintains a child's emotional growth, health and stability, and physical care. 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 harm.

Substitute Bill Compared to Original Bill:

The substitute bill establishes a clear and convincing evidence standard of proof to overcome the presumptions that apply when a parent, or a person who resides with a parent, has been convicted of a sex offense against a child.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In Support) Current law is convoluted and hard to read for attorneys and judges, let alone unrepresented parties. House Bill 1620 reorganizes and simplifies the statute to the benefit of everyone, especially unrepresented litigants. The current statute lacks clear guidance and clarity, which creates a likelihood of individual bias showing up in cases. This results in survivors, especially those from marginalized communities, receiving inconsistent rulings.

The bill provides clear definitions, stronger guidelines for courts, and consistency, so that justice is not determined by where a person lives or the judge a person appears before. It defines critical terms like abusive use of conflict, willful abandonment, and protective actions, reducing inconsistencies in application, and helping judges make informed decisions.

Parenting plans historically have not taken the impacts of domestic violence or abuse into account, undermining a parent's ability to protect their children. Survivors have been forced by the court to interact with their rapists, or have had limitations imposed against them just for trying to protect their children and themselves. There are also cases where judges ignore specific evidence of sexual assault and domestic violence by an abuser and impose limitations on the other parent for parenting concerns that are not as severe.

The false presumption that it is always in the child's best interest to have equal time with each parent exposes children to abusive behaviors in the non-protective parent's home and during visitation exchanges, which present an opportunity for abusers to continue coercive and threatening behavior. The bill gives standards for quality supervision that will help protect a child's safety and well-being. The bill ensures that custody decisions are transparent and based on evidence by requiring judges to support their decisions with specific findings. Discretion is needed in these complex cases to provide good outcomes for families. The bill gives more guidance for judges when exercising that discretion.

The bill offers a clear structure for cases where both parents have limitations by prioritizing mandatory restrictions over discretionary restrictions, ensuring that the child is the focus. It also creates a presumption allowing for sole decision-making. The court must go through a multifactor analysis before deciding not to impose limitations. The current law does not allow survivors to choose mutual decision-making even where they are able to communicate and co-parent well with the other parent.

The bill will help protect vulnerable families, including sex workers who are stigmatized for their labor, and who are often people of color. It is too easy for a judge to unfairly rule against members of this community by viewing their occupation or skin color as being just as condemnable as their abusive ex-partner. As a result, they have to weigh the risks of staying with an abuser over potentially losing their children and experiencing more trauma.

(Opposed) There are many cases where courts have abused their discretion and not imposed

limitations where there was clear evidence of domestic violence or sexual abuse. Judges already violate the law with impunity. What will happen if they are given even more discretion? The bill introduces vague and misleading terms, like abusive use of conflict and protective actions, making it easier for courts to ignore domestic violence and abuse. Washington needs accountability in family courts, not unchecked power for judges.

The bill contains no guiding analysis for judges on the nature, context, or effect of abuse on protective parents or their children. It continues to treat cases with abuse in the same manner as those with other parenting concerns. Put this bill on hold and craft legislation that is survivor-based, such as the model code, which focuses on the impact of abuse on the parent and children.

This bill strengthens the ability of abusers to weaponize alienation claims by allowing a court to impose restrictions on protective parents that should only be used for abusive parents. It would allow a parent who has raped a child and who is provided a treatment plan with the ability to bring the mother and child back to court after treatment and force them to relive their experience, creating a dangerous pathway for a child's mental stability.

House Bill 1620 may appear to serve the interests of children and survivors, but could inadvertently enable abusers to use custody and litigation as a tool of coercion. It removes critical protections that limit abusers' access to children and introduces the concepts of abusive use of conflict and protective actions, which could allow abusers to continue weaponizing the court system with endless litigation.

Family court is sometimes more abusive than the abuser a survivor is leaving. Listen to survivors, not the nonprofits that are funded from different sources and whose jobs depend on supporting bills like this. Instead invest in reforms that prioritize child safety, including enforcing existing limiting factors rather than weakening them.

Stronger oversight of judicial decisions is needed to ensure courts recognize coercive control and abusive litigation. Mandatory trauma-informed training should be required for all judicial officers so they are equipped to assess patterns of abuse and manipulation. Judges and commissioners in family court make decisions about what happens to families and children and people's livelihoods without substantive due process. Commissioners are attorneys and guardians ad litem who are appointed by judges, which is per se nepotism.

(Other) It is critical to pass this bill to address longstanding issues with the current law, particularly with respect to situations where both parents have limiting factors. A clear and convincing standard of proof should be required for rebutting a presumption of mandatory limitations based on sex offenses against a child.

Survivors deserve a process that is fair and consistent, no matter where they live or who is on the bench. Judges often delay protection orders until parenting plans are finalized, which can leave survivors without protections for long periods of time. The bill gives judges clear

direction and helps make the process fair, timely, and predictable for survivors.

Persons Testifying: (In support) Representative Jamila Taylor, prime sponsor; Elizabeth Hendren, Sexual Violence Law Center; Commissioner Barbara McInvaille, Superior Court Judges' Association; Judge Alicia Burton, Superior Court Judges' Association; Mary Welch, Northwest Justice Project; Chandra Ifie, Survivor Parent; Madison Zack-Wu, Strippers Are Workers; Paula Sardinas, WBBA (WA Build Black Alliance); Karin White, Washington State Coalition Against Domestic Violence; Amarinthia Torres, Coalition Ending Gender-Based Violence; and Kristina Peterson.

(Opposed) Evangeline Stratton; Tamara Emerson; Gina Bloom, Registered Lobbyist for The Dissolution Advocates NW, LLC; Dana Tingey; Shira Cole, PAYES; LaRae Lobdell; Shannon Draughon, Carnation Legal, LLC.

(Other) Patrick Rawnsley, WSBA Family Law Executive Committee; and Em Stone, Department of Commerce.

Persons Signed In To Testify But Not Testifying: Gaston Shelton; Grace Amos, DV Survivor; Tina Swithin, One Mom's Battle; Kimberly Kerr; Christine Cocchiola; Melanie Kraintz; Sarah Hulteen; Emily Farris; Chelsi Eastwood; Rebecca Dunn; Melissa Strawn; and Melissa Strawn.