SENATE BILL REPORT
ESHB 1620

As of March 18, 2025

Title: An act relating to limitations in parenting plans.

Brief Description: Concerning limitations in parenting plans.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Taylor, Goodman, Reed and Hill).

Brief History: Passed House: 3/8/25, 86-7.
Committee Activity: Law & Justice: 3/18/25.

Brief Summary of Bill

- Sets limitations, requirements, and guidelines for courts that order parenting plans in dissolution of marriages or domestic partnerships and legal separation cases.
- Requests that the Administrative Office of the Courts establish judicial training and education relating to contested parenting plans.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Patrick Moore (786-7535)

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 allocate 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. In cases where the required or allowed

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limitations are not dispositive, the court must establish residential provisions that 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 considering a number of specified factors.

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 still 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 and Restraint on Contact. 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 Bill: Provisions of law governing when a court either must or may impose limitations in parenting plans are reorganized and revised through a number of substantive changes and additions. 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.

General Considerations and Definitions. Language providing that the weight given to the existence of a protection order as to domestic violence is within the discretion of the court is removed. New definitions are added for "domestic abuse," "limitation," "protective actions," "sex offense against a child," and "willful abandonment."

Domestic Abuse Factors. Specific provisions are established addressing cases that involve

allegations of domestic abuse, which means child abuse or domestic violence. A court must first consider domestic abuse factors before considering the best interest of the child factors when making decisions relating to custody and parenting time. Regardless of the outcome of this analysis, the court must consider the best interest of the child factors before making decisions related to custody and parenting time.

Any neutral professional appointed by a court to express an opinion relating to abuse, trauma, or the behavior of victims and perpetrators of abuse must demonstrate expertise and substantial experience working with victims of domestic violence or child abuse not primarily forensic in nature.

Matters Not to Be Considered as Evidence Against a Parent Who is Abused. In determining a child's best interest, the court is directed not to consider certain evidence against an abused parent. This includes evidence of lawful actions, efforts to protect one's self or child, and effects of abuse by the other parent.

A court may not restrict contact with or remove a child from a parent who is competent, protective, and not physically or sexually abusive, and with whom the child is bonded, primarily to improve a deficient relationship with the other parent, or solely on the basis of protective actions taken by a competent, protective, and not physically abusive parent.

Mutual Allegations of Domestic Abuse. In cases where there are mutual allegations of domestic abuse, the court must hold an evidentiary hearing. If the court finds both parents have engaged in abuse, the court must determine which parent poses the lesser risk to the child and is less likely to commit acts of domestic abuse in the future by assessing and making findings regarding specified factors.

Limitations Based on Conduct Other Than Sex Offenses or Sexual Abuse of a Child. Provisions governing required limitations based on conduct of a parent or someone the parent resides with are revised.

Mandatory Residential Time Limitations. There is a rebuttable presumption that the parenting plan must not order residential time to an abusive parent. If the court grants parenting time to a parent who perpetrated domestic abuse or child abuse, the court must:

- grant majority custody to the parent who is not abusive, unless the parties agree otherwise and the court deems it safe; and
- make detailed findings regarding how the parenting time ordered by the court adequately protects the child and the abused parent.

Mandatory Dispute Resolution Limitations. The parenting plan may not designate a dispute resolution process other than court action. The court may not require face to face mediation, arbitration, or interventions that require the parties to share the same physical or virtual space if there has been a finding of domestic violence.

Mandatory Decision Making Limitations. The parenting plan may not require mutual decision making. Where there is a finding of domestic violence by a parent, sole decision making must be awarded to the other parent.

Discretionary Limitations. Provisions addressing conduct that may result in limitations on residential time, decision making, and dispute resolution are removed and the specified conduct is moved to another statute that governs establishment of residential provisions where limitations are not dispositive of the child's residential schedule.

Limitations on Residential Time Based on Sex Offenses or Sexual Abuse of a Child. *Child Sexual Abuse by Parent.* A court must restrain a parent from all contact with a child if the parent has been convicted as an adult of a sex offense against any child. A court must not allow a parent to have any contact with the parent's child if the parent has been found to have sexually abused any child of the parents.

Child Sexual Abuse by Person Residing With Parent. The rebuttable presumption of risk of abuse or harm to the child that applies when a parent resides with a person convicted of a sex offense against a child is retained. The presumption may be rebutted only where the child was not the victim of the sex offense committed by the person who resides with the parent requesting residential time.

Standards for rebutting the presumption are revised by:

- requiring a clear and convincing evidence standard;
- 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
- removing the requirement that the person's treatment provider believes contact between the parent and child is appropriate and poses minimal risk.

Provisions addressing cases where a parent resides with a person who has been found in a civil action or dependency action to have sexually abused a child are revised. The standard of proof required for the finding of sexual abuse is a preponderance of the evidence. A court may allow a parent to have contact with the child in the offender's presence if certain requirements are met.

Restricted Decision Making and Dispute Resolution. The parenting plan must not require mutual decision making or dispute resolution other than court action if a parent has been found by a preponderance of the evidence in a dependency or family law action to have sexually abused any child of the parents.

Limitations That May Be Imposed. Where there has been a finding of domestic abuse, specific requirements are established governing supervised visitation and court orders for evaluation and treatment. A parent may seek an emergency ex parte order temporarily suspending residential time in certain circumstances.

Determination Not to Impose Limitations. Provisions are removed that allow a court to not impose limitations when certain findings are made. The court must assess and make written findings on a number of specified factors when determining whether an abusive parent has rebutted a statutory presumption against residential time.

If the court grants residential time to an abusive parent, the court must make specific written findings regarding the factors that rebut the presumption and how the order will promote the child's well-being and protect the other parent from harm. The court must order residential time provisions that promote the safety and well-being of the child and abused parent. The court may order supervised parenting time, or order supervision of exchanges without ordering supervised parenting time.

Whether or not the court imposes a supervision requirement, the court must order conditions necessary to promote and enhance the safety and well-being of the child and abused parent and ensure that the conditions are met for the duration of the order. The types of prohibitions and requirements the court may impose are specified.

Establishment of Residential Provisions of Parenting Plans. New provisions are added to the statute that addresses the factors a court considers when establishing residential provisions of a parenting plan. When there is a history of domestic violence, the court must address the identified effects of the domestic abuse or child abuse on the child and on the parenting of the parent who is abused. Provisions to promote the safety, recovery, and resilience of the child and the parent who is abused are included. When establishing residential provisions the court must consider additional factors regarding whether a parent's involvement or conduct has had an adverse impact on the child's best interests.

Judicial Education and Training. The Administrative Office of the Courts is requested to develop training curricula for judicial officers regarding trauma-informed resolution in family law proceedings involving contested parenting plans as well as online continuing education curricula for judicial officers providing guidance on best practices for adjudicating contested parenting plans in the best interest of the child.

Appropriation: None.

Fiscal Note: Requested on March 17, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Abuse of conflict provisions are used against abused parents by abusive spouses. Courts fail to recognize this. As a result, children are placed with their abusers. This bill protects children and helps keep parents safe. It also makes child custody the most important consideration. Current law punishes attempts by

parents to protect themselves and their children. Abusive use of litigation protections are still available. Non-abuse factors have no place in a statute designed to protect against abuse. More dialogue with abuse survivors should be had in addressing these laws. Survivors of abuse should be listened to about how the court system has failed them. Many family court decisions are reviewed under an abuse of discretion standard. Only plain requirements for considering factors and making express written findings helps appeals of bad rulings. This bill ensures judges have training in trauma and abuse.

CON: This bill poses delays and confusion. It will not protect abused parents or children. It contains a binary approach that does not account for nuances and complications. It is a patchwork of unnecessary provisions and confusing definitions. Current law is hard to read for all concerned. The original bill should be passed instead, it is the result of years of work by survivors and judges. Abuse of conflict provisions should be included because they allow courts to restrain abuse of the legal system. Codifying mutual abuse provisions will make violent parties feel justified and abused parties feel victimized. Ruling out alternative dispute resolution takes choice away from survivors, negatively impacts rural communities that have limited access, and forces victims to interact with their abusers which is traumatic. The original bill provides necessary guidelines and requires written findings, providing greater assurance that judges will follow the law, protect children, and honor parents' rights.

OTHER: Children often feel powerless in abusive situations. Children and judges should be included in determining a child's best interests.

Persons Testifying: PRO: Tamara Emerson, Concerned Citizen; Shira Cole, PAYES; Ruthy Sanchez; Dana Tingey; Joya Goodhue; Lindsey Laspisa, I am a mother; Evangline Stratton; Heidi Padilla, ??Justice4Nicolaas&Ashley??; Amy Annette.

CON: Monica Cary, Superior Court Judges' Association; Karin White, WA State Coalition Against Domestic Violence; Janet Helson, Superior Court Judges' Association; Elizabeth Hendren, Sexual Violence Law Center; Mary Welch, NW Justice Project; Chandra Ifie; Kristin Ferrera, Superior Court Judges' Association; Sally Winn, YWCA Spokane; Dawn Sydney; Debbie Gonzalez Long, New Hope; Bogdan Lendel.

OTHER: Yash Joshi.

Persons Signed In To Testify But Not Testifying: PRO: Brandy Bretzer; Sarah Buban, Sarah Buban, LMHC SUDP; Tina Swithin, One Mom's Battle; Kimberly Kerr; Gina Bloom, Victim Advocate; Sarah Hulteen, DV Survivor Mother; Natalie Sullivan; Pat Edmundson; Jennifer Bloom; Cierra Ozolin; Karen Dawson; Chanel Wahidi; Angela Garcia-Leija; Jessica Ormond; Isabelle Latour, DV survivor mother; Liz Jeppesen; Danielle Pollack, National Family Violence Law Center at GW; Emma Cole; Viktoria Devai; Jane Briant, Justice4Nicolaas&Ashley; Maria Garcia; Hellen Alee; Jeanette Turner; Carolyn Carroll, Justice for Nicolaas and Ashley Padilla; Karah Dickson, Domestic Abuse Victim; Julie Nee.

CON: Rael LaPenta, Mothers Against Child Abuse- MACA; Sandra Mochizuki; TaraLyn Fray; Jim Clark, National Parents Organization; Eric Coltrain, Coalition for Effective Family Courts; Kyle Spencer; Dana Raigrodski, Washington State Supreme Court Gender and Justice Commission; Ilie Lupan.

OTHER: Kassidy Gee, Court Napping, Tanawah Downing, Court Fraud, Parents against CPS, CPS Corruption; Sean Kuhlmeyer; Erin Pease, VITAL Justice Project; Linda Gottlieb, LMFT, LCSW-R, Turning Points for Families.