
HOUSE BILL 2392

State of Washington 62nd Legislature 2012 Regular Session

By Representatives Chandler and Parker

Read first time 01/13/12. Referred to Committee on Judiciary.

1 AN ACT Relating to shared parental responsibility; amending RCW
2 26.09.187; reenacting and amending RCW 26.09.004; and adding a new
3 section to chapter 26.09 RCW.

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

5 **Sec. 1.** RCW 26.09.004 and 2009 c 502 s 1 are each reenacted and
6 amended to read as follows:

7 The definitions in this section apply throughout this chapter.

8 (1) "Military duties potentially impacting parenting functions"
9 means those obligations imposed, voluntarily or involuntarily, on a
10 parent serving in the armed forces that may interfere with that
11 parent's abilities to perform his or her parenting functions under a
12 temporary or permanent parenting plan. Military duties potentially
13 impacting parenting functions include, but are not limited to:

14 (a) "Deployment," which means the temporary transfer of a service
15 member serving in an active-duty status to another location in support
16 of a military operation, to include any tour of duty classified by the
17 member's branch of the armed forces as "remote" or "unaccompanied";

18 (b) "Activation" or "mobilization," which means the call-up of a
19 national guard or reserve service member to extended active-duty

1 status. For purposes of this definition, "mobilization" does not
2 include national guard or reserve annual training, inactive duty days,
3 or drill weekends; or

4 (c) "Temporary duty," which means the transfer of a service member
5 from one military base or the service member's home to a different
6 location, usually another base, for a limited period of time to
7 accomplish training or to assist in the performance of a noncombat
8 mission.

9 (2) "Parenting functions" means those aspects of the parent-child
10 relationship in which the parent makes decisions and performs functions
11 necessary for the care and growth of the child. Parenting functions
12 include:

13 (a) Maintaining a loving, stable, consistent, and nurturing
14 relationship with the child;

15 (b) Attending to the daily needs of the child, such as feeding,
16 clothing, physical care and grooming, supervision, health care, and day
17 care, and engaging in other activities which are appropriate to the
18 developmental level of the child and that are within the social and
19 economic circumstances of the particular family;

20 (c) Attending to adequate education for the child, including
21 remedial or other education essential to the best interests of the
22 child;

23 (d) Assisting the child in developing and maintaining appropriate
24 interpersonal relationships;

25 (e) Exercising appropriate judgment regarding the child's welfare,
26 consistent with the child's developmental level and the family's social
27 and economic circumstances; and

28 (f) Providing for the financial support of the child.

29 (3) "Permanent parenting plan" means a plan for parenting the
30 child, including allocation of parenting functions, which plan is
31 incorporated in any final decree or decree of modification in an action
32 for dissolution of marriage or domestic partnership, declaration of
33 invalidity, or legal separation.

34 (4) "Shared parental responsibility" means shared residential time
35 and mutual decision-making authority.

36 (5) "Shared residential time" means an order awarding each of the
37 parents periods of time with the child that amounts to at least one-

1 third of a year and in which the child resides with or is under the
2 actual, direct, day-to-day care and supervision of the parent during
3 the period of time awarded.

4 (6) "Temporary parenting plan" means a plan for parenting of the
5 child pending final resolution of any action for dissolution of
6 marriage or domestic partnership, declaration of invalidity, or legal
7 separation which is incorporated in a temporary order.

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

10 (1) There is a presumption that shared parental responsibility is
11 in the best interest of the child unless:

12 (a) The parents have agreed on a parenting plan that allocates
13 residential placement and decision-making authority to one parent; or

14 (b) The court finds that shared parental responsibility would be
15 detrimental to the child.

16 (2)(a) The presumption may be rebutted by a parent opposing shared
17 parental responsibility if the parent shows that shared parental
18 responsibility would be detrimental to the child.

19 (b) The court may order an investigation to be conducted under RCW
20 26.09.220.

21 (3) If the court does not enter a parenting plan providing for
22 shared parental responsibility, the court shall enter written findings
23 of fact and conclusions of law stating its reasons, including the facts
24 supporting any finding that shared parental responsibility is
25 detrimental to the child.

26 **Sec. 3.** RCW 26.09.187 and 2007 c 496 s 603 are each amended to
27 read as follows:

28 (1) DISPUTE RESOLUTION PROCESS. The court shall not order a
29 dispute resolution process, except court action, when it finds that any
30 limiting factor under RCW 26.09.191 applies, or when it finds that
31 either parent is unable to afford the cost of the proposed dispute
32 resolution process. If a dispute resolution process is not precluded
33 or limited, then in designating such a process the court shall consider
34 all relevant factors, including:

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

1 (b) The parents' wishes or agreements and, if the parents have
2 entered into agreements, whether the agreements were made knowingly and
3 voluntarily; and

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

7 (2) ALLOCATION OF DECISION-MAKING AUTHORITY.

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

12 (i) The agreement is consistent with any limitations on a parent's
13 decision-making authority mandated by RCW 26.09.191; and

14 (ii) The agreement is knowing and voluntary.

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

17 (i) A limitation on the other parent's decision-making authority is
18 mandated by RCW 26.09.191;

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

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

23 (c) MUTUAL DECISION-MAKING AUTHORITY. Mutual decision-making
24 authority is part of shared parental responsibility. Except as
25 provided in (a) and (b) of this subsection, the court shall consider
26 the following criteria in allocating decision-making authority:

27 (i) Whether the presumption of shared parental responsibility has
28 been rebutted;

29 (ii) The existence of a limitation under RCW 26.09.191;

30 ~~((+iii))~~ (iii) The history of participation of each parent in
31 decision making in each of the areas in RCW 26.09.184(5)(a);

32 ~~((+iii))~~ (iv) Whether the parents have a demonstrated ability and
33 desire to cooperate with one another in decision making in each of the
34 areas in RCW 26.09.184(5)(a); and

35 ~~((+iv))~~ (v) The parents' geographic proximity to one another, to
36 the extent that it affects their ability to make timely mutual
37 decisions.

38 (3) RESIDENTIAL PROVISIONS.

1 (a) The court shall make residential provisions for each child
2 which encourage each parent to maintain a loving, stable, and nurturing
3 relationship with the child, consistent with the child's developmental
4 level and the family's social and economic circumstances. ((The
5 child's residential schedule shall be)) The court shall make
6 residential provisions consistent with the presumption of shared
7 parental responsibility provided under section 2 of this act and
8 consistent with RCW 26.09.191. Where the limitations of RCW 26.09.191
9 are not dispositive of the child's residential schedule, the court
10 shall consider the following factors:

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

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

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

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

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

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

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

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

29 (b) Where the limitations of RCW 26.09.191 are not dispositive, the
30 court may order that a child frequently alternate his or her residence
31 between the households of the parents for brief and substantially equal
32 intervals of time if such provision is in the best interests of the
33 child. In determining whether such an arrangement is in the best
34 interests of the child, the court may consider the parties geographic
35 proximity to the extent necessary to ensure the ability to share
36 performance of the parenting functions. The presumption of shared
37 parental responsibility under section 2 of this act does not require a

1 court to order, or preclude a court from ordering, that a child
2 frequently alternate his or her residence between the households of the
3 parents for brief and substantially equal intervals of time.

4 (c) For any child, residential provisions may contain any
5 reasonable terms or conditions that facilitate the orderly and
6 meaningful exercise of residential time by a parent, including but not
7 limited to requirements of reasonable notice when residential time will
8 not occur.

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