
SENATE BILL 6270

State of Washington

59th Legislature

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By Senators Kastama and Swecker

Read first time 01/10/2006. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to shared parental responsibility; amending RCW
2 26.09.004 and 26.09.187; adding a new section to chapter 26.09 RCW;
3 adding a new section to chapter 7.75 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the
6 shared parental responsibility act.

7 **Sec. 2.** RCW 26.09.004 and 1987 c 460 s 3 are each amended to read
8 as follows:

9 The definitions in this section apply throughout this chapter.

10 (1) "Temporary parenting plan" means a plan for parenting of the
11 child pending final resolution of any action for dissolution of
12 marriage, declaration of invalidity, or legal separation which is
13 incorporated in a temporary order.

14 (2) "Permanent parenting plan" means a plan for parenting the
15 child, including allocation of parenting functions, which plan is
16 incorporated in any final decree or decree of modification in an action
17 for dissolution of marriage, declaration of invalidity, or legal
18 separation.

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

5 (a) Maintaining a loving, stable, consistent, and nurturing
6 relationship with the child;

7 (b) Attending to the daily needs of the child, such as feeding,
8 clothing, physical care and grooming, supervision, health care, and day
9 care, and engaging in other activities which are appropriate to the
10 developmental level of the child and that are within the social and
11 economic circumstances of the particular family;

12 (c) Attending to adequate education for the child, including
13 remedial or other education essential to the best interests of the
14 child;

15 (d) Assisting the child in developing and maintaining appropriate
16 interpersonal relationships;

17 (e) Exercising appropriate judgment regarding the child's welfare,
18 consistent with the child's developmental level and the family's social
19 and economic circumstances; and

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

21 (4) "Shared parental responsibility" means shared residential
22 placement and mutual decision-making authority.

23 (5) "Shared residential placement" means an order awarding each of
24 the parents periods of time, amounting to at least one-third of a year,
25 in which a child resides with or is under the actual, direct, day-to-
26 day care and supervision of each of the parents. "Shared residential
27 placement" does not necessarily mean the child must alternate his or
28 her residence between the households of the parents for brief periods
29 of time.

30 NEW SECTION. Sec. 3. A new section is added to chapter 26.09 RCW
31 to read as follows:

32 (1) There shall be a presumption that shared parental
33 responsibility is in the best interests of minor children six years old
34 or older unless:

35 (a) The parents have agreed to an alternate award of residential
36 placement or decision-making authority to only one parent;

1 (b) The limitations of RCW 26.09.191 are dispositive of the child's
2 residential schedule; or

3 (c) The court finds that shared parental responsibility would be
4 detrimental to the child or children.

5 (2) A parent alleging that shared parental responsibility would be
6 detrimental to the child or children shall have the burden of
7 establishing the allegation by a preponderance of the evidence.

8 (3) If a parent alleges that shared parental responsibility would
9 be detrimental to a particular child, the court, in making a
10 determination whether a shared parental responsibility order is
11 appropriate, may direct that an investigation be conducted in
12 accordance with the provisions of RCW 26.09.220. If the court declines
13 to enter a shared parental responsibility order under this section, the
14 court shall enter findings of fact and conclusions of law stating the
15 reasons that shared parental responsibility is detrimental to the child
16 or children.

17 **Sec. 4.** RCW 26.09.187 and 1989 c 375 s 10 are each amended to read
18 as follows:

19 (1) DISPUTE RESOLUTION PROCESS. The court shall not order a
20 dispute resolution process, except court action, when it finds that any
21 limiting factor under RCW 26.09.191 applies, or when it finds that
22 either parent is unable to afford the cost of the proposed dispute
23 resolution process. If a dispute resolution process is not precluded
24 or limited, then in designating such a process the court shall consider
25 all relevant factors, including:

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

28 (b) The parents' wishes or agreements and, if the parents have
29 entered into agreements, whether the agreements were made knowingly and
30 voluntarily; and

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

34 (2) ALLOCATION OF DECISION-MAKING AUTHORITY.

35 (a) AGREEMENTS BETWEEN THE PARTIES. The court shall approve
36 agreements of the parties allocating decision-making authority, or

1 specifying rules in the areas listed in RCW 26.09.184(4)(a), when it
2 finds that:

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

5 (ii) The agreement is knowing and voluntary.

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

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

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

11 (iii) One parent is opposed to mutual decision making, and such
12 opposition is reasonable based on the criteria in (c) of this
13 subsection;

14 (c) MUTUAL DECISION-MAKING AUTHORITY. Except as provided in (a)
15 and (b) of this subsection, the court shall consider the following
16 criteria in allocating decision-making authority:

17 (i) The existence of a limitation under RCW 26.09.191;

18 (ii) The history of participation of each parent in decision making
19 in each of the areas in RCW 26.09.184(4)(a);

20 (iii) Whether the parents have a demonstrated ability and desire to
21 cooperate with one another in decision making in each of the areas in
22 RCW 26.09.184(4)(a); and

23 (iv) The parents' geographic proximity to one another, to the
24 extent that it affects their ability to make timely mutual decisions.

25 (3) RESIDENTIAL PROVISIONS.

26 (a) The court shall make residential provisions for each child
27 which encourage each parent to maintain a loving, stable, and nurturing
28 relationship with the child, consistent with the child's developmental
29 level and the family's social and economic circumstances. There is a
30 presumption that for a child six years old or older, the child's
31 residential schedule shall provide shared parental responsibility in
32 accordance with section 3 of this act. The child's residential
33 schedule shall be consistent with RCW 26.09.191. Where the limitations
34 of RCW 26.09.191 are not dispositive of the child's residential
35 schedule, and the child is less than six years old, the court shall
36 consider the following factors:

37 (i) The relative strength, nature, and stability of the child's

1 relationship with each parent(~~(, including whether a parent has taken~~
2 ~~greater responsibility for performing parenting functions relating to~~
3 ~~the daily needs of the child))~~);

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

6 (iii) Each parent's past and potential for future performance of
7 parenting functions;

8 (iv) The emotional needs and developmental level of the child and
9 any special physical needs of the child;

10 (v) Whether the child is a nursing child;

11 (vi) The child's relationship with siblings and with other
12 significant adults, as well as the child's involvement with his or her
13 physical surroundings, school, or other significant activities;

14 ~~((+vi))~~ (vii) The wishes of the parents and the wishes of a child
15 who is sufficiently mature to express reasoned and independent
16 preferences as to his or her residential schedule; and

17 ~~((+vii))~~ (viii) Each parent's employment schedule, and shall make
18 accommodations consistent with those schedules.

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

20 (b) ~~((The court may order that a child frequently alternate his or~~
21 ~~her residence between the households of the parents for brief and~~
22 ~~substantially equal intervals of time only if the court finds the~~
23 ~~following:~~

24 ~~(i) No limitation exists under RCW 26.09.191;~~

25 ~~(ii)(A) The parties have agreed to such provisions and the~~
26 ~~agreement was knowingly and voluntarily entered into; or~~

27 ~~(B) The parties have a satisfactory history of cooperation and~~
28 ~~shared performance of parenting functions; the parties are available to~~
29 ~~each other, especially in geographic proximity, to the extent necessary~~
30 ~~to ensure their ability to share performance of the parenting~~
31 ~~functions; and~~

32 ~~(iii) The provisions are in the best interests of the child.))~~

33 For any child, residential provisions may contain any reasonable
34 terms or conditions that facilitate the orderly and meaningful exercise
35 of residential time by a parent, including one or more of the
36 following:

37 (i) Requirements that residential times be specified;

- 1 (ii) Requirements of reasonable notice when residential time will
- 2 not occur; and
- 3 (iii) Any other reasonable condition determined to be appropriate
- 4 in the particular case.

5 NEW SECTION. **Sec. 5.** A new section is added to chapter 7.75 RCW
6 to read as follows:

7 (1) A municipality, a county, a corporation organized exclusively
8 for the resolution of family disputes, or a dispute resolution center
9 created pursuant to this chapter may apply to the administrative office
10 of the courts for participation in a family dispute resolution pilot
11 project. The administrative office of the courts shall select a
12 maximum of two urban and two rural counties to participate in the
13 family dispute resolution center pilot projects.

14 (2) A family dispute resolution center pilot project created under
15 this section is subject to the same requirements, restrictions, and
16 funding mechanisms as provided for dispute resolution centers under
17 this chapter. In addition, a family dispute resolution center plan
18 shall include the following:

- 19 (a) Provisions for specialized training for mediators in the areas
- 20 of family law, including the identification of domestic violence; and
- 21 (b) Provisions for domestic violence assessments.

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