

SECOND SUBSTITUTE SENATE BILL 5470

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Stevens, McAuliffe, Brown and Regala)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to dissolution proceedings; amending RCW 26.09.002,
2 26.12.050, 26.12.060, 2.56.180, 26.09.020, 36.18.016, 26.09.191,
3 26.12.177, 26.09.015, 26.09.030, 26.09.187, and 26.09.197; reenacting
4 and amending RCW 2.56.030; adding new sections to chapter 26.09 RCW;
5 adding a new section to chapter 26.12 RCW; adding a new section to
6 chapter 2.53 RCW; adding a new section to chapter 26.18 RCW; creating
7 new sections; providing effective dates; and providing an expiration
8 date.

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

10 **PART I - Intent**

11 **Sec. 101.** RCW 26.09.002 and 1987 c 460 s 2 are each amended to
12 read as follows:

13 Parents have the responsibility to make decisions and perform other
14 parental functions necessary for the care and growth of their minor
15 children. In any proceeding between parents under this chapter, the
16 best interests of the child shall be the standard by which the court
17 determines and allocates the parties' parental responsibilities. The
18 state recognizes the fundamental importance of the parent-child

1 relationship to the welfare of the child, and that the relationship
2 between the child and each parent should be fostered unless
3 inconsistent with the child's best interests. Residential time and
4 financial support are equally important components of parenting
5 arrangements. The best interests of the child are served by a
6 parenting arrangement that best maintains a child's emotional growth,
7 health and stability, and physical care. Further, the best interest of
8 the child is ordinarily served when the existing pattern of interaction
9 between a parent and child is altered only to the extent necessitated
10 by the changed relationship of the parents or as required to protect
11 the child from physical, mental, or emotional harm.

12 NEW SECTION. **Sec. 102.** A new section is added to chapter 26.09
13 RCW to read as follows:

14 The legislature reaffirms the intent of the current law as
15 expressed in RCW 26.09.002. However, after review, the legislature
16 finds that there are certain components of the existing law which do
17 not support the original legislative intent. In order to better
18 implement the existing legislative intent the legislature finds that
19 incentives for parties to reduce family conflict and additional
20 alternative dispute resolution options can assist in reducing the
21 number of contested trials. Furthermore, the legislature finds that
22 the identification of domestic violence as defined in RCW 26.50.010 and
23 the treatment needs of the parties to dissolutions are necessary to
24 improve outcomes for children. When judicial officers have the
25 discretion to tailor individualized resolutions, the legislative intent
26 expressed in RCW 26.09.002 can more readily be achieved. Judicial
27 officers should have the discretion and flexibility to assess each case
28 based on the merits of the individual cases before them.

29 **PART II - Family Court Provisions**

30 **Sec. 201.** RCW 26.12.050 and 1993 c 15 s 1 are each amended to read
31 as follows:

32 (1) Except as provided in subsection (2) of this section, in each
33 county the superior court may appoint the following persons to assist
34 the family court in disposing of its business:

35 (a) One or more attorneys to act as family court commissioners, and

1 (b) Such liaisons, investigators, stenographers, and clerks as the
2 court shall find necessary to carry on the work of the family court.

3 (2) The county legislative authority must approve the creation of
4 family court commissioner positions.

5 (3) The appointments provided for in this section shall be made by
6 majority vote of the judges of the superior court of the county and may
7 be made in addition to all other appointments of commissioners and
8 other judicial attaches otherwise authorized by law. Family court
9 commissioners and investigators shall serve at the pleasure of the
10 judges appointing them and shall receive such compensation as the
11 county legislative authority shall determine. The appointments may be
12 full or part-time positions. A person appointed as a family court
13 commissioner may also be appointed to any other commissioner position
14 authorized by law.

15 NEW SECTION. Sec. 202. A new section is added to chapter 26.12
16 RCW to read as follows:

17 (1) A county may, and to the extent state funding is provided
18 therefor a county shall, create a family court liaison program to
19 provide basic services to all parties involving proceedings under
20 chapter 26.09 RCW. As part of its responsibility to administer a
21 curriculum of training for family court liaisons, the administrative
22 office of the courts shall develop a curriculum and deliver training to
23 enable family court liaisons to screen for domestic violence as defined
24 in RCW 26.50.010, child abuse, substance abuse, and mental health
25 issues and make referrals for comprehensive evaluations as appropriate.
26 The legislative authority of any county may impose user fees or may
27 impose a surcharge of up to twenty dollars on only those superior court
28 cases filed under this title, or both, to pay for the expenses of the
29 family court liaison program. Fees collected under this section shall
30 be collected and deposited in the same manner as other county funds are
31 collected and deposited, and shall be maintained in a separate account
32 to be used as provided in this section. Family court liaisons shall
33 provide services to indigent persons at no expense.

34 (2) The family court liaisons shall: (a) Be the initial point of
35 contact for parties in family law matters under chapter 26.09 RCW; (b)
36 provide those parties with information regarding courthouse
37 facilitation programs and orientations; (c) provide pro se litigants

1 with information regarding the venue limitations and residency
2 requirements of this chapter; (d) inform those parties of alternatives
3 to filing a dissolution petition, such as marriage counseling; (e)
4 inform those parties of alternatives to litigation including
5 counseling, legal separation, and mediation services if appropriate;
6 and (f) be available to assist the court in superior court cases filed
7 under this title.

8 (3) Family court liaisons shall not provide legal advice. No
9 attorney-client relationship or privilege is created, by implication or
10 by inference, between a family court liaison providing basic
11 information under this chapter and the users of family court liaison
12 services.

13 **Sec. 203.** RCW 26.12.060 and 1999 c 397 s 7 are each amended to
14 read as follows:

15 The court commissioners shall: (1) Make appropriate referrals to
16 county family court services program if the county has a family court
17 services program or appoint a guardian ad litem pursuant to RCW
18 26.12.175; (2) order investigation and reporting of the facts upon
19 which to base warrants, subpoenas, orders or directions in actions or
20 proceedings under this chapter; (3) exercise all the powers and perform
21 all the duties of court commissioners; (4) make written reports of all
22 proceedings had which shall become a part of the record of the family
23 court; (5) provide supervision over the exercise of its jurisdiction as
24 the judge of the family court may order; (6) cause the orders and
25 findings of the family court to be entered in the same manner as orders
26 and findings are entered in cases in the superior court; (7) cause
27 other reports to be made and records kept as will indicate the value
28 and extent of reconciliation, mediation, investigation, and treatment
29 services; ~~((and))~~ (8) conduct hearings under Title 13 and chapter
30 28A.225 RCW, as provided in RCW 13.04.021; and (9) advise all parties
31 that a person who makes a false statement under oath may be found
32 guilty of the crime of perjury.

33 **Sec. 204.** RCW 2.56.180 and 2005 c 282 s 10 are each amended to
34 read as follows:

35 (1) The administrative office of the courts shall create a handbook
36 explaining the sections of Washington law pertaining to the rights and

1 responsibilities of marital partners to each other and to any children
2 during a marriage and a dissolution of marriage. The handbook may also
3 be provided in videotape or other electronic form.

4 (2) The handbook created under subsection (1) of this section shall
5 be provided by the county auditor when an individual applies for a
6 marriage license under RCW 26.04.140.

7 (3) The handbook created under subsection (1) of this section shall
8 also be provided to both parties when an individual files a petition
9 for dissolution pursuant to RCW 26.09.020. The administrative office
10 of the courts shall on an annual basis reimburse the counties for each
11 copy of the handbook that is distributed directly to family law parties
12 under this section, provided that the county submits documentation of
13 the number of handbooks distributed on an annual basis.

14 (4) Prior to entry of a decree of dissolution, both parties shall
15 acknowledge, in writing, the receipt of the family law handbook,
16 information related to alternatives to litigation including counseling,
17 legal separation, and mediation services, and if appropriate
18 information regarding supervised visitation and safe exchange programs.

19 (5) The information contained in the handbook created under
20 subsection (1) of this section shall be reviewed and updated annually.
21 The handbook must contain the following information:

22 (a) Information on prenuptial agreements as contracts and as a
23 means of structuring financial arrangements and other aspects of the
24 marital relationship;

25 (b) Information on shared parental responsibility for children,
26 including establishing a residential schedule for the child in the
27 event of the dissolution of the marriage;

28 (c) Information on notice requirements and standards for parental
29 relocation;

30 (d) Information on child support for minor children;

31 (e) Information on property rights, including equitable
32 distribution of assets and premarital and postmarital property rights;

33 (f) Information on spousal maintenance;

34 (g) Information on domestic violence, child abuse, and neglect,
35 including penalties;

36 (h) Information on the court process for dissolution;

37 (i) Information on the effects of dissolution on children;

1 (j) Information on community resources that are available to
2 separating or divorcing persons and their children.

3 **Sec. 205.** RCW 26.09.020 and 2001 c 42 s 1 are each amended to read
4 as follows:

5 (1) A petition in a proceeding for dissolution of marriage, legal
6 separation, or for a declaration concerning the validity of a marriage
7 shall allege:

8 (a) The last known state of residence of each party, and if a
9 party's last known state of residence is Washington, the last known
10 county of residence;

11 (b) The date and place of the marriage;

12 (c) If the parties are separated the date on which the separation
13 occurred;

14 (d) The names and ages of any child dependent upon either or both
15 spouses and whether the wife is pregnant;

16 (e) Any arrangements as to the residential schedule of, decision
17 making for, dispute resolution for, and support of the children and the
18 maintenance of a spouse;

19 (f) A statement specifying whether there is community or separate
20 property owned by the parties to be disposed of;

21 (g) If the county has a family court liaison, a statement
22 specifying that the moving party met with the family court liaison at
23 least fifteen days prior to filing;

24 (h) The relief sought.

25 (2) Either or both parties to the marriage may initiate the
26 proceeding.

27 (3) The petitioner shall complete and file with the petition a
28 certificate under RCW 43.70.150 on the form provided by the department
29 of health and the confidential information form under RCW 26.23.050.

30 (4) Nothing in this section shall be construed to limit or prohibit
31 the ability of parties to obtain appropriate emergency orders.

32 **Sec. 206.** RCW 36.18.016 and 2006 c 192 s 2 are each amended to
33 read as follows:

34 (1) Revenue collected under this section is not subject to division
35 under RCW 36.18.025 or 27.24.070.

1 (2)(a) For the filing of a petition for modification of a decree of
2 dissolution or paternity, within the same case as the original action,
3 and any party filing a counterclaim, cross-claim, or third-party claim
4 in any such action, a fee of thirty-six dollars must be paid.

5 (b) The party filing the first or initial petition for dissolution,
6 legal separation, or declaration concerning the validity of marriage
7 shall pay, at the time and in addition to the filing fee required under
8 RCW 36.18.020, a fee of thirty dollars. The clerk of the superior
9 court shall transmit monthly twenty-four dollars of the thirty-dollar
10 fee collected under this subsection to the state treasury for deposit
11 in the domestic violence prevention account. The remaining six dollars
12 shall be retained by the county for the purpose of supporting
13 community-based services within the county for victims of domestic
14 violence, except for five percent of the six dollars, which may be
15 retained by the court for administrative purposes.

16 (3)(a) The party making a demand for a jury of six in a civil
17 action shall pay, at the time, a fee of one hundred twenty-five
18 dollars; if the demand is for a jury of twelve, a fee of two hundred
19 fifty dollars. If, after the party demands a jury of six and pays the
20 required fee, any other party to the action requests a jury of twelve,
21 an additional one hundred twenty-five dollar fee will be required of
22 the party demanding the increased number of jurors.

23 (b) Upon conviction in criminal cases a jury demand charge of one
24 hundred twenty-five dollars for a jury of six, or two hundred fifty
25 dollars for a jury of twelve may be imposed as costs under RCW
26 10.46.190.

27 (4) For preparing a certified copy of an instrument on file or of
28 record in the clerk's office, for the first page or portion of the
29 first page, a fee of five dollars, and for each additional page or
30 portion of a page, a fee of one dollar must be charged. For
31 authenticating or exemplifying an instrument, a fee of two dollars for
32 each additional seal affixed must be charged. For preparing a copy of
33 an instrument on file or of record in the clerk's office without a
34 seal, a fee of fifty cents per page must be charged. When copying a
35 document without a seal or file that is in an electronic format, a fee
36 of twenty-five cents per page must be charged. For copies made on a
37 compact disc, an additional fee of twenty dollars for each compact disc
38 must be charged.

- 1 (5) For executing a certificate, with or without a seal, a fee of
2 two dollars must be charged.
- 3 (6) For a garnishee defendant named in an affidavit for garnishment
4 and for a writ of attachment, a fee of twenty dollars must be charged.
- 5 (7) For filing a supplemental proceeding, a fee of twenty dollars
6 must be charged.
- 7 (8) For approving a bond, including justification on the bond, in
8 other than civil actions and probate proceedings, a fee of two dollars
9 must be charged.
- 10 (9) For the issuance of a certificate of qualification and a
11 certified copy of letters of administration, letters testamentary, or
12 letters of guardianship, there must be a fee of two dollars.
- 13 (10) For the preparation of a passport application, the clerk may
14 collect an execution fee as authorized by the federal government.
- 15 (11) For clerk's services such as processing ex parte orders,
16 performing historical searches, compiling statistical reports, and
17 conducting exceptional record searches, the clerk may collect a fee not
18 to exceed twenty dollars per hour or portion of an hour.
- 19 (12) For duplicated recordings of court's proceedings there must be
20 a fee of ten dollars for each audio tape and twenty-five dollars for
21 each video tape or other electronic storage medium.
- 22 (13) For registration of land titles, Torrens Act, under RCW
23 65.12.780, a fee of twenty dollars must be charged.
- 24 (14) For the issuance of extension of judgment under RCW 6.17.020
25 and chapter 9.94A RCW, a fee of two hundred dollars must be charged.
26 When the extension of judgment is at the request of the clerk, the two
27 hundred dollar charge may be imposed as court costs under RCW
28 10.46.190.
- 29 (15) A facilitator surcharge of up to twenty dollars must be
30 charged as authorized under RCW 26.12.240.
- 31 (16) For filing a water rights statement under RCW 90.03.180, a fee
32 of twenty-five dollars must be charged.
- 33 (17) For filing a claim of frivolous lien under RCW 60.04.081, a
34 fee of thirty-five dollars must be charged.
- 35 (18) For preparation of a change of venue, a fee of twenty dollars
36 must be charged by the originating court in addition to the per page
37 charges in subsection (4) of this section.

1 (19) A service fee of three dollars for the first page and one
2 dollar for each additional page must be charged for receiving faxed
3 documents, pursuant to Washington state rules of court, general rule
4 17.

5 (20) For preparation of clerk's papers under RAP 9.7, a fee of
6 fifty cents per page must be charged.

7 (21) For copies and reports produced at the local level as
8 permitted by RCW 2.68.020 and supreme court policy, a variable fee must
9 be charged.

10 (22) Investment service charge and earnings under RCW 36.48.090
11 must be charged.

12 (23) Costs for nonstatutory services rendered by clerk by authority
13 of local ordinance or policy must be charged.

14 (24) For filing a request for mandatory arbitration, a filing fee
15 may be assessed against the party filing a statement of arbitrability
16 not to exceed two hundred twenty dollars as established by authority of
17 local ordinance. This charge shall be used solely to offset the cost
18 of the mandatory arbitration program.

19 (25) For filing a request for trial de novo of an arbitration
20 award, a fee not to exceed two hundred fifty dollars as established by
21 authority of local ordinance must be charged.

22 (26) A public agency may not charge a fee to a law enforcement
23 agency, for preparation, copying, or mailing of certified copies of the
24 judgment and sentence, information, affidavit of probable cause, and/or
25 the notice of requirement to register, of a sex offender convicted in
26 a Washington court, when such records are necessary for risk
27 assessment, preparation of a case for failure to register, or
28 maintenance of a sex offender's registration file.

29 (27) For the filing of a will or codicil under the provisions of
30 chapter 11.12 RCW, a fee of twenty dollars must be charged.

31 (28) A liaison surcharge of up to twenty dollars may be charged as
32 authorized by section 202 of this act.

33 The revenue to counties from the fees established in this section
34 shall be deemed to be complete reimbursement from the state for the
35 state's share of benefits paid to the superior court judges of the
36 state prior to July 24, 2005, and no claim shall lie against the state
37 for such benefits.

1 **PART III - Domestic Violence and Child Abuse**

2 NEW SECTION. **Sec. 301.** A new section is added to chapter 26.09
3 RCW to read as follows:

4 Mediation is generally inappropriate in cases involving domestic
5 violence and child abuse. In order to effectively identify cases where
6 issues of domestic violence and child abuse are present and reduce
7 conflict in dissolution matters: (1) Parties shall meet with family
8 court liaisons prior to participation in mediation; (2) where
9 appropriate parties shall be provided access to trained domestic
10 violence advocates; and (3) in cases where a victim requests mediation
11 the court may make exceptions and permit mediation, so long as the
12 court makes a finding that mediation is appropriate under the
13 circumstances and the victim is permitted to have a supporting person
14 present during the mediation proceedings.

15 **Sec. 302.** RCW 2.56.030 and 2005 c 457 s 7 and 2005 c 282 s 7 are
16 each reenacted and amended to read as follows:

17 The administrator for the courts shall, under the supervision and
18 direction of the chief justice:

19 (1) Examine the administrative methods and systems employed in the
20 offices of the judges, clerks, stenographers, and employees of the
21 courts and make recommendations, through the chief justice, for the
22 improvement of the same;

23 (2) Examine the state of the dockets of the courts and determine
24 the need for assistance by any court;

25 (3) Make recommendations to the chief justice relating to the
26 assignment of judges where courts are in need of assistance and carry
27 out the direction of the chief justice as to the assignments of judges
28 to counties and districts where the courts are in need of assistance;

29 (4) Collect and compile statistical and other data and make reports
30 of the business transacted by the courts and transmit the same to the
31 chief justice to the end that proper action may be taken in respect
32 thereto;

33 (5) Prepare and submit budget estimates of state appropriations
34 necessary for the maintenance and operation of the judicial system and
35 make recommendations in respect thereto;

36 (6) Collect statistical and other data and make reports relating to

1 the expenditure of public moneys, state and local, for the maintenance
2 and operation of the judicial system and the offices connected
3 therewith;

4 (7) Obtain reports from clerks of courts in accordance with law or
5 rules adopted by the supreme court of this state on cases and other
6 judicial business in which action has been delayed beyond periods of
7 time specified by law or rules of court and make report thereof to
8 supreme court of this state;

9 (8) Act as secretary of the judicial conference referred to in RCW
10 2.56.060;

11 (9) Submit annually, as of February 1st, to the chief justice, a
12 report of the activities of the administrator's office for the
13 preceding calendar year including activities related to courthouse
14 security;

15 (10) Administer programs and standards for the training and
16 education of judicial personnel;

17 (11) Examine the need for new superior court and district court
18 judge positions under an objective workload analysis. The results of
19 the objective workload analysis shall be reviewed by the board for
20 judicial administration which shall make recommendations to the
21 legislature. It is the intent of the legislature that an objective
22 workload analysis become the basis for creating additional district and
23 superior court positions, and recommendations should address that
24 objective;

25 (12) Provide staff to the judicial retirement account plan under
26 chapter 2.14 RCW;

27 (13) Attend to such other matters as may be assigned by the supreme
28 court of this state;

29 (14) Within available funds, develop a curriculum for a general
30 understanding of child development, placement, and treatment resources,
31 as well as specific legal skills and knowledge of relevant statutes
32 including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules,
33 interviewing skills, and special needs of the abused or neglected
34 child. This curriculum shall be completed and made available to all
35 juvenile court judges, court personnel, and service providers and be
36 updated yearly to reflect changes in statutes, court rules, or case
37 law;

1 (15) Develop, in consultation with the entities set forth in RCW
2 2.56.150(3), a comprehensive statewide curriculum for persons who act
3 as guardians ad litem under Title 13 or 26 RCW. The curriculum shall
4 be made available July 1, (~~1997~~) 2008, and include specialty sections
5 on child development, child sexual abuse, child physical abuse, child
6 neglect, domestic violence, clinical and forensic investigative and
7 interviewing techniques, family reconciliation and mediation services,
8 and relevant statutory and legal requirements. The curriculum shall be
9 made available to all superior court judges, court personnel, and all
10 persons who act as guardians ad litem;

11 (16) Develop a curriculum for a general understanding of crimes of
12 malicious harassment, as well as specific legal skills and knowledge of
13 RCW 9A.36.080, relevant cases, court rules, and the special needs of
14 malicious harassment victims. This curriculum shall be made available
15 to all superior court and court of appeals judges and to all justices
16 of the supreme court;

17 (17) Develop, in consultation with the criminal justice training
18 commission and the commissions established under chapters 43.113,
19 43.115, and 43.117 RCW, a curriculum for a general understanding of
20 ethnic and cultural diversity and its implications for working with
21 youth of color and their families. The curriculum shall be available
22 to all superior court judges and court commissioners assigned to
23 juvenile court, and other court personnel. Ethnic and cultural
24 diversity training shall be provided annually so as to incorporate
25 cultural sensitivity and awareness into the daily operation of juvenile
26 courts statewide;

27 (18) Authorize the use of closed circuit television and other
28 electronic equipment in judicial proceedings. The administrator shall
29 promulgate necessary standards and procedures and shall provide
30 technical assistance to courts as required;

31 (19) Develop a Washington family law handbook in accordance with
32 RCW 2.56.180;

33 (20) Administer state funds for improving the operation of the
34 courts and provide support for court coordinating councils, under the
35 direction of the board for judicial administration;

36 (21)(a) Administer and distribute amounts appropriated from the
37 equal justice subaccount under RCW 43.08.250(2) for district court
38 judges' and qualifying elected municipal court judges' salary

1 contributions. The administrator for the courts shall develop a
2 distribution formula for these amounts that does not differentiate
3 between district and elected municipal court judges.

4 (b) A city qualifies for state contribution of elected municipal
5 court judges' salaries under (a) of this subsection if:

6 (i) The judge is serving in an elected position;

7 (ii) The city has established by ordinance that a full-time judge
8 is compensated at a rate equivalent to at least ninety-five percent,
9 but not more than one hundred percent, of a district court judge salary
10 or for a part-time judge on a pro rata basis the same equivalent; and

11 (iii) The city has certified to the office of the administrator for
12 the courts that the conditions in (b)(i) and (ii) of this subsection
13 have been met.

14 **Sec. 303.** RCW 26.09.191 and 2004 c 38 s 12 are each amended to
15 read as follows:

16 (1) The permanent parenting plan shall not require mutual decision-
17 making or designation of a dispute resolution process other than court
18 action if it is found that a parent has engaged in any of the following
19 conduct: (a) Willful abandonment that continues for an extended period
20 of time or substantial refusal to perform parenting functions; (b)
21 physical, sexual, or a pattern of emotional abuse of a child; or (c) a
22 history of acts of domestic violence as defined in RCW 26.50.010(1) or
23 an assault or sexual assault which causes grievous bodily harm or the
24 fear of such harm.

25 (2)(a) The parent's residential time with the child shall be
26 limited if it is found that the parent has engaged in any of the
27 following conduct: (i) Willful abandonment that continues for an
28 extended period of time or substantial refusal to perform parenting
29 functions; (ii) physical, sexual, or a pattern of emotional abuse of a
30 child; (iii) a history of acts of domestic violence as defined in RCW
31 26.50.010(1) or an assault or sexual assault which causes grievous
32 bodily harm or the fear of such harm; or (iv) the parent has been
33 convicted as an adult of a sex offense under:

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

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

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

7 (D) RCW 9A.44.089;

8 (E) RCW 9A.44.093;

9 (F) RCW 9A.44.096;

10 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age
11 between the offender and the victim, no rebuttable presumption exists
12 under (d) of this subsection;

13 (H) Chapter 9.68A RCW;

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

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

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

21 (b) The parent's residential time with the child shall be limited
22 if it is found that the parent resides with a person who has engaged in
23 any of the following conduct: (i) Physical, sexual, or a pattern of
24 emotional abuse of a child; (ii) a history of acts of domestic violence
25 as defined in RCW 26.50.010(1) or an assault or sexual assault that
26 causes grievous bodily harm or the fear of such harm; or (iii) the
27 person has been convicted as an adult or as a juvenile has been
28 adjudicated of a sex offense under:

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

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

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

38 (D) RCW 9A.44.089;

- 1 (E) RCW 9A.44.093;
2 (F) RCW 9A.44.096;
3 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age
4 between the offender and the victim, no rebuttable presumption exists
5 under (e) of this subsection;
6 (H) Chapter 9.68A RCW;
7 (I) Any predecessor or antecedent statute for the offenses listed
8 in (b)(iii)(A) through (H) of this subsection;
9 (J) Any statute from any other jurisdiction that describes an
10 offense analogous to the offenses listed in (b)(iii)(A) through (H) of
11 this subsection.

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

14 (c) If a parent has been found to be a sexual predator under
15 chapter 71.09 RCW or under an analogous statute of any other
16 jurisdiction, the court shall restrain the parent from contact with a
17 child that would otherwise be allowed under this chapter. If a parent
18 resides with an adult or a juvenile who has been found to be a sexual
19 predator under chapter 71.09 RCW or under an analogous statute of any
20 other jurisdiction, the court shall restrain the parent from contact
21 with the parent's child except contact that occurs outside that
22 person's presence.

23 (d) There is a rebuttable presumption that a parent who has been
24 convicted as an adult of a sex offense listed in (d)(i) through (ix) of
25 this subsection poses a present danger to a child. Unless the parent
26 rebuts this presumption, the court shall restrain the parent from
27 contact with a child that would otherwise be allowed under this
28 chapter:

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

31 (ii) RCW 9A.44.073;

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

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

36 (v) RCW 9A.44.083;

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

1 (vii) RCW 9A.44.100;

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

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

7 (e) There is a rebuttable presumption that a parent who resides
8 with a person who, as an adult, has been convicted, or as a juvenile
9 has been adjudicated, of the sex offenses listed in (e)(i) through (ix)
10 of this subsection places a child at risk of abuse or harm when that
11 parent exercises residential time in the presence of the convicted or
12 adjudicated person. Unless the parent rebuts the presumption, the
13 court shall restrain the parent from contact with the parent's child
14 except for contact that occurs outside of the convicted or adjudicated
15 person's presence:

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

18 (ii) RCW 9A.44.073;

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

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

23 (v) RCW 9A.44.083;

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

26 (vii) RCW 9A.44.100;

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

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

32 (f) The presumption established in (d) of this subsection may be
33 rebutted only after a written finding that:

34 (i) If the child was not the victim of the sex offense committed by
35 the parent requesting residential time, (A) contact between the child
36 and the offending parent is appropriate and poses minimal risk to the
37 child, and (B) the offending parent has successfully engaged in
38 treatment for sex offenders or is engaged in and making progress in

1 such treatment, if any was ordered by a court, and the treatment
2 provider believes such contact is appropriate and poses minimal risk to
3 the child; or

4 (ii) If the child was the victim of the sex offense committed by
5 the parent requesting residential time, (A) contact between the child
6 and the offending parent is appropriate and poses minimal risk to the
7 child, (B) if the child is in or has been in therapy for victims of
8 sexual abuse, the child's counselor believes such contact between the
9 child and the offending parent is in the child's best interest, and (C)
10 the offending parent has successfully engaged in treatment for sex
11 offenders or is engaged in and making progress in such treatment, if
12 any was ordered by a court, and the treatment provider believes such
13 contact is appropriate and poses minimal risk to the child.

14 (g) The presumption established in (e) of this subsection may be
15 rebutted only after a written finding that:

16 (i) If the child was not the victim of the sex offense committed by
17 the person who is residing with the parent requesting residential time,
18 (A) contact between the child and the parent residing with the
19 convicted or adjudicated person is appropriate and that parent is able
20 to protect the child in the presence of the convicted or adjudicated
21 person, and (B) the convicted or adjudicated person has successfully
22 engaged in treatment for sex offenders or is engaged in and making
23 progress in such treatment, if any was ordered by a court, and the
24 treatment provider believes such contact is appropriate and poses
25 minimal risk to the child; or

26 (ii) If the child was the victim of the sex offense committed by
27 the person who is residing with the parent requesting residential time,
28 (A) contact between the child and the parent in the presence of the
29 convicted or adjudicated person is appropriate and poses minimal risk
30 to the child, (B) if the child is in or has been in therapy for victims
31 of sexual abuse, the child's counselor believes such contact between
32 the child and the parent residing with the convicted or adjudicated
33 person in the presence of the convicted or adjudicated person is in the
34 child's best interest, and (C) the convicted or adjudicated person has
35 successfully engaged in treatment for sex offenders or is engaged in
36 and making progress in such treatment, if any was ordered by a court,
37 and the treatment provider believes contact between the parent and

1 child in the presence of the convicted or adjudicated person is
2 appropriate and poses minimal risk to the child.

3 (h) If the court finds that the parent has met the burden of
4 rebutting the presumption under (f) of this subsection, the court may
5 allow a parent who has been convicted as an adult of a sex offense
6 listed in (d)(i) through (ix) of this subsection to have residential
7 time with the child supervised by a neutral and independent adult and
8 pursuant to an adequate plan for supervision of such residential time.
9 The court shall not approve of a supervisor for contact between the
10 child and the parent unless the court finds, based on the evidence,
11 that the supervisor is willing and capable of protecting the child from
12 harm. The court shall revoke court approval of the supervisor upon
13 finding, based on the evidence, that the supervisor has failed to
14 protect the child or is no longer willing or capable of protecting the
15 child.

16 (i) If the court finds that the parent has met the burden of
17 rebutting the presumption under (g) of this subsection, the court may
18 allow a parent residing with a person who has been adjudicated as a
19 juvenile of a sex offense listed in (e)(i) through (ix) of this
20 subsection to have residential time with the child in the presence of
21 the person adjudicated as a juvenile, supervised by a neutral and
22 independent adult and pursuant to an adequate plan for supervision of
23 such residential time. The court shall not approve of a supervisor for
24 contact between the child and the parent unless the court finds, based
25 on the evidence, that the supervisor is willing and capable of
26 protecting the child from harm. The court shall revoke court approval
27 of the supervisor upon finding, based on the evidence, that the
28 supervisor has failed to protect the child or is no longer willing or
29 capable of protecting the child.

30 (j) If the court finds that the parent has met the burden of
31 rebutting the presumption under (g) of this subsection, the court may
32 allow a parent residing with a person who, as an adult, has been
33 convicted of a sex offense listed in (e)(i) through (ix) of this
34 subsection to have residential time with the child in the presence of
35 the convicted person supervised by a neutral and independent adult and
36 pursuant to an adequate plan for supervision of such residential time.
37 The court shall not approve of a supervisor for contact between the
38 child and the parent unless the court finds, based on the evidence,

1 that the supervisor is willing and capable of protecting the child from
2 harm. The court shall revoke court approval of the supervisor upon
3 finding, based on the evidence, that the supervisor has failed to
4 protect the child or is no longer willing or capable of protecting the
5 child.

6 (k) A court shall not order unsupervised contact between the
7 offending parent and a child of the offending parent who was sexually
8 abused by that parent. A court may order unsupervised contact between
9 the offending parent and a child who was not sexually abused by the
10 parent after the presumption under (d) of this subsection has been
11 rebutted and supervised residential time has occurred for at least two
12 years with no further arrests or convictions of sex offenses involving
13 children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW
14 and (i) the sex offense of the offending parent was not committed
15 against a child of the offending parent, and (ii) the court finds that
16 unsupervised contact between the child and the offending parent is
17 appropriate and poses minimal risk to the child, after consideration of
18 the testimony of a state-certified therapist, mental health counselor,
19 or social worker with expertise in treating child sexual abuse victims
20 who has supervised at least one period of residential time between the
21 parent and the child, and after consideration of evidence of the
22 offending parent's compliance with community supervision requirements,
23 if any. If the offending parent was not ordered by a court to
24 participate in treatment for sex offenders, then the parent shall
25 obtain a psychosexual evaluation conducted by a certified sex offender
26 treatment provider or a certified affiliate sex offender treatment
27 provider indicating that the offender has the lowest likelihood of risk
28 to reoffend before the court grants unsupervised contact between the
29 parent and a child.

30 (l) A court may order unsupervised contact between the parent and
31 a child which may occur in the presence of a juvenile adjudicated of a
32 sex offense listed in (e)(i) through (ix) of this subsection who
33 resides with the parent after the presumption under (e) of this
34 subsection has been rebutted and supervised residential time has
35 occurred for at least two years during which time the adjudicated
36 juvenile has had no further arrests, adjudications, or convictions of
37 sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020,
38 or chapter 9.68A RCW, and (i) the court finds that unsupervised contact

1 between the child and the parent that may occur in the presence of the
2 adjudicated juvenile is appropriate and poses minimal risk to the
3 child, after consideration of the testimony of a state-certified
4 therapist, mental health counselor, or social worker with expertise in
5 treatment of child sexual abuse victims who has supervised at least one
6 period of residential time between the parent and the child in the
7 presence of the adjudicated juvenile, and after consideration of
8 evidence of the adjudicated juvenile's compliance with community
9 supervision or parole requirements, if any. If the adjudicated
10 juvenile was not ordered by a court to participate in treatment for sex
11 offenders, then the adjudicated juvenile shall obtain a psychosexual
12 evaluation conducted by a certified sex offender treatment provider or
13 a certified affiliate sex offender treatment provider indicating that
14 the adjudicated juvenile has the lowest likelihood of risk to reoffend
15 before the court grants unsupervised contact between the parent and a
16 child which may occur in the presence of the adjudicated juvenile who
17 is residing with the parent.

18 (m)(i) The limitations imposed by the court under (a) or (b) of
19 this subsection shall be reasonably calculated to protect the child
20 from the physical, sexual, or emotional abuse or harm that could result
21 if the child has contact with the parent requesting residential time.
22 The limitations shall also be reasonably calculated to provide for the
23 safety of the parent who may be at risk of physical, sexual, or
24 emotional abuse or harm that could result if the parent has contact
25 with the parent requesting residential time. The limitations the court
26 may impose include, but are not limited to: Supervised contact between
27 the child and the parent or completion of relevant counseling or
28 treatment. If the court expressly finds based on the evidence that
29 limitations on the residential time with the child will not adequately
30 protect the child from the harm or abuse that could result if the child
31 has contact with the parent requesting residential time, the court
32 shall restrain the parent requesting residential time from all contact
33 with the child.

34 (ii) The court shall not enter an order under (a) of this
35 subsection allowing a parent to have contact with a child if the parent
36 has been found by clear and convincing evidence in a civil action or by
37 a preponderance of the evidence in a dependency action to have sexually
38 abused the child, except upon recommendation by an evaluator or

1 therapist for the child that the child is ready for contact with the
2 parent and will not be harmed by the contact. The court shall not
3 enter an order allowing a parent to have contact with the child in the
4 offender's presence if the parent resides with a person who has been
5 found by clear and convincing evidence in a civil action or by a
6 preponderance of the evidence in a dependency action to have sexually
7 abused a child, unless the court finds that the parent accepts that the
8 person engaged in the harmful conduct and the parent is willing to and
9 capable of protecting the child from harm from the person.

10 (iii) If the court limits residential time under (a) or (b) of this
11 subsection to require supervised contact between the child and the
12 parent, the court shall not approve of a supervisor for contact between
13 a child and a parent who has engaged in physical, sexual, or a pattern
14 of emotional abuse of the child unless the court finds based upon the
15 evidence that the supervisor accepts that the harmful conduct occurred
16 and is willing to and capable of protecting the child from harm. The
17 court shall revoke court approval of the supervisor upon finding, based
18 on the evidence, that the supervisor has failed to protect the child or
19 is no longer willing to or capable of protecting the child.

20 (n) If the court expressly finds based on the evidence that
21 contact between the parent and the child will not cause physical,
22 sexual, or emotional abuse or harm to the child and that the
23 probability that the parent's or other person's harmful or abusive
24 conduct will recur is so remote that it would not be in the child's
25 best interests to apply the limitations of (a), (b), and (m)(i) and
26 (iii) of this subsection, or if the court expressly finds that the
27 parent's conduct did not have an impact on the child, then the court
28 need not apply the limitations of (a), (b), and (m)(i) and (iii) of
29 this subsection. The weight given to the existence of a protection
30 order issued under chapter 26.50 RCW as to domestic violence is within
31 the discretion of the court. This subsection shall not apply when (c),
32 (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this
33 subsection apply.

34 (3) A parent's involvement or conduct may have an adverse effect on
35 the child's best interests, and the court may preclude or limit any
36 provisions of the parenting plan, if any of the following factors
37 exist:

1 (a) A parent's neglect or substantial nonperformance of parenting
2 functions;

3 (b) A long-term emotional or physical impairment which interferes
4 with the parent's performance of parenting functions as defined in RCW
5 26.09.004;

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

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

11 (e) The abusive use of conflict by the parent which creates the
12 danger of serious damage to the child's psychological development;

13 (f) A parent has withheld from the other parent access to the child
14 for a protracted period without good cause; or

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

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

22 (5) If any of the factors in this section exist, the court shall
23 require that a safety plan be completed.

24 (6) In entering a permanent parenting plan, the court shall not
25 draw any presumptions from the provisions of the temporary parenting
26 plan.

27 ~~((+5))~~ (7) In determining whether any of the conduct described in
28 this section has occurred, the court shall apply the civil rules of
29 evidence, proof, and procedure.

30 ~~((+6))~~ (8) For the purposes of this section, a parent's child
31 means that parent's natural child, adopted child, or stepchild.

32 NEW SECTION. Sec. 304. A new section is added to chapter 26.09
33 RCW to read as follows:

34 Before entering a permanent parenting plan, the court shall
35 determine the existence of any information and proceedings available in
36 the judicial information system that are relevant to the placement of
37 the child.

1 **Sec. 305.** RCW 26.12.177 and 2005 c 282 s 30 are each amended to
2 read as follows:

3 (1) All guardians ad litem and investigators appointed under this
4 title must comply with the training requirements established under RCW
5 2.56.030(15), prior to their appointment in cases under Title 26 RCW,
6 except that volunteer guardians ad litem or court-appointed special
7 advocates may comply with alternative training requirements approved by
8 the administrative office of the courts that meet or exceed the
9 statewide requirements. In cases involving allegations of limiting
10 factors under RCW 26.09.191, the guardians ad litem and investigators
11 appointed under this title must have additional training under RCW
12 2.56.030(15) when it is available.

13 (2)(a) Each guardian ad litem program for compensated guardians ad
14 litem shall establish a rotational registry system for the appointment
15 of guardians ad litem and investigators under this title. If a
16 judicial district does not have a program the court shall establish the
17 rotational registry system. Guardians ad litem and investigators under
18 this title shall be selected from the registry except in exceptional
19 circumstances as determined and documented by the court. The parties
20 may make a joint recommendation for the appointment of a guardian ad
21 litem from the registry.

22 (b) In judicial districts with a population over one hundred
23 thousand, a list of three names shall be selected from the registry and
24 given to the parties along with the background information as specified
25 in RCW 26.12.175(3), including their hourly rate for services. Each
26 party may, within three judicial days, strike one name from the list.
27 If more than one name remains on the list, the court shall make the
28 appointment from the names on the list. In the event all three names
29 are stricken the person whose name appears next on the registry shall
30 be appointed.

31 (c) If a party reasonably believes that the appointed guardian ad
32 litem lacks the necessary expertise for the proceeding, charges an
33 hourly rate higher than what is reasonable for the particular
34 proceeding, or has a conflict of interest, the party may, within three
35 judicial days from the appointment, move for substitution of the
36 appointed guardian ad litem by filing a motion with the court.

37 (d) Under this section, within either registry referred to in (a)
38 of this subsection, a subregistry may be created that consists of

1 guardians ad litem under contract with the department of social and
2 health services' division of child support. Guardians ad litem on such
3 a subregistry shall be selected and appointed in state-initiated
4 paternity cases only.

5 (e) The superior court shall remove any person from the guardian ad
6 litem registry who misrepresents his or her qualifications pursuant to
7 a grievance procedure established by the court.

8 (3) The rotational registry system shall not apply to court-
9 appointed special advocate programs.

10 NEW SECTION. **Sec. 306.** A new section is added to chapter 2.53 RCW
11 to read as follows:

12 (1) The legislature requests that the supreme court convene and
13 support a task force to establish statewide protocols for dissolution
14 cases. If the supreme court does not convene a task force along the
15 lines set forth in this section within ninety days of the effective
16 date of this section, such task force shall be convened and supported
17 by the office of civil legal aid. The task force shall develop: (a)
18 Clear and concise dispute resolution procedures; (b) in conjunction
19 with the office of crime victims advocacy, a sexual assault training
20 curriculum; (c) consistent standards for parenting evaluators; and (d)
21 a domestic violence training curriculum for individuals making
22 evaluations in dissolution cases. The task force shall make
23 recommendations concerning specialized evaluators for dissolution
24 cases, dissolution forms and procedures, and fees.

25 (2) The governor shall appoint the following members of the
26 workgroup:

27 (a) A representative of the office of crime victims advocacy;

28 (b) A professor of law specializing in family law;

29 (c) A representative from a statewide domestic violence advocacy
30 group;

31 (d) A representative from a community sexual assault program;

32 (e) Two noncustodial parents with at least one representing the
33 interests of low-income noncustodial parents; and

34 (f) Two custodial parents with at least one representing the
35 interests of low-income custodial parents.

36 (3) The chief justice of the supreme court is requested to appoint
37 the following members of the task force:

1 (a) Two representatives from the superior court judges association,
2 including a superior court judge and a court commissioner who is
3 familiar with dissolution issues;

4 (b) A representative from the administrative office of the courts;

5 (c) A representative from the Washington state bar association's
6 family law executive committee;

7 (d) A representative from a qualified legal aid provider that
8 receives funding from the office of civil legal aid;

9 (e) A representative of the Washington state association of county
10 clerks; and

11 (f) A guardian ad litem.

12 (4) The president of the senate shall appoint one member from each
13 of the two largest caucuses of the senate.

14 (5) The speaker of the house of representatives shall appoint one
15 member from each of the two largest caucuses of the house of
16 representatives, with at least one member.

17 (6) Membership of the task force may also include members of the
18 civil legal aid oversight committee, including but not limited to the
19 legislative members of the committee.

20 (7) The supreme court or, in the event the supreme court does not
21 convene the task force within ninety days of the effective date of this
22 section, the office of civil legal aid shall provide staff support to
23 the task force, and shall carefully consider all input received from
24 interested organizations and individuals during the review process.

25 (8) The task force may form an executive committee, create
26 subcommittees, designate alternative representatives, and define other
27 procedures, as needed, for operation of the task force.

28 (9) Legislative members of the task force shall be reimbursed for
29 travel expenses under RCW 44.04.120. Nonlegislative members, except
30 those representing an employee or organization, are entitled to be
31 reimbursed for travel expenses in accordance with RCW 43.03.050 and
32 43.03.060.

33 (10) The task force shall present preliminary findings and
34 conclusions to the governor's office, the supreme court, and the
35 appropriate committees of the legislature by September 1, 2008. A
36 final report and recommendations, including recommendations for
37 legislative action, if necessary, shall be completed by December 1,
38 2008.

1 (11) This section expires June 30, 2009.

2 **PART IV - Additional Services**

3 NEW SECTION. **Sec. 401.** A new section is added to chapter 26.09
4 RCW to read as follows:

5 In order to provide judicial officers with better information and
6 to facilitate decision making which allows for the protection of
7 children from physical, mental, or emotional harm and in order to
8 facilitate consistent healthy contact between both parents and their
9 children:

10 (1) Parties and witnesses who require the assistance of
11 interpreters shall be provided access to qualified interpreters
12 pursuant to chapter 2.42 or 2.43 RCW. To the extent practicable and
13 within available resources, interpreters shall also be made available
14 at dissolution-related proceedings.

15 (2) Parties and witnesses who require literacy assistance shall be
16 referred to the multipurpose service centers established in chapter
17 28B.04 RCW.

18 (3) In matters involving guardian ad litem, the court shall
19 specify the hourly rate the guardian ad litem may charge for his or her
20 services, and shall specify the maximum amount the guardian ad litem
21 may charge without additional review. Counties may, and to the extent
22 state funding is provided therefor counties shall, provide indigent
23 parties with guardian ad litem services at a reduced or waived fee.

24 (4) Parties may request to participate by telephone or interactive
25 videoconference. The court may allow telephonic or interactive
26 videoconference participation of one or more parties at any proceeding
27 in its discretion. The court may also allow telephonic or interactive
28 videoconference participation of witnesses.

29 (5) In cases involving domestic violence or child abuse, if
30 residential time is ordered, the court may:

31 (a) Order exchange of a child to occur in a protected setting;

32 (b) Order residential time supervised by a neutral and independent
33 adult and pursuant to an adequate plan for supervision of such
34 residential time. The court shall not approve of a supervisor for
35 contact between the child and the parent unless the supervisor is
36 willing to and capable of protecting the child from harm. The court

1 shall revoke court approval of the supervisor if the court determines,
2 after a hearing, that the supervisor has failed to protect the child or
3 is no longer willing or capable of protecting the child. If the court
4 allows a family or household member to supervise residential time, the
5 court shall establish conditions to be followed during residential
6 time.

7 (6) In cases in which the court finds that the parties do not have
8 a satisfactory history of cooperation or a high level of parental
9 conflict, supervised visitation and safe exchange centers or
10 alternative safe locations shall be utilized to facilitate the exercise
11 of residential time if ordered.

12 PART V - Mediation

13 **Sec. 501.** RCW 26.09.015 and 2005 c 172 s 17 are each amended to
14 read as follows:

15 (1) In any proceeding under this chapter, the matter may be set for
16 mediation of the contested issues before or concurrent with the setting
17 of the matter for hearing. The purpose of the mediation proceeding
18 shall be to reduce acrimony which may exist between the parties and to
19 develop an agreement assuring the child's close and continuing contact
20 with both parents after the marriage is dissolved. The mediator shall
21 use his or her best efforts to effect a settlement of the dispute.

22 (2)(a) Each superior court may make available a mediator. The
23 court shall use the most cost-effective mediation services that are
24 readily available unless there is good cause to access alternative
25 providers. The mediator may be a member of the professional staff of
26 a family court or mental health services agency, or may be any other
27 person or agency designated by the court. In order to provide
28 mediation services, the court is not required to institute a family
29 court.

30 (b) In any proceeding involving issues relating to residential time
31 or other matters governed by a parenting plan, the matter may be set
32 for mediation of the contested issues before or concurrent with the
33 setting of the matter for hearing. Counties may, and to the extent
34 state funding is provided therefor counties shall, provide both
35 predecree and postdecree mediation at reduced or waived fee to the
36 parties within one year of the filing of the dissolution petition.

1 (3)(a) Mediation proceedings under this chapter shall be governed
2 in all respects by chapter 7.07 RCW, except as follows:

3 (i) Mediation communications in postdecree mediations mandated by
4 a parenting plan are admissible in subsequent proceedings for the
5 limited purpose of proving:

6 (A) Abuse, neglect, abandonment, exploitation, or unlawful
7 harassment as defined in RCW 9A.46.020(1), of a child;

8 (B) Abuse or unlawful harassment as defined in RCW 9A.46.020(1), of
9 a family or household member as defined in RCW 26.50.010(2); or

10 (C) That a parent used or frustrated the dispute resolution process
11 without good reason for purposes of RCW 26.09.184(3)(d).

12 (ii) If a postdecree mediation-arbitration proceeding is required
13 pursuant to a parenting plan and the same person acts as both mediator
14 and arbitrator, mediation communications in the mediation phase of such
15 a proceeding may be admitted during the arbitration phase, and shall be
16 admissible in the judicial review of such a proceeding under RCW
17 26.09.184(3)(e) to the extent necessary for such review to be
18 effective.

19 (b) None of the exceptions under (a)(i) and (ii) of this subsection
20 shall subject a mediator to compulsory process to testify except by
21 court order for good cause shown, taking into consideration the need
22 for the mediator's testimony and the interest in the mediator
23 maintaining an appearance of impartiality. If a mediation
24 communication is not privileged under (a)(i) of this subsection or that
25 portion of (a)(ii) of this subsection pertaining to judicial review,
26 only the portion of the communication necessary for the application of
27 the exception may be admitted, and such admission of evidence shall not
28 render any other mediation communication discoverable or admissible
29 except as may be provided in chapter 7.07 RCW.

30 (4) The mediator shall assess the needs and interests of the child
31 or children involved in the controversy and may interview the child or
32 children if the mediator deems such interview appropriate or necessary.

33 (5) Any agreement reached by the parties as a result of mediation
34 shall be reported to the court and to counsel for the parties by the
35 mediator on the day set for mediation or any time thereafter designated
36 by the court.

37 (6) Parties who choose to participate in good faith in the

1 mediation process within one month of filing a dissolution petition
2 remain eligible to finalize the dissolution ninety days after the date
3 of filing.

4 **PART VI - Technical Changes**

5 **Sec. 601.** RCW 26.09.030 and 2005 c 55 s 1 are each amended to read
6 as follows:

7 (1) When a party who ~~((1))~~ is:

8 (a) A resident of this state ~~((, or (2) is))~~;

9 (b) A member of the armed forces and is stationed in this
10 state ~~((, or (3) is))~~;

11 (c) Married to a party who is a resident of this state or who is a
12 member of the armed forces and is stationed in this state,
13 petitions for a dissolution of marriage, and alleges that the marriage
14 is irretrievably broken and when ninety days have elapsed since the
15 petition was filed and from the date when service of summons was made
16 upon the respondent or the first publication of summons was made, the
17 court shall proceed as follows:

18 ~~((a))~~ (i) If the other party joins in the petition or does not
19 deny that the marriage is irretrievably broken, the court shall enter
20 a decree of dissolution.

21 ~~((b))~~ (ii) If the other party alleges that the petitioner was
22 induced to file the petition by fraud, or coercion, the court shall
23 make a finding as to that allegation and, if it so finds shall dismiss
24 the petition.

25 ~~((c))~~ (iii) If the other party denies that the marriage is
26 irretrievably broken the court shall consider all relevant factors,
27 including the circumstances that gave rise to the filing of the
28 petition and the prospects for reconciliation and shall:

29 ~~((i))~~ (A) Make a finding that the marriage is irretrievably
30 broken and enter a decree of dissolution of the marriage; or

31 ~~((ii))~~ (B) At the request of either party or on its own motion,
32 transfer the cause to the family court, refer them to another
33 counseling service of their choice, and request a report back from the
34 counseling service within sixty days, or continue the matter for not
35 more than sixty days for hearing. If the cause is returned from the
36 family court or at the adjourned hearing, the court shall:

1 ~~((A))~~ (I) Find that the parties have agreed to reconciliation and
2 dismiss the petition; or

3 ~~((B))~~ (II) Find that the parties have not been reconciled, and
4 that either party continues to allege that the marriage is
5 irretrievably broken. When such facts are found, the court shall enter
6 a decree of dissolution of the marriage.

7 ~~((d))~~ (iv) If the petitioner requests the court to decree legal
8 separation in lieu of dissolution, the court shall enter the decree in
9 that form unless the other party objects and petitions for a decree of
10 dissolution or declaration of invalidity.

11 ~~((e))~~ (v) In considering a petition for dissolution of marriage,
12 a court shall not use a party's pregnancy as the sole basis for denying
13 or delaying the entry of a decree of dissolution of marriage. Granting
14 a decree of dissolution of marriage when a party is pregnant does not
15 affect further proceedings under the uniform parentage act, chapter
16 26.26 RCW.

17 (2) If the petitioner files in a county other than the county of
18 residence of either party or the child, the summons shall be served
19 upon the nonmoving party personally.

20 (3) A party may only file a modification in the county where the
21 petition for dissolution was filed, if the petition was filed after the
22 effective date of this section. Exceptions shall be made only if one
23 of the parties has moved to another county subsequent to the initial
24 filing, in which case the modification may be filed in the county where
25 one of the parties is now domiciled.

26 **Sec. 602.** RCW 26.09.187 and 1989 c 375 s 10 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(4)(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. Except as provided in (a)
24 and (b) of this subsection, the court shall consider the following
25 criteria in allocating decision-making authority:

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

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

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

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

34 (3) RESIDENTIAL PROVISIONS.

35 (a) The court shall make residential provisions for each child
36 which encourage each parent to maintain a loving, stable, and nurturing
37 relationship with the child, consistent with the child's developmental
38 level and the family's social and economic circumstances. The child's

1 residential schedule shall be consistent with RCW 26.09.191. Where the
2 limitations of RCW 26.09.191 are not dispositive of the child's
3 residential schedule, the court shall consider the following factors:

4 (i) The relative strength, nature, and stability of the child's
5 relationship with each parent (~~(, including whether a parent has taken~~
6 ~~greater responsibility for performing parenting functions relating to~~
7 ~~the daily needs of the child))~~);

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

10 (iii) Each parent's past and potential for future performance of
11 parenting functions as defined in RCW 26.09.004(3), including whether
12 a parent has taken greater responsibility for performing parenting
13 functions relating to the daily needs of the child;

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

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

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

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

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

24 (b) The court may order that a child frequently alternate his or
25 her residence between the households of the parents for brief and
26 substantially equal intervals of time (~~only if the court finds the~~
27 ~~following~~;

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

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

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

36 ~~(iii) The provisions are in the best interests of the child))~~ if
37 such provision is in the best interests of the child. In determining
38 whether such an arrangement is in the best interests of the child, the

1 court may consider the parties geographic proximity to the extent
2 necessary to ensure the ability to share performance of the parenting
3 functions.

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.

9 **Sec. 603.** RCW 26.09.197 and 1987 c 460 s 14 are each amended to
10 read as follows:

11 After considering the affidavit required by RCW 26.09.194(1) and
12 other relevant evidence presented, the court shall make a temporary
13 parenting plan that is in the best interest of the child. In making
14 this determination, the court shall give particular consideration to:

15 (1) (~~Which parent has taken greater responsibility during the last~~
16 ~~twelve months for performing parenting functions relating to the daily~~
17 ~~needs of the child)) The relative strength, nature, and stability of
18 the child's relationship with each parent; and~~

19 (2) Which parenting arrangements will cause the least disruption to
20 the child's emotional stability while the action is pending.

21 The court shall also consider the factors used to determine
22 residential provisions in the permanent parenting plan.

23 **PART VII - Data Tracking**

24 NEW SECTION. **Sec. 701.** A new section is added to chapter 26.09
25 RCW to read as follows:

26 The parties to dissolution matters shall file with the clerk of the
27 court the residential time summary report. The summary report shall be
28 on the form developed by the administrative office of the courts in
29 consultation with the department of social and health services division
30 of child support. The parties must complete the form and file the form
31 with the court order. The clerk of the court must forward the form to
32 the division of child support on at least a monthly basis.

33 NEW SECTION. **Sec. 702.** A new section is added to chapter 26.18
34 RCW to read as follows:

1 (1) The administrative office of the courts in consultation with
2 the department of social and health services, division of child
3 support, shall develop a residential time summary report form to
4 provide for the reporting of summary information in every case in which
5 residential time with children is to be established or modified.

6 (2) The residential time summary report must include at a minimum:
7 A breakdown of residential schedules with a reasonable degree of
8 specificity regarding actual time with each parent, including
9 enforcement practices, representation status of the parties, whether
10 domestic violence, child abuse, chemical dependency, or mental health
11 issues exist, and whether the matter was agreed or contested.

12 (3) The division of child support shall compile and electronically
13 transmit the information in the residential time summary reports to the
14 administrative office of the courts for purposes of tracking
15 residential time awards by parent, enforcement practices,
16 representation status of the parties, the existence of domestic
17 violence, child abuse, chemical dependency, or mental health issues and
18 whether the matter was agreed or contested.

19 (4) The administrative office of the courts shall report the
20 compiled information organized by a judicial officer on at least an
21 annual basis. These reports shall be made publicly available through
22 the judicial information public access services.

23 **PART VIII - Miscellaneous**

24 NEW SECTION. **Sec. 801.** Part headings used in this act are not any
25 part of the law.

26 NEW SECTION. **Sec. 802.** If specific funding for the purposes of
27 section 306 of this act, referencing section 306 of this act by bill or
28 chapter number and section number, is not provided by June 30, 2007, in
29 the omnibus appropriations act, section 306 of this act is null and
30 void.

31 NEW SECTION. **Sec. 803.** If specific funding for the purposes of
32 section 701 of this act, referencing section 701 of this act by bill or
33 chapter number and section number, is not provided by June 30, 2007, in

1 the omnibus appropriations act, section 701 of this act is null and
2 void.

3 NEW SECTION. **Sec. 804.** If specific funding for the purposes of
4 section 702 of this act, referencing section 702 of this act by bill or
5 chapter number and section number, is not provided by June 30, 2007, in
6 the omnibus appropriations act, section 702 of this act is null and
7 void.

8 NEW SECTION. **Sec. 805.** (1) Sections 202 and 204 through 206 of
9 this act take effect January 1, 2008.
10 (2) Section 501 of this act takes effect January 1, 2009.

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