

Washington Divorce Laws

Title 26 RCW DOMESTIC RELATIONS

Chapter 26.04 RCW MARRIAGE

RCW 26.04.010

Marriage contract -- Void marriages.

(1) Marriage is a civil contract between a male and a female who have each attained the age of eighteen years, and who are otherwise capable.

(2) Every marriage entered into in which either the husband or the wife has not attained the age of seventeen years is void except where this section has been waived by a superior court judge of the county in which one of the parties resides on a showing of necessity.

RCW 26.04.130

Voidable marriages.

When either party to a marriage shall be incapable of consenting thereto, for want of legal age or a sufficient understanding, or when the consent of either party shall be obtained by force or fraud, such marriage is voidable, but only at the suit of the party laboring under the disability, or upon whom the force or fraud is imposed.

Chapter 26.09 RCW DISSOLUTION OF MARRIAGE -- LEGAL SEPARATION

RCW 26.09.002

Policy.

Parents have the responsibility to make decisions and perform other parental functions necessary for the care and growth of their minor children. In any proceeding between parents under this chapter, the best interests of the child shall be the standard by which the court determines and allocates the parties' parental responsibilities. The state recognizes the fundamental importance of the parent-child relationship to the welfare of the child, and that the relationship between the child and each parent should be fostered unless inconsistent with the child's best interests. The best interests of the child are served by a parenting arrangement that best maintains a child's emotional growth, health and stability, and physical care. Further, the best interest of the child is ordinarily served when the existing pattern of interaction between a parent and child is altered only to the extent necessitated by the changed relationship of the parents or as required to protect the child from physical, mental, or emotional harm.

RCW 26.09.004

Definitions.

The definitions in this section apply throughout this chapter.

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

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

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

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

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

- (c) Attending to adequate education for the child, including remedial or other education essential to the best interests of the child;
- (d) Assisting the child in developing and maintaining appropriate interpersonal relationships;
- (e) Exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and the family's social and economic circumstances; and
- (f) Providing for the financial support of the child.

RCW 26.09.006

Mandatory use of approved forms.

(1) Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts.

(2) The parties shall comply with requirements for submission to the court of forms as provided in RCW 26.18.220.

RCW 26.09.010

Civil practice to govern -- Designation of proceedings -- Decrees.

(1) Except as otherwise specifically provided herein, the practice in civil action shall govern all proceedings under this chapter, except that trial by jury is dispensed with.

(2) A proceeding for dissolution of marriage, legal separation or a declaration concerning the validity of a marriage shall be entitled "In re the marriage of and" Such proceeding may be filed in the superior court of the county where the petitioner resides.

(3) In cases where there has been no prior proceeding in this state involving the marital status of the parties or support obligations for a minor child, a separate parenting and support proceeding between the parents shall be entitled "In re the parenting and support of"

(4) The initial pleading in all proceedings under this chapter shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this chapter shall be denominated as provided in the civil rules for superior court.

(5) In this chapter, "decree" includes "judgment".

(6) A decree of dissolution, of legal separation, or a declaration concerning the validity of a marriage shall not be awarded to one of the parties, but shall provide that it affects the status previously existing between the parties in the manner decreed.

RCW 26.09.015

Mediation -- Confidentiality -- Report to court.

*** CHANGE IN 2005 *** (SEE 5173-S.SL) ***

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

(2) Each superior court may make available a mediator. The mediator may be a member of the professional staff of a family court or mental health services agency, or may be any other person or agency designated by the court. In order to provide mediation services, the court is not required to institute a family court.

(3) Mediation proceedings shall be held in private and shall be confidential. The mediator shall not testify as to any aspect of the mediation proceedings. This subsection shall not apply to postdecree mediation required pursuant to a parenting plan.

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

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

RCW 26.09.020

Petition in proceeding for dissolution of marriage, legal separation, or for a declaration concerning validity of marriage -- Contents -- Parties -- Certificate.

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

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

(b) The date and place of the marriage;

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

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

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

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

(g) The relief sought.

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

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

RCW 26.09.030

Petition for dissolution of marriage -- Court proceedings, findings -- Transfer to family court -- Legal separation in lieu of dissolution.

*** CHANGE IN 2005 *** (SEE 1171-S.SL) ***

When a party who (1) is a resident of this state, or (2) is a member of the armed forces and is stationed in this state, or (3) is married to a party who is a resident of this state or who is a member of the armed forces and is stationed in this state, petitions for a dissolution of marriage, and alleges that the marriage is irretrievably broken and when ninety days have elapsed since the petition was filed and from the date when service of summons was made upon the respondent or the first publication of summons was made, the court shall proceed as follows:

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

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

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

(a) Make a finding that the marriage is irretrievably broken and enter a decree of dissolution of the marriage; or

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

(i) Find that the parties have agreed to reconciliation and dismiss the petition; or

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

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

RCW 26.09.040

Petition to have marriage declared invalid or judicial determination of validity -- Procedure -- Findings -- Grounds -- Legitimacy of children.

(1) While both parties to an alleged marriage are living, and at least one party is resident in this state or a member of the armed service and stationed in the state, a petition to have the marriage declared invalid may be sought by:

(a) Either or both parties, or the guardian of an incompetent spouse, for any cause specified in subsection (4) of this section; or

(b) Either or both parties, the legal spouse, or a child of either party when it is alleged that the marriage is bigamous.

(2) If the validity of a marriage is denied or questioned at any time, either or both parties to the marriage may petition the court for a judicial determination of the validity of such marriage.

(3) In a proceeding to declare the invalidity of a marriage, the court shall proceed in the manner and shall have the jurisdiction, including the authority to provide for maintenance, a parenting plan for minor children, and division of the property of the parties, provided by this chapter.

(4) After hearing the evidence concerning the validity of a marriage, if both parties to the alleged marriage are still living, the court:

(a) If it finds the marriage to be valid, shall enter a decree of validity;

(b) If it finds that:

(i) The marriage should not have been contracted because of age of one or both of the parties, lack of required parental or court approval, a prior undissolved marriage of one or both of the parties, reasons of consanguinity, or because a party lacked capacity to consent to the marriage, either because of mental incapacity or because of the influence of alcohol or other incapacitating substances, or because a party was induced to enter into the marriage by force or duress, or by fraud involving the essentials of marriage, and that the parties have not ratified their marriage by voluntarily cohabiting after attaining the age of consent, or after attaining capacity to consent, or after cessation of the force or duress or discovery of the fraud, shall declare the marriage invalid as of the date it was purportedly contracted;

(ii) The marriage should not have been contracted because of any reason other than those above, shall upon motion of a party, order any action which may be appropriate to complete or to correct the record and enter a decree declaring such marriage to be valid for all purposes from the date upon which it was purportedly contracted;

(c) If it finds that a marriage contracted in a jurisdiction other than this state, was void or voidable under the law of the place where the marriage was contracted, and in the absence of proof that such marriage was subsequently validated by the laws of the place of contract or of a subsequent domicile of the parties, shall declare the marriage invalid as of the date of the marriage.

(5) Any child of the parties born or conceived during the existence of a marriage of record is legitimate and remains legitimate notwithstanding the entry of a declaration of invalidity of the marriage.

RCW 26.09.050

Decrees -- Contents -- Restraining orders -- Enforcement -- Notice of termination or modification of restraining order.

(1) In entering a decree of dissolution of marriage, legal separation, or declaration of invalidity, the court shall determine the marital status of the parties, make provision for a parenting plan for any minor child of the marriage, make provision for the support of any child of the marriage entitled to support, consider or approve provision for the maintenance of either spouse, make provision for the disposition of property and liabilities of the parties, make provision for the allocation of the children as federal tax exemptions, make provision for any necessary continuing restraining orders including the provisions contained in RCW 9.41.800, make provision for the issuance within this action of the restraint provisions of a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW, and make provision for the change of name of any party.

(2) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(3) The court shall order that any restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section, in addition to the law enforcement information sheet or proof of service of the order, be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

(4) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

RCW 26.09.060

Temporary maintenance or child support -- Temporary restraining order -- Preliminary injunction -- Domestic violence or antiharassment protection order -- Notice of termination or modification of restraining order -- Support debts, notice.

(1) In a proceeding for:

(a) Dissolution of marriage, legal separation, or a declaration of invalidity; or

(b) Disposition of property or liabilities, maintenance, or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse; either party may move for temporary maintenance or for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) Transferring, removing, encumbering, concealing, or in any way disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained or enjoined, requiring him or her to notify the moving party of any proposed extraordinary expenditures made after the order is issued;

(b) Molesting or disturbing the peace of the other party or of any child;

(c) Going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child upon a showing of the necessity therefor;

(d) Knowingly coming within, or knowingly remaining within, a specified distance from a specified location; and

(e) Removing a child from the jurisdiction of the court.

(3) Either party may request a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW on a temporary basis. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080. Ex parte orders issued under this subsection shall be effective for a fixed period not to exceed fourteen days, or upon court order, not to exceed twenty-four days if necessary to ensure that all temporary motions in the case can be heard at the same time.

(4) In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(5) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(6) The court may issue a temporary restraining order or preliminary injunction and an order for temporary maintenance or support in such amounts and on such terms as are just and proper in the circumstances. The court may in its discretion waive the filing of the bond or the posting of security.

(7) Restraining orders issued under this section restraining the person from molesting or disturbing another party, or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH

ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(8) The court shall order that any temporary restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(9) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

(10) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final decree is entered, except as provided under subsection (11) of this section, or when the petition for dissolution, legal separation, or declaration of invalidity is dismissed;

(d) May be entered in a proceeding for the modification of an existing decree.

(11) Delinquent support payments accrued under an order for temporary support remain collectible and are not extinguished when a final decree is entered unless the decree contains specific language to the contrary. A support debt under a temporary order owed to the state for public assistance expenditures shall not be extinguished by the final decree if:

(a) The obligor was given notice of the state's interest under chapter 74.20A RCW; or

(b) The temporary order directs the obligor to make support payments to the office of support enforcement or the Washington state support registry.

Orders prohibiting contact: RCW 10.99.040.

RCW 26.09.070

Separation contracts.

(1) The parties to a marriage, in order to promote the amicable settlement of disputes attendant upon their separation or upon the filing of a petition for dissolution of their marriage, a decree of legal separation, or declaration of invalidity of their marriage, may enter into a written separation contract providing for the maintenance of either of them, the disposition of any property owned by both or either of them, the parenting plan and support for their children and for the release of each other from all obligation except that expressed in the contract.

(2) If the parties to such contract elect to live separate and apart without any court decree, they may record such contract and cause notice thereof to be published in a legal newspaper of the county wherein the parties resided prior to their separation. Recording such contract and publishing notice of the making thereof shall constitute notice to all persons of such separation and of the facts contained in the recorded document.

(3) If either or both of the parties to a separation contract shall at the time of the execution thereof, or at a subsequent time, petition the court for dissolution of their marriage, for a decree of legal separation, or for a declaration of invalidity of their marriage, the contract, except for those terms providing for a parenting plan for their children, shall be binding upon the court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties on their own motion or on request of the court, that the separation contract was unfair at the time of its execution. Child support may be included in the separation contract and shall be reviewed in the subsequent proceeding for compliance with RCW 26.19.020.

(4) If the court in an action for dissolution of marriage, legal separation, or declaration of invalidity finds that the separation contract was unfair at the time of its execution, it may make orders for the maintenance of either party, the disposition of their property and the discharge of their obligations.

(5) Unless the separation contract provides to the contrary, the agreement shall be set forth in the decree of dissolution, legal separation, or declaration of invalidity, or filed in the action or made

an exhibit and incorporated by reference, except that in all cases the terms of the parenting plan shall be set out in the decree, and the parties shall be ordered to comply with its terms.

(6) Terms of the contract set forth or incorporated by reference in the decree may be enforced by all remedies available for the enforcement of a judgment, including contempt, and are enforceable as contract terms.

(7) When the separation contract so provides, the decree may expressly preclude or limit modification of any provision for maintenance set forth in the decree. Terms of a separation contract pertaining to a parenting plan for the children and, in the absence of express provision to the contrary, terms providing for maintenance set forth or incorporated by reference in the decree are automatically modified by modification of the decree.

(8) If at any time the parties to the separation contract by mutual agreement elect to terminate the separation contract they may do so without formality unless the contract was recorded as in subsection (2) of this section, in which case a statement should be filed terminating the contract.

RCW 26.09.080

Disposition of property and liabilities -- Factors.

In a proceeding for dissolution of the marriage, legal separation, declaration of invalidity, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall, without regard to marital misconduct, make such disposition of the property and the liabilities of the parties, either community or separate, as shall appear just and equitable after considering all relevant factors including, but not limited to:

(1) The nature and extent of the community property;

(2) The nature and extent of the separate property;

(3) The duration of the marriage; and

(4) The economic circumstances of each spouse at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to a spouse with whom the children reside the majority of the time.

RCW 26.09.090

Maintenance orders for either spouse -- Factors.

(1) In a proceeding for dissolution of marriage, legal separation, declaration of invalidity, or in a proceeding for maintenance following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse. The maintenance order shall be in such amounts and for such periods of time as the court deems just, without regard to marital misconduct, after considering all relevant factors including but not limited to:

(a) The financial resources of the party seeking maintenance, including separate or community property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party;

(b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find employment appropriate to his skill, interests, style of life, and other attendant circumstances;

(c) The standard of living established during the marriage;

(d) The duration of the marriage;

(e) The age, physical and emotional condition, and financial obligations of the spouse seeking maintenance; and

(f) The ability of the spouse from whom maintenance is sought to meet his needs and financial obligations while meeting those of the spouse seeking maintenance.

RCW 26.09.100

Child support -- Apportionment of expense -- Periodic adjustments or modifications.

(1) In a proceeding for dissolution of marriage, legal separation, declaration of invalidity, maintenance, or child support, after considering all relevant factors but without regard to marital misconduct, the court shall order either or both parents owing a duty of support to any child of the marriage dependent upon either or both spouses to pay an amount determined under chapter 26.19 RCW.

(2) The court may require automatic periodic adjustments or modifications of child support. That portion of any decree that requires periodic adjustments or modifications of child support shall use the provisions in chapter 26.19 RCW as the basis for the adjustment or modification. Provisions in the decree for periodic adjustment or modification shall not conflict with RCW 26.09.170 except that the decree may require periodic adjustments or modifications of support more frequently than the time periods established pursuant to RCW 26.09.170.

(3) Upon motion of a party and without a substantial change of circumstances, the court shall modify the decree to comply with subsection (2) of this section as to installments accruing subsequent to entry of the court's order on the motion for modification.

(4) The adjustment or modification provision may be modified by the court due to economic hardship consistent with the provisions of *RCW 26.09.170(4)(a).

RCW 26.09.105

Child support -- Health insurance coverage -- Conditions.

(1) In entering or modifying a support order under this chapter, the court shall require either or both parents to maintain or provide health insurance coverage except as provided in subsection (2) of this section, for any child named in the order if:

(a) Coverage that can be extended to cover the child is or becomes available to that parent through employment or is union-related; and

(b) The cost of such coverage does not exceed twenty-five percent of the obligated parent's basic child support obligation.

(2) The court shall consider the best interests of the child and have discretion to order health insurance coverage when entering or modifying a support order under this chapter if the cost of such coverage exceeds twenty-five percent of the obligated parent's basic support obligation.

(3) The parents shall maintain such coverage required under this section until:

(a) Further order of the court;

(b) The child is emancipated, if there is no express language to the contrary in the order; or

(c) Health insurance is no longer available through the parents' employer or union and no conversion privileges exist to continue coverage following termination of employment.

(4) A parent who is required to extend health insurance coverage to a child under this section is liable for any covered health care costs for which the parent receives direct payment from an insurer.

(5) This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of uninsured health expenses, health care costs, or insurance premiums which are in addition to and not inconsistent with this section.

(6) A parent ordered to provide health insurance coverage shall provide proof of such coverage or proof that such coverage is unavailable within twenty days of the entry of the order to:

(a) The physical custodian; or

(b) The department of social and health services if the parent has been notified or ordered to make support payments to the Washington state support registry.

(7) Every order requiring a parent to provide health care or insurance coverage shall be entered in compliance with *RCW 26.23.050 and be subject to direct enforcement as provided under chapter 26.18 RCW.

(8) "Health insurance coverage" as used in this section does not include medical assistance provided under chapter 74.09 RCW.

RCW 26.09.110

Minor or dependent child -- Court appointed attorney to represent -- Payment of costs, fees, and disbursements.

The court may appoint an attorney to represent the interests of a minor or dependent child with respect to provision for the parenting plan in an action for dissolution of marriage, legal separation, or declaration concerning the validity of a marriage. The court shall enter an order for costs, fees, and disbursements in favor of the child's attorney. The order shall be made against either or both parents, except that, if both parties are indigent, the costs, fees, and disbursements shall be borne by the county.

RCW 26.09.120

Support or maintenance payments -- To whom paid.

(1) The court shall order support payments, including spousal maintenance if child support is ordered, to be made to the Washington state support registry, or the person entitled to receive the payments under an order approved by the court as provided in RCW 26.23.050.

(2) Maintenance payments, when ordered in an action where there is no dependent child, may be ordered to be paid to the person entitled to receive the payments, or the clerk of the court as trustee for remittance to the persons entitled to receive the payments.

(3) If support or maintenance payments are made to the clerk of court, the clerk:

(a) Shall maintain records listing the amount of payments, the date when payments are required to be made, and the names and addresses of the parties affected by the order;

(b) May by local court rule accept only certified funds or cash as payment; and

(c) Shall accept only certified funds or cash for five years in all cases after one check has been returned for nonsufficient funds or account closure.

(4) The parties affected by the order shall inform the registry through which the payments are ordered to be paid of any change of address or of other conditions that may affect the administration of the order.

RCW 26.09.135

Order or decree for child support -- Compliance with RCW 26.23.050.

Every court order or decree establishing a child support obligation shall be entered in compliance with the provisions of RCW 26.23.050.

RCW 26.09.138

Mandatory assignment of public retirement benefits -- Remedies exclusive.

(1) Any obligee of a court order or decree establishing a spousal maintenance obligation may seek a mandatory benefits assignment order under chapter 41.50 RCW if any spousal maintenance payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars, or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems.

(2) Any court order or decree establishing a spousal maintenance obligation may state that, if any spousal maintenance payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars, or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order under chapter 41.50 RCW without prior notice to the obligor. Any such court order or decree may also, or in the alternative, contain a provision that would allow the department to make a direct payment of all or part of a withdrawal of accumulated contributions pursuant to RCW 41.50.550(3). Failure to include this provision does not affect the validity of the court order or decree establishing the spousal maintenance, nor does such failure affect the general applicability of RCW 41.50.500 through 41.50.650 to such obligations.

(3) The remedies in RCW 41.50.530 through 41.50.630 are the exclusive provisions of law enforceable against the department of retirement systems in connection with any action for enforcement of a spousal maintenance obligation ordered pursuant to a divorce, dissolution, or legal separation, and no other remedy ordered by a court under this chapter shall be enforceable against the department of retirement systems for collection of spousal maintenance.

(4)(a) Nothing in this section regarding mandatory assignment of benefits to enforce a spousal maintenance obligation shall abridge the right of an ex spouse to receive direct payment of retirement benefits payable pursuant to: (i) A court decree of dissolution or legal separation; or (ii) any court order or court-approved property settlement agreement; or (iii) incident to any court decree of dissolution or legal separation, if such dissolution orders fully comply with RCW 41.50.670 and 41.50.700, or as applicable, RCW 2.10.180, 2.12.090, *41.04.310, 41.04.320, 41.04.330, **41.26.180, 41.32.052, 41.40.052, or 43.43.310 as those statutes existed before July 1, 1987, and as those statutes exist on and after July 28, 1991.

(b) Persons whose dissolution orders as defined in RCW 41.50.500(3) were entered between July 1, 1987, and July 28, 1991, shall be entitled to receive direct payments of retirement benefits to satisfy court-ordered property divisions if the dissolution orders filed with the department comply or are amended to comply with RCW 41.50.670 through 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, **41.26.180, 41.32.052, 41.40.052, or 43.43.310.

RCW 26.09.140**Payment of costs, attorney's fees, etc.**

The court from time to time after considering the financial resources of both parties may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for reasonable attorney's fees or other professional fees in connection therewith, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or enforcement or modification proceedings after entry of judgment.

Upon any appeal, the appellate court may, in its discretion, order a party to pay for the cost to the other party of maintaining the appeal and attorney's fees in addition to statutory costs.

The court may order that the attorney's fees be paid directly to the attorney who may enforce the order in his name.

RCW 26.09.150**Decree of dissolution of marriage, legal separation, or declaration of invalidity -- Finality -- Appeal -- Conversion of decree of legal separation to decree of dissolution -- Name of party.**

A decree of dissolution of marriage, legal separation, or declaration of invalidity is final when entered, subject to the right of appeal. An appeal which does not challenge the finding that the marriage is irretrievably broken or was invalid, does not delay the finality of the dissolution or declaration of invalidity and either party may remarry pending such an appeal.

No earlier than six months after entry of a decree of legal separation, on motion of either party, the court shall convert the decree of legal separation to a decree of dissolution of marriage. The clerk of court shall complete the certificate as provided for in *RCW 70.58.200 on the form provided by the department of health. On or before the tenth day of each month, the clerk of the court shall forward to the state registrar of vital statistics the certificate of each decree of divorce, dissolution of marriage, annulment, or separate maintenance granted during the preceding month.

Upon request of a party whose marriage is dissolved or declared invalid, the court shall order a former name restored or the court may, in its discretion, order a change to another name.

RCW 26.09.160**Failure to comply with decree or temporary injunction -- Obligation to make support or maintenance payments or permit contact with children not suspended -- Penalties.**

(1) The performance of parental functions and the duty to provide child support are distinct responsibilities in the care of a child. If a party fails to comply with a provision of a decree or temporary order of injunction, the obligation of the other party to make payments for support or maintenance or to permit contact with children is not suspended. An attempt by a parent, in either the negotiation or the performance of a parenting plan, to condition one aspect of the parenting plan upon another, to condition payment of child support upon an aspect of the parenting plan, to refuse to pay ordered child support, to refuse to perform the duties provided in the parenting plan, or to hinder the performance by the other parent of duties provided in the parenting plan, shall be deemed bad faith and shall be punished by the court by holding the party in contempt of court and by awarding to the aggrieved party reasonable attorneys' fees and costs incidental in bringing a motion for contempt of court.

(2)(a) A motion may be filed to initiate a contempt action to coerce a parent to comply with an order establishing residential provisions for a child. If the court finds there is reasonable cause to believe the parent has not complied with the order, the court may issue an order to show cause why the relief requested should not be granted.

(b) If, based on all the facts and circumstances, the court finds after hearing that the parent, in bad faith, has not complied with the order establishing residential provisions for the child, the court shall find the parent in contempt of court. Upon a finding of contempt, the court shall order:

(i) The noncomplying parent to provide the moving party additional time with the child. The additional time shall be equal to the time missed with the child, due to the parent's noncompliance;

(ii) The parent to pay, to the moving party, all court costs and reasonable attorneys' fees incurred as a result of the noncompliance, and any reasonable expenses incurred in locating or returning a child; and

(iii) The parent to pay, to the moving party, a civil penalty, not less than the sum of one hundred dollars.

The court may also order the parent to be imprisoned in the county jail, if the parent is presently able to comply with the provisions of the court-ordered parenting plan and is presently unwilling to comply. The parent may be imprisoned until he or she agrees to comply with the order, but in no event for more than one hundred eighty days.

(3) On a second failure within three years to comply with a residential provision of a court-ordered parenting plan, a motion may be filed to initiate contempt of court proceedings according to the procedure set forth in subsection (2)(a) and (b) of this section. On a finding of contempt under this subsection, the court shall order:

(a) The noncomplying parent to provide the other parent or party additional time with the child. The additional time shall be twice the amount of the time missed with the child, due to the parent's noncompliance;

(b) The noncomplying parent to pay, to the other parent or party, all court costs and reasonable attorneys' fees incurred as a result of the noncompliance, and any reasonable expenses incurred in locating or returning a child; and

(c) The noncomplying parent to pay, to the moving party, a civil penalty of not less than two hundred fifty dollars.

The court may also order the parent to be imprisoned in the county jail, if the parent is presently able to comply with the provisions of the court-ordered parenting plan and is presently unwilling to comply. The parent may be imprisoned until he or she agrees to comply with the order but in no event for more than one hundred eighty days.

(4) For purposes of subsections (1), (2), and (3) of this section, the parent shall be deemed to have the present ability to comply with the order establishing residential provisions unless he or she establishes otherwise by a preponderance of the evidence. The parent shall establish a reasonable excuse for failure to comply with the residential provision of a court-ordered parenting plan by a preponderance of the evidence.

(5) Any monetary award ordered under subsections (1), (2), and (3) of this section may be enforced, by the party to whom it is awarded, in the same manner as a civil judgment.

(6) Subsections (1), (2), and (3) of this section authorize the exercise of the court's power to impose remedial sanctions for contempt of court and is in addition to any other contempt power the court may possess.

(7) Upon motion for contempt of court under subsections (1) through (3) of this section, if the court finds the motion was brought without reasonable basis, the court shall order the moving party to pay to the nonmoving party, all costs, reasonable attorneys' fees, and a civil penalty of not less than one hundred dollars.

RCW 26.09.165

Court orders -- Required language.

All court orders containing parenting plan provisions or orders of contempt, entered pursuant to RCW 26.09.160, shall include the following language:

RCW 26.09.170

Modification of decree for maintenance or support, property disposition -- Termination of maintenance obligation and child support -- Grounds.

(1) Except as otherwise provided in subsection (7) of RCW 26.09.070, the provisions of any decree respecting maintenance or support may be modified: (a) Only as to installments accruing subsequent to the petition for modification or motion for adjustment except motions to compel court-ordered adjustments, which shall be effective as of the first date specified in the decree for implementing the adjustment; and, (b) except as otherwise provided in subsections (5), (6), (9), and (10) of this section, only upon a showing of a substantial change of circumstances. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(2) Unless otherwise agreed in writing or expressly provided in the decree the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by the death of the parent obligated to support the child.

(4) Unless expressly provided by an order of the superior court or a court of comparable jurisdiction, the support provisions of the order are terminated upon the marriage to each other of parties to a paternity order, or upon remarriage to each other of parties to a decree of dissolution. The remaining provisions of the order, including provisions establishing paternity, remain in effect.

(5) An order of child support may be modified one year or more after it has been entered without showing a substantial change of circumstances:

(a) If the order in practice works a severe economic hardship on either party or the child;

(b) If a party requests an adjustment in an order for child support which was based on guidelines which determined the amount of support according to the child's age, and the child is no longer in the age category on which the current support amount was based;

(c) If a child is still in high school, upon a finding that there is a need to extend support beyond the eighteenth birthday to complete high school; or

(d) To add an automatic adjustment of support provision consistent with RCW 26.09.100.

(6) An order or decree entered prior to June 7, 1984, may be modified without showing a substantial change of circumstances if the requested modification is to:

(a) Require health insurance coverage for a child named therein; or

(b) Modify an existing order for health insurance coverage.

(7) An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.

(8) The department of social and health services may file an action to modify an order of child support if public assistance money is being paid to or for the benefit of the child and the child support order is twenty-five percent or more below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011 and reasons for the deviation are not set forth in the findings of fact or order. The determination of twenty-five percent or more shall be based on the current income of the parties and the department shall not be required to show a substantial change of circumstances if the reasons for the deviations were not set forth in the findings of fact or order.

(9)(a) All child support decrees may be adjusted once every twenty-four months based upon changes in the income of the parents without a showing of substantially changed circumstances. Either party may initiate the adjustment by filing a motion and child support worksheets.

(b) A party may petition for modification in cases of substantially changed circumstances under subsection (1) of this section at any time. However, if relief is granted under subsection (1) of this section, twenty-four months must pass before a motion for an adjustment under (a) of this subsection may be filed.

(c) If, pursuant to (a) of this subsection or subsection (10) of this section, the court adjusts or modifies a child support obligation by more than thirty percent and the change would cause significant hardship, the court may implement the change in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a motion for an adjustment under (a) of this subsection may be filed.

(d) A parent who is receiving transfer payments who receives a wage or salary increase may not bring a modification action pursuant to subsection (1) of this section alleging that increase constitutes a substantial change of circumstances.

(e) The department of social and health services may file an action at any time to modify an order of child support in cases of substantially changed circumstances if public assistance money is being paid to or for the benefit of the child. The determination of the existence of substantially changed circumstances by the department that lead to the filing of an action to modify the order of child support is not binding upon the court.

(10) An order of child support may be adjusted twenty-four months from the date of the entry of the decree or the last adjustment or modification, whichever is later, based upon changes in the economic table or standards in chapter 26.19 RCW.

RCW 26.09.173

Modification of child support order -- Child support order summary report.

The party seeking the establishment or modification of a child support order shall file with the clerk of the court the child support order summary report. The summary report shall be on the form

developed by the administrator for the courts pursuant to RCW 26.18.210. The party must complete the form and file the form with the court order. The clerk of the court must forward the form to the administrator for the courts on at least a monthly basis.

RCW 26.09.175

Modification of order of child support.

(1) A proceeding for the modification of an order of child support shall commence with the filing of a petition and worksheets. The petition shall be in the form prescribed by the administrator for the courts. There shall be a fee of twenty dollars for the filing of a petition for modification of dissolution.

(2) The petitioner shall serve upon the other party the summons, a copy of the petition, and the worksheets in the form prescribed by the administrator for the courts. If the modification proceeding is the first action filed in this state, service shall be made by personal service. If the decree to be modified was entered in this state, service shall be by personal service or by any form of mail requiring a return receipt. If the support obligation has been assigned to the state pursuant to RCW 74.20.330 or the state has a subrogated interest under RCW 74.20A.030, the summons, petition, and worksheets shall also be served on the attorney general; except that notice shall be given to the office of the prosecuting attorney for the county in which the action is filed in lieu of the office of the attorney general in those counties and in the types of cases as designated by the office of the attorney general by letter sent to the presiding superior court judge of that county. Proof of service shall be filed with the court.

(3) The responding party's answer and worksheets shall be served and the answer filed within twenty days after service of the petition or sixty days if served out of state. The responding party's failure to file an answer within the time required shall result in entry of a default judgment for the petitioner.

(4) At any time after responsive pleadings are filed, either party may schedule the matter for hearing.

(5) Unless both parties stipulate to arbitration or the presiding judge authorizes oral testimony pursuant to subsection (6) of this section, a petition for modification of an order of child support shall be heard by the court on affidavits, the petition, answer, and worksheets only.

(6) A party seeking authority to present oral testimony on the petition to modify a support order shall file an appropriate motion not later than ten days after the time of notice of hearing. Affidavits and exhibits setting forth the reasons oral testimony is necessary to a just adjudication of the issues shall accompany the petition. The affidavits and exhibits must demonstrate the extraordinary features of the case. Factors which may be considered include, but are not limited to: (a) Substantial questions of credibility on a major issue; (b) insufficient or inconsistent discovery materials not correctable by further discovery; or (c) particularly complex circumstances requiring expert testimony.

RCW 26.09.181

Procedure for determining permanent parenting plan.

(1) SUBMISSION OF PROPOSED PLANS. (a) In any proceeding under this chapter, except a modification, each party shall file and serve a proposed permanent parenting plan on or before the earliest date of:

(i) Thirty days after filing and service by either party of a notice for trial; or

(ii) One hundred eighty days after commencement of the action which one hundred eighty day period may be extended by stipulation of the parties.

(b) In proceedings for a modification of custody or a parenting plan, a proposed parenting plan shall be filed and served with the motion for modification and with the response to the motion for modification.

(c) No proposed permanent parenting plan shall be required after filing of an agreed permanent parenting plan, after entry of a final decree, or after dismissal of the cause of action.

(d) A party who files a proposed parenting plan in compliance with this section may move the court for an order of default adopting that party's parenting plan if the other party has failed to file a proposed parenting plan as required in this section.

(2) AMENDING PROPOSED PARENTING PLANS. Either party may file and serve an amended proposed permanent parenting plan according to the rules for amending pleadings.

(3) GOOD FAITH PROPOSAL. The parent submitting a proposed parenting plan shall attach a verified statement that the plan is proposed by that parent in good faith.

(4) AGREED PERMANENT PARENTING PLANS. The parents may make an agreed permanent parenting plan.

(5) MANDATORY SETTLEMENT CONFERENCE. Where mandatory settlement conferences are provided under court rule, the parents shall attend a mandatory settlement conference. The mandatory settlement conference shall be presided over by a judge or a court commissioner, who shall apply the criteria in RCW 26.09.187 and 26.09.191. The parents shall in good faith review the proposed terms of the parenting plans and any other issues relevant to the cause of action with the presiding judge or court commissioner. Facts and legal issues that are not then in dispute shall be entered as stipulations for purposes of final hearing or trial in the matter.

(6) TRIAL SETTING. Trial dates for actions involving minor children brought under this chapter shall receive priority.

(7) ENTRY OF FINAL ORDER. The final order or decree shall be entered not sooner than ninety days after filing and service.

This subsection does not apply to decrees of legal separation.

RCW 26.09.184

Permanent parenting plan.

(1) OBJECTIVES. The objectives of the permanent parenting plan are to:

(a) Provide for the child's physical care;

(b) Maintain the child's emotional stability;

(c) Provide for the child's changing needs as the child grows and matures, in a way that minimizes the need for future modifications to the permanent parenting plan;

(d) Set forth the authority and responsibilities of each parent with respect to the child, consistent with the criteria in RCW 26.09.187 and 26.09.191;

(e) Minimize the child's exposure to harmful parental conflict;

(f) Encourage the parents, where appropriate under RCW 26.09.187 and 26.09.191, to meet their responsibilities to their minor children through agreements in the permanent parenting plan, rather than by relying on judicial intervention; and

(g) To otherwise protect the best interests of the child consistent with RCW 26.09.002.

(2) CONTENTS OF THE PERMANENT PARENTING PLAN. The permanent parenting plan shall contain provisions for resolution of future disputes between the parents, allocation of decision-making authority, and residential provisions for the child.

(3) DISPUTE RESOLUTION. A process for resolving disputes, other than court action, shall be provided unless precluded or limited by RCW 26.09.187 or 26.09.191. A dispute resolution process may include counseling, mediation, or arbitration by a specified individual or agency, or court action. In the dispute resolution process:

(a) Preference shall be given to carrying out the parenting plan;

(b) The parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support, unless an emergency exists;

(c) A written record shall be prepared of any agreement reached in counseling or mediation and of each arbitration award and shall be provided to each party;

(d) If the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court shall award attorneys' fees and financial sanctions to the prevailing parent;

(e) The parties have the right of review from the dispute resolution process to the superior court; and

(f) The provisions of (a) through (e) of this subsection shall be set forth in the decree.

(4) ALLOCATION OF DECISION-MAKING AUTHORITY.

(a) The plan shall allocate decision-making authority to one or both parties regarding the children's education, health care, and religious upbringing. The parties may incorporate an agreement related to the care and growth of the child in these specified areas, or in other areas, into their plan, consistent with the criteria in RCW 26.09.187 and 26.09.191. Regardless of the allocation of decision-making in the parenting plan, either parent may make emergency decisions affecting the health or safety of the child.

(b) Each parent may make decisions regarding the day-to-day care and control of the child while the child is residing with that parent.

(c) When mutual decision making is designated but cannot be achieved, the parties shall make a good-faith effort to resolve the issue through the dispute resolution process.

(5) RESIDENTIAL PROVISIONS FOR THE CHILD. The plan shall include a residential schedule which designates in which parent's home each minor child shall reside on given days of the year, including provision for holidays, birthdays of family members, vacations, and other special occasions, consistent with the criteria in RCW 26.09.187 and 26.09.191.

(6) PARENTS' OBLIGATION UNAFFECTED. If a parent fails to comply with a provision of a parenting plan or a child support order, the other parent's obligations under the parenting plan or the child support order are not affected. Failure to comply with a provision in a parenting plan or a child support order may result in a finding of contempt of court, under RCW 26.09.160.

(7) PROVISIONS TO BE SET FORTH IN PERMANENT PARENTING PLAN. The permanent parenting plan shall set forth the provisions of subsections (3)(a) through (c), (4)(b) and (c), and (6) of this section.

RCW 26.09.187

Criteria for establishing permanent parenting plan.

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

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

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

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

(2) ALLOCATION OF DECISION-MAKING AUTHORITY.

(a) AGREEMENTS BETWEEN THE PARTIES. The court shall approve agreements of the parties allocating decision-making authority, or specifying rules in the areas listed in RCW 26.09.184(4)(a), when it finds that:

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

(ii) The agreement is knowing and voluntary.

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

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

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

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

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

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

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

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

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

(3) RESIDENTIAL PROVISIONS.

(a) The court shall make residential provisions for each child which encourage each parent to maintain a loving, stable, and nurturing relationship with the child, consistent with the child's developmental level and the family's social and economic circumstances. The child's residential schedule shall be consistent with RCW 26.09.191. Where the limitations of RCW 26.09.191 are not dispositive of the child's residential schedule, the court shall consider the following factors:

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

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

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

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

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

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

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

Factor (i) shall be given the greatest weight.

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

(i) No limitation exists under RCW 26.09.191;

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

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

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

RCW 26.09.191

Restrictions in temporary or permanent parenting plans.

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

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

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

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

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

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

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

(H) Chapter 9.68A RCW;

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

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

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

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

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

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

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

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

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

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (b)(iii)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (b)(iii)(A) through (H) of this subsection.

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

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

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

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

(ii) RCW 9A.44.073;

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

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

(v) RCW 9A.44.083;

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

(vii) RCW 9A.44.100;

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

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

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

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

(ii) RCW 9A.44.073;

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

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

(v) RCW 9A.44.083;

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

(vii) RCW 9A.44.100;

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

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

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

(i) If the child was not the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, and (B) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

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

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

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

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

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

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

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

court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

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

(l) A court may order unsupervised contact between the parent and a child which may occur in the presence of a juvenile adjudicated of a sex offense listed in (e)(i) through (ix) of this subsection who resides with the parent after the presumption under (e) of this subsection has been rebutted and supervised residential time has occurred for at least two years during which time the adjudicated juvenile has had no further arrests, adjudications, or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW, and (i) the court finds that unsupervised contact between the child and the parent that may occur in the presence of the adjudicated juvenile is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treatment of child sexual abuse victims who has supervised at least one period of residential time between the parent and the child in the presence of the adjudicated juvenile, and after consideration of evidence of the adjudicated juvenile's compliance with community supervision or parole requirements, if any. If the adjudicated juvenile was not ordered by a court to participate in treatment for sex offenders, then the adjudicated juvenile shall obtain a psychosexual evaluation conducted by a certified sex offender treatment provider or a certified affiliate sex offender treatment provider indicating that the adjudicated juvenile has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child which may occur in the presence of the adjudicated juvenile who is residing with the parent.

(m)(i) The limitations imposed by the court under (a) or (b) of this subsection shall be reasonably calculated to protect the child from the physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting residential time. If the court expressly finds based on the evidence that limitations on the residential time with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting residential time, the court shall restrain the parent requesting residential time from all contact with the child.

(ii) The court shall not enter an order under (a) of this subsection allowing a parent to have contact with a child if the parent has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused the child, except upon recommendation by an evaluator or therapist for the child that the child is ready for contact with the parent and will not be harmed by the contact. The court shall not enter an order allowing a parent to have contact with the child in the offender's presence if the parent resides with a person who has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused a child, unless the court finds that the parent accepts that the person engaged in the harmful conduct and the parent is willing to and capable of protecting the child from harm from the person.

(iii) If the court limits residential time under (a) or (b) of this subsection to require supervised contact between the child and the parent, the court shall not approve of a supervisor for contact between a child and a parent who has engaged in physical, sexual, or a pattern of emotional abuse of the child unless the court finds based upon the evidence that the supervisor accepts that the harmful conduct occurred and is willing to and capable of protecting the child from harm. The court

shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing to or capable of protecting the child.

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

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

- (a) A parent's neglect or substantial nonperformance of parenting functions;
- (b) A long-term emotional or physical impairment which interferes with the parent's performance of parenting functions as defined in RCW 26.09.004;
- (c) A long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions;
- (d) The absence or substantial impairment of emotional ties between the parent and the child;
- (e) The abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development;
- (f) A parent has withheld from the other parent access to the child for a protracted period without good cause; or
- (g) Such other factors or conduct as the court expressly finds adverse to the best interests of the child.

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

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

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

RCW 26.09.194

Proposed temporary parenting plan -- Temporary order -- Amendment -- Vacation of order.

(1) A parent seeking a temporary order relating to parenting shall file and serve a proposed temporary parenting plan by motion. The other parent, if contesting the proposed temporary parenting plan, shall file and serve a responsive proposed parenting plan. Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order. The proposed temporary parenting plan may be supported by relevant evidence and shall be accompanied by an affidavit or declaration which shall state at a minimum the following:

- (a) The name, address, and length of residence with the person or persons with whom the child has lived for the preceding twelve months;
- (b) The performance by each parent during the last twelve months of the parenting functions relating to the daily needs of the child;
- (c) The parents' work and child-care schedules for the preceding twelve months;
- (d) The parents' current work and child-care schedules; and
- (e) Any of the circumstances set forth in RCW 26.09.191 that are likely to pose a serious risk to the child and that warrant limitation on the award to a parent of temporary residence or time with the child pending entry of a permanent parenting plan.

(2) At the hearing, the court shall enter a temporary parenting order incorporating a temporary parenting plan which includes:

- (a) A schedule for the child's time with each parent when appropriate;
- (b) Designation of a temporary residence for the child;
- (c) Allocation of decision-making authority, if any. Absent allocation of decision-making authority consistent with RCW 26.09.187(2), neither party shall make any decision for the child

other than those relating to day-to-day or emergency care of the child, which shall be made by the party who is present with the child;

(d) Provisions for temporary support for the child; and

(e) Restraining orders, if applicable, under RCW 26.09.060.

(3) A parent may make a motion for an order to show cause and the court may enter a temporary order, including a temporary parenting plan, upon a showing of necessity.

(4) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment conforms to the limitations of RCW 26.09.191 and is in the best interest of the child.

(5) If a proceeding for dissolution of marriage, legal separation, or declaration of invalidity is dismissed, any temporary order or temporary parenting plan is vacated.

RCW 26.09.197

Issuance of temporary parenting plan -- Criteria.

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

(1) Which parent has taken greater responsibility during the last twelve months for performing parenting functions relating to the daily needs of the child; and

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

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

RCW 26.09.210

Parenting plans -- Interview with child by court -- Advice of professional personnel.

The court may interview the child in chambers to ascertain the child's wishes as to the child's residential schedule in a proceeding for dissolution of marriage, legal separation, or declaration of invalidity. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to be made part of the record in the case.

The court may seek the advice of professional personnel whether or not they are employed on a regular basis by the court. The advice given shall be in writing and shall be made available by the court to counsel upon request. Counsel may call for cross-examination any professional personnel consulted by the court.

RCW 26.09.220

Parenting arrangements -- Investigation and report--Appointment of guardian ad litem.

(1) The court may order an investigation and report concerning parenting arrangements for the child, or may appoint a guardian ad litem pursuant to RCW 26.12.175, or both. The investigation and report may be made by the guardian ad litem, the staff of the juvenile court, or other professional social service organization experienced in counseling children and families.

(2) In preparing the report concerning a child, the investigator may consult any person who may have information about the child and the potential parenting or custodian arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if the child has reached the age of twelve, unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (3) of this section are fulfilled, the investigator's report may be received in evidence at the hearing.

(3) The investigator shall mail the investigator's report to counsel and to any party not represented by counsel at least ten days prior to the hearing unless a shorter time is ordered by the court for good cause shown. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (2) of this section, and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person whom the investigator has

consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing.

RCW 26.09.225

Access to child's education and health care records.

(1) Each parent shall have full and equal access to the education and health care records of the child absent a court order to the contrary. Neither parent may veto the access requested by the other parent.

(2) Educational records are limited to academic, attendance, and disciplinary records of public and private schools in all grades kindergarten through twelve and any form of alternative school for all periods for which child support is paid or the child is the dependent in fact of the parent requesting access to the records.

(3) Educational records of postsecondary educational institutions are limited to enrollment and academic records necessary to determine, establish, or continue support ordered pursuant to RCW 26.19.090.

RCW 26.09.240

Visitation rights -- Person other than parent -- Grandparents' visitation rights.

(1) A person other than a parent may petition the court for visitation with a child at any time or may intervene in a pending dissolution, legal separation, or modification of parenting plan proceeding. A person other than a parent may not petition for visitation under this section unless the child's parent or parents have commenced an action under this chapter.

(2) A petition for visitation with a child by a person other than a parent must be filed in the county in which the child resides.

(3) A petition for visitation or a motion to intervene pursuant to this section shall be dismissed unless the petitioner or intervenor can demonstrate by clear and convincing evidence that a significant relationship exists with the child with whom visitation is sought. If the petition or motion is dismissed for failure to establish the existence of a significant relationship, the petitioner or intervenor shall be ordered to pay reasonable attorney's fees and costs to the parent, parents, other custodian, or representative of the child who responds to this petition or motion.

(4) The court may order visitation between the petitioner or intervenor and the child between whom a significant relationship exists upon a finding supported by the evidence that the visitation is in the child's best interests.

(5)(a) Visitation with a grandparent shall be presumed to be in the child's best interests when a significant relationship has been shown to exist. This presumption may be rebutted by a preponderance of evidence showing that visitation would endanger the child's physical, mental, or emotional health.

(b) If the court finds that reasonable visitation by a grandparent would be in the child's best interest except for hostilities that exist between the grandparent and one or both of the parents or person with whom the child lives, the court may set the matter for mediation under RCW 26.09.015.

(6) The court may consider the following factors when making a determination of the child's best interests:

(a) The strength of the relationship between the child and the petitioner;

(b) The relationship between each of the child's parents or the person with whom the child is residing and the petitioner;

(c) The nature and reason for either parent's objection to granting the petitioner visitation;

(d) The effect that granting visitation will have on the relationship between the child and the child's parents or the person with whom the child is residing;

(e) The residential time sharing arrangements between the parents;

(f) The good faith of the petitioner;

(g) Any criminal history or history of physical, emotional, or sexual abuse or neglect by the petitioner; and

(h) Any other factor relevant to the child's best interest.

(7) The restrictions of RCW 26.09.191 that apply to parents shall be applied to a petitioner or intervenor who is not a parent. The nature and extent of visitation, subject to these restrictions, is in the discretion of the court.

(8) The court may order an investigation and report concerning the proposed visitation or may appoint a guardian ad litem as provided in RCW 26.09.220.

(9) Visitation granted pursuant to this section shall be incorporated into the parenting plan for the child.

(10) The court may modify or terminate visitation rights granted pursuant to this section in any subsequent modification action upon a showing that the visitation is no longer in the best interest of the child.

RCW 26.09.255

Remedies when a child is taken, enticed, or concealed.

A relative, as defined in RCW 9A.40.010, may bring civil action against any other relative if, with intent to deny access to a child by that relative of the child who has a right to physical custody of or visitation with the child or a parent with whom the child resides pursuant to a parenting plan order, the relative takes, entices, or conceals the child from that relative. The plaintiff may be awarded, in addition to any damages awarded by the court, the reasonable expenses incurred by the plaintiff in locating the child, including, but not limited to, investigative services and reasonable attorneys' fees.

RCW 26.09.260

Modification of parenting plan or custody decree.

(1) Except as otherwise provided in subsections (4), (5), (6), (8), and (10) of this section, the court shall not modify a prior custody decree or a parenting plan unless it finds, upon the basis of facts that have arisen since the prior decree or plan or that were unknown to the court at the time of the prior decree or plan, that a substantial change has occurred in the circumstances of the child or the nonmoving party and that the modification is in the best interest of the child and is necessary to serve the best interests of the child.

(2) In applying these standards, the court shall retain the residential schedule established by the decree or parenting plan unless:

(a) The parents agree to the modification;

(b) The child has been integrated into the family of the petitioner with the consent of the other parent in substantial deviation from the parenting plan;

(c) The child's present environment is detrimental to the child's physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; or

(d) The court has found the nonmoving parent in contempt of court at least twice within three years because the parent failed to comply with the residential time provisions in the court-ordered parenting plan, or the parent has been convicted of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070.

(3) A conviction of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070 shall constitute a substantial change of circumstances for the purposes of this section.

(4) The court may reduce or restrict contact between the child and the parent with whom the child does not reside a majority of the time if it finds that the reduction or restriction would serve and protect the best interests of the child using the criteria in RCW 26.09.191.

(5) The court may order adjustments to the residential aspects of a parenting plan upon a showing of a substantial change in circumstances of either parent or of the child, and without consideration of the factors set forth in subsection (2) of this section, if the proposed modification is only a minor modification in the residential schedule that does not change the residence the child is scheduled to reside in the majority of the time and:

(a) Does not exceed twenty-four full days in a calendar year; or

(b) Is based on a change of residence of the parent with whom the child does not reside the majority of the time or an involuntary change in work schedule by a parent which makes the residential schedule in the parenting plan impractical to follow; or

(c) Does not result in a schedule that exceeds ninety overnights per year in total, if the court finds that, at the time the petition for modification is filed, the decree of dissolution or parenting plan does not provide reasonable time with the parent with whom the child does not reside a majority of the time, and further, the court finds that it is in the best interests of the child to increase residential time with the parent in excess of the residential time period in (a) of this subsection. However, any motion under this subsection (5)(c) is subject to the factors established

in subsection (2) of this section if the party bringing the petition has previously been granted a modification under this same subsection within twenty-four months of the current motion. Relief granted under this section shall not be the sole basis for adjusting or modifying child support.

(6) The court may order adjustments to the residential aspects of a parenting plan pursuant to a proceeding to permit or restrain a relocation of the child. The person objecting to the relocation of the child or the relocating person's proposed revised residential schedule may file a petition to modify the parenting plan, including a change of the residence in which the child resides the majority of the time, without a showing of adequate cause other than the proposed relocation itself. A hearing to determine adequate cause for modification shall not be required so long as the request for relocation of the child is being pursued. In making a determination of a modification pursuant to relocation of the child, the court shall first determine whether to permit or restrain the relocation of the child using the procedures and standards provided in RCW 26.09.405 through 26.09.560. Following that determination, the court shall determine what modification pursuant to relocation should be made, if any, to the parenting plan or custody order or visitation order.

(7) A parent with whom the child does not reside a majority of the time and whose residential time with the child is subject to limitations pursuant to RCW 26.09.191 (2) or (3) may not seek expansion of residential time under subsection (5)(c) of this section unless that parent demonstrates a substantial change in circumstances specifically related to the basis for the limitation.

(8) If a parent with whom the child does not reside a majority of the time voluntarily fails to exercise residential time for an extended period, that is, one year or longer, the court upon proper motion may make adjustments to the parenting plan in keeping with the best interests of the minor child.

(9) A parent with whom the child does not reside a majority of the time who is required by the existing parenting plan to complete evaluations, treatment, parenting, or other classes may not seek expansion of residential time under subsection (5)(c) of this section unless that parent has fully complied with such requirements.

(10) The court may order adjustments to any of the nonresidential aspects of a parenting plan upon a showing of a substantial change of circumstances of either parent or of a child, and the adjustment is in the best interest of the child. Adjustments ordered under this section may be made without consideration of the factors set forth in subsection (2) of this section.

(11) If the court finds that a motion to modify a prior decree or parenting plan has been brought in bad faith, the court shall assess the attorney's fees and court costs of the nonmoving parent against the moving party.

RCW 26.09.270

Child custody -- Temporary custody order, temporary parenting plan, or modification of custody decree -- Affidavits required.

A party seeking a temporary custody order or a temporary parenting plan or modification of a custody decree or parenting plan shall submit together with his motion, an affidavit setting forth facts supporting the requested order or modification and shall give notice, together with a copy of his affidavit, to other parties to the proceedings, who may file opposing affidavits. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested order or modification should not be granted.

RCW 26.09.280

Parenting plan or child support modification or enforcement -- Venue.

Every action or proceeding to change, modify, or enforce any final order, judgment, or decree entered in any dissolution or legal separation or declaration concerning the validity of a marriage, whether under this chapter or prior law, regarding the parenting plan or child support for the minor children of the marriage may be brought in the county where the minor children are then residing, or in the court in which the final order, judgment, or decree was entered, or in the county where the parent or other person who has the care, custody, or control of the children is then residing.

RCW 26.09.285

Designation of custody for the purpose of other state and federal statutes.

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside a majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under the parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time shall be deemed to be the custodian of the child for the purposes of such federal and state statutes.

RCW 26.09.290

Final decree of divorce nunc pro tunc.

Whenever either of the parties in a divorce action is, under the law, entitled to a final judgment, but by mistake, negligence, or inadvertence the same has not been signed, filed, or entered, if no appeal has been taken from the interlocutory order or motion for a new trial made, the court, on the motion of either party thereto or upon its own motion, may cause a final judgment to be signed, dated, filed, and entered therein granting the divorce as of the date when the same could have been given or made by the court if applied for. The court may cause such final judgment to be signed, dated, filed, and entered nunc pro tunc as aforesaid, even though a final judgment may have been previously entered where by mistake, negligence or inadvertence the same has not been signed, filed, or entered as soon as such final judgment, the parties to such action shall be deemed to have been restored to the status of single persons as of the date affixed to such judgment, and any marriage of either of such parties subsequent to six months after the granting of the interlocutory order as shown by the minutes of the court, and after the final judgment could have been entered under the law if applied for, shall be valid for all purposes as of the date affixed to such final judgment, upon the filing thereof.

RCW 26.09.300

Restraining orders -- Notice -- Refusal to comply -- Arrest -- Penalty -- Defense -- Peace officers, immunity.

(1) Whenever a restraining order is issued under this chapter, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, is punishable under RCW 26.50.110.

(2) A person is deemed to have notice of a restraining order if:

- (a) The person to be restrained or the person's attorney signed the order;
- (b) The order recites that the person to be restrained or the person's attorney appeared in person before the court;
- (c) The order was served upon the person to be restrained; or
- (d) The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(3) A peace officer shall verify the existence of a restraining order by:

- (a) Obtaining information confirming the existence and terms of the order from a law enforcement agency; or
- (b) Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(4) A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

- (a) A restraining order has been issued under this chapter;
- (b) The respondent or person to be restrained knows of the order; and
- (c) The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(5) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule.

(6) No peace officer may be held criminally or civilly liable for making an arrest under subsection (4) of this section if the officer acts in good faith and without malice.

RCW 26.09.310

Provision of health care to minor -- Immunity of health care provider.

No health care provider or facility, or their agent, shall be liable for damages in any civil action brought by a parent or guardian based only on a lack of the parent or guardian's consent for medical care of a minor child, if consent to the care has been given by a parent or guardian of the minor. The immunity provided by this section shall apply regardless of whether:

- (1) The parents are married, unmarried, or separated at the time of consent or treatment;
- (2) The consenting parent is, or is not, a custodial parent of the minor;
- (3) The giving of consent by a parent is, or is not, full performance of any agreement between the parents, or of any order or decree in any action entered pursuant to chapter 26.09 RCW;
- (4) The action or suit is brought by or on behalf of the nonconsenting parent, the minor child, or any other person.

NOTICE REQUIREMENTS AND STANDARDS FOR PARENTAL RELOCATION

RCW 26.09.405

Applicability.

(1) The provisions of RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and 26.26.160 apply to a court order regarding residential time or visitation with a child issued:

- (a) After June 8, 2000; and
- (b) Before June 8, 2000, if the existing court order does not expressly govern relocation of the child.

(2) To the extent that a provision of RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and 26.26.160 conflicts with the express terms of a court order existing prior to June 8, 2000, then RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and 26.26.160 do not apply to those terms of that order governing relocation of the child.

RCW 26.09.410

Definitions.

The definitions in this section apply throughout RCW 26.09.405 through 26.09.560 and 26.09.260 unless the context clearly requires otherwise.

(1) "Court order" means a temporary or permanent parenting plan, custody order, visitation order, or other order governing the residence of a child under this title.

(2) "Relocate" means a change in principal residence either permanently or for a protracted period of time.

RCW 26.09.420

Grant of authority.

When entering or modifying a court order, the court has the authority to allow or not allow a person to relocate the child.

RCW 26.09.430

Notice requirement.

Except as provided in RCW 26.09.460, a person with whom the child resides a majority of the time shall notify every other person entitled to residential time or visitation with the child under a court order if the person intends to relocate. Notice shall be given as prescribed in RCW 26.09.440 and 26.09.450.

RCW 26.09.440

Notice -- Contents and delivery.

(1) Except as provided in RCW 26.09.450 and 26.09.460, the notice of an intended relocation of the child must be given by:

(a) Personal service or any form of mail requiring a return receipt; and

(b) No less than:

(i) Sixty days before the date of the intended relocation of the child; or

(ii) No more than five days after the date that the person knows the information required to be furnished under subsection (2) of this section, if the person did not know and could not reasonably have known the information in sufficient time to provide the sixty-days' notice, and it is not reasonable to delay the relocation.

(2)(a) The notice of intended relocation of the child must include: (i) An address at which service of process may be accomplished during the period for objection; (ii) a brief statement of the specific reasons for the intended relocation of the child; and (iii) a notice to the nonrelocating person that an objection to the intended relocation of the child or to the relocating person's proposed revised residential schedule must be filed with the court and served on the opposing person within thirty days or the relocation of the child will be permitted and the residential schedule may be modified pursuant to RCW 26.09.500. The notice shall not be deemed to be in substantial compliance for purposes of RCW 26.09.470 unless the notice contains the following statement: "THE RELOCATION OF THE CHILD WILL BE PERMITTED AND THE PROPOSED REVISED RESIDENTIAL SCHEDULE MAY BE CONFIRMED UNLESS, WITHIN THIRTY DAYS, YOU FILE A PETITION AND MOTION WITH THE COURT TO BLOCK THE RELOCATION OR OBJECT TO THE PROPOSED REVISED RESIDENTIAL SCHEDULE AND SERVE THE PETITION AND MOTION ON THE PERSON PROPOSING RELOCATION AND ALL OTHER PERSONS ENTITLED BY COURT ORDER TO RESIDENTIAL TIME OR VISITATION WITH THE CHILD."

(b) Except as provided in RCW 26.09.450 and 26.09.460, the following information shall also be included in every notice of intended relocation of the child, if available:

(i) The specific street address of the intended new residence, if known, or as much of the intended address as is known, such as city and state;

(ii) The new mailing address, if different from the intended new residence address;

(iii) The new home telephone number;

(iv) The name and address of the child's new school and day care facility, if applicable;

(v) The date of the intended relocation of the child; and

(vi) A proposal in the form of a proposed parenting plan for a revised schedule of residential time or visitation with the child, if any.

(3) A person required to give notice of an intended relocation of the child has a continuing duty to promptly update the information required with the notice as that new information becomes known.

RCW 26.09.450

Notice -- Relocation within the same school district.

(1) When the intended relocation of the child is within the school district in which the child currently resides the majority of the time, the person intending to relocate the child, in lieu of notice prescribed in RCW 26.09.440, may provide actual notice by any reasonable means to every other person entitled to residential time or visitation with the child under a court order.

(2) A person who is entitled to residential time or visitation with the child under a court order may not object to the intended relocation of the child within the school district in which the child currently resides the majority of the time, but he or she retains the right to move for modification under RCW 26.09.260.

RCW 26.09.460

Limitation of notices.

(1) If a person intending to relocate the child is entering a domestic violence shelter due to the danger imposed by another person, notice may be delayed for twenty-one days. This section shall not be construed to compel the disclosure by any domestic violence shelter of information protected by confidentiality except as provided by RCW 70.123.075 or equivalent laws of the state in which the shelter is located.

(2) If a person intending to relocate the child is a participant in the address confidentiality program pursuant to chapter 40.24 RCW or has a court order which permits the party to withhold

some or all of the information required by RCW 26.09.440(2)(b), the confidential or protected information is not required to be given with the notice.

(3) If a person intending to relocate the child is relocating to avoid a clear, immediate, and unreasonable risk to the health or safety of a person or the child, notice may be delayed for twenty-one days.

(4) A person intending to relocate the child who believes that his or her health or safety or the health or safety of the child would be unreasonably put at risk by notice or disclosure of certain information in the notice may request an ex parte hearing with the court to have all or part of the notice requirements waived. If the court finds that the health or safety of a person or a child would be unreasonably put at risk by notice or the disclosure of certain information in the notice, the court may:

(a) Order that the notice requirements be less than complete or waived to the extent necessary to protect confidentiality or the health or safety of a person or child; or

(b) Provide such other relief as the court finds necessary to facilitate the legitimate needs of the parties and the best interests of the child under the circumstances.

(5) This section does not deprive a person entitled to residential time or visitation with a child under a court order the opportunity to object to the intended relocation of the child or the proposed revised residential schedule before the relocation occurs.

RCW 26.09.470

Failure to give notice.

(1) The failure to provide the required notice is grounds for sanctions, including contempt if applicable.

(2) In determining whether a person has failed to comply with the notice requirements for the purposes of this section, the court may consider whether:

(a) The person has substantially complied with the notice requirements;

(b) The court order in effect at the time of the relocation was issued prior to June 8, 2000, and the person substantially complied with the notice requirements, if any, in the existing order;

(c) A waiver of notice was granted;

(d) A person entitled to receive notice was substantially harmed; and

(e) Any other factor the court deems relevant.

(3) A person entitled to file an objection to the intended relocation of the child may file such objection whether or not the person has received proper notice.

RCW 26.09.480

Objection to relocation or proposed revised residential schedule.

(1) A party objecting to the intended relocation of the child or the relocating parent's proposed revised residential schedule shall do so by filing the objection with the court and serving the objection on the relocating party and all other persons entitled by court order to residential time or visitation with the child by means of personal service or mailing by any form of mail requiring a return receipt to the relocating party at the address designated for service on the notice of intended relocation and to other parties requiring notice at their mailing address. The objection must be filed and served, including a three-day waiting period if the objection is served by mail, within thirty days of receipt of the notice of intended relocation of the child. The objection shall be in the form of: (a) A petition for modification of the parenting plan pursuant to relocation; or (b) other court proceeding adequate to provide grounds for relief.

(2) Unless the special circumstances described in RCW 26.09.460 apply, the person intending to relocate the child shall not, without a court order, change the principal residence of the child during the period in which a party may object. The order required under this subsection may be obtained ex parte. If the objecting party notes a court hearing to prevent the relocation of the child for a date not more than fifteen days following timely service of an objection to relocation, the party intending to relocate the child shall not change the principal residence of the child pending the hearing unless the special circumstances described in RCW 26.09.460(3) apply.

(3) The administrator for the courts shall develop a standard form, separate from existing dissolution or modification forms, for use in filing an objection to relocation of the child or objection of the relocating person's proposed revised residential schedule.

RCW 26.09.490

Required provision in residential orders.

Unless waived by court order, after June 8, 2000, every court order shall include a clear restatement of the provisions in RCW 26.09.430 through 26.09.480.

RCW 26.09.500 Failure to object.

(1) Except for good cause shown, if a person entitled to object to the relocation of the child does not file an objection with the court within thirty days after receipt of the relocation notice, then the relocation of the child shall be permitted.

(2) A nonobjecting person shall be entitled to the residential time or visitation with the child specified in the proposed residential schedule included with the relocation notice.

(3) Any person entitled to residential time or visitation with a child under a court order retains his or her right to move for modification under RCW 26.09.260.

(4) If a person entitled to object to the relocation of the child does not file an objection with the court within thirty days after receipt of the relocation notice, a person entitled to residential time with the child may not be held in contempt of court for any act or omission that is in compliance with the proposed revised residential schedule set forth in the notice given.

(5) Any party entitled to residential time or visitation with the child under a court order may, after thirty days have elapsed since the receipt of the notice, obtain ex parte and file with the court an order modifying the residential schedule in conformity with the relocating party's proposed residential schedule specified in the notice upon filing a copy of the notice and proof of service of such notice. A party may obtain ex parte and file with the court an order modifying the residential schedule in conformity with the proposed residential schedule specified in the notice before the thirty days have elapsed if the party files a copy of the notice, proof of service of such notice, and proof that no objection will be filed.

RCW 26.09.510 Temporary orders.

(1) The court may grant a temporary order restraining relocation of the child, or ordering return of the child if the child's relocation has occurred, if the court finds:

(a) The required notice of an intended relocation of the child was not provided in a timely manner and the nonrelocating party was substantially prejudiced;

(b) The relocation of the child has occurred without agreement of the parties, court order, or the notice required by RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and 26.26.160; or

(c) After examining evidence presented at a hearing for temporary orders in which the parties had adequate opportunity to prepare and be heard, there is a likelihood that on final hearing the court will not approve the intended relocation of the child or no circumstances exist sufficient to warrant a relocation of the child prior to a final determination at trial.

(2) The court may grant a temporary order authorizing the intended relocation of the child pending final hearing if the court finds:

(a) The required notice of an intended relocation of the child was provided in a timely manner or that the circumstances otherwise warrant issuance of a temporary order in the absence of compliance with the notice requirements and issues an order for a revised schedule for residential time with the child; and

(b) After examining the evidence presented at a hearing for temporary orders in which the parties had adequate opportunity to prepare and be heard, there is a likelihood that on final hearing the court will approve the intended relocation of the child.

RCW 26.09.520 Basis for determination.

The person proposing to relocate with the child shall provide his or her reasons for the intended relocation. There is a rebuttable presumption that the intended relocation of the child will be permitted. A person entitled to object to the intended relocation of the child may rebut the presumption by demonstrating that the detrimental effect of the relocation outweighs the benefit of the change to the child and the relocating person, based upon the following factors. The factors

listed in this section are not weighted. No inference is to be drawn from the order in which the following factors are listed:

(1) The relative strength, nature, quality, extent of involvement, and stability of the child's relationship with each parent, siblings, and other significant persons in the child's life;

(2) Prior agreements of the parties;

(3) Whether disrupting the contact between the child and the person with whom the child resides a majority of the time would be more detrimental to the child than disrupting contact between the child and the person objecting to the relocation;

(4) Whether either parent or a person entitled to residential time with the child is subject to limitations under RCW 26.09.191;

(5) The reasons of each person for seeking or opposing the relocation and the good faith of each of the parties in requesting or opposing the relocation;

(6) The age, developmental stage, and needs of the child, and the likely impact the relocation or its prevention will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child;

(7) The quality of life, resources, and opportunities available to the child and to the relocating party in the current and proposed geographic locations;

(8) The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent;

(9) The alternatives to relocation and whether it is feasible and desirable for the other party to relocate also;

(10) The financial impact and logistics of the relocation or its prevention; and

(11) For a temporary order, the amount of time before a final decision can be made at trial.

RCW 26.09.530

Factor not to be considered.

In determining whether to permit or restrain the relocation of the child, the court may not admit evidence on the issue of whether the person seeking to relocate the child will forego his or her own relocation if the child's relocation is not permitted or whether the person opposing relocation will also relocate if the child's relocation is permitted. The court may admit and consider such evidence after it makes the decision to allow or restrain relocation of the child and other parenting, custody, or visitation issues remain before the court, such as what, if any, modifications to the parenting plan are appropriate and who the child will reside with the majority of the time if the court has denied relocation of the child and the person is relocating without the child.

RCW 26.09.540

Objections by nonparents.

A court may not restrict the right of a parent to relocate the child when the sole objection to the relocation is from a third party, unless that third party is entitled to residential time or visitation under a court order and has served as the primary residential care provider to the child for a substantial period of time during the thirty-six consecutive months preceding the intended relocation.

RCW 26.09.550

Sanctions.

The court may sanction a party if it finds that a proposal to relocate the child or an objection to an intended relocation or proposed revised residential schedule was made to harass a person, to interfere in bad faith with the relationship between the child and another person entitled to residential time or visitation with the child, or to unnecessarily delay or needlessly increase the cost of litigation.

RCW 26.09.560

Priority for hearing.

A hearing involving relocations or intended relocations of children shall be accorded priority on the court's motion calendar and trial docket.

RCW 26.09.900**Construction -- Pending divorce actions.**

Notwithstanding the repeals of prior laws enumerated in section 30, chapter 157, Laws of 1973 1st ex. sess., actions for divorce which were properly and validly pending in the superior courts of this state as of the effective date of such repealer (July 15, 1973) shall be governed and may be pursued to conclusion under the provisions of law applicable thereto at the time of commencement of such action and all decrees and orders heretofore or hereafter in all other respects regularly entered in such proceedings are declared valid: PROVIDED, That upon proper cause being shown at any time before final decree, the court may convert such action to an action for dissolution of marriage as provided for in RCW 26.09.901.

RCW 26.09.901**Conversion of pending action to dissolution proceeding.**

Any divorce action which was filed prior to July 15, 1973 and for which a final decree has not been entered on February 11, 1974, may, upon order of the superior court having jurisdiction over such proceeding for good cause shown, be converted to a dissolution proceeding and thereafter be continued under the provisions of this chapter.

RCW 26.09.902**RCW 26.09.900 and 26.09.901 deemed in effect on July 16, 1973.**

The provisions of RCW 26.09.900 and 26.09.901 are remedial and procedural and shall be construed to have been in effect as of July 16, 1973.

RCW 26.09.907**Construction -- Pending actions as of January 1, 1988.**

Notwithstanding the repeals of prior laws, actions which were properly and validly pending in the superior courts of this state as of January 1, 1988, shall not be governed by chapter 460, Laws of 1987 but shall be governed by the provisions of law in effect on December 31, 1987.

RCW 26.09.909**Decrees entered into prior to January 1, 1988.**

(1) Decrees under this chapter involving child custody, visitation, or child support entered in actions commenced prior to January 1, 1988, shall be deemed to be parenting plans for purposes of this chapter.

(2) The enactment of the 1987 revisions to this chapter does not constitute substantially changed circumstances for the purposes of modifying decrees entered under this chapter in actions commenced prior to January 1, 1988, involving child custody, visitation, or child support. Any action to modify any decree involving child custody, visitation, child support, or a parenting plan shall be governed by the provisions of this chapter.

(3) Actions brought for clarification or interpretation of decrees entered under this chapter in actions commenced prior to January 1, 1988, shall be determined under the law in effect immediately prior to January 1, 1988.

RCW 26.09.910**Short title -- 1987 c 460.**

This act shall be known as the parenting act of 1987.

RCW 26.09.911**Section captions -- 1987 c 460.**

Section captions as used in this act do not constitute any part of the law.

RCW 26.09.912**Effective date -- 1987 c 460.**

This act shall take effect on January 1, 1988.

RCW 26.09.913
Severability -- 1987 c 460.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of this act or the application of the provision to other persons or circumstances is not affected.

RCW 26.09.914
Severability -- 1989 c 375.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Chapter 26.10 RCW NONPARENTAL ACTIONS FOR CHILD CUSTODY

RCW 26.10.010
Intent.

It is the intent of the legislature to reenact and continue the law relating to third-party actions involving custody of minor children in order to distinguish that body of law from the *1987 parenting act amendments to chapter 26.09 RCW, which previously contained these provisions.

RCW 26.10.015
Mandatory use of approved forms.

(1) Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts.

(2) The parties shall comply with requirements for submission to the court of forms as provided in RCW 26.18.220.

RCW 26.10.020
Civil practice to govern -- Designation of proceedings -- Decrees.

(1) Except as otherwise specifically provided in this chapter, the practice in civil action shall govern all proceedings under this chapter, except that trial by jury is dispensed with.

(2) In cases where a party other than a parent seeks custody of a minor child, a separate custody proceeding shall be entitled "In re the custody of"

(3) The initial pleading in all proceedings under this chapter shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this chapter shall be denominated as provided in the civil rules for superior court.

RCW 26.10.030
Child custody proceeding -- Commencement -- Notice -- Intervention.

(1) Except as authorized for proceedings brought under chapter 13.34 RCW, or chapter 26.50 RCW in district or municipal courts, a child custody proceeding is commenced in the superior court by a person other than a parent, by filing a petition seeking custody of the child in the county where the child is permanently resident or where the child is found, but only if the child is not in the physical custody of one of its parents or if the petitioner alleges that neither parent is a suitable custodian. In proceedings in which the juvenile court has not exercised concurrent jurisdiction and prior to a child custody hearing, the court shall determine if the child is the subject of a pending dependency action.

(2) Notice of a child custody proceeding shall be given to the child's parent, guardian and custodian, who may appear and be heard and may file a responsive pleading. The court may, upon a showing of good cause, permit the intervention of other interested parties.

(3) The petitioner shall include in the petition the names of any adult members of the petitioner's household.

RCW 26.10.032

Child custody motion -- Affidavit required -- Notice -- Denial of motion -- Show cause hearing.

(1) A party seeking a custody order shall submit, along with his or her motion, an affidavit declaring that the child is not in the physical custody of one of its parents or that neither parent is a suitable custodian and setting forth facts supporting the requested order. The party seeking custody shall give notice, along with a copy of the affidavit, to other parties to the proceedings, who may file opposing affidavits.

(2) The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested order should not be granted.

RCW 26.10.034

Child custody petitions, orders, and decrees -- Application of Indian child welfare act.

(1)(a) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the child is or may be an Indian child as defined in 25 U.S.C. Sec. 1903. If the child is an Indian child as defined under the Indian child welfare act, the provisions of the act shall apply.

(b) Whenever the court or the petitioning party in a proceeding under this chapter knows or has reason to know that an Indian child is involved, the petitioning party shall promptly provide notice to the child's parent or Indian custodian and to the agent designated by the child's Indian tribe to receive such notices. Notice shall be by certified mail with return receipt requested. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary of the interior in the manner described in 25 C.F.R. 23.11. If the child may be a member of more than one tribe, the petitioning party shall send notice to all tribes the petitioner has reason to know may be affiliated with the child.

(c) The notice shall: (i) Contain a statement notifying the parent or custodian and the tribe of the pending proceeding; and (ii) notify the tribe of the tribe's right to intervene and/or request that the case be transferred to tribal court.

(2) Every order or decree entered in any proceeding under this chapter shall contain a finding that the Indian child welfare act does or does not apply. Where there is a finding that the Indian child welfare act does apply, the decree or order must also contain a finding that all notice requirements and evidentiary requirements under the Indian child welfare act have been satisfied.

RCW 26.10.040

Provisions for child support, custody, and visitation -- Federal tax exemption -- Continuing restraining orders -- Domestic violence or antiharassment protection orders - - Notice of modification or termination of restraining order.

(1) In entering an order under this chapter, the court shall consider, approve, or make provision for:

(a) Child custody, visitation, and the support of any child entitled to support;

(b) The allocation of the children as a federal tax exemption;

(c) Any necessary continuing restraining orders, including the provisions contained in RCW 9.41.800;

(d) A domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080;

(e) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(2) The court shall order that any restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section, in addition to the law enforcement information sheet or proof of service of the order, be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

(3) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

RCW 26.10.045

Child support schedule.

A determination of child support shall be based upon the child support schedule and standards adopted under *RCW 26.19.040.

RCW 26.10.050

Child support by parents -- Apportionment of expense.

In a custody proceeding, the court may order either or both parents owing a duty of support to any child of the marriage dependent upon either or both spouses to pay an amount reasonable or necessary for the child's support.

RCW 26.10.060

Health insurance coverage -- Conditions.

In entering or modifying a custody order under this chapter, the court shall require either or both parents to maintain or provide health insurance coverage for any dependent child if the following conditions are met:

(1) Health insurance that can be extended to cover the child is available to that parent through an employer or other organization; and

(2) The employer or other organization offering health insurance will contribute all or a part of the premium for coverage of the child.

A parent who is required to extend insurance coverage to a child under this section is liable for any covered health care costs for which the parent receives direct payment from an insurer.

This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of medical expenses, medical costs, or insurance premiums which are in addition to and not inconsistent with this section. "Health insurance" as used in this section does not include medical assistance provided under chapter 74.09 RCW.

RCW 26.10.070

Minor or dependent child -- Court appointed attorney to represent -- Payment of costs, fees, and disbursements.

The court may appoint an attorney to represent the interests of a minor or dependent child with respect to custody, support, and visitation. The court shall enter an order for costs, fees, and disbursements in favor of the child's attorney. The order shall be made against any or all parties, except that, if all parties are indigent, the costs, fees, and disbursements shall be borne by the county.

RCW 26.10.080

Payment of costs, attorney's fees, etc.

The court from time to time, after considering the financial resources of all parties, may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for reasonable attorney's fees or other professional fees in connection therewith, including sums for legal services rendered and costs incurred prior to the

commencement of the proceeding or enforcement or modification proceedings after entry of judgment.

Upon any appeal, the appellate court may, in its discretion, order a party to pay for the cost to the other party of maintaining the appeal and attorney's fees in addition to statutory costs.

The court may order that the attorney's fees be paid directly to the attorney who may enforce the order in his or her name.

RCW 26.10.090

Failure to comply with decree or temporary injunction -- Obligation to make support payments or permit visitation not suspended -- Motion.

If a party fails to comply with a provision of an order or temporary order of injunction, the obligation of the other party to make payments for support or to permit visitation is not suspended, but the party may move the court to grant an appropriate order.

RCW 26.10.100

Determination of custody -- Child's best interests.

The court shall determine custody in accordance with the best interests of the child.

RCW 26.10.110

Temporary custody order -- Vacation of order.

A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in RCW 26.10.200. The court may award temporary custody after a hearing, or, if there is no objection, solely on the basis of the affidavits.

If a custody proceeding commenced under this chapter is dismissed, any temporary order is vacated.

RCW 26.10.115

Temporary orders -- Support -- Restraining orders -- Domestic violence or antiharassment protection orders -- Notice of modification or termination of restraining order -- Preservation of support debt.

(1) In a proceeding under this chapter either party may file a motion for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amount requested.

(2) In a proceeding under this chapter either party may file a motion for a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) Molesting or disturbing the peace of the other party or of any child;

(b) Entering the family home or the home of the other party upon a showing of the necessity therefor;

(c) Knowingly coming within, or knowingly remaining within, a specified distance from a specified location; and

(d) Removing a child from the jurisdiction of the court.

(3) Either party may request a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW on a temporary basis. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080. Ex parte orders issued under this subsection shall be effective for a fixed period not to exceed fourteen days, or upon court order, not to exceed twenty-four days if necessary to ensure that all temporary motions in the case can be heard at the same time.

(4) In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(5) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(6) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances.

(7) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(8) The court shall order that any temporary restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(9) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

(10) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final order is entered or when the motion is dismissed;

(d) May be entered in a proceeding for the modification of an existing order.

(11) A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding.

RCW 26.10.120

Interview with child by court -- Advice of professional personnel.

The court may interview the child in chambers to ascertain the child's wishes as to his or her custodian and as to visitation privileges. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to be made part of the record in the case.

The court may seek the advice of professional personnel whether or not they are employed on a regular basis by the court. The advice given shall be in writing and shall be made available by the court to counsel upon request. Counsel may call for cross-examination any professional personnel consulted by the court.

RCW 26.10.130

Investigation and report.

(1) In contested custody proceedings, and in other custody proceedings if a parent or the child's custodian so requests, the court may order an investigation and report concerning custodian arrangements for the child, or may appoint a guardian ad litem pursuant to RCW 26.12.175, or both. The investigation and report may be made by the guardian ad litem, the staff of the juvenile court, or other professional social service organization experienced in counseling children and families.

(2) In preparing the report concerning a child, the investigator may consult any person who may have information about the child and potential custodian arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if the child has reached the age of twelve, unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (3) of this section are fulfilled, the investigator's report may be received in evidence at the hearing.

(3) The investigator shall mail the investigator's report to counsel and to any party not represented by counsel at least ten days prior to the hearing unless a shorter time is ordered by the court for good cause shown. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (2) of this section, and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing.

RCW 26.10.135

Custody orders -- Background information to be consulted.

(1) Before granting any order regarding the custody of a child under this chapter, the court shall consult the judicial information system, if available, to determine the existence of any information and proceedings that are relevant to the placement of the child.

(2) Before entering a final order, the court shall:

(a) Direct the department of social and health services to release information as provided under RCW 13.50.100; and

(b) Require the petitioner to provide the results of an examination of state and national criminal identification data provided by the Washington state patrol criminal identification system as described in chapter 43.43 RCW for the petitioner and adult members of the petitioner's household.

RCW 26.10.140

Hearing -- Record -- Expenses of witnesses.

Custody proceedings shall receive priority in being set for hearing.

A party may petition the court to authorize the payment of necessary travel and other expenses incurred by any witness whose presence at the hearing the court deems necessary to determine the best interests of the child.

The court without a jury shall determine questions of law and fact. If it finds that a public hearing may be detrimental to the child's best interests, the court may exclude the public from a custody hearing, but may admit any person who has a direct and legitimate interest in the work of the court.

If the court finds it necessary to protect the child's welfare that the record of any interview, report, investigation, or testimony in a custody proceeding be kept secret, the court may make an appropriate order sealing the record.

RCW 26.10.150

Access to child's education and medical records.

Each parent shall have full and equal access to the education and medical records of the child absent a court order to the contrary.

RCW 26.10.160

Visitation rights -- Limitations.

(1) A parent not granted custody of the child is entitled to reasonable visitation rights except as provided in subsection (2) of this section.

(2)(a) Visitation with the child shall be limited if it is found that the parent seeking visitation has engaged in any of the following conduct: (i) Willful abandonment that continues for an

extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm; or (iv) the parent has been convicted as an adult of a sex offense under:

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

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

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

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

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

(H) Chapter 9.68A RCW;

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

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

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

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

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

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

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

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

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

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (b)(iii)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (b)(iii)(A) through (H) of this subsection.

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

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

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

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

(ii) RCW 9A.44.073;

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

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

(v) RCW 9A.44.083;

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

(vii) RCW 9A.44.100;

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

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

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

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

(ii) RCW 9A.44.073;

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

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

(v) RCW 9A.44.083;

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

(vii) RCW 9A.44.100;

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

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

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

(i) If the child was not the victim of the sex offense committed by the parent requesting visitation, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, and (B) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

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

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

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

(ii) If the child was the victim of the sex offense committed by the person who is residing with the parent requesting visitation, (A) contact between the child and the parent in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the parent residing with the convicted or adjudicated person in the

presence of the convicted or adjudicated person is in the child's best interest, and (C) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes contact between the parent and child in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child.

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

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

(j) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who, as an adult, has been convicted of a sex offense listed in (e)(i) through (ix) of this subsection to have visitation with the child in the presence of the convicted person supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such visitation. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

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

(l) A court may order unsupervised contact between the parent and a child which may occur in the presence of a juvenile adjudicated of a sex offense listed in (e)(i) through (ix) of this subsection who resides with the parent after the presumption under (e) of this subsection has been rebutted and supervised visitation has occurred for at least two years during which time the adjudicated juvenile has had no further arrests, adjudications, or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW, and (i) the court finds that unsupervised contact between the child and the parent that may occur in the presence of the adjudicated juvenile is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treatment of child sexual abuse victims who has supervised at least one

period of visitation between the parent and the child in the presence of the adjudicated juvenile, and after consideration of evidence of the adjudicated juvenile's compliance with community supervision or parole requirements, if any. If the adjudicated juvenile was not ordered by a court to participate in treatment for sex offenders, then the adjudicated juvenile shall obtain a psychosexual evaluation conducted by a certified sex offender treatment provider or a certified affiliate sex offender treatment provider indicating that the adjudicated juvenile has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child which may occur in the presence of the adjudicated juvenile who is residing with the parent.

(m)(i) The limitations imposed by the court under (a) or (b) of this subsection shall be reasonably calculated to protect the child from the physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting visitation. If the court expressly finds based on the evidence that limitations on visitation with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting visitation, the court shall restrain the person seeking visitation from all contact with the child.

(ii) The court shall not enter an order under (a) of this subsection allowing a parent to have contact with a child if the parent has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused the child, except upon recommendation by an evaluator or therapist for the child that the child is ready for contact with the parent and will not be harmed by the contact. The court shall not enter an order allowing a parent to have contact with the child in the offender's presence if the parent resides with a person who has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused a child, unless the court finds that the parent accepts that the person engaged in the harmful conduct and the parent is willing to and capable of protecting the child from harm from the person.

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

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

(3) Any person may petition the court for visitation rights at any time including, but not limited to, custody proceedings. The court may order visitation rights for any person when visitation may serve the best interest of the child whether or not there has been any change of circumstances.

(4) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child. Modification of a parent's visitation rights shall be subject to the requirements of subsection (2) of this section.

(5) For the purposes of this section, a parent's child means that parent's natural child, adopted child, or stepchild.

RCW 26.10.170

Powers and duties of custodian -- Supervision by appropriate agency when necessary.

Except as otherwise agreed by the parties in writing at the time of the custody decree, the custodian may determine the child's upbringing, including education, health care, and religious training, unless the court after hearing, finds, upon motion by the noncustodial parent, that in the absence of a specific limitation of the custodian's authority, the child's physical, mental, or emotional health would be endangered.

If both parents or all contestants agree to the order, or if the court finds that in the absence of the order the child's physical, mental, or emotional health would be endangered, the court may

order an appropriate agency which regularly deals with children to exercise continuing supervision over the case to assure that the custodial or visitation terms of the decree are carried out. Such order may be modified by the court at any time upon petition by either party.

RCW 26.10.180

Remedies when a child is taken, enticed, or concealed.

A relative, as defined in RCW 9A.40.010, may bring civil action against any other relative who, with intent to deny access to a child by another relative of the child who has a right to physical custody of or visitation with the child, takes, entices, or conceals the child from that relative. The plaintiff may be awarded, in addition to any damages awarded by the court, the reasonable expenses incurred by the plaintiff in locating the child, including, but not limited to, investigative services and reasonable attorneys' fees.

RCW 26.10.190

Petitions for modification and proceedings concerning relocation of child -- Assessment of attorneys' fees.

(1) The court shall hear and review petitions for modifications of a parenting plan, custody order, visitation order, or other order governing the residence of a child, and conduct any proceedings concerning a relocation of the residence where the child resides a majority of the time, pursuant to chapter 26.09 RCW.

(2) If the court finds that a motion to modify a prior custody decree has been brought in bad faith, the court shall assess the attorney's fees and court costs of the custodian against the petitioner.

RCW 26.10.195

Modification of child support order -- Child support order summary report.

The party seeking the establishment or modification of a child support order shall file with the clerk of the court the child support order summary report. The summary report shall be on the form developed by the administrator for the courts pursuant to RCW 26.18.210. The party must complete the form and file the form with the court order. The clerk of the court must forward the form to the administrator for the courts on at least a monthly basis.

RCW 26.10.200

Temporary custody order or modification of custody decree -- Affidavits required.

A party seeking a temporary custody order or modification of a custody decree shall submit together with his or her motion, an affidavit setting forth facts supporting the requested order or modification and shall give notice, together with a copy of the affidavit, to other parties to the proceedings, who may file opposing affidavits. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested order or modification should not be granted.

RCW 26.10.210

Venue.

Every action or proceeding to change, modify, or enforce any final order, judgment, or decree heretofore or hereafter entered, whether under this chapter or prior law, in relation to the care, custody, control, or support of the minor children may be brought in the county where the minor children are then residing, or in the court in which the final order, judgment, or decree was entered, or in the county where the parent or other person who has the care, custody, or control of the children is then residing.

RCW 26.10.220

Restraining orders -- Notice -- Refusal to comply -- Arrest -- Penalty -- Defense -- Peace officers, immunity.

(1) Whenever a restraining order is issued under this chapter, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, is punishable under RCW 26.50.110.

(2) A person is deemed to have notice of a restraining order if:

(a) The person to be restrained or the person's attorney signed the order;

(b) The order recites that the person to be restrained or the person's attorney appeared in person before the court;

(c) The order was served upon the person to be restrained; or

(d) The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(3) A peace officer shall verify the existence of a restraining order by:

(a) Obtaining information confirming the existence and terms of the order from a law enforcement agency; or

(b) Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(4) A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) A restraining order has been issued under this chapter;

(b) The respondent or person to be restrained knows of the order; and

(c) The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(5) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule.

(6) No peace officer may be held criminally or civilly liable for making an arrest under subsection (4) of this section if the officer acts in good faith and without malice.

Chapter 26.12 RCW FAMILY COURT

RCW 26.12.010

Jurisdiction conferred on superior court -- Family court proceeding defined.

Each superior court shall exercise the jurisdiction conferred by this chapter and while sitting in the exercise of such jurisdiction shall be known and referred to as the "family court." A family court proceeding under this chapter is: (1) Any proceeding under this title or any proceeding in which the family court is requested to adjudicate or enforce the rights of the parties or their children regarding the determination or modification of parenting plans, child custody, visitation, or support, or the distribution of property or obligations, or (2) concurrent with the juvenile court, any proceeding under Title 13 or chapter 28A.225 RCW.

RCW 26.12.020

Designation of judge -- Number of sessions.

In counties having more than one judge of the superior court the judges of such court shall annually, in the month of January, designate one or more of their number to hear all cases under this chapter. The judge or judges so designated shall hold as many sessions of the family court in each week as are necessary for the prompt disposition of matters before the court.

RCW 26.12.030

Transfer of cases to presiding judge.

The judge of the family court may transfer any case before the family court pursuant to this chapter to the department of the presiding judge of the superior court for assignment for trial or other proceedings by another judge of the court, whenever in the opinion of the judge of the family

court such transfer is necessary to expedite the business of the family court or to insure the prompt consideration of the case. When any case is so transferred, the judge to whom it is transferred shall act as the judge of the family court in the matter.

RCW 26.12.040

Substitute judge of family court.

In counties having more than one judge of the superior court the presiding judge may appoint a judge other than the judge of the family court to act as judge of the family court during any period when the judge of the family court is on vacation, absent, or for any reason unable to perform his duties. Any judge so appointed shall have all the powers and authority of a judge of the family court in cases under this chapter.

RCW 26.12.050

Family courts -- Appointment of assistants.

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

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

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

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

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

RCW 26.12.070

Probation officers -- Powers and duties.

The probation officer in every county shall give such assistance to the family court as may be requested to carry out the purposes of this chapter and to that end the probation officer shall, upon request, make investigations and reports as requested, and in cases pursuant to this chapter shall exercise all the powers and perform all the duties granted or imposed by the laws of this state relating to probation or to probation officers.

RCW 26.12.160

When and where court may be convened.

For the purpose of conducting hearings pursuant to this chapter the family court may be convened at any time and place within the county and the hearing may be had in chambers or otherwise.

RCW 26.12.170

Authority of family court judges and court commissioners to order or recommend services -- Report by court of child abuse or neglect.

*** CHANGE IN 2005 *** (SEE 1133-S.SL) ***

To facilitate and promote the purposes of this chapter, family court judges and court commissioners may order or recommend family court services, parenting seminars, drug and alcohol abuse evaluations and monitoring of the parties through public or private treatment services, other treatment services, the aid of physicians, psychiatrists, other specialists, or other services or may recommend the aid of the pastor or director of any religious denomination to which the parties may belong.

If the court has reasonable cause to believe that a child of the parties has suffered abuse or neglect it may file a report with the proper law enforcement agency or the department of social and health services as provided in RCW 26.44.040. Upon receipt of such a report the law enforcement

agency or the department of social and health services will conduct an investigation into the cause and extent of the abuse or neglect. The findings of the investigation may be made available to the court if ordered by the court as provided in RCW 42.17.310(3). The findings shall be restricted to the issue of abuse and neglect and shall not be considered custody investigations.

RCW 26.12.172

Parenting seminars -- Rules.

Any court rules adopted for the implementation of parenting seminars shall include the following provisions:

- (1) In no case shall opposing parties be required to attend seminars together;
- (2) Upon a showing of domestic violence or abuse which would not require mutual decision making pursuant to RCW 26.09.191, or that a parent's attendance at the seminar is not in the children's best interests, the court shall either:
 - (a) Waive the requirement of completion of the seminar; or
 - (b) Provide an alternative, voluntary parenting seminar for battered spouses; and
- (3) The court may waive the seminar for good cause.

RCW 26.12.175

Appointment of guardian ad litem--Independent investigation -- Court-appointed special advocate program--Background information--Review of appointment.

(1)(a) The court may appoint a guardian ad litem to represent the interests of a minor or dependent child when the court believes the appointment of a guardian ad litem is necessary to protect the best interests of the child in any proceeding under this chapter. The family court services professionals may also make a recommendation to the court regarding whether a guardian ad litem should be appointed for the child. The court may appoint a guardian ad litem from the court-appointed special advocate program, if that program exists in the county.

(b) Unless otherwise ordered, the guardian ad litem's role is to investigate and report factual information to the court concerning parenting arrangements for the child, and to represent the child's best interests. Guardians ad litem and investigators under this title may make recommendations based upon an independent investigation regarding the best interests of the child, which the court may consider and weigh in conjunction with the recommendations of all of the parties. If a child expresses a preference regarding the parenting plan, the guardian ad litem shall report the preferences to the court, together with the facts relative to whether any preferences are being expressed voluntarily and the degree of the child's understanding. The court may require the guardian ad litem to provide periodic reports to the parties regarding the status of his or her investigation. The guardian ad litem shall file his or her report at least sixty days prior to trial.

(c) The parties to the proceeding may file with the court written responses to any report filed by the guardian ad litem or investigator. The court shall consider any written responses to a report filed by the guardian ad litem or investigator, including any factual information or recommendations provided in the report.

(d) The court shall enter an order for costs, fees, and disbursements to cover the costs of the guardian ad litem. The court may order either or both parents to pay for the costs of the guardian ad litem, according to their ability to pay. If both parents are indigent, the county shall bear the cost of the guardian, subject to appropriation for guardians' ad litem services by the county legislative authority. Guardians ad litem who are not volunteers shall provide the parties with an itemized accounting of their time and billing for services each month.

(2)(a) If the guardian ad litem appointed is from the county court-appointed special advocate program, the program shall supervise any guardian ad litem assigned to the case. The court-appointed special advocate program shall be entitled to notice of all proceedings in the case.

(b) The legislative authority of each county may authorize creation of a court-appointed special advocate program. The county legislative authority may adopt rules of eligibility for court-appointed special advocate program services.

(3) Each guardian ad litem program shall maintain a background information record for each guardian ad litem in the program. The background file shall include, but is not limited to, the following information:

- (a) Level of formal education;
- (b) Training related to the guardian's duties;

- (c) Number of years' experience as a guardian ad litem;
- (d) Number of appointments as a guardian ad litem and county or counties of appointment;
- (e) The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; and
- (f) Criminal history, as defined in RCW 9.94A.030.

The background information report shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program the person shall provide the background information to the court.

Upon appointment, the guardian ad litem, or guardian ad litem program, shall provide the parties or their attorneys with a statement containing: His or her training relating to the duties as a guardian ad litem; the name of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; and his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment. The background statement shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety.

(4) When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends and the appointment shall be effective immediately. The court shall appoint the person recommended by the program. If a party in a case reasonably believes the court-appointed special advocate or volunteer is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the court-appointed special advocate on the grounds the advocate or volunteer is inappropriate or unqualified.

RCW 26.12.177

Guardians ad litem and investigators--Training -- Registry--Subregistry -- Selection -- Substitution--Exceptions.

*** CHANGE IN 2005 *** (SEE 1668.SL) ***

(1) All guardians ad litem and investigators appointed under this title must comply with the training requirements established under RCW 2.56.030(15), prior to their appointment in cases under Title 26 RCW, except that volunteer guardians ad litem or court-appointed special advocates may comply with alternative training requirements approved by the office of the administrator for the courts that meet or exceed the statewide requirements.

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

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

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

(d) Under this section, within either registry referred to in (a) of this subsection, a subregistry may be created that consists of guardians ad litem under contract with the department of social

and health services' division of child support. Guardians ad litem on such a subregistry shall be selected and appointed in state-initiated paternity cases only.

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

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

RCW 26.12.180

Guardian ad litem, special advocate, or investigator -- Information discoverable -- Confidentiality.

All information, records, and reports obtained or created by a guardian ad litem, court-appointed special advocate, or investigator under this title shall be discoverable pursuant to statute and court rule. The guardian ad litem, court-appointed special advocate, or investigator shall not release private or confidential information to any nonparty except pursuant to a court order signed by a judge. The guardian ad litem, court-appointed special advocate, or investigator may share private or confidential information with experts or staff he or she has retained as necessary to perform the duties of guardian ad litem, court-appointed special advocate, or investigator. Any expert or staff retained are subject to the confidentiality rules governing the guardian ad litem, court-appointed special advocate, or investigator. Nothing in this section shall be interpreted to authorize disclosure of guardian ad litem records in personal injury actions.

RCW 26.12.183

Guardian ad litem or investigator -- Fees.

Except for guardians ad litem appointed by the court from the subregistry created under RCW 26.12.177(2)(d), the court shall specify the hourly rate the guardian ad litem or investigator under this title may charge for his or her services, and shall specify the maximum amount the guardian ad litem or investigator under this title may charge without additional court review and approval. The court shall specify rates and fees in the order of appointment or at the earliest date the court is able to determine the appropriate rates and fees and prior to the guardian ad litem billing for his or her services. This section shall apply except as provided by local court rule.

RCW 26.12.185

Guardian ad litem, special advocate, or investigator -- Release of information.

A guardian ad litem, court-appointed special advocate, or investigator under this title appointed under this chapter may release confidential information, records, and reports to the office of the family and children's ombudsman for the purposes of carrying out its duties under chapter 43.06A RCW.

RCW 26.12.187

Guardian ad litem, special advocate, or investigator -- Ex parte communications -- Removal.

A guardian ad litem, court-appointed special advocate, or investigator shall not engage in ex parte communications with any judicial officer involved in the matter for which he or she is appointed during the pendency of the proceeding, except as permitted by court rule or statute for ex parte motions. Ex parte motions shall be heard in open court on the record. The record may be preserved in a manner deemed appropriate by the county where the matter is heard. The court, upon its own motion, or upon the motion of a party, may consider the removal of any guardian ad litem, court-appointed special advocate, or investigator who violates this section from any pending case or from any court-authorized registry, and if so removed may require forfeiture of any fees for professional services on the pending case.

RCW 26.12.190

Family court jurisdiction as to pending actions -- Use of family court services.

(1) The family court shall have jurisdiction and full power in all pending cases to make, alter, modify, and enforce all temporary and permanent orders regarding the following: Parenting plans, child support, custody of children, visitation, possession of property, maintenance, contempt,

custodial interference, and orders for attorneys' fees, suit money or costs as may appear just and equitable. Court commissioners or judges shall not have authority to require the parties to mediate disputes concerning child support.

(2) Family court investigation, evaluation, mediation, treatment, and reconciliation services, and any other services may be used to assist the court to develop an order as the court deems necessary to preserve the marriage, implement an amicable settlement, and resolve the issues in controversy.

RCW 26.12.205

Priority for proceedings involving children.

The family court shall give proceedings involving children priority over cases without children.

Chapter 26.16 RCW

HUSBAND AND WIFE -- RIGHTS AND LIABILITIES -- COMMUNITY PROPERTY

RCW 26.16.125

Custody of children.

Henceforth the rights and responsibilities of the parents in the absence of misconduct shall be equal, and the mother shall be as fully entitled to the custody, control and earnings of the children as the father, and in case of the father's death, the mother shall come into as full and complete control of the children and their estate as the father does in case of the mother's death.

RCW 26.16.140

Earnings and accumulations of husband and wife living apart, minor children.

When a husband and wife are living separate and apart, their respective earnings and accumulations shall be the separate property of each. The earnings and accumulations of minor children shall be the separate property of the spouse who has their custody or, if no custody award has been made, then the separate property of the spouse with whom said children are living.

RCW 26.16.200

Antenuptial and separate debts, liability for -- Child support obligation, liability for.

Neither husband or wife is liable for the debts or liabilities of the other incurred before marriage, nor for the separate debts of each other, nor is the rent or income of the separate property of either liable for the separate debts of the other: PROVIDED, That the earnings and accumulations of the husband shall be available to the legal process of creditors for the satisfaction of debts incurred by him prior to marriage, and the earnings and accumulations of the wife shall be available to the legal process of creditors for the satisfaction of debts incurred by her prior to marriage. For the purpose of this section, neither the husband nor the wife shall be construed to have any interest in the earnings of the other: PROVIDED FURTHER, That no separate debt, except a child support or maintenance obligation, may be the basis of a claim against the earnings and accumulations of either a husband or wife unless the same is reduced to judgment within three years of the marriage of the parties. The obligation of a parent or stepparent to support a child may be collected out of the parent's or stepparent's separate property, the parent's or stepparent's earnings and accumulations, and the parent's or stepparent's share of community personal and real property. Funds in a community bank account which can be identified as the earnings of the nonobligated spouse are exempt from satisfaction of the child support obligation of the debtor spouse.

Chapter 26.18 RCW CHILD SUPPORT ENFORCEMENT

RCW 26.18.010

Legislative findings.

The legislature finds that there is an urgent need for vigorous enforcement of child support and spousal maintenance obligations, and that stronger and more efficient statutory remedies need to

be established to supplement and complement the remedies provided in chapters 26.09, 26.21, 26.26, 74.20, and 74.20A RCW.

RCW 26.18.020

Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Dependent child" means any child for whom a support order has been established or for whom a duty of support is owed.

(2) "Duty of spousal maintenance" means the duty to provide for the needs of a spouse or former spouse imposed under chapter 26.09 RCW.

(3) "Duty of support" means the duty to provide for the needs of a dependent child, which may include necessary food, clothing, shelter, education, and health care. The duty includes any obligation to make monetary payments, to pay expenses, including spousal maintenance in cases in which there is a dependent child, or to reimburse another person or an agency for the cost of necessary support furnished a dependent child. The duty may be imposed by court order, by operation of law, or otherwise.

(4) "Obligee" means the custodian of a dependent child, the spouse or former spouse, or person or agency, to whom a duty of support or duty of spousal maintenance is owed, or the person or agency to whom the right to receive or collect support or spousal maintenance has been assigned.

(5) "Obligor" means the person owing a duty of support or duty of spousal maintenance.

(6) "Support or maintenance order" means any judgment, decree, or order of support or spousal maintenance issued by the superior court or authorized agency of the state of Washington; or a judgment, decree, or other order of support or spousal maintenance issued by a court or agency of competent jurisdiction in another state or country, which has been registered or otherwise made enforceable in this state.

(7) "Employer" includes the United States government, a state or local unit of government, and any person or entity who pays or owes earnings or remuneration for employment to the obligor.

(8) "Earnings" means compensation paid or payable for personal services or remuneration for employment, whether denominated as wages, salary, commission, bonus, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support or spousal maintenance obligations, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(9) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld.

(10) "Department" means the department of social and health services.

(11) "Health insurance coverage" includes any coverage under which medical services are provided by an employer or a union whether that coverage is provided through a self-insurance program, under the employee retirement income security act of 1974, a commercial insurer pursuant to chapters 48.20 and 48.21 RCW, a health care service contractor pursuant to chapter 48.44 RCW, or a health maintenance organization pursuant to chapter 48.46 RCW, and the state through chapter 41.05 RCW.

(12) "Insurer" means a commercial insurance company providing disability insurance under chapter 48.20 or 48.21 RCW, a health care service contractor providing health care coverage under chapter 48.44 RCW, a health maintenance organization providing comprehensive health care services under chapter 48.46 RCW, and shall also include any employer or union which is providing health insurance coverage on a self-insured basis.

(13) "Remuneration for employment" means moneys due from or payable by the United States to an individual within the scope of 42 U.S.C. Sec. 659 and 42 U.S.C. Sec. 662(f).

RCW 26.18.030

Application -- Liberal construction.

(1) The remedies provided in this chapter are in addition to, and not in substitution for, any other remedies provided by law.

(2) This chapter applies to any dependent child, whether born before or after June 7, 1984, and regardless of the past or current marital status of the parents, and to a spouse or former spouse.

(3) This chapter shall be liberally construed to assure that all dependent children are adequately supported.

RCW 26.18.035

Other civil and criminal remedies applicable.

Nothing in this chapter limits the authority of the attorney general or prosecuting attorney to use any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives public assistance payments.

RCW 26.18.040

Support or spousal maintenance proceedings.

(1) A proceeding to enforce a duty of support or spousal maintenance is commenced:

(a) By filing a petition for an original action; or

(b) By motion in an existing action or under an existing cause number.

(2) Venue for the action is in the superior court of the county where the dependent child resides or is present, where the obligor or obligee resides, or where the prior support or maintenance order was entered. The petition or motion may be filed by the obligee, the state, or any agency providing care or support to the dependent child. A filing fee shall not be assessed in cases brought on behalf of the state of Washington.

(3) The court retains continuing jurisdiction under this chapter until all duties of either support or spousal maintenance, or both, of the obligor, including arrearages, have been satisfied.

RCW 26.18.050

Failure to comply with support or spousal maintenance order -- Contempt action -- Order to show cause -- Bench warrant--Continuing jurisdiction.

(1) If an obligor fails to comply with a support or spousal maintenance order, a petition or motion may be filed without notice under RCW 26.18.040 to initiate a contempt action as provided in chapter 7.21 RCW. If the court finds there is reasonable cause to believe the obligor has failed to comply with a support or spousal maintenance order, the court may issue an order to show cause requiring the obligor to appear at a certain time and place for a hearing, at which time the obligor may appear to show cause why the relief requested should not be granted. A copy of the petition or motion shall be served on the obligor along with the order to show cause.

(2) Service of the order to show cause shall be by personal service, or in the manner provided in the civil rules of superior court or applicable statute.

(3) If the order to show cause served upon the obligor included a warning that an arrest warrant could be issued for failure to appear, the court may issue a bench warrant for the arrest of the obligor if the obligor fails to appear on the return date provided in the order.

(4) If the obligor contends at the hearing that he or she lacked the means to comply with the support or spousal maintenance order, the obligor shall establish that he or she exercised due diligence in seeking employment, in conserving assets, or otherwise in rendering himself or herself able to comply with the court's order.

(5) As provided in RCW 26.18.040, the court retains continuing jurisdiction under this chapter and may use a contempt action to enforce a support or maintenance order until the obligor satisfies all duties of support, including arrearages, that accrued pursuant to the support or maintenance order.

RCW 26.18.055

Child support liens.

Child support debts, not paid when due, become liens by operation of law against all property of the debtor with priority of a secured creditor. This lien shall be separate and apart from, and in addition to, any other lien created by, or provided for, in this title. The lien attaches to all real and personal property of the debtor on the date of filing with the county auditor of the county in which the property is located. Liens filed by other states or jurisdictions that comply with the procedural

rules for filing liens under chapter 65.04 RCW shall be accorded full faith and credit and are enforceable without judicial notice or hearing.

RCW 26.18.070

Mandatory wage assignment -- Petition or motion.

(1) A petition or motion seeking a mandatory wage assignment in an action under RCW 26.18.040 may be filed by an obligee if the obligor is:

(a) Subject to a support order allowing immediate income withholding; or

(b) More than fifteen days past due in child support or spousal maintenance payments in an amount equal to or greater than the obligation payable for one month.

(2) The petition or motion shall include a sworn statement by the obligee, stating the facts authorizing the issuance of the wage assignment order, including:

(a) That the obligor, stating his or her name and residence, is:

(i) Subject to a support order allowing immediate income withholding; or

(ii) More than fifteen days past due in child support or spousal maintenance payments in an amount equal to or greater than the obligation payable for one month;

(b) A description of the terms of the order requiring payment of support or spousal maintenance, and the amount past due, if any;

(c) The name and address of the obligor's employer;

(d) That notice by personal service or any form of mail requiring a return receipt, has been provided to the obligor at least fifteen days prior to the obligee seeking a mandatory wage assignment, unless the order for support or maintenance states that the obligee may seek a mandatory wage assignment without notice to the obligor; and

(e) In cases not filed by the state, whether the obligee has received public assistance from any source and, if the obligee has received public assistance, that the department of social and health services has been notified in writing of the pending action.

(3) If the court in which a mandatory wage assignment is sought does not already have a copy of the support or maintenance order in the court file, then the obligee shall attach a copy of the support or maintenance order to the petition or motion seeking the wage assignment.

RCW 26.18.080

Wage assignment order -- Issuance -- Information transmitted to state support registry.

(1) Upon receipt of a petition or motion seeking a mandatory wage assignment that complies with RCW 26.18.070, the court shall issue a wage assignment order, as provided in RCW 26.18.100 and including the information required in RCW 26.18.090(1), directed to the employer, and commanding the employer to answer the order on the forms served with the order that comply with RCW 26.18.120 within twenty days after service of the order upon the employer.

(2) The clerk of the court shall forward a copy of the mandatory wage assignment order, a true and correct copy of the support orders in the court file, and a statement containing the obligee's address and social security number shall be forwarded to the Washington state support registry within five days of the entry of the order.

RCW 26.18.090

Wage assignment order -- Contents -- Amounts -- Apportionment of disbursements.

(1) The wage assignment order in RCW 26.18.080 shall include:

(a) The maximum amount of current support or spousal maintenance, if any, to be withheld from the obligor's earnings each month, or from each earnings disbursement; and

(b) The total amount of the arrearage or reimbursement judgment previously entered by the court, if any, together with interest, if any.

(2) The total amount to be withheld from the obligor's earnings each month, or from each earnings disbursement, shall not exceed fifty percent of the disposable earnings of the obligor. If the amounts to be paid toward the arrearage are specified in the support or spousal maintenance order, then the maximum amount to be withheld is the sum of: Either the current support or spousal maintenance ordered, or both; and the amount ordered to be paid toward the arrearage, or fifty percent of the disposable earnings of the obligor, whichever is less.

(3) The provisions of RCW 6.27.150 do not apply to wage assignments for child support or spousal maintenance authorized under this chapter, but fifty percent of the disposable earnings of the obligor are exempt, and may be disbursed to the obligor.

(4) If an obligor is subject to two or more attachments for child support on account of different obligees, the employer shall, if the nonexempt portion of the obligor's earnings is not sufficient to respond fully to all the attachments, apportion the obligor's nonexempt disposable earnings between or among the various obligees equally. Any obligee may seek a court order reapportioning the obligor's nonexempt disposable earnings upon notice to all interested obligees. Notice shall be by personal service, or in the manner provided by the civil rules of superior court or applicable statute.

(5) If an obligor is subject to two or more attachments for spousal maintenance on account of different obligees, the employer shall, if the nonexempt portion of the obligor's earnings is not sufficient to respond fully to all the attachments, apportion the obligor's nonexempt disposable earnings between or among the various obligees equally. An obligee may seek a court order reapportioning the obligor's nonexempt disposable earnings upon notice to all interested obligees. Notice shall be by personal service, or in the manner provided by the civil rules of superior court or applicable statute.

RCW 26.18.100
Wage assignment order -- Form.

The wage assignment order shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON IN AND FOR THE
COUNTY OF

.
Obligee No.
vs.
., WAGE ASSIGNMENT
Obligor ORDER
.
Employer

THE STATE OF WASHINGTON TO:
Employer
AND TO:
Obligor

The above-named obligee claims that the above-named obligor is subject to a support order requiring immediate income withholding or is more than fifteen days past due in either child support or spousal maintenance payments, or both, in an amount equal to or greater than the child support or spousal maintenance payable for one month. The amount of the accrued child support or spousal maintenance debt as of this date is dollars, the amount of arrearage payments specified in the support or spousal maintenance order (if applicable) is dollars per, and the amount of the current and continuing support or spousal maintenance obligation under the order is dollars per

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the Washington state support registry, one copy to the obligee or obligee's attorney, and one copy to the obligor within twenty days after service of this wage assignment order upon you.

If you possess any earnings or other remuneration for employment due and owing to the obligor, then you shall do as follows:

(1) Withhold from the obligor's earnings or remuneration each month, or from each regular earnings disbursement, the lesser of:

(a) The sum of the accrued support or spousal maintenance debt and the current support or spousal maintenance obligation;

(b) The sum of the specified arrearage payment amount and the current support or spousal maintenance obligation; or

(c) Fifty percent of the disposable earnings or remuneration of the obligor.

(2) The total amount withheld above is subject to the wage assignment order, and all other sums may be disbursed to the obligor.

(3) Upon receipt of this wage assignment order you shall make immediate deductions from the obligor's earnings or remuneration and remit to the Washington state support registry or other address specified below the proper amounts within five working days of each regular pay interval.

You shall continue to withhold the ordered amounts from nonexempt earnings or remuneration of the obligor until notified by:

(a) The court that the wage assignment has been modified or terminated; or

(b) The addressee specified in the wage assignment order under this section that the accrued child support or spousal maintenance debt has been paid.

You shall promptly notify the court and the addressee specified in the wage assignment order under this section if and when the employee is no longer employed by you, or if the obligor no longer receives earnings or remuneration from you. If you no longer employ the employee, the wage assignment order shall remain in effect until you are no longer in possession of any earnings or remuneration owed to the employee.

You shall deliver the withheld earnings or remuneration to the Washington state support registry or other address stated below within five working days of each regular pay interval.

You shall deliver a copy of this order to the obligor as soon as is reasonably possible. This wage assignment order has priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support or spousal maintenance, or order to withhold or deliver under chapter 74.20A RCW.

WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR THE AMOUNT OF SUPPORT MONEYS THAT SHOULD HAVE BEEN WITHHELD FROM THE OBLIGOR'S EARNINGS OR SUBJECT TO CONTEMPT OF COURT.

NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS WAGE ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE WAGE ASSIGNMENT ORDER. REGARDLESS OF THE FACT THAT YOUR WAGES ARE BEING WITHHELD PURSUANT TO THIS ORDER, YOU MAY HAVE SUSPENDED OR NOT RENEWED A PROFESSIONAL, DRIVER'S, OR OTHER LICENSE IF YOU ACCRUE CHILD SUPPORT ARREARAGES TOTALING MORE THAN SIX MONTHS OF CHILD SUPPORT PAYMENTS OR FAIL TO MAKE PAYMENTS TOWARDS A SUPPORT ARREARAGE IN AN AMOUNT THAT EXCEEDS SIX MONTHS OF PAYMENTS.

DATED THIS day of , 19. . .

.....
Obligee, Judge/Court Commissioner
or obligee's attorney
Send withheld payments to:
.....
.....
.....

**RCW 26.18.110
Wage assignment order -- Employer's answer, duties, and liability -- Priorities.**

(1) An employer upon whom service of a wage assignment order has been made shall answer the order by sworn affidavit within twenty days after the date of service. The answer shall state whether the obligor is employed by or receives earnings or other remuneration from the employer, whether the employer will honor the wage assignment order, and whether there are either multiple child support or spousal maintenance attachments, or both, against the obligor.

(2) If the employer possesses any earnings or remuneration due and owing to the obligor, the earnings subject to the wage assignment order shall be withheld immediately upon receipt of the wage assignment order. The withheld earnings shall be delivered to the Washington state support registry or, if the wage assignment order is to satisfy a duty of spousal maintenance, to the addressee specified in the assignment within five working days of each regular pay interval.

(3) The employer shall continue to withhold the ordered amounts from nonexempt earnings or remuneration of the obligor until notified by:

(a) The court that the wage assignment has been modified or terminated; or

(b) The Washington state support registry or obligee that the accrued child support or spousal maintenance debt has been paid, provided the wage assignment order contains the language set forth under RCW 26.18.100(3)(b). The employer shall promptly notify the addressee specified in the assignment when the employee is no longer employed. If the employer no longer employs the employee, the wage assignment order shall remain in effect for one year after the employee has left the employment or the employer has been in possession of any earnings or remuneration owed to the employee, whichever is later. The employer shall continue to hold the wage assignment order during that period. If the employee returns to the employer's employment during the one-year period the employer shall immediately begin to withhold the employee's earnings or remuneration according to the terms of the wage assignment order. If the employee has not returned within one year, the wage assignment shall cease to have effect at the expiration of the one-year period, unless the employer continues to owe remuneration for employment to the obligor.

(4) The employer may deduct a processing fee from the remainder of the employee's earnings after withholding under the wage assignment order, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed (a) ten dollars for the first disbursement made by the employer to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the clerk.

(5) An order for wage assignment for support for a dependent child entered under this chapter shall have priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold and deliver under chapter 74.20A RCW. An order for wage assignment for spousal maintenance entered under this chapter shall have priority over any other wage assignment or garnishment, except for a wage assignment, garnishment, or order to withhold and deliver under chapter 74.20A RCW for support of a dependent child, and except for another wage assignment or garnishment for spousal maintenance.

(6) An employer who fails to withhold earnings as required by a wage assignment issued under this chapter may be held liable to the obligee for one hundred percent of the support or spousal maintenance debt, or the amount of support or spousal maintenance moneys that should have been withheld from the employee's earnings whichever is the lesser amount, if the employer:

(a) Fails or refuses, after being served with a wage assignment order, to deduct and promptly remit from the unpaid earnings the amounts of money required in the order;

(b) Fails or refuses to submit an answer to the notice of wage assignment after being served; or

(c) Is unwilling to comply with the other requirements of this section.

Liability may be established in superior court. Awards in superior court shall include costs, interest under RCW 19.52.020 and 4.56.110, and reasonable attorneys' fees.

(7) No employer who complies with a wage assignment issued under this chapter may be liable to the employee for wrongful withholding.

(8) No employer may discharge, discipline, or refuse to hire an employee because of the entry or service of a wage assignment issued and executed under this chapter. If an employer discharges, disciplines, or refuses to hire an employee in violation of this section, the employee or person shall have a cause of action against the employer. The employer shall be liable for double the amount of damages suffered as a result of the violation and for costs and reasonable attorneys' fees, and shall be subject to a civil penalty of not more than two thousand five hundred dollars for each violation. The employer may also be ordered to hire, rehire, or reinstate the aggrieved individual.

(9) For wage assignments payable to the Washington state support registry, an employer may combine amounts withheld from various employees into a single payment to the Washington state support registry, if the payment includes a listing of the amounts attributable to each employee and other information as required by the registry.

(10) An employer shall deliver a copy of the wage assignment order to the obligor as soon as is reasonably possible.

RCW 26.18.120

Wage assignment order -- Employer's answer -- Form.

The answer of the employer shall be made on forms, served on the employer with the wage assignment order, substantially as follows:

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON IN AND FOR THE
COUNTY OF

. No.
Obligee
vs. ANSWER
. TO WAGE
Obligor ASSIGNMENT ORDER
.
Employer

1. At the time of the service of the wage assignment order on the employer, was the above-named obligor employed by or receiving earnings or other remuneration for employment from the employer?

Yes No (check one).

2. Are there any other attachments for child support or spousal maintenance currently in effect against the obligor?

Yes No (check one).

3. If the answer to question one is yes and the employer cannot comply with the wage assignment order, provide an explanation:

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

.
Signature of employer Date and place

.
.
Signature of person Address for future notice
answering for employer to employer

.
Connection with employer

RCW 26.18.130
Wage assignment order -- Service.

(1) Service of the wage assignment order on the employer is invalid unless it is served with five answer forms in substantial conformance with RCW 26.18.120, together with stamped envelopes addressed to, respectively, the clerk of the court where the order was issued, the Washington state support registry, the obligee's attorney or the obligee, and the obligor. The obligee shall also include an extra copy of the wage assignment order for the employer to deliver to the obligor. Service on the employer shall be in person or by any form of mail requiring a return receipt.

(2) On or before the date of service of the wage assignment order on the employer, the obligee shall mail or cause to be mailed by certified mail a copy of the wage assignment order to the obligor at the obligor's last known post office address; or, in the alternative, a copy of the wage assignment order shall be served on the obligor in the same manner as a summons in a civil action on, before, or within two days after the date of service of the order on the employer. This requirement is not jurisdictional, but if the copy is not mailed or served as this subsection provides, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion, may quash the wage assignment order, upon motion of the obligor promptly made and supported by an affidavit showing that the obligor has suffered substantial injury due to the failure to mail or serve the copy.

RCW 26.18.140**Hearing to quash, modify, or terminate wage assignment order -- Grounds -- Alternate payment plan.**

(1) Except as provided in subsection (2) of this section, in a hearing to quash, modify, or terminate the wage assignment order, the court may grant relief only upon a showing that the wage assignment order causes extreme hardship or substantial injustice. Satisfaction by the obligor of all past due payments subsequent to the issuance of the wage assignment order is not grounds to quash, modify, or terminate the wage assignment order. If a wage assignment order has been in operation for twelve consecutive months and the obligor's support or spousal maintenance obligation is current, the court may terminate the order upon motion of the obligor unless the obligee can show good cause as to why the wage assignment order should remain in effect.

(2) The court may enter an order delaying, modifying, or terminating the wage assignment order and order the obligor to make payments directly to the obligee as provided in RCW 26.23.050(2).

RCW 26.18.150**Bond or other security.**

(1) In any action to enforce a support or spousal maintenance order under Title 26 RCW, the court may, in its discretion, order a parent obligated to pay support for a minor child or person owing a duty of spousal maintenance to post a bond or other security with the court. The bond or other security shall be in the amount of support or spousal maintenance due for a two-year period. The bond or other security is subject to approval by the court. The bond shall include the name and address of the issuer. If the bond is canceled, any person issuing a bond under this section shall notify the court and the person entitled to receive payment under the order.

(2) If the obligor fails to make payments as required under the court order, the person entitled to receive payment may recover on the bond or other security in the existing proceeding. The court may, after notice and hearing, increase the amount of the bond or other security. Failure to comply with the court's order to obtain and maintain a bond or other security may be treated as contempt of court.

RCW 26.18.160**Costs.**

In any action to enforce a support or maintenance order under this chapter, the prevailing party is entitled to a recovery of costs, including an award for reasonable attorney fees. An obligor may not be considered a prevailing party under this section unless the obligee has acted in bad faith in connection with the proceeding in question.

RCW 26.18.170**Health insurance coverage -- Enforcement.**

(1) Whenever an obligor parent who has been ordered to provide health insurance coverage for a dependent child fails to provide such coverage or lets it lapse, the department or the obligee may seek enforcement of the coverage order as provided under this section.

(2)(a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage or proof that such coverage is unavailable may result in direct enforcement of the order and orders payments through, or has been submitted to, the Washington state support registry for enforcement, then the department may, without further notice to the obligor, send a notice of enrollment to the obligor's employer or union. The notice shall be served:

(i) By regular mail;

(ii) In the manner prescribed for the service of a summons in a civil action;

(iii) By certified mail, return receipt requested; or

(iv) By electronic means if there is an agreement between the secretary of the department and the person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States to accept service by electronic means.

(b) The notice shall require the employer or union to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(c) The returned answer to the division of child support by the employer constitutes proof of service of the notice of enrollment in the case where the notice was served by regular mail.

(d) The division of child support may use uniform interstate forms adopted by the United States department of health and human services to take insurance enrollment actions under this section.

(e) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the Washington state support registry for enforcement:

(i) The obligee may, without further notice to the obligor send a certified copy of the order requiring health insurance coverage to the obligor's employer or union by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the employer or union to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of enrollment:

(a) The obligor's employer or union shall answer the party who sent the order or notice within twenty days and confirm that the child:

(i) Has been enrolled in the health insurance plan;

(ii) Will be enrolled; or

(iii) Cannot be covered, stating the reasons why such coverage cannot be provided;

(b) The employer or union shall withhold any required premium from the obligor's income or wages;

(c) If more than one plan is offered by the employer or union, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor parent;

(d) The employer or union shall provide information about the name of the health insurance coverage provider or issuer and the extent of coverage available to the obligee or the department and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage or proof that such coverage is unavailable may result in direct enforcement of the order, the department or the obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for or fails to provide proof that such coverage is unavailable within twenty days of service of the notice, the department or the obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child because of geographic or other limitations when accessible coverage is otherwise available, the department or the obligee may serve a written notice of intent to purchase health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department serves a notice under subsection (5) of this section the obligor shall, within twenty days of the date of service:

(a) File an application for an adjudicative proceeding; or

(b) Provide written proof to the department that the obligor has either applied for, or obtained, coverage accessible to the child.

(7) If the obligee serves a notice under subsection (5) of this section, within twenty days of the date of service the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may purchase the health insurance coverage specified in the notice directly. The amount of the monthly premium shall be added to the support debt and be collectible without further notice. The amount of the monthly premium may be collected or accrued until the obligor provides proof of the required coverage.

(9) The signature of the obligee or of a department employee shall be a valid authorization to the coverage provider or issuer for purposes of processing a payment to the child's health services provider. An order for health insurance coverage shall operate as an assignment of all benefit rights to the obligee or to the child's health services provider, and in any claim against the coverage provider or issuer, the obligee or the obligee's assignee shall be subrogated to the rights of the obligor. Notwithstanding the provisions of this section regarding assignment of benefits, this

section shall not require a health care service contractor authorized under chapter 48.44 RCW or a health maintenance organization authorized under chapter 48.46 RCW to deviate from their contractual provisions and restrictions regarding reimbursement for covered services. If the coverage is terminated, the employer shall mail a notice of termination to the department or the obligee at the obligee's last known address within thirty days of the termination date.

(10) This section shall not be construed to limit the right of the obligor or the obligee to bring an action in superior court at any time to enforce, modify, or clarify the original support order.

(11) Where a child does not reside in the issuer's service area, an issuer shall cover no less than urgent and emergent care. Where the issuer offers broader coverage, whether by policy or reciprocal agreement, the issuer shall provide such coverage to any child otherwise covered that does not reside in the issuer's service area.

(12) If an obligor fails to pay his or her portion of any deductible required under the health insurance coverage or fails to pay his or her portion of medical expenses incurred in excess of the coverage provided under the plan, the department or the obligee may enforce collection of the obligor's portion of the deductible or the additional medical expenses through a wage assignment order. The amount of the deductible or additional medical expenses shall be added to the support debt and be collectible without further notice if the obligor's share of the amount of the deductible or additional expenses is reduced to a sum certain in a court order.

RCW 26.18.180

Liability of employer or union -- Penalties.

(1) An obligated parent's employer or union shall be liable for a fine of up to one thousand dollars per occurrence, if the employer or union fails or refuses, within twenty days of receiving the order or notice for health insurance coverage to:

(a) Promptly enroll the obligated parent's child in the health insurance plan; or

(b) Make a written answer to the person or entity who sent the order or notice for health insurance coverage stating that the child:

(i) Will be enrolled in the next available open enrollment period; or

(ii) Cannot be covered and explaining the reasons why coverage cannot be provided.

(2) Liability may be established and the fine may be collected by the office of support enforcement under chapter 74.20A or 26.23 RCW using any of the remedies contained in those chapters.

(3) Any employer or union who enrolls a child in a health insurance plan in compliance with chapter 26.18 RCW shall be exempt from liability resulting from such enrollment.

RCW 26.18.190

Compensation paid by agency, self-insurer, or social security administration on behalf of child.

(1) When the department of labor and industries or a self-insurer pays compensation under chapter 51.32 RCW on behalf of or on account of the child or children of the injured worker for whom the injured worker owes a duty of child support, the amount of compensation the department or self-insurer pays on behalf of the child or children shall be treated for all purposes as if the injured worker paid the compensation toward satisfaction of the injured worker's child support obligations.

(2) When the social security administration pays social security disability dependency benefits, retirement benefits, or survivors insurance benefits on behalf of or on account of the child or children of a disabled person, a retired person, or a deceased person, the amount of benefits paid for the child or children shall be treated for all purposes as if the disabled person, the retired person, or the deceased person paid the benefits toward the satisfaction of that person's child support obligation for that period for which benefits are paid.

(3) Under no circumstances shall the person who has the obligation to make the transfer payment have a right to reimbursement of any compensation paid under subsection (1) or (2) of this section.

RCW 26.18.210

Child support order summary report form.

*** CHANGE IN 2005 *** (SEE 1668.SL) ***

(1) The administrator for the courts shall develop a child support order summary report form to provide for the reporting of summary information in every case in which a child support order is entered or modified either judicially or administratively. The administrator for the courts shall attempt to the greatest extent possible to make the form simple and understandable by the parties. The form shall indicate the following:

- (a) The county in which the order was entered and the cause number;
 - (b) Whether it was a judicial or administrative order;
 - (c) Whether the order is an original order or from a modification;
 - (d) The number of children of the parties and the children's ages;
 - (e) The combined monthly net income of parties;
 - (f) The monthly net income of the father as determined by the court;
 - (g) The monthly net income of the mother as determined by the court;
 - (h) The basic child support obligation for each child as determined from the economic table;
 - (i) Whether or not the court deviated from the child support for each child;
 - (j) The reason or reasons stated by the court for the deviation;
 - (k) The amount of child support after the deviation;
 - (l) Any amount awarded for day care;
 - (m) Any other extraordinary amounts in the order;
 - (n) Any amount ordered for postsecondary education;
 - (o) The total amount of support ordered;
 - (p) In the case of a modification, the amount of support in the previous order;
 - (q) If the change in support was in excess of thirty percent, whether the change was phased in;
 - (r) The amount of the transfer payment ordered;
 - (s) Which parent was ordered to make the transfer payment; and
 - (t) The date of the entry of the order.
- (2) The administrator for the courts shall make the form available to the parties.

RCW 26.18.220

Standard court forms -- Mandatory use.

*** CHANGE IN 2005 *** (SEE 1668.SL) ***

(1) The administrator for the courts shall develop not later than July 1, 1991, standard court forms and format rules for mandatory use by litigants in all actions commenced under chapters 26.09, 26.10, and 26.26 RCW effective January 1, 1992. The administrator for the courts shall develop mandatory forms for financial affidavits for integration into the worksheets. The forms shall be developed and approved not later than September 1, 1992. The parties shall use the mandatory form for financial affidavits for actions commenced on or after September 1, 1992. The administrator for the courts has continuing responsibility to develop and revise mandatory forms and format rules as appropriate.

(2) A party may delete unnecessary portions of the forms according to the rules established by the administrator for the courts. A party may supplement the mandatory forms with additional material.

(3) A party's failure to use the mandatory forms or follow the format rules shall not be a reason to dismiss a case, refuse a filing, or strike a pleading. However, the court may require the party to submit a corrected pleading and may impose terms payable to the opposing party or payable to the court, or both.

(4) The administrator for the courts shall distribute a master copy of the forms to all county court clerks. The administrator for the courts and county clerks shall distribute the mandatory forms to the public upon request and may charge for the cost of production and distribution of the forms. Private vendors may distribute the mandatory forms. Distribution may be in printed or electronic form.

RCW 26.18.900

Severability -- 1984 c 260.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Chapter 26.19 RCW CHILD SUPPORT SCHEDULE

RCW 26.19.001

Legislative intent and finding.

The legislature intends, in establishing a child support schedule, to insure that child support orders are adequate to meet a child's basic needs and to provide additional child support commensurate with the parents' income, resources, and standard of living. The legislature also intends that the child support obligation should be equitably apportioned between the parents.

The legislature finds that these goals will be best achieved by the adoption and use of a statewide child support schedule. Use of a statewide schedule will benefit children and their parents by:

- (1) Increasing the adequacy of child support orders through the use of economic data as the basis for establishing the child support schedule;
- (2) Increasing the equity of child support orders by providing for comparable orders in cases with similar circumstances; and
- (3) Reducing the adversarial nature of the proceedings by increasing voluntary settlements as a result of the greater predictability achieved by a uniform statewide child support schedule.

RCW 26.19.011

Definitions.

*** CHANGE IN 2005 *** (SEE 1668.SL) ***

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Basic child support obligation" means the monthly child support obligation determined from the economic table based on the parties' combined monthly net income and the number of children for whom support is owed.

(2) "Child support schedule" means the standards, economic table, worksheets, and instructions, as defined in this chapter.

(3) "Court" means a superior court judge, court commissioner, and presiding and reviewing officers who administratively determine or enforce child support orders.

(4) "Deviation" means a child support amount that differs from the standard calculation.

(5) "Economic table" means the child support table for the basic support obligation provided in RCW 26.19.020.

(6) "Instructions" means the instructions developed by the office of the administrator for the courts pursuant to RCW 26.19.050 for use in completing the worksheets.

(7) "Standards" means the standards for determination of child support as provided in this chapter.

(8) "Standard calculation" means the presumptive amount of child support owed as determined from the child support schedule before the court considers any reasons for deviation.

(9) "Support transfer payment" means the amount of money the court orders one parent to pay to another parent or custodian for child support after determination of the standard calculation and deviations. If certain expenses or credits are expected to fluctuate and the order states a formula or percentage to determine the additional amount or credit on an ongoing basis, the term "support transfer payment" does not mean the additional amount or credit.

(10) "Worksheets" means the forms developed by the office of the administrator for the courts pursuant to RCW 26.19.050 for use in determining the amount of child support.

RCW 26.19.020

Child support economic table.

ECONOMIC TABLE
MONTHLY BASIC SUPPORT OBLIGATION
PER CHILD
KEY: A= AGE 0-11 B= AGE 12-18

COMBINED
MONTHLY ONE TWO

NET CHILD CHILDREN
INCOME FAMILY FAMILY
A B A B

0

100

200

300 For income less than \$600 the obligation is based upon the resources and living
400 expenses of each household. Minimum support shall not be less than \$25 per child
500 per month except when allowed by RCW 26.19.065(2).

600 133 164 103 127

700 155 191 120 148

800 177 218 137 170

900 199 246 154 191

1000 220 272 171 211

1100 242 299 188 232

1200 264 326 205 253

1300 285 352 221 274

1400 307 379 238 294

1500 327 404 254 313

1600 347 428 269 333

1700 367 453 285 352

1800 387 478 300 371

1900 407 503 316 390

2000 427 527 331 409

2100 447 552 347 429

2200 467 577 362 448

2300 487 601 378 467

2400 506 626 393 486

2500 526 650 408 505

2600 534 661 416 513

2700 542 670 421 520

2800 549 679 427 527

2900 556 686 431 533

3000 561 693 436 538

3100 566 699 439 543

3200 569 704 442 546

3300 573 708 445 549

3400 574 710 446 551

3500 575 711 447 552

3600 577 712 448 553

3700 578 713 449 554

3800 581 719 452 558

3900 596 736 463 572

4000 609 753 473 584

4100 623 770 484 598

4200 638 788 495 611

4300 651 805 506 625

4400 664 821 516 637

4500 677 836 525 649

4600 689 851 535 661

4700 701 866 545 673

4800 713 882 554 685

4900 726 897 564 697

5000 738 912 574 708

5100 751 928 584 720

5200 763 943 593 732

5300 776 959 602 744

5400 788 974 612 756

5500 800 989 622 768

5600 812 1004 632 779

5700 825 1019 641 791
 5800 837 1035 650 803
 5900 850 1050 660 815
 6000 862 1065 670 827
 6100 875 1081 680 839
 6200 887 1096 689 851
 6300 899 1112 699 863
 6400 911 1127 709 875
 6500 924 1142 718 887
 6600 936 1157 728 899
 6700 949 1172 737 911
 6800 961 1188 747 923
 6900 974 1203 757 935
 7000 986 1218 767 946

COMBINED
 MONTHLY THREE FOUR FIVE
 NET CHILDREN CHILDREN CHILDREN
 INCOME FAMILY FAMILY FAMILY
 A B A B A B

0
 100
 200
 300 For income less than \$600 the obligation is based upon the resources and living
 400 expenses of each household. Minimum support shall not be less than \$25 per child
 500 per month except when allowed by RCW 26.19.065(2).
 600 86 106 73 90 63 78
 700 100 124 85 105 74 91
 800 115 142 97 120 84 104
 900 129 159 109 135 95 118
 1000 143 177 121 149 105 130
 1100 157 194 133 164 116 143
 1200 171 211 144 179 126 156
 1300 185 228 156 193 136 168
 1400 199 246 168 208 147 181
 1500 212 262 179 221 156 193
 1600 225 278 190 235 166 205
 1700 238 294 201 248 175 217
 1800 251 310 212 262 185 228
 1900 264 326 223 275 194 240
 2000 277 342 234 289 204 252
 2100 289 358 245 303 213 264
 2200 302 374 256 316 223 276
 2300 315 390 267 330 233 288
 2400 328 406 278 343 242 299
 2500 341 421 288 356 251 311
 2600 346 428 293 362 256 316
 2700 351 435 298 368 259 321
 2800 356 440 301 372 262 324
 2900 360 445 305 376 266 328
 3000 364 449 308 380 268 331
 3100 367 453 310 383 270 334
 3200 369 457 312 386 272 336
 3300 371 459 314 388 273 339
 3400 372 460 315 389 274 340
 3500 373 461 316 390 275 341
 3600 374 462 317 391 276 342
 3700 375 463 318 392 277 343
 3800 377 466 319 394 278 344
 3900 386 477 326 404 284 352

4000	395	488	334	413	291	360
4100	404	500	341	422	298	368
4200	413	511	350	431	305	377
4300	422	522	357	441	311	385
4400	431	532	364	449	317	392
4500	438	542	371	458	323	400
4600	446	552	377	467	329	407
4700	455	562	384	475	335	414
4800	463	572	391	483	341	422
4900	470	581	398	491	347	429
5000	479	592	404	500	353	437
5100	487	602	411	509	359	443
5200	494	611	418	517	365	451
5300	503	621	425	525	371	458
5400	511	632	432	533	377	466
5500	518	641	439	542	383	473
5600	527	651	446	551	389	480
5700	535	661	452	559	395	488
5800	543	671	459	567	401	495
5900	551	681	466	575	407	502
6000	559	691	473	584	413	509
6100	567	701	479	593	418	517
6200	575	710	486	601	424	524
6300	583	721	493	609	430	532
6400	591	731	500	617	436	539
6500	599	740	506	626	442	546
6600	607	750	513	635	448	554
6700	615	761	520	643	454	561
6800	623	770	527	651	460	568
6900	631	780	533	659	466	575
7000	639	790	540	668	472	583

The economic table is presumptive for combined monthly net incomes up to and including five thousand dollars. When combined monthly net income exceeds five thousand dollars, support shall not be set at an amount lower than the presumptive amount of support set for combined monthly net incomes of five thousand dollars unless the court finds a reason to deviate below that amount. The economic table is advisory but not presumptive for combined monthly net incomes that exceed five thousand dollars. When combined monthly net income exceeds seven thousand dollars, the court may set support at an advisory amount of support set for combined monthly net incomes between five thousand and seven thousand dollars or the court may exceed the advisory amount of support set for combined monthly net incomes of seven thousand dollars upon written findings of fact.

RCW 26.19.025

Legislative review of support schedule.

The legislature shall review the support schedule every four years to determine if the application of the support schedule results in appropriate support orders.

RCW 26.19.035

Standards for application of the child support schedule.

*** CHANGE IN 2005 *** (SEE 1668.SL) ***

- (1) Application of the child support schedule. The child support schedule shall be applied:
 - (a) In each county of the state;
 - (b) In judicial and administrative proceedings under this title or Title 13 or 74 RCW;
 - (c) In all proceedings in which child support is determined or modified;
 - (d) In setting temporary and permanent support;
 - (e) In automatic modification provisions or decrees entered pursuant to RCW 26.09.100; and

(f) In addition to proceedings in which child support is determined for minors, to adult children who are dependent on their parents and for whom support is ordered pursuant to RCW 26.09.100.

The provisions of this chapter for determining child support and reasons for deviation from the standard calculation shall be applied in the same manner by the court, presiding officers, and reviewing officers.

(2) Written findings of fact supported by the evidence. An order for child support shall be supported by written findings of fact upon which the support determination is based and shall include reasons for any deviation from the standard calculation and reasons for denial of a party's request for deviation from the standard calculation. The court shall enter written findings of fact in all cases whether or not the court: (a) Sets the support at the presumptive amount, for combined monthly net incomes below five thousand dollars; (b) sets the support at an advisory amount, for combined monthly net incomes between five thousand and seven thousand dollars; or (c) deviates from the presumptive or advisory amounts.

(3) Completion of worksheets. Worksheets in the form developed by the office of the administrator for the courts shall be completed under penalty of perjury and filed in every proceeding in which child support is determined. The court shall not accept incomplete worksheets or worksheets that vary from the worksheets developed by the office of the administrator for the courts.

(4) Court review of the worksheets and order. The court shall review the worksheets and the order setting support for the adequacy of the reasons set forth for any deviation or denial of any request for deviation and for the adequacy of the amount of support ordered. Each order shall state the amount of child support calculated using the standard calculation and the amount of child support actually ordered. Worksheets shall be attached to the decree or order or if filed separately shall be initialed or signed by the judge and filed with the order.

RCW 26.19.045

Veterans' disability pensions, compensation for disability, and aid and attendant care payments.

Veterans' disability pensions or regular compensation for disability incurred in or aggravated by service in the United States armed forces paid by the veterans' administration shall be disclosed to the court. The court may consider either type of compensation as disposable income for purposes of calculating the child support obligation. Aid and attendant care payments to prevent hospitalization paid by the veterans' administration solely to provide physical home care for a disabled veteran, and special medical compensation paid under 38 U.S.C. Sec. 314 (k) through (r) to provide either special care or special aids, or both, to assist with routine daily functions shall also be disclosed. The court may not include either aid and attendant care or special medical compensation payments in gross income for purposes of calculating the child support obligation or for purposes of deviating from the standard calculation.

RCW 26.19.050

Worksheets and instructions.

*** CHANGE IN 2005 *** (SEE 1668.SL) ***

(1) The administrator for the courts shall develop and adopt worksheets and instructions to assist the parties and courts in establishing the appropriate child support level and apportionment of support. The administrator for the courts shall attempt to the greatest extent possible to make the worksheets and instructions understandable by persons who are not represented by legal counsel.

(2) The administrator for the courts shall develop and adopt standards for the printing of worksheets and shall establish a process for certifying printed worksheets. The administrator may maintain a register of sources for approved worksheets.

(3) The administrator for the courts should explore methods to assist pro se parties and judges in the courtroom to calculate support payments through automated software, equipment, or personal assistance.

RCW 26.19.055

Payments for attendant services in cases of disability.

Payments from any source, other than veterans' aid and attendance allowances or special medical compensation paid under 38 U.S.C. Sec. 314 (k) through (r), for services provided by an attendant in case of a disability when the disability necessitates the hiring of the services of an attendant shall be disclosed but shall not be included in gross income and shall not be a reason to deviate from the standard calculation.

RCW 26.19.065

Standards for establishing lower and upper limits on child support amounts.

(1) Limit at forty-five percent of a parent's net income. Neither parent's total child support obligation may exceed forty-five percent of net income except for good cause shown. Good cause includes but is not limited to possession of substantial wealth, children with day care expenses, special medical need, educational need, psychological need, and larger families.

(2) Income below six hundred dollars. When combined monthly net income is less than six hundred dollars, a support order of not less than twenty-five dollars per child per month shall be entered for each parent unless the obligor parent establishes that it would be unjust or inappropriate to do so in that particular case. The decision whether there is a sufficient basis to deviate below the presumptive minimum payment must take into consideration the best interests of the child and the circumstances of each parent. Such circumstances can include comparative hardship to the affected households, assets or liabilities, and earning capacity. A parent's support obligation shall not reduce his or her net income below the need standard for one person established pursuant to RCW 74.04.770, except for the presumptive minimum payment of twenty-five dollars per child per month or in cases where the court finds reasons for deviation. This section shall not be construed to require monthly substantiation of income.

(3) Income above five thousand and seven thousand dollars. The economic table is presumptive for combined monthly net incomes up to and including five thousand dollars. When combined monthly net income exceeds five thousand dollars, support shall not be set at an amount lower than the presumptive amount of support set for combined monthly net incomes of five thousand dollars unless the court finds a reason to deviate below that amount. The economic table is advisory but not presumptive for combined monthly net incomes that exceed five thousand dollars. When combined monthly net income exceeds seven thousand dollars, the court may set support at an advisory amount of support set for combined monthly net incomes between five thousand and seven thousand dollars or the court may exceed the advisory amount of support set for combined monthly net incomes of seven thousand dollars upon written findings of fact.

RCW 26.19.071

Standards for determination of income.

(1) Consideration of all income. All income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent. Only the income of the parents of the children whose support is at issue shall be calculated for purposes of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation.

(2) Verification of income. Tax returns for the preceding two years and current paystubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs.

(3) Income sources included in gross monthly income. Except as specifically excluded in subsection (4) of this section, monthly gross income shall include income from any source, including:

- (a) Salaries;
- (b) Wages;
- (c) Commissions;
- (d) Deferred compensation;
- (e) Overtime;
- (f) Contract-related benefits;
- (g) Income from second jobs;
- (h) Dividends;
- (i) Interest;
- (j) Trust income;
- (k) Severance pay;

- (l) Annuities;
- (m) Capital gains;
- (n) Pension retirement benefits;
- (o) Workers' compensation;
- (p) Unemployment benefits;
- (q) Spousal maintenance actually received;
- (r) Bonuses;
- (s) Social security benefits; and
- (t) Disability insurance benefits.

(4) Income sources excluded from gross monthly income. The following income and resources shall be disclosed but shall not be included in gross income:

- (a) Income of a new spouse or income of other adults in the household;
- (b) Child support received from other relationships;
- (c) Gifts and prizes;
- (d) Temporary assistance for needy families;
- (e) Supplemental security income;
- (f) General assistance; and
- (g) Food stamps.

Receipt of income and resources from temporary assistance for needy families, supplemental security income, general assistance, and food stamps shall not be a reason to deviate from the standard calculation.

(5) Determination of net income. The following expenses shall be disclosed and deducted from gross monthly income to calculate net monthly income:

- (a) Federal and state income taxes;
- (b) Federal insurance contributions act deductions;
- (c) Mandatory pension plan payments;
- (d) Mandatory union or professional dues;
- (e) State industrial insurance premiums;
- (f) Court-ordered spousal maintenance to the extent actually paid;

(g) Up to two thousand dollars per year in voluntary pension payments actually made if the contributions were made for the two tax years preceding the earlier of the (i) tax year in which the parties separated with intent to live separate and apart or (ii) tax year in which the parties filed for dissolution; and

(h) Normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about which there is disagreement.

Items deducted from gross income under this subsection shall not be a reason to deviate from the standard calculation.

(6) Imputation of income. The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for an unemployable parent. Income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. In the absence of information to the contrary, a parent's imputed income shall be based on the median income of year-round full-time workers as derived from the United States bureau of census, current populations reports, or such replacement report as published by the bureau of census.

RCW 26.19.075

Standards for deviation from the standard calculation.

(1) Reasons for deviation from the standard calculation include but are not limited to the following:

(a) Sources of income and tax planning. The court may deviate from the standard calculation after consideration of the following:

(i) Income of a new spouse if the parent who is married to the new spouse is asking for a deviation based on any other reason. Income of a new spouse is not, by itself, a sufficient reason for deviation;

(ii) Income of other adults in the household if the parent who is living with the other adult is asking for a deviation based on any other reason. Income of the other adults in the household is not, by itself, a sufficient reason for deviation;

(iii) Child support actually received from other relationships;

(iv) Gifts;

(v) Prizes;

(vi) Possession of wealth, including but not limited to savings, investments, real estate holdings and business interests, vehicles, boats, pensions, bank accounts, insurance plans, or other assets;

(vii) Extraordinary income of a child; or

(viii) Tax planning considerations. A deviation for tax planning may be granted only if the child would not receive a lesser economic benefit due to the tax planning.

(b) Nonrecurring income. The court may deviate from the standard calculation based on a finding that a particular source of income included in the calculation of the basic support obligation is not a recurring source of income. Depending on the circumstances, nonrecurring income may include overtime, contract-related benefits, bonuses, or income from second jobs. Deviations for nonrecurring income shall be based on a review of the nonrecurring income received in the previous two calendar years.

(c) Debt and high expenses. The court may deviate from the standard calculation after consideration of the following expenses:

(i) Extraordinary debt not voluntarily incurred;

(ii) A significant disparity in the living costs of the parents due to conditions beyond their control;

(iii) Special needs of disabled children;

(iv) Special medical, educational, or psychological needs of the children; or

(v) Costs incurred or anticipated to be incurred by the parents in compliance with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child.

(d) Residential schedule. The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving temporary assistance for needy families. When determining the amount of the deviation, the court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment.

(e) Children from other relationships. The court may deviate from the standard calculation when either or both of the parents before the court have children from other relationships to whom the parent owes a duty of support.

(i) The child support schedule shall be applied to the mother, father, and children of the family before the court to determine the presumptive amount of support.

(ii) Children from other relationships shall not be counted in the number of children for purposes of determining the basic support obligation and the standard calculation.

(iii) When considering a deviation from the standard calculation for children from other relationships, the court may consider only other children to whom the parent owes a duty of support. The court may consider court-ordered payments of child support for children from other relationships only to the extent that the support is actually paid.

(iv) When the court has determined that either or both parents have children from other relationships, deviations under this section shall be based on consideration of the total circumstances of both households. All child support obligations paid, received, and owed for all children shall be disclosed and considered.

(2) All income and resources of the parties before the court, new spouses, and other adults in the households shall be disclosed and considered as provided in this section. The presumptive amount of support shall be determined according to the child support schedule. Unless specific reasons for deviation are set forth in the written findings of fact and are supported by the evidence, the court shall order each parent to pay the amount of support determined by using the standard calculation.

(3) The court shall enter findings that specify reasons for any deviation or any denial of a party's request for any deviation from the standard calculation made by the court. The court shall not consider reasons for deviation until the court determines the standard calculation for each parent.

(4) When reasons exist for deviation, the court shall exercise discretion in considering the extent to which the factors would affect the support obligation.

(5) Agreement of the parties is not by itself adequate reason for any deviations from the standard calculation.

RCW 26.19.080

Allocation of child support obligation between parents--Court-ordered day care or special child rearing expenses.

(1) The basic child support obligation derived from the economic table shall be allocated between the parents based on each parent's share of the combined monthly net income.

(2) Ordinary health care expenses are included in the economic table. Monthly health care expenses that exceed five percent of the basic support obligation shall be considered extraordinary health care expenses. Extraordinary health care expenses shall be shared by the parents in the same proportion as the basic child support obligation.

(3) Day care and special child rearing expenses, such as tuition and long-distance transportation costs to and from the parents for visitation purposes, are not included in the economic table. These expenses shall be shared by the parents in the same proportion as the basic child support obligation. If an obligor pays court or administratively ordered day care or special child rearing expenses that are not actually incurred, the obligee must reimburse the obligor for the overpayment if the overpayment amounts to at least twenty percent of the obligor's annual day care or special child rearing expenses. The obligor may institute an action in the superior court or file an application for an adjudicative hearing with the department of social and health services for reimbursement of day care and special child rearing expense overpayments that amount to twenty percent or more of the obligor's annual day care and special child rearing expenses. Any ordered overpayment reimbursement shall be applied first as an offset to child support arrearages of the obligor. If the obligor does not have child support arrearages, the reimbursement may be in the form of a direct reimbursement by the obligee or a credit against the obligor's future support payments. If the reimbursement is in the form of a credit against the obligor's future child support payments, the credit shall be spread equally over a twelve-month period. Absent agreement of the obligee, nothing in this section entitles an obligor to pay more than his or her proportionate share of day care or other special child rearing expenses in advance and then deduct the overpayment from future support transfer payments.

(4) The court may exercise its discretion to determine the necessity for and the reasonableness of all amounts ordered in excess of the basic child support obligation.

RCW 26.19.090

Standards for postsecondary educational support awards.

(1) The child support schedule shall be advisory and not mandatory for postsecondary educational support.

(2) When considering whether to order support for postsecondary educational expenses, the court shall determine whether the child is in fact dependent and is relying upon the parents for the reasonable necessities of life. The court shall exercise its discretion when determining whether and for how long to award postsecondary educational support based upon consideration of factors that include but are not limited to the following: Age of the child; the child's needs; the expectations of the parties for their children when the parents were together; the child's prospects, desires, aptitudes, abilities or disabilities; the nature of the postsecondary education sought; and the parents' level of education, standard of living, and current and future resources. Also to be considered are the amount and type of support that the child would have been afforded if the parents had stayed together.

(3) The child must enroll in an accredited academic or vocational school, must be actively pursuing a course of study commensurate with the child's vocational goals, and must be in good academic standing as defined by the institution. The court-ordered postsecondary educational support shall be automatically suspended during the period or periods the child fails to comply with these conditions.

(4) The child shall also make available all academic records and grades to both parents as a condition of receiving postsecondary educational support. Each parent shall have full and equal access to the postsecondary education records as provided in RCW 26.09.225.

(5) The court shall not order the payment of postsecondary educational expenses beyond the child's twenty-third birthday, except for exceptional circumstances, such as mental, physical, or emotional disabilities.

(6) The court shall direct that either or both parents' payments for postsecondary educational expenses be made directly to the educational institution if feasible. If direct payments are not feasible, then the court in its discretion may order that either or both parents' payments be made directly to the child if the child does not reside with either parent. If the child resides with one of the parents the court may direct that the parent making the support transfer payments make the payments to the child or to the parent who has been receiving the support transfer payments.

RCW 26.19.100

Federal income tax exemptions.

The parties may agree which parent is entitled to claim the child or children as dependents for federal income tax exemptions. The court may award the exemption or exemptions and order a party to sign the federal income tax dependency exemption waiver. The court may divide the exemptions between the parties, alternate the exemptions between the parties, or both.