

Title 26

DOMESTIC RELATIONS

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Chapter 26.04 RCW MARRIAGE

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26.04.007 Definition—Religious organization. For purposes of this chapter, "religious organization" includes, but is not limited to, churches, mosques, synagogues, temples, nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, faith-based

social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion. [2012 c 3 § 7 (Referendum Measure No. 74, approved November 6, 2012).]

Notice—2012 c 3: See note following RCW 26.04.010.

26.04.010 Marriage contract—Void marriages—Construction of gender-specific terms—Recognition of solemnization of marriage not required. (1) Marriage is a civil contract between two persons who have each attained the age of eighteen years, and who are otherwise capable.

(2) Every marriage entered into in which either person 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.

(3) Where necessary to implement the rights and responsibilities of spouses under the law, gender-specific terms such as husband and wife used in any statute, rule, or other law must be construed to be gender neutral and applicable to spouses of the same sex.

(4) No regularly licensed or ordained minister or any priest, imam, rabbi, or similar official of any religious organization is required to solemnize or recognize any marriage. A regularly licensed or ordained minister or priest, imam, rabbi, or similar official of any religious organization shall be immune from any civil claim or cause of action based on a refusal to solemnize or recognize any marriage under this section. No state agency or local government may base a decision to penalize, withhold benefits from, or refuse to contract with any religious organization on the refusal of a person associated with such religious organization to solemnize or recognize a marriage under this section.

(5) No religious organization is required to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

(6) A religious organization shall be immune from any civil claim or cause of action, including a claim pursuant to chapter 49.60 RCW, based on its refusal to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

(7) For purposes of this section:

(a) "Recognize" means to provide religious-based services that:

(i) Are delivered by a religious organization, or by an individual who is managed, supervised, or directed by a religious organization; and

(ii) Are designed for married couples or couples engaged to marry and are directly related to solemnizing, celebrating, strengthening, or promoting a marriage, such as religious counseling programs, courses, retreats, and workshops; and

(b) "Religious organization" includes, but is not limited to, churches, mosques, synagogues, temples, nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion. [2012 c 3 § 1 (Referendum Measure No. 74, approved November 6, 2012); 1998 c 1 § 3; 1973 1st ex.s. c 154 § 26; 1970 ex.s. c 17 § 2; 1963 c 230 § 1;

Code 1881 § 2380; 1866 p 81 § 1; 1854 p 404 §§ 1, 5; RRS § 8437.]

Notice—2012 c 3: "(1) Within sixty days after June 7, 2012, the secretary of state shall send a letter to the mailing address on file of each same-sex domestic partner registered under chapter 26.60 RCW notifying the person that Washington's law on the rights and responsibilities of state registered domestic partners will change in relation to certain same-sex registered domestic partners.

(2) The notice must provide a brief summary of the new law and must clearly state that provisions related to certain same-sex registered domestic partnerships will change as of the effective dates of this act, and that those same-sex registered domestic partnerships that are not dissolved prior to June 30, 2014, will be converted to marriage as an act of law.

(3) The secretary of state shall send a second similar notice to the mailing address on file of each domestic partner registered under chapter 26.60 RCW by May 1, 2014." [2012 c 3 § 17 (Referendum Measure No. 74, approved November 6, 2012).]

***Reviser's note:** "This act" refers to 2012 c 3. 2012 c 3 §§ 8 and 9 have an effective date of June 30, 2014. 2012 c 3 §§ 1-7 and 10-17 took effect June 7, 2012. Chapter 3, Laws of 2012 was subject to Referendum Measure No. 74 and took effect December 6, 2012.

Finding—1998 c 1: "(1) In P.L. 104-199; 110 Stat. 219 [2419], the Defense of Marriage Act, Congress granted authority to the individual states to either grant or deny recognition of same-sex marriages recognized as valid in another state. The Defense of Marriage Act defines marriage for purposes of federal law as a legal union between one man and one woman as husband and wife and provides that a state shall not be required to give effect to any public act or judicial proceeding of any other state respecting marriage between persons of the same sex if the state has determined that it will not recognize same-sex marriages.

(2) The legislature and the people of the state of Washington find that matters pertaining to marriage are matters reserved to the sovereign states and, therefore, such matters should be determined by the people within each individual state and not by the people or courts of a different state." [1998 c 1 § 1.]

Intent—1998 c 1: "(1) It is a compelling interest of the state of Washington to reaffirm its historical commitment to the institution of marriage as a union between a man and a woman as husband and wife and to protect that institution.

(2) The court in *Singer v. Hara*, 11 Wn. App. 247 (1974) held that the Washington state marriage statute does not allow marriage between persons of the same sex. It is the intent of the legislature by this act to codify the *Singer* opinion and to fully exercise the authority granted the individual states by Congress in P.L. 104-199; 110 Stat. 219 [2419], the Defense of Marriage Act, to establish public policy against same-sex marriage in statutory law that clearly and definitively declares same-sex marriages will not be recognized in Washington, even if they are made legal in other states." [1998 c 1 § 2.]

Additional notes found at www.leg.wa.gov

26.04.020 Prohibited marriages. (1) Marriages in the following cases are prohibited:

(a) When either party thereto has a spouse or registered domestic partner living at the time of such marriage, unless the registered domestic partner is the other party to the marriage; or

(b) When the spouses are nearer of kin to each other than second cousins, whether of the whole or half blood computed by the rules of the civil law.

(2) It is unlawful for any person to marry his or her sibling, child, grandchild, aunt, uncle, niece, or nephew.

(3) A marriage between two persons that is recognized as valid in another jurisdiction is valid in this state only if the marriage is not prohibited or made unlawful under subsection (1)(a) or (2) of this section.

(4) A legal union, other than a marriage, between two individuals that was validly formed in another state or jurisdiction and that provides substantially the same rights, benefits, and responsibilities as a marriage, does not prohibit those

same two individuals from obtaining a marriage license in Washington.

(5) No state agency or local government may base a decision to penalize, withhold benefits from, license, or refuse to contract with any religious organization based on the opposition to or refusal to provide accommodations, facilities, advantages, privileges, service, or goods related to the solemnization or celebration of a marriage.

(6) No religiously affiliated educational institution shall be required to provide accommodations, facilities, advantages, privileges, service, or goods related to the solemnization or celebration of a marriage, including a use of any campus chapel or church. A religiously affiliated educational institution shall be immune from a civil claim or cause of action, including a claim pursuant to chapter 49.60 RCW, based on its refusal to provide accommodations, facilities, advantages, privileges, service, or goods related to the solemnization or celebration of a marriage under this subsection shall be immune for civil claim or cause of action, including a claim pursuant to chapter 49.60 RCW. [2012 c 3 § 2 (Referendum Measure No. 74, approved November 6, 2012); 1998 c 1 § 4; 1927 c 189 § 1; Code 1881 § 949; 1866 p 81 § 2; 1854 p 96 § 115; RRS § 8438.]

Notice—2012 c 3: See note following RCW 26.04.010.

Finding—Intent—1998 c 1: See notes following RCW 26.04.010.

Bigamy: RCW 9A.64.010.

Incest—Penalties: RCW 9A.64.020.

26.04.050 Who may solemnize. The following named officers and persons, active or retired, are hereby authorized to solemnize marriages, to wit: Justices of the supreme court, judges of the court of appeals, judges of the superior courts, supreme court commissioners, court of appeals commissioners, superior court commissioners, judges and commissioners of courts of limited jurisdiction as defined in RCW 3.02.010, judges of tribal courts from a federally recognized tribe, and any regularly licensed or ordained minister or any priest, imam, rabbi, or similar official of any religious organization. The solemnization of a marriage by a tribal court judge pursuant to authority under this section does not create tribal court jurisdiction and does not affect state court authority as otherwise provided by law to enter a judgment for purposes of any dissolution, legal separation, or other proceedings related to the marriage that is binding on the parties and entitled to full faith and credit. [2019 c 52 § 2; 2017 c 130 § 1; 2012 c 3 § 4 (Referendum Measure No. 74, approved November 6, 2012); 2007 c 29 § 1; 1987 c 291 § 1; 1984 c 258 § 95; 1983 c 186 § 1; 1971 c 81 § 69; 1913 c 35 § 1; 1890 p 98 § 1; 1883 p 43 § 1; Code 1881 § 2382; 1866 p 82 § 4; 1854 p 404 § 4; RRS § 8441.]

Notice—2012 c 3: See note following RCW 26.04.010.

Additional notes found at www.leg.wa.gov

26.04.060 Marriage before unauthorized cleric—Effect. A marriage solemnized before any person professing to be a minister or a priest, imam, rabbi, or similar official of any religious organization in this state or professing to be an authorized officer thereof, is not void, nor shall the validity thereof be in any way affected on account of any want of power or authority in such person, if such marriage be con-

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summated with a belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage. [2012 c 3 § 5 (Referendum Measure No. 74, approved November 6, 2012); 1975-'76 2nd ex.s. c 42 § 25; Code 1881 § 2388; 1866 p 83 §§ 10 and 11; 1854 p 405 § 6; RRS § 8442. Formerly RCW 26.04.060 and 26.24.200.]

Notice—2012 c 3: See note following RCW 26.04.010.

26.04.070 Form of solemnization. In the solemnization of marriage no particular form is required, except that the parties thereto shall assent or declare in the presence of the minister, priest, imam, rabbi, or similar official of any religious organization, or judicial officer solemnizing the same, and in the presence of at least two attending witnesses, that they take each other to be spouses. [2012 c 3 § 6 (Referendum Measure No. 74, approved November 6, 2012); Code 1881 § 2383; 1866 p 82 § 5; RRS § 8443.]

Notice—2012 c 3: See note following RCW 26.04.010.

26.04.080 Marriage certificate—Contents. The person solemnizing a marriage shall give to each of the parties thereto, if required, a certificate thereof, specifying therein the names and residence of the parties, and of at least two witnesses present, the time and place of such marriage, and the date of the license thereof, and by whom issued. [Code 1881 § 2384; 1866 p 82 § 6; RRS § 8444.]

26.04.090 Certificate for files of county auditor and state registrar of vital statistics—Forms. (Effective until January 1, 2021.) A person solemnizing a marriage shall, within thirty days thereafter, make and deliver to the county auditor of the county wherein the license was issued a certificate for the files of the county auditor, and a certificate for the files of the state registrar of vital statistics. The certificate for the files of the county auditor shall be substantially as follows:

STATE OF WASHINGTON }
COUNTY OF }

This is to certify that the undersigned, a, by authority of a license bearing date the day of A.D. (year) , and issued by the County auditor of the county of, did, on the day of A.D. (year) , at in this

county and state, join in lawful wedlock A.B. of the county of, state of and C.D. of the county of, state of, with their mutual assent, in the presence of F H and E G, witnesses.

In Testimony Whereof, witness the signatures of the parties to said ceremony, the witnesses and myself, this day of, A.D. (year)

The certificate for the files of the state registrar of vital statistics shall be in accordance with *RCW 70.58.200. The certificate forms for the files of the county auditor and for the files of the state registrar of vital statistics shall be provided by the state registrar of vital statistics. [2016 c 202 § 23; 1967

c 26 § 4; 1947 c 59 § 1; 1927 c 172 § 1; Code 1881 § 2385; 1866 p 82 § 7; 1854 p 405 § 7; RRS § 8445.]

*Reviser's note: RCW 70.58.200 was repealed by 1991 c 96 § 6. Additional notes found at www.leg.wa.gov

26.04.090 Certificate for files of county auditor and state registrar of vital statistics—Forms. (Effective January 1, 2021.) A person solemnizing a marriage shall, within thirty days thereafter, make and deliver to the county auditor of the county wherein the license was issued a certificate for the files of the county auditor, and a certificate for the files of the state registrar of vital statistics. The certificate for the files of the county auditor shall be substantially as follows:

STATE OF WASHINGTON }
COUNTY OF }

This is to certify that the undersigned, a, by authority of a license bearing date the day of A.D. (year) , and issued by the County auditor of the county of, did, on the day of A.D. (year) , at in this county and state, join in lawful wedlock A.B. of the county of, state of and C.D. of the county of, state of, with their mutual assent, in the presence of F H and E G, witnesses.

In Testimony Whereof, witness the signatures of the parties to said ceremony, the witnesses and myself, this day of, A.D. (year)

The certificate forms for the files of the county auditor and for the files of the state registrar of vital statistics shall be provided by the state registrar of vital statistics. [2019 c 148 § 31; 2016 c 202 § 23; 1967 c 26 § 4; 1947 c 59 § 1; 1927 c 172 § 1; Code 1881 § 2385; 1866 p 82 § 7; 1854 p 405 § 7; RRS § 8445.]

Effective date—Rule-making authority—2019 c 148: See RCW 70.58A.901 and 70.58A.902. Additional notes found at www.leg.wa.gov

26.04.100 Filing and recording—County auditor. The county auditor shall file said certificates and record them or bind them into numbered volumes, and note on the original index to the license issued the volume and page wherein such certificate is recorded or bound. He or she shall enter the date of filing and his or her name on the certificates for the files of the state registrar of vital statistics, and transmit, by the tenth day of each month, all such certificates filed with him or her during the preceding month. [2011 c 336 § 684; 1967 c 26 § 5; 1947 c 59 § 2; 1886 p 66 § 1; Code 1881 § 2386; 1867 p 105 § 2; 1866 p 82 § 8; Rem. Supp. 1947 § 8446.]

Additional notes found at www.leg.wa.gov

26.04.105 Preservation of copies of applications and licenses—County auditor. The county auditor may preserve copies of marriage license applications submitted and marriage licenses issued under this chapter in the same manner as authorized for the recording of instruments under RCW 65.04.040. [1985 c 44 § 1.]

26.04.110 Penalty for failure to deliver certificates. Any person solemnizing a marriage, who shall wilfully refuse or neglect to make and deliver to the county auditor for record, the certificates mentioned in RCW 26.04.090, within the time in such section specified, shall be deemed guilty of a misdemeanor, and upon conviction shall pay for such refusal, or neglect, a fine of not less than twenty-five nor more than three hundred dollars. [1967 c 26 § 6; 1947 c 59 § 3; 1886 p 66 § 2; Code 1881 § 2387; 1866 p 83 § 9; Rem. Supp. 1947 § 8447.]

Additional notes found at www.leg.wa.gov

26.04.120 Marriage according to religious ritual. All marriages to which there are no legal impediments, solemnized before or in any religious organization or congregation, according to the established ritual or form commonly practiced therein, are valid, and a certificate containing the particulars specified in RCW 26.04.080 and 26.04.090, shall be made and filed for record by the person or persons presiding or officiating in or recording the proceedings of such religious organization or congregation, in the manner and with like effect as in ordinary cases. [Code 1881 § 2389; RRS § 8448.]

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. [Code 1881 § 2381; 1866 p 81 § 3; RRS § 8449.]

26.04.140 Marriage license. Before any persons can be joined in marriage, they shall procure a license from a county auditor, as provided in RCW 26.04.150 through 26.04.190. [1985 c 82 § 1; 1939 c 204 § 2; RRS § 8450-1. Prior: Code 1881 § 2390; 1866 p 83 § 12.]

26.04.150 Application for license—May be secured by mail—Execution and acknowledgment. Any person may secure by mail from the county auditor of the county in the state of Washington where he or she intends to be married, an application, and execute and acknowledge said application before a notary public. [2011 c 336 § 685; 1963 c 230 § 2; 1939 c 204 § 3; RRS § 8450-2.]

26.04.160 Application for license—Contents—Oath. (1) Application for a marriage license must be made and filed with the appropriate county auditor upon blanks to be provided by the county auditor for that purpose, which application shall be under the oath of each of the applicants, and each application shall state the name, address at the time of execution of application, age, social security number, birthplace, whether single, widowed or divorced, and whether under control of a guardian, residence during the past six months: PROVIDED, That each county may require such other and further information on said application as it shall deem necessary.

(2) The county legislative authority may impose an additional fee up to fifteen dollars on a marriage license for the purpose of funding family services such as family support

centers. [1997 c 58 § 909; 1993 c 451 § 1; 1985 c 82 § 2; 1967 c 26 § 7; 1939 c 204 § 4; RRS § 8450-3.]

Additional notes found at www.leg.wa.gov

26.04.165 Additional marriage certificate form. (*Effective until January 1, 2021.*) In addition to the application provided for in RCW 26.04.160, the county auditor for the county wherein the license is issued shall submit to each applicant at the time for application for a license the Washington state department of health marriage certificate form prescribed by *RCW 70.58.200 to be completed by the applicants and returned to the county auditor for the files of the state registrar of vital statistics. After the execution of the application for, and the issuance of a license, no county shall require the persons authorized to solemnize marriages to obtain any further information from the persons to be married except the names and county of residence of the persons to be married. [1989 1st ex.s. c 9 § 203; 1979 c 141 § 34; 1969 ex.s. c 279 § 1.]

*Reviser's note: RCW 70.58.200 was repealed by 1991 c 96 § 6.

Additional notes found at www.leg.wa.gov

26.04.165 Additional marriage certificate form. (*Effective January 1, 2021.*) In addition to the application provided for in RCW 26.04.160, the county auditor for the county wherein the license is issued shall submit to each applicant at the time for application for a license the Washington state department of health marriage certificate form provided by the state registrar of vital statistics to be completed by the applicants and returned to the county auditor for the files of the state registrar of vital statistics. After the execution of the application for, and the issuance of a license, no county shall require the persons authorized to solemnize marriages to obtain any further information from the persons to be married except the names and county of residence of the persons to be married. [2019 c 148 § 32; 1989 1st ex.s. c 9 § 203; 1979 c 141 § 34; 1969 ex.s. c 279 § 1.]

Effective date—Rule-making authority—2019 c 148: See RCW 70.58A.901 and 70.58A.902.

Additional notes found at www.leg.wa.gov

26.04.170 Inspection of applications. Any such application shall be open to public inspection as a part of the records of the office of such county auditor. [1985 c 82 § 3; 1939 c 204 § 5; RRS § 8450-4.]

26.04.175 When disclosure of marriage applications and records prohibited. If a program participant under chapter 40.24 RCW notifies the appropriate county auditor as required under rules adopted by the secretary of state, the county auditor shall not make available for inspection or copying the name and address of a program participant contained in marriage applications and records filed under chapter 26.04 RCW, except under the following circumstances:

- (1) If requested by a law enforcement agency, to the law enforcement agency; and
- (2) If directed by a court order, to a person identified in the order. [1991 c 23 § 12.]

26.04.180 License—Time limitations as to issuance and use—Notification. The county auditor may issue the

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marriage license at the time of application, but shall issue such license no later than the third full day following the date of the application. A marriage license issued pursuant to the provisions of this chapter may not be used until three days after the date of application and shall become void if the marriage is not solemnized within sixty days of the date of the issuance of the license, and the county auditor shall notify the applicant in writing of this requirement at the time of issuance of the license. [1985 c 82 § 4; 1979 ex.s. c 128 § 1; 1963 c 230 § 3; 1953 c 107 § 1. Prior: 1943 c 250 § 1; 1939 c 204 § 6; Rem. Supp. 1943 § 8450-5.]

26.04.190 Refusal of license—Appeal. Any county auditor is hereby authorized to refuse to issue a license to marry if, in his or her discretion, the applications executed by the parties or information coming to his or her knowledge as a result of the execution of said applications, justifies said refusal: PROVIDED, HOWEVER, The denied parties may appeal to the superior court of said county for an order to show cause, directed to said county auditor to appear before said court to show why said court should not grant an order to issue a license to said denied parties and, after due hearing, or if the auditor fails to appear, said court may in its discretion, issue an order to said auditor directing him or her to issue said license; any hearings held by a superior court under RCW 26.04.140 through 26.04.200 may, in the discretion of said court, be held in chambers. [2011 c 336 § 686; 1939 c 204 § 7; RRS § 8450-6.]

26.04.200 Penalty for violations—1939 c 204. Any person intentionally violating any provision of RCW 26.04.140 through 26.04.190 shall be guilty of a misdemeanor. [1939 c 204 § 8; RRS § 8450-7.]

Punishment of misdemeanor when not fixed by statute: RCW 9.92.030.

26.04.210 Affidavits required for issuance of license—Penalties. (1) The county auditor, before a marriage license is issued, upon the payment of a license fee as fixed in RCW 36.18.010 shall require each applicant therefor to make and file in the auditor's office upon blanks to be provided by the county for that purpose, an affidavit showing that if an applicant is afflicted with any contagious sexually transmitted disease, the condition is known to both applicants, and that the applicants are the age of eighteen years or over. If the consent in writing is obtained of the father, mother, or legal guardian of the person for whom the license is required, the license may be granted in cases where the female has attained the age of seventeen years or the male has attained the age of seventeen years. Such affidavit may be subscribed and sworn to before any person authorized to administer oaths.

(2) Anyone knowingly swearing falsely to any of the statements contained in the affidavits mentioned in this section is guilty of perjury under chapter 9A.72 RCW.

(3) The affidavit form shall be designed to require a statement that no contagious sexually transmitted disease is present or that the condition is known to both applicants, without requiring the applicants to state whether or not either or both of them are afflicted by such disease.

(4) Any person knowingly violating this section is guilty of a class C felony and shall be punished by a fine of not more than one thousand dollars, or by imprisonment in a state cor-

rectional facility for a period of not more than three years, or by both such fine and imprisonment. [2003 c 53 § 166; 1995 c 301 § 78; 1985 c 82 § 5; 1979 ex.s. c 128 § 2; 1973 1st ex.s. c 154 § 29; 1970 ex.s. c 17 § 5; 1963 c 230 § 4; 1959 c 149 § 3; 1909 ex.s. c 16 § 3; 1909 c 174 § 3; Code 1881 §§ 2391, 2392; 1867 p 104 § 1; 1866 p 83 §§ 13, 14; RRS § 8451.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

26.04.220 Retention of license by person solemnizing—Auditor's record. The person solemnizing the marriage is authorized to retain in his or her possession the license, but the county auditor who issues the same, before delivering it, shall enter in his or her marriage record a memorandum of the names of the parties, the consent of the parents or guardian, if any, and the name of the affiant and the substance of the affidavit upon which said license issued, and the date of such license. [2011 c 336 § 687; Code 1881 § 2393; 1866 p 84 § 15; RRS § 8453.]

26.04.240 Penalty for unlawful solemnization—Code 1881. Any person who shall undertake to join others in marriage knowing that he or she is not lawfully authorized so to do, or any person authorized to solemnize marriage, who shall join persons in marriage contrary to the provisions of *this chapter, shall, upon conviction thereof, be punished by a fine of not more than five hundred, nor less than one hundred dollars. [2011 c 336 § 688; Code 1881 § 2395; 1866 p 84 § 17; RRS § 8454. FORMER PART OF SECTION: 1909 c 249 § 419; RRS § 2671 now codified as RCW 26.04.250.]

***Reviser's note:** "This chapter" (chapter 182, Code 1881) is codified as RCW 26.04.010, 26.04.050 through 26.04.140, and 26.04.220 through 26.04.240. Code 1881 §§ 2391 and 2392, being part of chapter 182, Code 1881, appear to be superseded by 1909 ex.s. c 16 § 3 (RCW 26.04.210) which is subject to the penalties of RCW 26.04.230.

26.04.250 Penalty for unlawful solemnization—1909 c 249. Every person who shall solemnize a marriage when either party thereto is known to him or her to be under the age of legal consent or a marriage to which, within his or her knowledge, any legal impediment exists, shall be guilty of a gross misdemeanor. [2011 c 336 § 689; 1979 ex.s. c 128 § 3; 1909 c 249 § 419; RRS § 2671. Formerly RCW 26.04.240, part.]

Punishment of gross misdemeanor when not fixed by statute: RCW 9.92.020.

26.04.260 Recognition of a legal union. If two persons in Washington have a legal union, other than a marriage, that:

- (1) Was validly formed in another state or jurisdiction;
- (2) Provides substantially the same rights, benefits, and responsibilities as a marriage; and
- (3) Does not meet the definition of domestic partnership in RCW 26.60.030,

then they shall be treated as having the same rights and responsibilities as married spouses in this state, unless:

- (a) Such relationship is prohibited by RCW 26.04.020 (1)(a) or (2); or
- (b) They become permanent residents of Washington state and do not enter into a marriage within one year after becoming permanent residents. [2012 c 3 § 11 (Referendum Measure No. 74, approved November 6, 2012).]

Notice—2012 c 3: See note following RCW 26.04.010.

26.04.900 Construction—Religious organization. "Religious organization" as defined in this chapter must be interpreted liberally to include faith-based social service organizations involved in social services directed at the larger community. [2012 c 3 § 3 (Referendum Measure No. 74, approved November 6, 2012).]

Notice—2012 c 3: See note following RCW 26.04.010.

Chapter 26.09 RCW DISSOLUTION PROCEEDINGS—LEGAL SEPARATION

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Child support enforcement: Chapter 26.18 RCW.
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Domestic violence prevention: Chapter 26.50 RCW.
Living in marital relationship within state submits person to state jurisdiction as to proceedings under this chapter: RCW 4.28.185.
Missing children clearinghouse and hotline: Chapter 13.60 RCW.
Nonparental actions for child custody: Chapter 26.10 RCW.
Process—Domestic relations actions: Rules of court: CR 4.1.

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Uniform child custody jurisdiction and enforcement act: Chapter 26.27 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. Residential time and financial support are equally important components of parenting arrangements. 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. [2007 c 496 § 101; 1987 c 460 § 2.]

Additional notes found at www.leg.wa.gov

26.09.003 Policy—Intent—Findings. The legislature reaffirms the intent of the current law as expressed in RCW 26.09.002. However, after review, the legislature finds that there are certain components of the existing law which do not support the original legislative intent. In order to better implement the existing legislative intent the legislature finds that incentives for parties to reduce family conflict and additional alternative dispute resolution options can assist in reducing the number of contested trials. Furthermore, the legislature finds that the identification of domestic violence as defined in RCW 26.50.010 and the treatment needs of the parties to dissolutions are necessary to improve outcomes for children. When judicial officers have the discretion to tailor individualized resolutions, the legislative intent expressed in RCW 26.09.002 can more readily be achieved. Judicial officers should have the discretion and flexibility to assess each case based on the merits of the individual cases before them. [2007 c 496 § 102.]

Additional notes found at www.leg.wa.gov

26.09.004 Definitions. The definitions in this section apply throughout this chapter.

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

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

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

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

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

(2) "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.

(3) "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 or domestic partnership, declaration of invalidity, or legal separation.

(4) "Temporary parenting plan" means a plan for parenting of the child pending final resolution of any action for dissolution of marriage or domestic partnership, declaration of invalidity, or legal separation which is incorporated in a temporary order. [2009 c 502 § 1; 2008 c 6 § 1003; 1987 c 460 § 3.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Additional notes found at www.leg.wa.gov

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. [1992 c 229 § 1; 1990 1st ex.s. c 2 § 26.]

Additional notes found at www.leg.wa.gov

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.

[Title 26 RCW—page 8]

(2) A proceeding for dissolution of marriage or domestic partnership, legal separation or a declaration concerning the validity of a marriage or domestic partnership shall be entitled "In re the marriage of and" or "In re the domestic partnership of and" Such proceedings 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 or domestic partnership 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 or domestic partnership 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.

(7) In order to provide a means by which to facilitate a fair, efficient, and swift process to resolve matters regarding custody and visitation when a parent serving in the armed forces receives temporary duty, deployment, activation, or mobilization orders from the military, the court shall, upon motion of such a parent:

(a) For good cause shown, hold an expedited hearing in custody and visitation matters instituted under this chapter when the military duties of the parent have a material effect on the parent's ability, or anticipated ability, to appear in person at a regularly scheduled hearing; and

(b) Upon reasonable advance notice to the affected parties and for good cause shown, allow the parent to present testimony and evidence by electronic means in custody and visitation matters instituted under this chapter when the military duties of the parent have a material effect on the parent's ability to appear in person at a regularly scheduled hearing. The phrase "electronic means" includes communication by telephone, video teleconference, or the internet. [2009 c 502 § 2; 2008 c 6 § 1004; 1989 c 375 § 1; 1987 c 460 § 1; 1975 c 32 § 1; 1973 1st ex.s. c 157 § 1.]

Additional notes found at www.leg.wa.gov

26.09.013 Interpretive services—Literacy assistance—Guardian ad litem charges—Telephone or interactive videoconference participation—Residential time in cases involving domestic violence or child abuse—Disclosure of information—Supervised visitation and safe exchange centers. In order to provide judicial officers with better information and to facilitate decision making which allows for the protection of children from physical, mental, or emotional harm and in order to facilitate consistent healthy contact between both parents and their children:

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

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

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

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

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

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

(b) Order residential time 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 supervisor is willing to and capable of protecting the child from harm. The court shall revoke court approval of the supervisor if the court determines, after a hearing, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child. If the court allows a family or household member to supervise residential time, the court shall establish conditions to be followed during residential time.

(6)(a) In cases in which the court has made a finding of domestic violence or child abuse, the court may not require a victim of domestic violence or the custodial parent of a victim of child abuse to disclose to the other party information that would reasonably be expected to enable the perpetrator of domestic violence or child abuse to obtain previously undisclosed information regarding the name, location, or address of a victim's residence, employer, or school at an initial hearing, and shall carefully weigh the safety interests of the victim before issuing orders which would require disclosure in a future hearing.

(b) In cases in which domestic violence or child abuse has been alleged but the court has not yet made a finding regarding such allegations, the court shall provide the party alleging domestic violence or child abuse with the opportunity to prove the allegations before ordering the disclosure of information that would reasonably be expected to enable the alleged perpetrator of domestic violence or child abuse to obtain previously undisclosed information regarding the name, location, or address of a victim's residence, employer, or school.

(7) In cases in which the court finds that the parties do not have a satisfactory history of cooperation or there is a high level of parental conflict, the court may order the parties to use supervised visitation and safe exchange centers or alternative safe locations to facilitate the exercise of residential time. [2012 c 223 § 5; 2007 c 496 § 401.]

*Reviser's note: Chapter 28B.04 RCW expired August 1, 2015, pursuant to 2015 c 55 § 101.

(2020 Ed.)

Additional notes found at www.leg.wa.gov

26.09.015 Mediation proceedings. (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 or the domestic partnership is dissolved. The mediator shall use his or her best efforts to effect a settlement of the dispute.

(2)(a) Each superior court may make available a mediator. The court shall use the most cost-effective mediation services that are readily available unless there is good cause to access alternative providers. 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.

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

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

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

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

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

(C) That a parent used or frustrated the dispute resolution process without good reason for purposes of RCW 26.09.184(4)(d).

(ii) If a postdecree mediation-arbitration proceeding is required pursuant to a parenting plan and the same person acts as both mediator and arbitrator, mediation communications in the mediation phase of such a proceeding may be admitted during the arbitration phase, and shall be admissible in the judicial review of such a proceeding under RCW 26.09.184(4)(e) to the extent necessary for such review to be effective.

(b) None of the exceptions under (a)(i) and (ii) of this subsection shall subject a mediator to compulsory process to testify except by court order for good cause shown, taking into consideration the need for the mediator's testimony and the interest in the mediator maintaining an appearance of impartiality. If a mediation communication is not privileged under (a)(i) of this subsection or that portion of (a)(ii) of this subsection pertaining to judicial review, only the portion of the communication necessary for the application of the exception may be admitted, and such admission of evidence shall not render any other mediation communication discov-

erable or admissible except as may be provided in chapter 7.07 RCW.

(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. [2020 c 29 § 13; 2008 c 6 § 1044; (2008 c 6 § 1043 expired January 1, 2009). Prior: 2007 c 496 § 602; 2007 c 496 § 501; 2005 c 172 § 17; 1991 c 367 § 2; 1989 c 375 § 2; 1986 c 95 § 4.]

Effective date—2020 c 29: See note following RCW 7.77.060.

Mediation testimony competency: RCW 5.60.070 and 5.60.072.

Additional notes found at www.leg.wa.gov

26.09.016 Mediation in cases involving domestic violence or child abuse. Mediation is generally inappropriate in cases involving domestic violence and child abuse. In order to effectively identify cases where issues of domestic violence and child abuse are present and reduce conflict in dissolution matters: (1) Where appropriate parties shall be provided access to trained domestic violence advocates; and (2) in cases where a victim requests mediation the court may make exceptions and permit mediation, so long as the court makes a finding that mediation is appropriate under the circumstances and the victim is permitted to have a supporting person present during the mediation proceedings. [2007 c 496 § 301.]

Additional notes found at www.leg.wa.gov

26.09.020 Petition—Dissolution of marriage or domestic partnership, legal separation, or for a declaration concerning validity of marriage or domestic partnership—Contents—Parties—Certificate. (1) A petition in a proceeding for dissolution of marriage or domestic partnership, legal separation, or for a declaration concerning the validity of a marriage or domestic partnership 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 or, for domestic partnerships, the date of registration, and place of residence when the domestic partnership was registered;

(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 or either or both domestic partners and whether the wife or domestic partner 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 or domestic partner;

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

(g) If the county has established a program under RCW 26.12.260, a statement affirming that the moving party met and conferred with the program prior to filing the petition;

(h) The relief sought.

(2) Either or both parties to the marriage or to the domestic partnership 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.

(4) Nothing in this section shall be construed to limit or prohibit the ability of parties to obtain appropriate emergency orders. [2008 c 6 § 1005; 2007 c 496 § 203; 2001 c 42 § 1; 1997 c 58 § 945. Prior: 1989 1st ex.s. c 9 § 204; 1989 c 375 § 3; 1983 1st ex.s. c 45 § 2; 1973 2nd ex.s. c 23 § 1; 1973 1st ex.s. c 157 § 2.]

Additional notes found at www.leg.wa.gov

26.09.030 Petition for dissolution of marriage or domestic partnership—Court proceedings, findings—Transfer to family court—Legal separation in lieu of dissolution. 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 or in a domestic partnership 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 or dissolution of domestic partnership, and alleges that the marriage or domestic partnership 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:

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

(b) 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.

(c) If the other party denies that the marriage or domestic partnership 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:

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

(ii) 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:

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

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

(d) 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.

(e) In considering a petition for dissolution of marriage or domestic partnership, a court shall not use a party's pregnancy as the sole basis for denying or delaying the entry of a decree of dissolution of marriage or domestic partnership. Granting a decree of dissolution of marriage or domestic partnership when a party is pregnant does not affect further proceedings under chapter 26.26A or 26.26B RCW. [2019 c 46 § 5019; 2008 c 6 § 1006; 2005 c 55 § 1; 1996 c 23 § 1; 1973 1st ex.s. c 157 § 3.]

Additional notes found at www.leg.wa.gov

26.09.040 Petition to have marriage or domestic partnership declared invalid or judicial determination of validity—Procedure—Findings—Grounds—Legitimacy of children.

(1) While both parties to an alleged marriage or domestic partnership 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 or domestic partnership declared invalid may be sought by:

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

(b) Either or both parties, the legal spouse or domestic partner, or a child of either party when it is alleged that either or both parties is married to or in a domestic partnership with another person.

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

(3) In a proceeding to declare the invalidity of a marriage or domestic partnership, 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 or domestic partnership, if both parties to the alleged marriage or domestic partnership are still living, the court:

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

(b) If it finds that:

(i) The marriage or domestic partnership 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, a prior domestic partnership of one or both parties that has not been terminated or dissolved, reasons of consanguinity, or because a party lacked capacity to consent to the marriage or domestic partnership, 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 or domestic partnership by force or duress, or by fraud involving the essentials of marriage or domestic partnership, and that the parties have not ratified their marriage or domestic partnership 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 or domestic partnership invalid as of the date it was purportedly contracted;

(ii) The marriage or domestic partnership 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 or domestic partnership to be valid for all purposes from the date upon which it was purportedly contracted;

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

(5) Any child of the parties born or conceived during the existence of a marriage or domestic partnership of record is legitimate and remains legitimate notwithstanding the entry of a declaration of invalidity of the marriage or domestic partnership. [2008 c 6 § 1007; 1987 c 460 § 4; 1975 c 32 § 2; 1973 1st ex.s. c 157 § 4.]

Additional notes found at www.leg.wa.gov

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 or domestic partnership, legal separation, or declaration of invalidity, the court shall determine the marital or domestic partnership status of the parties, make provision for a parenting plan for any minor child of the marriage or domestic partnership, make provision for the support of any child of the marriage or domestic partnership entitled to support, consider or approve provision for the maintenance of either spouse or either domestic partner, 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 infor-

mation 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. [2008 c 6 § 1008; 2000 c 119 § 6; 1995 c 93 § 2; 1994 sp.s. c 7 § 451; 1989 c 375 § 29; 1987 c 460 § 5; 1973 1st ex.s. c 157 § 5.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

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 or domestic partnership, legal separation, or a declaration of invalidity; or

(b) Disposition of property or liabilities, maintenance, or support following dissolution of the marriage or the domestic partnership by a court which lacked personal jurisdiction over the absent spouse or absent domestic partner; 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, and shall order the respondent to surrender, and prohibit the respondent from possessing, all firearms, dangerous weapons, and any concealed pistol license as required in 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. [2019 c 245 § 17; 2008 c 6 § 1009; 2000 c 119 § 7; 1995 c 246 § 26; 1994 sp.s. c 7 § 452; 1992 c 229 § 9; 1989 c 360 § 37; 1984 c 263 § 26; 1983 1st ex.s. c 41 § 1; 1983 c 232 § 10; 1975 c 32 § 3; 1973 1st ex.s. c 157 § 6.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Arrest without warrant in domestic violence cases: RCW 10.31.100(2).

Child abuse, temporary restraining order: RCW 26.44.063.

Ex parte temporary order for protection: RCW 26.50.070.

Orders for protection in cases of domestic violence: RCW 26.50.030.

Orders prohibiting contact: RCW 10.99.040.

Additional notes found at www.leg.wa.gov

26.09.070 Separation contracts. (1) The parties to a marriage or a domestic partnership, 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 or domestic partnership, a decree of legal separation, or declaration of invalidity of their marriage or domestic partnership, 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 or domestic partnership, for a decree of legal separation, or for a declaration of invalidity of their marriage or domestic partnership, 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 pro-

duced 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 or domestic partnership, 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. [2008 c 6 § 1010; 1989 c 375 § 4; 1987 c 460 § 6; 1973 1st ex.s. c 157 § 7.]

Additional notes found at www.leg.wa.gov

26.09.080 Disposition of property and liabilities—Factors. In a proceeding for dissolution of the marriage or domestic partnership, legal separation, declaration of invalidity, or in a proceeding for disposition of property following dissolution of the marriage or the domestic partnership by a court which lacked personal jurisdiction over the absent spouse or absent domestic partner or lacked jurisdiction to dispose of the property, the court shall, without regard to 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 or domestic partnership; and

(4) The economic circumstances of each spouse or domestic partner 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 or domestic partner with whom the children

reside the majority of the time. [2008 c 6 § 1011; 1989 c 375 § 5; 1973 1st ex.s. c 157 § 8.]

Additional notes found at www.leg.wa.gov

26.09.090 Maintenance orders for either spouse or either domestic partner—Factors. (1) In a proceeding for dissolution of marriage or domestic partnership, legal separation, declaration of invalidity, or in a proceeding for maintenance following dissolution of the marriage or domestic partnership by a court which lacked personal jurisdiction over the absent spouse or absent domestic partner, the court may grant a maintenance order for either spouse or either domestic partner. The maintenance order shall be in such amounts and for such periods of time as the court deems just, without regard to 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 or her, and his or her ability to meet his or her 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 or her skill, interests, style of life, and other attendant circumstances;

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

(d) The duration of the marriage or domestic partnership;

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

(f) The ability of the spouse or domestic partner from whom maintenance is sought to meet his or her needs and financial obligations while meeting those of the spouse or domestic partner seeking maintenance. [2008 c 6 § 1012; 1989 c 375 § 6; 1973 1st ex.s. c 157 § 9.]

Additional notes found at www.leg.wa.gov

26.09.100 Child support—Apportionment of expense—Periodic adjustments or modifications. (1) In a proceeding for dissolution of marriage or domestic partnership, legal separation, declaration of invalidity, maintenance, or child support, after considering all relevant factors but without regard to misconduct, the court shall order either or both parents owing a duty of support to any child of the marriage or the domestic partnership dependent upon either or both spouses or domestic partners 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(6)(a). [2010 c 279 § 3; 2008 c 6 § 1013; 1991 sp.s. c 28 § 1; 1990 1st ex.s. c 2 § 1; 1989 c 375 § 7; 1988 c 275 § 9; 1987 c 430 § 3; 1973 1st ex.s. c 157 § 10.]

*Reviser's note: RCW 26.09.170 was amended by 2020 c 227 § 13, changing subsection (6)(a) to subsection (8)(a), effective February 1, 2021.

Additional notes found at www.leg.wa.gov

26.09.105 Child support—Medical support—Conditions. (1) Whenever a child support order is entered or modified under this chapter, the court shall require both parents to provide medical support for any child named in the order as provided in this section.

(a) The child support order must include an obligation to provide health care coverage that is both accessible to all children named in the order and available at reasonable cost to the obligated parent.

(b) The court must allocate the cost of health care coverage between the parents.

(2) Medical support consists of:

(a) Health care coverage, which may consist of health insurance coverage or public health care coverage; and

(b) Cash medical support, which consists of:

(i) A parent's monthly payment toward the premium paid for coverage provided by a public entity or by another parent, which represents the obligated parent's proportionate share of the premium paid, but no more than twenty-five percent of the obligated parent's basic support obligation; and

(ii) A parent's proportionate share of uninsured medical expenses.

(3) The parents share the obligation to provide medical support for the child or children specified in the order, by providing health care coverage or contributing a cash medical support obligation when appropriate, and paying a proportionate share of any uninsured medical expenses.

(4) Under appropriate circumstances, the court may excuse one parent from the responsibility to provide health care coverage or the monthly payment toward the premium. The child's receipt of public health care coverage may not be the sole basis for excusing a parent from providing health insurance coverage through an employer or union.

(5)(a) The court may specify how medical support must be provided by each parent under subsection (6) of this section.

(b) If the court does not specify how medical support will be provided or if neither parent provides proof that he or she is providing health care coverage for the child at the time the support order is entered, the division of child support or either parent may enforce a parent's obligation to provide medical support under RCW 26.18.170.

(6)(a) If there is sufficient evidence provided at the time the order is entered, the court may make a determination of which parent must provide health care coverage and which parent must contribute a sum certain amount as his or her monthly payment toward the premium.

(b) If both parents have available health insurance coverage or health care coverage that is accessible to the child at the time the support order is entered, the court has discretion to order the parent with better coverage to provide the coverage for the child and the other parent to pay a monthly payment toward the premium. In making the determination of which coverage is better, the court shall consider the needs of the child, the cost and extent of each parent's coverage, and the accessibility of the coverage.

(c) Each parent shall be responsible for his or her proportionate share of uninsured medical expenses.

(7) The order must provide that if the parties' circumstances change, the parties' medical support obligations will be enforced as provided in RCW 26.18.170.

(8) A parent who is ordered to maintain or provide health care coverage may comply with that requirement by:

(a) Providing proof of accessible health care coverage for any child named in the order; or

(b) Providing coverage that can be extended to cover the child that is available to that parent through employment or that is union-related, if the cost of such coverage does not exceed twenty-five percent of that parent's basic child support obligation.

(9) The order must provide that, while an obligated parent may satisfy his or her health care coverage obligation by enrolling the child in public health care coverage, that parent is also required to provide accessible health insurance coverage for the child if it is available at no cost through the parent's employer or union.

(10) The order must provide that the fact that one parent enrolled the child in public health care coverage does not satisfy the other parent's health care coverage obligation unless the support order provides otherwise. A parent may satisfy the obligation to provide health care coverage by:

(a) First enrolling the child in available and accessible health insurance coverage through the parent's employer or union if such coverage is available for no more than twenty-five percent of the parent's basic support obligation; or

(b) If there is no accessible health insurance coverage for the child available through the parent's employer or union, contributing a proportionate share of any premium paid by the other parent or the state for public health care coverage for the child.

(11) The court may order a parent to provide health care coverage that exceeds twenty-five percent of that parent's basic support obligation if it is in the best interests of the child to provide coverage.

(12) Each parent is responsible for his or her proportionate share of uninsured medical expenses for the child or children covered by the support order.

(13) The parents must maintain health care coverage as 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.

(14) 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.

(15) A parent ordered to provide health care coverage must provide proof of such coverage or proof that such coverage is unavailable within twenty days of the entry of the order to:

(a) The other parent; 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.

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

(17) When a parent is providing health insurance or health care coverage at the time the order is entered, the premium shall be included in the worksheets for the calculation of child support under chapter 26.19 RCW.

(18) As used in this section:

(a) "Accessible" means health care coverage which provides primary care services to the child or children with reasonable effort by the custodian.

(b) "Cash medical support" means a combination of: (i) A parent's monthly payment toward the premium paid for coverage provided by a public entity or by another parent, which represents the obligated parent's proportionate share of the premium paid, but no more than twenty-five percent of the obligated parent's basic support obligation; and (ii) a parent's proportionate share of uninsured medical expenses.

(c) "Uninsured medical expenses" includes premiums, copays, deductibles, along with other health care costs not covered by health care coverage.

(d) "Obligated parent" means a parent ordered to provide health insurance coverage for the children.

(e) "Proportionate share" means an amount equal to a parent's percentage share of the combined monthly net income of both parents as computed when determining a parent's child support obligation under chapter 26.19 RCW.

(f) "Monthly payment toward the premium" means a parent's contribution toward premiums paid for coverage provided by a public entity or by another parent, which is based on the obligated parent's proportionate share of the premium paid, but no more than twenty-five percent of the obligated parent's basic support obligation.

(g) "Premium" means the amount paid for coverage provided by a public entity or by another parent for a child covered by the order. This term may also mean "cost of coverage."

(19) This section does not 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.

(20) The department of social and health services has rule-making authority to enact rules in compliance with 45 C.F.R. Parts 302, 303, 304, 305, and 308. [2018 c 150 § 101; 2009 c 476 § 1; 1994 c 230 § 1; 1989 c 416 § 1; 1985 c 108 § 1; 1984 c 201 § 1.]

*Reviser's note: The reference to RCW 26.23.050 appears to refer to the amendments made by 1989 c 416 § 8, which was vetoed by the governor.

Additional notes found at www.leg.wa.gov

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 or domestic partnership, legal separation, or declaration concerning the validity of a marriage or domestic partnership. 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. [2008 c 6 § 1014; 1987 c 460 § 11; 1973 1st ex.s. c 157 § 11.]

Process—Domestic relations actions: Rules of court: CR 4.1.

Additional notes found at www.leg.wa.gov

26.09.120 Support or maintenance payments—To whom paid. (1) The court shall order support payments, including 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. [2008 c 6 § 1015; 1994 c 230 § 2; 1989 c 360 § 11. Prior: 1987 c 435 § 15; 1987 c 363 § 5; 1983 1st ex.s. c 45 § 3; 1973 1st ex.s. c 157 § 12.]

Additional notes found at www.leg.wa.gov

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. [1987 c 435 § 16; 1986 c 138 § 1; 1984 c 260 § 21.]

Additional notes found at www.leg.wa.gov

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 accumu-

lated 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. [1991 c 365 § 24; 1987 c 326 § 26.]

Reviser's note: *(1) RCW 41.04.310, 41.04.320, and 41.04.330 were repealed by 1987 c 326 § 21, effective July 1, 1987.

** (2) RCW 41.26.180 was recodified as RCW 41.26.053 pursuant to 1994 c 298 § 5.

Additional notes found at www.leg.wa.gov

26.09.140 Payment of costs, attorneys' 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 attorneys' 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 attorneys' fees in addition to statutory costs.

The court may order that the attorneys' fees be paid directly to the attorney who may enforce the order in his or her name. [2011 c 336 § 690; 1973 1st ex.s. c 157 § 14.]

26.09.150 Decree of dissolution of marriage or domestic partnership, legal separation, or declaration of invalidity—Finality—Appeal—Conversion of decree of legal separation to decree of dissolution—Name of party. (Effective until January 1, 2021.) (1) A decree of dissolution of marriage or domestic partnership, 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 or domestic partnership is irretrievably broken or was invalid, does not delay the finality of the dissolution or declaration of invalidity and either party may remarry or enter into a domestic partnership pending such an appeal.

(2)(a) 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 or domestic partnership. 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 or domestic partnership, annulment, or separate maintenance granted during the preceding month.

(b) Once a month, the state registrar of vital statistics shall prepare a list of persons for whom a certificate of dissolution of domestic partnership was transmitted to the registrar and was not included in a previous list, and shall supply the list to the secretary of state.

(3) Upon request of a party whose marriage or domestic partnership 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. [2008 c 6 § 1016. Prior: 1989 1st ex.s. c 9 § 205; 1989 c 375 § 30; 1973 1st ex.s. c 157 § 15.]

***Reviser's note:** RCW 70.58.200 was repealed by 1991 c 96 § 6.

Effect of entry of a decree of dissolution of marriage or a declaration of invalidity or certification of termination of a state registered domestic partnership on nonprobate assets: RCW 11.07.010.

Additional notes found at www.leg.wa.gov

26.09.150 Decree of dissolution of marriage or domestic partnership, legal separation, or declaration of invalidity—Finality—Appeal—Conversion of decree of legal separation to decree of dissolution—Name of party. (Effective January 1, 2021.) (1) A decree of dissolution of marriage or domestic partnership, 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 or domestic partnership is irretrievably bro-

ken or was invalid, does not delay the finality of the dissolution or declaration of invalidity and either party may remarry or enter into a domestic partnership pending such an appeal.

(2)(a) 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 or domestic partnership. The clerk of court shall complete the certificate 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 or domestic partnership, annulment, or separate maintenance granted during the preceding month.

(b) Once a month, the state registrar of vital statistics shall prepare a list of persons for whom a certificate of dissolution of domestic partnership was transmitted to the registrar and was not included in a previous list, and shall supply the list to the secretary of state.

(3) Upon request of a party whose marriage or domestic partnership 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. [2019 c 148 § 33; 2008 c 6 § 1016. Prior: 1989 1st ex.s. c 9 § 205; 1989 c 375 § 30; 1973 1st ex.s. c 157 § 15.]

Effective date—Rule-making authority—2019 c 148: See RCW 70.58A.901 and 70.58A.902.

Effect of entry of a decree of dissolution of marriage or a declaration of invalidity or certification of termination of a state registered domestic partnership on nonprobate assets: RCW 11.07.010.

Additional notes found at www.leg.wa.gov

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. [1991 c 367 § 4; 1989 c 318 § 1; 1987 c 460 § 12; 1973 1st ex.s. c 157 § 16.]

Additional notes found at www.leg.wa.gov

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:

WARNING: VIOLATION OF THE RESIDENTIAL PROVISIONS OF THIS ORDER WITH ACTUAL KNOWLEDGE OF ITS TERMS IS PUNISHABLE BY CONTEMPT OF COURT, AND MAY BE A CRIMINAL OFFENSE UNDER RCW 9A.40.060(2) or 9A.40.070(2). VIOLATION OF THIS ORDER MAY SUBJECT A VIOLATOR TO ARREST.

[1994 c 162 § 2; 1989 c 318 § 4.]

Additional notes found at www.leg.wa.gov

26.09.170 Modification of decree for maintenance or support, property disposition—Termination of maintenance obligation and child support—Grounds. (*Effective until February 1, 2021.*)

(1) Except as otherwise provided in RCW 26.09.070(7), 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 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 or registration of a new domestic partnership 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, provisions for the support of a child are terminated upon the marriage or registration of a domestic partnership to each other of parties to a paternity order, or upon the remarriage or registration of a domestic partnership to each other of parties to a decree of dissolution. The remaining provisions of the order, including provisions establishing paternity, remain in effect.

(5)(a) A party to an order of child support may petition for a modification based upon a showing of substantially changed circumstances at any time.

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

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

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

(b) 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

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

(7)(a) If twenty-four months have passed from the date of the entry of the order or the last adjustment or modification, whichever is later, the order may be adjusted without a showing of substantially changed circumstances based upon:

(i) Changes in the income of the parents; or

(ii) Changes in the economic table or standards in chapter 26.19 RCW.

(b) Either party may initiate the adjustment by filing a motion and child support worksheets.

(c) If the court adjusts or modifies a child support obligation pursuant to this subsection 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 another adjustment under this subsection may be filed.

(8)(a) The department of social and health services may file an action to modify or adjust an order of child support if public assistance money is being paid to or for the benefit of the child and the department has determined that the child support order is at least fifteen percent above or below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011.

(b) The department of social and health services may file an action to modify or adjust an order of child support in a nonassistance case if:

(i) The department has determined that the child support order is at least fifteen percent above or below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011;

(ii) The department has determined the case meets the department's review criteria; and

(iii) A party to the order or another state or jurisdiction has requested a review.

(c) If incarceration of the parent who is obligated to pay support is the basis for the difference between the existing child support order amount and the proposed amount of support determined as a result of a review, the department may file an action to modify or adjust an order of child support even if:

(i) There is no other change of circumstances; and

(ii) The change in support does not meet the fifteen percent threshold.

(d) The determination of whether the child support order is at least fifteen percent above or below the appropriate child support amount must be based on the current income of the parties.

(9) The department of social and health services may file an action to modify or adjust an order of child support under subsections (5) through (7) of this section if:

(a) Public assistance money is being paid to or for the benefit of the child;

(b) A party to the order in a nonassistance case has requested a review; or

(c) Another state or jurisdiction has requested a modification of the order.

(10) If testimony other than affidavit is required in any proceeding under this section, a court of this state shall permit a party or witness to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means, unless good cause is shown. [2019 c 275 § 2; 2010 c 279 § 1; 2008 c 6 § 1017; 2002 c 199 § 1; 1997 c 58 § 910; 1992 c 229 § 2; 1991 sp.s. c 28 § 2; 1990 1st ex.s. c 2 § 2; 1989 c 416 § 3; 1988 c 275 § 17; 1987 c 430 § 1; 1973 1st ex.s. c 157 § 17.]

Additional notes found at www.leg.wa.gov

26.09.170 Modification of decree for maintenance or support, property disposition—Termination of maintenance obligation and child support—Grounds. (Effective February 1, 2021.)

(1) Except as otherwise provided in RCW 26.09.070(7), 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 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 or registration of a new domestic partnership 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 person required to pay support for the child.

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

(5)(a) A party to an order of child support may petition for a modification based upon a showing of substantially changed circumstances at any time.

(b) The voluntary unemployment or voluntary underemployment of the person required to pay support, by itself, is not a substantial change of circumstances.

(6) An order of child support may be modified at any time to add language regarding abatement to ten dollars per month per order due to the incarceration of the person required to pay support, as provided in RCW 26.09.320.

(a) The department of social and health services, the person entitled to receive support or the payee under the order, or the person required to pay support may petition for a prospective modification of a child support order if the person required to pay support is currently confined in a jail, prison, or correctional facility for at least six months or is serving a sentence greater than six months in a jail, prison, or correctional facility, and the support order does not contain language regarding abatement due to incarceration.

(b) The petition may only be filed if the person required to pay support is currently incarcerated.

(c) As part of the petition for modification, the petitioner may also request that the support obligation be abated to ten dollars per month per order due to incarceration, as provided in RCW 26.09.320.

(7) An order of child support may be modified without showing a substantial change of circumstances if the requested modification is to modify an existing order when the person required to pay support has been released from incarceration, as provided in RCW 26.09.320(3)(d).

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

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

(b) 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

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

(9)(a) If twenty-four months have passed from the date of the entry of the order or the last adjustment or modification, whichever is later, the order may be adjusted without a showing of substantially changed circumstances based upon:

(i) Changes in the income of the person required to pay support, or of the payee under the order or the person entitled to receive support who is a parent of the child or children covered by the order; or

(ii) Changes in the economic table or standards in chapter 26.19 RCW.

(b) Either party may initiate the adjustment by filing a motion and child support worksheets.

(c) If the court adjusts or modifies a child support obligation pursuant to this subsection 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 another adjustment under this subsection may be filed.

(10)(a) The department of social and health services may file an action to modify or adjust an order of child support if public assistance money is being paid to or for the benefit of the child and the department has determined that the child support order is at least fifteen percent above or below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011.

(b) The department of social and health services may file an action to modify or adjust an order of child support in a nonassistance case if:

(i) The department has determined that the child support order is at least fifteen percent above or below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011;

(ii) The department has determined the case meets the department's review criteria; and

(iii) A party to the order or another state or jurisdiction has requested a review.

(c) If incarceration of the person required to pay support is the basis for the difference between the existing child support order amount and the proposed amount of support determined as a result of a review, the department may file an action to modify or adjust an order of child support even if:

(i) There is no other change of circumstances; and

(ii) The change in support does not meet the fifteen percent threshold.

(d) The determination of whether the child support order is at least fifteen percent above or below the appropriate child support amount must be based on the current income of the parties.

(11) The department of social and health services may file an action to modify or adjust an order of child support under subsections (5) through (9) of this section if:

(a) Public assistance money is being paid to or for the benefit of the child;

(b) A party to the order in a nonassistance case has requested a review; or

(c) Another state or jurisdiction has requested a modification of the order.

(12) If testimony other than affidavit is required in any proceeding under this section, a court of this state shall permit a party or witness to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means, unless good cause is shown. [2020 c 227 § 13; 2019 c 275 § 2; 2010 c 279 § 1; 2008 c 6 § 1017; 2002 c 199 § 1; 1997 c 58 § 910; 1992 c 229 § 2; 1991 sp.s. c 28 § 2; 1990 1st ex.s. c 2 § 2; 1989 c 416 § 3; 1988 c 275 § 17; 1987 c 430 § 1; 1973 1st ex.s. c 157 § 17.]

Effective date—2020 c 227 §§ 3-13: See note following RCW 26.09.320.

Findings—Intent—2020 c 227: See note following RCW 26.09.320.

Rule-making authority—2020 c 227: See RCW 26.09.916.

Additional notes found at www.leg.wa.gov

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)(a) 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. Proof of service shall be filed with the court.

(b) If the support obligation has been assigned to the state pursuant to RCW 74.20.330 or the state has a subro-

gated 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.

(3) As provided for under RCW 26.09.170, the department of social and health services may file an action to modify or adjust an order of child support if:

(a) Public assistance money is being paid to or for the benefit of the child;

(b) A party to the order in a nonassistance case has requested a review; or

(c) Another state or jurisdiction has requested a modification of the order.

(4) A 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. A responding party's failure to file an answer within the time required shall result in entry of a default judgment for the petitioner.

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

(6) Unless all parties stipulate to arbitration or the presiding judge authorizes oral testimony pursuant to subsection (7) 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.

(7) 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.

(8) If testimony other than affidavit is required in any proceeding under this section, a court of this state shall permit a party or witness to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means, unless good cause is shown. [2010 c 279 § 2; 2002 c 199 § 2; 1992 c 229 § 3; 1991 c 367 § 6; 1990 1st ex.s. c 2 § 3; 1987 c 430 § 2.]

Additional notes found at www.leg.wa.gov

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.

(2020 Ed.)

(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. [1989 2nd ex.s. c 2 § 1; 1989 c 375 § 8; 1987 c 460 § 7.]

26.09.182 Permanent parenting plan—Determination of relevant information. Before entering a permanent parenting plan, the court shall determine the existence of any information and proceedings relevant to the placement of the child that are available in the judicial information system and databases. [2007 c 496 § 304.]

Additional notes found at www.leg.wa.gov

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;

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(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) CONSIDERATION IN ESTABLISHING THE PERMANENT PARENTING PLAN. In establishing a permanent parenting plan, the court may consider the cultural heritage and religious beliefs of a child.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) PROVISIONS TO BE SET FORTH IN PERMANENT PARENTING PLAN. The permanent parenting plan shall set forth the provisions of subsections (4)(a) through (c), (5)(b) and (c), and (7) of this section. [2007 c 496 § 601; 1991 c 367 § 7; 1989 c 375 § 9; 1987 c 460 § 8.]

Custody, designation of for purposes of other statutes: RCW 26.09.285.

Failure to comply with decree or temporary injunction—Obligations not suspended: RCW 26.09.160.

Additional notes found at www.leg.wa.gov

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(5)(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(5)(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(5)(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;
- (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 as defined in *RCW 26.09.004(3), including whether a parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child;
- (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) Where the limitations of RCW 26.09.191 are not dispositive, 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 if such provision is in the best interests of the child. In determining whether such an arrangement is in the best interests of the child, the court may consider the parties geographic proximity to the extent necessary to ensure the ability to share performance of the parenting functions.

(c) For any child, residential provisions may contain any reasonable terms or conditions that facilitate the orderly and meaningful exercise of residential time by a parent, including but not limited to requirements of reasonable notice when residential time will not occur. [2007 c 496 § 603; 1989 c 375 § 10; 1987 c 460 § 9.]

*Reviser's note: RCW 26.09.004 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (3) to subsection (2).

(2020 Ed.)

Custody, designation of for purposes of other statutes: RCW 26.09.285.

Additional notes found at www.leg.wa.gov

26.09.191 Restrictions in temporary or permanent parenting plans. (Effective until January 1, 2021.)

(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(3) or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy.

(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(3) or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy; 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(3) or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy; 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 the child was not conceived and subsequently born as a result of a sexual assault committed by the parent requesting residential time and 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 the child was not conceived and subsequently born as a result of a sexual assault committed by the parent requesting residential time and 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 unsu-

pervised 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. The limitations shall also be reasonably calculated to provide for the safety of the parent who may be at risk of physical, sexual, or emotional abuse or harm that could result if the parent has contact with the parent

requesting residential time. The limitations the court may impose include, but are not limited to: Supervised contact between the child and the parent or completion of relevant counseling or treatment. If the court expressly finds 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) 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 pursuant to RCW 26.26A.465 to have committed sexual assault, as defined in RCW 26.26A.465, against the child's parent, and that the child was born within three hundred twenty days of the sexual assault.

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

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

(6) 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.

(7) For the purposes of this section:

(a) "A parent's child" means that parent's natural child, adopted child, or stepchild; and

(b) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010. [2019 c 46 § 5020; 2017 c 234 § 2; 2011 c 89 § 6; 2007 c 496 § 303; 2004 c 38 § 12; 1996 c 303 § 1; 1994 c 267 § 1. Prior: 1989 c 375 § 11; 1989 c 326 § 1; 1987 c 460 § 10.]

Effective date—2011 c 89: See note following RCW 18.320.005.

Findings—2011 c 89: See RCW 18.320.005.

Additional notes found at www.leg.wa.gov

26.09.191 Restrictions in temporary or permanent parenting plans. (Effective January 1, 2021.)

(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(3) or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy.

(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(3) or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy; 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(3) or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy; 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 the child was not conceived and subsequently born as a result of a sexual

assault committed by the parent requesting residential time and 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 the child was not conceived and subsequently born as a result of a sexual assault committed by the parent requesting residential time and 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 pro-

vider 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. The limitations shall also be reasonably calculated to provide for the safety of the parent who may be at risk of physical, sexual, or emotional abuse or harm that could result if the parent has contact with the parent requesting residential time. The limitations the court may impose include, but are not limited to: Supervised contact between the child and the parent or completion of relevant counseling or treatment. If the court expressly finds 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) 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 pursuant to RCW 26.26A.465 to have committed sexual assault, as defined in RCW 26.26A.465, against the child's parent, and that the child was born within three hundred twenty days of the sexual assault.

(iv) 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 (iv) 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 (iv) 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. Abusive use of conflict includes, but is not limited to, abusive litigation as defined in RCW 26.51.020. If the court finds a parent has engaged in abusive litigation, the court may impose any restrictions or remedies set forth in chapter 26.51 RCW in addition to including a finding in the parenting plan. Litigation that is aggressive or improper but that does not meet the definition of abusive litigation shall not constitute a basis for a finding under this section. A report

made in good faith to law enforcement, a medical professional, or child protective services of sexual, physical, or mental abuse of a child shall not constitute a basis for a finding of abusive use of conflict;

(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 cases involving allegations of limiting factors under subsection (2)(a)(ii) and (iii) of this section, both parties shall be screened to determine the appropriateness of a comprehensive assessment regarding the impact of the limiting factor on the child and the parties.

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

(6) 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.

(7) For the purposes of this section:

(a) "A parent's child" means that parent's natural child, adopted child, or stepchild; and

(b) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010. [2020 c 311 § 8; 2019 c 46 § 5020; 2017 c 234 § 2; 2011 c 89 § 6; 2007 c 496 § 303; 2004 c 38 § 12; 1996 c 303 § 1; 1994 c 267 § 1. Prior: 1989 c 375 § 11; 1989 c 326 § 1; 1987 c 460 § 10.]

Effective date—2020 c 311: See RCW 26.51.901.

Effective date—2011 c 89: See note following RCW 18.320.005.

Findings—2011 c 89: See RCW 18.320.005.

Additional notes found at www.leg.wa.gov

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 resi-

dence 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 or dissolution of domestic partnership, legal separation, or declaration of invalidity is dismissed, any temporary order or temporary parenting plan is vacated. [2008 c 6 § 1045; 1987 c 460 § 13.]

Additional notes found at www.leg.wa.gov

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) The relative strength, nature, and stability of the child's relationship with each parent; 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. [2007 c 496 § 604; 1987 c 460 § 14.]

Additional notes found at www.leg.wa.gov

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 or domestic partnership, 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. [2008 c 6 § 1018; 1987 c 460 § 15; 1973 1st ex.s. c 157 § 21.]

Additional notes found at www.leg.wa.gov

26.09.220 Parenting arrangements—Investigation and report—Appointment of guardian ad litem. (1)(a) 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, court-appointed special advocate, the staff of the juvenile court, or other professional social service organization experienced in counseling children and families.

(b) An investigator is a person appointed as an investigator under RCW 26.12.050(1)(b) or any other third-party professional ordered or appointed by the court to provide an opinion, assessment, or evaluation regarding the creation or modification of a parenting plan.

(2) In preparing the report concerning a child, the investigator or person appointed under subsection (1) of this section 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 or person appointed under subsection (1) of this section may refer the child to professional personnel for diagnosis. The investigator or person appointed under subsection (1) of this section 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 report by the investigator or person appointed under subsection (1) of this section may be received in evidence at the hearing.

(3) The investigator or person appointed under subsection (1) of this section shall provide his or her 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 or person appointed under subsection (1) of this section shall make available to counsel and to any party not represented by counsel his or her file of underlying data and reports, complete texts of diagnostic reports made to the investigator or appointed person pursuant to the provisions of subsection (2) of this section, and the names and addresses of all persons whom he or she has consulted. Any party to the proceeding may call the investigator or person appointed under subsection (1) of this section and any person whom the investigator or appointed person has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing. [2011 c 292 § 4; 1993 c 289 § 1; 1989 c 375 § 12; 1987 c 460 § 16; 1973 1st ex.s. c 157 § 22.]

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. [1991 sp.s. c 28 § 3; 1990 1st ex.s. c 2 § 18; 1987 c 460 § 17.]

Additional notes found at www.leg.wa.gov

26.09.231 Residential time summary report. The parties to dissolution matters shall file with the clerk of the court the residential time summary report. The summary report shall be on the form developed by the administrative office of the courts in consultation with the department of social and health services division of child support. The parties must complete the form and file the form with the court order. [2017 c 183 § 2; 2007 c 496 § 701.]

Additional notes found at www.leg.wa.gov

26.09.255 Remedies when a child is taken, enticed, or concealed. (1) A relative 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.

(2) "Relative" means an ancestor, descendant, or sibling including a relative of the same degree through marriage, domestic partnership, or adoption, or a spouse or domestic partner. [2008 c 6 § 1019; 1987 c 460 § 22; 1984 c 95 § 6.]

Additional notes found at www.leg.wa.gov

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. The effect of a parent's military duties potentially impacting parenting functions shall not, by itself, be a substantial change of circumstances justifying a permanent modification of a prior decree or plan.

(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)(a) 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.

(b) For the purposes of determining whether the parent has failed to exercise residential time for one year or longer, the court may not count any time periods during which the parent did not exercise residential time due to the effect of the parent's military duties potentially impacting parenting functions.

(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 non-residential 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 parent with whom the child resides a majority of the time receives temporary duty, deployment, activation, or mobilization orders from the military that involve moving a substantial distance away from the parent's residence or otherwise would have a material effect on the parent's ability to exercise parenting functions and primary placement responsibilities, then:

(a) Any temporary custody order for the child during the parent's absence shall end no later than ten days after the returning parent provides notice to the temporary custodian, but shall not impair the discretion of the court to conduct an expedited or emergency hearing for resolution of the child's residential placement upon return of the parent and within ten days of the filing of a motion alleging an immediate danger of irreparable harm to the child. If a motion alleging immediate danger has not been filed, the motion for an order restoring the previous residential schedule shall be granted; and

(b) The temporary duty, activation, mobilization, or deployment and the temporary disruption to the child's schedule shall not be a factor in a determination of change of circumstances if a motion is filed to transfer residential placement from the parent who is a military service member.

(12) If a parent receives military temporary duty, deployment, activation, or mobilization orders that involve moving a substantial distance away from the military parent's residence or otherwise have a material effect on the military parent's ability to exercise residential time or visitation rights, at the request of the military parent, the court may delegate the military parent's residential time or visitation rights, or a portion thereof, to a child's family member, including a stepparent, or another person other than a parent, with a close and substantial relationship to the minor child for the duration of the military parent's absence, if delegating residential time or visitation rights is in the child's best interest. The court may not permit the delegation of residential time or visitation rights to a person who would be subject to limitations on residential time under RCW 26.09.191. The parties shall attempt to resolve disputes regarding delegation of residential time or visitation rights through the dispute resolution process specified in their parenting plan, unless excused by the court for good cause shown. Such a court-ordered temporary delegation of a military parent's residential time or visitation rights does not create separate rights to residential time or visitation for a person other than a parent.

(13) 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. [2009 c 502 § 3; 2000 c 21 § 19; 1999 c 174 § 1; 1991 c 367 § 9. Prior: 1989 c 375 § 14; 1989 c 318 § 3; 1987 c 460 § 19; 1973 1st ex.s. c 157 § 26.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

Additional notes found at www.leg.wa.gov

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 or her motion, an affidavit setting forth facts supporting the requested order or modification and shall give notice, together with a copy of his or her 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. [2011 c 336 § 691; 1989 c 375 § 15; 1973 1st ex.s. c 157 § 27.]

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 or domestic partnership, whether under this chapter or prior law, regarding the parenting plan or child support for the minor children of the marriage or the domestic partnership 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

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residing. [2008 c 6 § 1020; 1991 c 367 § 10; 1987 c 460 § 20; 1975 c 32 § 4; 1973 1st ex.s. c 157 § 28.]

Additional notes found at www.leg.wa.gov

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. [1989 c 375 § 16; 1987 c 460 § 21.]

26.09.290 Final decree of dissolution nunc pro tunc. Whenever either of the parties in an action for dissolution of marriage or domestic partnership 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 dissolution 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 or any domestic partnership 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. [2008 c 6 § 1021; 1973 1st ex.s. c 157 § 29.]

Additional notes found at www.leg.wa.gov

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 of 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. [2000 c 119 § 21; 1996 c 248 § 9; 1995 c 246 § 27; 1984 c 263 § 28; 1974 ex.s. c 99 § 1.]

Additional notes found at www.leg.wa.gov

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, in a domestic partnership or not, 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. [2008 c 6 § 1022; 1989 c 377 § 1.]

Additional notes found at www.leg.wa.gov

26.09.315 Child custody issues—Abduction by parent—Information. In any proceeding under this chapter where the custody or care of a minor child is at issue or in dispute, information on the harmful effects of parental abduction shall be included in any packet of information or materials provided to the parties, or in any parenting class or seminar that is offered to or required of the parties. The information shall include the following:

PAMPHLET REGARDING THE HARMFUL EFFECTS
OF PARENTAL ABDUCTION IN
CHILD CUSTODY CASES

Child custody disputes can sometimes lead one parent or the other to abduct one or more of their children. Each year approximately two hundred fifty thousand children in the United States are abducted by a noncustodial or custodial parent in violation of the law.

Child abduction, including abduction by a parent, commonly leads to growing fear, confusion, and general mistrust on the part of the child. Parental abduction means a loss of the parent left behind, extended family, friends, pets, community, and familiar surroundings that provide children with a sense of security and well-being. Such losses may be very traumatic for a child leading to long-term, adverse effects as the child grows.

Given the need to maintain secrecy by the abducting parent, children who are parentally abducted often:

- (1) Fail to receive an adequate education;
- (2) Fail to receive adequate medical care;
- (3) Live in substandard housing;
- (4) Are told the parent left behind is a bad person, does not want the child, or is deceased;
- (5) Are instructed to lie to remain anonymous and hidden;
- (6) Are fearful of leaving their residence;
- (7) Are fearful of encountering law enforcement and other security personnel.

If and when returned, abducted children often live in apprehension of being abducted again. Just as abused children may identify with and seek the approval of their abuser, abducted children may do the same with their abductor. Once returned the child may feel anger and resentment at the parent who was left behind because the child now does not have visitation or communication with the abducting parent.

The returned child may suffer loyalty conflicts, emotional detachment, and feelings of betrayal by providing information about the abducting parent who broke the law. An inability to trust adults in general can hinder the child's ability to form lasting relationships even long into adulthood.

If the child is very young when abducted and is returned as an older child, the child may suffer serious negative emotional effects because the child feels as if he or she is returned to a stranger and therefore the return to the parent who was originally left behind seems like an abduction itself.

Parents need to understand that even though their relationship with each other may be strained or even toxic, their children often have a strong, loving, trusting relationship with both parents.

A parent who is considering abducting his or her child should know and understand the potential short-term and long-term traumatic impacts that parental abduction has on a

child and consider only those actions that will be lawful and will contribute to the child's best interests. [2013 c 91 § 1.]

26.09.320 Child support—Procedures for abatement based on incarceration—Rebuttable presumption of inability to pay—Reinstatement of support obligation. (Effective February 1, 2021.) (1) When a child support order contains language providing for abatement based on incarceration of the person required to pay child support, there is a rebuttable presumption that an incarcerated person is unable to pay the child support obligation. Unless the presumption is rebutted, the provisions of subsection (3) of this section apply.

(2)(a) If the child support order does not contain language providing for abatement based on incarceration of the person required to pay support, the department, the person required to pay support, the payee under the order, or the person entitled to receive support may commence an action in the appropriate forum to:

(i) Modify the support order to contain abatement language; and

(ii) Abate the person's child support obligation due to current incarceration for at least six months.

(b) In a proceeding brought under this subsection, there is a rebuttable presumption that an incarcerated person is unable to pay the child support obligation. The department, the payee under the order, or the person entitled to receive support, may rebut the presumption by demonstrating that the person required to pay support has possession of, or access to, income or assets available to provide support while incarcerated.

(c) Unless the presumption is rebutted, the provisions of subsection (3) of this section apply.

(3) If the court or administrative forum determines that abatement of support is appropriate:

(a) The child support obligation under that order will be abated to ten dollars per month, without regard to the number of children covered by that order, while the person required to pay support is confined in a jail, prison, or correctional facility for at least six months or is serving a sentence greater than six months in a jail, prison, or correctional facility. Either the department, the payee under the order, or the person entitled to receive support may rebut the presumption by demonstrating the person required to pay support has possession of, or access to, income or assets available to provide support while incarcerated.

(b) If the incarcerated person's support obligation under the order is abated as provided in (a) of this subsection, the obligation will remain abated to ten dollars per month through the last day of the third month after the person is released from confinement.

(c) After abatement, the support obligation of the person required to pay support under the order is automatically reinstated at fifty percent of the support amount provided in the underlying order, but may not be less than the presumptive minimum obligation of fifty dollars per month per child, effective the first day of the fourth month after the person's release from confinement. Effective one year after release from confinement, the reinstatement at fifty percent of the support amount is automatically terminated, and the support obligation of the person required to pay support under the

order is automatically reinstated at one hundred percent of the support amount provided in the underlying order.

(i) Upon a showing of good cause by a party that the circumstances of the case allow it, the court or administrative forum may add specific provisions to the order abating the child support obligation regarding when and how the abatement may terminate.

(ii) During the period of abatement, the department, the person required to pay support, the payee under the order, or the person entitled to receive support may commence an action to modify the child support order under RCW 26.09.170 or 74.20A.059, in which case the provision regarding reinstatement of the support amount at fifty percent does not apply.

(d) If the incarcerated person's support obligation under the order has been abated as provided in (a) of this subsection and then has been reinstated under (c) of this subsection:

(i) Either the department, the person required to pay support, the payee under the order, or the person entitled to receive support may file an action to modify or adjust the order in the appropriate forum, if:

(A) The provisions of (c)(i) and (ii) of this subsection do not apply; and

(B) The person required to pay support has been released from incarceration.

(ii) An action to modify or adjust the order based on the release from incarceration of the person required to pay support may be filed even if there is no other change of circumstances.

(4) The effective date of abatement of a child support obligation based on incarceration to ten dollars per month per order is the date on which the person required to pay support is confined in a jail, prison, or correctional facility for at least six months or begins serving a sentence greater than six months in a jail, prison, or correctional facility, regardless of when the department is notified of the incarceration. However:

(a) The person required to pay support is not entitled to a refund of any support collections or payments that were received by the department prior to the date on which the department is notified of the incarceration; and

(b) The department, the payee under the order, or the person entitled to receive support is not required to refund any support collections or payments that were received by the department prior to the date on which the department is notified of the incarceration.

(5) Abatement of a child support obligation based on incarceration of the person required to pay support does not constitute modification or adjustment of the order. [2020 c 227 § 4.]

Reviser's note: For the purposes of this section, "department" appears to refer to the department of social and health services, division of child support.

Effective date—2020 c 227 §§ 3-13: "Sections 3 through 13 of this act take effect February 1, 2021." [2020 c 227 § 16.]

Findings—Intent—2020 c 227: "(1) The legislature finds that a large number of justice-involved individuals owe significant child support debts when they are released from incarceration.

(2) The legislature finds that these child support debts are often uncollectible and unduly burdensome on a recently released justice-involved individual, and that such debts severely impact the ability of the person required to pay support to have a successful reentry and reintegration into society.

(3) The legislature finds that there is case law in Washington, *In re Marriage of Blickenstaff*, 71 Wn. App. 489, 859 P.2d 646 (1993), providing that incarceration does not equate to voluntary unemployment or voluntary underemployment.

(4) The legislature finds that there is a statewide movement to assist justice-involved individuals reenter and reintegrate into society, and to reduce state-caused pressures which tend to lead to recidivism and a return to jail or prison.

(5) The legislature finds that, although there is currently a statutory process for modification of child support orders, it is in the best interests of the children of the state of Washington to create a process of abatement instead of making it the sole responsibility of the justice-involved person to take action to deal with his or her child support obligation while incarcerated.

(6) The legislature intends, therefore, to create a remedy whereby court or administrative orders for child support entered in Washington state may be abated when the person required to pay support is incarcerated for at least six months and has no income or assets available to pay support.

(7) The goal of this act is to ensure that the person required to pay support makes the maximum child support monthly payment amount appropriate to comply with an order for child support, notwithstanding other provisions related to abatement herein." [2020 c 227 § 3.]

26.09.325 Child support—Who may make request for abatement based on incarceration—Procedures when multiple orders requiring incarcerated person to pay support exist. (Effective February 1, 2021.) Either the department, the person required to pay support, the payee under the order, or the person entitled to receive support may make a request for abatement of child support to ten dollars per month under an order for child support when the person required to pay support is currently confined in a jail, prison, or correctional facility for at least six months, or is serving a sentence greater than six months in a jail, prison, or correctional facility.

(1) A request for the abatement of child support owed under one child support order does not automatically qualify as a request for abatement of support owed under every order that may exist requiring that person to pay support. However, the request applies to any support order which is being enforced by the department at the time of the request.

(2) If there are multiple orders requiring the incarcerated person to pay child support, the issue of whether abatement of support due to incarceration is appropriate must be considered for each order.

(a) The payee or person entitled to receive support under each support order is entitled to notice and an opportunity to be heard regarding the potential abatement of support under that order.

(b) If the child or children covered by a support order are not residing with the payee under the order, any other person entitled to receive support for the child or children must be provided notice and an opportunity to be heard regarding the potential abatement of support under that order. [2020 c 227 § 5.]

Reviser's note: For the purposes of this section, "department" appears to refer to the department of social and health services, division of child support.

Effective date—2020 c 227 §§ 3-13: See note following RCW 26.09.320.

Findings—Intent—2020 c 227: See note following RCW 26.09.320.

26.09.330 Child support—Department duties when order contains abatement language and obligated person is incarcerated—Procedures. (Effective February 1, 2021.) (1) When a child support order contains language

regarding abatement to ten dollars per month per order based on incarceration of the person required to pay support, and that person is currently confined in a jail, prison, or correctional facility for at least six months, or is serving a sentence greater than six months in a jail, prison, or correctional facility, the department must:

(a) Review the support order for abatement once the department receives notice from the person required to pay support or someone acting on his or her behalf that the person may qualify for abatement of support;

(b) Review its records and other available information to determine if the person required to pay support has possession of, or access to, income or assets available to provide support while incarcerated; and

(c) Decide whether abatement of the person's support obligation is appropriate.

(2) If the department decides that abatement of the person's support obligation is appropriate, the department must notify the person required to pay support, and the payee under the order or the person entitled to receive support, that the incarcerated person's support obligation has been abated and that the abatement will continue until the first day of the fourth month after the person is released from confinement. The notification must include the following information:

(a) The payee under the order or the person entitled to receive support may object to the abatement of support due to incarceration;

(i) An objection must be received within twenty days of the notification of abatement;

(ii) Any objection will be forwarded to the office of administrative hearings for an adjudicative proceeding under chapter 34.05 RCW;

(iii) The department, the person required to pay support, and the payee under the order or the person entitled to receive support, all have the right to participate in the administrative hearing as parties; and

(iv) The burden of proof is on the party objecting to the abatement of support to show that the person required to pay support has possession of, or access to, income or assets available to provide support while incarcerated;

(b) The effective date of the abatement of support;

(c) The estimated date of release;

(d) The estimated date that the abatement will end;

(e) That the person required to pay support, the payee under the order, the person entitled to receive support, or the department may file an action to modify the underlying support order once the person required to pay support is released from incarceration, as provided under RCW 26.09.320(3)(d); and

(f) That, if the abated obligation was established by a court order, the department will file a copy of the notification in the court file.

(3) If the department decides that abatement of the incarcerated person's support obligation is not appropriate, the department must notify the person required to pay support and the payee under the order or the person entitled to receive support, that the department does not believe that abatement of the support obligation should occur. The notification must include the following information:

(a) The reasons why the department decided that abatement of the support obligation is not appropriate;

(b) The person required to pay support and the payee under the order or the person entitled to receive support may object to the department's decision not to abate the support obligation;

(i) An objection must be received within twenty days of the notification of abatement;

(ii) Any objection will be forwarded to the office of administrative hearings for an adjudicative proceeding under chapter 34.05 RCW; and

(iii) The department, the incarcerated person, and the payee under the order or the person entitled to receive support all have the right to participate in the administrative hearing as parties;

(c) That, if the administrative law judge enters an order providing that abatement is appropriate, the department will take appropriate steps to document the abatement and will provide notification to the parties as required in subsection (2) of this section. [2020 c 227 § 6.]

Reviser's note: For the purposes of this section, "department" appears to refer to the department of social and health services, division of child support.

Effective date—2020 c 227 §§ 3-13: See note following RCW 26.09.320.

Findings—Intent—2020 c 227: See note following RCW 26.09.320.

26.09.335 Child support—Department duties when order does not contain abatement language and obligated person is incarcerated—Procedures. (Effective February 1, 2021.) (1) When a court or administrative order does not contain language regarding abatement based on incarceration of the person required to pay support and the department receives notice that the person is currently confined in a jail, prison, or correctional facility for at least six months or is serving a sentence greater than six months in a jail, prison, or correctional facility, the department must refer the case to the appropriate forum for a determination of whether the order should be modified to:

(a) Contain abatement language as provided in RCW 26.09.320; and

(b) Abate the person's child support obligation due to current incarceration.

(2) In a proceeding brought under this section, there is a rebuttable presumption that an incarcerated person is unable to pay the child support obligation. The department, the payee under the order, or the person entitled to receive support may rebut the presumption by demonstrating that the incarcerated person has possession of, or access to, income or assets available to provide support while incarcerated.

(3) Unless the presumption is rebutted, the court or administrative forum must enter an order providing that the child support obligation under the order is abated to ten dollars per month, without regard to the number of children covered by the order, if the person required to pay support is confined in a jail, prison, or correctional facility for at least six months, or is serving a sentence greater than six months in a jail, prison, or correctional facility.

(4) The order must:

(a) Include the appropriate language required by RCW 26.09.320 in order to provide for a rebuttable presumption of abatement to ten dollars per month per order;

(2020 Ed.)

(b) Provide that the order must be reinstated at fifty percent of the previously ordered support amount but not less than the presumptive minimum obligation of fifty dollars per month per child, effective on the first day of the fourth month after the person's release from confinement, and also provide that the order must be automatically reinstated at one hundred percent of the previously ordered support amount effective one year after release from confinement; and

(c) Include language regarding an action to modify or adjust the underlying order as provided under RCW 26.09.320(3). [2020 c 227 § 7.]

Reviser's note: For the purposes of this section, "department" appears to refer to the department of social and health services, division of child support.

Effective date—2020 c 227 §§ 3-13: See note following RCW 26.09.320.

Findings—Intent—2020 c 227: See note following RCW 26.09.320.

26.09.340 Child support—Requests for reversal or termination of abatement based on incarceration—Procedures. (Effective February 1, 2021.) (1) At any time during the period of incarceration, the department, the payee under the order, or the person entitled to receive support may file a request to reverse or terminate the abatement of support by demonstrating that the incarcerated person has possession of, or access to, income or assets available to provide support while incarcerated.

(a) A request for reversal or termination of the abatement may be filed with the department or with the office of administrative hearings.

(b) The request must include documents or other evidence showing that the incarcerated person has possession of, or access to, income or assets available to provide support while incarcerated.

(c) If the request for a hearing does not include documents or evidence showing that the incarcerated person has possession of, or access to, income or assets, the department may file a motion asking that the request for a hearing be dismissed before a hearing is scheduled or held.

(d) The party seeking to reverse or terminate the abatement may seek to vacate the dismissal order by filing a motion which includes the required proof.

(e) Depending on the type of evidence provided at the hearing, the administrative law judge may order that the abatement of the support obligation be:

(i) Reversed, meaning that the determination that support should be abated is vacated and all amounts owed under the support order are reinstated; or

(ii) Terminated, meaning that the abatement of support ends as of the date specified in the order.

(2) At any time during the period of incarceration, the person required to pay support may file a request to reverse or terminate the abatement of support.

(a) The request for reversal or termination of the abatement may be filed with the department or with the office of administrative hearings.

(b) The person required to pay support is not required to provide any documents or other evidence to support the request.

(3) Abatement of a support obligation does not constitute modification or adjustment of the order. [2020 c 227 § 8.]

Reviser's note: For the purposes of this section, "department" appears to refer to the department of social and health services, division of child support.

Effective date—2020 c 227 §§ 3-13: See note following RCW 26.09.320.

Findings—Intent—2020 c 227: See note following RCW 26.09.320.

NOTICE REQUIREMENTS AND STANDARDS FOR RELOCATION OF CHILD

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 26.26B.090 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 26.26B.090 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 26.26B.090 do not apply to those terms of that order governing relocation of the child.

(3) The provisions of RCW 26.09.405 through 26.09.560 do not apply to visitation orders entered in dependency proceedings as provided in RCW 13.34.385. [2019 c 46 § 5021; 2008 c 259 § 2; 2000 c 21 § 3.]

***Reviser's note:** Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

Intent—2000 c 21: "By this act, the legislature intends to supersede the state supreme court's decisions *In Re the Marriage of Littlefield*, 133 Wn.2d 39 (1997), and *In Re the Marriage of Pape*, Docket No. 67527-9, December 23, 1999." [2000 c 21 § 1.]

Additional notes found at www.leg.wa.gov

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, or a change in residence in cases where parents have substantially equal residential time as defined by RCW 26.09.525. [2019 c 79 § 4; 2000 c 21 § 2.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

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. [2000 c 21 § 4.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

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, or a person with substantially equal residential 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. [2019 c 79 § 2; 2000 c 21 § 5.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

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. [2000 c 21 § 6.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

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. [2000 c 21 § 7.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

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. [2000 c 21 § 8.]

(2020 Ed.)

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

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. [2000 c 21 § 9.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

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. [2000 c 21 § 10.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

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. [2000 c 21 § 11.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

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. [2000 c 21 § 12.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

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 26.26B.090; 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. [2019 c 46 § 5022; 2000 c 21 § 13.]

***Reviser's note:** Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

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 seeking relocation 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. [2019 c 79 § 3; 2000 c 21 § 14.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

26.09.525 Substantially equal residential time. (1) If the person proposing relocation of a child has substantially equal residential time:

(a) The presumption in RCW 26.09.520 does not apply; and

(b) In determining whether to restrict a parent's right to relocate with a child or in determining a modification of the court order as defined in RCW 26.09.410 based on the proposed relocation, the court shall make a determination in the best interests of the child considering the factors set forth in RCW 26.09.520.

(2) For the purposes of this section and RCW 26.09.430, "substantially equal residential time" includes arrangements in which forty-five percent or more of the child's residential time is spent with each parent. In determining the percentage, the court must (a) consider only time spent with parents and not any time ordered for nonparents under chapter 26.11 RCW; and (b) base its determination on the amount of time designated in the court order unless: (i) There has been an ongoing pattern of substantial deviation from the residential schedule; (ii) both parents have agreed to the deviation; and (iii) the deviation is not based on circumstances that are beyond either parent's ability to control. [2019 c 79 § 1.]

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. [2000 c 21 § 15.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

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. [2000 c 21 § 16.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

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 sched-

(2020 Ed.)

ule 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. [2000 c 21 § 17.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

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. [2000 c 21 § 18.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

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. [1974 ex.s. c 15 § 1.]

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. [1974 ex.s. c 15 § 2.]

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. [1974 ex.s. c 15 § 3.]

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. [1989 c 375 § 17; 1987 c 460 § 23.]

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. [1990 1st ex.s. c 2 § 16; 1989 c 375 § 18; 1987 c 460 § 24.]

Additional notes found at www.leg.wa.gov

26.09.910 Short title—1987 c 460. This act shall be known as the parenting act of 1987. [1987 c 460 § 57.]

26.09.911 Section captions—1987 c 460. Section captions as used in this act do not constitute any part of the law. [1987 c 460 § 58.]

26.09.912 Effective date—1987 c 460. This act shall take effect on January 1, 1988. [1987 c 460 § 59.]

26.09.915 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 65.]

26.09.916 Rule-making authority—2020 c 227. The department is granted rule-making authority to adopt rules necessary for the implementation of chapter 227, Laws of 2020. [2020 c 227 § 14.]

Findings—Intent—2020 c 227: See note following RCW 26.09.320.

Chapter 26.10 RCW

NONPARENTAL ACTIONS FOR CHILD CUSTODY

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Child support registry: Chapter 26.23 RCW.

26.10.010 Intent. (Effective until January 1, 2021.) 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. [1987 c 460 § 25.]

***Reviser's note:** For codification of the 1987 parenting act, 1987 c 460, see Codification Tables.

26.10.015 Mandatory use of approved forms. (Effective until January 1, 2021.) (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. [1992 c 229 § 4; 1990 1st ex.s. c 2 § 27.]

Additional notes found at www.leg.wa.gov

26.10.020 Civil practice to govern—Designation of proceedings—Decrees. (Effective until January 1, 2021.)

(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. [1987 c 460 § 26.]

26.10.030 Child custody proceeding—Commencement—Notice—Intervention. (Effective until January 1, 2021.) (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. [2003 c 105 § 3; 2000 c 135 § 3; 1998 c 130 § 4; 1987 c 460 § 27.]

26.10.032 Child custody motion—Affidavit required—Notice—Denial of motion—Show cause hearing. (Effective until January 1, 2021.) (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. [2003 c 105 § 6.]

26.10.034 Petitions—Indian child statement—Application of federal Indian child welfare act. (Effective until January 1, 2021.) (1) 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 RCW 13.38.040. If the child is an Indian child, chapter 13.38 RCW shall apply.

(2) Every order or decree entered in any proceeding under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13.38 RCW does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13.38 RCW does apply, the decree or order must also contain a finding that all notice and evidentiary requirements under the federal Indian child welfare act and chapter 13.38 RCW have been satisfied. [2011 c 309 § 31; 2004 c 64 § 1; 2003 c 105 § 7.]

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. (Effective until January 1, 2021.) (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. [2000 c 119 § 8; 1995 c 93 § 3; 1994 sp.s. c 7 § 453; 1989 c 375 § 31; 1987 c 460 § 28.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

26.10.045 Child support schedule. (Effective until January 1, 2021.) A determination of child support shall be based upon the child support schedule and standards adopted under *RCW 26.19.040. [1988 c 275 § 12.]

*Reviser's note: RCW 26.19.040 was repealed by 1991 sp.s. c 28 § 8, effective September 1, 1991.

Additional notes found at www.leg.wa.gov

26.10.050 Child support by parents—Apportionment of expense. (Effective until January 1, 2021.) In a custody proceeding, the court may order either or both par-

ents owing a duty of support to any child of the marriage or the domestic partnership dependent upon either or both spouses or either or both domestic partners to pay an amount reasonable or necessary for the child's support. [2008 c 6 § 1023; 1987 c 460 § 29.]

Additional notes found at www.leg.wa.gov

26.10.060 Health insurance coverage—Conditions. (*Effective until January 1, 2021.*) 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. [1989 c 375 § 19; 1987 c 460 § 30.]

26.10.070 Minor or dependent child—Court appointed attorney to represent—Payment of costs, fees, and disbursements. (*Effective until January 1, 2021.*) 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. [1989 c 375 § 20; 1987 c 460 § 31.]

26.10.080 Payment of costs, attorney's fees, etc. (*Effective until January 1, 2021.*) 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. [1987 c 460 § 35.]

26.10.090 Failure to comply with decree or temporary injunction—Obligation to make support payments or permit visitation not suspended—Motion. (*Effective until January 1, 2021.*) 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. [1987 c 460 § 36.]

26.10.100 Determination of custody—Child's best interests. (*Effective until January 1, 2021.*) The court shall determine custody in accordance with the best interests of the child. [1987 c 460 § 38.]

26.10.110 Temporary custody order—Vacation of order. (*Effective until January 1, 2021.*) 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. [1987 c 460 § 39.]

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, and shall order the respondent to surrender, and prohibit the respondent from possessing, all firearms, dangerous weapons, and any concealed pistol license as required in 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. [2019 c 245 § 18; 2000 c 119 § 9; 1995 c 246 § 29; 1994 sp.s. c 7 § 454; 1989 c 375 § 32.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

26.10.120 Interview with child by court—Advice of professional personnel. (Effective until January 1, 2021.)

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. [1987 c 460 § 40.]

26.10.130 Investigation and report. (Effective until January 1, 2021.)

(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. [1993 c 289 § 2; 1987 c 460 § 41.]

26.10.135 Custody orders—Background information to be consulted. (Effective until January 1, 2021.) (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 children, youth, and families 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. [2017 3rd sp.s. c 6 § 333; 2003 c 105 § 1.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

26.10.140 Hearing—Record—Expenses of witnesses. (Effective until January 1, 2021.) 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. [1987 c 460 § 42.]

26.10.150 Access to child's education and medical records. (Effective until January 1, 2021.) Each parent shall have full and equal access to the education and medical records of the child absent a court order to the contrary. [1987 c 460 § 43.]

26.10.160 Visitation rights—Limitations. (Effective until January 1, 2021.) (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(3) 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(3) 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) 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.

(4) For the purposes of this section:

(a) "A parent's child" means that parent's natural child, adopted child, or stepchild; and

(b) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010. [2018 c 183 § 7; 2011 c 89 § 7; 2004 c 38 § 13; 1996 c 303 § 2; 1994 c 267 § 2; 1989 c 326 § 2; 1987 c 460 § 44.]

Effective date—2011 c 89: See note following RCW 18.320.005.

Findings—2011 c 89: See RCW 18.320.005.

Additional notes found at www.leg.wa.gov

26.10.170 Powers and duties of custodian—Supervision by appropriate agency when necessary. (Effective until January 1, 2021.) 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. [1987 c 460 § 45.]

26.10.180 Remedies when a child is taken, enticed, or concealed. (Effective until January 1, 2021.) (1) A relative 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.

(2) "Relative" means an ancestor, descendant, or sibling including a relative of the same degree through marriage, domestic partnership, or adoption, or a spouse or domestic partner. [2008 c 6 § 1024; 1989 c 375 § 21; 1987 c 460 § 46.]

Additional notes found at www.leg.wa.gov

26.10.190 Petitions for modification and proceedings concerning relocation of child—Assessment of attorneys' fees. (Effective until January 1, 2021.) (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. [2000 c 21 § 21; 1989 c 375 § 24; 1987 c 460 § 47.]

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

Additional notes found at www.leg.wa.gov

26.10.200 Temporary custody order or modification of custody decree—Affidavits required. (Effective until January 1, 2021.) 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. [1987 c 460 § 48.]

26.10.210 Venue. (Effective until January 1, 2021.) 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. [1987 c 460 § 49.]

26.10.220 Restraining orders—Notice—Refusal to comply—Arrest—Penalty—Defense—Peace officers, immunity. (Effective until January 1, 2021.) (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. [2000 c 119 § 22; 1999 c 184 § 11; 1996 c 248 § 10; 1995 c 246 § 30; 1987 c 460 § 50.]

Additional notes found at www.leg.wa.gov

26.10.910 Short title—1987 c 460. (Effective until January 1, 2021.) See RCW 26.09.910.

Chapter 26.11 RCW

NONPARENTAL CHILD VISITATION—RELATIVES

Sections

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26.11.050	Attorneys' fees—Transportation costs.
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26.11.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Parent" means a legal parent whose rights have not been terminated, relinquished, or declared not to exist.

(2)(a) "Relative" means:

(i) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the biological and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection, even after the marriage is terminated;

(v) Relatives, as named in (a)(i), (ii), or (iii) of this subsection, of any half sibling of the child; or

(vi) Extended family members, as defined by the law or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4).

(b) "Relative" does not include a person whose parental rights have been terminated, relinquished, or determined not to exist with respect to a child who is the subject of a petition under this chapter. [2018 c 183 § 1.]

26.11.020 Petition for visitation—Criteria—Ongoing and substantial relationship with child—Relatives—Likelihood of harm to child. (1) A person who is not the parent of the child may petition for visitation with the child if:

(a) The petitioner has an ongoing and substantial relationship with the child;

(b) The petitioner is a relative of the child or a parent of the child; and

(c) The child is likely to suffer harm or a substantial risk of harm if visitation is denied.

(2) A person has established an ongoing and substantial relationship with a child if the person and the child have had a relationship formed and sustained through interaction, companionship, and mutuality of interest and affection, without expectation of financial compensation, with substantial continuity for at least two years unless the child is under the age of two years, in which case there must be substantial continuity for at least half of the child's life, and with a shared expectation of and desire for an ongoing relationship. [2018 c 183 § 2.]

26.11.030 Venue—Filing requirements—Affidavit—Notice—Hearing—Temporary visitation orders not authorized. (1) If a court has jurisdiction over the child pur-

suant to chapter 26.27 RCW, a petition for visitation under RCW 26.11.020 must be filed with that court.

(2) Except as otherwise provided in subsection (1) of this section, if a court has exclusive original jurisdiction over the child under *RCW 13.04.030(1) (a) through (d), (h), or (j), a petition for visitation under RCW 26.11.020 must be filed with that court. Granting of a petition for visitation under this chapter does not entitle the petitioner to party status in a child custody proceeding under Title 13 RCW.

(3) Except as otherwise provided in subsections (1) and (2) of this section, a petition for visitation under RCW 26.11.020 must be filed in the county where the child primarily resides.

(4) The petitioner may not file a petition for visitation more than once.

(5) The petitioner must file with the petition an affidavit alleging that:

(a) A relationship with the child that satisfies the requirements of RCW 26.11.020 exists or existed before action by the respondent; and

(b) The child would likely suffer harm or the substantial risk of harm if visitation between the petitioner and child was not granted.

(6) The petitioner shall set forth facts in the affidavit supporting the petitioner's requested order for visitation.

(7) The petitioner shall serve notice of the filing to each person having legal custody of, or court-ordered residential time with, the child. A person having legal custody or residential time with the child may file an opposing affidavit.

(8) If, based on the petition and affidavits, the court finds that it is more likely than not that visitation will be granted, the court shall hold a hearing.

(9) The court may not enter any temporary orders to establish, enforce, or modify visitation under this section. [2018 c 183 § 3.]

*Reviser's note: RCW 13.04.030 was amended by 2020 c 41 § 4, deleting subsection (1)(f).

26.11.040 Orders granting visitation—Factors for consideration by the court—Best interest of the child—Presumption in favor of fit parent's decision—Rebuttal.

(1)(a) At a hearing pursuant to RCW 26.11.030(8), the court shall enter an order granting visitation if it finds that the child would likely suffer harm or the substantial risk of harm if visitation between the petitioner and the child is not granted and that granting visitation between the child and the petitioner is in the best interest of the child.

(b) An order granting visitation does not confer upon the petitioner the rights and duties of a parent.

(2) In making its determination, the court shall consider the respondent's reasons for denying visitation. It is presumed that a fit parent's decision to deny visitation is in the best interest of the child and does not create a likelihood of harm or a substantial risk of harm to the child.

(3) To rebut the presumption in subsection (2) of this section, the petitioner must prove by clear and convincing evidence that the child would likely suffer harm or the substantial risk of harm if visitation between the petitioner and the child were not granted.

(4) If the court finds that the petitioner has met the standard for rebutting the presumption in subsection (2) of this

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section, or if there is no presumption because no parent has custody of the child, the court shall consider whether it is in the best interest of the child to enter an order granting visitation. The petitioner must prove by clear and convincing evidence that visitation is in the child's best interest. In determining whether it is in the best interest of the child, the court shall consider the following, nonexclusive factors:

(a) The love, affection, and strength of the current relationship between the child and the petitioner and how the relationship is beneficial to the child;

(b) The length and quality of the prior relationship between the child and the petitioner before the respondent denied visitation, including the role performed by the petitioner and the emotional ties that existed between the child and the petitioner;

(c) The relationship between the petitioner and the respondent;

(d) The love, affection, and strength of the current relationship between the child and the respondent;

(e) The nature and reason for the respondent's objection to granting the petitioner visitation;

(f) The effect that granting visitation will have on the relationship between the child and the respondent;

(g) The residential time-sharing arrangements between the parties having residential time with the child;

(h) The good faith of the petitioner and respondent;

(i) Any history of physical, emotional, or sexual abuse or neglect by the petitioner, or any history of physical, emotional, or sexual abuse or neglect by a person residing with the petitioner if visitation would involve contact between the child and the person with such history;

(j) The child's reasonable preference, if the court considers the child to be of sufficient age to express a preference;

(k) Any other factor relevant to the child's best interest; and

(l) The fact that the respondent has not lost his or her parental rights by being adjudicated as an unfit parent. [2018 c 183 § 4.]

26.11.050 Attorneys' fees—Transportation costs.

(1)(a) For the purposes of RCW 26.11.020 through 26.11.040, the court shall, on motion of the respondent, order the petitioner to pay a reasonable amount for costs and reasonable attorneys' fees to the respondent in advance and prior to any hearing, unless the court finds, considering the financial resources of all parties, that it would be unjust to do so.

(b) Regardless of the financial resources of the parties, if the court finds that a petition for visitation was brought in bad faith or without reasonable basis in light of the requirements of RCW 26.11.020 through 26.11.040, the court shall order the petitioner to pay a reasonable amount for costs and reasonable attorneys' fees to the respondent.

(2) If visitation is granted, the court shall order the petitioner to pay all transportation costs associated with visitation. [2018 c 183 § 5.]

26.11.060 Modification or termination of orders granting visitation—Substantial change of circumstances.

(1) A court may not modify or terminate an order granting visitation under RCW 26.11.040 unless it finds, on the basis of facts that have arisen since the entry of the order

or were unknown to the court at the time it entered the order, that a substantial change of circumstances has occurred in the circumstances of the child or nonmoving party and that modification or termination of the order is necessary for the best interest of the child.

(2)(a) If a court has jurisdiction over the child pursuant to chapter 26.27 RCW, a petition for modification or termination under this section must be filed with that court.

(b) Except as otherwise provided in (a) of this subsection, if a court has exclusive original jurisdiction over the child under *RCW 13.04.030(1) (a) through (d), (h), or (j), a petition for modification or termination under this section must be filed with that court.

(c) Except as otherwise provided in (a) or (b) of this subsection, a petition for modification or termination under this section must be filed in the county where the child primarily resides.

(3) The petitioner must file with the petition an affidavit alleging that, on the basis of facts that have arisen since the entry of the order or were unknown to the court at the time it entered the order, there is a substantial change of circumstances of the child or nonmoving party and that modification or termination of the order is necessary for the best interest of the child. The petitioner shall set forth facts in the affidavit supporting the petitioner's requested order.

(4) The petitioner shall serve notice of the petition to each person having legal custody of, or court-ordered residential time or court-ordered visitation with, the child. A person having legal custody or residential or visitation time with the child may file an opposing affidavit.

(5) If, based on the petition and affidavits, the court finds that it is more likely than not that a modification or termination will be granted, the court shall hold a hearing.

(6) The court may award reasonable attorneys' fees and costs to either party. [2018 c 183 § 6.]

*Reviser's note: RCW 13.04.030 was amended by 2020 c 41 § 4, deleting subsection (1)(j).

Chapter 26.12 RCW FAMILY COURT

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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. [1999 c 397 § 6; 1994 sp.s. c 7 § 537; 1991 c 367 § 11; 1983 c 219 § 1; 1949 c 50 § 1; Rem. Supp. 1949 § 997-30.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

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. [1949 c 50 § 2; Rem. Supp. 1949 § 997-31.]

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. [1949 c 50 § 3; Rem. Supp. 1949 § 997-32.]

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 or her duties. Any judge so appointed shall have all the powers and authority of a judge of the family court in cases under this chapter. [2011 c 336 § 692; 1949 c 50 § 4; Rem. Supp. 1949 § 997-33.]

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. [1993 c 15 § 1; 1991 c 363 § 17; 1989 c 199 § 1; 1965 ex.s. c 83 § 1; 1949 c 50 § 5; Rem. Supp. 1949 § 997-34.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Court

clerks, reporters, and bailiffs: Chapter 2.32 RCW.

commissioners and referees: Chapter 2.24 RCW.

Additional notes found at www.leg.wa.gov

26.12.060 Court commissioners—Duties. The court commissioners shall: (1) Make appropriate referrals to county family court services program if the county has a family court services program or appoint a guardian ad litem pursuant to RCW 26.12.175; (2) order investigation and reporting of the facts upon which to base warrants, subpoenas, orders or directions in actions or proceedings under this chapter; (3) exercise all the powers and perform all the duties of court commissioners; (4) make written reports of all proceedings had which shall become a part of the record of the family court; (5) provide supervision over the exercise of its jurisdiction as the judge of the family court may order; (6) cause the orders and findings of the family court to be entered in the same manner as orders and findings are entered in cases in the superior court; (7) cause other reports to be made and records kept as will indicate the value and extent of reconciliation, mediation, investigation, and treatment services; and (8) conduct hearings under Title 13 and chapter 28A.225 RCW, as provided in RCW 13.04.021. [1999 c 397 § 7; 1993 c 289 § 3; 1991 c 367 § 12; 1988 c 232 § 4; 1949 c 50 § 6; Rem. Supp. 1949 § 997-35.]

Additional notes found at www.leg.wa.gov

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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. [1949 c 50 § 7; Rem. Supp. 1949 § 997-36.]

Indeterminate sentences: Chapter 9.95 RCW.

Probation officers—Appointment—Powers—Compensation: RCW 13.04.040.

26.12.080 Protection of privacy of parties. Whenever the court before whom any matter arising under this chapter is pending, deems publication of any matter before the court contrary to public policy or injurious to the interests of children or to the public morals, the court may by order close the files or any part thereof in the matter and make such other orders to protect the privacy of the parties as is necessary. [1989 c 375 § 22; 1949 c 50 § 8; Rem. Supp. 1949 § 997-37.]

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. [1949 c 50 § 16; Rem. Supp. 1949 § 997-45.]

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

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 42.56.210(2). The findings shall be restricted to the issue of abuse and neglect and shall not be considered custody investigations. [2005 c 274 § 241; 1994 c 267 § 3; 1991 c 367 § 13; 1983 c 219 § 5; 1971 ex.s. c 151 § 2; 1949 c 50 § 17; Rem. Supp. 1949 § 997-46.]

Additional notes found at www.leg.wa.gov

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 or battered domestic partners; and

(3) The court may waive the seminar for good cause. [2008 c 6 § 1046; 1994 c 267 § 5.]

Additional notes found at www.leg.wa.gov

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 court may appoint a guardian ad litem from the court-appointed special advocate program, if that program exists in the county. The court shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs. 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.

(b) The guardian ad litem's role is to investigate and report factual information regarding the issues ordered to be reported or investigated to the court. The guardian ad litem shall always represent the best interests of the child. Guardians ad litem under this title may make recommendations based upon his or her investigation, 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. The court shall consider any written responses to a report filed by the guardian ad litem, 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 pro-

gram 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 that are not inconsistent with this section.

(3) Each guardian ad litem program for compensated guardians ad litem and each court-appointed special advocate program shall maintain a background information record for each guardian ad litem in the program. The background information record shall include, but is not limited to, the following information:

(a) Level of formal education;

(b) General training related to the guardian ad litem's duties;

(c) Specific training related to issues potentially faced by children in dissolution, custody, paternity, and other family law proceedings;

(d) Specific training or education related to child disability or developmental issues;

(e) Number of years' experience as a guardian ad litem;

(f) Number of appointments as a guardian ad litem and county or counties of appointment;

(g) 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;

(h) Founded allegations of abuse or neglect as defined in RCW 26.44.020;

(i) The results of an examination that shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050 and the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834. This background check shall be done through the Washington state patrol criminal identification section; and

(j) Criminal history, as defined in RCW 9.94A.030, for the period covering ten years prior to the appointment.

The background information record 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 appointed as guardian ad litem shall provide the background information record to the court.

Upon appointment, the guardian ad litem, court-appointed special advocate program or guardian ad litem program, shall provide the parties or their attorneys with a copy of the background information record. The portion of the background information record containing the results of the criminal background check and the criminal history shall not be disclosed to the parties or their attorneys. The background information record 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. The court shall immediately appoint the person recommended by the program.

(5) If a party in a case reasonably believes the court-appointed special advocate or volunteer guardian ad litem 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 or volunteer guardian ad litem on the grounds the advocate or volunteer is inappropriate or unqualified. [2011 c 292 § 6; 2009 c 480 § 3; 2000 c 124 § 6; 1996 c 249 § 15; 1993 c 289 § 4; 1991 c 367 § 17.]

Intent—1996 c 249: See note following RCW 2.56.030.

Additional notes found at www.leg.wa.gov

26.12.177 Guardians ad litem—Training—Registry—Subregistry—Selection—Substitution—Exceptions.

(1) All guardians ad litem 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 administrative office of the courts that meet or exceed the statewide requirements. In cases involving allegations of limiting factors under RCW 26.09.191, the guardians ad litem appointed under this title must have additional relevant training under RCW 2.56.030(15) when it is available.

(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 under this title. If a judicial district does not have a program the court shall establish the rotational registry system. Guardians ad litem 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 record 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 is inappropriate or unqualified, 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 has been found to have misrepresented his or her qualifications.

(3) The rotational registry system shall not apply to court-appointed special advocate programs. [2011 c 292 § 7; 2009 c 480 § 4; 2007 c 496 § 305; 2005 c 282 § 30; 2000 c 124 § 7; 1997 c 41 § 7; 1996 c 249 § 18.]

Intent—1996 c 249: See note following RCW 2.56.030.

Additional notes found at www.leg.wa.gov

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. [2000 c 124 § 8.]

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. [2000 c 124 § 15.]

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 ombuds for the purposes of carrying out its duties under chapter 43.06A RCW. [2013 c 23 § 41; 2000 c 124 § 9; 1999 c 390 § 4.]

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. [2000 c 124 § 12.]

26.12.188 Appointment of investigators—Training requirements. (1) The court may appoint an investigator in addition to a guardian ad litem or court-appointed special advocate under RCW 26.12.175 and 26.12.177 to assist the court and make recommendations.

(2) An investigator is a person appointed as an investigator under RCW 26.12.050(1)(b) or any other third-party professional ordered or appointed by the court to provide an opinion, assessment, or evaluation regarding the creation or modification of a parenting plan.

(3) Investigators who are not supervised by a guardian ad litem or by a court-appointed special advocate program must comply with the training requirements applicable to guardians ad litem or court-appointed special advocates as provided under this chapter and court rule. [2011 c 292 § 5.]

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 or the domestic partnership, implement an amicable settlement, and resolve the issues in controversy. [2008 c 6 § 1025; 1991 c 367 § 14; 1983 c 219 § 7; 1949 c 50 § 19; Rem. Supp. 1949 § 997-48.]

Additional notes found at www.leg.wa.gov

26.12.205 Priority for proceedings involving children. The family court shall give proceedings involving children priority over cases without children. [1991 c 367 § 16.]

Additional notes found at www.leg.wa.gov

26.12.215 Revision by the superior court. All acts and proceedings of the court commissioners shall be subject to revision by the superior court as provided in RCW 2.24.050. [1991 c 367 § 18.]

Additional notes found at www.leg.wa.gov

26.12.220 Funding family court or family court services—Increase in marriage license fee authorized—Family court services program—Fees. (1) The legislative authority of any county may authorize family court services as provided in RCW 26.12.230. The legislative authority may impose a fee in excess of that prescribed in RCW 36.18.010 for the issuance of a marriage license. The fee shall not exceed eight dollars.

(2) In addition to any other funds used therefor, the governing body of any county shall use the proceeds from the fee increase authorized by this section to pay the expenses of the family court and the family court services under chapter 26.12 RCW. If there is no family court in the county, the legislative authority may provide such services through other county agencies or may contract with a public or private agency or person to provide such services. Family court services also may be provided jointly with other counties as provided in RCW 26.12.230.

(3) The family court services program may hire professional employees to provide the investigation, evaluation and reporting, and mediation services, or the county may contract for these services, or both. To facilitate and promote the purposes of this chapter, the court may order or recommend the aid of physicians, psychiatrists, or other specialists.

(4) The family court services program may provide or contract for: (a) Mediation; (b) investigation, evaluation, and reporting to the court; and (c) reconciliation; and may provide a referral mechanism for drug and alcohol testing, monitoring, and treatment; and any other treatment, parenting, or anger management programs the family court professional considers necessary or appropriate.

(5) Services other than family court investigation, evaluation, reconciliation, and mediation services shall be at the expense of the parties involved absent a court order to the contrary. The parties shall bear all or a portion of the cost of parenting seminars and family court investigation, evaluation, reconciliation, and mediation services according to the parties' ability to pay.

(6) The county legislative authority may establish rules of eligibility for the family court services funded under this section. The rules shall not conflict with rules of the court adopted under chapter 26.12 RCW or any other statute.

(7) The legislative authority may establish fees for family court investigation, evaluation, reconciliation, and mediation services under this chapter according to the parties' ability to pay for the services. Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited, and shall be maintained in a separate account to be used as provided in this section. [1994 c 267 § 4; 1991 c 367 § 15; 1980 c 124 § 1.]

Additional notes found at www.leg.wa.gov

26.12.230 Joint family court services. (1) Any county may contract under chapter 39.34 RCW with any other county or counties to provide joint family court services.

(2) Any agreement between two or more counties for the operation of a joint family court service may provide that the treasurer of one participating county shall be the custodian of moneys made available for the purposes of the joint services, and that the treasurer may make payments from the moneys upon proper authorization.

(3) Any agreement between two or more counties for the operation of a joint family court service may also provide:

(a) For the joint provision or operation of services and facilities or for the provision or operation of services and facilities by one participating county under contract for the other participating counties;

(b) For appointments of members of the staff of the family court including the supervising counselor;

(c) That, for specified purposes, the members of the staff of the family court including the supervising counselor, but excluding the judges of the family court and other court personnel, shall be considered to be employees of one participating county;

(d) For other matters as are necessary to carry out the purposes of this chapter.

(4) The provisions of this chapter relating to family court services provided by a single county are equally applicable to counties which contract, under this section, to provide joint family court services. [1986 c 95 § 3.]

26.12.240 Courthouse facilitator program—Fee or surcharge. A county may create a courthouse facilitator program to provide basic services to pro se litigants in family law cases. The legislative authority of any county may impose user fees or may impose a surcharge of up to twenty dollars on only those superior court cases filed under Title 26 RCW, or both, to pay for the expenses of the courthouse facilitator program. Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited, and shall be maintained in a separate account to be used as provided in this section. [2005 c 457 § 15; 1993 c 435 § 2.]

Intent—2005 c 457: See note following RCW 43.08.250.

26.12.260 Program to provide services to parties involved in dissolutions and legal separations—Fees. (1) After July 1, 2009, but no later than November 1, 2009, a county may, and to the extent state funding is provided to meet the minimum requirements of the program a county shall, create a program to provide services to all parties involved in proceedings under chapter 26.09 RCW. Minimum components of this program shall include: (a) An individual to serve as an initial point of contact for parties filing petitions for dissolutions or legal separations under chapter 26.09 RCW; (b) informing parties about courthouse facilitation programs and orientations; (c) informing parties of alternatives to filing a dissolution petition, such as marriage or domestic partnership counseling; (d) informing parties of alternatives to litigation including counseling, legal separation, and mediation services if appropriate; (e) informing parties of supportive family services available in the community; (f) screening for referral for services in the areas of domestic violence as defined in RCW 26.50.010, child abuse, substance abuse, and mental health; and (g) assistance to the court in superior court cases filed under chapter 26.09 RCW.

(2) This program shall not provide legal advice. No attorney-client relationship or privilege is created, by implication or by inference, between persons providing basic information under this section and the participants in the program.

(3) The legislative authority of any county may impose user fees or may impose a surcharge of up to twenty dollars

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on only those superior court cases filed under this title, or both, to pay for the expenses of this program. Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited, and shall be maintained in a separate account to be used as provided in this section. The program shall provide services to indigent persons at no expense.

(4) Persons who implement the program shall be appointed in the same manner as investigators, stenographers, and clerks as described in RCW 26.12.050.

(5) If the county has a program under this section, any petition under RCW 26.09.020 must allege that the moving party met and conferred with the program prior to the filing of the petition.

(6) If the county has a program under this section, parties shall meet and confer with the program prior to participation in mediation under RCW 26.09.016. [2008 c 6 § 1047; 2007 c 496 § 201.]

Additional notes found at www.leg.wa.gov

26.12.270 Address confidentiality program. The court shall act in accordance with the requirements of the address confidentiality program pursuant to chapter 40.24 RCW in the course of all proceedings under this title. A court order for information protected by the address confidentiality program may only be issued upon completing the requirements of RCW 40.24.075. [2012 c 223 § 8.]

26.12.800 Family court pilot program—Legislative recognition. The legislature recognizes the increasing incidence of concurrent involvement of family members in multiple areas of the justice system. Analysis shows significant case overlap in the case types of juvenile offender, juvenile dependency, at-risk youth, child in need of services, truancy, domestic violence, and domestic relations. Also recognized is the increased complexity of the problems facing family members and the increased complexity of the laws affecting families. It is believed that in such situations, an efficient and effective response is through the creation of a unified court system centered around the family that: Provides a dedicated, trained, and informed judiciary; incorporates case management practices based on a family's judicial system needs; enables multiple case type resolution by one judicial officer or judicial team; provides coordinated legal and social services; and considers and evaluates the needs of the family as a whole. [1999 c 397 § 1.]

26.12.802 Family court pilot program—Created. The administrative office of the courts shall conduct a unified family court pilot program.

(1) Pilot program sites shall be selected through a request for proposal process, and shall be established in no more than three superior court judicial districts.

(2) To be eligible for consideration as a pilot project site, judicial districts must have a statutorily authorized judicial complement of at least five judges.

(3) The administrative office of the courts shall develop criteria for the unified family court pilot program. The pilot program shall include:

(a) All case types under Title 13 RCW, chapters 26.09, *26.10, 26.12, 26.18, 26.19, 26.20, 26.26A, 26.26B, 26.50, 26.27, and 28A.225 RCW;

(b) Unified family court judicial officers, who volunteer for the program, and meet training requirements established by local court rule;

(c) Case management practices that provide a flexible response to the diverse court-related needs of families involved in multiple areas of the justice system. Case management practices should result in a reduction in process redundancies and an efficient use of time and resources, and create a system enabling multiple case type resolution by one judicial officer or judicial team;

(d) A court facilitator to provide assistance to parties with matters before the unified family court; and

(e) An emphasis on providing nonadversarial methods of dispute resolution such as a settlement conference, evaluative mediation by attorney mediators, and facilitative mediation by nonattorney mediators.

(4) The administrative office of the courts shall publish and disseminate a state-approved listing of definitions of nonadversarial methods of dispute resolution so that court officials, practitioners, and users can choose the most appropriate process for the matter at hand.

(5) The administrative office of the courts shall provide to the judicial districts selected for the pilot program the computer resources needed by each judicial district to implement the unified family court pilot program.

(6) The administrative office of the courts shall conduct a study of the pilot program measuring improvements in the judicial system's response to family involvement in the judicial system. The administrator for the courts shall report preliminary findings and final results of the study to the governor, the chief justice of the supreme court, and the legislature on a biennial basis. The initial report is due by July 1, 2000, and the final report is due by December 1, 2004. [2019 c 46 § 5023; 2005 c 282 § 31; 1999 c 397 § 2.]

*Reviser's note: Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

26.12.804 Family court pilot program—Rules. The judges of the superior court judicial districts with unified family court pilot programs shall adopt local court rules directing the program. The local court rules shall comply with the criteria established by the administrative office of the courts and shall include:

(1) A requirement that all judicial officers hearing cases in unified family court:

(a) Complete an initial training program including the topic areas of childhood development, domestic violence, cultural awareness, child abuse and neglect, chemical dependency, and mental illness; and

(b) Subsequent to the training in (a) of this subsection, annually attend a minimum of eight hours of continuing education of pertinence to the unified family court;

(2) Case management that is based on the practice of one judge or judicial team handling all matters relating to a family;

(3) An emphasis on coordinating or consolidating, to the extent possible, all cases before the unified family court relating to a family; and

(4) Programs that provide for record confidentiality to protect the confidentiality of court records in accordance with the law. However law enforcement agencies shall have access to the records to the extent permissible under the law. [2005 c 282 § 32; 1999 c 397 § 3.]

Chapter 26.16 RCW RIGHTS AND LIABILITIES—COMMUNITY PROPERTY

Sections

26.16.010	Separate property of spouse.
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26.16.210	Burden of proof in transactions between spouses or domestic partners.
26.16.220	Quasi-community property defined.
26.16.230	Quasi-community property—Disposition at death.
26.16.240	Quasi-community property—Effect of lifetime transfers—Claims by surviving spouse or surviving domestic partner—Waiver.
26.16.250	Quasi-community property—Characterization limited to determination of disposition at death—Waiver by written agreement.

Assignment of future wages invalid without written consent of spouse: RCW 49.48.100.

Banks and trust companies—Deposits: Chapter 30A.20 RCW.

Cemeteries, morgues and human remains—Title and rights to cemetery plots: Chapter 68.32 RCW.

Crimes and punishment

bigamy: RCW 9A.64.010.

homicide by other person, when justifiable: RCW 9A.16.030.

Labor relations

child labor: Chapter 49.12 RCW.

hours of labor: Chapter 49.28 RCW.

Mental illness: Chapter 71.05 RCW.

Parties to actions—Spouse or domestic partner: RCW 4.08.030 and 4.08.040.

Privileged communications: RCW 5.60.060.

Probate and trust law: Title 11 RCW.

Public assistance: Title 74 RCW.

Public health and safety—Vital statistics: Chapter 70.58 RCW.

Tenancy in dower and by curtesy abolished: RCW 11.04.060.

Unemployment compensation, benefits and claims: Chapter 50.20 RCW.

Worker's compensation

actions at law for injury or death: Chapter 51.24 RCW.

right to and amount: Chapter 51.32 RCW.

26.16.010 Separate property of spouse. Property and pecuniary rights owned by a spouse before marriage and that acquired by him or her afterwards by gift, bequest, devise, descent, or inheritance, with the rents, issues and profits thereof, shall not be subject to the debts or contracts of his or her spouse, and he or she may manage, lease, sell, convey, encumber or devise by will such property without his or her spouse joining in such management, alienation or encumbrance, as fully, and to the same extent or in the same manner as though he or she were unmarried. [2008 c 6 § 602; Code 1881 § 2408; RRS § 6890. Prior: See Reviser's note below.]

Reviser's note: For prior laws dealing with this subject see Laws 1879 pp 77-81; 1873 pp 450-455; 1871 pp 67-74; 1869 pp 318-323.

Construction: "The rule of common law that statutes in derogation thereof are to be strictly construed has no application to this chapter. This chapter establishes the law of the state respecting the subject to which it relates, and its provisions and all proceedings under it shall be liberally construed with a view to effect its object." [Code 1881 § 2417.]

"This chapter shall not be construed to operate retrospectively and any right established, accrued or accruing or in any thing done prior to the time this chapter goes into effect shall be governed by the law in force at the time such right was established or accrued." [Code 1881 § 2418.] This applies to RCW 26.16.010 through 26.16.040, 26.16.060, 26.16.120, 26.16.140 through 26.16.160, and 26.16.180 through 26.16.210.

Descent of separate real property: RCW 11.04.015.

Distribution of separate personal estate: RCW 11.04.015.

Rights of married persons or domestic partners in general: RCW 26.16.150.

Additional notes found at www.leg.wa.gov

26.16.020 Separate property of domestic partner. Property and pecuniary rights owned by a person in a state registered domestic partnership before registration of the domestic partnership or afterwards acquired by gift, bequest, devise, descent, or inheritance, with the rents, issues and profits thereof, shall not be subject to the debts or contracts of his or her domestic partner, and he or she may manage, lease, sell, convey, encumber or devise by will such property without his or her domestic partner joining in such management, alienation, or encumbrance, as fully, to the same extent and in the same manner as though he or she were not in a state registered domestic partnership. [2008 c 6 § 603; Code 1881 § 2400; RRS § 6891. Prior: See Reviser's note following RCW 26.16.010.]

Reviser's note: See notes following RCW 26.16.010.

Civil disabilities of wife abolished: RCW 26.16.160.

Earnings of spouse or domestic partner and minor children living apart: RCW 26.16.140.

Exemption of separate property of married person from attachment and execution upon liability of spouse: RCW 6.15.040.

Additional notes found at www.leg.wa.gov

26.16.030 Community property defined—Management and control. Property not acquired or owned, as prescribed in RCW 26.16.010 and 26.16.020, acquired after marriage or after registration of a state registered domestic partnership by either domestic partner or either husband or wife or both, is community property. Either spouse or either domestic partner, acting alone, may manage and control community property, with a like power of disposition as the acting spouse or domestic partner has over his or her separate property, except:

(1) Neither person shall devise or bequeath by will more than one-half of the community property.

(2) Neither person shall give community property without the express or implied consent of the other.

(3) Neither person shall sell, convey, or encumber the community real property without the other spouse or other domestic partner joining in the execution of the deed or other instrument by which the real estate is sold, conveyed, or encumbered, and such deed or other instrument must be acknowledged by both spouses or both domestic partners.

(4) Neither person shall purchase or contract to purchase community real property without the other spouse or other domestic partner joining in the transaction of purchase or in the execution of the contract to purchase.

(5) Neither person shall create a security interest other than a purchase money security interest as defined in *RCW 62A.9-107 in, or sell, community household goods, furnishings, or appliances, or a community mobile home unless the other spouse or other domestic partner joins in executing the security agreement or bill of sale, if any.

(6) Neither person shall acquire, purchase, sell, convey, or encumber the assets, including real estate, or the good will of a business where both spouses or both domestic partners participate in its management without the consent of the other: PROVIDED, That where only one spouse or one domestic partner participates in such management the participating spouse or participating domestic partner may, in the ordinary course of such business, acquire, purchase, sell, convey or encumber the assets, including real estate, or the good will of the business without the consent of the nonparticipating spouse or nonparticipating domestic partner. [2008 c 6 § 604; 1981 c 304 § 1; 1972 ex.s. c 108 § 3; Code 1881 § 2409; RRS § 6892.]

***Reviser's note:** Article 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see Article 62A.9A RCW.

Community property—Homestead selection: RCW 6.13.020.

Descent and distribution of community property: RCW 11.04.015.

Quasi-community property defined: RCW 26.16.220.

Simultaneous death, uniform act: Chapter 11.05A RCW.

Additional notes found at www.leg.wa.gov

26.16.040 Community realty subject to liens, execution. Community real estate shall be subject to the liens of mechanics and others for labor and materials furnished in erecting structures and improvements thereon as provided by law in other cases, to liens of judgments recovered for community debts, and to sale on execution issued thereon. [1972 ex.s. c 108 § 4; Code 1881 § 2410; RRS § 6893.]

Acknowledgments: Chapter 64.08 RCW.

Liens: Title 60 RCW.

26.16.050 Conveyances between spouses or domestic partners. A spouse or domestic partner may give, grant, sell or convey directly to the other spouse or other domestic partner his or her community right, title, interest or estate in all or any portion of their community real property: And every deed made from one spouse to the other or one domestic partner to the other, shall operate to divest the real estate therein recited from any or every claim or demand as community property and shall vest the same in the grantee as separate property. The grantor in all such deeds, or the party releasing such community interest or estate shall sign, seal, execute

and acknowledge the deed as a single person without the joiner therein of the married party or party to a state registered domestic partnership therein named as grantee: PROVIDED, HOWEVER, That the conveyances or transfers hereby authorized shall not affect any existing equity in favor of creditors of the grantor at the time of such transfer, gift or conveyance. AND PROVIDED FURTHER, That any deeds of gift conveyances or releases of community estate by or between spouses or between domestic partners heretofore made but in which both spouses or both domestic partners have not joined as grantors, said deeds, where made in good faith and without intent to hinder, delay or defraud creditors, shall be and the same are hereby fully legalized as valid and binding. [2008 c 6 § 605; 1888 c 27 § 1; RRS § 10572.]

Acknowledgments: Chapter 64.08 RCW.

Burden of proof in transactions between spouses or domestic partners: RCW 26.16.210.

Additional notes found at www.leg.wa.gov

26.16.060 Power of attorney between spouses or domestic partners. A spouse or domestic partner may constitute the other his or her attorney-in-fact to manage, control or dispose of his or her property with the same power of revocation or substitution as could be exercised were they unmarried persons or were they not in a state registered domestic partnership. [2008 c 6 § 606; Code 1881 § 2403; No RRS.]

Additional notes found at www.leg.wa.gov

26.16.070 Powers of attorney as to separate estate. A spouse or domestic partner may make and execute powers of attorney for the sale, conveyance, transfer or encumbrance of his or her separate estate both real and personal, without the other spouse or other domestic partner joining in the execution thereof. Such power of attorney shall be acknowledged and certified in the manner provided by law for the conveyance of real estate. Nor shall anything herein contained be so construed as to prevent either spouse or either domestic partner from appointing the other his or her attorney-in-fact for the purposes provided in this section. [2008 c 6 § 607; 1888 c 27 § 2; RRS § 10573.]

Additional notes found at www.leg.wa.gov

26.16.080 Execution of conveyance under power. Any conveyance, transfer, deed, lease or other encumbrances executed under and by virtue of such power of attorney shall be executed, acknowledged and certified in the same manner as if the person making such power of attorney had been unmarried or not in a state registered domestic partnership. [2008 c 6 § 608; 1888 c 27 § 3; RRS § 10574.]

Additional notes found at www.leg.wa.gov

26.16.090 Powers of attorney as to community estate. A spouse or domestic partner may make and execute a letter of attorney to his or her spouse or domestic partner authorizing the sale or other disposition of his or her community interest or estate in the community property and as such attorney-in-fact to sign the name of such spouse or such domestic partner to any deed, conveyance, mortgage, lease or other encumbrance or to any instrument necessary to be executed by which the property conveyed or transferred shall be released from any claim as community property. And either

spouse or either domestic partner may make and execute a letter of attorney to any third person to join with the other in the conveyance of any interest either in separate real estate of either, or in the community estate held by such spouse or such domestic partner in any real property. And both spouses or both domestic partners owning community property may jointly execute a power of attorney to a third person authorizing the sale, encumbrance or other disposition of community real property, and so execute the necessary conveyance or transfer of said real estate. [2008 c 6 § 609; 1888 c 27 § 4; RRS § 10575.]

Additional notes found at www.leg.wa.gov

26.16.095 Purchaser of community real property protected by record title. Whenever any person, married, in a state registered domestic partnership, or single, having in his or her name the legal title of record to any real estate, shall sell or dispose of the same to an actual bona fide purchaser, a deed of such real estate from the person holding such legal record title to such actual bona fide purchaser shall be sufficient to convey to, and vest in, such purchaser the full legal and equitable title to such real estate free and clear of any and all claims of any and all persons whatsoever, not appearing of record in the auditor's office of the county in which such real estate is situated. [2008 c 6 § 610; 1891 c 151 § 1; RRS § 10577. Formerly RCW 64.04.080.] [SLC-RO-16]

Additional notes found at www.leg.wa.gov

26.16.100 Claim of spouse or domestic partner in community realty to be filed. A spouse or domestic partner having an interest in real estate, by virtue of the marriage relation or state registered domestic partnership, the legal title of record to which real estate is or shall be held by the other, may protect such interest from sale or disposition by the other spouse or other domestic partner, as the case may be, in whose name the legal title is held, by causing to be filed and recorded in the auditor's office of the county in which such real estate is situated an instrument in writing setting forth that the person filing such instrument is the spouse or domestic partner, as the case may be, of the person holding the legal title to the real estate in question, describing such real estate and the claimant's interest therein; and when thus presented for record such instrument shall be filed and recorded by the auditor of the county in which such real estate is situated, in the same manner and with like effect as regards notice to all the world, as deeds of real estate are filed and recorded. And if either spouse or either domestic partner fails to cause such an instrument to be filed in the auditor's office in the county in which real estate is situated, the legal title to which is held by the other, within a period of ninety days from the date when such legal title has been made a matter of record, any actual bona fide purchaser of such real estate from the person in whose name the legal title stands of record, receiving a deed of such real estate from the person thus holding the legal title, shall be deemed and held to have received the full legal and equitable title to such real estate free and clear of all claim of the other spouse or other domestic partner. [2008 c 6 § 611; 1891 c 151 § 2; RRS § 10578.] [SLC-RO-16]

Recording of real property by county auditor: Chapters 65.04 and 65.08 RCW.

Additional notes found at www.leg.wa.gov

26.16.110 Cloud on title—Removal. The instrument in writing provided for in RCW 26.16.100 shall be deemed to be a cloud upon the title of said real estate, and may be removed by the release of the party filing the same, or by any court having jurisdiction in the county where said real estate is situated, whenever it shall appear to said court that the real estate described in said instrument is the separate property of the person in whose name the title to the said real estate, or any part thereof, appears to be vested, from the conveyances on record in the office of the auditor of the county where said real estate is situated. [1891 c 151 § 3; RRS § 10579.]

26.16.120 Agreements as to status. Nothing contained in any of the provisions of *this chapter or in any law of this state, shall prevent both spouses or both domestic partners from jointly entering into any agreement concerning the status or disposition of the whole or any portion of the community property, then owned by them or afterwards to be acquired, to take effect upon the death of either. But such agreement may be made at any time by both spouses or both domestic partners by the execution of an instrument in writing under their hands and seals, and to be witnessed, acknowledged and certified in the same manner as deeds to real estate are required to be, under the laws of the state, and the same may at any time thereafter be altered or amended in the same manner. Such agreement shall not derogate from the right of creditors; nor be construed to curtail the powers of the superior court to set aside or cancel such agreement for fraud or under some other recognized head of equity jurisdiction, at the suit of either party; nor prevent the application of laws governing the community property and inheritance rights of slayers or abusers under chapter 11.84 RCW. [2009 c 525 § 18; 2008 c 6 § 612; 1998 c 292 § 505; Code 1881 § 2416; RRS § 6894.]

***Reviser's note:** "this chapter", which is Code 1881, chapter CLXXXIII, is codified as RCW 26.16.010 through 26.16.040, 26.16.060, 26.16.120, 26.16.140 through 26.16.160, and 26.16.180 through 26.16.210.

Acknowledgments: Chapter 64.08 RCW.

Descent and distribution of community property: RCW 11.04.015.

Private seals abolished: RCW 64.04.090.

Additional notes found at www.leg.wa.gov

26.16.125 Custody of children. Henceforth the rights and responsibilities of the parents in the absence of misconduct shall be equal, and one parent shall be as fully entitled to the custody, control and earnings of the children as the other parent, and in case of one parent's death, the other parent shall come into full and complete control of the children and their estate. [2008 c 6 § 640; Code 1881 § 2399; 1879 p 151 § 2; RRS § 6907. Formerly RCW 26.20.020.]

Additional notes found at www.leg.wa.gov

26.16.140 Earnings and accumulations of spouses or domestic partners living apart, minor children. When spouses or domestic partners 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 or domestic partner who has their custody or, if no custody award has been made, then the separate property of the spouse or domestic partner with whom said children are liv-

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ing. [2008 c 6 § 613; 1972 ex.s. c 108 § 5; Code 1881 § 2413; RRS § 6896.]

Additional notes found at www.leg.wa.gov

26.16.150 Rights of married persons or domestic partners in general. Every married person or domestic partner shall hereafter have the same right and liberty to acquire, hold, enjoy and dispose of every species of property, and to sue and be sued, as if he or she were unmarried or were not in a state registered domestic partnership. [2008 c 6 § 614; Code 1881 § 2396; RRS § 6900.]

Separate property

of spouse: RCW 26.16.010.

of domestic partner: RCW 26.16.020.

Additional notes found at www.leg.wa.gov

26.16.160 Civil disabilities of wife abolished. All laws which impose or recognize civil disabilities upon a wife, which are not imposed or recognized as existing as to the husband, are hereby abolished, and for any unjust usurpation of her natural or property rights, she shall have the same right to appeal in her own individual name, to the courts of law or equity for redress and protection that the husband has: PROVIDED, ALWAYS, That nothing in *this chapter shall be construed to confer upon the wife any right to vote or hold office, except as otherwise provided by law. [Code 1881 § 2398; 1879 p 151 § 1; RRS § 6901.]

***Reviser's note:** "this chapter," see note following RCW 26.16.120.

26.16.180 Spouses or domestic partners may sue each other. Should either spouse or either domestic partner obtain possession or control of property belonging to the other, either before or after marriage or before or after entering into a state registered domestic partnership, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if they were unmarried or were not in a state registered domestic partnership. [2008 c 6 § 615; Code 1881 § 2401; 1879 p 80 § 28; 1873 p 452 § 8; RRS § 6903.]

Privileged communications: RCW 5.60.060.

Additional notes found at www.leg.wa.gov

26.16.190 Liability for acts of other spouse or other domestic partner. For all injuries committed by a married person or domestic partner, there shall be no recovery against the separate property of the other spouse or other domestic partner except in cases where there would be joint responsibility if the marriage or the state registered domestic partnership did not exist. [2008 c 6 § 616; 1972 ex.s. c 108 § 6; Code 1881 § 2402; RRS § 6904.]

Additional notes found at www.leg.wa.gov

26.16.200 Debts incurred before marriage or domestic partnership—Separate debts—Child support obligation—Liability. Neither person in a marriage or state registered domestic partnership is liable for the debts or liabilities of the other incurred before marriage or state registered domestic partnership, 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 spouse or domestic partner

shall be available to the legal process of creditors for the satisfaction of debts incurred by such spouse or domestic partner prior to the marriage or the state registered domestic partnership. For the purpose of this section, neither person in the marriage or the state registered domestic partnership 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 spouse or either domestic partner unless the same is reduced to judgment within three years of the marriage or the state registered domestic partnership 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 or non-obligated domestic partner are exempt from satisfaction of the child support obligation of the debtor spouse or debtor domestic partner. [2008 c 6 § 617; 1983 1st ex.s. c 41 § 2; 1969 ex.s. c 121 § 1; Code 1881 § 2405; 1873 p 452 § 10; RRS § 6905.]

Collection actions against community bank account: RCW 74.20A.120.

Additional notes found at www.leg.wa.gov

26.16.205 Liability for family support—Support obligation of stepparent. The expenses of the family and the education of the children, including stepchildren, are chargeable upon the property of both spouses or both domestic partners, or either of them, and they may be sued jointly or separately. When a petition for dissolution of marriage or state registered domestic partnership or a petition for legal separation is filed, the court may, upon motion of the stepparent, terminate the obligation to support the stepchildren. The obligation to support stepchildren shall cease upon the entry of a decree of dissolution, decree of legal separation, or death. [2008 c 6 § 618; 1990 1st ex.s. c 2 § 13; 1969 ex.s. c 207 § 1; Code 1881 § 2407; RRS § 6906. Formerly RCW 26.20.010.]

Additional notes found at www.leg.wa.gov

26.16.210 Burden of proof in transactions between spouses or domestic partners. In every case, where any question arises as to the good faith of any transaction between spouses or between domestic partners, whether a transaction between them directly or by intervention of third person or persons, the burden of proof shall be upon the party asserting the good faith. [2008 c 6 § 619; Code 1881 § 2397; RRS § 5828.]

Additional notes found at www.leg.wa.gov

26.16.220 Quasi-community property defined. (1) Unless the context clearly requires otherwise, as used in RCW 26.16.220 through 26.16.250 "quasi-community property" means all personal property wherever situated and all real property described in subsection (2) of this section that is not community property and that was heretofore or hereafter acquired:

(a) By the decedent while domiciled elsewhere and that would have been the community property of the decedent and

of the decedent's surviving spouse or surviving domestic partner had the decedent been domiciled in this state at the time of its acquisition; or

(b) In derivation or in exchange for real or personal property, wherever situated, that would have been the community property of the decedent and his or her surviving spouse or surviving domestic partner if the decedent had been domiciled in this state at the time the original property was acquired.

(2) For purposes of this section, real property includes:

(a) Real property situated in this state;

(b) Real property situated outside this state if the law of the state where the real property is located provides that the law of the decedent's domicile at death shall govern the rights of the decedent's surviving spouse or surviving domestic partner to a share of such property; and

(c) Leasehold interests in real property described in (a) or (b) of this subsection.

(3) For purposes of this section, all legal presumptions and principles applicable to the proper characterization of property as community property under the laws and decisions of this state shall apply in determining whether property would have been the community property of the decedent and his or her surviving spouse or surviving domestic partner under the provisions of subsection (1) of this section. [2008 c 6 § 620; 1988 c 34 § 1; 1986 c 72 § 1.]

Additional notes found at www.leg.wa.gov

26.16.230 Quasi-community property—Disposition at death. Upon the death of any person domiciled in this state, one-half of any quasi-community property shall belong to the surviving spouse or surviving domestic partner and the other one-half of such property shall be subject to disposition at death by the decedent, and in the absence thereof, shall descend in the manner provided for community property under chapter 11.04 RCW. [2008 c 6 § 621; 1988 c 34 § 2; 1986 c 72 § 2.]

Additional notes found at www.leg.wa.gov

26.16.240 Quasi-community property—Effect of lifetime transfers—Claims by surviving spouse or surviving domestic partner—Waiver. (1) If a decedent domiciled in this state on the date of his or her death made a lifetime transfer of a property interest that is quasi-community property to a person other than the surviving spouse or surviving domestic partner within three years of death, then within the time for filing claims against the estate as provided by RCW 11.40.010, the surviving spouse or surviving domestic partner may require the transferee to restore to the decedent's estate one-half of such property interest, if the transferee retains the property interest, and, if not, one-half of its proceeds, or, if none, one-half of its value at the time of transfer, if:

(a) The decedent retained, at the time of death, the possession or enjoyment of or the right to income from the property interest;

(b) The decedent retained, at the time of death, a power, either alone or in conjunction with any other person, to revoke or to consume, invade or dispose of the property interest for the decedent's own benefit; or

(c) The decedent held the property interest at the time of death with another with the right of survivorship.

(2) Notwithstanding subsection (1) of this section, no such property interest, proceeds, or value may be required to be restored to the decedent's estate if:

(a) Such property interest was transferred for adequate consideration;

(b) Such property interest was transferred with the consent of the surviving spouse or surviving domestic partner; or

(c) The transferee purchased such property interest in property from the decedent while believing in good faith that the property or property interest was the separate property of the decedent and did not constitute quasi-community property.

(3) All property interests, proceeds, or value restored to the decedent's estate under this section shall belong to the surviving spouse or surviving domestic partner pursuant to RCW 26.16.230 as though the transfer had never been made.

(4) The surviving spouse or surviving domestic partner may waive any right granted hereunder by written instrument filed in the probate proceedings. If the surviving spouse or surviving domestic partner acts as personal representative of the decedent's estate and causes the estate to be closed before the time for exercising any right granted by this section expires, such closure shall act as a waiver by the surviving spouse or surviving domestic partner of any and all rights granted by this section. [2008 c 6 § 622; 1988 c 34 § 3; 1986 c 72 § 3.]

Additional notes found at www.leg.wa.gov

26.16.250 Quasi-community property—Characterization limited to determination of disposition at death—Waiver by written agreement. The characterization of property as quasi-community property under this chapter shall be effective solely for the purpose of determining the disposition of such property at the time of a death, and such characterization shall not affect the rights of the decedent's creditors. For all other purposes property characterized as quasi-community property under this chapter shall be characterized without regard to the provisions of this chapter. Both spouses or both domestic partners may waive, modify, or relinquish any quasi-community property right granted or created by this chapter by signed written agreement, whether executed, before or after June 11, 1986, including without limitation, community property agreements, prenuptial and postnuptial agreements, or agreements as to status of property. [2008 c 6 § 623; 1988 c 34 § 4; 1986 c 72 § 4.]

Additional notes found at www.leg.wa.gov

**Chapter 26.18 RCW
CHILD SUPPORT ENFORCEMENT**

Sections

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Child support registry: Chapter 26.23 RCW.

Domestic violence prevention: Chapter 26.50 RCW.

Family abandonment, penalty: RCW 26.20.030.

Family nonsupport, penalty: RCW 26.20.035.

Homestead subject to execution for child support or spousal maintenance: RCW 6.13.080.

26.18.010 Legislative findings. The legislature finds that there is an urgent need for vigorous enforcement of child support and 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, 26.21A, 26.26A, 26.26B, 74.20, and 74.20A RCW. [2019 c 46 § 5024; 2008 c 6 § 1026; 1993 c 426 § 1; 1984 c 260 § 1.]

Additional notes found at www.leg.wa.gov

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 maintenance" means the duty to provide for the needs of a spouse or former spouse or domestic partner or former domestic partner 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 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 domestic partner or former domestic partner, or person or agency, to whom a duty of support or duty of maintenance is owed, or the person or agency to whom the right to receive or collect support or maintenance has been assigned.

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

(6) "Support or maintenance order" means any judgment, decree, or order of support or maintenance issued by the superior court or authorized agency of the state of Washington; or a judgment, decree, or other order of support or 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 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" is another term for, and included in the definition of, "health care coverage." 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).

(14) "Health care coverage" means fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage under which medical services could be provided to a dependent child or children. The term "health care coverage" includes, but is not limited to, health insurance coverage.

(15) "Public health care coverage," sometimes called "state purchased health care," means state-financed or federally financed medical coverage, whether or not there is an assignment of rights. For children residing in Washington

state, this includes coverage through the department of social and health services or the health care authority, except for coverage under chapter 41.05 RCW; for children residing outside of Washington, this includes coverage through another state's agencies that administer state purchased health care programs. [2018 c 150 § 102; 2008 c 6 § 1027; 1993 c 426 § 2; 1989 c 416 § 2; 1987 c 435 § 17; 1984 c 260 § 2.]

Additional notes found at www.leg.wa.gov

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 or domestic partnership status of the parents, and to a spouse or former spouse or domestic partner or former domestic partner.

(3) This chapter shall be liberally construed to assure that all dependent children are adequately supported. [2008 c 6 § 1028; 1993 c 426 § 3; 1984 c 260 § 3.]

Additional notes found at www.leg.wa.gov

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. [1984 c 260 § 24.]

26.18.040 Support or maintenance proceedings. (1) A proceeding to enforce a duty of support or 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 maintenance, or both, of the obligor, including arrearages, have been satisfied. [2008 c 6 § 1029; 1993 c 426 § 4; 1984 c 260 § 4.]

Additional notes found at www.leg.wa.gov

26.18.050 Failure to comply with support or maintenance order—Contempt action—Order to show cause—Bench warrant—Continuing jurisdiction. (1) If an obligor fails to comply with a support or 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 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 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. [2008 c 6 § 1030; 1993 c 426 § 5; 1989 c 373 § 22; 1984 c 260 § 5.]

Additional notes found at www.leg.wa.gov

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. [2000 c 86 § 1; 1997 c 58 § 942.]

Additional notes found at www.leg.wa.gov

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 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 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 maintenance, and the amount past due, if any;

(2020 Ed.)

(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. [2008 c 6 § 1031; 1994 c 230 § 3; 1993 c 426 § 6; 1987 c 435 § 18; 1984 c 260 § 7.]

Additional notes found at www.leg.wa.gov

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. [1987 c 435 § 19; 1984 c 260 § 8.]

Additional notes found at www.leg.wa.gov

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 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 maintenance order, then the maximum amount to be withheld is the sum of: Either the current support or 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 maintenance authorized under this chapter, but fifty percent of the disposable

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, (year)

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

[2016 c 202 § 24; 2008 c 6 § 1033; 1998 c 77 § 1. Prior: 1997 c 296 § 10; 1997 c 58 § 889; 1994 c 230 § 4; 1993 c 426 § 8; 1991 c 367 § 20; 1989 c 416 § 10; 1987 c 435 § 20; 1984 c 260 § 10.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

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 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 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 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 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 maintenance debt, or the amount of support or 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 vio-

lation. 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. [2008 c 6 § 1034; 1998 c 77 § 2; 1994 c 230 § 5; 1993 c 426 § 9; 1991 c 367 § 21; 1989 c 416 § 11; 1987 c 435 § 21; 1984 c 260 § 11.]

Additional notes found at www.leg.wa.gov

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
Obligor TO WAGE
..... 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 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

[2008 c 6 § 1035; 1993 c 426 § 10; 1984 c 260 § 12.]

Additional notes found at www.leg.wa.gov

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. [1987 c 435 § 22; 1984 c 260 § 13.]

Additional notes found at www.leg.wa.gov

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 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). [2008 c 6 § 1036; 1994 c 230 § 6; 1993 c 426 § 11; 1991 c 367 § 22; 1984 c 260 § 14.]

Additional notes found at www.leg.wa.gov

26.18.150 Bond or other security. (1) In any action to enforce a support or 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 maintenance to post a bond or other security with the court. The bond or other security shall be in the amount of support or 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. [2008 c 6 § 1037; 1993 c 426 § 12; 1984 c 260 § 15.]

Additional notes found at www.leg.wa.gov

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. [1993 c 426 § 13; 1984 c 260 § 25.]

26.18.170 Medical support—Enforcement—Rules.

(1) Whenever a parent has been ordered to provide medical support for a dependent child, the department or the other parent may seek enforcement of the medical support as provided under this section.

(a) If the obligated parent provides proof that he or she provides accessible health care coverage for the child, that parent has satisfied his or her obligation to provide health care coverage.

(b) If the obligated parent does not provide proof of coverage, either the department or the other parent may take appropriate action as provided in this section to enforce the obligation.

(2) An obligated parent may satisfy his or her health care coverage obligation by enrolling the child in public health care coverage, but that parent is also required to provide accessible health insurance coverage for the child if it is available at no cost through the parent's employer or union.

(3) The fact that one parent enrolled the child in public health care coverage does not satisfy the other parent's health care coverage obligation unless the support order provides otherwise. A parent may satisfy the obligation to provide health care coverage by:

(a) First enrolling the child in available and accessible health insurance coverage through the parent's employer or union if such coverage is available for no more than twenty-five percent of the parent's basic support obligation;

(b) If there is no accessible health insurance coverage for the child available through the parent's employer or union, contributing a proportionate share of any premium paid by the other parent or the state for public health care coverage for the child.

(4) The department may attempt to enforce a parent's obligation to provide health insurance coverage for the dependent child. If health insurance coverage is not available through the parent's employment or union at a cost not to exceed twenty-five percent of the parent's basic support obligation, or as otherwise provided in the support order, the

department may enforce any monthly payment toward the premium ordered to be provided under RCW 26.09.105 or 74.20A.300.

(5) A parent seeking to enforce another parent's monthly payment toward the premium under RCW 26.09.105 may:

(a) Apply for support enforcement services from the division of child support as provided by rule; or

(b) Take action on his or her own behalf by:

(i) Filing a motion in the underlying superior court action; or

(ii) Initiating an action in superior court to determine the amount owed by the obligated parent, if there is not already an underlying superior court action.

(6)(a) The department may serve a notice of support owed under RCW 26.23.110 on a parent to determine the amount of that parent's monthly payment toward the premium.

(b) Whether or not the child receives temporary assistance for needy families or medicaid, the department may enforce the responsible parent's monthly payment toward the premium. When the child receives public health care coverage for which there is an assignment, the department may disburse amounts collected to the custodial parent to be used for the medical costs of the child or the department may retain amounts collected and apply them toward the cost of providing the child's state-financed medical coverage. The department may disregard monthly payments toward the premium which are passed through to the family in accordance with federal law.

(7)(a) If the order to provide health insurance coverage contains language notifying the parent ordered to provide coverage 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 parent, send a national medical support notice pursuant to 42 U.S.C. Sec. 666(a)(19), and sections 401 (e) and (f) of the federal child support and performance incentive act of 1998 to the parent'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 (10) of this section.

(c) The returned part A of the national medical support notice to the division of child support by the employer constitutes proof of service of the notice in the case where the notice was served by regular mail.

(8) Upon receipt of a national medical support notice from a child support agency operating under Title IV-D of the federal social security act:

(a) The parent's employer or union shall comply with the provisions of the notice, including meeting response time

frames and withholding requirements required under part A of the notice;

(b) The parent's employer or union shall also be responsible for complying with forwarding part B of the notice to the child's plan administrator, if required by the notice;

(c) The plan administrator is responsible for complying with the provisions of the notice.

(9) If the 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:

(a) The parent seeking enforcement may, without further notice to the obligated parent, send a certified copy of the order requiring health insurance coverage to the parent's employer or union by certified mail, return receipt requested; and

(b) The parent seeking enforcement 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 (10) of this section.

(10) Upon receipt of an order that provides for health insurance coverage:

(a) The parent's employer or union shall answer the party who sent the order 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 parent'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 parent's plan. If the parent'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 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 parent and shall make available any necessary claim forms or enrollment membership cards.

(11) If the order for coverage contains no language notifying either or both parents 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 parent seeking enforcement may serve a written notice of intent to enforce the order on the obligated parent by certified mail, return receipt requested, or by personal service. If the parent required to provide medical support 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 parent seeking enforcement may proceed to enforce the order directly as provided in subsection (7) of this section.

(12) If the parent 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 depart-

ment or the parent seeking enforcement may serve a written notice of intent to purchase health insurance coverage on the obligated parent by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(13) If the department serves a notice under subsection (12) of this section the parent required to provide medical support 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 obligated parent has either applied for, or obtained, coverage accessible to the child.

(14) If the parent seeking enforcement serves a notice under subsection (12) of this section, within twenty days of the date of service the parent required to provide medical support shall provide written proof to the parent seeking enforcement that he or she has either applied for, or obtained, coverage accessible to the child.

(15) If the parent required to provide medical support fails to respond to a notice served under subsection (12) 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.

(a) If the obligated parent is the responsible parent, the amount of the monthly premium shall be added to the support debt and be collectible without further notice.

(b) If the obligated parent is the custodial parent, the responsible parent may file an application for enforcement services and ask the department to establish and enforce the custodial parent's obligation.

(c) The amount of the monthly premium may be collected or accrued until the parent required to provide medical support provides proof of the required coverage.

(16) The signature of the parent seeking enforcement 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 parent seeking enforcement or to the child's health services provider, and in any claim against the coverage provider or issuer, the parent seeking enforcement or his or her assignee shall be subrogated to the rights of the parent obligated to provide medical support for the child. 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 parent seeking enforcement at that parent's last known address within thirty days of the termination date.

(17) This section shall not be construed to limit the right of the parents or parties to the support order to bring an action in superior court at any time to enforce, modify, or clarify the original support order.

(18) 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.

(19) If a parent required to provide medical support fails to pay his or her portion, determined under RCW 26.19.080, of any premium, deductible, copay, or uninsured medical expense incurred on behalf of the child, pursuant to a child support order, the department or the parent seeking reimbursement of medical expenses may enforce collection of the obligated parent's portion of the premium, deductible, copay, or uninsured medical expense incurred on behalf of the child.

(a) If the department is enforcing the order and the responsible parent is the obligated parent, the obligated parent's portion of the premium, deductible, copay, or uninsured medical expenses incurred on behalf of the child added to the support debt and be collectible without further notice, following the reduction of the expenses to a sum certain either in a court order or by the department, pursuant to RCW 26.23.110.

(b) If the custodial parent is the obligated parent, the responsible parent may file an application for enforcement services and ask the department to establish and enforce the custodial parent's obligation.

(20) As used in this section:

(a) "Accessible" means health insurance coverage which provides primary care services to the child or children with reasonable effort by the custodian.

(b) "Cash medical support" means a combination of: (i) A parent's monthly payment toward the premium paid for coverage by either the other parent or the state, which represents the obligated parent's proportionate share of the premium paid, but no more than twenty-five percent of the obligated parent's basic support obligation; and (ii) a parent's proportionate share of uninsured medical expenses.

(c) "Uninsured medical expenses" includes premiums, copays, deductibles, along with other health care costs not covered by insurance.

(d) "Obligated parent" means a parent ordered to provide health insurance coverage for the children.

(e) "Monthly payment toward the premium" means a parent's contribution toward premiums paid by the other parent or the state for insurance coverage for the child, which is based on the obligated parent's proportionate share of the premium paid, but no more than twenty-five percent of the obligated parent's basic support obligation.

(21) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308. [2018 c 150 § 103; 2009 c 476 § 2; 2007 c 143 § 1; 2000 c 86 § 2; 1995 c 34 § 7; 1994 c 230 § 7; 1993 c 426 § 14; 1989 c 416 § 5.]

Additional notes found at www.leg.wa.gov

26.18.180 Liability of employer or union—Penalties.

(1) The employer or union of a parent who has been ordered to provide health insurance coverage 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 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. [2009 c 476 § 3; 2000 c 86 § 3; 1989 c 416 § 9.]

Additional notes found at www.leg.wa.gov

26.18.190 Compensation paid by agency, self-insurer, social security administration, or veterans' 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 person with disabilities, 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 person with disabilities, 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) When the veterans' administration apportions a veteran's benefits to pay child support on behalf of or on account of the child or children of the veteran, the amount paid for the child or children shall be treated for all purposes as if the veteran paid the benefits toward the satisfaction of that person's child support obligation for that period for which benefits are paid.

(4) 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), (2), or (3) of this section. [2015 c 124 § 1; 1995 c 236 § 1; 1990 1st ex.s. c 2 § 17.]

Additional notes found at www.leg.wa.gov

26.18.210 Child support data report. In order to perform the required quadrennial review of the Washington state child support guidelines under RCW 26.19.025, the division of child support must prepare a report at least every four years using data compiled from child support court and administrative orders. The report must include all information the division of child support determines is necessary to

perform the quadrennial review. On a monthly basis, the clerk of the court must forward all child support worksheets that have been filed with the court to the division of child support. [2011 c 21 § 1; 2007 c 313 § 4; 2005 c 282 § 33; 1990 1st ex.s. c 2 § 22.]

Findings—2007 c 313: See note following RCW 26.19.025.
Additional notes found at www.leg.wa.gov

26.18.220 Standard court forms—Mandatory use.

(1) The administrative office of 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, 26.26A, and 26.26B 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 administrative office of 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 administrative office of 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 administrative office of the courts shall distribute a master copy of the forms to all county court clerks. The administrative office of 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. [2019 c 46 § 5025; 2005 c 282 § 34; 1992 c 229 § 5; 1990 1st ex.s. c 2 § 25.]

***Reviser's note:** Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

Additional notes found at www.leg.wa.gov

26.18.230 Residential time summary report form.

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

(2) The residential time summary report must include at a minimum: A breakdown of residential schedules with a reasonable degree of specificity regarding actual time with each parent, including enforcement practices, representation status of the parties, whether domestic violence, child abuse, chemical dependency, or mental health issues exist, and whether the matter was agreed or contested. [2017 c 183 § 3; 2007 c 496 § 702.]

Additional notes found at www.leg.wa.gov

26.18.240 Extension of rights and responsibilities—Domestic partnerships. (1) For the purposes of chapter 26.21A RCW, any privilege, immunity, right, benefit, or responsibility granted or imposed by chapter 26.21A RCW, the uniform interstate family support act, to or on an individual because the individual is or was married is granted or imposed on equivalent terms, substantive and procedural, to or on an individual who is or was in a domestic partnership.

(2) For the purposes of chapter 26.21A RCW, any privilege, immunity, right, benefit, or responsibility granted or imposed by chapter 26.21A RCW, the uniform interstate family support act, to or on a spouse with respect to a child is granted or imposed on equivalent terms, substantive and procedural, to or on a domestic partner with respect to a child. [2008 c 6 § 1048.]

Additional notes found at www.leg.wa.gov

26.18.901 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 66.]

**Chapter 26.19 RCW
CHILD SUPPORT SCHEDULE**

Sections

26.19.001	Legislative intent and finding.
26.19.011	Definitions.
26.19.020	Child support economic table.
26.19.025	Quadrennial review of child support guidelines and child support review report—Work group membership—Report to legislature.
26.19.035	Standards for application of the child support schedule.
26.19.045	Veterans' disability pensions, compensation for disability, and aid and attendant care payments.
26.19.050	Worksheets and instructions.
26.19.055	Payments for attendant services in cases of disability.
26.19.065	Standards for establishing lower and upper limits on child support amounts.
26.19.071	Standards for determination of income.
26.19.075	Standards for deviation from the standard calculation.
26.19.080	Allocation of child support obligation between parents—Court-ordered day care or special child rearing expenses.
26.19.090	Standards for postsecondary educational support awards.
26.19.100	Federal income tax exemptions.

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. [1988 c 275 § 1.]

Additional notes found at www.leg.wa.gov

26.19.011 Definitions. 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) "Full-time" means the customary number of maximum, nonovertime hours worked in an individual's historical occupation, industry, and labor market. "Full-time" does not necessarily mean forty hours per week.

(7) "Instructions" means the instructions developed by the administrative office of the courts pursuant to RCW 26.19.050 for use in completing the worksheets.

(8) "Standards" means the standards for determination of child support as provided in this chapter.

(9) "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.

(10) "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.

(11) "Worksheets" means the forms developed by the administrative office of the courts pursuant to RCW 26.19.050 for use in determining the amount of child support. [2020 c 227 § 1; 2005 c 282 § 35; 1991 sp.s. c 28 § 4.]

Findings—Intent—2020 c 227: See note following RCW 26.09.320.

Rule-making authority—2020 c 227: See RCW 26.09.916.

Additional notes found at www.leg.wa.gov

26.19.020 Child support economic table.

ECONOMIC TABLE
MONTHLY BASIC SUPPORT OBLIGATION
PER CHILD

COMBINED MONTHLY NET INCOME	ONE CHILD FAMILY	TWO CHILDREN FAMILY
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For income less than \$1000 the obligation is based upon the resources and living expenses of each household. Minimum support may not be less than \$50 per child per month except when allowed by RCW 26.19.065(2).

1000	216	167
1100	238	184
1200	260	200
1300	281	217
1400	303	234
1500	325	251
1600	346	267
1700	368	284
1800	390	301
1900	412	317
2000	433	334
2100	455	350
2200	477	367
2300	499	384
2400	521	400
2500	543	417
2600	565	433
2700	587	450
2800	609	467
2900	630	483
3000	652	500
3100	674	516
3200	696	533
3300	718	550
3400	740	566
3500	762	583
3600	784	599
3700	803	614
3800	816	624
3900	830	634
4000	843	643
4100	857	653
4200	867	660
4300	877	668
4400	887	675
4500	896	682

COMBINED MONTHLY NET INCOME	ONE CHILD FAMILY	TWO CHILDREN FAMILY	COMBINED MONTHLY NET INCOME	ONE CHILD FAMILY	TWO CHILDREN FAMILY	
4600	906	689	9100	1370	1032	
4700	916	697	9200	1379	1040	
4800	927	705	9300	1387	1047	
4900	939	714	9400	1396	1055	
5000	951	723	9500	1405	1062	
5100	963	732	9600	1414	1069	
5200	975	741	9700	1423	1077	
5300	987	750	9800	1432	1084	
5400	999	759	9900	1441	1092	
5500	1011	768	10000	1451	1099	
5600	1023	777	10100	1462	1107	
5700	1030	782	10200	1473	1114	
5800	1036	786	10300	1484	1122	
5900	1042	791	10400	1495	1129	
6000	1048	795	10500	1507	1136	
6100	1054	800	10600	1518	1144	
6200	1061	804	10700	1529	1151	
6300	1067	809	10800	1539	1159	
6400	1073	813	10900	1542	1161	
6500	1081	819	11000	1545	1164	
6600	1096	830	11100	1548	1166	
6700	1111	842	11200	1551	1169	
6800	1126	853	11300	1554	1172	
6900	1141	864	11400	1556	1174	
7000	1156	875	11500	1559	1177	
7100	1170	886	11600	1562	1179	
7200	1185	898	11700	1565	1182	
7300	1200	909	11800	1568	1184	
7400	1212	918	11900	1571	1187	
7500	1222	925	12000	1573	1190	
7600	1231	932				
7700	1241	939	COMBINED MONTHLY NET INCOME	THREE CHILDREN FAMILY	FOUR CHILDREN FAMILY	FIVE CHILDREN FAMILY
7800	1251	946	For income less than \$1000 the obligation is based upon the resources and living expenses of each household. Minimum support may not be less than \$50 per child per month except when allowed by RCW 26.19.065(2).			
7900	1261	953	1000	136	114	100
8000	1270	960	1100	150	125	110
8100	1280	968	1200	163	137	120
8200	1290	975	1300	177	148	130
8300	1299	981	1400	191	160	141
8400	1308	987	1500	204	171	151
8500	1316	994	1600	218	182	161
8600	1325	1000	1700	231	194	171
8700	1334	1007				
8800	1343	1013				
8900	1352	1019				
9000	1361	1026				

Child Support Schedule

26.19.020

COMBINED MONTHLY NET INCOME	THREE CHILDREN FAMILY	FOUR CHILDREN FAMILY	FIVE CHILDREN FAMILY	COMBINED MONTHLY NET INCOME	THREE CHILDREN FAMILY	FOUR CHILDREN FAMILY	FIVE CHILDREN FAMILY
1800	245	205	180	6300	648	543	477
1900	258	216	190	6400	651	545	480
2000	271	227	200	6500	656	549	483
2100	285	239	210	6600	665	557	490
2200	298	250	220	6700	674	564	497
2300	311	261	230	6800	683	572	503
2400	325	272	239	6900	692	579	510
2500	338	283	249	7000	701	587	516
2600	351	294	259	7100	710	594	523
2700	365	305	269	7200	719	602	530
2800	378	317	279	7300	727	609	536
2900	391	328	288	7400	734	615	541
3000	405	339	298	7500	740	620	545
3100	418	350	308	7600	745	624	549
3200	431	361	318	7700	751	629	554
3300	444	372	328	7800	756	634	558
3400	458	384	337	7900	762	638	562
3500	471	395	347	8000	767	643	566
3600	484	406	357	8100	773	647	570
3700	496	416	366	8200	778	652	574
3800	503	422	371	8300	783	656	577
3900	511	428	377	8400	788	660	581
4000	518	434	382	8500	793	664	584
4100	526	440	388	8600	797	668	588
4200	531	445	392	8700	802	672	591
4300	537	450	396	8800	807	676	595
4400	543	455	400	8900	812	680	599
4500	548	459	404	9000	817	684	602
4600	554	464	408	9100	822	689	606
4700	559	469	412	9200	828	694	611
4800	566	474	417	9300	835	699	616
4900	573	480	422	9400	841	705	620
5000	580	486	428	9500	848	710	625
5100	587	492	433	9600	854	716	630
5200	594	498	438	9700	861	721	635
5300	602	504	443	9800	867	727	639
5400	609	510	449	9900	874	732	644
5500	616	516	454	10000	879	737	648
5600	623	522	459	10100	885	741	652
5700	627	525	462	10200	890	745	656
5800	630	528	465	10300	895	750	660
5900	634	531	467	10400	900	754	664
6000	637	534	470	10500	906	759	668
6100	641	537	472	10600	911	763	672
6200	644	540	475	10700	916	767	675

COMBINED MONTHLY NET INCOME	THREE CHILDREN FAMILY	FOUR CHILDREN FAMILY	FIVE CHILDREN FAMILY
10800	921	772	679
10900	924	774	681
11000	926	776	683
11100	928	778	684
11200	931	780	686
11300	933	782	688
11400	936	784	690
11500	938	786	692
11600	940	788	693
11700	943	790	695
11800	945	792	697
11900	948	794	699
12000	950	796	700

The economic table is presumptive for combined monthly net incomes up to and including twelve thousand dollars. When combined monthly net income exceeds twelve thousand dollars, the court may exceed the presumptive amount of support set for combined monthly net incomes of twelve thousand dollars upon written findings of fact. [2018 c 150 § 301; 2009 c 84 § 1; 1998 c 163 § 2; 1991 c 367 § 25; 1990 1st ex.s. c 2 § 19; 1989 c 175 § 76; 1988 c 275 § 3.]

Effective date—2018 c 150 §§ 201-401: See note following RCW 26.23.065.

Additional notes found at www.leg.wa.gov

26.19.025 Quadrennial review of child support guidelines and child support review report—Work group membership—Report to legislature. (1) Beginning in 2011 and every four years thereafter, the division of child support shall convene a work group to review the child support guidelines and the child support review report described in subsection (7) of this section, consider the data required under subsection (8) of this section, and determine if the application of the child support guidelines results in appropriate support orders. Membership of the work group shall be determined as provided in this subsection.

(a) The president of the senate shall appoint one member from each of the two largest caucuses of the senate;

(b) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives;

(c) The governor, in consultation with the division of child support, shall appoint the following members:

(i) The director of the division of child support;

(ii) A professor of law specializing in family law;

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

(iv) An economist;

(v) A representative of the tribal community;

(vi) Two representatives from the superior court judges' association, including a superior court judge and a court commissioner who is familiar with child support issues;

(vii) A representative from the administrative office of the courts;

(viii) A prosecutor appointed by the Washington association of prosecuting attorneys;

(ix) A representative from legal services;

(x) Three noncustodial parents, each of whom may be a representative of an advocacy group, an attorney, or an individual, with at least one representing the interests of low-income, noncustodial parents;

(xi) Three custodial parents, each of whom may be a representative of an advocacy group, an attorney, or an individual, with at least one representing the interests of low-income, custodial parents; and

(xii) An administrative law judge appointed by the office of administrative hearings.

(2) Appointments to the work group shall be made by December 1, 2010, and every four years thereafter. The governor shall appoint the chair from among the work group membership.

(3) The division of child support shall provide staff support to the work group, and shall carefully consider all input received from interested organizations and individuals during the review process.

(4) The work group may form an executive committee, create subcommittees, designate alternative representatives, and define other procedures, as needed, for operation of the work group.

(5) Legislative members of the work group shall be reimbursed for travel expenses under RCW 44.04.120. Nonlegislative members, except those representing an employee or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(6) By October 1, 2011, and every four years thereafter, the work group shall report its findings and recommendations to the legislature, including recommendations for legislative action, if necessary.

(7) The division of child support must prepare a child support review report for the use of each quadrennial work group. This report, along with the data described in subsection (8) of this section, must be used in the review of the child support guidelines to ensure that deviations from the guidelines are limited and guideline amounts are appropriate based on criteria established by the division of child support, as directed by relevant state and federal law.

(8) During the quadrennial review, the data considered by the work group must include:

(a) Economic data on the cost of raising children; labor market data by occupation and skill level for the state and local job markets including, but not limited to, unemployment rates, employment rates, hours worked, and earnings; the impact of the guidelines' policies and amounts on parents who have family incomes below two hundred percent of the federal poverty level; and factors that influence employment rates and compliance with child support orders among parents who are obligated to pay support; and

(b) Case data, gathered through sampling or other methods, on the application of, and deviations from, the child support guidelines, as well as the rates of default and imputed child support orders and orders determined using the low-income adjustment. The analysis must also include a comparison of payments on child support orders by case characteris-

tics, including whether the order was entered by default, based on imputed income, or determined using the low-income adjustment. [2019 c 275 § 1; 2011 c 21 § 2; 2007 c 313 § 5; 1991 c 367 § 26.]

Findings—2007 c 313: "Federal law requires the states to periodically review and update their child support guidelines. Accurate and consistent reporting of the terms of child support orders entered by the courts or administrative agencies in Washington state is necessary in order to accomplish a review of the child support guidelines. In addition, a process for review of the guidelines should be established to ensure the integrity of any reviews undertaken to comply with federal law." [2007 c 313 § 1.]

Additional notes found at www.leg.wa.gov

26.19.035 Standards for application of the child support schedule. (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 administrative office of 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 administrative office of 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

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and filed with the order. [2005 c 282 § 36; 1992 c 229 § 6; 1991 c 367 § 27.]

Additional notes found at www.leg.wa.gov

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. [1991 c 367 § 30.]

Additional notes found at www.leg.wa.gov

26.19.050 Worksheets and instructions. (1) The administrative office of 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 administrative office of 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 administrative office of 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 administrative office of 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. [2005 c 282 § 37; 1990 1st ex.s. c 2 § 5; 1988 c 275 § 6.]

Additional notes found at www.leg.wa.gov

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. [1991 c 367 § 31.]

Additional notes found at www.leg.wa.gov

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 child support obligation owed for all his or her biological or legal children may exceed forty-five percent of net income except for good cause shown.

(a) Each child is entitled to a pro rata share of the income available for support, but the court only applies the pro rata share to the children in the case before the court.

(b) Before determining whether to apply the forty-five percent limitation, the court must consider whether it would be unjust to apply the limitation after considering the best interests of the child and the circumstances of each parent. Such circumstances include, but are not limited to, leaving insufficient funds in the custodial parent's household to meet the basic needs of the child, comparative hardship to the affected households, assets or liabilities, and any involuntary limits on either parent's earning capacity including incarceration, disabilities, or incapacity.

(c) 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) **Presumptive minimum support obligation.** (a) When a parent's monthly net income is below one hundred twenty-five percent of the federal poverty guideline for a one-person family, a support order of not less than fifty dollars per child per month shall be entered unless the obligor parent establishes that it would be unjust 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 leaving insufficient funds in the custodial parent's household to meet the basic needs of the child, comparative hardship to the affected households, assets or liabilities, and earning capacity.

(b) The basic support obligation of the parent making the transfer payment, excluding health care, day care, and special child-rearing expenses, shall not reduce his or her net income below the self-support reserve of one hundred twenty-five percent of the federal poverty level for a one-person family, except for the presumptive minimum payment of fifty dollars per child per month or when it would be unjust to apply the self-support reserve limitation after considering the best interests of the child and the circumstances of each parent. Such circumstances include, but are not limited to, leaving insufficient funds in the custodial parent's household to meet the basic needs of the child, comparative hardship to the affected households, assets or liabilities, and earning capacity. This section shall not be construed to require monthly substantiation of income.

(3) **Income above twelve thousand dollars.** The economic table is presumptive for combined monthly net incomes up to and including twelve thousand dollars. When combined monthly net income exceeds twelve thousand dollars, the court may exceed the presumptive amount of support set for combined monthly net incomes of twelve thousand dollars upon written findings of fact. [2018 c 150 § 401; 2009 c 84 § 2; 1998 c 163 § 1; 1991 c 367 § 33.]

Effective date—2018 c 150 §§ 201-401: See note following RCW 26.23.065.

Additional notes found at www.leg.wa.gov

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, except as excluded for income in subsection (4)(i) of this section;
- (f) Contract-related benefits;
- (g) Income from second jobs, except as excluded for income in subsection (4)(i) of this section;
- (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) Maintenance actually received;
- (r) Bonuses;
- (s) Social security benefits;
- (t) Disability insurance benefits; and
- (u) Income from self-employment, rent, royalties, contracts, proprietorship of a business, or joint ownership of a partnership or closely held corporation.

(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 new domestic partner 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) Aged, blind, or disabled assistance benefits;
- (g) Pregnant women assistance benefits;
- (h) Food stamps; and
- (i) Overtime or income from second jobs beyond forty hours per week averaged over a twelve-month period worked to provide for a current family's needs, to retire past relationship debts, or to retire child support debt, when the court finds the income will cease when the party has paid off his or her debts.

Receipt of income and resources from temporary assistance for needy families, supplemental security income,

aged, blind, or disabled assistance benefits, 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 maintenance to the extent actually paid;
- (g) Up to five thousand dollars per year in voluntary retirement contributions actually made if the contributions show a pattern of contributions during the one-year period preceding the action establishing the child support order unless there is a determination that the contributions were made for the purpose of reducing child support; 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 assets, residence, employment and earnings history, job skills, educational attainment, literacy, health, age, criminal record, dependency court obligations, and other employment barriers, record of seeking work, the local job market, the availability of employers willing to hire the parent, the prevailing earnings level in the local community, 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.

(a) Except as provided in (b) of this subsection, in the absence of records of a parent's actual earnings, the court shall impute a parent's income in the following order of priority:

- (i) Full-time earnings at the current rate of pay;
- (ii) Full-time earnings at the historical rate of pay based on reliable information, such as employment security department data;
- (iii) Full-time earnings at a past rate of pay where information is incomplete or sporadic;
- (iv) Earnings of thirty-two hours per week at minimum wage in the jurisdiction where the parent resides if the parent is on or recently coming off temporary assistance for needy families or recently coming off aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential

needs and housing support, supplemental security income, or disability, has recently been released from incarceration, or is a recent high school graduate. Imputation of earnings at thirty-two hours per week under this subsection is a rebuttable presumption;

(v) Full-time earnings at minimum wage in the jurisdiction where the parent resides if the parent has a recent history of minimum wage earnings, has never been employed and has no earnings history, or has no significant earnings history;

(vi) Median net monthly income of year-round full-time workers as derived from the United States bureau of census, current population reports, or such replacement report as published by the bureau of census.

(b) When a parent is currently enrolled in high school full-time, the court shall consider the totality of the circumstances of both parents when determining whether each parent is voluntarily unemployed or voluntarily underemployed. If a parent who is currently enrolled in high school is determined to be voluntarily unemployed or voluntarily underemployed, the court shall impute income at earnings of twenty hours per week at minimum wage in the jurisdiction where that parent resides. Imputation of earnings at twenty hours per week under this subsection is a rebuttable presumption. [2020 c 227 § 2; 2011 1st sp.s. c 36 § 14; 2010 1st sp.s. c 8 § 14; 2009 c 84 § 3; 2008 c 6 § 1038; 1997 c 59 § 4; 1993 c 358 § 4; 1991 sp.s. c 28 § 5.]

Findings—Intent—2020 c 227: See note following RCW 26.09.320.

Rule-making authority—2020 c 227: See RCW 26.09.916.

Findings—Intent—2011 1st sp.s. c 36: See RCW 74.62.005.

Effective date—2011 1st sp.s. c 36: See note following RCW 74.62.005.

Findings—Intent—Short title—Effective date—2010 1st sp.s. c 8: See notes following RCW 74.04.225.

Additional notes found at www.leg.wa.gov

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 or new domestic partner if the parent who is married to the new spouse or in a partnership with a new domestic partner is asking for a deviation based on any other reason. Income of a new spouse or new domestic partner 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;

(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; or

(ix) Income that has been excluded under *RCW 26.19.071(4)(h) if the person earning that income asks for a deviation for any other reason.

(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 or new domestic partners, 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. [2009 c 84 § 4; 2008 c 6 § 1039; 1997 c 59 § 5; 1993 c 358 § 5; 1991 sp.s. c 28 § 6.]

*Reviser's note: RCW 26.19.071 was amended by 2011 1st sp.s. c 36 § 14, changing subsection (4)(h) to subsection (4)(i).

Additional notes found at www.leg.wa.gov

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) Health care costs are not included in the economic table. Monthly health care costs shall be shared by the parents in the same proportion as the basic child support obligation. Health care costs shall include, but not be limited to, medical, dental, orthodontia, vision, chiropractic, mental health treatment, prescription medications, and other similar costs for care and treatment.

(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. [2009 c 84 § 5; 1996 c 216 § 1; 1990 1st ex.s. c 2 § 7.]

Additional notes found at www.leg.wa.gov

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. [1991 sp.s. c 28 § 7; 1990 1st ex.s. c 2 § 9.]

(2020 Ed.)

Additional notes found at www.leg.wa.gov

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. [1990 1st ex.s. c 2 § 10.]

Additional notes found at www.leg.wa.gov

Chapter 26.20 RCW

FAMILY ABANDONMENT OR NONSUPPORT

Sections

26.20.030	Family abandonment—Penalty—Exception.
26.20.035	Family nonsupport—Penalty—Exception.
26.20.071	Evidence—Spouse or domestic partner as witness.
26.20.080	Proof of willfulness—Application of penalty provisions.

Child support enforcement: Chapter 26.18 RCW.

Child support registry: Chapter 26.23 RCW.

Council for children and families: Chapter 43.121 RCW.

Uniform interstate family support act: Chapter 26.21A RCW.

26.20.030 Family abandonment—Penalty—Exception. (1) Except as provided in subsection (2) of this section, any person who has a child dependent upon him or her for care, education or support and deserts such child in any manner whatever with intent to abandon it is guilty of the crime of family abandonment.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to RCW 13.34.360 is not subject to criminal liability under this section.

(3) The crime of family abandonment is a class C felony under chapter 9A.20 RCW. [2002 c 331 § 6; 1984 c 260 § 26; 1973 1st ex.s. c 154 § 34; 1969 ex.s. c 207 § 2; 1955 c 249 § 1; 1953 c 255 § 1; 1943 c 158 § 1; 1913 c 28 § 1; Rem. Supp. 1943 § 6908. Prior: 1907 c 103 § 1, part.]

Intent—Effective date—2002 c 331: See notes following RCW 13.34.360.

Leaving children unattended in parked automobile: RCW 9.91.060.

Additional notes found at www.leg.wa.gov

26.20.035 Family nonsupport—Penalty—Exception. (1) Except as provided in subsection (2) of this section, any person who is able to provide support, or has the ability to earn the means to provide support, and who:

(a) Willfully omits to provide necessary food, clothing, shelter, or medical attendance to a child dependent upon him or her; or

(b) Willfully omits to provide necessary food, clothing, shelter, or medical attendance to his or her spouse or his or her domestic partner, is guilty of the crime of family nonsupport.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to RCW 13.34.360 is not subject to criminal liability under this section.

(3) The crime of family nonsupport is a gross misdemeanor under chapter 9A.20 RCW. [2008 c 6 § 1040; 2002 c 331 § 7; 1984 c 260 § 27.]

Intent—Effective date—2002 c 331: See notes following RCW 13.34.360.

Additional notes found at www.leg.wa.gov

26.20.071 Evidence—Spouse or domestic partner as witness. In any proceedings relating to nonsupport or family desertion the laws attaching a privilege against the disclosure of communications between spouses or domestic partners shall be inapplicable and both spouses or domestic partners in such proceedings shall be competent witnesses to testify to any relevant matter, including marriage, domestic partnership, and parentage. [2008 c 6 § 1041; 1963 c 10 § 1.]

Uniform criminal extradition act: Chapter 10.88 RCW.

Additional notes found at www.leg.wa.gov

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Additional notes found at www.leg.wa.gov

Chapter 26.21A RCW

UNIFORM INTERSTATE FAMILY SUPPORT ACT

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ARTICLE 1
GENERAL PROVISIONS

26.21A.005 Short title. This chapter may be cited as the uniform interstate family support act. [2002 c 198 § 101.]

Additional notes found at www.leg.wa.gov

26.21A.010 Definitions. In this chapter:

- (1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.
- (2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.
- (3) "Convention" means the convention on the international recovery of child support and other forms of family maintenance, concluded at the Hague on November 23, 2007.
- (4) "Duty of support" means an obligation imposed or imposed by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.
- (5) "Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:
 - (a) Which has been declared under the law of the United States to be a foreign reciprocating country;
 - (b) Which has established a reciprocal arrangement for child support with this state as provided in RCW 26.21A.235;

- (c) Which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this chapter; or
- (d) In which the convention is in force with respect to the United States.

(6) "Foreign support order" means a support order of a foreign tribunal.

(7) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the convention.

(8) "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(9) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(10) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by RCW 50.04.080, to withhold support from the income of the obligor.

(11) "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

(12) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

(13) "Issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child.

(14) "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.

(15) "Law" includes decisional and statutory law and rules having the force of law.

(16) "Obligee" means:

- (a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage of a child has been issued;
- (b) A foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;
- (c) An individual seeking a judgment determining parentage of the individual's child; or
- (d) A person that is a creditor in a proceeding under Article 7 of this chapter.

(17) "Obligor" means an individual, or the estate of a decedent that:

- (a) Owes or is alleged to owe a duty of support;
- (b) Is alleged but has not been adjudicated to be a parent of a child;

(c) Is liable under a support order; or

(d) Is a debtor in a proceeding under Article 7 of this chapter.

(18) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(21) "Register" means to record or file in a tribunal of this state a support order or judgment determining parentage of a child issued in another state or a foreign country.

(22) "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered.

(23) "Responding state" means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or foreign country.

(24) "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

(25) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

(26) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation or tribe.

(27) "Support enforcement agency" means a public official, governmental entity, or private agency authorized to:

(a) Seek enforcement of support orders or laws relating to the duty of support;

(b) Seek establishment or modification of child support;

(c) Request determination of parentage of a child;

(d) Attempt to locate obligors or their assets; or

(e) Request determination of the controlling child support order.

(28) "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorneys' fees, and other relief.

(29) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child. [2015 c 214 § 1; 2002 c 198 § 102.]

Effective date—2015 c 214: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015." [2015 c 214 § 66.]

Conflict with federal requirements—Waiver—2015 c 214: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the Washington department of social and health services shall submit a request to obtain a statutory or regulatory waiver of provisions to the extent of the conflicting requirements in Title IV-D of the federal social security act from the federal department of health and human services." [2015 c 214 § 62.]

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.015 State tribunal and support enforcement agency. (1) The superior court is the tribunal for judicial proceedings, and the department of social and health services division of child support is the tribunal for administrative proceedings, of this state.

(2) The department of social and health services division of child support is the support enforcement agency of this state. [2015 c 214 § 2; 2002 c 198 § 103.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.020 Remedies cumulative. (1) Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity.

(2) This chapter does not:

(a) Provide the exclusive method of establishing or enforcing a support order under the law of this state; or

(b) Grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this chapter. [2015 c 214 § 3; 2002 c 198 § 104.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.025 Application of chapter to resident of foreign country and foreign support proceeding. (1) A tribunal of this state shall apply Articles 1 through 6 of this chapter and, as applicable, Article 7 of this chapter, to a support proceeding involving:

(a) A foreign support order;

(b) A foreign tribunal; or

(c) An obligee, obligor, or child residing in a foreign country.

(2) A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of Articles 1 through 6 of this chapter.

(3) Article 7 of this chapter applies only to a support proceeding under the convention. In such a proceeding, if a provision of Article 7 of this chapter is inconsistent with a provision of Articles 1 through 6 of this chapter, Article 7 of this chapter controls. [2015 c 214 § 41.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

ARTICLE 2
JURISDICTION
PART 1
EXTENDED PERSONAL JURISDICTION

26.21A.100 Bases for jurisdiction over nonresident.

(1) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(a) The individual is personally served with a citation, summons, or notice within this state;

(b) The individual submits to the jurisdiction of this state by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(c) The individual resided with the child in this state;

(d) The individual resided in this state and provided prenatal expenses or support for the child;

(e) The child resides in this state as a result of the acts or directives of the individual;

(f) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse; or

(g) There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

(2) The bases of personal jurisdiction set forth in subsection (1) of this section or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of RCW 26.21A.550 are met, or, in the case of a foreign support order, unless the requirements of RCW 26.21A.570 are met. [2015 c 214 § 4; 2002 c 198 § 201.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.
Additional notes found at www.leg.wa.gov

26.21A.106 Duration of personal jurisdiction. Personal jurisdiction acquired by a tribunal of this state in a proceeding under this chapter or other law of this state relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by RCW 26.21A.120, 26.21A.125, and 26.21A.150. [2015 c 214 § 42.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

PART 2
PROCEEDINGS INVOLVING TWO OR MORE STATES

26.21A.110 Initiating and responding tribunal of this state. Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to a tribunal of another state and as a responding tribunal for proceedings initiated in another state or a foreign country. [2015 c 214 § 5; 2002 c 198 § 203.]

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Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.
Additional notes found at www.leg.wa.gov

26.21A.115 Simultaneous proceedings. (1) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state or a foreign country only if:

(a) The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state or the foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or the foreign country;

(b) The contesting party timely challenges the exercise of jurisdiction in the other state or the foreign country; and

(c) If relevant, this state is the home state of the child.

(2) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state or a foreign country if:

(a) The petition or comparable pleading in the other state or foreign country is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(b) The contesting party timely challenges the exercise of jurisdiction in this state; and

(c) If relevant, the other state or foreign country is the home state of the child. [2015 c 214 § 6; 2002 c 198 § 204.]

Denial of waiver—2015 c 214: "If after submission of a waiver request pursuant to section 62 of this act, the federal department of health and human services denies the request for the waiver, then section 61 of this act is inoperative with respect to sections 1 through 60 of this act." [2015 c 214 § 63.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Additional notes found at www.leg.wa.gov

26.21A.120 Continuing, exclusive jurisdiction to modify child support order. (1) A tribunal of this state that has issued a child support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction to modify its child support order if the order is the controlling order and:

(a) At the time of the filing of a request for modification this state is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(b) Even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify its order.

(2) A tribunal of this state that has issued a child support order consistent with the law of this state shall not exercise continuing, exclusive jurisdiction to modify the order if:

(a) All of the parties who are individuals file consent in a record with the tribunal of this state that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or

(b) Its order is not the controlling order.

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(3) If a tribunal of another state has issued a child support order pursuant to the uniform interstate family support act or a law substantially similar to that act which modifies a child support order of a tribunal of this state, tribunals of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

(4) A tribunal of this state that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.

(5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal. [2002 c 198 § 205.]

Additional notes found at www.leg.wa.gov

26.21A.125 Continuing jurisdiction to enforce child support order. (1) A tribunal of this state that has issued a child support order consistent with the law of this state may serve as an initiating tribunal to request a tribunal of another state to enforce:

(a) The order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the uniform interstate family support act; or

(b) A money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order.

(2) A tribunal of this state having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order. [2015 c 214 § 7; 2002 c 198 § 206.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

PART 3

RECONCILIATION OF TWO OR MORE ORDERS

26.21A.130 Determination of controlling child support order. (1) If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.

(2) If a proceeding is brought under this chapter, and two or more child support orders have been issued by tribunals of this state, or another state, or a foreign country with regard to the same obligor and same child, a tribunal of this state having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls and must be recognized:

(a) If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls.

(b) If more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter:

(i) An order issued by a tribunal in the current home state of the child controls; or

(ii) If an order has not been issued in the current home state of the child, the order most recently issued controls.

(c) If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state shall issue a child support order, which controls.

(3) If two or more child support orders have been issued for the same obligor and same child, upon request of a party who is an individual or that is a support enforcement agency, a tribunal of this state having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection (2) of this section. The request may be filed with a registration for enforcement or registration for modification pursuant to Article 6 of this chapter, or may be filed as a separate proceeding.

(4) A request to determine which is the controlling order must be accompanied by a copy of every child support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(5) The tribunal that issued the controlling order under subsection (1), (2), or (3) of this section has continuing jurisdiction to the extent provided in RCW 26.21A.120 or 26.21A.125.

(6) A tribunal of this state that determines by order which is the controlling order under subsection (2)(a) or (b) or (3) of this section or that issues a new controlling order under subsection (2)(c) of this section shall state in that order:

(a) The basis upon which the tribunal made its determination;

(b) The amount of prospective support, if any; and

(c) The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by RCW 26.21A.140.

(7) Within thirty days after issuance of an order determining which is the controlling order, the party obtaining the order shall file a certified copy of it in each tribunal that issued or registered an earlier order of child support. A party or support enforcement agency obtaining the order that fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

(8) An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under this chapter. [2015 c 214 § 8; 2002 c 198 § 207.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.135 Child support orders for two or more obligees. In responding to registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state or a foreign country, a tribunal of this state shall enforce those orders in the same manner as if the orders had been issued by a tribunal of this state. [2015 c 214 § 9; 2002 c 198 § 208.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.
Additional notes found at www.leg.wa.gov

26.21A.140 Credit for payments. A tribunal of this state shall credit amounts collected for a particular period pursuant to any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this state, another state, or a foreign country. [2015 c 214 § 10; 2002 c 198 § 209.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.
Additional notes found at www.leg.wa.gov

26.21A.146 Application of chapter to nonresident subject to personal jurisdiction. A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this chapter, under other law of this state relating to a support order, or recognizing a foreign support order may receive evidence from outside this state pursuant to RCW 26.21A.275, communicate with a tribunal outside this state pursuant to RCW 26.21A.280, and obtain discovery through a tribunal outside this state pursuant to RCW 26.21A.285. In all other respects, Articles 3 through 6 of this chapter do not apply and the tribunal shall apply the procedural and substantive law of this state. [2015 c 214 § 43.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

26.21A.150 Continuing, exclusive jurisdiction to modify spousal support order. (1) A tribunal of this state issuing a spousal support order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

(2) A tribunal of this state may not modify a spousal support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

(3) A tribunal of this state that has continuing, exclusive jurisdiction over a spousal support order may serve as:

(a) An initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this state; or

(b) A responding tribunal to enforce or modify its own spousal support order. [2015 c 214 § 11; 2002 c 198 § 211.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.
Additional notes found at www.leg.wa.gov

ARTICLE 3

CIVIL PROVISIONS OF GENERAL APPLICATION

26.21A.200 Proceedings under this chapter. (1) Except as otherwise provided in this chapter, this article applies to all proceedings under this chapter.

(2) An individual petitioner or a support enforcement agency may initiate a proceeding authorized under this chap-

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ter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or a foreign country which has or can obtain personal jurisdiction over the respondent. [2015 c 214 § 12; 2002 c 198 § 301.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.
Additional notes found at www.leg.wa.gov

26.21A.205 Proceeding by minor parent. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child. [2002 c 198 § 302.]

Additional notes found at www.leg.wa.gov

26.21A.210 Application of law of this state. Except as otherwise provided by this chapter, a responding tribunal of this state shall:

(1) Apply the procedural and substantive law generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) Determine the duty of support and the amount payable in accordance with the law and support guidelines of this state. [2002 c 198 § 303.]

Additional notes found at www.leg.wa.gov

26.21A.215 Duties of initiating tribunal. (1) Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward the petition and its accompanying documents:

(a) To the responding tribunal or appropriate support enforcement agency in the responding state; or

(b) If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(2) If requested by the responding tribunal, a tribunal of this state shall issue a certificate or other document and make findings required by the law of the responding state. If the responding tribunal is in a foreign country, upon request the tribunal of this state shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding foreign tribunal. [2015 c 214 § 13; 2002 c 198 § 304.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.220 Duties and powers of responding tribunal. (1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to RCW 26.21A.200(2), it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(2) A responding tribunal of this state, to the extent not prohibited by other law, may do one or more of the following:

(a) Establish or enforce a support order, modify a child support order, determine the controlling child support order, or determine parentage of a child;

(b) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(c) Order income withholding;

(d) Determine the amount of any arrearages, and specify a method of payment;

(e) Enforce orders by civil or criminal contempt, or both;

(f) Set aside property for satisfaction of the support order;

(g) Place liens and order execution on the obligor's property;

(h) Order an obligor to keep the tribunal informed of the obligor's current residential address, email address, telephone number, employer, address of employment, and telephone number at the place of employment;

(i) Issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(j) Order the obligor to seek appropriate employment by specified methods;

(k) Award reasonable attorneys' fees and other fees and costs; and

(l) Grant any other available remedy.

(3) A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

(4) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

(5) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

(6) If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported. [2015 c 214 § 14; 2002 c 198 § 305.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.225 Inappropriate tribunal. If a petition or comparable pleading is received by an inappropriate tribunal of this state, the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal of this state or another state and notify the petitioner where and when the pleading was sent. [2015 c 214 § 15; 2002 c 198 § 306.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.230 Duties of support enforcement agency.

(1) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(2) A support enforcement agency of this state that is providing services to the petitioner shall:

(a) Take all steps necessary to enable an appropriate tribunal of this state, another state, or a foreign country to obtain jurisdiction over the respondent;

(b) Request an appropriate tribunal to set a date, time, and place for a hearing;

(c) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(d) Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(e) Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(3) A support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for modification shall make reasonable efforts:

(a) To ensure that the order to be registered is the controlling order; or

(b) If two or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

(4) A support enforcement agency of this state that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

(5) A support enforcement agency of this state shall issue or request a tribunal of this state to issue a child support order and an income-withholding order that redirect payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to RCW 26.21A.290.

(6) This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency. [2015 c 214 § 16; 2002 c 198 § 307.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.235 Duty of state official or agency. (1) If the appropriate state official or agency determines that the support enforcement agency is neglecting or refusing to provide

services to an individual, the state official or agency may order the agency to perform its duties under this chapter or may provide those services directly to the individual.

(2) The appropriate state official or agency may determine that a foreign country has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination. [2015 c 214 § 17; 2002 c 198 § 308.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.240 Private counsel. An individual may employ private counsel to represent the individual in proceedings authorized by this chapter. [2002 c 198 § 309.]

Additional notes found at www.leg.wa.gov

26.21A.245 Duties of state information agency. (1) The Washington state support registry under chapter 26.23 RCW is the state information agency under this chapter.

(2) The state information agency shall:

(a) Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(b) Maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;

(c) Forward to the appropriate tribunal in the county in this state in which the obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from another state or a foreign country; and

(d) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security. [2015 c 214 § 18; 2002 c 198 § 310.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.250 Pleadings and accompanying documents.

(1) In a proceeding under this chapter, a petitioner seeking to establish a support order, to determine parentage of a child, or to register and modify a support order of a tribunal of another state or a foreign country must file a petition. Unless otherwise ordered under RCW 26.21A.255, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, social security number, and

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date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition must be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

(2) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency. [2015 c 214 § 19; 2002 c 198 § 311.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.255 Nondisclosure of information in exceptional circumstances. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice. [2002 c 198 § 312.]

Additional notes found at www.leg.wa.gov

26.21A.260 Costs and fees. (1) The petitioner may not be required to pay a filing fee or other costs.

(2) If an obligee prevails, a responding tribunal of this state may assess against an obligor filing fees, reasonable attorneys' fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or responding state or foreign country, except as provided by other law. Attorneys' fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(3) The tribunal shall order the payment of costs and reasonable attorneys' fees if it determines that a hearing was requested primarily for delay. In a proceeding under Article 6 of this chapter, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change. [2015 c 214 § 20; 2002 c 198 § 313.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.265 Limited immunity of petitioner. (1) Participation by a petitioner in a proceeding under this chapter before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(2) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this chapter.

(3) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while physically present in this state to participate in the proceeding. [2002 c 198 § 314.]

Additional notes found at www.leg.wa.gov

26.21A.270 Nonparentage as defense. A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this chapter. [2002 c 198 § 315.]

Additional notes found at www.leg.wa.gov

26.21A.275 Special rules of evidence and procedure.

(1) The physical presence of a nonresident party who is an individual in a tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

(2) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state.

(3) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(4) Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(5) Documentary evidence transmitted from outside this state to a tribunal of this state by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

(6) In a proceeding under this chapter, a tribunal of this state shall permit a party or witness residing outside this state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location. A tribunal of this state shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.

(7) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(8) A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

(9) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

(10) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child. [2015 c 214 § 21; 2002 c 198 § 316.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.
Additional notes found at www.leg.wa.gov

26.21A.280 Communications between tribunals. A tribunal of this state may communicate with a tribunal outside this state in a record, or by telephone, email, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding. A tribunal of this state may furnish similar information by similar means to a tribunal outside this state. [2015 c 214 § 22; 2002 c 198 § 317.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.
Additional notes found at www.leg.wa.gov

26.21A.285 Assistance with discovery. A tribunal of this state may:

(1) Request a tribunal outside this state to assist in obtaining discovery; and

(2) Upon request, compel a person over which it has jurisdiction to respond to a discovery order issued by a tribunal outside this state. [2015 c 214 § 23; 2002 c 198 § 318.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.
Additional notes found at www.leg.wa.gov

26.21A.290 Receipt and disbursement of payments.

(1) A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state or a foreign country a certified statement by the custodian of the record of the amounts and dates of all payments received.

(2) If neither the obligor, nor the obligee who is an individual, nor the child resides in this state, upon request from the support enforcement agency of this state or another state, the support enforcement agency of this state or a tribunal of this state shall:

(a) Direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and

(b) Issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.

(3) The support enforcement agency of this state receiving redirected payments from another state pursuant to a law similar to subsection (2) of this section shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received. [2015 c 214 § 24; 2002 c 198 § 319.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

ARTICLE 4
ESTABLISHMENT OF SUPPORT ORDER OR
DETERMINATION OF PARENTAGE

26.21A.350 Establishment of support order. (1) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state with personal jurisdiction over the parties may issue a support order if:

- (a) The individual seeking the order resides outside this state; or
 - (b) The support enforcement agency seeking the order is located outside this state.
- (2) The tribunal may issue a temporary child support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:
- (a) A presumed father of the child;
 - (b) Petitioning to have his paternity adjudicated;
 - (c) Identified as the father of the child through genetic testing;
 - (d) An alleged father who has declined to submit to genetic testing;
 - (e) Shown by clear and convincing evidence to be the father of the child;
 - (f) An acknowledged father as provided by applicable state law;
 - (g) The mother of the child; or
 - (h) An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.
- (3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to RCW 26.21A.220. [2015 c 214 § 25; 2002 c 198 § 401.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.355 Proceeding to determine parentage. A tribunal of this state authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage of a child brought under this chapter or a law or procedure substantially similar to this chapter. [2015 c 214 § 44.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

ARTICLE 5
ENFORCEMENT OF SUPPORT ORDER
WITHOUT REGISTRATION

26.21A.400 Employer's receipt of income-withholding order of another state. An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person defined as the obligor's employer under RCW 50.04.080

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without first filing a petition or comparable pleading or registering the order with a tribunal of this state. [2002 c 198 § 501.]

Additional notes found at www.leg.wa.gov

26.21A.405 Employer's compliance with income-withholding order of another state. (1) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(2) The employer shall treat an income-withholding order issued in another state that appears regular on its face as if it had been issued by a tribunal of this state.

(3) Except as provided in subsection (4) of this section and RCW 26.21A.410, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

- (a) The duration and amount of periodic payments of current child support, stated as a sum certain;
- (b) The person designated to receive payments and the address to which the payments are to be forwarded;
- (c) Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;
- (d) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and
- (e) The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(4) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

- (a) The employer's fee for processing an income-withholding order;
- (b) The maximum amount permitted to be withheld from the obligor's income; and
- (c) The times within which the employer must implement the withholding order and forward the child support payment. [2002 c 198 § 502.]

Additional notes found at www.leg.wa.gov

26.21A.410 Employer's compliance with two or more income-withholding orders. If an obligor's employer receives two or more income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for two or more child support obligees. [2002 c 198 § 503.]

Additional notes found at www.leg.wa.gov

26.21A.415 Immunity from civil liability. An employer that complies with an income-withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income. [2015 c 214 § 26; 2002 c 198 § 504.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.420 Penalties for noncompliance. An employer that willfully fails to comply with an income-withholding order issued in another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state. [2015 c 214 § 27; 2002 c 198 § 505.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.425 Contest by obligor. (1) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state by registering the order in a tribunal of this state and filing a contest to that order as provided in Article 6 of this chapter, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this state. RCW 26.21A.515 applies to the contest.

(2) The obligor shall give notice of the contest to:

(a) A support enforcement agency providing services to the obligee;

(b) Each employer that has directly received an income-withholding order relating to the obligor; and

(c) The person designated to receive payments in the income-withholding order or, if no person or agency is designated, to the obligee. [2002 c 198 § 506.]

Additional notes found at www.leg.wa.gov

26.21A.430 Administrative enforcement of orders.

(1) A party or support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued in another state or a foreign support order may send the documents required for registering the order to a support enforcement agency of this state.

(2) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter. [2015 c 214 § 28; 2002 c 198 § 507.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

ARTICLE 6

REGISTRATION, ENFORCEMENT, AND
MODIFICATION OF SUPPORT ORDER

PART 1

REGISTRATION AND ENFORCEMENT OF SUPPORT
ORDER

26.21A.500 Registration of order for enforcement. A support order or income-withholding order issued in another

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state or a foreign support order may be registered in this state for enforcement. [2015 c 214 § 29; 2002 c 198 § 601.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.505 Procedure to register order for enforcement. (1) Except as otherwise provided in RCW 26.21A.613, a support order or income-withholding order of another state or a foreign support order may be registered in this state by sending the following records to the appropriate tribunal in this state:

(a) A letter of transmittal to the tribunal requesting registration and enforcement;

(b) Two copies, including one certified copy, of the order to be registered, including any modification of the order;

(c) A sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(d) The name of the obligor and, if known:

(i) The obligor's address and social security number;

(ii) The name and address of the obligor's employer and any other source of income of the obligor; and

(iii) A description and the location of property of the obligor in this state not exempt from execution; and

(e) Except as otherwise provided in RCW 26.21A.255, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as an order of a tribunal of another state or a foreign support order, together with one copy of the documents and information, regardless of their form.

(3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

(4) If two or more orders are in effect, the person requesting registration shall:

(a) Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

(b) Specify the order alleged to be the controlling order, if any; and

(c) Specify the amount of consolidated arrears, if any.

(5) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination. [2015 c 214 § 30; 2002 c 198 § 602.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.510 Effect of registration for enforcement.

(1) A support order or income-withholding order issued in

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another state or a foreign support order is registered when the order is filed in the registering tribunal of this state.

(2) A registered support order issued in another state or a foreign country is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(3) Except as otherwise provided in this chapter, a tribunal of this state shall recognize and enforce, but may not modify, a registered support order if the issuing tribunal had jurisdiction. [2015 c 214 § 31; 2002 c 198 § 603.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.515 Choice of law. (1) Except as otherwise provided in subsection (4) of this section, the law of the issuing state or foreign country governs:

(a) The nature, extent, amount, and duration of current payments under a registered support order;

(b) The computation and payment of arrearages and accrual of interest on the arrearages under the support order; and

(c) The existence and satisfaction of other obligations under the support order.

(2) In a proceeding for arrears under a registered support order, the statute of limitation of this state or of the issuing state or foreign country, whichever is longer, applies.

(3) A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrears and interest due on a support order of another state or foreign country registered in this state.

(4) After a tribunal of this or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state or foreign country issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears. [2015 c 214 § 32; 2002 c 198 § 604.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

PART 2

CONTEST OF VALIDITY OR ENFORCEMENT

26.21A.520 Notice of registration of order. (1) When a support order or income-withholding order issued in another state or a foreign support order is registered, the registering tribunal of this state shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) A notice must inform the nonregistering party:

(a) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) That a hearing to contest the validity or enforcement of the registered order must be requested within twenty days

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after notice unless the registered order is under RCW 26.21A.615;

(c) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and

(d) Of the amount of any alleged arrearages.

(3) If the registering party asserts that two or more orders are in effect, a notice must also:

(a) Identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;

(b) Notify the nonregistering party of the right to a determination of which is the controlling order;

(c) State that the procedures provided in subsection (2) of this section apply to the determination of which is the controlling order; and

(d) State that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(4) Upon registration of an income-withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to the income-withholding law of this state. [2015 c 214 § 33; 2002 c 198 § 605.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.525 Procedure to contest validity or enforcement of registered support order. (1) A nonregistering party seeking to contest the validity or enforcement of a registered support order in this state shall request a hearing within the time required by RCW 26.21A.520. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to RCW 26.21A.530.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing. [2015 c 214 § 34; 2002 c 198 § 606.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.530 Contest of registration or enforcement.

(1) A party contesting the validity or enforcement of a registered support order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(a) The issuing tribunal lacked personal jurisdiction over the contesting party;

(b) The order was obtained by fraud;

(c) The order has been vacated, suspended, or modified by a later order;

(d) The issuing tribunal has stayed the order pending appeal;

(e) There is a defense under the law of this state to the remedy sought;

(f) Full or partial payment has been made;

(g) The statute of limitation under RCW 26.21A.515 precludes enforcement of some or all of the alleged arrearages; or

(h) The alleged controlling order is not the controlling order.

(2) If a party presents evidence establishing a full or partial defense under subsection (1) of this section, a tribunal may stay enforcement of a registered support order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered support order may be enforced by all remedies available under the law of this state.

(3) If the contesting party does not establish a defense under subsection (1) of this section to the validity or enforcement of a registered support order, the registering tribunal shall issue an order confirming the order. [2015 c 214 § 35; 2002 c 198 § 607.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.535 Confirmed order. Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration. [2015 c 214 § 36; 2002 c 198 § 608.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

PART 3

REGISTRATION AND MODIFICATION OF CHILD SUPPORT ORDER OF ANOTHER STATE

26.21A.540 Procedure to register child support order of another state for modification. A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in RCW 26.21A.500 through 26.21A.535 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification. [2015 c 214 § 37; 2002 c 198 § 609.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.545 Effect of registration for modification. A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the

same manner as if the order had been issued by a tribunal of this state, but the registered support order may be modified only if the requirements of RCW 26.21A.550 or 26.21A.560 have been met. [2015 c 214 § 38; 2002 c 198 § 610.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.550 Modification of child support order of another state. (1) If RCW 26.21A.560 does not apply, upon petition a tribunal of this state may modify a child support order issued in another state which is registered in this state if, after notice and hearing the tribunal finds that:

(a) The following requirements are met:

(i) Neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;

(ii) A petitioner who is a nonresident of this state seeks modification; and

(iii) The respondent is subject to the personal jurisdiction of the tribunal of this state; or

(b) This state is the residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state, and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction.

(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(3) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child support orders for the same obligor and same child, the order that controls and must be so recognized under RCW 26.21A.130 establishes the aspects of the support order which are non-modifiable.

(4) In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.

(5) On the issuance of an order by a tribunal of this state modifying a child support order issued in another state, the tribunal of this state becomes the tribunal having continuing, exclusive jurisdiction.

(6) Notwithstanding subsections (1) through (5) of this section and RCW 26.21A.100(2), a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:

(a) One party resides in another state; and

(b) The other party resides outside the United States. [2015 c 214 § 39; 2002 c 198 § 611.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.555 Recognition of order modified in another state. If a child support order issued by a tribunal of this state is modified by a tribunal of another state that assumed jurisdiction pursuant to the uniform interstate family support act, a tribunal of this state:

(1) May enforce its order that was modified only as to arrears and interest accruing before the modification;

(2) May provide other appropriate relief for violations of its order which occurred before the effective date of the modification; and

(3) Shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement. [2002 c 198 § 612.]

Additional notes found at www.leg.wa.gov

26.21A.560 Jurisdiction to modify child support order of another state when individual parties reside in this state. (1) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(2) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of Articles 1 and 2 of this chapter, this article, and the procedural and substantive law of this state to the proceeding for enforcement or modification. Articles 3, 4, 5, 7, and 8 of this chapter do not apply. [2002 c 198 § 613.]

Additional notes found at www.leg.wa.gov

26.21A.565 Notice to issuing tribunal of modification. Within thirty days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction. [2002 c 198 § 614.]

Additional notes found at www.leg.wa.gov

PART 4

REGISTRATION AND MODIFICATION OF FOREIGN CHILD SUPPORT ORDER

26.21A.570 Jurisdiction to modify child support order of foreign country. (1) Except as otherwise provided in RCW 26.21A.625, if a foreign country lacks or refuses to exercise jurisdiction to modify its child support order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether or not the consent to modification of a child support order otherwise required of the individual pursuant to RCW 26.21A.550 has been given or whether the individual seeking modification is a resident of this state or of the foreign country.

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(2) An order issued by a tribunal of this state modifying a foreign child support order pursuant to this section is the controlling order. [2015 c 214 § 40; 2002 c 198 § 615.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

Additional notes found at www.leg.wa.gov

26.21A.575 Procedure to register child support order of foreign country for modification. A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child support order not under the convention may register that order in this state under RCW 26.21A.500 through 26.21A.535 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or at another time. The petition must specify the grounds for modification. [2015 c 214 § 45.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

ARTICLE 7

SUPPORT PROCEEDING UNDER CONVENTION

26.21A.601 Definitions. In this article:

(1) "Application" means a request under the convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

(2) "Central authority" means the entity designated by the United States or a foreign country described in RCW 26.21A.010(5)(d) to perform the functions specified in the convention.

(3) "Convention support order" means a support order of a tribunal of a foreign country described in RCW 26.21A.010(5)(d).

(4) "Direct request" means a petition filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor, or child residing outside the United States.

(5) "Foreign central authority" means the entity designated by a foreign country described in RCW 26.21A.010(5)(d) to perform the functions specified in the convention.

(6) "Foreign support agreement":

(a) Means an agreement for support in a record that:

(i) Is enforceable as a support order in the country of origin;

(ii) Has been:

(A) Formally drawn up or registered as an authentic instrument by a foreign tribunal; or

(B) Authenticated by or concluded, registered, or filed with a foreign tribunal; and

(iii) May be reviewed and modified by a foreign tribunal; and

(b) Includes a maintenance arrangement or authentic instrument under the convention.

(7) "United States central authority" means the secretary of the United States department of health and human services. [2015 c 214 § 46.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

26.21A.603 Applicability. This article applies only to a support proceeding under the convention. In such a proceeding, if a provision of this article is inconsistent with Articles 1 through 6 of this chapter, this article controls. [2015 c 214 § 47.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

26.21A.605 Relationship of department of social and health services to United States central authority. The department of social and health services of this state is recognized as the agency designated by the United States central authority to perform specific functions under the convention. [2015 c 214 § 48.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

26.21A.607 Initiation by department of social and health services of support proceeding under convention.

(1) In a support proceeding under this article, the department of social and health services of this state shall:

(a) Transmit and receive applications; and
(b) Initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.

(2) The following support proceedings are available to an obligee under the convention:

(a) Recognition or recognition and enforcement of a foreign support order;

(b) Enforcement of a support order issued or recognized in this state;

(c) Establishment of a support order if there is no existing order including, if necessary, determination of parentage of a child;

(d) Establishment of a support order if recognition of a foreign support order is refused under RCW 26.21A.617(2)(b), (d), or (i);

(e) Modification of a support order of a tribunal of this state; and

(f) Modification of a support order of a tribunal of another state or a foreign country.

(3) The following support proceedings are available under the convention to an obligor against which there is an existing support order:

(a) Recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;

(b) Modification of a support order of a tribunal of this state; and

(c) Modification of a support order of a tribunal of another state or a foreign country.

(4) A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the convention. [2015 c 214 § 49.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

26.21A.610 Direct request. (1) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In such a proceeding, the law of this state applies.

(2) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, RCW 26.21A.613 through 26.21A.630 apply.

(3) In a direct request for recognition and enforcement of a convention support order or foreign support agreement:

(a) A security, bond, or deposit is not required to guarantee the payment of costs and expenses; and

(b) An obligee or obligor that in the issuing country has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this state under the same circumstances.

(4) A petitioner filing a direct request is not entitled to assistance from the department of social and health services.

(5) This article does not prevent the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement. [2015 c 214 § 50.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

26.21A.613 Registration of convention support order. (1) Except as otherwise provided in this article, a party who is an individual or a support enforcement agency seeking recognition of a convention support order shall register the order in this state as provided in Article 6 of this chapter.

(2) Notwithstanding RCW 26.21A.250 and 26.21A.505(1), a request for registration of a convention support order must be accompanied by:

(a) A complete text of the support order, or an abstract or extract of the support order drawn up by the issuing foreign tribunal, which may be in the form recommended by the Hague conference on private international law;

(b) A record stating that the support order is enforceable in the issuing country;

(c) If the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;

(d) A record showing the amount of arrears, if any, and the date the amount was calculated;

(e) A record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and

(f) If necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.

(3) A request for registration of a convention support order may seek recognition and partial enforcement of the order.

(4) A tribunal of this state may vacate the registration of a convention support order without the filing of a contest under RCW 26.21A.615, only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

(5) The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a convention support order. [2015 c 214 § 51.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

26.21A.615 Contest of registered convention support order. (1) Except as otherwise provided in this article, RCW 26.21A.520 through 26.21A.535 apply to a contest of a registered convention support order.

(2) A party contesting a registered convention support order shall file a contest not later than thirty days after notice of the registration, but if the contesting party does not reside in the United States, the contest must be filed not later than sixty days after notice of the registration.

(3) If the nonregistering party fails to contest the registered convention support order by the time specified in subsection (2) of this section, the order is enforceable.

(4) A contest of a registered convention support order may be based only on grounds set forth in RCW 26.21A.617. The contesting party bears the burden of proof.

(5) In a contest of a registered convention support order, a tribunal of this state:

(a) Is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and

(b) May not review the merits of the order.

(6) A tribunal of this state deciding a contest of a registered convention support order shall promptly notify the parties of its decision.

(7) A challenge or appeal, if any, does not stay the enforcement of a convention support order unless there are exceptional circumstances. [2015 c 214 § 52.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

26.21A.617 Recognition and enforcement of registered convention support order. (1) Except as otherwise provided in subsection (2) of this section, a tribunal of this state shall recognize and enforce a registered convention support order.

(2) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered convention support order:

(a) Recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(b) The issuing tribunal lacked personal jurisdiction consistent with RCW 26.21A.100;

(c) The order is not enforceable in the issuing country;

(d) The order was obtained by fraud in connection with a matter of procedure;

(e) A record transmitted in accordance with RCW 26.21A.613 lacks authenticity or integrity;

(f) A proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;

(g) The order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this chapter in this state;

(h) Payment, to the extent alleged arrears have been paid in whole or in part;

(i) In a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:

(i) If the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

(ii) If the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(j) The order was made in violation of RCW 26.21A.625.

(3) If a tribunal of this state does not recognize a convention support order under subsection (2)(b), (d), or (i) of this section:

(a) The tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new convention support order; and

(b) The department of social and health services shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under RCW 26.21A.607. [2015 c 214 § 53.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

26.21A.620 Partial enforcement. If a tribunal of this state does not recognize and enforce a convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a convention support order. [2015 c 214 § 54.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

26.21A.623 Foreign support agreement. (1) Except as otherwise provided in subsections (3) and (4) of this section, a tribunal of this state shall recognize and enforce a foreign support agreement registered in this state.

(2) An application or direct request for recognition and enforcement of a foreign support agreement must be accompanied by:

(a) A complete text of the foreign support agreement; and

(b) A record stating that the foreign support agreement is enforceable as an order of support in the issuing country.

(3) A tribunal of this state may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

(4) In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and enforcement of the agreement if it finds:

(a) Recognition and enforcement of the agreement is manifestly incompatible with public policy;

(b) The agreement was obtained by fraud or falsification;

(c) The agreement is incompatible with a support order involving the same parties and having the same purpose in this state, another state, or a foreign country if the support order is entitled to recognition and enforcement under this chapter in this state; or

(d) The record submitted under subsection (2) of this section lacks authenticity or integrity.

(5) A proceeding for recognition and enforcement of a foreign support agreement must be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country. [2015 c 214 § 55.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

26.21A.625 Modification of convention child support order. (1) A tribunal of this state may not modify a convention child support order if the obligee remains a resident of the foreign country where the support order was issued unless:

(a) The obligee submits to the jurisdiction of a tribunal of this state, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or

(b) The foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.

(2) If a tribunal of this state does not modify a convention child support order because the order is not recognized in this state, RCW 26.21A.617(3) applies. [2015 c 214 § 56.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

26.21A.627 Personal information—Limit on use. Personal information gathered or transmitted under this article may be used only for the purposes for which it was gathered or transmitted. [2015 c 214 § 57.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

26.21A.630 Record in original language—English translation. A record filed with a tribunal of this state under this article must be in the original language and, if not in English, must be accompanied by an English translation. [2015 c 214 § 58.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

ARTICLE 8 INTERSTATE RENDITION

26.21A.650 Grounds for rendition. (1) For purposes of this article, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.

(2) The governor of this state may:

(a) Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(b) On the demand by the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(3) A provision for extradition of individuals not inconsistent with this chapter applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled from the demanding state. [2002 c 198 § 801.]

Additional notes found at www.leg.wa.gov

26.21A.655 Conditions of rendition. (1) Before making a demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty days previously the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.

(2) If, under this chapter or a law substantially similar to this chapter, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(3) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order. [2002 c 198 § 802.]

Additional notes found at www.leg.wa.gov

ARTICLE 9 MISCELLANEOUS PROVISIONS

26.21A.900 Effective date—2002 c 198. This act takes effect January 1, 2007. [2006 c 96 § 1; 2002 c 198 § 906.]

26.21A.905 Uniformity of application and construction. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law

with respect to its subject matter among states that enact it. [2002 c 198 § 903.]

Additional notes found at www.leg.wa.gov

26.21A.907 Transitional provision. This act applies to proceedings begun on or after July 1, 2015, to establish a support order or determine parentage of a child or to register, recognize, enforce, or modify a prior support order, determination, or agreement, whenever issued or entered. [2015 c 214 § 60.]

Effective date—Conflict with federal requirements—Waiver—2015 c 214: See notes following RCW 26.21A.010.

Denial of waiver—2015 c 214: See note following RCW 26.21A.115.

26.21A.915 Captions, part headings, and articles not part of law—2002 c 198. Captions, part headings, and articles used in this act are not any part of the law. [2002 c 198 § 902.]

Additional notes found at www.leg.wa.gov

Chapter 26.23 RCW STATE SUPPORT REGISTRY

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26.23.100	Motion to quash, modify, or terminate payroll deduction—Grounds for relief.
26.23.110	Procedures when amount of support obligation needs to be determined—Notice—Adjudicative proceeding—Rules.
26.23.120	Information and records—Confidentiality—Disclosure—Adjudicative proceeding—Rules—Penalties.
26.23.130	Notice to department of child support or maintenance orders.
26.23.140	Collection and disclosure of social security numbers—Finding—Waiver requested to prevent fraud.
26.23.150	Recording of social security numbers—Compliance with federal requirement—Restricted disclosure.
26.23.900	Effective date—1987 c 435.

Authority of office of support enforcement to take support enforcement action against earnings within the state: RCW 74.20A.095.

26.23.010 Intent. The legislature recognizes the financial impact on custodial parents and children when child support is not received on time, or in the correct amount. The legislature also recognizes the burden placed upon the responsible parent and the second family when enforcement action must be taken to collect delinquent support.

It is the intent of the legislature to create a central Washington state support registry to improve the recordkeeping of

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support obligations and payments, thereby providing protection for both parties, and reducing the burden on employers by creating a single standardized process through which support payments are deducted from earnings.

It is also the intent of the legislature that child support payments be made through mandatory wage assignment or payroll deduction if the responsible parent becomes delinquent in making support payments under a court or administrative order for support.

To that end, it is the intent of the legislature to interpret all existing statutes and processes to give effect to, and to implement, one central registry for recording and distributing support payments in this state. [1987 c 435 § 1.]

26.23.020 Definitions. (1) The definitions contained in RCW 74.20A.020 shall be incorporated into and made a part of this chapter.

(2) "Support order" means a superior court order or administrative order, as defined in RCW 74.20A.020.

(3) "Earnings" means compensation paid or payable for personal services, 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 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. Earnings shall specifically include all gain from capital, from labor, or from both combined, not including profit gained through sale or conversion of capital assets.

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

(5) "Employer" means any person or entity who pays or owes earnings in employment as defined in Title 50 RCW to the responsible parent including but not limited to the United States government, or any state or local unit of government.

(6) "Employee" means a person in employment as defined in Title 50 RCW to whom an employer is paying, owes or anticipates paying earnings as a result of services performed. [1987 c 435 § 2.]

26.23.030 Registry—Creation—Duties—Interest on unpaid child support—Record retention. (1) There is created a Washington state support registry within the division of child support as the agency designated in Washington state to administer the child support program under Title IV-D of the federal social security act. The registry shall:

(a) Provide a central unit for collection of support payments made to the registry;

(b) Account for and disburse all support payments received by the registry;

(c) Maintain the necessary records including, but not limited to, information on support orders, support debts, the date and amount of support due; the date and amount of payments; and the names, social security numbers, and addresses of the parties;

(d) Develop procedures for providing information to the parties regarding action taken by, and support payments collected and distributed by the registry; and

(e) Maintain a state child support case registry to compile and maintain records on all child support orders entered in the state of Washington.

(2) The division of child support may assess and collect interest at the rate of twelve percent per year on unpaid child support that has accrued under any support order entered into the registry. This interest rate shall not apply to those support orders already specifying an interest assessment at a different rate.

(3) The secretary of social and health services shall adopt rules for the maintenance and retention of records of support payments and for the archiving and destruction of such records when the support obligation terminates or is satisfied. When a support obligation established under court order entered in a superior court of this state has been satisfied, a satisfaction of judgment form shall be prepared by the registry and filed with the clerk of the court in which the order was entered. [1997 c 58 § 905; 1989 c 360 § 6; 1988 c 275 § 18; 1987 c 435 § 3.]

Additional notes found at www.leg.wa.gov

26.23.033 State case registry—Submission of support orders. (1) The division of child support, Washington state support registry shall operate a state case registry containing records of all orders establishing or modifying a support order that are entered after October 1, 1998.

(2) The superior court clerk, the office of administrative hearings, and the department of social and health services shall, within five days of entry, forward to the Washington state support registry, a true and correct copy of all superior court orders or administrative orders establishing or modifying a support obligation that provide that support payments shall be made to the support registry.

(3) The division of child support shall reimburse the clerk for the reasonable costs of copying and sending copies of court orders to the registry at the reimbursement rate provided in Title IV-D of the federal social security act.

(4) Effective October 1, 1998, the superior court clerk, the office of administrative hearings, and the department of social and health services shall, within five days of entry, forward to the Washington state support registry a true and correct copy of all superior court orders or administrative orders establishing or modifying a support obligation.

(5) Receipt of a support order by the registry or other action under this section on behalf of a person or persons who have not made a written application for support enforcement services to the division of child support and who are not recipients of public assistance is deemed to be:

(a) A request for payment services only if the order requires payment to the Washington state support registry;

(b) A submission for inclusion in the state case registry if the order does not require that support payments be made to the Washington state support registry. [1997 c 58 § 903.]

Additional notes found at www.leg.wa.gov

26.23.035 Distribution of support payments—Rules—Child support pass through. (1) The department of social and health services shall adopt rules for the distribution of support money collected by the division of child support. These rules shall:

(a) Comply with Title IV-D of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996 and the federal deficit reduction act of 2005;

(b) Direct the division of child support to distribute support money within eight days of receipt, unless one of the following circumstances, or similar circumstances specified in the rules, prevents prompt distribution:

(i) The location of the custodial parent is unknown;

(ii) The support debt is in litigation;

(iii) The division of child support cannot identify the responsible parent or the custodian;

(c) Provide for proportionate distribution of support payments if the responsible parent owes a support obligation or a support debt for two or more Title IV-D cases; and

(d) Authorize the distribution of support money, except money collected under 42 U.S.C. Sec. 664, to satisfy a support debt owed to the IV-D custodian before the debt owed to the state when the custodian stops receiving a public assistance grant.

(2) The division of child support may distribute support payments to the payee under the support order or to another person who has lawful physical custody of the child or custody with the payee's consent. The payee may file an application for an adjudicative proceeding to challenge distribution to such other person. Prior to distributing support payments to any person other than the payee, the registry shall:

(a) Obtain a written statement from the child's physical custodian, under penalty of perjury, that the custodian has lawful custody of the child or custody with the payee's consent;

(b) Mail to the responsible parent and to the payee at the payee's last known address a copy of the physical custodian's statement and a notice which states that support payments will be sent to the physical custodian; and

(c) File a copy of the notice with the clerk of the court that entered the original support order.

(3) If the Washington state support registry distributes a support payment to a person in error, the registry may obtain restitution by means of a set-off against future payments received on behalf of the person receiving the erroneous payment, or may act according to RCW 74.20A.270 as deemed appropriate. Any set-off against future support payments shall be limited to amounts collected on the support debt and ten percent of amounts collected as current support.

(4) Effective February 1, 2021, consistent with 42 U.S.C. Sec. 657(a) as amended by section 7301(b)(7)(B) of the federal deficit reduction act of 2005, the department shall pass through child support that does not exceed fifty dollars per month collected on behalf of a family, or in the case of a family that includes two or more children an amount that is not more than one hundred dollars per month. The department has rule-making authority to implement this subsection. [2020 c 349 § 1; 2010 2nd sp.s. c 3 § 1; 2007 c 143 § 2; 1997 c 58 § 933; 1991 c 367 § 38; 1989 c 360 § 34.]

Effective date—2010 2nd sp.s. c 3: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect May 1, 2011." [2010 2nd sp.s. c 3 § 2.]

Additional notes found at www.leg.wa.gov

26.23.040 Employment reporting requirements—Exceptions—Penalties—Retention of records. (1) All employers doing business in the state of Washington shall report to the Washington state support registry:

(a) The hiring of any person who resides or works in this state to whom the employer anticipates paying earnings and who:

(i) Has not previously been employed by the employer; or

(ii) Was previously employed by the employer but has been separated from such employment for at least sixty consecutive days; and

(b) The date on which the employee first performed services for pay for the employer, or, in the case of an employee described in (a)(ii) of this subsection the date on which the employee returned to perform services for pay after a layoff, furlough, separation, or leave without pay.

The secretary of the department of social and health services may adopt rules to establish additional exemptions if needed to reduce unnecessary or burdensome reporting.

(2) Employers shall report to the extent practicable by W-4 form, or, at the option of the employer, an equivalent form, and may mail the form by first-class mail, or may transmit it electronically, or by other means authorized by the registry which will result in timely reporting.

(3) Employers shall submit reports within twenty days of the hiring, rehiring, or return to work of the employee, except as provided in subsection (4) of this section. The report shall contain:

(a) The employee's name, address, social security number, and date of birth; and

(b) The employer's name, address, and identifying number assigned under section 6109 of the internal revenue code of 1986.

(4) In the case of an employer transmitting reports magnetically or electronically, the employer shall report those employees described in subsection (1) of this section, in two monthly transmissions, if necessary, not less than twelve days nor more than sixteen days apart.

(5) An employer who fails to report as required under this section shall be subject to a civil penalty of:

(a) Twenty-five dollars per month per employee; or

(b) Five hundred dollars, if the failure to report is the result of a conspiracy between the employer and the employee not to supply the required report, or to supply a false report. All violations within a single month shall be considered a single violation for purposes of assessing the penalty. The penalty may be imposed and collected by the division of child support under RCW 74.20A.350.

(6) The registry shall retain the information for a particular employee only if the registry is responsible for establishing, enforcing, or collecting a support debt of the employee. The registry may, however, retain information for a particular employee for as long as may be necessary to:

(a) Transmit the information to the national directory of new hires as required under federal law; or

(b) Provide the information to other state agencies for comparison with records or information possessed by those agencies as required by law.

Information that is not permitted to be retained shall be promptly destroyed. Agencies that obtain information from

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the department of social and health services under this section shall maintain the confidentiality of the information received, except as necessary to implement the agencies' responsibilities. [2012 c 109 § 1; 1998 c 160 § 5; 1997 c 58 § 944; 1997 c 58 § 943; 1994 c 127 § 1; 1993 c 480 § 1; 1989 c 360 § 39; 1987 c 435 § 4.]

Additional notes found at www.leg.wa.gov

26.23.045 Support enforcement services. (1) The division of child support, Washington state support registry, shall provide support enforcement services under the following circumstances:

(a) Whenever public assistance under RCW 74.20.330 is paid;

(b) Whenever a request for support enforcement services under RCW 74.20.040 is received;

(c) When a support order which contains language directing a responsible parent to make support payments to the Washington state support registry under RCW 26.23.050 is submitted and the division of child support receives a written application for services or is already providing services;

(d) When the obligor submits a support order or support payment, and an application, to the Washington state support registry.

(2) The division of child support shall continue to provide support enforcement services for so long as and under such conditions as the department shall establish by regulation or until the superior court enters an order removing the requirement that the obligor make support payments to the Washington state support registry as provided for in RCW 26.23.050. [1997 c 58 § 902; 1994 c 230 § 8; 1989 c 360 § 33.]

Additional notes found at www.leg.wa.gov

26.23.050 Support orders—Provisions—Enforcement—Confidential information form—Rules. (*Effective until February 1, 2021.*) (1) If the division of child support is providing support enforcement services under RCW 26.23.045, or if a party is applying for support enforcement services by signing the application form on the bottom of the support order, the superior court shall include in all court orders that establish or modify a support obligation:

(a) A provision that orders and directs the responsible parent to make all support payments to the Washington state support registry;

(b) A statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of the court order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) A statement that the receiving parent might be required to submit an accounting of how the support, includ-

ing any cash medical support, is being spent to benefit the child;

(d) A statement that any parent required to provide health care coverage for the child or children covered by the order must notify the division of child support and the other parent when the coverage terminates; and

(e) A statement that the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in RCW 74.20A.320.

As used in this subsection and subsection (3) of this section, "good cause not to require immediate income withholding" means a written determination of why implementing immediate wage withholding would not be in the child's best interests and, in modification cases, proof of timely payment of previously ordered support.

(2) In all other cases not under subsection (1) of this section, the court may order the responsible parent to make payments directly to the person entitled to receive the payments, to the Washington state support registry, or may order that payments be made in accordance with an alternate arrangement agreed upon by the parties.

(a) The superior court shall include in all orders under this subsection that establish or modify a support obligation:

(i) A statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of the court order, unless:

(A) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(B) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(ii) A statement that the receiving parent may be required to submit an accounting of how the support is being spent to benefit the child;

(iii) A statement that any parent required to provide health care coverage for the child or children covered by the order must notify the division of child support and the other parent when the coverage terminates; and

(iv) A statement that a parent seeking to enforce the obligation to provide health care coverage may:

(A) File a motion in the underlying superior court action; or

(B) If there is not already an underlying superior court action, initiate an action in the superior court.

As used in this subsection, "good cause not to require immediate income withholding" is any reason that the court finds appropriate.

(b) The superior court may order immediate or delayed income withholding as follows:

(i) Immediate income withholding may be ordered if the responsible parent has earnings. If immediate income withholding is ordered under this subsection, all support payments shall be paid to the Washington state support registry. The superior court shall issue a mandatory wage assignment

order as set forth in chapter 26.18 RCW when the support order is signed by the court. The parent entitled to receive the transfer payment is responsible for serving the employer with the order and for its enforcement as set forth in chapter 26.18 RCW.

(ii) If immediate income withholding is not ordered, the court shall require that income withholding be delayed until a payment is past due. The support order shall contain a statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent, after a payment is past due.

(c) If a mandatory wage withholding order under chapter 26.18 RCW is issued under this subsection and the division of child support provides support enforcement services under RCW 26.23.045, the existing wage withholding assignment is prospectively superseded upon the division of child support's subsequent service of an income withholding notice.

(3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs that the responsible parent shall make all support payments to the Washington state support registry. All administrative orders shall also state that the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in RCW 74.20A.320. All administrative orders shall also state that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state without further notice to the responsible parent at any time after entry of the order, unless:

(a) One of the parties demonstrates, and the presiding officer finds, that there is good cause not to require immediate income withholding; or

(b) The parties reach a written agreement that is approved by the presiding officer that provides for an alternate agreement.

(4) If the support order does not include the provision ordering and directing that all payments be made to the Washington state support registry and a statement that withholding action may be taken against wages, earnings, assets, or benefits if a support payment is past due or at any time after the entry of the order, or that a parent's licensing privileges may not be renewed, or may be suspended, the division of child support may serve a notice on the responsible parent stating such requirements and authorizations. Service may be by personal service or any form of mail requiring a return receipt.

(5) Every support order shall state:

(a) The address where the support payment is to be sent;

(b) That withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of a support order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) The income of the parties, if known, or that their income is unknown and the income upon which the support award is based;

(d) The support award as a sum certain amount;

(e) The specific day or date on which the support payment is due;

(f) The names and ages of the dependent children;

(g) A provision requiring both the responsible parent and the custodial parent to keep the Washington state support registry informed of whether he or she has access to health care coverage at reasonable cost and, if so, the health care coverage information;

(h) That either or both the responsible parent and the custodial parent shall be obligated to provide medical support for his or her child through health care coverage if:

(i) The obligated parent provides accessible coverage for the child through private or public health care coverage; or

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

(iii) In the absence of such coverage, through an additional sum certain amount, as that parent's monthly payment toward the premium as provided under RCW 26.09.105;

(i) That a parent providing health care coverage must notify both the division of child support and the other parent when coverage terminates;

(j) That if proof of health care coverage or proof that the coverage is unavailable is not provided within twenty days, the parent seeking enforcement or the department may seek direct enforcement of the coverage through the employer or union of the parent required to provide medical support without further notice to the parent as provided under chapter 26.18 RCW;

(k) The reasons for not ordering health care coverage if the order fails to require such coverage;

(l) That the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in RCW 74.20A.320;

(m) That each parent must:

(i) Promptly file with the court and update as necessary the confidential information form required by subsection (7) of this section; and

(ii) Provide the state case registry and update as necessary the information required by subsection (7) of this section; and

(n) That parties to administrative support orders shall provide to the state case registry and update as necessary their residential addresses and the address of the responsible parent's employer. The division of child support may adopt rules that govern the collection of parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, the names of the children, social security numbers of the children, dates of birth of the children, driver's

license numbers, and the names, addresses, and telephone numbers of the parties' employers to enforce an administrative support order. The division of child support shall not release this information if the division of child support determines that there is reason to believe that release of the information may result in physical or emotional harm to the party or to the child, or a restraining order or protective order is in effect to protect one party from the other party.

(6) After the responsible parent has been ordered or notified to make payments to the Washington state support registry under this section, the responsible parent shall be fully responsible for making all payments to the Washington state support registry and shall be subject to payroll deduction or other income-withholding action. The responsible parent shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the Washington state support registry except as provided under RCW 74.20.101. A civil action may be brought by the payor to recover payments made to persons or agencies who have received and retained support moneys paid contrary to the provisions of this section.

(7) All petitioners and parties to all court actions under chapters 26.09, *26.10, 26.12, 26.18, 26.21A, 26.23, 26.26A, 26.26B, and 26.27 RCW shall complete to the best of their knowledge a verified and signed confidential information form or equivalent that provides the parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers. The clerk of the court shall not accept petitions, except in parentage actions initiated by the state, orders of child support, decrees of dissolution, or parentage orders for filing in such actions unless accompanied by the confidential information form or equivalent, or unless the confidential information form or equivalent is already on file with the court clerk. In lieu of or in addition to requiring the parties to complete a separate confidential information form, the clerk may collect the information in electronic form. The clerk of the court shall transmit the confidential information form or its data to the division of child support with a copy of the order of child support or parentage order, and may provide copies of the confidential information form or its data and any related findings, decrees, parenting plans, orders, or other documents to the state administrative agency that administers Title IV-A, IV-D, IV-E, or XIX of the federal social security act. In state initiated parentage actions, the parties adjudicated the parents of the child or children shall complete the confidential information form or equivalent or the state's attorney of record may complete that form to the best of the attorney's knowledge.

(8) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308. [2019 c 46 § 5026; 2018 c 150 § 104; 2009 c 476 § 4; 2007 c 143 § 3; 2001 c 42 § 3; 1998 c 160 § 2; 1997 c 58 § 888; 1994 c 230 § 9; 1993 c 207 § 1; 1991 c 367 § 39; 1989 c 360 § 15; 1987 c 435 § 5.]

*Reviser's note: Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

Intent—1997 c 58: See note following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

26.23.050 Support orders—Provisions—Enforcement—Confidential information form—Rules. (Effective February 1, 2021.) (1) If the division of child support is providing support enforcement services under RCW 26.23.045, or if a party is applying for support enforcement services by signing the application form on the bottom of the support order, the superior court shall include in all court orders that establish or modify a support obligation:

(a) A provision that orders and directs the person required to pay support to make all support payments to the Washington state support registry;

(b) A statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the person required to pay support at any time after entry of the court order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) A statement that the payee under the order or the person entitled to receive support might be required to submit an accounting of how the support, including any cash medical support, is being spent to benefit the child;

(d) A statement that a party to the support order who is required to provide health care coverage for the child or children covered by the order must notify the division of child support and the other party to the support order when the coverage terminates;

(e) A statement that any privilege of the person required to pay support to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the person is not in compliance with a support order as provided in RCW 74.20A.320; and

(f) A statement that the support obligation under the order may be abated as provided in RCW 26.09.320 if the person required to pay support is confined in a jail, prison, or correctional facility for at least six months, or is serving a sentence greater than six months in a jail, prison, or correctional facility.

As used in this subsection and subsection (3) of this section, "good cause not to require immediate income withholding" means a written determination of why implementing immediate wage withholding would not be in the child's best interests and, in modification cases, proof of timely payment of previously ordered support.

(2) In all other cases not under subsection (1) of this section, the court may order the person required to pay support to make payments directly to the person entitled to receive the payments, to the Washington state support registry, or may order that payments be made in accordance with an alternate arrangement agreed upon by the parties.

(a) The superior court shall include in all orders under this subsection that establish or modify a support obligation:

(i) A statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the person required to pay support at any time after entry of the court order, unless:

(A) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(B) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(ii) A statement that the payee under the order or the person entitled to receive support may be required to submit an accounting of how the support is being spent to benefit the child;

(iii) A statement that any party to the order required to provide health care coverage for the child or children covered by the order must notify the division of child support and the other party to the order when the coverage terminates; and

(iv) A statement that a party to the order seeking to enforce the other party's obligation to provide health care coverage may:

(A) File a motion in the underlying superior court action; or

(B) If there is not already an underlying superior court action, initiate an action in the superior court.

As used in this subsection, "good cause not to require immediate income withholding" is any reason that the court finds appropriate.

(b) The superior court may order immediate or delayed income withholding as follows:

(i) Immediate income withholding may be ordered if the person required to pay support has earnings. If immediate income withholding is ordered under this subsection, all support payments shall be paid to the Washington state support registry. The superior court shall issue a mandatory wage assignment order as set forth in chapter 26.18 RCW when the support order is signed by the court. The payee under the order or the person entitled to receive the transfer payment is responsible for serving the employer with the order and for its enforcement as set forth in chapter 26.18 RCW.

(ii) If immediate income withholding is not ordered, the court shall require that income withholding be delayed until a payment is past due. The support order shall contain a statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the person required to pay support, after a payment is past due.

(c) If a mandatory wage withholding order under chapter 26.18 RCW is issued under this subsection and the division of child support provides support enforcement services under RCW 26.23.045, the existing wage withholding assignment is prospectively superseded upon the division of child support's subsequent service of an income withholding notice.

(3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs that the person required to

pay support shall make all support payments to the Washington state support registry. All administrative orders shall also state that any privilege of the person required to pay support to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the person is not in compliance with a support order as provided in RCW 74.20A.320. All administrative orders shall also state that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state without further notice to the person required to pay support at any time after entry of the order, unless:

(a) One of the parties demonstrates, and the presiding officer finds, that there is good cause not to require immediate income withholding; or

(b) The parties reach a written agreement that is approved by the presiding officer that provides for an alternate agreement.

(4) If the support order does not include the provision ordering and directing that all payments be made to the Washington state support registry and a statement that withholding action may be taken against wages, earnings, assets, or benefits if a support payment is past due or at any time after the entry of the order, or that licensing privileges of the person required to pay support may not be renewed, or may be suspended, the division of child support may serve a notice on the person stating such requirements and authorizations. Service may be by personal service or any form of mail requiring a return receipt.

(5) Every support order shall state:

(a) The address where the support payment is to be sent;

(b) That withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the person required to pay support at any time after entry of a support order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) The income of the parties, if known, or that their income is unknown and the income upon which the support award is based;

(d) The support award as a sum certain amount;

(e) The specific day or date on which the support payment is due;

(f) The names and ages of the dependent children;

(g) A provision requiring both the person required to pay support, and the payee under the order or the person entitled to receive support who is a parent of the child or children covered by the order, to keep the Washington state support registry informed of whether he or she has access to health care coverage at reasonable cost and, if so, the health care coverage information;

(h) That either or both the person required to pay support, and the payee under the order or the person entitled to receive support who is a parent of the child or children cov-

ered by the order, shall be obligated to provide medical support for a child or children covered by the order through health care coverage if:

(i) The person obligated to provide medical support provides accessible coverage for the child or children through private or public health care coverage; or

(ii) Coverage that can be extended to cover the child or children is or becomes available to the person obligated to provide medical support through employment or is union-related; or

(iii) In the absence of such coverage, through an additional sum certain amount, as that obligated person's monthly payment toward the premium as provided under RCW 26.09.105;

(i) That a person obligated to provide medical support who is providing health care coverage must notify both the division of child support and the other party to the order when coverage terminates;

(j) That if proof of health care coverage or proof that the coverage is unavailable is not provided within twenty days, the person seeking enforcement or the department may seek direct enforcement of the coverage through the employer or union of the person required to provide medical support without further notice to the person as provided under chapter 26.18 RCW;

(k) The reasons for not ordering health care coverage if the order fails to require such coverage;

(l) That any privilege of the person required to pay support to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the person is not in compliance with a support order as provided in RCW 74.20A.320;

(m) That each party to the support order must:

(i) Promptly file with the court and update as necessary the confidential information form required by subsection (7) of this section; and

(ii) Provide the state case registry and update as necessary the information required by subsection (7) of this section; and

(n) That parties to administrative support orders shall provide to the state case registry and update as necessary their residential addresses and the address of the employer of the person required to pay support. The division of child support may adopt rules that govern the collection of parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, the names of the children, social security numbers of the children, dates of birth of the children, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers to enforce an administrative support order. The division of child support shall not release this information if the division of child support determines that there is reason to believe that release of the information may result in physical or emotional harm to the party or to the child, or a restraining order or protective order is in effect to protect one party from the other party.

(6) After the person required to pay support has been ordered or notified to make payments to the Washington state support registry under this section, that person shall be fully responsible for making all payments to the Washington state support registry and shall be subject to payroll deduction or other income-withholding action. The person required to pay

support shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the Washington state support registry except as provided under RCW 74.20.101. A civil action may be brought by the person required to pay support to recover payments made to persons or agencies who have received and retained support moneys paid contrary to the provisions of this section.

(7) All petitioners and parties to all court actions under chapters 26.09, *26.10, 26.12, 26.18, 26.21A, 26.23, 26.26A, 26.26B, and 26.27 RCW shall complete to the best of their knowledge a verified and signed confidential information form or equivalent that provides the parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers. The clerk of the court shall not accept petitions, except in parentage actions initiated by the state, orders of child support, decrees of dissolution, or parentage orders for filing in such actions unless accompanied by the confidential information form or equivalent, or unless the confidential information form or equivalent is already on file with the court clerk. In lieu of or in addition to requiring the parties to complete a separate confidential information form, the clerk may collect the information in electronic form. The clerk of the court shall transmit the confidential information form or its data to the division of child support with a copy of the order of child support or parentage order, and may provide copies of the confidential information form or its data and any related findings, decrees, parenting plans, orders, or other documents to the state administrative agency that administers Title IV-A, IV-D, IV-E, or XIX of the federal social security act. In state initiated parentage actions, the parties adjudicated the parents of the child or children shall complete the confidential information form or equivalent or the state's attorney of record may complete that form to the best of the attorney's knowledge.

(8) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308. [2020 c 227 § 9; 2019 c 46 § 5026; 2018 c 150 § 104; 2009 c 476 § 4; 2007 c 143 § 3; 2001 c 42 § 3; 1998 c 160 § 2; 1997 c 58 § 888; 1994 c 230 § 9; 1993 c 207 § 1; 1991 c 367 § 39; 1989 c 360 § 15; 1987 c 435 § 5.]

***Reviser's note:** Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

Effective date—2020 c 227 §§ 3-13: See note following RCW 26.09.320.

Findings—Intent—2020 c 227: See note following RCW 26.09.320.

Rule-making authority—2020 c 227: See RCW 26.09.916.

Intent—1997 c 58: See note following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

26.23.055 Support proceedings, orders, and registry—Required information—Duty to update—Service.

(1) Each party to a paternity or child support proceeding must provide the court and the Washington state child support registry with the confidential information form as required under RCW 26.23.050.

(2) Each party to an order entered in a child support or paternity proceeding shall update the information required under subsection (1) of this section promptly after any change in the information. The duty established under this section continues as long as any monthly support or support debt remains due under the support order.

(3) In any proceeding to establish, enforce, or modify the child support order between the parties, a party may demonstrate to the presiding officer that he or she has diligently attempted to locate the other party. Upon a showing of diligent efforts to locate, the presiding officer shall deem service of process for the action by delivery of written notice to the address most recently provided by the party under this section to be adequate notice of the action.

(4) All support orders shall contain notice to the parties of the obligations established by this section and possibility of service of process according to subsection (3) of this section. [2001 c 42 § 4; 1998 c 160 § 3; 1997 c 58 § 904.]

Additional notes found at www.leg.wa.gov

26.23.060 Notice of payroll deduction—Answer—Processing fee. (1) The division of child support may issue a notice of payroll deduction:

(a) As authorized by a support order that contains a notice clearly stating that child support may be collected by withholding from earnings, wages, or benefits without further notice to the obligated parent; or

(b) After service of a notice containing an income-withholding provision under this chapter or chapter 74.20A RCW.

(2) The division of child support shall serve a notice of payroll deduction upon a responsible parent's employer or upon the employment security department for the state in possession of or owing any benefits from the unemployment compensation fund to the responsible parent pursuant to Title 50 RCW or from the paid family and medical leave program under Title 50A RCW:

(a) In the manner prescribed for the service of a summons in a civil action;

(b) By certified mail, return receipt requested;

(c) By electronic means if there is an agreement between the secretary 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; or

(d) By regular mail to a responsible parent's employer unless the division of child support reasonably believes that service of process in the manner prescribed in (a) or (b) of this subsection is required for initiating an action to ensure employer compliance with the withholding requirement.

(3) Service of a notice of payroll deduction upon an employer or employment security department requires the employer or employment security department to immediately make a mandatory payroll deduction from the responsible parent's unpaid disposable earnings or benefits paid by the employment security department. The employer or employment security department shall thereafter deduct each pay period the amount stated in the notice divided by the number of pay periods per month. The payroll deduction each pay period shall not exceed fifty percent of the responsible parent's disposable earnings.

(4) A notice of payroll deduction for support shall have priority over any wage assignment, garnishment, attachment, or other legal process.

(5) The notice of payroll deduction shall be in writing and include:

(a) The name and social security number of the responsible parent;

(b) The amount to be deducted from the responsible parent's disposable earnings each month, or alternate amounts and frequencies as may be necessary to facilitate processing of the payroll deduction;

(c) A statement that the total amount withheld shall not exceed fifty percent of the responsible parent's disposable earnings;

(d) The address to which the payments are to be mailed or delivered; and

(e) A notice to the responsible parent warning the responsible parent that, despite the payroll deduction, the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as defined in RCW 74.20A.320.

(6) An informational copy of the notice of payroll deduction shall be mailed to the last known address of the responsible parent by regular mail.

(7) An employer or employment security department that receives a notice of payroll deduction shall make immediate deductions from the responsible parent's unpaid disposable earnings and remit proper amounts to the Washington state support registry within seven working days of the date the earnings are payable to the responsible parent.

(8) An employer, or the employment security department, upon whom a notice of payroll deduction is served, shall make an answer to the division of child support within twenty days after the date of service. The answer shall confirm compliance and institution of the payroll deduction or explain the circumstances if no payroll deduction is in effect. The answer shall also state whether the responsible parent is employed by or receives earnings from the employer or receives benefit payments from the employment security department, whether the employer or employment security department anticipates paying earnings or benefits and the amount of earnings or benefit payments. If the responsible parent is no longer employed, or receiving earnings from the employer, the answer shall state the present employer's name and address, if known. If the responsible parent is no longer receiving benefit payments from the employment security department, the answer shall state the present employer's name and address, if known.

The returned answer or a payment remitted to the division of child support by the employer constitutes proof of service of the notice of payroll deduction in the case where the notice was served by regular mail.

(9) The employer may deduct a processing fee from the remainder of the responsible parent's earnings after withholding under the notice of payroll deduction, 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 to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the registry.

(10) The notice of payroll deduction shall remain in effect until released by the division of child support, the court enters an order terminating the notice and approving an alternate arrangement under RCW 26.23.050, or until the employer no longer employs the responsible parent and is no longer in possession of or owing any earnings to the responsible parent. The employer shall promptly notify the office of support enforcement when the employer no longer employs the parent subject to the notice. For the employment security department, the notice of payroll deduction shall remain in effect until released by the division of child support or until the court enters an order terminating the notice.

(11) The division of child support may use uniform interstate withholding forms adopted by the United States department of health and human services to take withholding actions under this section whether the responsible parent is receiving earnings or unemployment compensation in this state or in another state. [2020 c 125 § 15; 2019 c 13 § 66. Prior: 2000 c 86 § 4; 2000 c 29 § 1; 1998 c 160 § 8; 1997 c 58 § 890; 1994 c 230 § 10; 1991 c 367 § 40; 1989 c 360 § 32; 1987 c 435 § 6.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

26.23.065 Requirement to remit payments by electronic funds transfer—Employer, business, or payroll processor—Waiver. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Electronic funds transfer" means any transfer of funds, other than a transaction originated or accomplished by conventional check, drafts, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit a checking or other deposit account. "Electronic funds transfer" includes payments made:

(i) By electronic check (echeck); and

(ii) By any means made available through the division of child support's web-based payment services.

(b) "Income withholding order" means an order to withhold income, order to withhold and deliver, or notice of payroll deduction issued under this chapter or chapter *26.10, 26.18, 74.20, or 74.20A RCW.

(c) "Payroll processor" means a person, entity, agent, or company which provides payroll services to an employer or other business such as calculating paychecks and providing electronic funds transfer services for payments to employees and other entities.

(2) Except as provided in subsection (4) of this section, an employer or other business that has received an income withholding order from the department of social and health services requiring payment to the Washington state support registry must remit payments through electronic funds transfer when the following conditions apply:

(a) The income withholding order applies to a person who is either an employee or contractor of the business, and the employer or business has:

(i) Ten or more employees; or

(ii) Ten or more contractors;

(b) The employer or business has received an income withholding order for more than one employee or contractor, even if the employer or business has fewer than ten employees or contractors, but has received an income withholding order for more than one employee or contractor;

(c) The employer or business uses a payroll processor to handle its payroll, payment, and tax processes and the payroll processor has the capacity to transmit payments through electronic funds transfer; or

(d) The employer or business is required by the department of revenue to file and pay taxes electronically under RCW 82.32.080.

(3) All electronic funds transfer payments must identify the person from whom the payment was withheld, the amount of the payment, the person's identifying number assigned by the division of child support, or the division of child support case number to which the payment is to be applied. If a business, employer, or payroll processor required to remit payments by electronic funds transfer under this section fails to comply with this requirement, the division of child support may issue a notice of noncompliance pursuant to RCW 74.20A.350.

(4) The department may waive the requirement to remit payments electronically for a business, employer, or payroll processor that is unable to comply despite good faith efforts or due to circumstances beyond that entity's reasonable control. Grounds for approving a waiver include, but are not limited to, circumstances in which:

(a) The business, employer, or payroll processor does not have a computer that meets the minimum standards necessary for electronic remittance;

(b) Additional time is needed to program the entity's computer;

(c) The business, employer, or payroll processor does not currently file data electronically with any business or government agency;

(d) Compliance conflicts with the entity's business procedures;

(e) Compliance would cause a financial hardship.

(5) The department has the discretion to terminate a waiver granted under subsection (4) of this section if:

(a) The business or employer has received at least one income withholding order for a person or employee and has failed to withhold or failed to withhold within the time provided in the order at least twice;

(b) The business, employer, or payroll processor has submitted at least one dishonored check; or

(c) The business, employer, or payroll processor continues to incorrectly identify withholdings or makes other errors that affect proper distribution of the support, despite contact and information from the department on how to correct the error.

(6) The department of social and health services has rule-making authority to enact rules in compliance with this section, including, but not limited to:

(a) The necessary conditions required for a business, employer, or payroll processor to electronically remit child support payments to the Washington state support registry;

(b) Options for electronic funds transfers and the process by which one must comply in order to establish such payment arrangements;

(c) Which types of payment meet the definition of electronic funds transfer; and

(d) Reasons for exemption from the requirement to remit funds by electronic funds transfer. [2018 c 150 § 201.]

***Reviser's note:** Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

Effective date—2018 c 150 §§ 201-401: "Sections 201 through 401 of this act take effect January 1, 2019." [2018 c 150 § 501.]

26.23.070 Payments to registry—Methods—Immunity from civil liability. (1) The employer or the employment security department may combine amounts withheld from the earnings of more than one responsible parent in a single payment to the Washington state support registry, listing separately the amount of the payment which is attributable to each individual.

(2) No employer nor employment security department that complies with a notice of payroll deduction under this chapter shall be civilly liable to the responsible parent for complying with a notice of payroll deduction under this chapter. [1991 c 367 § 41; 1987 c 435 § 7.]

Additional notes found at www.leg.wa.gov

26.23.075 Payments—Dishonored checks—Fees—Rules. For any payment made by a check as defined in RCW 62A.3-104, if the instrument is dishonored under RCW 62A.3-515, the costs and fees authorized under RCW 62A.3-515 apply. The department may establish procedures and adopt rules to enforce this section. [2000 c 215 § 4.]

26.23.080 Certain acts by employers prohibited—Penalties. No employer shall discipline or discharge an employee or refuse to hire a person by reason of an action authorized in this chapter. If an employer disciplines or discharges an employee or refuses to hire a person 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 lost wages and any other damages suffered as a result of the violation and for costs and reasonable attorney 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. [1987 c 435 § 9.]

26.23.090 Employer liability for failure or refusal to respond or remit earnings. (1) The employer shall be liable to the Washington state support registry, or to the agency or firm providing child support enforcement for another state, under Title IV-D of the federal social security act and issuing a notice, garnishment, or wage assignment attaching wages or earnings in satisfaction of a support obligation, for the amount of support moneys which should have been withheld from the employee's earnings, if the employer:

(a) Fails or refuses, after being served with a notice of payroll deduction, or substantially similar action issued by the agency or firm providing child support enforcement for another state, under Title IV-D of the federal social security act, to deduct and promptly remit from unpaid earnings the amounts of money required in the notice;

(b) Fails or refuses to submit an answer to the notice of payroll deduction, or substantially similar action issued by

the agency or firm providing child support enforcement for another state, under Title IV-D of the federal social security act, after being served; or

(c) Is unwilling to comply with the other requirements of RCW 26.23.060.

(2) Liability may be established in superior court or may be established pursuant to RCW 74.20A.350. Awards in superior court and in actions pursuant to RCW 74.20A.350 shall include costs, interest under RCW 19.52.020 and 4.56.110, and reasonable attorneys' fees and staff costs as a part of the award. Debts established pursuant to this section may be collected by the division of child support using any of the remedies available under chapter 26.09, 26.18, *26.21, 26.23, 74.20, or 74.20A RCW for the collection of child support. [1997 c 296 § 13; 1997 c 58 § 894; 1990 c 165 § 2; 1987 c 435 § 10.]

Reviser's note: *(1) Chapter 26.21 RCW was repealed by 2002 c 198 § 901, effective January 1, 2007. Later enactment, see chapter 26.21A RCW.

(2) This section was amended by 1997 c 58 § 894 and by 1997 c 296 § 13, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

26.23.100 Motion to quash, modify, or terminate payroll deduction—Grounds for relief. (1) The responsible parent subject to a payroll deduction pursuant to this chapter, may file a motion in superior court to quash, modify, or terminate the payroll deduction.

(2) Except as provided in subsections (4) and (5) of this section, the court may grant relief only upon a showing: (a) That the payroll deduction causes extreme hardship or substantial injustice; or (b) that the support payment was not past due under the terms of the order when the notice of payroll deduction was served on the employer.

(3) Satisfaction by the obligor of all past due payments subsequent to the issuance of the notice of payroll deduction is not grounds to quash, modify, or terminate the notice of payroll deduction.

(4) If a notice of payroll deduction has been in operation for twelve consecutive months and the obligor's support obligation is current, upon motion of the obligor, the court may order the office of support enforcement to terminate the payroll deduction, unless the obligee can show good cause as to why the payroll deduction should remain in effect.

(5) Subsection (2) of this section shall not prevent the court from ordering an alternative arrangement as provided under RCW 26.23.050(2). [1994 c 230 § 11; 1991 c 367 § 42; 1989 c 360 § 31; 1987 c 435 § 8.]

Additional notes found at www.leg.wa.gov

26.23.110 Procedures when amount of support obligation needs to be determined—Notice—Adjudicative proceeding—Rules. (1) The department may serve a notice of support owed when a child support order:

(a) Does not state the current and future support obligation as a fixed dollar amount;

(b) Contains an escalation clause or adjustment provision for which additional information not contained in the support order is needed to determine the fixed dollar amount of the support debt or the fixed dollar amount of the current and future support obligation, or both;

(c) Provides that the person required by the order to make the transfer payment must pay a portion of child care or day care expenses for a child or children covered by the order; or

(d) Provides that either the person required to pay support or the person entitled to receive support, or both, are obligated to pay for a portion of uninsured medical costs, copayments, and/or deductibles incurred on behalf of the child or children covered by the order, but does not reduce the costs to a fixed dollar amount.

(2) The department may serve a notice of support owed for day care or child care on the person required by the order to make the transfer payment when:

(a) The underlying support order requires that person to pay his or her proportionate share of day care or child care costs directly to the person entitled to receive support; or

(b) The person entitled to receive support is seeking reimbursement because he or she has paid the share of day care or child care costs owed by the person required by the order to make the transfer payment.

(3) The department may serve a notice of support owed for medical support on any person obligated by a child support order to provide medical support for the child or children covered by the order. There are two different types of medical support obligations:

(a) Health care coverage: The department may serve a notice of support owed to determine an obligated person's monthly payment toward the premium as defined in RCW 26.09.105, if the support order does not set a fixed dollar amount for the monthly payment toward the premium.

(b) Uninsured medical expenses: The department may serve a notice of support owed on any person who is obligated to pay a portion of uninsured medical costs, copayments, or deductibles incurred on behalf of the child or children covered by the order, when the support order does not reduce the costs to a fixed dollar amount.

(i) The notice of support owed may be served for purposes of reimbursing a person who has paid the share of uninsured medical expenses owed by any person obligated to contribute to those costs;

(ii) The notice of support owed may be served to establish a monthly amount to be paid by a person obligated to contribute to uninsured medical expenses when the underlying support order requires that person to pay his or her proportionate share of uninsured medical expenses directly to another party to the order; or

(iii) The notice of support owed may be served for both purposes listed in this subsection.

(4) The notice of support owed is intended to facilitate enforcement of the support order and implement and effectuate the terms of the support order, rather than modify those terms. When the department issues a notice of support owed, the department must inform the payee under the support order.

(5) Service of the notice of support owed must be as follows:

(a) An initial notice of support owed must be served on the person required by the order to pay support or contribute to costs by personal service or any form of mailing requiring a return receipt. The initial notice may be served on the person who is entitled to receive the support covered by the

notice, as well as the payee under the order if appropriate, by regular mail.

(b) A notice of support owed created for purposes of reviewing an ongoing support obligation established by a prior notice of support owed may be served on the person required by the order to pay support or contribute to costs by regular mail to that person's last known address.

(c) An initial notice of support owed, as well as any notice created for purposes of reviewing an ongoing support obligation established by a prior notice of support owed may be served on the person entitled to receive the support by regular mail to that person's last known address.

(6) The notice of support owed must contain:

(a) An initial finding of the fixed dollar amount of current and future support obligation that should be paid or the fixed dollar amount of the support debt owed under the support order, or both; and

(b) A statement that any subsequent notice of support owed created for purposes of reviewing the amounts established by the current notice may be served on any party to the order by regular mail to that person's last known address.

(7) A person who objects to the fixed dollar amounts stated in the notice of support owed has twenty days from the date of the service of the notice of support owed to file an application for an adjudicative proceeding or initiate an action in superior court.

(8) The notice of support owed must state that the person may:

(a) File an application for an adjudicative proceeding governed by chapter 34.05 RCW, the administrative procedure act, in which the person will be required to appear and show cause why the fixed dollar amount of support debt or current and future support obligation, or both, stated in the notice of support owed is incorrect and should not be ordered; or

(b) Initiate an action in superior court.

(9) If no person included in the notice files an application for an adjudicative proceeding or initiates an action in superior court, the fixed dollar amount of current and future support obligation or support debt, or both, stated in the notice of support owed becomes final and subject to collection action.

(10) If an adjudicative proceeding is requested, the office of administrative hearings must schedule a hearing. All persons included in the notice are entitled to participate in the hearing with full party rights.

(11) If no person included in the notice initiates an action in superior court, and serves notice of the action on the department and the other party to the support order within the twenty-day period, all persons included in the notice must be deemed to have made an election of remedies and must exhaust administrative remedies under this chapter with judicial review available as provided for in RCW 34.05.510 through 34.05.598.

(12) An administrative order entered in accordance with this section must state:

(a) The basis, rationale, or formula upon which the fixed dollar amounts established in the order were based;

(b) The fixed dollar amount of current and future support obligation or the amount of the support debt, or both, determined under this section is subject to collection under this chapter and other applicable state statutes; and

(c) That any subsequent notice of support owed created for purposes of reviewing the amounts established by the current notice may be served on any party to the order by regular mail to that person's last known address.

(13) The department must also provide for:

(a) An annual review of the support order if the department, the person required to pay support, the payee under the order, or the person entitled to receive support requests such a review; and

(b) A late hearing if a person included in the notice fails to file an application for an adjudicative proceeding in a timely manner under this section.

(14) If an annual review is requested under subsection (13) of this section, the department may serve the notice of annual review of the administrative order based on the prior notice of support owed by mailing a copy of the notice by regular mail to the last known address of all parties to the order.

(15) If one of the parties requests a late hearing under subsection (13) of this section, the office of administrative hearings must schedule an adjudicative proceeding.

(16) An annual review under subsection (13) of this section is used to determine whether the expense remained the same, increased[,] or decreased, and whether there is a discrepancy between the actual expense and the amount determined under the prior notice of support owed.

(a) If a change in the actual expense which was the basis for the most recent notice of support owed occurs before twelve months pass, any party to the order may request that the department accelerate the annual review described in subsection (13) of this section.

(b) The department may review any evidence presented by the person claiming that the expense has occurred and determine whether the change is likely to create a significant overpayment or underpayment if the department does not serve a new notice of support owed.

(c) Under appropriate circumstances, the department may accelerate the time for the review and serve a notice of support owed even if twelve months have not passed.

(17) The department has rule-making authority to:

(a) Enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005;

(b) Implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308; and

(c) Implement the provisions of this section. [2020 c 227 § 15; 2009 c 476 § 5; 2007 c 143 § 4; 1993 c 12 § 1. Prior: 1989 c 360 § 16; 1989 c 175 § 77; 1987 c 435 § 11.]

Findings—Intent—2020 c 227: See note following RCW 26.09.320.

Rule-making authority—2020 c 227: See RCW 26.09.916.

Additional notes found at www.leg.wa.gov

26.23.120 Information and records—Confidentiality—Disclosure—Adjudicative proceeding—Rules—Penalties. (1) Any information or records concerning individuals who owe a support obligation or for whom support enforcement services are being provided which are obtained or maintained by the Washington state support registry, the division of child support, or under chapter 74.20 RCW shall be private and confidential and shall only be subject to public disclosure as provided in subsection (2) of this section.

(2) The secretary of the department of social and health services may adopt rules:

- (a) That specify what information is confidential;
- (b) That specify the individuals or agencies to whom this information and these records may be disclosed;
- (c) Limiting the purposes for which the information may be disclosed;
- (d) Establishing procedures to obtain the information or records; or
- (e) Establishing safeguards necessary to comply with federal law requiring safeguarding of information.

(3) The rules adopted under subsection (2) of this section shall provide for disclosure of the information and records, under appropriate circumstances, which shall include, but not be limited to:

- (a) When authorized or required by federal statute or regulation governing the support enforcement program;
- (b) To the person the subject of the records or information, unless the information is exempt from disclosure under chapter 42.56 RCW;
- (c) To government agencies, whether state, local, or federal, and including federally recognized tribes, law enforcement agencies, prosecuting agencies, and the executive branch, if the disclosure is necessary for child support enforcement purposes or required under Title IV-D of the federal social security act;
- (d) To the parties in a judicial or adjudicative proceeding upon a specific written finding by the presiding officer that the need for the information outweighs any reason for maintaining the privacy and confidentiality of the information or records;
- (e) To private persons, federally recognized tribes, or organizations if the disclosure is necessary to permit private contracting parties to assist in the management and operation of the department;
- (f) Disclosure of address and employment information to the parties to an action for purposes relating to a child support order, subject to the limitations in subsections (4) and (5) of this section;
- (g) Disclosure of information or records when necessary to the efficient administration of the support enforcement program or to the performance of functions and responsibilities of the support registry and the division of child support as set forth in state and federal statutes; or
- (h) Disclosure of the information or records when authorized under RCW 74.04.060.

(4) Prior to disclosing the whereabouts of a physical custodian, custodial parent or a child to the other parent or party, a notice shall be mailed, if appropriate under the circumstances, to the parent or physical custodian whose whereabouts are to be disclosed, at that person's last known address. The notice shall advise the parent or physical custodian that a request for disclosure has been made and will be complied with unless the department:

- (a) Receives a copy of a court order within thirty days which enjoins the disclosure of the information or restricts or limits the requesting party's right to contact or visit the parent or party whose address is to be disclosed or the child;
- (b) Receives a hearing request within thirty days under subsection (5) of this section; or

(c) Has reason to believe that the release of the information may result in physical or emotional harm to the physical custodian whose whereabouts are to be released, or to the child.

(5) A person receiving notice under subsection (4) of this section may request an adjudicative proceeding under chapter 34.05 RCW, at which the person may show that there is reason to believe that release of the information may result in physical or emotional harm to the person or the child. The administrative law judge shall determine whether the whereabouts of the person or child should be disclosed based on subsection (4)(c) of this section, however no hearing is necessary if the department has in its possession a protective order or an order limiting visitation or contact.

(6) The notice and hearing process in subsections (4) and (5) of this section do not apply to protect the whereabouts of a noncustodial parent, unless that parent has requested notice before whereabouts information is released. A noncustodial parent may request such notice by submitting a written request to the division of child support.

(7) Nothing in this section shall be construed as limiting or restricting the effect of *RCW 42.56.070(9). Nothing in this section shall be construed to prevent the disclosure of information and records if all details identifying an individual are deleted or the individual consents to the disclosure.

(8) It shall be unlawful for any person or agency in violation of this section to solicit, publish, disclose, receive, make use of, or to authorize, knowingly permit, participate in or acquiesce in the use of any lists of names for commercial or political purposes or the use of any information for purposes other than those purposes specified in this section. A violation of this section shall be a gross misdemeanor as provided in chapter 9A.20 RCW. [2005 c 274 § 242; 1998 c 160 § 4; 1997 c 58 § 908; 1994 c 230 § 12. Prior: 1989 c 360 § 17; 1989 c 175 § 78; 1987 c 435 § 12.]

*Reviser's note: RCW 42.56.070 was amended by 2017 c 304 § 1, changing subsection (9) to subsection (8).

Additional notes found at www.leg.wa.gov

26.23.130 Notice to department of child support or maintenance orders. The department shall be given twenty calendar days prior notice of the entry of any final order and five days prior notice of the entry of any temporary order in any proceeding involving child support or maintenance if the department has a financial interest based on an assignment of support rights under RCW 74.20.330 or the state has a subrogated interest under RCW 74.20A.030. Service of this notice upon the department shall be by personal service on, or mailing by any form of mail requiring a return receipt to, the office of 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. The department shall not be entitled to terms for a party's failure to serve the department within the time requirements for this section, unless the department proves that the party knew that the department had an assignment of support rights or a subrogated interest and that the failure to serve the department was intentional. [2002 c 199 § 3; 1991 c 367 § 43.]

Additional notes found at www.leg.wa.gov

26.23.140 Collection and disclosure of social security numbers—Finding—Waiver requested to prevent fraud. The federal personal responsibility and work opportunity reconciliation act of 1996, P.L. 104-193, requires states to collect social security numbers as part of the application process for professional licenses, driver's licenses, occupational licenses, and recreational licenses. The legislature finds that if social security numbers are accessible to the public, it will be relatively easy for someone to use another's social security number fraudulently to assume that person's identity and gain access to bank accounts, credit services, billing information, driving history, and other sources of personal information. Public Law 104-193 could compound and exacerbate the disturbing trend of social security number-related fraud. In order to prevent fraud and curtail invasions of privacy, the governor, through the department of social and health services, shall seek a waiver to the federal mandate to record social security numbers on applications for professional, driver's, occupational, and recreational licenses. If a waiver is not granted, the licensing agencies shall collect and disclose social security numbers as required under RCW 26.23.150. [1998 c 160 § 6.]

26.23.150 Recording of social security numbers—Compliance with federal requirement—Restricted disclosure. In order to assist in child support enforcement as required by federal law, all applicants for an original, replacement, or renewal of a professional license, commercial driver's license, occupational license, or recreational license must furnish the licensing agency with the applicant's social security number, which shall be recorded on the application. No applicant for an original, replacement, or renewal non-commercial driver's license is required to furnish the licensing agency with the applicant's social security number for purposes of assisting in child support enforcement prior to the time necessary to comply with the *federal deadline. The licensing agencies collecting social security numbers shall not display the social security number on the license document. Social security numbers collected by licensing agencies shall not be disclosed except as required by state or federal law or under RCW 26.23.120. [1999 c 138 § 2; 1998 c 160 § 7.]

*Reviser's note: The federal deadline was October 1, 2000.

Finding—Implementation—Intent—1999 c 138: "The legislature declares that enhancing the effectiveness of child support enforcement is an essential public policy goal, but that the use of social security numbers on licenses is an inappropriate, intrusive, and offensive method of improving enforceability. The legislature also finds that, in 1997, the federal government threatened sanction by withholding of funds for programs for poor families if states did not comply with a federal requirement to use social security numbers on licenses, thus causing the legislature to enact such provisions under protest. Since that time, the federal government has delayed implementation of the noncommercial driver's license requirement until October 1, 2000.

The legislature will require compliance with federal law in this matter only at such time and in the event that the federal government actually implements the requirement of using social security numbers on noncommercial driver's license applications. Therefore, the legislature intends to delay the implementation of provisions enacted in 1998 requiring social security numbers be recorded on all applications for noncommercial driver's licenses." [1999 c 138 § 1.]

[Title 26 RCW—page 112]

26.23.900 Effective date—1987 c 435. Sections 1 through 3 and 5 through 36 of this act shall take effect January 1, 1988. [1987 c 435 § 37.]

Chapter 26.25 RCW COOPERATIVE CHILD SUPPORT SERVICES— INDIAN TRIBES

Sections

26.25.010	Purpose.
26.25.020	Cooperative agreements—Authorized.
26.25.030	Cooperative agreements—Contents.
26.25.040	Rules.

26.25.010 Purpose. The legislature recognizes that Indian tribes are sovereign nations and the relationship between the state and the tribe is sovereign-to-sovereign.

The federal government acknowledged the importance of including Indian tribes in child support systems established by the federal government and the states. The personal responsibility and work opportunity reconciliation act of 1996, P.L. 104-193, provides Indian tribes the option of developing their own tribal plan and tribal child support enforcement program to receive funds directly from the federal government for their own Title IV-D program similar to that of other states. The act also expressly authorizes the states and Indian tribe or tribal organization to enter into cooperative agreements to provide for the delivery of child support enforcement services.

It is the purpose of this chapter to encourage the department of social and health services, division of child support, and the Indian tribes within the state's borders to enter into cooperative agreements that will assist the state and tribal governments in carrying out their respective responsibilities. The legislature recognizes that the state and the tribes each possess resources that are sometimes distinct to that government. The legislature intends that the state and the tribes work together to make the most efficient and productive use of all resources and authorities.

Cooperative agreements will enable the state and the tribes to better provide child support services to Indian children and to establish and enforce child support obligations, orders, and judgments. Under cooperative agreements, the state and the tribes can work as partners to provide culturally relevant child support services, consistent with state and federal laws, that are based on tribal laws and customs. The legislature recognizes that the preferred method for handling cases where all or some of the parties are enrolled tribal members living on the tribal reservation is to develop an agreement so that appropriate cases are referred to the tribe to be processed in the tribal court. The legislature recognizes that cooperative agreements serve the best interests of the children. [1997 c 386 § 60.]

26.25.020 Cooperative agreements—Authorized. (1) The department of social and health services may enter into an agreement with an Indian tribe or tribal organization, which is within the state's borders and recognized by the federal government, for joint or cooperative action on child support services and child support enforcement.

(2) In determining the scope and terms of the agreement, the department and the tribe should consider, among other

factors, whether the tribe has an established tribal court system with the authority to establish, modify, or enforce support orders, establish paternity, or enter support orders in accordance with child support guidelines established by the tribe. [1997 c 386 § 61.]

26.25.030 Cooperative agreements—Contents. An agreement established under this section may, but is not required to, address the following:

- (1) Recognizing the state's and tribe's authority to address child support matters with the development of a process designed to determine how tribal member cases may be handled;
- (2) The authority, procedures, and guidelines for all aspects of establishing, entering, modifying, and enforcing child support orders in the tribal court and the state court;
- (3) The authority, procedures, and guidelines the department and tribe will follow for the establishment of paternity;
- (4) The establishment and agreement of culturally relevant factors that may be considered in child support enforcement;
- (5) The authority, procedures, and guidelines for the garnishing of wages of tribal members or employees of a tribe, tribally owned enterprise, or an Indian-owned business located on the reservation;
- (6) The department's and tribe's responsibilities to each other;
- (7) The ability for the department and the tribe to address the fiscal responsibilities between each other;
- (8) Requirements for alternative dispute resolution procedures;
- (9) The necessary procedures for notice and the continual sharing of information; and
- (10) The duration of the agreement, under what circumstances the parties may terminate the agreement, and the consequences of breaching the provisions in the agreement. [1997 c 386 § 62.]

26.25.040 Rules. The department of social and health services may adopt rules to implement this chapter. [1997 c 386 § 63.]

**Chapter 26.26A RCW
UNIFORM PARENTAGE ACT**

Sections

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- 26.26A.005 Short title—2018 c 6.
- 26.26A.010 Definitions.
- 26.26A.020 Scope.
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(2020 Ed.)

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GENERAL PROVISIONS

26.26A.005 Short title—2018 c 6. This act may be known and cited as the uniform parentage act. [2018 c 6 § 101.]

26.26A.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Acknowledged parent" means an individual who has established a parent-child relationship under RCW 26.26A.200 through 26.26A.265.

(2) "Adjudicated parent" means an individual who has been adjudicated to be a parent of a child by a court with jurisdiction.

(3) "Alleged genetic parent" means an individual who is alleged to be, or alleges that the individual is, a genetic parent or possible genetic parent of a child whose parentage has not been adjudicated. The term includes an alleged genetic father and alleged genetic mother. The term does not include:

- (a) A presumed parent;
- (b) An individual whose parental rights have been terminated or declared not to exist; or
- (c) A donor.

(4) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse. The term includes:

- (a) Intrauterine or intracervical insemination;
- (b) Donation of gametes;
- (c) Donation of embryos;
- (d) In-vitro fertilization and transfer of embryos; and
- (e) Intracytoplasmic sperm injection.

(5) "Birth record" means a report of birth that has been registered by the state registrar of vital statistics.

(6) "Child" means an individual of any age whose parentage may be determined under this chapter.

(7) "Child support agency" means a government entity, public official, or private agency, authorized to provide parentage-establishment services under Title IV-D of the social security act, 42 U.S.C. Secs. 651 through 669.

(8) "Determination of parentage" means establishment of a parent-child relationship by a judicial proceeding or signing of a valid acknowledgment of parentage under RCW 26.26A.200 through 26.26A.265.

(9) "Donor" means an individual who provides gametes intended for use in assisted reproduction, whether or not for consideration. The term does not include:

- (a) A woman who gives birth to a child conceived by assisted reproduction, except as otherwise provided in RCW 26.26A.700 through 26.26A.785; or
- (b) A parent under RCW 26.26A.600 through 26.26A.635 or an intended parent under RCW 26.26A.700 through 26.26A.785.

(10) "Gamete" means sperm, egg, or any part of a sperm or egg.

(11) "Genetic testing" means an analysis of genetic markers to identify or exclude a genetic relationship.

(12) "Individual" means a natural person of any age.

(13) "Intended parent" means an individual, married or unmarried, who manifests an intent to be legally bound as a parent of a child conceived by assisted reproduction.

(14) "Man" means a male individual of any age.

(15) "Parent" means an individual who has established a parent-child relationship under RCW 26.26A.100.

(16) "Parentage" or "parent-child relationship" means the legal relationship between a child and a parent of the child.

(17) "Presumed parent" means an individual who under RCW 26.26A.115 is presumed to be a parent of a child, unless the presumption is overcome in a judicial proceeding, a valid denial of parentage is made under RCW 26.26A.200

through 26.26A.265, or a court adjudicates the individual to be a parent.

(18) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(19) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(20) "Signatory" means an individual who signs a record.

(21) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

(22) "Transfer" means a procedure for assisted reproduction by which an embryo or sperm is placed in the body of the woman who will give birth to the child.

(23) "Witnessed" means that at least one individual who is authorized to sign has signed a record to verify that the individual personally observed a signatory sign the record.

(24) "Woman" means a female individual of any age. [2018 c 6 § 102.]

26.26A.020 Scope. (1) This chapter applies to an adjudication or determination of parentage.

(2) This chapter does not create, affect, enlarge, or diminish parental rights or duties under law of this state other than this chapter. [2018 c 6 § 103.]

26.26A.030 Authorized courts. The superior courts of this state may adjudicate parentage under this chapter. [2018 c 6 § 104.]

26.26A.040 Choice of law. The court shall apply the law of this state to adjudicate parentage. The applicable law does not depend on:

(1) The place of birth of the child; or

(2) The past or present residence of the child. [2018 c 6 § 105.]

26.26A.050 Data privacy. A proceeding under this chapter is subject to law of this state other than this chapter which governs the health, safety, privacy, and liberty of a child or other individual who could be affected by disclosure of information that could identify the child or other individual, including address, telephone number, digital contact information, place of employment, social security number, and the child's day care facility or school. [2018 c 6 § 106.]

26.26A.060 Provisions applicable to father-child relationship also applicable to mother-child relationship and vice versa. To the extent practicable, a provision of this chapter applicable to a father-child relationship applies to a mother-child relationship and a provision of this chapter applicable to a mother-child relationship applies to a father-child relationship. [2018 c 6 § 107.]

(2020 Ed.)

26.26A.070 Mandatory use of approved forms and format rules. (1) Effective January 1, 2020, 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 administrative office of the courts shall develop and approve standard court forms and format rules for mandatory use by litigants in all actions commenced under this chapter effective January 1, 2020. The administrative office of the courts has continuing responsibility to develop and revise mandatory forms and format rules as appropriate. [2019 c 46 § 1003.]

PARENT-CHILD RELATIONSHIP

26.26A.100 Establishment of parent-child relationship. A parent-child relationship is established between an individual and a child if:

(1) The individual gives birth to the child, except as otherwise provided in RCW 26.26A.700 through 26.26A.785;

(2) There is a presumption under RCW 26.26A.115 of the individual's parentage of the child, unless the presumption is overcome in a judicial proceeding or a valid denial of parentage is made under RCW 26.26A.200 through 26.26A.265;

(3) The individual is adjudicated a parent of the child under RCW 26.26A.400 through 26.26A.515;

(4) The individual adopts the child;

(5) The individual acknowledges parentage of the child under RCW 26.26A.200 through 26.26A.265, unless the acknowledgment is rescinded under RCW 26.26A.235 or successfully challenged under RCW 26.26A.200 through 26.26A.265 or 26.26A.400 through 26.26A.515;

(6) The individual's parentage of the child is established under RCW 26.26A.600 through 26.26A.635; or

(7) The individual's parentage of the child is established under RCW 26.26A.705 through 26.26A.730. [2018 c 6 § 201.]

26.26A.105 No discrimination based on marital status of parent. A parent-child relationship extends equally to every child and parent, regardless of the marital status of the parent. [2018 c 6 § 202.]

26.26A.110 Consequences of establishing parentage. Unless parental rights are terminated, a parent-child relationship established under this chapter applies for all purposes, except as otherwise provided by law of this state other than this chapter. [2018 c 6 § 203.]

26.26A.115 Presumption of parentage. (1) An individual is presumed to be a parent of a child if:

(a) Except as otherwise provided under RCW 26.26A.700 through 26.26A.785, or law of this state other than this chapter:

(i) The individual and the woman who gave birth to the child are married to or in a state registered domestic partnership with each other and the child is born during the marriage or partnership, whether the marriage or partnership is or could be declared invalid;

(ii) The individual and the woman who gave birth to the child were married to or in a state registered domestic partnership with each other and the child is born not later than three hundred days after the marriage or partnership is terminated by death, dissolution, annulment, declaration of invalidity, or legal separation, whether the marriage or partnership is or could be declared invalid; or

(iii) The individual and the woman who gave birth to the child married or entered into a state registered domestic partnership with each other after the birth of the child, whether the marriage or partnership is or could be declared invalid, the individual at any time asserted parentage of the child, and:

(A) The assertion is in a record filed with the state registrar of vital statistics; or

(B) The individual agreed to be and is named as a parent of the child on the birth record of the child; or

(b) The individual resided in the same household with the child for the first four years of the life of the child, including any period of temporary absence, and openly held out the child as the individual's child.

(2) A presumption of parentage under this section may be overcome, and competing claims to parentage may be resolved, only by an adjudication under RCW 26.26A.400 through 26.26A.515, or a valid denial of parentage under RCW 26.26A.200 through 26.26A.265. [2018 c 6 § 204.]

26.26A.120 Rule-making authority—RCW 26.26A.115. The secretary of the department of health may adopt rules under the state administrative procedure act, chapter 34.05 RCW, to implement RCW 26.26A.115. [2018 c 6 § 205.]

26.26A.125 Filing fee—Assertion of parentage. The secretary of the department of health may charge a fee for filing an assertion of parentage. [2018 c 6 § 206.]

VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE

26.26A.200 Acknowledgment of parentage. A woman who gave birth to a child and an alleged genetic father of the child, intended parent under RCW 26.26A.600 through 26.26A.635, or presumed parent may sign an acknowledgment of parentage to establish the parentage of the child. [2018 c 6 § 301.]

26.26A.205 Execution of acknowledgment of parentage. (1) An acknowledgment of parentage under RCW 26.26A.200 must:

(a) Be in a record signed by the woman who gave birth to the child and by the individual seeking to establish a parent-child relationship, and the signatures must be attested by a notarial officer or witnessed;

(b) State that the child whose parentage is being acknowledged:

(i) Does not have a presumed parent other than the individual seeking to establish the parent-child relationship or has a presumed parent whose full name is stated; and

(ii) Does not have another acknowledged parent, adjudicated parent, or individual who is a parent of the child under RCW 26.26A.600 through 26.26A.635 and 26.26A.700

through 26.26A.785, other than the woman who gave birth to the child; and

(c) State that the signatories understand that the acknowledgment is the equivalent of an adjudication of parentage of the child and that a challenge to the acknowledgment is permitted only under limited circumstances and is barred four years after the effective date of the acknowledgment.

(2) An acknowledgment of parentage is void if, at the time of signing:

(a) An individual other than the individual seeking to establish parentage is a presumed parent, unless a denial of parentage by the presumed parent in a signed record is filed with the state registrar of vital statistics; or

(b) An individual, other than the woman who gave birth to the child or the individual seeking to establish parentage, is an acknowledged or adjudicated parent or a parent under RCW 26.26A.600 through 26.26A.635 and 26.26A.700 through 26.26A.785. [2018 c 6 § 302.]

26.26A.210 Denial of parentage. A presumed parent or alleged genetic parent may sign a denial of parentage in a record. The denial of parentage is valid only if:

(1) An acknowledgment of parentage by another individual is filed under RCW 26.26A.220;

(2) The signature of the presumed parent or alleged genetic parent is attested by a notarial officer or witnessed; and

(3) The presumed parent or alleged genetic parent has not previously:

(a) Completed a valid acknowledgment of parentage, unless the previous acknowledgment was rescinded under RCW 26.26A.235 or challenged successfully under RCW 26.26A.240; or

(b) Been adjudicated to be a parent of the child. [2018 c 6 § 303.]

26.26A.215 Acknowledgment or denial of parentage—Requirements. (1) An acknowledgment of parentage and a denial of parentage may be contained in a single document or may be in counterparts and may be filed with the state registrar of vital statistics separately or simultaneously. If filing of the acknowledgment and denial both are required under this chapter, neither is effective until both are filed.

(2) An acknowledgment of parentage or denial of parentage may be signed before or after the birth of the child.

(3) Subject to subsection (1) of this section, an acknowledgment of parentage or denial of parentage takes effect on the birth of the child or filing of the document with the state registrar of vital statistics, whichever occurs later.

(4) An acknowledgment of parentage or denial of parentage signed by a minor is valid if the acknowledgment complies with this chapter. [2018 c 6 § 304.]

26.26A.220 Effect of acknowledgment or denial of parentage. (1) Except as otherwise provided in RCW 26.26A.235 and 26.26A.240, an acknowledgment of parentage that complies with RCW 26.26A.200 through 26.26A.265 and is filed with the state registrar of vital statistics is equivalent to an adjudication of parentage of the child

and confers on the acknowledged parent all rights and duties of a parent.

(2) Except as otherwise provided in RCW 26.26A.235 and 26.26A.240, a denial of parentage by a presumed parent or alleged genetic parent which complies with RCW 26.26A.200 through 26.26A.265 and is filed with the state registrar of vital statistics with an acknowledgment of parentage that complies with RCW 26.26A.200 through 26.26A.265 is equivalent to an adjudication of the nonparentage of the presumed parent or alleged genetic parent and discharges the presumed parent or alleged genetic parent from all rights and duties of a parent. [2018 c 6 § 305.]

26.26A.225 Filing fee—Acknowledgment or denial of parentage. The secretary of the department of health may charge a fee for filing an acknowledgment of parentage or denial of parentage, or for filing a rescission of an acknowledgment of parentage or denial of parentage. [2018 c 6 § 306.]

26.26A.230 Ratification of an unchallenged acknowledgment of parentage barred. A court conducting a judicial proceeding or an administrative agency conducting an administrative proceeding is not required or permitted to ratify an unchallenged acknowledgment of parentage. [2018 c 6 § 307.]

26.26A.235 Procedure for rescission of an acknowledgment or denial of parentage. (1) A signatory may rescind an acknowledgment of parentage or denial of parentage by filing with the state registrar of vital statistics a rescission in a signed record which is attested by a notarial officer or witnessed, before the earlier of:

(a) Sixty days after the effective date under RCW 26.26A.215 of the acknowledgment or denial; or

(b) The date of the first hearing before a court in a proceeding, to which the signatory is a party, to adjudicate an issue relating to the child, including a proceeding that establishes support.

(2) If an acknowledgment of parentage is rescinded under subsection (1) of this section, an associated denial of parentage is invalid, and the state registrar of vital statistics shall notify the woman who gave birth to the child and the individual who signed a denial of parentage of the child that the acknowledgment has been rescinded. Failure to give the notice required by this subsection does not affect the validity of the rescission. [2018 c 6 § 308.]

26.26A.240 Challenge after expiration of period for rescission. (1) After the period for rescission under RCW 26.26A.235 expires, but not later than four years after the effective date under RCW 26.26A.215 of an acknowledgment of parentage or denial of parentage, a signatory of the acknowledgment or denial may commence a proceeding to challenge the acknowledgment or denial, including a challenge brought under RCW 26.26A.465, only on the basis of fraud, duress, or material mistake of fact.

(2) A challenge to an acknowledgment of parentage or denial of parentage by an individual who was not a signatory to the acknowledgment or denial is governed by RCW 26.26A.445. [2018 c 6 § 309.]

(2020 Ed.)

26.26A.245 Procedure for challenge of an acknowledgment or denial of parentage by signatory. (1) Every signatory to an acknowledgment of parentage and any related denial of parentage must be made a party to a proceeding to challenge the acknowledgment or denial.

(2) By signing an acknowledgment of parentage or denial of parentage, a signatory submits to personal jurisdiction in this state in a proceeding to challenge the acknowledgment or denial, effective on the filing of the acknowledgment or denial with the state registrar of vital statistics.

(3) The court may not suspend the legal responsibilities arising from an acknowledgment of parentage, including the duty to pay child support, during the pendency of a proceeding to challenge the acknowledgment or a related denial of parentage, unless the party challenging the acknowledgment or denial shows good cause.

(4) A party challenging an acknowledgment of parentage or denial of parentage has the burden of proof.

(5) If the court determines that a party has satisfied the burden of proof under subsection (4) of this section, the court shall order the state registrar of vital statistics to amend the birth record of the child to reflect the legal parentage of the child.

(6) A proceeding to challenge an acknowledgment of parentage or denial of parentage must be conducted under RCW 26.26A.400 through 26.26A.515. [2018 c 6 § 310.]

26.26A.250 Full faith and credit. The court shall give full faith and credit to an acknowledgment of parentage or denial of parentage effective in another state if the acknowledgment or denial was in a signed record and otherwise complies with law of the other state. [2018 c 6 § 311.]

26.26A.255 Forms for acknowledgment or denial of parentage. (1) The state registrar of vital statistics shall prescribe forms for an acknowledgment of parentage and denial of parentage.

(2) A valid acknowledgment of parentage or denial of parentage is not affected by a later modification of the form under subsection (1) of this section. [2018 c 6 § 312.]

26.26A.260 Release of information relating to an acknowledgment or denial of parentage. The state registrar of vital statistics may release information relating to an acknowledgment of parentage or denial of parentage to a signatory of the acknowledgment or denial, a court, a federal agency, an agency operating a child welfare program under Title IV-E of the social security act, and a child support agency of this or another state. [2019 c 470 § 4; 2018 c 6 § 313.]

26.26A.265 Rule-making authority—RCW 26.26A.200 through 26.26A.265. The secretary of the department of health may adopt rules under the state administrative procedure act, chapter 34.05 RCW, to implement RCW 26.26A.200 through 26.26A.265. [2018 c 6 § 314.]

GENETIC TESTING

26.26A.300 Definitions—Genetic testing—RCW 26.26A.300 through 26.26A.355. The definitions in this

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section apply throughout RCW 26.26A.300 through 26.26A.355 unless the context clearly requires otherwise.

(1) "Combined relationship index" means the product of all tested relationship indices.

(2) "Ethnic or racial group" means, for the purpose of genetic testing, a recognized group that an individual identifies as the individual's ancestry or part of the ancestry or that is identified by other information.

(3) "Hypothesized genetic relationship" means an asserted genetic relationship between an individual and a child.

(4) "Probability of parentage" means, for the ethnic or racial group to which an individual alleged to be a parent belongs, the probability that a hypothesized genetic relationship is supported, compared to the probability that a genetic relationship is supported between the child and a random individual of the ethnic or racial group used in the hypothesized genetic relationship, expressed as a percentage incorporating the combined relationship index and a prior probability.

(5) "Relationship index" means a likelihood ratio that compares the probability of a genetic marker given a hypothesized genetic relationship and the probability of the genetic marker given a genetic relationship between the child and a random individual of the ethnic or racial group used in the hypothesized genetic relationship. [2018 c 6 § 401.]

26.26A.305 Scope—Limitation on use of genetic testing.

(1) This subchapter, RCW 26.26A.300 through 26.26A.355, governs genetic testing of an individual in a proceeding to adjudicate parentage, whether the individual:

(a) Voluntarily submits to testing; or
 (b) Is tested under an order of the court or a child support agency.

(2) Genetic testing may not be used:

(a) To challenge the parentage of an individual who is a parent under RCW 26.26A.600 through 26.26A.635 and 26.26A.700 through 26.26A.785; or

(b) To establish the parentage of an individual who is a donor. [2018 c 6 § 402.]

26.26A.310 Authority to order or deny genetic testing.

(1) Except as otherwise provided in RCW 26.26A.300 through 26.26A.355 or 26.26A.400 through 26.26A.515, in a proceeding under this chapter to determine parentage, the court shall order the child and any other individual to submit to genetic testing if a request for testing is supported by the sworn statement of a party:

(a) Alleging a reasonable possibility that the individual is the child's genetic parent; or

(b) Denying genetic parentage of the child and stating facts establishing a reasonable possibility that the individual is not a genetic parent.

(2) A child support agency may order genetic testing only if there is no presumed, acknowledged, or adjudicated parent of a child other than the woman who gave birth to the child.

(3) The court or child support agency may not order in utero genetic testing.

(4) If two or more individuals are subject to court-ordered genetic testing, the court may order that testing be completed concurrently or sequentially.

(5) Genetic testing of a woman who gave birth to a child is not a condition precedent to testing of the child and an individual whose genetic parentage of the child is being determined. If the woman is unavailable or declines to submit to genetic testing, the court may order genetic testing of the child and each individual whose genetic parentage of the child is being adjudicated.

(6) In a proceeding to adjudicate the parentage of a child having a presumed parent or an individual who claims to be a parent under RCW 26.26A.440, or to challenge an acknowledgment of parentage, the court may deny a motion for genetic testing of the child and any other individual after considering the factors in RCW 26.26A.460 (1) and (2).

(7) If an individual requesting genetic testing is barred under RCW 26.26A.400 through 26.26A.515 from establishing the individual's parentage, the court shall deny the request for genetic testing.

(8) An order under this section for genetic testing is enforceable by contempt. [2018 c 6 § 403.]

26.26A.315 Requirements for genetic testing. (1) Genetic testing must be of a type reasonably relied on by experts in the field of genetic testing and performed in a testing laboratory accredited by:

(a) The AABB, formerly known as the American association of blood banks, or a successor to its functions; or

(b) An accrediting body designated by the secretary of the United States department of health and human services.

(2) A specimen used in genetic testing may consist of a sample or a combination of samples of blood, buccal cells, bone, hair, or other body tissue or fluid. The specimen used in the testing need not be of the same kind for each individual undergoing genetic testing.

(3) Based on the ethnic or racial group of an individual undergoing genetic testing, a testing laboratory shall determine the databases from which to select frequencies for use in calculating a relationship index. If an individual or a child support agency objects to the laboratory's choice, the following rules apply:

(a) Not later than thirty days after receipt of the report of the test, the objecting individual or child support agency may request the court to require the laboratory to recalculate the relationship index using an ethnic or racial group different from that used by the laboratory.

(b) The individual or the child support agency objecting to the laboratory's choice under this subsection shall:

(i) If the requested frequencies are not available to the laboratory for the ethnic or racial group requested, provide the requested frequencies compiled in a manner recognized by accrediting bodies; or

(ii) Engage another laboratory to perform the calculations.

(c) The laboratory may use its own statistical estimate if there is a question which ethnic or racial group is appropriate. The laboratory shall calculate the frequencies using statistics, if available, for any other ethnic or racial group requested.

(4) If, after recalculation of the relationship index under subsection (3) of this section using a different ethnic or racial

group, genetic testing under RCW 26.26A.325 does not identify an individual as a genetic parent of a child, the court may require an individual who has been tested to submit to additional genetic testing to identify a genetic parent. [2018 c 6 § 404.]

26.26A.320 Report of genetic testing. (1) A report of genetic testing must be in a record and signed under penalty of perjury by a designee of the testing laboratory. A report complying with the requirements of RCW 26.26A.300 through 26.26A.355 is self-authenticating.

(2) Documentation from a testing laboratory of the following information is sufficient to establish a reliable chain of custody and allow the results of genetic testing to be admissible without testimony:

(a) The name and photograph of each individual whose specimen has been taken;

(b) The name of the individual who collected each specimen;

(c) The place and date each specimen was collected;

(d) The name of the individual who received each specimen in the testing laboratory; and

(e) The date each specimen was received. [2018 c 6 § 405.]

26.26A.325 Genetic testing results—Challenge to results. (1) Subject to a challenge under subsection (2) of this section, an individual is identified under this chapter as a genetic parent of a child if genetic testing complies with RCW 26.26A.300 through 26.26A.355 and the results of the testing disclose:

(a) The individual has at least a ninety-nine percent probability of parentage, using a prior probability of 0.50, as calculated by using the combined relationship index obtained in the testing; and

(b) A combined relationship index of at least one hundred to one.

(2) An individual identified under subsection (1) of this section as a genetic parent of the child may challenge the genetic testing results only by other genetic testing satisfying the requirements of RCW 26.26A.300 through 26.26A.355 which:

(a) Excludes the individual as a genetic parent of the child; or

(b) Identifies another individual as a possible genetic parent of the child other than:

(i) The woman who gave birth to the child; or

(ii) The individual identified under subsection (1) of this section.

(3) Except as otherwise provided in RCW 26.26A.350, if more than one individual other than the woman who gave birth is identified by genetic testing as a possible genetic parent of the child, the court shall order each individual to submit to further genetic testing to identify a genetic parent. [2018 c 6 § 406.]

26.26A.330 Cost of genetic testing. (1) Subject to assessment of fees under RCW 26.26A.400 through 26.26A.515, payment of the cost of initial genetic testing must be made in advance:

(a) By a child support agency in a proceeding in which the child support agency is providing services;

(b) By the individual who made the request for genetic testing;

(c) As agreed by the parties; or

(d) As ordered by the court.

(2) If the cost of genetic testing is paid by a child support agency, the agency may seek reimbursement from the genetic parent whose parent-child relationship is established. [2018 c 6 § 407.]

26.26A.335 Additional genetic testing. The court or child support agency shall order additional genetic testing on request of an individual who contests the result of the initial testing under RCW 26.26A.325. If initial genetic testing under RCW 26.26A.325 identified an individual as a genetic parent of the child, the court or agency may not order additional testing unless the contesting individual pays for the testing in advance. [2018 c 6 § 408.]

26.26A.340 Genetic testing when specimen not available. (1) Subject to subsection (2) of this section, if a genetic testing specimen is not available from an alleged genetic parent of a child, an individual seeking genetic testing demonstrates good cause, and the court finds that the circumstances are just, the court may order any of the following individuals to submit specimens for genetic testing:

(a) A parent of the alleged genetic parent;

(b) A sibling of the alleged genetic parent;

(c) Another child of the alleged genetic parent and the woman who gave birth to the other child; and

(d) Another relative of the alleged genetic parent necessary to complete genetic testing.

(2) To issue an order under this section, the court must find that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested. [2018 c 6 § 409.]

26.26A.345 Genetic testing—Deceased individual. If an individual seeking genetic testing demonstrates good cause, the court may order genetic testing of a deceased individual. [2018 c 6 § 410.]

26.26A.350 Genetic testing—Identical siblings. (1) If the court finds there is reason to believe that an alleged genetic parent has an identical sibling and evidence that the sibling may be a genetic parent of the child, the court may order genetic testing of the sibling.

(2) If more than one sibling is identified under RCW 26.26A.325 as a genetic parent of the child, the court may rely on nongenetic evidence to adjudicate which sibling is a genetic parent of the child. [2018 c 6 § 411.]

26.26A.355 Confidentiality of genetic testing—Penalty. (1) Release of a report of genetic testing for parentage is controlled by chapter 70.02 RCW.

(2) An individual who intentionally releases an identifiable specimen of another individual collected for genetic testing under RCW 26.26A.300 through 26.26A.355, for a purpose not relevant to a proceeding regarding parentage, without a court order or written permission of the individual who

furnished the specimen, commits a gross misdemeanor punishable under RCW 9.92.020. [2018 c 6 § 412.]

PROCEEDING TO ADJUDICATE PARENTAGE
Nature of Proceeding

26.26A.400 Proceeding to adjudicate parentage—Authorization. (1) A proceeding may be commenced to adjudicate the parentage of a child. Except as otherwise provided in this chapter, the proceeding is governed by the rules of civil procedure.

(2) A proceeding to adjudicate the parentage of a child born under a surrogacy agreement is governed by RCW 26.26A.700 through 26.26A.785. [2018 c 6 § 501.]

26.26A.405 Standing to maintain proceeding to adjudicate parentage. Except as otherwise provided in RCW 26.26A.200 through 26.26A.265 and 26.26A.435 through 26.26A.450, a proceeding to adjudicate parentage may be maintained by:

- (1) The child;
- (2) The woman who gave birth to the child, unless a court has adjudicated that she is not a parent;
- (3) An individual who is a parent under this chapter;
- (4) An individual whose parentage of the child is to be adjudicated;
- (5) The division of child support;
- (6) An adoption agency authorized by law of this state other than this chapter or licensed child placement agency; or
- (7) A representative authorized by law of this state other than this chapter to act for an individual who otherwise would be entitled to maintain a proceeding but is deceased, incapacitated, or a minor. [2018 c 6 § 502.]

26.26A.410 Notice of proceeding to adjudicate parentage. (1) The petitioner shall give notice of a proceeding to adjudicate parentage to the following individuals:

- (a) The woman who gave birth to the child, unless a court has adjudicated that she is not a parent;
 - (b) An individual who is a parent of the child under this chapter;
 - (c) A presumed, acknowledged, or adjudicated parent of the child; and
 - (d) An individual whose parentage of the child is to be adjudicated.
- (2) An individual entitled to notice under subsection (1) of this section has a right to intervene in the proceeding.
- (3) Lack of notice required by subsection (1) of this section does not render a judgment void. Lack of notice does not preclude an individual entitled to notice under subsection (1) of this section from bringing a proceeding under RCW 26.26A.450(2).

(4) Notice must be by service of the summons and complaint on all parties entitled to receive notice under subsection (1) of this section.

(5) In cases where the child is dependent or alleged to be dependent under chapter 13.34 RCW, the petitioner shall give notice to the state agency administering the plan under Title IV-E of the social security act. [2019 c 470 § 25; 2019 c 46 § 1004; 2018 c 6 § 503.]

Reviser's note: This section was amended by 2019 c 46 § 1004 and by 2019 c 470 § 25, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

26.26A.415 Proceeding to adjudicate parentage—Personal jurisdiction. (1) The court may adjudicate an individual's parentage of a child only if the court has personal jurisdiction over the individual.

(2) A court of this state with jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if the conditions prescribed in RCW 26.21A.100 are satisfied.

(3) Lack of jurisdiction over one individual does not preclude the court from making an adjudication of parentage binding on another individual. [2018 c 6 § 504.]

26.26A.420 Proceeding to adjudicate parentage—Venue. Except as otherwise provided in RCW 26.26A.730, venue for a proceeding to adjudicate parentage is in the county of this state in which:

- (1) The child resides or is located;
- (2) If the child does not reside in this state, the respondent resides or is located; or
- (3) A proceeding has been commenced for administration of the estate of an individual who is or may be a parent under this chapter. [2018 c 6 § 505.]

Special Rules for Proceeding to Adjudicate Parentage

26.26A.425 Proceeding to adjudicate parentage—Admissibility of results of genetic testing. (1) Except as otherwise provided in RCW 26.26A.305(2), the court shall admit a report of genetic testing ordered by the court under RCW 26.26A.310 as evidence of the truth of the facts asserted in the report.

(2) A party may object to the admission of a report described in subsection (1) of this section, not later than fourteen days after the party receives the report. The party shall cite specific grounds for exclusion.

(3) A party that objects to the results of genetic testing may call a genetic testing expert to testify in person or by another method approved by the court. Unless the court orders otherwise, the party offering the testimony bears the expense for the expert testifying.

(4) Admissibility of a report of genetic testing is not affected by whether the testing was performed:

- (a) Voluntarily or under an order of the court or a child support agency; or
- (b) Before, on, or after commencement of the proceeding. [2018 c 6 § 506.]

26.26A.430 Adjudicating parentage of child with alleged genetic parent. (1) A proceeding to determine whether an alleged genetic parent who is not a presumed parent is a parent of a child may be commenced:

- (a) Before the child becomes an adult; or
- (b) After the child becomes an adult, but only if the child initiates the proceeding.

(2) Except as otherwise provided in RCW 26.26A.465, this subsection applies in a proceeding described in subsec-

tion (1) of this section if the woman who gave birth to the child is the only other individual with a claim to parentage of the child. The court shall adjudicate an alleged genetic parent to be a parent of the child if the alleged genetic parent:

(a) Is identified under RCW 26.26A.325 as a genetic parent of the child and the identification is not successfully challenged under RCW 26.26A.325;

(b) Admits parentage in a pleading, when making an appearance, or during a hearing, the court accepts the admission, and the court determines the alleged genetic parent to be a parent of the child;

(c) Declines to submit to genetic testing ordered by the court or a child support agency, in which case the court may adjudicate the alleged genetic parent to be a parent of the child even if the alleged genetic parent denies a genetic relationship with the child;

(d) Is in default after service of process and the court determines the alleged genetic parent to be a parent of the child; or

(e) Is neither identified nor excluded as a genetic parent by genetic testing and, based on other evidence, the court determines the alleged genetic parent to be a parent of the child.

(3) Except as otherwise provided in RCW 26.26A.465 and subject to other limitations in RCW 26.26A.400 through 26.26A.515, if in a proceeding involving an alleged genetic parent, at least one other individual in addition to the woman who gave birth to the child has a claim to parentage of the child, the court shall adjudicate parentage under RCW 26.26A.460. [2018 c 6 § 507.]

26.26A.435 Adjudicating parentage of child with presumed parent. (1) A proceeding to determine whether a presumed parent is a parent of a child may be commenced:

(a) Before the child becomes an adult; or

(b) After the child becomes an adult, but only if the child initiates the proceeding.

(2) A presumption of parentage under RCW 26.26A.115 cannot be overcome after the child attains four years of age unless the court determines:

(a) The presumed parent is not a genetic parent, never resided with the child, and never held out the child as the presumed parent's child; or

(b) The child has more than one presumed parent.

(3) Except as otherwise provided in RCW 26.26A.465, the following rules apply in a proceeding to adjudicate a presumed parent's parentage of a child if the woman who gave birth to the child is the only other individual with a claim to parentage of the child:

(a) If no party to the proceeding challenges the presumed parent's parentage of the child, the court shall adjudicate the presumed parent to be a parent of the child.

(b) If the presumed parent is identified under RCW 26.26A.325 as a genetic parent of the child and that identification is not successfully challenged under RCW 26.26A.325, the court shall adjudicate the presumed parent to be a parent of the child.

(c) If the presumed parent is not identified under RCW 26.26A.325 as a genetic parent of the child and the presumed parent or the woman who gave birth to the child challenges the presumed parent's parentage of the child, the court shall

adjudicate the parentage of the child in the best interest of the child based on the factors under RCW 26.26A.460 (1) and (2).

(4) Except as otherwise provided in RCW 26.26A.465 and subject to other limitations in RCW 26.26A.400 through 26.26A.515, if in a proceeding to adjudicate a presumed parent's parentage of a child, another individual in addition to the woman who gave birth to the child asserts a claim to parentage of the child, the court shall adjudicate parentage under RCW 26.26A.460. [2018 c 6 § 508.]

26.26A.440 Adjudicating claim of de facto parentage of child. (1) A proceeding to establish parentage of a child under this section may be commenced only by an individual who:

(a) Is alive when the proceeding is commenced; and

(b) Claims to be a de facto parent of the child.

(2) An individual who claims to be a de facto parent of a child must commence a proceeding to establish parentage of a child under this section:

(a) Before the child attains eighteen years of age; and

(b) While the child is alive.

(3) The following rules govern standing of an individual who claims to be a de facto parent of a child to maintain a proceeding under this section:

(a) The individual must file an initial verified pleading alleging specific facts that support the claim to parentage of the child asserted under this section. The verified pleading must be served on all parents and legal guardians of the child and any other party to the proceeding.

(b) An adverse party, parent, or legal guardian may file a pleading in response to the pleading filed under (a) of this subsection. A responsive pleading must be verified and must be served on parties to the proceeding.

(c) Unless the court finds a hearing is necessary to determine disputed facts material to the issue of standing, the court shall determine, based on the pleadings under (a) and (b) of this subsection, whether the individual has alleged facts sufficient to satisfy by a preponderance of the evidence the requirements of subsection (4)(a) through (g) of this section. If the court holds a hearing under this subsection, the hearing must be held on an expedited basis.

(4) In a proceeding to adjudicate parentage of an individual who claims to be a de facto parent of the child, the court shall adjudicate the individual who claims to be a de facto parent to be a parent of the child if the individual demonstrates by a preponderance of the evidence that:

(a) The individual resided with the child as a regular member of the child's household for a significant period;

(b) The individual engaged in consistent caretaking of the child;

(c) The individual undertook full and permanent responsibilities of a parent of the child without expectation of financial compensation;

(d) The individual held out the child as the individual's child;

(e) The individual established a bonded and dependent relationship with the child which is parental in nature;

(f) Another parent of the child fostered or supported the bonded and dependent relationship required under (e) of this subsection; and

(g) Continuing the relationship between the individual and the child is in the best interest of the child. [2018 c 6 § 509.]

26.26A.445 Adjudicating parentage of child with acknowledged parent. (1) If a child has an acknowledged parent, a proceeding to challenge the acknowledgment of parentage or a denial of parentage, brought by a signatory to the acknowledgment or denial, is governed by RCW 26.26A.240 and 26.26A.245.

(2) If a child has an acknowledged parent, the following rules apply in a proceeding to challenge the acknowledgment of parentage or a denial of parentage brought by an individual, other than the child, who has standing under RCW 26.26A.405 and was not a signatory to the acknowledgment or denial:

(a) The individual must commence the proceeding not later than four years after the effective date of the acknowledgment.

(b) The court may permit the proceeding only if the court finds permitting the proceeding is in the best interest of the child.

(c) If the court permits the proceeding, the court shall adjudicate parentage under RCW 26.26A.460. [2018 c 6 § 510.]

26.26A.450 Adjudicating parentage of child with adjudicated parent. (1) If a child has an adjudicated parent, a proceeding to challenge the adjudication, brought by an individual who was a party to the adjudication or received notice under RCW 26.26A.410, is governed by the rules governing a collateral attack on a judgment.

(2) If a child has an adjudicated parent, the following rules apply to a proceeding to challenge the adjudication of parentage brought by an individual, other than the child, who has standing under RCW 26.26A.405 and was not a party to the adjudication and did not receive notice under RCW 26.26A.410:

(a) The individual must commence the proceeding not later than four years after the effective date of the adjudication.

(b) The court may permit the proceeding only if the court finds permitting the proceeding is in the best interest of the child.

(c) If the court permits the proceeding, the court shall adjudicate parentage under RCW 26.26A.460. [2018 c 6 § 511.]

26.26A.455 Adjudicating parentage of child of assisted reproduction. (1) An individual who is a parent under RCW 26.26A.600 through 26.26A.635 or the woman who gave birth to the child may bring a proceeding to adjudicate parentage. If the court determines the individual is a parent under RCW 26.26A.600 through 26.26A.635, the court shall adjudicate the individual to be a parent of the child.

(2) In a proceeding to adjudicate an individual's parentage of a child, if another individual other than the woman who gave birth to the child is a parent under RCW 26.26A.600 through 26.26A.635, the court shall adjudicate the individual's parentage of the child under RCW 26.26A.460. [2018 c 6 § 512.]

26.26A.460 Adjudicating competing claims of parentage. (1) Except as otherwise provided in RCW 26.26A.465, in a proceeding to adjudicate competing claims of, or challenges under RCW 26.26A.435(3), 26.26A.445, or 26.26A.450 to, parentage of a child by two or more individuals, the court shall adjudicate parentage in the best interest of the child, based on:

(a) The age of the child;

(b) The length of time during which each individual assumed the role of parent of the child;

(c) The nature of the relationship between the child and each individual;

(d) The harm to the child if the relationship between the child and each individual is not recognized;

(e) The basis for each individual's claim to parentage of the child; and

(f) Other equitable factors arising from the disruption of the relationship between the child and each individual or the likelihood of other harm to the child.

(2) If an individual challenges parentage based on the results of genetic testing, in addition to the factors listed in subsection (1) of this section, the court shall consider:

(a) The facts surrounding the discovery the individual might not be a genetic parent of the child; and

(b) The length of time between the time that the individual was placed on notice that the individual might not be a genetic parent and the commencement of the proceeding.

(3) The court may adjudicate a child to have more than two parents under this chapter if the court finds that failure to recognize more than two parents would be detrimental to the child. A finding of detriment to the child does not require a finding of unfitness of any parent or individual seeking an adjudication of parentage. In determining detriment to the child, the court shall consider all relevant factors, including the harm if the child is removed from a stable placement with an individual who has fulfilled the child's physical needs and psychological needs for care and affection and has assumed the role for a substantial period. [2018 c 6 § 513.]

26.26A.465 Precluding establishment of parentage by perpetrator of sexual assault. (1) For the purposes of this section, "sexual assault" means nonconsensual sexual penetration that results in pregnancy.

(2) In a proceeding in which a parent alleges that a person committed a sexual assault that resulted in the parent becoming pregnant and subsequently giving birth to a child, the parent may seek to preclude the person from establishing or maintaining the person's parentage of the child. A parent who alleges that a child was born as a result of sexual assault may also seek additional relief as described in this section.

(3) This section does not apply if the person described in subsection (2) of this section has previously been adjudicated in a proceeding brought under RCW 26.26A.400 to be a parent of the child, except as may be specifically permitted under subsection (4) of this section.

(4) Unless RCW 26.26A.240 or 26.26A.430 applies, a parent must file a pleading making an allegation under subsection (2) of this section not later than four years after the birth of the child, except that for a period of one year after January 1, 2019, a court may waive the time bar in cases in which a presumed, acknowledged, or adjudicated parent was

found in a criminal or separate civil proceeding to have committed a sexual assault against the parent alleging that the child was born as a result of the sexual assault.

(5) If a parent makes an allegation under subsection (2) of this section and subsection (3) of this section does not apply, the court must conduct a fact-finding hearing on the allegation.

(a) The court may not enter any temporary orders providing residential time or decision making to the alleged perpetrator prior to the fact-finding hearing on the sexual assault allegation unless both of the following criteria are satisfied: (i) The alleged perpetrator has a bonded and dependent relationship with the child that is parental in nature; and (ii) the court specifically finds that it would be in the best interest of the child if such temporary orders are entered.

(b) Prior to the fact-finding hearing, the court may order genetic testing to determine whether the alleged perpetrator is biologically related to the child. If genetic testing reveals that the alleged perpetrator is not biologically related to the child, the fact-finding hearing must be stricken.

(c) Fourteen days prior to the fact-finding hearing, the parent alleging that the child was born as a result of a sexual assault shall submit affidavits setting forth facts supporting the allegation and shall give notice, together with a copy of the affidavit, to other parties to the proceedings, who may file opposing affidavits. Opposing affidavits must be submitted and served to other parties to the proceeding five days prior to the fact-finding hearing.

(d) The court shall determine on the record whether affidavits and documents submitted for the fact-finding hearing should be sealed.

(6) An allegation under subsection (2) of this section may be proved by:

(a) Evidence that the person was convicted of or pleaded guilty to a sexual assault under RCW 9A.44.040, 9A.44.050, or 9A.44.060, or a comparable crime of sexual assault, including child rape of any degree, in this state or any other jurisdiction, against the child's parent and the child was born within three hundred twenty days after the sexual assault; or

(b) Clear, cogent, and convincing evidence that the person committed sexual assault, as defined in this section, against the child's parent and the child was born within three hundred twenty days after the sexual assault.

(7) Subject to subsections (1) through (5) of this section, if the court determines that an allegation has been proved under subsection (6) of this section at the fact-finding hearing or after a bench trial, the court shall:

(a) Adjudicate that the person described in subsection (2) of this section is not a parent of the child, has no right to residential time or decision-making responsibilities for the child, has no right to inheritance from the child, and has no right to notification of, or standing to object to, the adoption of the child. If the parent who was the victim of the sexual assault expressly consents in writing for the court to decline to enter one or more of these restrictions or limitations, the court may do so;

(b) Require the state registrar of vital statistics to amend the birth record if requested by the parent and the court determines that the amendment is in the best interest of the child; and

(c) Require the person pay to child support, birth-related costs, or both, unless the parent requests otherwise and the court determines that granting the request is in the best interest of the child.

(8) The child's parent or guardian may decline an order for child support or birth-related costs. If the child's parent or guardian declines an order for child support, and is either currently receiving public assistance or later applies for it for the child born as a result of the sexual assault, support enforcement agencies as defined in this chapter shall not file administrative or court proceedings to establish or collect child support, including medical support, from the person described in subsection (2) of this section.

(9) If the court enters an order under subsection (8) of this section providing that no child support obligation may be established or collected from the person described in subsection (2) of this section, the court shall forward a copy of the order to the Washington state support registry.

(10) The court may order an award of attorneys' fees under this section on the same basis as attorneys' fees are awarded under RCW 26.09.140.

(11) Any party may move to close the fact-finding hearing and any related proceedings under this section to the public. If no party files such a motion, the court shall determine on its own initiative whether the fact-finding hearing and any related proceedings under this section should be closed to the public. Upon finding good cause for closing the proceeding, and if consistent with Article I, section 10 of the state Constitution, the court may:

(a) Restrict admission to only those persons whom the court finds to have a direct interest in the case or in the work of the court, including witnesses deemed necessary to the disposition of the case; and

(b) Restrict persons who are admitted from disclosing any information obtained at the hearing that would identify the parties involved or the child. [2019 c 46 § 4001; 2018 c 6 § 514.]

Hearing and Adjudication

26.26A.470 Proceeding to adjudicate parentage—Temporary child support orders, restraining orders, preliminary injunctions, domestic violence protection orders, antiharassment protection orders, and other court orders—Preservation of support debt. (1) In a proceeding under RCW 26.26A.400 through 26.26A.515, the court may issue a temporary order for child support if the order is consistent with law of this state other than this chapter and the individual ordered to pay support is:

- (a) A presumed parent of the child;
- (b) Petitioning to be adjudicated a parent;
- (c) Identified as a genetic parent through genetic testing under RCW 26.26A.325;
- (d) An alleged genetic parent who has declined to submit to genetic testing;
- (e) Shown by clear and convincing evidence to be a parent of the child; or
- (f) A parent under this chapter.

(2) A temporary order may include a provision for parenting time and visitation under law of this state other than this chapter.

(3) Any 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 party from:

- (a) Molesting or disturbing the peace of another party;
- (b) Going onto the grounds of or entering the home, workplace, or school of another party or the day care or school of any child;
- (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.

(4) 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.

(5) 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.

(6) 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. The order is fully enforceable in any county in the state.

(7) 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 information system.

(8) 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.

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

(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 petition is dismissed; and
- (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.

(12) Any party may request the court to issue any order referenced by RCW 9.41.800. [2019 c 46 § 1002; 2018 c 6 § 515.]

26.26A.475 Combining a proceeding to adjudicate parentage with other proceedings. (1) Except as otherwise provided in subsection (2) of this section, the court may combine a proceeding to adjudicate parentage under this chapter with a proceeding for adoption or termination of parental rights under chapter 26.33 RCW; determination of a parenting plan, child support, annulment, dissolution of marriage, dissolution of a domestic partnership, or legal separation under chapter 26.09 or 26.19 RCW; or probate or administration of an estate under chapter 11.48 or 11.54 RCW; or other appropriate proceeding.

(2) A respondent may not combine a proceeding described in subsection (1) [of this section] with a proceeding to adjudicate parentage brought under the uniform interstate family support act, chapter 26.21A RCW. [2018 c 6 § 516.]

26.26A.480 Proceeding to adjudicate parentage—Before birth of child. Except as otherwise provided in RCW 26.26A.700 through 26.26A.785, a proceeding to adjudicate parentage may be commenced before the birth of the child and an order or judgment may be entered before birth, but enforcement of the order or judgment must be stayed until the birth of the child. It is the responsibility of the parent to present the order or judgment to the hospital, midwife, or other party handling the delivery of the child so that the birth record may be entered properly. [2018 c 6 § 517.]

26.26A.485 Proceeding to adjudicate parentage—Child as party—Representation. (1) A minor child is a permissive party but not a necessary party to a proceeding under RCW 26.26A.400 through 26.26A.515.

(2) The court shall appoint a guardian ad litem, subject to RCW 74.20.310, to represent a child in a proceeding under RCW 26.26A.400 through 26.26A.515, if the court finds that the interests of the child are not adequately represented. [2018 c 6 § 518.]

26.26A.490 Proceeding to adjudicate parentage—Without jury. The court shall adjudicate parentage of a child without a jury. [2018 c 6 § 519.]

26.26A.500 Proceeding to adjudicate parentage—Hearing—Inspection of records. (1) On request of a party and for good cause, the court may close a proceeding under RCW 26.26A.400 through 26.26A.515 to the public.

(2) A final order in a proceeding under RCW 26.26A.400 through 26.26A.515 is available for public inspection. Except as provided by applicable court rules, records entered after the entry of a final order determining parentage in a proceeding under this chapter are publicly accessible. [2019 c 46 § 1001; 2018 c 6 § 520.]

26.26A.505 Proceeding to adjudicate parentage—Dismissal for want of prosecution—Without prejudice. The court may dismiss a proceeding under this chapter for want of prosecution only without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is void and has only the effect of a dismissal without prejudice. [2018 c 6 § 521.]

26.26A.510 Order adjudicating parentage. (1) An order adjudicating parentage must identify the child in a manner provided by law of this state other than this chapter.

(2) Except as otherwise provided in subsection (3) of this section, the court may assess filing fees, reasonable attorneys' fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in a proceeding under RCW 26.26A.400 through 26.26A.515. Attorneys' fees awarded under this subsection may be paid directly to the attorney, and the attorney may enforce the order in the attorney's own name.

(3) The court may not assess fees, costs, or expenses in a proceeding under RCW 26.26A.400 through 26.26A.515, against a child support agency of this state or another state, except as provided by law of this state other than this chapter.

(4) In a proceeding under RCW 26.26A.400 through 26.26A.515, a copy of a bill for genetic testing or prenatal or postnatal health care for the woman who gave birth to the child and the child, provided to the adverse party not later than ten days before a hearing, is admissible to establish:

- (a) The amount of the charge billed; and
- (b) That the charge is reasonable and necessary.

(5) On request of a party and for good cause, the court in a proceeding under RCW 26.26A.400 through 26.26A.515, may order the name of the child changed. If the court order changing the name varies from the name on the birth record of the child, the court shall order the state registrar of vital statistics to amend the birth record.

(6) On request of a party and for good cause, the court in a proceeding under RCW 26.26A.400 through 26.26A.515 may order the parents listed on the birth record of the child changed. If the adjudicated parents listed in the court order vary from the parents listed on the birth record of the child, the court shall order the state registrar of vital statistics to amend the birth record. [2018 c 6 § 522.]

26.26A.515 Binding effect of determination of parentage. (1) Except as otherwise provided in subsection (2) of this section:

(a) A signatory to an acknowledgment of parentage or denial of parentage is bound by the acknowledgment and denial as provided in RCW 26.26A.200 through 26.26A.265; and

(b) A party to an adjudication of parentage by a court acting under circumstances that satisfy the jurisdiction requirements of RCW 26.21A.100 and any individual who received notice of the proceeding are bound by the adjudication.

(2) A child is not bound by a determination of parentage under this chapter unless:

(a) The determination was based on an unrescinded acknowledgment of parentage and the acknowledgment is consistent with the results of genetic testing;

(b) The determination was based on a finding consistent with the results of genetic testing, and the consistency is declared in the determination or otherwise shown;

(c) The determination of parentage was made under RCW 26.26A.600 through 26.26A.635 or 26.26A.700 through 26.26A.785; or

(d) The child was a party or was represented by a guardian ad litem in the proceeding.

(3) In a proceeding for dissolution of marriage or domestic partnership, the court is deemed to have made an adjudication of parentage of a child if the court acts under circumstances that satisfy the jurisdiction requirements of RCW 26.21A.100 and the final order:

(a) Expressly identifies the child as a "child of the marriage," "issue of the marriage," "child of the domestic partnership," "issue of the domestic partnership," or includes similar words indicating that both spouses in the marriage or domestic partners in the domestic partnership are parents of the child; or

(b) Provides for support of the child by a spouse or domestic partner unless that spouse or domestic partner's parentage is disclaimed specifically in the order.

(4) Except as otherwise provided in subsection (2) of this section or RCW 26.26A.450, a determination of parentage may be asserted as a defense in a subsequent proceeding seeking to adjudicate parentage of an individual who was not a party to the earlier proceeding.

(5) A party to an adjudication of parentage may challenge the adjudication only under law of this state other than this chapter relating to appeal, vacation of judgment, or other judicial review. [2018 c 6 § 523.]

ASSISTED REPRODUCTION

26.26A.600 Scope—Assisted reproduction—RCW 26.26A.600 through 26.26A.635. This subchapter, RCW 26.26A.600 through 26.26A.635, does not apply to the birth

of a child conceived by sexual intercourse or assisted reproduction under a surrogacy agreement under RCW 26.26A.700 through 26.26A.785. [2018 c 6 § 601.]

26.26A.605 Assisted reproduction—Parental status of donor. A donor is not a parent of a child conceived by assisted reproduction. [2018 c 6 § 602.]

26.26A.610 Parentage of child of assisted reproduction. An individual who consents under RCW 26.26A.615 to assisted reproduction by a woman with the intent to be a parent of a child conceived by the assisted reproduction is a parent of the child. [2018 c 6 § 603.]

26.26A.615 Consent to assisted reproduction. (1) Except as otherwise provided in subsection (2) of this section, the consent described in RCW 26.26A.610 must be in a record signed by a woman giving birth to a child conceived by assisted reproduction and an individual who intends to be a parent of the child.

(2) Failure to consent in a record as required by subsection (1) of this section, before, on, or after birth of the child, does not preclude the court from finding consent to parentage if:

(a) The woman or the individual proves by clear and convincing evidence the existence of an express agreement entered into before conception that the individual and the woman intended they both would be parents of the child; or

(b) The woman and the individual for the first four years of the child's life, including any period of temporary absence, resided together in the same household with the child and both openly held out the child as the individual's child, unless the individual dies or becomes incapacitated before the child attains four years of age or the child dies before the child attains four years of age, in which case the court may find consent under this subsection to parentage if a party proves by clear and convincing evidence that the woman and the individual intended to reside together in the same household with the child and both intended the individual would openly hold out the child as the individual's child, but the individual was prevented from carrying out that intent by death or incapacity. [2018 c 6 § 604.]

26.26A.620 Assisted reproduction—Limitation on spouse's dispute of parentage. (1) Except as otherwise provided in subsection (2) of this section, an individual who, at the time of a child's birth, is the spouse of the woman who gave birth to the child by assisted reproduction may not challenge the individual's parentage of the child unless:

(a) Not later than four years after the birth of the child, the individual commences a proceeding to adjudicate the individual's parentage of the child; and

(b) The court finds the individual did not consent to the assisted reproduction, before, on, or after birth of the child, or withdrew consent under RCW 26.26A.630.

(2) A proceeding to adjudicate a spouse's parentage of a child born by assisted reproduction may be commenced at any time if the court determines:

(a) The spouse neither provided a gamete for, nor consented to, the assisted reproduction;

(b) The spouse and the woman who gave birth to the child have not cohabited since the probable time of assisted reproduction; and

(c) The spouse never openly held out the child as the spouse's child.

(3) This section applies to a spouse's dispute of parentage even if the spouse's marriage is declared invalid after assisted reproduction occurs. [2018 c 6 § 605.]

26.26A.625 Assisted reproduction—Effect of certain legal proceedings regarding marriage or domestic partnership. If a marriage or domestic partnership of a woman who gives birth to a child conceived by assisted reproduction is terminated through dissolution, subject to legal separation, declared invalid, or annulled before transfer of gametes or embryos to the woman, a former spouse or domestic partner of the woman is not a parent of the child unless the former spouse or domestic partner consented in a record that the former spouse or domestic partner would be a parent of the child if assisted reproduction were to occur after a dissolution, legal separation, declaration of invalidity, or annulment, and the former spouse or domestic partner did not withdraw consent under RCW 26.26A.630. [2018 c 6 § 606.]

26.26A.630 Assisted reproduction—Withdrawal of consent. (1) An individual who consents under RCW 26.26A.615 to assisted reproduction may withdraw consent any time before a transfer that results in a pregnancy, by giving notice in a record of the withdrawal of consent to the woman who agreed to give birth to a child conceived by assisted reproduction and to any clinic or health care provider facilitating the assisted reproduction. Failure to give notice to the clinic or health care provider does not affect a determination of parentage under this chapter.

(2) An individual who withdraws consent under subsection (1) of this section is not a parent of the child under this chapter. [2018 c 6 § 607.]

26.26A.635 Assisted reproduction—Parental status of deceased individual. (1) If an individual who intends to be a parent of a child conceived by assisted reproduction dies during the period between the transfer of a gamete or embryo and the birth of the child, the individual's death does not preclude the establishment of the individual's parentage of the child if the individual otherwise would be a parent of the child under this chapter.

(2) If an individual who consented in a record to assisted reproduction by a woman who agreed to give birth to a child dies before a transfer of gametes or embryos, the deceased individual is a parent of a child conceived by the assisted reproduction only if:

(a) Either:

(i) The individual consented in a record that if assisted reproduction were to occur after the death of the individual, the individual would be a parent of the child; or

(ii) The individual's intent to be a parent of a child conceived by assisted reproduction after the individual's death is established by clear and convincing evidence; and

(b) Either:

(i) The embryo is in utero not later than thirty-six months after the individual's death; or

(ii) The child is born not later than forty-five months after the individual's death. [2018 c 6 § 608.]

SURROGACY AGREEMENT
General Requirements

26.26A.700 Definitions—Surrogacy agreement—RCW 26.26A.700 through 26.26A.785. The definitions in this section apply throughout this subchapter, RCW 26.26A.700 through 26.26A.785, unless the context clearly requires otherwise.

(1) "Genetic surrogate" means a woman who is not an intended parent and who agrees to become pregnant through assisted reproduction using her own gamete, under a genetic surrogacy agreement as provided in RCW 26.26A.700 through 26.26A.785.

(2) "Gestational surrogate" means a woman who is not an intended parent and who agrees to become pregnant through assisted reproduction using gametes that are not her own, under a gestational surrogacy agreement as provided in RCW 26.26A.700 through 26.26A.785.

(3) "Surrogacy agreement" means an agreement between one or more intended parents and a woman who is not an intended parent in which the woman agrees to become pregnant through assisted reproduction and which provides that each intended parent is a parent of a child conceived under the agreement. Unless otherwise specified, the term refers to both a gestational surrogacy agreement and a genetic surrogacy agreement. [2018 c 6 § 701.]

26.26A.705 Eligibility to enter gestational or genetic surrogacy agreement. (1) To execute an agreement to act as a gestational or genetic surrogate, a woman must:

- (a) Have attained twenty-one years of age;
- (b) Previously have given birth to at least one child but not enter into more than two surrogacy agreements that result in the birth of children;
- (c) Complete a medical evaluation related to the surrogacy arrangement by a licensed medical doctor;
- (d) Complete a mental health consultation by a licensed mental health professional; and
- (e) Have independent legal representation of her choice throughout the surrogacy arrangement regarding the terms of the surrogacy agreement and the potential legal consequences of the agreement.

(2) To execute a surrogacy agreement, each intended parent, whether or not genetically related to the child, must:

- (a) Have attained twenty-one years of age;
- (b) Complete a medical evaluation related to the surrogacy arrangement by a licensed medical doctor;
- (c) Complete a mental health consultation by a licensed mental health professional; and
- (d) Have independent legal representation of the intended parent's choice throughout the surrogacy arrangement regarding the terms of the surrogacy agreement and the potential legal consequences of the agreement. [2018 c 6 § 702.]

26.26A.710 Requirements of gestational or genetic surrogacy agreement—Process. A surrogacy agreement must be executed in compliance with the following rules:

(1) At least one party must be a resident of this state or, if no party is a resident of this state, at least one medical evaluation or procedure or mental health consultation under the agreement must occur in this state.

(2) A woman acting as a surrogate and each intended parent must meet the requirements of RCW 26.26A.705.

(3) Each intended parent, the woman acting as a surrogate, and the spouse of the woman acting as a surrogate, if any, must be parties to the agreement.

(4) The agreement must be in a record signed by each party listed in subsection (3) of this section.

(5) The woman acting as a surrogate and each intended parent must acknowledge in a record receipt of a copy of the agreement.

(6) The signature of each party to the agreement must be attested by a notarial officer or witnessed.

(7) The woman acting as a surrogate and the intended parent or parents must have independent legal representation throughout the surrogacy arrangement regarding the terms of the surrogacy agreement and the potential legal consequences of the agreement, and each counsel must be identified in the surrogacy agreement.

(8) The intended parent or parents must pay for independent legal representation for the woman acting as a surrogate.

(9) The agreement must be executed before a medical procedure occurs related to the surrogacy agreement, other than the medical evaluation and mental health consultation required by RCW 26.26A.705. [2018 c 6 § 703.]

26.26A.715 Requirements of gestational or genetic surrogacy agreement—Content. (1) A surrogacy agreement must comply with the following requirements:

(a) A woman acting as a surrogate agrees to attempt to become pregnant by means of assisted reproduction.

(b) Except as otherwise provided in RCW 26.26A.750, 26.26A.765, and 26.26A.770, the woman acting as a surrogate and the spouse or former spouse of the woman acting as a surrogate, if any, have no claim to parentage of a child conceived by assisted reproduction under the agreement.

(c) The spouse of the woman acting as a surrogate, if any, must acknowledge and agree to comply with the obligations imposed on the woman acting as a surrogate by the agreement.

(d) Except as otherwise provided in RCW 26.26A.750, 26.26A.765, and 26.26A.770, the intended parent or, if there are two intended parents, each one jointly and severally, immediately on birth will be the exclusive parent or parents of the child, regardless of number of children born or gender or mental or physical condition of each child.

(e) Except as otherwise provided in RCW 26.26A.750, 26.26A.765, and 26.26A.770, the intended parent or, if there are two intended parents, each parent jointly and severally, immediately on birth will assume responsibility for the financial support of the child, regardless of number of children born or gender or mental or physical condition of each child.

(f) The agreement must include information disclosing how each intended parent will cover the surrogacy-related expenses of the surrogate and the medical expenses of the child. If health care coverage is used to cover the medical expenses, the disclosure must include a summary of the health care policy provisions related to coverage for surro-

gate pregnancy, including any possible liability of the woman acting as a surrogate, third-party liability liens, other insurance coverage, and any notice requirement that could affect coverage or liability of the woman acting as a surrogate. Unless the agreement expressly provides otherwise, the review and disclosure do not constitute legal advice. If the extent of coverage is uncertain, a statement of that fact is sufficient to comply with this subsection (1)(f).

(g) The agreement must permit the woman acting as a surrogate to make all health and welfare decisions regarding herself and her pregnancy and, notwithstanding any other provisions in this chapter, provisions in the agreement to the contrary are void and unenforceable. This chapter does not diminish the right of the woman acting as a surrogate to terminate her pregnancy.

(h) The agreement must include information about each party's right under RCW 26.26A.700 through 26.26A.785 to terminate the surrogacy agreement.

(2) A surrogacy agreement may provide for:

(a) Payment of consideration and reasonable expenses; and

(b) Reimbursement of specific expenses if the agreement is terminated under RCW 26.26A.700 through 26.26A.785.

(3) A right created under a surrogacy agreement is not assignable and there is no third-party beneficiary of the agreement other than the child. [2018 c 6 § 704.]

26.26A.720 Surrogacy agreement—Effect of subsequent change of marital status. (1) Unless a surrogacy agreement expressly provides otherwise:

(a) The marriage or domestic partnership of a woman acting as a surrogate after the agreement is signed by all parties does not affect the validity of the agreement, her spouse or domestic partner's consent to the agreement is not required, and her spouse or domestic partner is not a presumed parent of a child conceived by assisted reproduction under the agreement; and

(b) The dissolution, annulment, declaration of invalidity, or legal separation of the woman acting as a surrogate after the agreement is signed by all parties does not affect the validity of the agreement.

(2) Unless a surrogacy agreement expressly provides otherwise:

(a) The marriage or domestic partnership of an intended parent after the agreement is signed by all parties does not affect the validity of a surrogacy agreement, the consent of the spouse or domestic partner of the intended parent is not required, and the spouse or domestic partner of the intended parent is not, based on the agreement, a parent of a child conceived by assisted reproduction under the agreement; and

(b) The dissolution, annulment, declaration of invalidity, or legal separation of an intended parent after the agreement is signed by all parties does not affect the validity of the agreement and, except as otherwise provided in RCW 26.26A.765, the intended parents are the parents of the child. [2018 c 6 § 705.]

26.26A.725 Surrogacy agreement—Inspection of documents. Unless the court orders otherwise, a petition and any other document related to a surrogacy agreement filed with the court under RCW 26.26A.700 through 26.26A.785,

are not open to inspection by any individual other than the parties to the proceeding, a child conceived by assisted reproduction under the agreement, their attorneys, and the state registrar of vital statistics. A court may not authorize an individual to inspect a document related to the agreement, unless required by exigent circumstances. The individual seeking to inspect the document may be required to pay the expense of preparing a copy of the document to be inspected. [2018 c 6 § 706.]

26.26A.730 Surrogacy agreement—Venue—Exclusive, continuing jurisdiction. (1) Notwithstanding the provisions of RCW 26.26A.420, venue for a proceeding under this subchapter, RCW 26.26A.700 through 26.26A.785, may be in a county of this state in which:

(a) The child resides or is located;

(b) The respondent resides or is located;

(c) An intended parent resides;

(d) A medical evaluation or procedure or mental health consultation under the surrogacy agreement occurred; or

(e) A proceeding has been commenced for administration of the estate of an individual who is or may be a parent under this subchapter.

(2) During the period after the execution of a surrogacy agreement until ninety days after the birth of a child conceived by assisted reproduction under the agreement, a court of this state conducting a proceeding under this chapter has exclusive, continuing jurisdiction over all matters arising out of the agreement. This section does not give the court jurisdiction over a child custody or child support proceeding if jurisdiction is not otherwise authorized by law of this state other than this chapter. [2018 c 6 § 707.]

Special Rules for Gestational Surrogacy Agreement

26.26A.735 Gestational surrogacy agreement—Termination. (1) A party to a gestational surrogacy agreement may terminate the agreement, at any time before an embryo transfer, by giving notice of termination in a record to all other parties. If an embryo transfer does not result in a pregnancy, a party may terminate the agreement at any time before a subsequent embryo transfer.

(2) Unless a gestational surrogacy agreement provides otherwise, on termination of the agreement under subsection (1) of this section, the parties are released from the agreement, except that each intended parent remains responsible for expenses that are reimbursable under the agreement and incurred by the woman acting as a gestational surrogate through the date of termination.

(3) Except in a case involving fraud, neither a woman acting as a gestational surrogate nor the surrogate's spouse or former spouse, if any, is liable to the intended parent or parents for a penalty or liquidated damages, for terminating a gestational surrogacy agreement under this section. [2018 c 6 § 708.]

26.26A.740 Gestational surrogacy agreement—Parentage. (1) Except as otherwise provided in subsection (3) of this section or RCW 26.26A.745(2) or 26.26A.755, on birth of a child conceived by assisted reproduction under a gesta-

tional surrogacy agreement, each intended parent is, by operation of law, a parent of the child.

(2) Except as otherwise provided in subsection (3) of this section or RCW 26.26A.755, neither a woman acting as a gestational surrogate nor the surrogate's spouse or former spouse, if any, is a parent of the child.

(3) If a child is alleged to be a genetic child of the woman who agreed to be a gestational surrogate, the court shall order genetic testing of the child. If the child is a genetic child of the woman who agreed to be a gestational surrogate, parentage must be determined based on RCW 26.26A.005 through 26.26A.515.

(4) Except as otherwise provided in subsection (3) of this section or RCW 26.26A.745(2) or 26.26A.755, if, due to a clinical or laboratory error, a child conceived by assisted reproduction under a gestational surrogacy agreement is not genetically related to an intended parent or a donor who donated to the intended parent or parents, each intended parent, and not the woman acting as a gestational surrogate and the surrogate's spouse or former spouse, if any, is a parent of the child, subject to any other claim of parentage. [2018 c 6 § 709.]

26.26A.745 Gestational surrogacy agreement—Parentage of deceased intended parent. (1) RCW 26.26A.740 applies to an intended parent even if the intended parent died during the period between the transfer of a gamete or embryo and the birth of the child.

(2) Except as otherwise provided in RCW 26.26A.755, an intended parent is not a parent of a child conceived by assisted reproduction under a gestational surrogacy agreement if the intended parent dies before the transfer of a gamete or embryo unless:

(a) The agreement provides otherwise; and

(b) The transfer of a gamete or embryo occurs not later than thirty-six months after the death of the intended parent or birth of the child occurs not later than forty-five months after the death of the intended parent. [2018 c 6 § 710.]

26.26A.750 Gestational surrogacy agreement—Order of parentage. (1) Except as otherwise provided in RCW 26.26A.740(3) or 26.26A.755, before, on, or after the birth of a child conceived by assisted reproduction under a gestational surrogacy agreement, a party to the agreement may commence a proceeding in the superior court for an order or judgment:

(a) Declaring that each intended parent is a parent of the child and ordering that parental rights and duties vest immediately on the birth of the child exclusively in each intended parent;

(b) Declaring that the woman acting as a gestational surrogate and the surrogate's spouse or former spouse, if any, are not the parents of the child;

(c) Directing the state registrar of vital statistics to list each intended parent as a parent of the child on the birth record;

(d) To protect the privacy of the child and the parties, declaring that the court record is not open to inspection except as authorized under RCW 26.26A.725;

(e) If necessary, that the child be surrendered to the intended parent or parents; and

(f) For other relief the court determines necessary and proper.

(2) The court may issue an order or judgment under subsection (1) of this section before the birth of the child. The court shall stay enforcement of the order or judgment until the birth of the child.

(3) Neither this state nor the state registrar of vital statistics is a necessary party to a proceeding under subsection (1) of this section. [2018 c 6 § 711.]

26.26A.755 Gestational surrogacy agreement—Effect. (1) A gestational surrogacy agreement that complies with RCW 26.26A.705, 26.26A.710, and 26.26A.715 is enforceable.

(2) If a child was conceived by assisted reproduction under a gestational surrogacy agreement that does not comply with RCW 26.26A.705, 26.26A.710, and 26.26A.715, the court shall determine the rights and duties of the parties to the agreement consistent with the intent of the parties at the time of execution of the agreement. Each party to the agreement and any individual who at the time of the execution of the agreement was a spouse of a party to the agreement has standing to maintain a proceeding to adjudicate an issue related to the enforcement of the agreement.

(3) Except as expressly provided in a gestational surrogacy agreement or subsection (4) or (5) of this section, if the agreement is breached by the woman acting as a gestational surrogate or one or more intended parents, the nonbreaching party is entitled to the remedies available at law or in equity.

(4) Specific performance is not a remedy available for breach by a woman acting as a gestational surrogate of a provision in the agreement that the gestational surrogate be impregnated.

(5) Except as otherwise provided in subsection (4) of this section, if an intended parent is determined to be a parent of the child, specific performance is a remedy available for:

(a) Breach of the agreement by a woman acting as a gestational surrogate which prevents the intended parent from exercising immediately on birth of the child the full rights of parentage; or

(b) Breach by the intended parent which prevents the intended parent's acceptance, immediately on birth of the child conceived by assisted reproduction under the agreement, of the duties of parentage. [2018 c 6 § 712.]

Special Rules for Genetic Surrogacy Agreement

26.26A.760 Genetic surrogacy agreement—Requirements for validation. (1) Except as otherwise provided in RCW 26.26A.775, to be enforceable, a genetic surrogacy agreement must be validated by the superior court. A proceeding to validate the agreement must be commenced before assisted reproduction related to the surrogacy agreement.

(2) The court shall issue an order validating a genetic surrogacy agreement if the court finds that:

(a) RCW 26.26A.705, 26.26A.710, and 26.26A.715 are satisfied; and

(b) All parties entered into the agreement voluntarily and understand its terms.

(3) An individual who terminates under RCW 26.26A.765 a genetic surrogacy agreement shall file notice of

the termination with the court. On receipt of the notice, the court shall vacate any order issued under subsection (2) of this section. An individual who does not notify the court of the termination of the agreement is subject to sanctions. [2018 c 6 § 713.]

26.26A.765 Genetic surrogacy agreement—Termination. (1) A party to a genetic surrogacy agreement may terminate the agreement as follows:

(a) An intended parent who is a party to the agreement may terminate the agreement at any time before a gamete or embryo transfer by giving notice of termination in a record to all other parties. If a gamete or embryo transfer does not result in a pregnancy, a party may terminate the agreement at any time before a subsequent gamete or embryo transfer. The notice of termination must be attested by a notarial officer or witnessed.

(b) A woman acting as a genetic surrogate who is a party to the agreement may withdraw consent to the agreement any time before forty-eight hours after the birth of a child conceived by assisted reproduction under the agreement. To withdraw consent, the woman acting as a genetic surrogate must execute a notice of termination in a record stating the surrogate's intent to terminate the agreement. The notice of termination must be attested by a notarial officer or witnessed and be delivered to each intended parent any time before forty-eight hours after the birth of the child.

(2) On termination of the genetic surrogacy agreement under subsection (1) of this section, the parties are released from all obligations under the agreement except that each intended parent remains responsible for all expenses incurred by the woman acting as a surrogate through the date of termination which are reimbursable under the agreement. Unless the agreement provides otherwise, the woman acting as a surrogate is not entitled to any nonexpense related compensation paid for serving as a surrogate.

(3) Except in a case involving fraud, neither a woman acting as a genetic surrogate nor the surrogate's spouse or former spouse, if any, is liable to the intended parent or parents for a penalty or liquidated damages, for terminating a genetic surrogacy agreement under this section. [2018 c 6 § 714.]

26.26A.770 Validated genetic surrogacy agreement—Parentage. (1) Unless a woman acting as a genetic surrogate exercises the right under RCW 26.26A.765 to terminate a genetic surrogacy agreement, each intended parent is a parent of a child conceived by assisted reproduction under an agreement validated under RCW 26.26A.760.

(2) Unless a woman acting as a genetic surrogate exercises the right under RCW 26.26A.765 to terminate the genetic surrogacy agreement, on proof of a court order issued under RCW 26.26A.760 validating the agreement, the court shall make an order:

(a) Declaring that each intended parent is a parent of a child conceived by assisted reproduction under the agreement and ordering that parental rights and duties vest exclusively in each intended parent;

(b) Declaring that the woman acting as a genetic surrogate and the surrogate's spouse or former spouse, if any, are not parents of the child;

(c) Directing the state registrar of vital statistics to list each intended parent as a parent of the child on the birth record;

(d) To protect the privacy of the child and the parties, declaring that the court record is not open to inspection except as authorized under RCW 26.26A.725;

(e) If necessary, that the child be surrendered to the intended parent or parents; and

(f) For other relief the court determines necessary and proper.

(3) If a woman acting as a genetic surrogate terminates under RCW 26.26A.765(1)(b) a genetic surrogacy agreement, parentage of the child conceived by assisted reproduction under the agreement must be determined under RCW 26.26A.005 through 26.26A.515.

(4) If a child born to a woman acting as a genetic surrogate is alleged not to have been conceived by assisted reproduction, the court shall order genetic testing to determine the genetic parentage of the child. If the child was not conceived by assisted reproduction, parentage must be determined under RCW 26.26A.005 through 26.26A.515. Unless the genetic surrogacy agreement provides otherwise, if the child was not conceived by assisted reproduction the woman acting as a surrogate is not entitled to any nonexpense related compensation paid for serving as a surrogate.

(5) Unless a party exercises the right under RCW 26.26A.765 to terminate the genetic surrogacy agreement, the woman acting as a genetic surrogate or the department of social and health services division of child support may file with the court, not later than sixty days after the birth of a child conceived by assisted reproduction under the agreement, notice that the child has been born to the woman acting as a genetic surrogate. Unless the woman acting as a genetic surrogate has properly exercised the right under RCW 26.26A.765 to withdraw consent to the agreement, on proof of a court order issued under RCW 26.26A.760 validating the agreement, the court shall order that each intended parent is a parent of the child. [2018 c 6 § 715.]

26.26A.775 Nonvalidated genetic surrogacy agreement—Effect. (1) A genetic surrogacy agreement, whether or not in a record, that is not validated under RCW 26.26A.760 is enforceable only to the extent provided in this section and RCW 26.26A.785.

(2) If all parties agree, a court may validate a genetic surrogacy agreement after assisted reproduction has occurred but before the birth of a child conceived by assisted reproduction under the agreement.

(3) If a child conceived by assisted reproduction under a genetic surrogacy agreement that is not validated under RCW 26.26A.760 is born and the woman acting as a genetic surrogate, consistent with RCW 26.26A.765(1)(b), withdraws her consent to the agreement before forty-eight hours after the birth of the child, the court shall adjudicate the parentage of the child under RCW 26.26A.005 through 26.26A.515.

(4) If a child conceived by assisted reproduction under a genetic surrogacy agreement that is not validated under RCW 26.26A.760 is born and a woman acting as a genetic surrogate does not withdraw her consent to the agreement, consistent with RCW 26.26A.765(1)(b), before forty-eight hours after the birth of the child, the woman acting as a genetic sur-

rogate is not automatically a parent and the court shall adjudicate parentage of the child based on the best interest of the child, taking into account the factors in RCW 26.26A.460(1) and the intent of the parties at the time of the execution of the agreement.

(5) The parties to a genetic surrogacy agreement have standing to maintain a proceeding to adjudicate parentage under this section. [2018 c 6 § 716.]

26.26A.780 Genetic surrogacy agreement—Parentage of deceased intended parent. (1) Except as otherwise provided in RCW 26.26A.770 or 26.26A.775, on birth of a child conceived by assisted reproduction under a genetic surrogacy agreement, each intended parent is, by operation of law, a parent of the child, notwithstanding the death of an intended parent during the period between the transfer of a gamete or embryo and the birth of the child.

(2) Except as otherwise provided in RCW 26.26A.770 or 26.26A.775, an intended parent is not a parent of a child conceived by assisted reproduction under a genetic surrogacy agreement if the intended parent dies before the transfer of a gamete or embryo unless:

(a) The agreement provides otherwise; and

(b) The transfer of the gamete or embryo occurs not later than thirty-six months after the death of the intended parent, or birth of the child occurs not later than forty-five months after the death of the intended parent. [2018 c 6 § 717.]

26.26A.785 Genetic surrogacy agreement—Breach.

(1) Subject to RCW 26.26A.715(1)(g) and 26.26A.765(2), if a genetic surrogacy agreement is breached by a woman acting as a genetic surrogate or one or more intended parents, the nonbreaching party is entitled to the remedies available at law or in equity.

(2) Specific performance is not a remedy available for breach by a woman acting as a genetic surrogate of a requirement of a validated or nonvalidated genetic surrogacy agreement that the surrogate be impregnated.

(3) Except as otherwise provided in subsection (2) of this section, specific performance is a remedy available for:

(a) Breach of a validated genetic surrogacy agreement by a woman acting as a genetic surrogate of a requirement which prevents an intended parent from exercising the full rights of parentage forty-eight hours after the birth of the child; or

(b) Breach by an intended parent which prevents the intended parent's acceptance of duties of parentage forty-eight hours after the birth of the child. [2018 c 6 § 718.]

INFORMATION ABOUT DONOR

26.26A.800 Definitions—Information about donor—RCW 26.26A.800 through 26.26A.825. The definitions in this section apply throughout RCW 26.26A.800 through 26.26A.825, unless the context clearly requires otherwise.

(1) "Identifying information" means:

(a) The full name of a donor;

(b) The date of birth of the donor; and

(c) The permanent and, if different, current address of the donor at the time of the donation.

(2) "Medical history" means information regarding any:

(a) Present illness of a donor;

(b) Past illness of the donor; and

(c) Social, genetic, and family history pertaining to the health of the donor. [2018 c 6 § 801.]

26.26A.805 Applicability—RCW 26.26A.800 through 26.26A.825. RCW 26.26A.800 through 26.26A.825 apply only to gametes collected on or after January 1, 2019. [2018 c 6 § 802.]

26.26A.810 Collection of information about donor.

(1) A gamete bank or fertility clinic licensed in this state shall collect from a donor the donor's identifying information and medical history at the time of the donation.

(2) A gamete bank or fertility clinic licensed in this state which receives gametes of a donor collected by another gamete bank or fertility clinic shall collect the name, address, telephone number, and email address of the gamete bank or fertility clinic from which it received the gametes.

(3) A gamete bank or fertility clinic licensed in this state shall disclose the information collected under subsections (1) and (2) of this section as provided under RCW 26.26A.820. [2019 c 46 § 2001; 2018 c 6 § 803.]

26.26A.815 Information about donor—Declaration regarding identity disclosure to child conceived by assisted reproduction. (1) A gamete bank or fertility clinic licensed in this state which collects gametes from a donor shall:

(a) Provide the donor with information in a record about the donor's choice regarding identity disclosure; and

(b) Obtain a declaration from the donor regarding identity disclosure.

(2) A gamete bank or fertility clinic licensed in this state shall give a donor the choice to sign a declaration, attested by a notarial officer or witnessed, that either:

(a) States that the donor agrees to disclose the donor's identity to a child conceived by assisted reproduction with the donor's gametes on request once the child attains eighteen years of age; or

(b) States that the donor does not agree presently to disclose the donor's identity to the child.

(3) A gamete bank or fertility clinic licensed in this state shall permit a donor who has signed a declaration under subsection (2)(b) of this section to withdraw the declaration at any time by signing a declaration under subsection (2)(a) of this section. [2018 c 6 § 804.]

26.26A.820 Information about donor—Disclosure of identifying information and medical history on request of a child conceived by assisted reproduction—Access to nonidentifying medical history. (1) On request of a child conceived by assisted reproduction who attains eighteen years of age, a gamete bank or fertility clinic licensed in this state which collected the gametes used in the assisted reproduction shall make a good faith effort to provide the child with identifying information of the donor who provided the gametes, unless the donor signed and did not withdraw a declaration under RCW 26.26A.815(2)(b). If the donor signed and did not withdraw the declaration, the gamete bank or fertility clinic shall make a good faith effort to notify the donor,

who may elect under RCW 26.26A.815(3) to withdraw the donor's declaration.

(2) Regardless whether a donor signed a declaration under RCW 26.26A.815(2)(b), on request by a child conceived by assisted reproduction who attains eighteen years of age, or, if the child is a minor, by a parent or guardian of the child, a gamete bank or fertility clinic licensed in this state which collected the gametes used in the assisted reproduction shall make a good faith effort to provide the child or, if the child is a minor, the parent or guardian of the child, access to nonidentifying medical history of the donor.

(3) On request of a child conceived by assisted reproduction who attains eighteen years of age, a gamete bank or fertility clinic licensed in this state which received the gametes used in the assisted reproduction from another gamete bank or fertility clinic shall disclose the name, address, telephone number, and email address of the gamete bank or fertility clinic from which it received the gametes. [2019 c 46 § 2002; 2018 c 6 § 805.]

26.26A.825 Information about donor—Recordkeeping duty of gamete bank or fertility clinic. (1) A gamete bank or fertility clinic licensed in this state which collects gametes for use in assisted reproduction shall maintain identifying information and medical history about each gamete donor. The gamete bank or fertility clinic shall maintain records of gamete screening and testing and comply with reporting requirements, in accordance with federal law and applicable law of this state other than this chapter.

(2) A gamete bank or fertility clinic licensed in this state that receives gametes from another gamete bank or fertility clinic shall maintain the name, address, and telephone number of the gamete bank or fertility clinic from which it received the gametes. [2019 c 46 § 2003; 2018 c 6 § 806.]

MISCELLANEOUS PROVISIONS

26.26A.900 Uniformity of application and construction—2018 c 6. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. [2018 c 6 § 901.]

26.26A.901 Relation to electronic signatures in global and national commerce act. This chapter modifies, limits, or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b). [2018 c 6 § 902.]

26.26A.902 Transitional provision—Applicability to pending proceedings. This chapter applies to a pending proceeding to adjudicate parentage commenced before January 1, 2019, for an issue on which a judgment has not been entered. [2018 c 6 § 903.]

26.26A.903 Effective date—2018 c 6. This act takes effect January 1, 2019. [2018 c 6 § 909.]

Chapter 26.26B RCW

MISCELLANEOUS PARENTAGE ACT PROVISIONS

Sections

- 26.26B.010 Mandatory use of approved forms.
- 26.26B.020 Judgment or order determining parent and child relationship—Support judgment and orders—Residential provisions—Custody—Restraining orders—Notice of modification or termination of restraining order.
- 26.26B.030 Support orders—Compliance with RCW 26.23.050.
- 26.26B.040 Support orders—Time limit, exception.
- 26.26B.050 Restraining order—Knowing violation—Penalty—Law enforcement immunity.
- 26.26B.060 Costs.
- 26.26B.070 Proof of certain support and parentage establishment costs.
- 26.26B.080 Enforcement of judgments or orders.
- 26.26B.090 Modification of judgment or order—Continuing jurisdiction.
- 26.26B.100 Health care coverage.
- 26.26B.110 Relinquishment of child for adoption—Notice to other parent.
- 26.26B.120 Parenting plan—Designation of parent for other state and federal purposes.
- 26.26B.130 Judicial proceedings for parenting and support of a child.

26.26B.010 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 or chapter 26.26A RCW unless on forms approved by the administrative office of the courts.

(2) The parties shall comply with requirements for submission to the court of forms as provided in RCW 26.18.220. [2019 c 46 § 5027; 2005 c 282 § 38; 1992 c 229 § 7; 1990 1st ex.s. c 2 § 28. Formerly RCW 26.26.065.]

Additional notes found at www.leg.wa.gov

26.26B.020 Judgment or order determining parent and child relationship—Support judgment and orders—Residential provisions—Custody—Restraining orders—Notice of modification or termination of restraining order. (1) The judgment and order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(2) If the judgment and order of the court is at variance with the child's birth certificate, the court shall order that an amended birth certificate be issued.

(3) The judgment and order shall contain other appropriate provisions directed to the appropriate parties to the proceeding, concerning the duty of current and future support, the extent of any liability for past support furnished to the child if that issue is before the court, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment and order may direct one parent to pay the reasonable expenses of the mother's pregnancy and childbirth. The judgment and order may include a continuing restraining order or injunction. In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(4) The judgment and order shall contain a provision that each party must file with the court and the Washington state child support registry and update as necessary the information required in the confidential information form required by RCW 26.23.050.

(5) Support judgment and orders shall be for periodic payments which may vary in amount. The court may limit the parent's liability for the past support to the child to the proportion of the expenses already incurred as the court deems just. The court shall not limit or affect in any manner the right

of nonparties including the state of Washington to seek reimbursement for support and other services previously furnished to the child.

(6) After considering all relevant factors, the court shall order either or both parents to pay an amount determined pursuant to the schedule and standards contained in chapter 26.19 RCW.

(7) On the same basis as provided in chapter 26.09 RCW, the court shall make residential provisions with regard to minor children of the parties, except that a parenting plan shall not be required unless requested by a party. If a parenting plan or residential schedule was not entered at the time the order establishing parentage was entered, a parent may move the court for entry of a parenting plan or residential schedule:

(a) By filing a motion and proposed parenting plan or residential schedule and providing notice to the other parent and other persons who have residential time with the child pursuant to a court order: PROVIDED, That at the time of filing the motion less than twenty-four months have passed since entry of the order establishing parentage and that the proposed parenting plan or residential schedule does not change the designation of the parent with whom the child spends the majority of time; or

(b) By filing a petition for modification under RCW 26.09.260 or petition to establish a parenting plan, residential schedule, or residential provisions.

(8) In any dispute between the persons claiming parentage of a child and a person or persons who have (a) commenced adoption proceedings or who have been granted an order of adoption, and (b) pursuant to a court order, or placement by the department of social and health services or by a licensed agency, have had actual custody of the child for a period of one year or more before court action is commenced by the persons claiming parentage, the court shall consider the best welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody.

(9) In entering an order under this chapter or chapter 26.26A RCW, the court may issue any necessary continuing restraining orders, including the restraint provisions of domestic violence protection orders under chapter 26.50 RCW or antiharassment protection orders under chapter 10.14 RCW.

(10) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, 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.

(11) 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 be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforce-

ment agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith 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.

(12) 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. [2019 c 46 § 5028; 2011 c 283 § 9; 2001 c 42 § 5; 2000 c 119 § 10; 1997 c 58 § 947; 1995 c 246 § 31; 1994 sp.s. c 7 § 455. Prior: 1989 c 375 § 23; 1989 c 360 § 18; 1987 c 460 § 56; 1983 1st ex.s. c 41 § 8; 1975-'76 2nd ex.s. c 42 § 14. Formerly RCW 26.26.130.]

Costs—2011 c 283: "Any action taken by an agency to implement the provisions of this act must be accomplished within existing resources. Any costs incurred by the administrative office of the courts for modifications to the judicial information system as a result of the provisions of this act shall be paid from the judicial information system account." [2011 c 283 § 56.]

Application—2011 c 283: "This act applies to causes of action filed on or after July 22, 2011." [2011 c 283 § 58.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

26.26B.030 Support orders—Compliance with RCW 26.23.050. Every court order or decree establishing a child support obligation shall be entered in compliance with RCW 26.23.050. [1987 c 435 § 27; 1986 c 138 § 3; 1984 c 260 § 23. Formerly RCW 26.26.132.]

Additional notes found at www.leg.wa.gov

26.26B.040 Support orders—Time limit, exception. A court may not order payment for support provided or expenses incurred more than five years prior to the commencement of the action. Any period of time in which the responsible party has concealed himself or herself or avoided the jurisdiction of the court under this chapter or chapter 26.26A RCW shall not be included within the five-year period. [2019 c 46 § 5029; 2011 c 336 § 693; 1983 1st ex.s. c 41 § 11. Formerly RCW 26.26.134.]

Additional notes found at www.leg.wa.gov

26.26B.050 Restraining order—Knowing violation—Penalty—Law enforcement immunity. (1) Whenever a restraining order is issued under this chapter or chapter 26.26A RCW, 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 or chapter 26.26A RCW;

(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. [2019 c 46 § 5030; 2000 c 119 § 23; 1999 c 184 § 12; 1996 c 248 § 11; 1995 c 246 § 33. Formerly RCW 26.26.138.]

Additional notes found at www.leg.wa.gov

26.26B.060 Costs. The court may order reasonable fees of experts and the child's guardian ad litem, and other costs of the action, including blood or genetic test costs, to be paid by the parties in proportions and at times determined by the court. The court may order that all or a portion of a party's reasonable attorney's fees be paid by another party, except that an award of attorney's fees assessed against the state or any of its agencies or representatives shall be under RCW 4.84.185. [1994 c 146 § 4; 1984 c 260 § 35; 1975-'76 2nd ex.s. c 42 § 15. Formerly RCW 26.26.140.]

26.26B.070 Proof of certain support and parentage establishment costs. In all actions brought under this chapter or chapter 26.26A RCW, bills for pregnancy, childbirth, and genetic testing shall:

(1) Be admissible as evidence without requiring third-party foundation testimony; and

(2) Constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child. [2019 c 46 § 5031; 1997 c 58 § 939. Formerly RCW 26.26.145.]

[Title 26 RCW—page 134]

Additional notes found at www.leg.wa.gov

26.26B.080 Enforcement of judgments or orders. (1) If existence of the parent and child relationship is declared, or parentage or a duty of support has been acknowledged or adjudicated under this chapter or chapter 26.26A RCW or under prior law, the obligation of the parent may be enforced in the same or other proceedings by the other parent, the child, the state of Washington, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, childbirth, education, support, or funeral, or by any other person, including a private agency, to the extent he or she has furnished or is furnishing these expenses.

(2) The court shall order support payments to be made to the Washington state support registry, or the person entitled to receive the payments under an alternate arrangement approved by the court as provided in RCW 26.23.050(2).

(3) All remedies for the enforcement of judgments apply. [2019 c 46 § 5032; 2011 c 283 § 10; 1994 c 230 § 16; 1987 c 435 § 28; 1975-'76 2nd ex.s. c 42 § 16. Formerly RCW 26.26.150.]

Costs—Application—2011 c 283: See notes following RCW 26.26B.020.

Additional notes found at www.leg.wa.gov

26.26B.090 Modification of judgment or order—Continuing jurisdiction. (1) Except as provided in subsection (2) of this section the court has continuing jurisdiction to prospectively modify a judgment and order for future education and future support, and with respect to matters listed in *RCW 26.26.130 (3) and (5), and *RCW 26.26.150(2) upon showing a substantial change of circumstances. The procedures set forth in RCW 26.09.175 shall be used in modification proceedings under this section.

(2) A judgment or order entered under **this chapter may be modified without a showing of substantial change of circumstances upon the same grounds as RCW 26.09.170 permits support orders to be modified without a showing of a substantial change of circumstance.

(3) The court may modify a parenting plan or residential provisions adopted pursuant to *RCW 26.26.130(7) in accordance with the provisions of chapter 26.09 RCW.

(4) 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. [2000 c 21 § 20; 1992 c 229 § 8; 1989 c 360 § 36; 1975-'76 2nd ex.s. c 42 § 17. Formerly RCW 26.26.160.]

Reviser's note: *(1) RCW 26.26.130 and 26.26.150 were recodified as RCW 26.26B.020 and 26.26B.080, respectively, by the code reviser, effective January 1, 2019.

** (2) This section was codified in chapter 26.26 RCW prior to recodification by the code reviser on January 1, 2019. The majority of chapter 26.26 RCW was repealed by 2018 c 6 § 907, effective January 1, 2019. For later enactment of the uniform parentage act, see chapter 26.26A RCW.

Intent—Captions not law—2000 c 21: See notes following RCW 26.09.405.

Additional notes found at www.leg.wa.gov

26.26B.100 Health care coverage. (1) In entering or modifying a support order under this chapter or chapter 26.26A RCW, the court shall require either or both parents to maintain or provide health care coverage for any dependent child as provided under RCW 26.09.105.

(2) 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 costs, or insurance premiums which are in addition to and not inconsistent with this section.

(3) A parent ordered to provide health care 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.

(4) Every order requiring a parent to provide health care coverage shall be entered in compliance with *RCW 26.23.050 and be subject to direct enforcement as provided under chapter 26.18 RCW. [2019 c 46 § 5033; 2018 c 150 § 105; 1994 c 230 § 17; 1989 c 416 § 4. Formerly RCW 26.26.165.]

*Reviser's note: The reference to RCW 26.23.050 appears to refer to the amendments made by 1989 c 416 § 8, which was vetoed by the governor.

26.26B.110 Relinquishment of child for adoption—Notice to other parent. If a parent relinquishes or proposes to relinquish for adoption a child, the other parent shall be given notice of the adoption proceeding and have the rights provided under the provisions of chapter 26.33 RCW. [1985 c 7 § 87; 1975-'76 2nd ex.s. c 42 § 20. Formerly RCW 26.26.190.]

26.26B.120 Parenting plan—Designation of parent for other state and federal purposes. 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. [1989 c 375 § 25. Formerly RCW 26.26.270.]

26.26B.130 Judicial proceedings for parenting and support of a child. (1) After the period for rescission of an acknowledgment of parentage provided in RCW 26.26A.235 has passed, a parent executing an acknowledgment of parentage of the child named therein may commence a judicial proceeding for:

(a) Making residential provisions or a parenting plan with regard to the minor child on the same basis as provided in chapter 26.09 RCW; or

(b) Establishing a child support obligation under chapter 26.19 RCW and maintaining health care coverage under RCW 26.09.105.

(2020 Ed.)

(2) Pursuant to RCW 26.09.010(3), a proceeding authorized by this section shall be titled "In re the parenting and support of...."

(3) Before the period for a challenge to the acknowledgment or denial of parentage has elapsed under RCW 26.26A.240, the petitioner must specifically allege under penalty of perjury, to the best of the petitioner's knowledge, that: (a) No person other than a person who executed the acknowledgment of parentage is a parent of the child; (b) there is not currently pending a proceeding to adjudicate the parentage of the child or that another person is adjudicated the child's parent; and (c) the petitioner has provided notice of the proceeding to any other persons who have claimed parentage of the child. Should the respondent or any other person appearing in the action deny the allegations, a permanent parenting plan or residential schedule may not be entered for the child without the matter being converted to a proceeding to challenge the acknowledgment of parentage under RCW 26.26A.240 and 26.26A.445. A copy of the acknowledgment of parentage or the birth certificate issued by the state in which the child was born must be filed with the petition or response. The court may convert the matter to a proceeding to challenge the acknowledgment on its own motion. [2019 c 46 § 3001.]

**Chapter 26.27 RCW
UNIFORM CHILD CUSTODY JURISDICTION AND
ENFORCEMENT ACT**

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ARTICLE 1
GENERAL PROVISIONS

26.27.011 Short title. This chapter may be cited as the uniform child custody jurisdiction and enforcement act. [2001 c 65 § 101.]

26.27.021 Definitions. The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Abandoned" means left without provision for reasonable and necessary care or supervision.

(2) "Child" means an individual who has not attained eighteen years of age.

(3) "Child custody determination" means a judgment, decree, parenting plan, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

(4) "Child custody proceeding" means a proceeding in which legal custody, physical custody, a parenting plan, or visitation with respect to a child is an issue. The term includes a proceeding for dissolution, divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, emancipation proceedings under chapter 13.64 RCW, proceedings under chapter 13.32A RCW, or enforcement under Article 3.

(5) "Commencement" means the filing of the first pleading in a proceeding.

(6) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination.

(7) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with a parent or person acting as a parent. A period of temporary absence of a child, parent, or person acting as a parent is part of the period.

(8) "Initial determination" means the first child custody determination concerning a particular child.

(9) "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this chapter.

(10) "Issuing state" means the state in which a child custody determination is made.

(11) "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(13) "Person acting as a parent" means a person, other than a parent, who:

(a) Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding; and

(b) Has been awarded legal custody by a court or claims a right to legal custody under the law of this state.

(14) "Physical custody" means the physical care and supervision of a child.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) "Tribe" means an Indian tribe or band, or Alaskan Native village, that is recognized by federal law or formally acknowledged by a state.

(17) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child. [2001 c 65 § 102.]

26.27.031 Proceedings governed by other law. This chapter does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child. [2001 c 65 § 103.]

26.27.041 Application to Indian tribes. (1) A child custody proceeding that pertains to an Indian child as defined in the federal Indian child welfare act, 25 U.S.C. Sec. 1901 et seq., is not subject to this chapter to the extent that it is governed by the federal Indian child welfare act.

(2) A court of this state shall treat a tribe as if it were a state of the United States for the purpose of applying Articles 1 and 2.

(3) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under Article 3. [2001 c 65 § 104.]

26.27.051 International application of chapter. (1) A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying Articles 1 and 2.

(2) Except as otherwise provided in subsection (3) of this section, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under Article 3.

(3) A court of this state need not apply this chapter if the child custody law of a foreign country violates fundamental principles of human rights. [2001 c 65 § 105.]

26.27.061 Effect of child custody determination. A child custody determination made by a court of this state that had jurisdiction under this chapter binds all persons who have been served in accordance with the laws of this state or notified in accordance with RCW 26.27.081 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified. [2001 c 65 § 106.]

26.27.071 Priority. If a question of existence or exercise of jurisdiction under this chapter is raised in a child custody proceeding, the question, upon proper motion, must be given priority on the calendar and handled expeditiously. [2001 c 65 § 107.]

26.27.081 Notice to persons outside state. (1) Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed for service of process by the law of the state in which the service is made or given in a manner reasonably calculated to give actual notice, and may be made in any of the following ways:

- (a) Personal delivery outside this state in the manner prescribed for service of process within this state;
 - (b) By any form of mail addressed to the person to be served and requesting a receipt; or
 - (c) As directed by the court, including publication if other means of notification are ineffective.
- (2) Proof of service outside this state may be made:
- (a) By affidavit of the individual who made the service;
 - (b) In the manner prescribed by the law of this state or the law of the state in which the service is made; or
 - (c) As directed by the order under which the service is made.

If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.

(3) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court. [2001 c 65 § 108.]

26.27.091 Appearance and limited immunity. (1) Except as provided in subsection (2) of this section, a party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in this state for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

(2) A person who is subject to personal jurisdiction in this state on a basis other than physical presence is not immune from service of process in this state. A party present in this state who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(3) The immunity granted by subsection (1) of this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this chapter committed by an individual while present in this state. [2001 c 65 § 109.]

26.27.101 Communication between courts. (1) A court of this state may communicate with a court in another state concerning a proceeding arising under this chapter.

(2) The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(3) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(4) Except as otherwise provided in subsection (3) of this section, a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

(5) For the purposes of this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. [2001 c 65 § 110.]

26.27.111 Taking testimony in another state. (1) In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(2) A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(3) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission. [2001 c 65 § 111.]

26.27.121 Cooperation between courts—Preservation of records. (1) A court of this state may request the appropriate court of another state to:

- (a) Hold an evidentiary hearing;
- (b) Order a person to produce or give evidence pursuant to procedures of that state;
- (c) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;
- (d) Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and

(e) Order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(2) Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection (1) of this section.

(3) Travel and other necessary and reasonable expenses incurred under subsections (1) and (2) of this section may be assessed against the parties according to the law of this state.

(4) A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains eighteen years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records. [2001 c 65 § 112.]

ARTICLE 2 JURISDICTION

26.27.201 Initial child custody jurisdiction. (1) Except as otherwise provided in RCW 26.27.231, a court of this state has jurisdiction to make an initial child custody determination only if:

(a) This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state;

(b) A court of another state does not have jurisdiction under (a) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under RCW 26.27.261 or 26.27.271, and:

(i) The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence; and

(ii) Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships;

(c) All courts having jurisdiction under (a) of this subsection have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under RCW 26.27.261 or 26.27.271; or

(d) No court of any other state would have jurisdiction under the criteria specified in (a), (b), or (c) of this subsection.

(2) Subsection (1) of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

(3) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination. [2001 c 65 § 201.]

26.27.211 Exclusive, continuing jurisdiction. (1) Except as otherwise provided in RCW 26.27.231, a court of this state that has made a child custody determination consis-

tent with RCW 26.27.201 or 26.27.221 has exclusive, continuing jurisdiction over the determination until:

(a) A court of this state determines that neither the child, the child's parents, and any person acting as a parent do not have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or

(b) A court of this state or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this state.

(2) A court of this state that has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under RCW 26.27.201. [2001 c 65 § 202.]

26.27.221 Jurisdiction to modify determination. Except as otherwise provided in RCW 26.27.231, a court of this state may not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under RCW 26.27.201(1) (a) or (b) and:

(1) The court of the other state determines it no longer has exclusive, continuing jurisdiction under RCW 26.27.211 or that a court of this state would be a more convenient forum under RCW 26.27.261; or

(2) A court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state. [2001 c 65 § 203.]

26.27.231 Temporary emergency jurisdiction. (1) A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with abuse.

(2) If there is no previous child custody determination that is entitled to be enforced under this chapter and a child custody proceeding has not been commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221, a child custody determination made under this section becomes a final determination, if it so provides and this state becomes the home state of the child.

(3) If there is a previous child custody determination that is entitled to be enforced under this chapter, or a child custody proceeding has been commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221, any order issued by a court of this state under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under RCW 26.27.201 through 26.27.221. The order issued in this state

remains in effect until an order is obtained from the other state within the period specified or the period expires.

(4) A court of this state that has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221, shall immediately communicate with the other court. A court of this state that is exercising jurisdiction pursuant to RCW 26.27.201 through 26.27.221, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order. [2001 c 65 § 204.]

26.27.241 Notice—Opportunity to be heard—Joiner. (1) Before a child custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standards of RCW 26.27.081 must be given to: (a) All persons entitled to notice under the law of this state as in child custody proceedings between residents of this state; (b) any parent whose parental rights have not been previously terminated; and (c) any person having physical custody of the child.

(2) This chapter does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(3) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this chapter are governed by the law of this state as in child custody proceedings between residents of this state. [2001 c 65 § 205.]

26.27.251 Simultaneous proceedings. (1) Except as otherwise provided in RCW 26.27.231, a court of this state may not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this chapter, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under RCW 26.27.261.

(2) Except as otherwise provided in RCW 26.27.231, a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to RCW 26.27.281. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this chapter, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this chapter does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

(3) In a proceeding to modify a child custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in

another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

(a) Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

(b) Enjoin the parties from continuing with the proceeding for enforcement; or

(c) Proceed with the modification under conditions it considers appropriate. [2001 c 65 § 206.]

26.27.261 Inconvenient forum. (1) A court of this state which has jurisdiction under this chapter to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.

(2) Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

(a) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

(b) The length of time the child has resided outside this state;

(c) The distance between the court in this state and the court in the state that would assume jurisdiction;

(d) The relative financial circumstances of the parties;

(e) Any agreement of the parties as to which state should assume jurisdiction;

(f) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;

(g) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

(h) The familiarity of the court of each state with the facts and issues in the pending litigation.

(3) If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(4) A court of this state may decline to exercise its jurisdiction under this chapter if a child custody determination is incidental to an action for dissolution or another proceeding while still retaining jurisdiction over the dissolution or other proceeding. [2001 c 65 § 207.]

26.27.271 Jurisdiction declined by reason of conduct.

(1) Except as otherwise provided in RCW 26.27.231 or by other law of this state, if a court of this state has jurisdiction under this chapter because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(a) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(b) A court of the state otherwise having jurisdiction under RCW 26.27.201 through 26.27.221 determines that this state is a more appropriate forum under RCW 26.27.261; or

(c) No court of any other state would have jurisdiction under the criteria specified in RCW 26.27.201 through 26.27.221.

(2) If a court of this state declines to exercise its jurisdiction pursuant to subsection (1) of this section, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under RCW 26.27.201 through 26.27.221.

(3) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (1) of this section, it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorneys' fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against this state unless authorized by law other than this chapter. [2001 c 65 § 208.]

26.27.281 Information to be submitted to court. (1) Subject to laws providing for the confidentiality of procedures, addresses, and other identifying information, in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:

(a) Has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child custody determination, if any;

(b) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding; and

(c) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.

(2) If the information required by subsection (1) of this section is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

(3) If the declaration as to any of the items described in subsection (1)(a) through (c) of this section is in the affirmative, the declarant shall give additional information under

oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(4) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

(5) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice. [2001 c 65 § 209.]

26.27.291 Appearance of parties and child. (1) In a child custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear in person with the child.

(2) If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to RCW 26.27.081 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(3) The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

(4) If a party to a child custody proceeding who is outside this state is directed to appear under subsection (2) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child. [2001 c 65 § 210.]

ARTICLE 3 ENFORCEMENT

26.27.401 Definitions. The definitions in this section apply throughout this article, unless the context clearly requires otherwise.

(1) "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

(2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination. [2001 c 65 § 301.]

26.27.411 Enforcement under Hague Convention. Under this article a court of this state may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination. [2001 c 65 § 302.]

26.27.421 Duty to enforce. (1) A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of this chapter and the determination has not been modified in accordance with this chapter.

(2) A court of this state may use any remedy available under other law of this state including writs of habeas corpus under chapter 7.36 RCW and enforcement proceedings under Title 26 RCW to enforce a child custody determination made by a court of another state. The remedies provided in this article are cumulative and do not affect the availability of other remedies to enforce a child custody determination. [2001 c 65 § 303.]

26.27.431 Temporary visitation. (1) A court of this state that does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(a) A visitation schedule made by a court of another state; or

(b) The visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

(2) If a court of this state makes an order under subsection (1)(b) of this section, it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Article 2. The order remains in effect until an order is obtained from the other court or the period expires. [2001 c 65 § 304.]

26.27.441 Registration of child custody determination. (1) A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to the appropriate court in this state:

(a) A letter or other document requesting registration;

(b) Two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration, the determination has not been modified; and

(c) Except as otherwise provided in RCW 26.27.281, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(2) On receipt of the documents required by subsection (1) of this section, the registering court shall:

(a) Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

(b) Serve notice upon the persons named pursuant to subsection (1)(c) of this section and provide them with an opportunity to contest the registration in accordance with this section.

(3) The notice required by subsection (2)(b) of this section must state that:

(a) A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;

(b) A hearing to contest the validity of the registered determination must be requested within twenty days after service of notice; and

(c) Failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(4) A person seeking to contest the validity of a registered determination must request a hearing within twenty days after service of the notice. At that hearing, the court shall confirm the registered determination unless the person contesting registration establishes that:

(a) The issuing court did not have jurisdiction under Article 2;

(b) The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2; or

(c) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of RCW 26.27.081, in the proceedings before the court that issued the determination for which registration is sought.

(5) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

(6) Confirmation of a registered determination, whether by operation of law or after notice and hearing, precludes further contest of the determination with respect to any matter that could have been asserted at the time of registration. [2001 c 65 § 305.]

26.27.451 Enforcement of registered determination. (1) A court of this state may grant any relief normally available under the law of this state to enforce a registered child custody determination made by a court of another state.

(2) A court of this state shall recognize and enforce, but may not modify, except in accordance with Article 2, a registered child custody determination of a court of another state. [2001 c 65 § 306.]

26.27.461 Simultaneous proceedings. If a proceeding for enforcement under this article is commenced in a court of this state and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under Article 2, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding. [2001 c 65 § 307.]

26.27.471 Expedited enforcement of child custody determination. (1) A petition under this article must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(2) A petition for enforcement of a child custody determination must state:

(a) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(b) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this chapter and, if so, identify the court, the case number, and the nature of the proceeding;

(c) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding;

(d) The present physical address of the child and the respondent, if known;

(e) Whether relief in addition to the immediate physical custody of the child and attorneys' fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought; and

(f) If the child custody determination has been registered and confirmed under RCW 26.27.441, the date and place of registration.

(3) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(4) An order issued under subsection (3) of this section must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under RCW 26.27.511, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(a) The child custody determination has not been registered and confirmed under RCW 26.27.441 and that:

(i) The issuing court did not have jurisdiction under Article 2;

(ii) The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2;

(iii) The respondent was entitled to notice, but notice was not given in accordance with the standards of RCW 26.27.081, in the proceedings before the court that issued the order for which enforcement is sought; or

(b) The child custody determination for which enforcement is sought was registered and confirmed under RCW 26.27.431, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2. [2001 c 65 § 308.]

26.27.481 Service of petition and order. Except as otherwise provided in RCW 26.27.501, the petition and order must be served, by any method authorized by the law of this

state, upon the respondent and any person who has physical custody of the child. [2001 c 65 § 309.]

26.27.491 Hearing and order. (1) Unless the court issues a temporary emergency order pursuant to RCW 26.27.231, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(a) The child custody determination has not been registered and confirmed under RCW 26.27.441 and that:

(i) The issuing court did not have jurisdiction under Article 2;

(ii) The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2; or

(iii) The respondent was entitled to notice, but notice was not given in accordance with the standards of RCW 26.27.081, in the proceedings before the court that issued the order for which enforcement is sought; or

(b) The child custody determination for which enforcement is sought was registered and confirmed under RCW 26.27.441 but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2.

(2) The court shall award the fees, costs, and expenses authorized under RCW 26.27.511 and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(3) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(4) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this article. [2001 c 65 § 310.]

26.27.501 Authorization to take physical custody of child. An order under this chapter directing law enforcement to obtain physical custody of the child from the other parent or a third party holding the child may only be sought pursuant to a writ of habeas corpus under chapter 7.36 RCW. [2001 c 65 § 311.]

26.27.511 Costs, fees, and expenses. (1) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorneys' fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(2) The court may not assess fees, costs, or expenses against a state unless authorized by law other than this chapter. [2001 c 65 § 312.]

26.27.521 Recognition and enforcement. A court of this state shall accord full faith and credit to an order issued by another state and consistent with this chapter that enforces a child custody determination by a court of another state

unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2. [2001 c 65 § 313.]

26.27.531 Appeals. An appeal may be taken from a final order in a proceeding under this article in accordance with expedited appellate procedures in other civil cases relating to minor children. Unless the court enters a temporary emergency order under RCW 26.27.231, the enforcing court may not stay an order enforcing a child custody determination pending appeal. [2001 c 65 § 314.]

26.27.541 Role of prosecutor or attorney general. (1) In a case arising under this chapter or involving the Hague Convention on the Civil Aspects of International Child Abduction, the prosecutor or attorney general may take any lawful action, including resorting to a proceeding under this article or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

- (a) An existing child custody determination;
- (b) A request to do so from a court in a pending child custody proceeding;
- (c) A reasonable belief that a criminal statute has been violated; or
- (d) A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(2) A prosecutor or attorney general acting under this section acts on behalf of the court and may not represent any party. [2001 c 65 § 315.]

26.27.551 Role of law enforcement. At the request of a prosecutor or attorney general acting under RCW 26.27.541, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist a prosecutor or attorney general with responsibilities under RCW 26.27.541. [2001 c 65 § 316.]

26.27.561 Costs and expenses. If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or attorney general and law enforcement officers under RCW 26.27.541 or 26.27.551. [2001 c 65 § 317.]

ARTICLE 4 MISCELLANEOUS PROVISIONS

26.27.901 Application—Construction. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. [2001 c 65 § 401.]

26.27.921 Transitional provision. A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination that was commenced before July 22, 2001, is governed by the law in effect at the time the motion or other request was made. [2001 c 65 § 404.]

(2020 Ed.)

26.27.941 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 68.]

Chapter 26.28 RCW AGE OF MAJORITY

Sections

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Alcoholic beverage control

furnishing liquor to minors—Possession, use: RCW 66.44.270.

minor applying for permit: RCW 66.44.280.

minor purchasing liquor: RCW 66.44.290.

minors frequenting off-limits area—Misrepresenting age: RCW 66.44.310.

treating minor, etc., in tavern: RCW 66.44.300.

Baseball—Contracts with minors: Chapter 67.04 RCW.

Child

labor: Chapter 49.12 RCW.

support enforcement: Chapter 26.18 RCW.

welfare agencies: Chapter 74.15 RCW.

Children and youth services: Chapter 72.05 RCW.

Civil defense—Minors entitled to benefits: RCW 38.52.270.

Costs (civil) against guardian of infant plaintiff: RCW 4.84.140.

Council for children and families: Chapter 43.121 RCW.

Crimes and punishment

firearms, dangerous weapons

delivery to ineligible persons: RCW 9.41.080.

possession of pistol or semiautomatic assault rifle by person from eighteen to twenty-one: RCW 9.41.240.

frauds and swindles, substitution of child: RCW 9.45.020.

kidnapping: Chapter 9A.40 RCW.

leaving children unattended in parked automobile: RCW 9.91.060.

obscenity—Obscene literature: Chapter 9.68 RCW.

sex crimes: Chapter 9A.44 RCW.

District courts (civil)

action against infant—Guardian ad litem: RCW 12.04.150.

commencement of actions—Action by infant: RCW 12.04.140.

Domestic violence prevention: Chapter 26.50 RCW.

Family abandonment or nonsupport: Chapter 26.20 RCW.

Firearm training program: RCW 77.32.155.

Game and game fish—Areas may be set aside for use of minors: RCW 77.12.330.

Green Hill School: Chapter 72.16 RCW.

Health care records, rights: RCW 70.02.130.

Hours of labor: Chapter 49.28 RCW.

Juvenile courts and juvenile offenders: Title 13 RCW.

Limitation of actions (civil)

minors suing guardians for estates sold: RCW 4.16.070.
statutes tolled by personal disability: RCW 4.16.190.

Maple Lane School: Chapter 72.20 RCW.

Medical consent, liability of provider: RCW 26.09.310.

Mental health treatment: Chapter 71.34 RCW.

Missing children clearinghouse and hotline: Chapter 13.60 RCW.

Motor vehicle operators' licenses

application of person under eighteen—Signature of parent, etc.: RCW 46.20.100.

juvenile agricultural driving permits: RCW 46.20.070.

persons ineligible, generally: RCW 46.20.031.

Parties to actions (civil)—Guardian ad litem for infant: RCW 4.08.050.

Partition

guardian may consent to partition: RCW 7.52.470.

infant's share of proceeds to guardian: RCW 7.52.450.

Probate

descent and distribution to legitimate, illegitimate, adopted children: Chapter 11.04 RCW.

escheats—Limitation when claimant is minor: RCW 11.08.280.

guardianship—Guardian ad litem: RCW 11.88.090.

letters testamentary and of administration—Procedure during minority or absence of executor: RCW 11.28.040.

Property taxes—Certificate of delinquency—Redemption before deed—Minors and legally incompetent: RCW 84.64.070.

Recognizances for minors: RCW 10.16.150.

Savings and loan associations, minors as members: RCW 33.20.040.

Schools and colleges, generally: Titles 28A and 28B RCW.

Sexual psychopaths and psychopathic delinquents: Chapter 71.06 RCW.

Sexually transmitted diseases: RCW 70.24.110.

Shoplifting by minors, liability of parents, guardians: RCW 4.24.230.

Special education—Children with handicapping conditions: Chapter 28A.155 RCW.

Special rights of action (civil)

action by parent for sale or transfer of controlled substance to minor: RCW 69.50.414.

action by parent for seduction of child: RCW 4.24.020.

action for injury or death of child: RCW 4.24.010.

State school for blind and deaf—Who may be admitted: RCW 72.40.040.

State school for girls: Chapter 72.20 RCW.

State training school for boys: Chapter 72.16 RCW.

Survival of actions (civil)—Action for personal injury survives: RCW 4.20.060.

Temporary assistance for needy families: Chapter 74.12 RCW.

Unemployment compensation, "employment"—Newspaper delivery person exemption: RCW 50.04.240.

Uniform transfers to minors act: Chapter 11.114 RCW.

Uniform veterans' guardianship act—Guardian for minor: RCW 73.36.060.

Vital statistics, supplemental report on name of child: RCW 70.58.100.

Worker's compensation—"Child" defined: RCW 51.08.030.

26.28.010 Age of majority. Except as otherwise specifically provided by law, all persons shall be deemed and taken to be of full age for all purposes at the age of eighteen years. [1971 ex.s. c 292 § 1; 1970 ex.s. c 17 § 1; 1923 c 72 § 2; Code 1881 § 2363; 1866 p 92 § 1; 1863 p 434 § 1; 1854 p 407 § 1; RRS § 10548.]

Age of majority for probate law and procedure purposes: RCW 11.76.080, 11.76.095, 11.88.020, and 11.92.010.

Additional notes found at www.leg.wa.gov

26.28.015 Age of majority for enumerated specific purposes. Notwithstanding any other provision of law, and except as provided under RCW 26.50.020, all persons shall be deemed and taken to be of full age for the specific purposes hereafter enumerated at the age of eighteen years:

(1) To enter into any marriage contract without parental consent if otherwise qualified by law;

(2) To execute a will for the disposition of both real and personal property if otherwise qualified by law;

(3) To vote in any election if authorized by the Constitution and otherwise qualified by law;

(4) To enter into any legal contractual obligation and to be legally bound thereby to the full extent as any other adult person;

(5) To make decisions in regard to their own body and the body of their lawful issue whether natural born to or adopted by such person to the full extent allowed to any other adult person including but not limited to consent to surgical operations;

(6) To sue and be sued on any action to the full extent as any other adult person in any of the courts of this state, without the necessity for a guardian ad litem. [1992 c 111 § 12; 1971 ex.s. c 292 § 2.]

Findings—1992 c 111: See note following RCW 26.50.030.

Mental health treatment: Chapter 71.34 RCW.

Sexually transmitted diseases: RCW 70.24.110.

Additional notes found at www.leg.wa.gov

26.28.020 Married persons—When deemed of full age. All minor persons married to a person of full age shall be deemed and taken to be of full age. [1973 1st ex.s. c 154 § 38; Code 1881 § 2364; 1863 p 434 § 2; 1854 p 407 § 2; RRS § 10549.]

Additional notes found at www.leg.wa.gov

26.28.030 Contracts of minors—Disaffirmance. A minor is bound, not only by contracts for necessities, but also by his or her other contracts, unless he or she disaffirms them within a reasonable time after he or she attains his or her majority, and restores to the other party all money and property received by him or her by virtue of the contract, and remaining within his or her control at any time after his or her attaining his or her majority. [2011 c 336 § 694; 1866 p 92 § 2; RRS § 5829.]

26.28.040 Disaffirmance barred in certain cases. No contract can be thus disaffirmed in cases where on account of the minor's own misrepresentations as to his or her majority, or from his or her having engaged in business as an adult, the other party had good reasons to believe the minor capable of contracting. [2011 c 336 § 695; 1866 p 93 § 3; RRS § 5830.]

26.28.050 Satisfaction of minor's contract for services. When a contract for the personal services of a minor has been made with him or her alone, and those services are afterwards performed, payment made therefor to such minor in accordance with the terms of the contract, is a full satisfac-

tion for those services, and the parents or guardian cannot recover therefor. [2011 c 336 § 696; 1866 p 93 § 4; RRS § 5831.]

26.28.060 Child labor—Penalty. (1) Every person who shall employ, and every parent, guardian or other person having the care, custody or control of such child, who shall permit to be employed, by another, any child under the age of fourteen years at any labor whatever, in or in connection with any store, shop, factory, mine or any inside employment not connected with farm or house work, without the written permit thereto of a judge of a superior court of the county wherein such child may live, shall be guilty of a misdemeanor.

(2) Subsection (1) of this section does not apply to children employed as:

(a) Actors or performers in film, video, audio, or theatrical productions; or

(b) Youth soccer referees who have been certified by a national referee certification program. [2007 c 464 § 1; 1994 c 62 § 1; 1973 1st ex.s. c 154 § 39; 1909 c 249 § 195; RRS § 2447.]

Child labor: Chapter 49.12 RCW.

Employment permits: RCW 28A.225.080.

Additional notes found at www.leg.wa.gov

26.28.070 Certain types of employment prohibited—Penalty. Every person who shall employ, or cause to be employed, exhibit or have in his or her custody for exhibition or employment any minor actually or apparently under the age of eighteen years; and every parent, relative, guardian, employer, or other person having the care, custody, or control of any such minor, who shall in any way procure or consent to the employment of such minor:

(1) In begging, receiving alms, or in any mendicant occupation; or,

(2) In any indecent or immoral exhibition or practice; or,

(3) In any practice or exhibition dangerous or injurious to life, limb, health, or morals; or,

(4) As a messenger for delivering letters, telegrams, packages, or bundles, to any known house of prostitution or assignation;

Shall be guilty of a misdemeanor. [2011 c 336 § 697; 1909 c 249 § 194; RRS § 2446.]

Juvenile courts and juvenile offenders: Title 13 RCW.

26.28.080 Selling or giving tobacco to minor—Belief of representative capacity, no defense—Penalty. (1) A person who sells or gives, or permits to be sold or given, to any person under the age of twenty-one years any cigar, cigarette, cigarette paper or wrapper, tobacco in any form, or a vapor product is guilty of a gross misdemeanor.

(2) It is not a defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

(3) For the purposes of this section, "vapor product" has the same meaning as provided in RCW 70.345.010. [2019 c 15 § 1; 2016 sp.s. c 38 § 1; 2013 c 47 § 1; 1994 sp.s. c 7 § 437. Prior: 1987 c 250 § 2; 1987 c 204 § 1; 1971 ex.s. c 292 § 37; 1919 c 17 § 1; 1911 c 133 § 1; 1909 ex.s. c 27 § 1; 1909 c 249

(2020 Ed.)

§ 193; 1901 c 122 § 1; 1895 c 126 §§ 1, 3 and 4; RRS § 2445. Formerly RCW 26.08.080, 26.08.090, and 26.08.100.]

Effective date—2019 c 15: "This act takes effect January 1, 2020." [2019 c 15 § 12.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Juvenile courts and juvenile offenders: Title 13 RCW.

Minors, access to tobacco, role of liquor and cannabis board: Chapter 70.155 RCW.

Raising the minimum legal age of sale in certain compacts, consultations with federally recognized Indian tribes: RCW 43.06.468.

Additional notes found at www.leg.wa.gov

26.28.085 Applying tattoo to a minor—Penalty. Every person who applies a tattoo to any minor under the age of eighteen is guilty of a misdemeanor. It is not a defense to a violation of this section that the person applying the tattoo did not know the minor's age unless the person applying the tattoo establishes by a preponderance of the evidence that he or she made a reasonable, bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license or other picture identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

For the purposes of this section, "tattoo" includes any permanent marking or coloring of the skin with any pigment, ink, or dye, or any procedure that leaves a visible scar on the skin. Medical procedures performed by a licensed physician are exempted from this section. [1995 c 373 § 1.]

26.28.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 69.]

Chapter 26.30 RCW

UNIFORM MINOR STUDENT CAPACITY TO BORROW ACT

Sections

26.30.010	Definitions.
26.30.020	Minors—Contracts—Educational purposes—Enforceability.
26.30.900	Uniformity of interpretation.
26.30.910	Short title.
26.30.920	Effective date—1970 ex.s. c 4.

26.30.010 Definitions. As used in this chapter:

(1) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(2) "Educational institution" means any university, college, community college, junior college, high school, technical, vocational, or professional school, or similar institution, wherever located, which has been accredited by the Northwest Association of Higher and Secondary Institutions or approved by the state agency having regulatory powers over the class of schools to which the school belongs, or accredited or approved by the appropriate official, department, or agency of the state in which the institution is located.

(3) "Educational loan" means a loan or other aid or assistance for the purpose of furthering the obligor's education at an educational institution. [1970 ex.s. c 4 § 1.]

Student financial aid program: Chapter 28B.92 RCW.

26.30.020 Minors—Contracts—Educational purposes—Enforceability. Any written obligation signed by a minor sixteen or more years of age in consideration of an educational loan received by him or her from any person is enforceable as if he or she were an adult at the time of execution, but only if prior to the making of the educational loan an educational institution has certified in writing to the person making the educational loan that the minor is enrolled, or has been accepted for enrollment, in the educational institution. [2011 c 336 § 698; 1970 ex.s. c 4 § 2.]

Contracts of minors, disaffirmance: RCW 26.28.030.

26.30.900 Uniformity of interpretation. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. [1970 ex.s. c 4 § 3.]

26.30.910 Short title. This chapter may be cited as the "Uniform Minor Student Capacity to Borrow Act." [1970 ex.s. c 4 § 4.]

26.30.920 Effective date—1970 ex.s. c 4. This chapter shall take effect on July 1, 1970. [1970 ex.s. c 4 § 5.]

Chapter 26.33 RCW ADOPTION

Sections

26.33.010	Intent.
26.33.020	Definitions.
26.33.030	Petitions—Place of filing—Consolidation of petitions and hearings.
26.33.040	Petitions—Application of federal Indian child welfare act—Requirements—Federal servicemembers civil relief act statement and findings.
26.33.045	Delay or denial of adoption on basis of race, color, or national origin prohibited—Consideration in placement—Exception—Training.
26.33.050	Validity of consents, relinquishments, or orders of termination from other jurisdictions—Burden of proof.
26.33.060	Hearings—Procedure—Witnesses.
26.33.070	Appointment of guardian ad litem—When required—Payment of fees.
26.33.080	Petition for relinquishment—Filing—Written consent required.
26.33.090	Petition for relinquishment—Hearing—Temporary custody order—Notice—Order of relinquishment.
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26.33.120	Termination—Grounds—Failure to appear.
26.33.130	Termination order—Effect.
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26.33.150	Petition for adoption—Filing—Contents—Preplacement report required.
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26.33.300	Adoption statistical data.
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26.33.380	Family and social history report required—Identity of birth parents confidential.
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26.33.390	Information on adoption-related services.
26.33.400	Advertisements—Prohibitions—Exceptions—Application of consumer protection act.
26.33.420	Postadoption contact between siblings—Intent—Findings.
26.33.430	Postadoption contact between siblings—Duty of court.
26.33.900	Effective date—Application—1984 c 155.
26.33.902	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.
26.33.903	Construction—Religious or nonprofit organizations.

Child selling and child buying, class C felony: RCW 9A.64.030.

Dependent and delinquent children: Title 13 RCW.

Descent and distribution—Adopted children: Chapter 11.04 RCW.

Paternity, determination: Chapter 26.26A RCW.

Welfare agencies for children: Title 13 RCW.

26.33.010 Intent. The legislature finds that the purpose of adoption is to provide stable homes for children. Adoptions should be handled efficiently, but the rights of all parties must be protected. The guiding principle must be determining what is in the best interest of the child. It is the intent of the legislature that this chapter be used only as a means for placing children in adoptive homes and not as a means for parents to avoid responsibility for their children unless the department, an agency, or a prospective adoptive parent is willing to assume the responsibility for the child. [1984 c 155 § 1.]

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

(1) "Adoptee" means a person who is to be adopted or who has been adopted.

(2) "Adoptive parent" means the person or persons who seek to adopt or have adopted an adoptee.

(3) "Agency" means any public or private association, corporation, or individual licensed or certified by the department as a child-placing agency under chapter 74.15 RCW or as an adoption agency.

(4) "Alleged genetic parent" has the same meaning as defined in RCW 26.26A.010.

(5) "Birth parent" means the woman who gave birth to the child or alleged genetic parent of the child, including a presumed parent under chapter 26.26A RCW, whether or not any such person's parent-child relationship has been terminated by a court of competent jurisdiction. "Birth parent" does not include a woman who gave birth to the child or alleged genetic parent of the child, including a presumed parent under chapter 26.26A RCW, if the parent-child relationship was terminated because of an act for which the person was found guilty under chapter 9A.42 or 9A.44 RCW.

(6) "Child" means a person under eighteen years of age.

(7) "Court" means the superior court.

(8) "Department" means the department of children, youth, and families.

(9) "Guardian ad litem" means a person, not related to a party to the action, appointed by the court to represent the best interests of a party who is under a legal disability.

(10) "Individual approved by the court" or "qualified salaried court employee" means a person who has a master's degree in social work or a related field and one year of experience in social work, or a bachelor's degree and two years of experience in social work, and includes a person not having such qualifications only if the court makes specific findings of fact that are entered of record establishing that the person has reasonably equivalent experience.

(11) "Legal guardian" means the department, an agency, or a person, other than a parent or stepparent, appointed by the court to promote the child's general welfare, with the authority and duty to make decisions affecting the child's development.

(12) "Nonidentifying information" includes, but is not limited to, the following information about the birth parents, adoptive parents, and adoptee:

(a) Age in years at the time of adoption;

(b) Heritage, including nationality, ethnic background, and race;

(c) Education, including number of years of school completed at the time of adoption, but not name or location of school;

(d) General physical appearance, including height, weight, color of hair, eyes, and skin, or other information of a similar nature;

(e) Religion;

(f) Occupation, but not specific titles or places of employment;

(g) Talents, hobbies, and special interests;

(h) Circumstances leading to the adoption;

(i) Medical and genetic history of birth parents;

(j) First names;

(k) Other children of birth parents by age, sex, and medical history;

(l) Extended family of birth parents by age, sex, and medical history;

(m) The fact of the death, and age and cause, if known;

(n) Photographs;

(o) Name of agency or individual that facilitated the adoption.

(13) "Parent" has the same meaning as defined in RCW 26.26A.010.

(14) "Relinquish or relinquishment" means the voluntary surrender of custody of a child to the department, an agency, or prospective adoptive parents. [2019 c 46 § 5034. Prior: 2017 3rd sp.s. c 6 § 319; 1993 c 81 § 1; 1990 c 146 § 1; 1984 c 155 § 2.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

26.33.030 Petitions—Place of filing—Consolidation of petitions and hearings. (1) A petition under this chapter may be filed in the superior court of the county in which the petitioner is a resident or of the county in which the adoptee is domiciled.

(2) A petition under this chapter may be consolidated with any other petition under this chapter. A hearing under this chapter may be consolidated with any other hearing under this chapter. [1984 c 155 § 3.]

26.33.040 Petitions—Application of federal Indian child welfare act—Requirements—Federal servicemembers civil relief act statement and findings. (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 RCW 13.38.040. If the child is an Indian child, chapter 13.38 RCW shall apply.

(b) Every order or decree entered in any proceeding under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13.38 RCW does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13.38 RCW does apply, the decree or order must also contain a finding that all notice, consent, and evidentiary requirements under the federal Indian child welfare act, chapter 13.38 RCW, and this section have been satisfied.

(c) In proceedings under this chapter, the adoption facilitator shall file a sworn statement documenting efforts to determine whether an Indian child is involved.

(d) Whenever the court or the petitioning party knows or has reason to know that an Indian child is involved in any termination, relinquishment, or placement proceeding under this chapter, 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.

(e) 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.

(f) No termination, relinquishment, or placement proceeding shall be held until at least ten days after receipt of notice by the tribe. If the tribe requests, the court shall grant the tribe up to twenty additional days to prepare for such proceeding.

(2) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the federal servicemembers civil relief act of 2004, 50 U.S.C. Sec. 501 et seq. applies to the proceeding. Every order or decree entered in any proceeding under this chapter shall contain a finding that the federal servicemembers civil relief act of 2004 does or does not apply. [2011 c 309 § 32; 2004 c 64 § 2; 1991 c 136 § 1; 1984 c 155 § 4.]

26.33.045 Delay or denial of adoption on basis of race, color, or national origin prohibited—Consideration in placement—Exception—Training. (1) An adoption shall not be delayed or denied on the basis of the race, color, or national origin of the adoptive parent or the child involved. However, when the department or an agency considers whether a placement option is in a child's best interests, the department or agency may consider the cultural, ethnic, or racial background of the child and the capacity of prospective adoptive parents to meet the needs of a child of this background. This provision shall not apply to or affect the application of the Indian Child Welfare Act of 1978, 25 U.S.C. Sec. 1901 et seq.

(2) The department shall create standardized training to be provided to all department employees involved in the placement of a child to assure compliance with Title IV of the civil rights act of 1964 and the multiethnic placement act of 1994, as amended by the interethnic adoption provisions of the small business job protection act of 1996. Such training shall be open to agency employees. [2006 c 248 § 1; 1995 c 270 § 8.]

Finding—1995 c 270: See note following RCW 74.13A.040.

26.33.050 Validity of consents, relinquishments, or orders of termination from other jurisdictions—Burden of proof. Any consent, relinquishment, or order of termination that would be valid in the jurisdiction in which it was executed or obtained, and which comports with due process of law, is valid in Washington state, but the burden of proof as to validity and compliance is on the petitioner. [1984 c 155 § 5.]

26.33.060 Hearings—Procedure—Witnesses. All hearings under this chapter shall be heard by the court without a jury. Unless the parties and the court agree otherwise, proceedings of contested hearings shall be recorded. The general public shall be excluded and only those persons shall be admitted whose presence is requested by any person entitled to notice under this chapter or whom the judge finds to have a direct interest in the case or in the work of the court. Persons so admitted shall not disclose any information obtained at the

hearing which would identify the individual adoptee or parent involved. The court may require the presence of witnesses deemed necessary to the disposition of the petition, including persons making any report, study, or examination which is before the court if those persons are reasonably available. A person who has executed a valid waiver need not appear at the hearing. If the court finds that it is in the child's best interest, the child may be excluded from the hearing. [1984 c 155 § 6.]

26.33.070 Appointment of guardian ad litem—When required—Payment of fees. (1) The court shall appoint a guardian ad litem for any parent or *alleged father under eighteen years of age in any proceeding under this chapter. The court may appoint a guardian ad litem for a child adoptee or any incompetent party in any proceeding under this chapter. The guardian ad litem for a parent or *alleged father, in addition to determining what is in the best interest of the party, shall make an investigation and report to the court concerning whether any written consent to adoption or petition for relinquishment signed by the parent or *alleged father was signed voluntarily and with an understanding of the consequences of the action. If the child to be relinquished is a dependent child under chapter 13.34 RCW and the minor parent is represented by an attorney or guardian ad litem in the dependency proceeding, the court may rely on the minor parent's dependency court attorney or guardian ad litem to make a report to the court as provided in this subsection.

(2) The court in the county in which a petition is filed shall direct who shall pay the fees of a guardian ad litem or attorney appointed under this chapter and shall approve the payment of the fees. If the court orders the parties to pay the fees of the guardian ad litem, the fees must be established pursuant to the procedures in RCW 26.12.183. [2011 c 292 § 3; 1984 c 155 § 7.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 § 5034, changing the definition of "alleged father" to "alleged genetic parent."

26.33.080 Petition for relinquishment—Filing—Written consent required. (1) A parent, an *alleged father, the department, or an agency may file with the court a petition to relinquish a child to the department or an agency. The parent's or *alleged father's written consent to adoption shall accompany the petition. The written consent of the department or the agency to assume custody shall be filed with the petition.

(2) A parent, *alleged father, or prospective adoptive parent may file with the court a petition to relinquish a child to the prospective adoptive parent. The parent's or *alleged father's written consent to adoption shall accompany the petition. The written consent of the prospective adoptive parent to assume custody shall be filed with the petition. The identity of the prospective adoptive parent need not be disclosed to the petitioner.

(3) A petition for relinquishment, together with the written consent to adoption, may be filed before the child's birth. If the child is an Indian child as defined in 25 U.S.C. Sec. 1903(4), the petition and consent shall not be signed until at least ten days after the child's birth and shall be recorded before a court of competent jurisdiction pursuant to 25 U.S.C.

Sec. 1913(a). [1987 c 170 § 3; 1985 c 421 § 1; 1984 c 155 § 8.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 § 5034, changing the definition of "alleged father" to "alleged genetic parent."

Additional notes found at www.leg.wa.gov

26.33.090 Petition for relinquishment—Hearing—Temporary custody order—Notice—Order of relinquishment. (1) The court shall set a time and place for a hearing on the petition for relinquishment. The hearing may not be held sooner than forty-eight hours after the child's birth or the signing of all necessary consents to adoption, whichever is later. However, if the child is an Indian child, the hearing shall not be held sooner than ten days after the child's birth, and no consent shall be valid unless signed at least ten days after the child's birth and recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a). Except where the child is an Indian child, the court may enter a temporary order giving custody of the child to the prospective adoptive parent, if a preplacement report has been filed, or to the department or agency to whom the child will be relinquished pending the court's hearing on the petition. If the child is an Indian child, the court may enter a temporary custody order under this subsection only if the requirements of 25 U.S.C. Sec. 1913(a) regarding voluntary foster care placement have been satisfied.

(2) Notice of the hearing shall be served on any relinquishing parent or *alleged father, and the department or agency in the manner prescribed by RCW 26.33.310. If the child is an Indian child, notice of the hearing shall also be served on the child's tribe in the manner prescribed by RCW 26.33.310.

(3) The court may require the parent to appear personally and enter his or her consent to adoption on the record. However, if the child is an Indian child, the court shall require the consenting parent to appear personally before a court of competent jurisdiction to enter on the record his or her consent to the relinquishment or adoption. The court shall determine that any written consent has been validly executed, and if the child is an Indian child, such court shall further certify that the requirements of 25 U.S.C. Sec. 1913(a) have been satisfied. If the court determines it is in the best interests of the child, the court shall approve the petition for relinquishment.

(4) If the court approves the petition, it shall award custody of the child to the department, agency, or prospective adoptive parent, who shall be appointed legal guardian. The legal guardian shall be financially responsible for support of the child until further order of the court. The court shall also enter an order pursuant to RCW 26.33.130 terminating the parent-child relationship of the parent and the child.

(5) An order of relinquishment to an agency or the department shall include an order authorizing the agency to place the child with a prospective adoptive parent. [1987 c 170 § 4; 1985 c 421 § 2; 1984 c 155 § 9.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 § 5034, changing the definition of "alleged father" to "alleged genetic parent."

Additional notes found at www.leg.wa.gov

26.33.100 Petition for termination—Who may file—Contents—Time. (1) A petition for termination of the par-
(2020 Ed.)

ent-child relationship of a parent or *alleged father who has not executed a written consent to adoption may be filed by:

(a) The department or an agency;

(b) The prospective adoptive parent to whom a child has been or may be relinquished if the prospective adoptive parent has filed or consented to a petition for relinquishment; or

(c) The prospective adoptive parent if he or she seeks to adopt the child of his or her spouse.

(2) The petition for termination of the parent-child relationship shall contain a statement of facts identifying the petitioner, the parents, the legal guardian, a guardian ad litem for a party, any *alleged father, and the child. The petition shall state the facts forming the basis for the petition and shall be signed under penalty of perjury or be verified.

(3) The petition may be filed before the child's birth. [1985 c 421 § 3; 1984 c 155 § 10.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 § 5034, changing the definition of "alleged father" to "alleged genetic parent."

26.33.110 Petition for termination—Time and place of hearing—Notice of hearing and petition—Contents.

(1) The court shall set a time and place for a hearing on the petition for termination of the parent-child relationship, which shall not be held sooner than forty-eight hours after the child's birth. However, if the child is an Indian child, the hearing shall not be held sooner than ten days after the child's birth and the time of the hearing shall be extended up to twenty additional days from the date of the scheduled hearing upon the motion of the parent, Indian custodian, or the child's tribe.

(2) Notice of the hearing shall be served on the petitioner, the nonconsenting parent or alleged genetic parent, the legal guardian of a party, and the guardian ad litem of a party, in the manner prescribed by RCW 26.33.310. If the child is an Indian child, notice of the hearing shall also be served on the child's tribe in the manner prescribed by 25 U.S.C. Sec. 1912(a).

(3) Except as otherwise provided in this section, the notice of the petition shall:

(a) State the date and place of birth. If the petition is filed prior to birth, the notice shall state the approximate date and location of conception of the child and the expected date of birth, and shall identify the mother;

(b) Inform the nonconsenting parent or alleged genetic parent that: (i) He or she has a right to be represented by counsel and that counsel will be appointed for an indigent person who requests counsel; and (ii) failure to respond to the termination action within twenty days of service if served within the state or thirty days if served outside of this state, will result in the termination of his or her parent-child relationship with respect to the child;

(c) Inform an alleged genetic parent that failure to file a claim of parentage under chapter 26.26A or 26.26B RCW or to respond to the petition, within twenty days of the date of service of the petition is grounds to terminate his or her parent-child relationship with respect to the child;

(d) Inform an alleged genetic parent of an Indian child that if he or she acknowledges parentage of the child or if his or her parentage of the child is established prior to the termination of the parent-child relationship, that his or her parental rights may not be terminated unless he or she: (i) Gives valid

consent to termination, or (ii) his or her parent-child relationship is terminated involuntarily pursuant to chapter 26.33 or 13.34 RCW. [2019 c 46 § 5035; 1995 c 270 § 5; 1987 c 170 § 5; 1985 c 421 § 4; 1984 c 155 § 11.]

Finding—1995 c 270: See note following RCW 74.13A.040.

Additional notes found at www.leg.wa.gov

26.33.120 Termination—Grounds—Failure to appear. (1) Except in the case of an Indian child and his or her parent, the parent-child relationship of a parent may be terminated upon a showing by clear, cogent, and convincing evidence that it is in the best interest of the child to terminate the relationship and that the parent has failed to perform parental duties under circumstances showing a substantial lack of regard for his or her parental obligations and is withholding consent to adoption contrary to the best interest of the child.

(2) Except in the case of an Indian child and his or her *alleged father, the parent-child relationship of an *alleged father who appears and claims paternity may be terminated upon a showing by clear, cogent, and convincing evidence that it is in the best interest of the child to terminate the relationship and that:

(a) The *alleged father has failed to perform parental duties under circumstances showing a substantial lack of regard for his parental obligations and is withholding consent to adoption contrary to the best interest of the child; or

(b) He is not the father.

(3) The parent-child relationship of a parent or an *alleged father may be terminated if the parent or *alleged father fails to appear after being notified of the hearing in the manner prescribed by RCW 26.33.310.

(4) The parent-child relationship of an Indian child and his or her parent or *alleged father where paternity has been claimed or established, may be terminated only pursuant to the standards set forth in 25 U.S.C. Sec. 1912(f). [1987 c 170 § 6; 1984 c 155 § 12.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 § 5034, changing the definition of "alleged father" to "alleged genetic parent."

Additional notes found at www.leg.wa.gov

26.33.130 Termination order—Effect. (1) If the court determines, after a hearing, that the parent-child relationship should be terminated pursuant to RCW 26.33.090 or 26.33.120, the court shall enter an appropriate order terminating the parent-child relationship.

(2) An order terminating the parent-child relationship divests the parent and the child of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other except past-due child support obligations owed by the parent.

(3) The parent-child relationship may be terminated with respect to one parent without affecting the parent-child relationship between the child and the other parent.

(4) The parent or *alleged father whose parent-child relationship with the child has been terminated is not thereafter entitled to notice of proceedings for the adoption of the child by another, nor has the parent or *alleged father any right to contest the adoption or otherwise to participate in the proceedings unless an appeal from the termination order is

pending or unless otherwise ordered by the court. [1984 c 155 § 13.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 § 5034, changing the definition of "alleged father" to "alleged genetic parent."

26.33.140 Who may adopt or be adopted. (1) Any person may be adopted, regardless of his or her age or residence.

(2) Any person who is legally competent and who is eighteen years of age or older may be an adoptive parent. [1984 c 155 § 14.]

26.33.150 Petition for adoption—Filing—Contents—Preplacement report required. (1) An adoption proceeding is initiated by filing with the court a petition for adoption. The petition shall be filed by the prospective adoptive parent.

(2) A petition for adoption shall contain the following information:

(a) The name and address of the petitioner;

(b) The name, if any, gender, and place and date of birth, if known, of the adoptee;

(c) A statement that the child is or is not an Indian child covered by the Indian Child Welfare Act; and

(d) The name and address of the department or any agency, legal guardian, or person having custody of the child.

(3) The written consent to adoption of any person, the department, or agency which has been executed shall be filed with the petition.

(4) The petition shall be signed under penalty of perjury by the petitioner. If the petitioner is married, the petitioner's spouse shall join in the petition.

(5) If a preplacement report prepared pursuant to RCW 26.33.190 has not been previously filed with the court, the preplacement report shall be filed with the petition for adoption. [1984 c 155 § 15.]

26.33.160 Consent to adoption—When revocable—Procedure. (1) Except as otherwise provided in RCW 26.33.170, consent to an adoption shall be required of the following if applicable:

(a) The adoptee, if fourteen years of age or older;

(b) The parents and any *alleged father of an adoptee under eighteen years of age;

(c) An agency or the department to whom the adoptee has been relinquished pursuant to RCW 26.33.080; and

(d) The legal guardian of the adoptee.

(2) Except as otherwise provided in subsection (4)(h) of this section, consent to adoption is revocable by the consenting party at any time before the consent is approved by the court. The revocation may be made in either of the following ways:

(a) Written revocation may be delivered or mailed to the clerk of the court before approval; or

(b) Written revocation may be delivered or mailed to the clerk of the court after approval, but only if it is delivered or mailed within forty-eight hours after a prior notice of revocation that was given within forty-eight hours after the birth of the child. The prior notice of revocation shall be given to the agency or person who sought the consent and may be either oral or written.

(3) Except as provided in subsections (2)(b) and (4)(h) of this section and in this subsection, a consent to adoption may not be revoked after it has been approved by the court. Within one year after approval, a consent may be revoked for fraud or duress practiced by the person, department, or agency requesting the consent, or for lack of mental competency on the part of the person giving the consent at the time the consent was given. A written consent to adoption may not be revoked more than one year after it is approved by the court.

(4) Except as provided in (h) of this subsection, the written consent to adoption shall be signed under penalty of perjury and shall state that:

- (a) It is given subject to approval of the court;
- (b) It has no force or effect until approved by the court;
- (c) The birth parent is or is not of Native American or Alaska native ancestry;

(d) The consent will not be presented to the court until forty-eight hours after it is signed or forty-eight hours after the birth of the child, whichever occurs later;

(e) It is revocable by the consenting party at any time before its approval by the court. It may be revoked in either of the following ways:

(i) Written revocation may be delivered or mailed to the clerk of the court before approval of the consent by the court; or

(ii) Written revocation may be delivered or mailed to the clerk of the court after approval, but only if it is delivered or mailed within forty-eight hours after a prior notice of revocation that was given within forty-eight hours after the birth of the child. The prior notice of revocation shall be given to the agency or person who sought the consent and may be either oral or written;

(f) The address of the clerk of court where the consent will be presented is included;

(g) Except as provided in (h) of this subsection, after it has been approved by the court, the consent is not revocable except for fraud or duress practiced by the person, department, or agency requesting the consent or for lack of mental competency on the part of the person giving the consent at the time the consent was given. A written consent to adoption may not be revoked more than one year after it is approved by the court;

(h) In the case of a consent to an adoption of an Indian child, no consent shall be valid unless the consent is executed in writing more than ten days after the birth of the child and unless the consent is recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a). Consent may be withdrawn for any reason at any time prior to the entry of the final decree of adoption. Consent may be withdrawn for fraud or duress within two years of the entry of the final decree of adoption. Revocation of the consent prior to a final decree of adoption, may be delivered or mailed to the clerk of the court or made orally to the court which shall certify such revocation. Revocation of the consent is effective if received by the clerk of the court prior to the entry of the final decree of adoption or made orally to the court at any time prior to the entry of the final decree of adoption. Upon withdrawal of consent, the court shall return the child to the parent unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to

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RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130; and

(i) The following statement has been read before signing the consent:

I understand that my decision to relinquish the child is an extremely important one, that the legal effect of this relinquishment will be to take from me all legal rights and obligations with respect to the child, and that an order permanently terminating all of my parental rights to the child will be entered. I also understand that there are social services and counseling services available in the community, and that there may be financial assistance available through state and local governmental agencies.

(5) A written consent to adoption which meets all the requirements of this chapter but which does not name or otherwise identify the adopting parent is valid if it contains a statement that it is voluntarily executed without disclosure of the name or other identification of the adopting parent.

(6) There must be a witness to the consent of the parent or *alleged father. The witness must be at least eighteen years of age and selected by the parent or *alleged father. The consent document shall contain a statement identifying by name, address, and relationship the witness selected by the parent or *alleged father. [1991 c 136 § 2; 1990 c 146 § 2; 1987 c 170 § 7; 1985 c 421 § 5; 1984 c 155 § 16.]

*Reviser's note: RCW 26.33.020 was amended by 2019 c 46 § 5034, changing the definition of "alleged father" to "alleged genetic parent."

Additional notes found at www.leg.wa.gov

26.33.170 Consent to adoption—When not required.

(1) An agency's, the department's, or a legal guardian's consent to adoption may be dispensed with if the court determines by clear, cogent and convincing evidence that the proposed adoption is in the best interests of the adoptee.

(2) An *alleged father's, birth parent's, or parent's consent to adoption shall be dispensed with if the court finds that the proposed adoption is in the best interests of the adoptee and:

(a) The *alleged father, birth parent, or parent has been found guilty of rape under chapter 9A.44 RCW or incest under RCW 9A.64.020, where the adoptee was the victim of the rape or incest; or

(b) The *alleged father, birth parent, or parent has been found guilty of rape under chapter 9A.44 RCW or incest under RCW 9A.64.020, or has been found by clear and convincing evidence to have committed a sexual assault, where the other parent of the adoptee was the victim of the rape, incest, or sexual assault and the adoptee was conceived as a result of the rape, incest, or sexual assault, unless the parent who is the victim indicates by affidavit or sworn testimony that consent to adoption by the person who committed the rape, incest, or sexual assault should occur.

(3) Nothing in this section shall be construed to eliminate the notice provisions of this chapter. [2017 c 234 § 3; 1999 c 173 § 1; 1988 c 203 § 1; 1984 c 155 § 17.]

*Reviser's note: RCW 26.33.020 was amended by 2019 c 46 § 5034, changing the definition of "alleged father" to "alleged genetic parent."

Additional notes found at www.leg.wa.gov

26.33.180 Preplacement report required before placement with adoptive parents—Exception. Except as provided in RCW 26.33.220, a child shall not be placed with prospective adoptive parents until a preplacement report has been filed with the court. [1984 c 155 § 18.]

26.33.190 Preplacement report—Requirements—Fees. (1) Any person may at any time request an agency, the department, an individual approved by the court, or a qualified salaried court employee to prepare a preplacement report. A certificate signed under penalty of perjury by the person preparing the report specifying his or her qualifications as required in this chapter shall be attached to or filed with each preplacement report and shall include a statement of training or experience that qualifies the person preparing the report to discuss relevant adoption issues. A person may have more than one preplacement report prepared. All preplacement reports shall be filed with the court in which the petition for adoption is filed.

(2) The preplacement report shall be a written document setting forth all relevant information relating to the fitness of the person requesting the report as an adoptive parent. The report shall be based on a study which shall include an investigation of the home environment, family life, health, facilities, and resources of the person requesting the report. The report shall include a list of the sources of information on which the report is based. The report shall include a recommendation as to the fitness of the person requesting the report to be an adoptive parent. The report shall also verify that the following issues were discussed with the prospective adoptive parents:

(a) The concept of adoption as a lifelong developmental process and commitment;

(b) The potential for the child to have feelings of identity confusion and loss regarding separation from the birth parents;

(c) If applicable, the relevance of the child's relationship with siblings and the potential benefit to the child of providing for a continuing relationship and contact between the child and known siblings;

(d) Disclosure of the fact of adoption to the child;

(e) The child's possible questions about birth parents and relatives; and

(f) The relevance of the child's racial, ethnic, and cultural heritage.

(3) All preplacement reports shall include a background check of any conviction records, pending charges, or disciplinary board final decisions of prospective adoptive parents. The background check shall include an examination of state and national criminal identification data provided by the Washington state patrol criminal identification system including, but not limited to, a fingerprint-based background check of national crime information databases for any person being investigated. It shall also include a review of any child abuse and neglect history of any adult living in the prospective adoptive parents' home. The background check of the child abuse and neglect history shall include a review of the child abuse and neglect registries of all states in which the prospective adoptive parents or any other adult living in the home have lived during the five years preceding the date of the preplacement report.

(4) An agency, the department, or a court approved individual may charge a reasonable fee based on the time spent in conducting the study and preparing the preplacement report. The court may set a reasonable fee for conducting the study and preparing the report when a court employee has prepared the report. An agency, the department, a court approved individual, or the court may reduce or waive the fee if the financial condition of the person requesting the report so warrants. An agency's, the department's, or court approved individual's, fee is subject to review by the court upon request of the person requesting the report.

(5) The person requesting the report shall designate to the agency, the department, the court approved individual, or the court in writing the county in which the preplacement report is to be filed. If the person requesting the report has not filed a petition for adoption, the report shall be indexed in the name of the person requesting the report and a cause number shall be assigned. A fee shall not be charged for filing the report. The applicable filing fee may be charged at the time a petition governed by this chapter is filed. Any subsequent preplacement reports shall be filed together with the original report.

(6) A copy of the completed preplacement report shall be delivered to the person requesting the report.

(7) A person may request that a report not be completed. A reasonable fee may be charged for the value of work done. [2009 c 234 § 4; 2007 c 387 § 2; 1991 c 136 § 3; 1990 c 146 § 3; 1984 c 155 § 19.]

26.33.200 Post-placement report—Requirements—Exception—Fees. (1) Except as provided in RCW 26.33.220, at the time the petition for adoption is filed, the court shall order a post-placement report made to determine the nature and adequacy of the placement and to determine if the placement is in the best interest of the child. The report shall be prepared by an agency, the department, an individual approved by the court, or a qualified salaried court employee appointed by the court. A certificate signed under penalty of perjury by the person preparing the report specifying his or her qualifications as required in this chapter shall be attached to or filed with each post-placement report. The report shall be in writing and contain all reasonably available information concerning the physical and mental condition of the child, home environment, family life, health, facilities and resources of the petitioners, and any other facts and circumstances relating to the propriety and advisability of the adoption. The report shall also include, if relevant, information on the child's special cultural heritage, including membership in any Indian tribe or band. The report shall be filed within sixty days of the date of appointment, unless the time is extended by the court. The preplacement report shall be made available to the person appointed to make the post-placement report.

(2) A fee may be charged for preparation of the post-placement report in the same manner as for a preplacement report under RCW 26.33.190. [1990 c 146 § 4; 1984 c 155 § 20.]

26.33.210 Preplacement or post-placement report—Department or agency may make report. The department or an agency having the custody of a child may make the pre-

placement or post-placement report on a petitioner for the adoption of that child. [1984 c 155 § 21.]

26.33.220 Preplacement and post-placement reports—When not required. Unless otherwise ordered by the court, the reports required by RCW 26.33.190 are not required if the petitioner seeks to adopt the child of the petitioner's spouse. The reports required by RCW 26.33.190 and 26.33.200 are not required if the adoptee is eighteen years of age or older. [1984 c 155 § 22.]

26.33.230 Notice of proceedings at which preplacement reports considered—Contents—Proof of service—Appearance—Waiver. The petitioner shall give not less than three days written notice of any proceeding at which a preplacement report will be considered to all agencies, any court approved individual, or any court employee requested by the petitioner to make a preplacement report. The notice shall state the name of the petitioner, the cause number of the proceeding, the time and place of the hearing, and the object of the hearing. Proof of service on the agency or court approved individual in form satisfactory to the court shall be furnished. The agency or court approved individual may appear at the hearing and give testimony concerning any matters relevant to the relinquishment or the adoption and its recommendation as to the fitness of petitioners as parents. The agency or court approved individual may in writing acknowledge notice and state to the court that the agency or court approved individual does not desire to participate in the hearing or the agency or court approved individual may in writing waive notice of any hearing. [1984 c 155 § 24.]

26.33.240 Petition for adoption—Hearing—Notice—Disposition. (1) After the reports required by RCW 26.33.190 and 26.33.200 have been filed, the court shall schedule a hearing on the petition for adoption upon request of the petitioner for adoption. Notice of the date, time, and place of hearing shall be given to the petitioner and any person or agency whose consent to adoption is required under RCW 26.33.160, unless the person or agency has waived in writing the right to receive notice of the hearing. If the child is an Indian child, notice shall also be given to the child's tribe. Notice shall be given in the manner prescribed by RCW 26.33.310.

(2) Notice of the adoption hearing shall also be given to any person who or agency which has prepared a preplacement report. The notice shall be given in the manner prescribed by RCW 26.33.230.

(3) If the court determines, after review of the petition, preplacement and post-placement reports, and other evidence introduced at the hearing, that all necessary consents to adoption are valid or have been dispensed with pursuant to RCW 26.33.170 and that the adoption is in the best interest of the adoptee, and, in the case of an adoption of an Indian child, that the adoptive parents are within the placement preferences of RCW 13.38.180 or good cause to the contrary has been shown on the record, the court shall enter a decree of adoption pursuant to RCW 26.33.250.

(4) If the court determines the petition should not be granted because the adoption is not in the best interest of the child, the court shall make appropriate provision for the care

and custody of the child. [2011 c 309 § 33; 1987 c 170 § 8; 1984 c 155 § 23.]

Additional notes found at www.leg.wa.gov

26.33.250 Decree of adoption—Determination of place and date of birth. (1) A decree of adoption shall provide, as a minimum, the following information:

- (a) The full original name of the person to be adopted;
- (b) The full name of each petitioner for adoption;
- (c) Whether the petitioner or petitioners are husband and wife, stepparent, or a single parent;
- (d) The full new name of the person adopted, unless the name of the adoptee is not to be changed;
- (e) Information to be incorporated in any new certificate of birth to be issued by the state or territorial registrar of vital records; and
- (f) The adoptee's date of birth and place of birth as determined under subsection (3) of this section.

(2) Except for the names of the person adopted and the petitioner, information set forth in the decree that differs from that shown on the original birth certificate, alternative birth record, or other information used in lieu of such a record shall be included in the decree only upon a clear showing that the information in the original record is erroneous.

(3) In determining the date and place of birth of a person born outside the United States, the court shall:

(a) If available, enter in the decree the exact date and place of birth as stated in the birth certificate from the country of origin or in the United States department of state's report of birth abroad or in the documents of the United States immigration and naturalization service;

(b) If the exact place of birth is unknown, enter in the decree such information as may be known and designate a place of birth in the country of origin;

(c) If the exact date of birth is unknown, determine a date of birth based upon medical testimony as to the probable chronological age of the adoptee and other evidence regarding the adoptee's age that the court finds appropriate to consider;

(d) In any other case where documents of the United States immigration and naturalization service are not available, the court shall determine the date and place of birth based upon such evidence as the court in its discretion determines appropriate. [1984 c 155 § 25.]

26.33.260 Decree of adoption—Effect—Accelerated appeal—Limited grounds to challenge—Intent. (1) The entry of a decree of adoption divests any parent or *alleged father who is not married to the adoptive parent or who has not joined in the petition for adoption of all legal rights and obligations in respect to the adoptee, except past-due child support obligations. The adoptee shall be free from all legal obligations of obedience and maintenance in respect to the parent. The adoptee shall be, to all intents and purposes, and for all legal incidents, the child, legal heir, and lawful issue of the adoptive parent, entitled to all rights and privileges, including the right of inheritance and the right to take under testamentary disposition, and subject to all the obligations of a natural child of the adoptive parent.

(2) Any appeal of an adoption decree shall be decided on an accelerated review basis.

(3) Except as otherwise provided in RCW 26.33.160 (3) and (4)(h), no person may challenge an adoption decree on the grounds of:

(a) A person claiming or alleging paternity subsequently appears and alleges lack of prior notice of the proceeding; or

(b) The adoption proceedings were in any other manner defective.

(4) It is the intent of the legislature that this section provide finality for adoptive placements and stable homes for children. [1995 c 270 § 7; 1984 c 155 § 26.]

***Reviser's note:** RCW 26.33.020 was amended by 2019 c 46 § 5034, changing the definition of "alleged father" to "alleged genetic parent."

Finding—1995 c 270: See note following RCW 74.13A.040.

Inheritance by adopted child: RCW 11.04.085.

26.33.270 Decree of adoption—Protection of certain rights and benefits. An order or decree entered under this chapter shall not disentitle a child to any benefit due the child from any third person, agency, state, or the United States. Action under this chapter shall not affect any rights and benefits that a native American child derives from the child's descent from a member of an Indian tribe or band. [1984 c 155 § 27.]

26.33.280 Decree of adoption—Transmittal to state registrar of vital statistics. After a decree of adoption is entered, as soon as the time for appeal has expired, or if an appeal is taken, and the adoption is affirmed on appeal, the clerk of the court shall transmit to the state registrar of vital statistics a certified copy of the decree, along with any additional information and fees required by the registrar. [1984 c 155 § 28.]

26.33.290 Decree of adoption—Duties of state registrar of vital statistics. Upon receipt of a decree of adoption, the state registrar of vital statistics shall:

(1) Return the decree to the court clerk if all information required by RCW 26.33.250 is not included in the decree;

(2) If the adoptee was born in a state other than Washington, or in a territory of the United States, forward the certificate of adoption to the appropriate health record recording agency of the state or territory of the United States in which the birth occurred;

(3) If the adoptee was born outside of the United States or its territories, issue a new certificate of birth by the office of the state registrar of vital statistics which reflects the information contained in the decree. [1984 c 155 § 29.]

Vital statistics: Chapter 70.58 RCW.

26.33.295 Open adoption agreements—Agreed orders—Enforcement. (1) Nothing in this chapter shall be construed to prohibit the parties to a proceeding under this chapter from entering into agreements regarding communication with or contact between child adoptees, adoptive parents, siblings of child adoptees, and a birth parent or parents.

(2) Agreements regarding communication with or contact between child adoptees, adoptive parents, siblings of child adoptees, and a birth parent or parents shall not be legally enforceable unless the terms of the agreement are set forth in a written court order entered in accordance with the provisions of this section. The court shall not enter a pro-

posed order unless the terms of such order have been approved in writing by the prospective adoptive parents, any birth parent whose parental rights have not previously been terminated, and, if the child or siblings of the child are in the custody of the department or a licensed child-placing agency, a representative of the department or child-placing agency. If the child is represented by an attorney or guardian ad litem in a proceeding under this chapter or in any other child-custody proceeding, the terms of the proposed order also must be approved in writing by the child's representative. An agreement under this section need not disclose the identity of the parties to be legally enforceable. The court shall not enter a proposed order unless the court finds that the communication or contact with the child adoptee, as agreed upon and as set forth in the proposed order, would be in the child adoptee's best interests.

(3) Failure to comply with the terms of an agreed order regarding communication or contact that has been entered by the court pursuant to this section shall not be grounds for setting aside an adoption decree or revocation of a written consent to an adoption after that consent has been approved by the court as provided in this chapter.

(4) An agreed order entered pursuant to this section may be enforced by a civil action and the prevailing party in that action may be awarded, as part of the costs of the action, a reasonable amount to be fixed by the court as attorneys' fees. The court shall not modify an agreed order under this section unless it finds that the modification is necessary to serve the best interests of the child adoptee, and that: (a) The modification is agreed to by the adoptive parent and the birth parent or parents; or (b) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.

(5) This section does not require the department or other supervising agency to agree to any specific provisions in an open adoption agreement and does not create a new obligation for the department to provide supervision or transportation for visits between siblings separated by adoption from foster care. [2009 c 234 § 3; 1990 c 285 § 4.]

Findings—Purpose—Severability—1990 c 285: See notes following RCW 74.04.005.

26.33.300 Adoption statistical data. The department of health shall be a depository for statistical data concerning adoption. It shall furnish to the clerk of each county a data card which shall be completed and filed with the clerk on behalf of each petitioner. The clerk shall forward the completed cards to the department of health which shall compile the data and publish reports summarizing the data. A birth certificate shall not be issued showing the petitioner as the parent of any child adopted in the state of Washington until a data card has been completed and filed. [1991 c 3 § 288; 1990 c 146 § 5; 1984 c 155 § 30.]

26.33.310 Notice—Requirements—Waiver. (1) Petitions governed by this chapter shall be served in the manner as set forth in the superior court civil rules. Subsequent notice, papers, and pleadings may be served in the manner provided in superior court civil rules.

(2) If personal service on any parent or *alleged father who has not consented to the termination of his or her paren-

tal rights can be given, the summons and notice of hearing on the petition to terminate parental rights shall be served at least twenty days before the hearing date if served within the state or thirty days if served outside of this state.

(3) If personal service on the parent or any *alleged father, either within or without this state, cannot be given, notice shall be given: (a) By first-class and registered mail, mailed at least thirty days before the hearing to the person's last known address; and (b) by publication at least once a week for three consecutive weeks with the first publication date at least thirty days before the hearing. Publication shall be in a legal newspaper in the city or town of the last known address within the United States and its territories of the parent or *alleged father, whether within or without this state, or, if no address is known to the petitioner, publication shall be in the city or town of the last known whereabouts within the United States and its territories; or if no address or whereabouts are known to the petitioner or the last known address is not within the United States and its territories, in the city or town where the proceeding has been commenced.

(4) Notice and appearance may be waived by the department, an agency, a parent, or an *alleged father before the court or in a writing signed under penalty of perjury. The waiver shall contain the current address of the department, agency, parent, or *alleged father. The face of the waiver for a hearing on termination of the parent-child relationship shall contain language explaining the meaning and consequences of the waiver and the meaning and consequences of termination of the parent-child relationship. A person or agency who has executed a waiver shall not be required to appear except in the case of an Indian child where consent to termination or adoption must be certified before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a).

(5) If a person entitled to notice is known to the petitioner to be unable to read or understand English, all notices, if practicable, shall be given in that person's native language or through an interpreter.

(6) Where notice to an Indian tribe is to be provided pursuant to this chapter and the department is not a party to the proceeding, notice shall be given to the tribe at least ten business days prior to the hearing by registered mail return receipt requested. [1995 c 270 § 6; 1987 c 170 § 9; 1985 c 421 § 6; 1984 c 155 § 31.]

*Reviser's note: RCW 26.33.020 was amended by 2019 c 46 § 5034, changing the definition of "alleged father" to "alleged genetic parent."

Finding—1995 c 270: See note following RCW 74.13A.040.

Additional notes found at www.leg.wa.gov

26.33.320 Adoption of hard to place children—Court's consideration of state's agreement with prospective adoptive parents. (1) In deciding whether to grant a petition for adoption of a hard to place child and in reviewing any request for the vacation or modification of a decree of adoption, the superior court shall consider any agreement made or proposed to be made between the department and any prospective adoptive parent for any payment or payments which have been provided or which are to be provided by the department in support of the adoption of such child. Before the date of the hearing on the petition to adopt, vacate, or modify an adoption decree, the department shall file as part of the adoption file with respect to the child a copy of any ini-

tial agreement, together with any changes made in the agreement, or in the related standards.

(2) If the court, in its judgment, finds the provision made in an agreement to be inadequate, it may make any recommendation as it deems warranted with respect to the agreement to the department. The court shall not, however, solely by virtue of this section, be empowered to direct the department to make payment. This section shall not be deemed to limit any other power of the superior court with respect to the adoption and any related matter. [1984 c 155 § 32.]

26.33.330 Records sealed—Inspection—Fee. (1) All records of any proceeding under this chapter shall be sealed and shall not be thereafter open to inspection by any person except upon order of the court for good cause shown, or except by using the procedure described in RCW 26.33.343. In determining whether good cause exists, the court shall consider any certified statement on file with the department of health as provided in RCW 26.33.347.

(2) The state registrar of vital statistics may charge a reasonable fee for the review of any of its sealed records. [1996 c 243 § 3; 1990 c 145 § 3; 1984 c 155 § 33.]

Finding—1996 c 243: See note following RCW 26.33.347.

26.33.340 Department, agency, and court files confidential—Limited disclosure of information. Department, agency, and court files regarding an adoption shall be confidential except that reasonably available nonidentifying information may be disclosed upon the written request for the information from the adoptive parent, the adoptee, or the birth parent. If the adoption facilitator refuses to disclose nonidentifying information, the individual may petition the superior court. Identifying information may also be disclosed through the procedure described in RCW 26.33.343. [1993 c 81 § 2; 1990 c 145 § 4; 1984 c 155 § 34.]

26.33.343 Search for birth parent or adopted child—Confidential intermediary. (1) An adopted person over the age of twenty-one years, or under twenty-one with the permission of the adoptive parent, or a birth parent or member of the birth parent's family after the adoptee has reached the age of twenty-one may petition the court to appoint a confidential intermediary. A petition under this section shall state whether a certified statement is on file with the department of health as provided for in RCW 26.33.347 and shall also state the intent of the adoptee as set forth in any such statement. The intermediary shall search for and discreetly contact the birth parent or adopted person, or if they are not alive or cannot be located within one year, the intermediary may attempt to locate members of the birth parent or adopted person's family. These family members shall be limited to the natural grandparents of the adult adoptee, a brother or sister of a natural parent, or the child of a natural parent. The court, for good cause shown, may allow a relative more distant in degree to petition for disclosure.

(2)(a) Confidential intermediaries appointed under this section shall complete training provided by a licensed adoption service or another court-approved entity and file an oath of confidentiality and a certificate of completion of training with the superior court of every county in which they serve as intermediaries. The court may dismiss an intermediary if the

intermediary engages in conduct which violates professional or ethical standards.

(b) The confidential intermediary shall sign a statement of confidentiality substantially as follows:

I,, signing under penalty of contempt of court, state: "As a condition of appointment as a confidential intermediary, I affirm that, when adoption records are opened to me:

I will not disclose to the petitioner, directly or indirectly, any identifying information in the records without further order from the court.

I will conduct a diligent search for the person being sought and make a discreet and confidential inquiry as to whether that person will consent to being put in contact with the petitioner, and I will report back to the court the results of my search and inquiry.

If the person sought consents to be put in contact with the petitioner, I will attempt to obtain a dated, written consent from the person, and attach the original of the consent to my report to the court. If the person sought does not consent to the disclosure of his or her identity, I shall report the refusal of consent to the court.

I will not make any charge or accept any compensation for my services except as approved by the court, or as reimbursement from the petitioner for actual expenses incurred in conducting the search. These expenses will be listed in my report to the court.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law, and subjects me to being found in contempt of court."

/s/ date

(c) The confidential intermediary shall be entitled to reimbursement from the petitioner for actual expenses in conducting the search. The court may authorize a reasonable fee in addition to these expenses.

(3) If the confidential intermediary is unable to locate the person being sought within one year, the confidential intermediary shall make a recommendation to the court as to whether or not a further search is warranted, and the reasons for this recommendation.

(4) In the case of a petition filed on behalf of a natural parent or other blood relative of the adoptee, written consent of any living adoptive parent shall be obtained prior to contact with the adoptee if the adoptee:

(a) Is less than twenty-five years of age and is residing with the adoptive parent; or

(b) Is less than twenty-five years of age and is a dependent of the adoptive parent.

(5) If the confidential intermediary locates the person being sought, a discreet and confidential inquiry shall be made as to whether or not that person will consent to having his or her present identity disclosed to the petitioner. The identity of the petitioner shall not be disclosed to the party being sought. If the party being sought consents to the disclosure of his or her identity, the confidential intermediary shall obtain the consent in writing and shall include the original of the consent in the report filed with the court. If the party being sought refuses disclosure of his or her identity, the confidential intermediary shall report the refusal to the court and

shall refrain from further and subsequent inquiry without judicial approval.

(6)(a) If the confidential intermediary obtains from the person being sought written consent for disclosure of his or her identity to the petitioner, the court may then order that the name and other identifying information of that person be released to the petitioner.

(b) If the person being sought is deceased, the court may order disclosure of the identity of the deceased to the petitioner.

(c) If the confidential intermediary is unable to contact the person being sought within one year, the court may order that the search be continued for a specified time or be terminated. [1996 c 243 § 4; 1990 c 145 § 1.]

Finding—1996 c 243: See note following RCW 26.33.347.

26.33.345 Search for birth parent or adopted child—Limited release of information—Noncertified copies of original birth certificate—Contact preference form. (1)

The department, adoption agencies, and independent adoption facilitators shall release the name and location of the court where a relinquishment of parental rights or finalization of an adoption took place to an adult adoptee, a birth parent of an adult adoptee, an adoptive parent, a birth or adoptive grandparent of an adult adoptee, or an adult sibling of an adult adoptee, or the legal guardian of any of these.

(2) The department of health shall make available a noncertified copy of the original birth certificate of a child to the child's birth parents upon request.

(3)(a) For adoptions finalized after October 1, 1993, the department of health shall provide a noncertified copy of the original birth certificate to an adoptee eighteen years of age or older upon request, unless the birth parent has filed an affidavit of nondisclosure before July 28, 2013, or a contact preference form that indicates he or she does not want the original birth certificate released: PROVIDED, That the affidavit of nondisclosure, the contact preference form, or both have not expired.

(b) For adoptions finalized on or before October 1, 1993, the department of health may not provide a noncertified copy of the original birth certificate to the adoptee until after June 30, 2014. After June 30, 2014, the department of health shall provide a noncertified copy of the original birth certificate to an adoptee eighteen years of age or older upon request, unless the birth parent has filed a contact preference form that indicates he or she does not want the original birth certificate released: PROVIDED, That the contact preference form has not expired.

(c) An affidavit of nondisclosure expires upon the death of the birth parent.

(4)(a) Regardless of whether a birth parent has filed an affidavit of nondisclosure or when the adoption was finalized, a birth parent may at any time complete a contact preference form stating his or her preference about personal contact with the adoptee, which, if available, must accompany an original birth certificate provided to an adoptee under subsection (3) of this section.

(b) The contact preference form must include the following options:

(i) I would like to be contacted. I give the department of health consent to provide the adoptee with a noncertified copy of his or her original birth certificate;

(ii) I would like to be contacted only through a confidential intermediary as described in RCW 26.33.343. I give the department of health consent to provide the adoptee with a noncertified copy of his or her original birth certificate;

(iii) I prefer not to be contacted and have completed the birth parent updated medical history form. I give the department of health consent to provide the adoptee with a noncertified copy of his or her original birth certificate; and

(iv) I prefer not to be contacted and have completed the birth parent updated medical history form. I do not want a noncertified copy of the original birth certificate released to the adoptee.

(c) If the birth parent indicates he or she prefers not to be contacted, personally identifying information on the contact preference form must be kept confidential and may not be released.

(d) Nothing in this section precludes a birth parent from subsequently filing another contact preference form to rescind the previous contact preference form and state a different preference.

(e) A contact preference form expires upon the death of the birth parent.

(5) If a birth parent files a contact preference form, the birth parent must also file an updated medical history form with the department of health. Upon request of the adoptee, the department of health must provide the adoptee with the updated medical history form filed by the adoptee's birth parent.

(6) Both a completed contact preference form and birth parent updated medical history form are confidential and must be placed in the adoptee's sealed file.

(7) If a birth parent files a contact preference form within six months after the first time an adoptee requests a copy of his or her original birth certificate as provided in subsection (3) of this section, the department of health must forward the contact preference form and the birth parent updated medical history form to the address of the adoptee.

(8) The department of health may charge a fee not to exceed twenty dollars for providing a noncertified copy of a birth certificate to an adoptee.

(9) The department of health must create the contact preference form and an updated medical history form. The contact preference form must provide a method to ensure personally identifying information can be kept confidential. The updated medical history form may not require the birth parent to disclose any identifying information about the birth parent.

(10) If the department of health does not provide an adoptee with a noncertified copy of the original birth certificate because a valid affidavit of nondisclosure or contact preference form has been filed, the adoptee may request, no more than once per year, that the department of health attempt to determine if the birth parent is deceased. Upon request of the adoptee, the department of health must make a reasonable effort to search public records that are accessible and already available to the department of health to determine if the birth parent is deceased. The department of health may charge the adoptee a reasonable fee to cover the cost of

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conducting a search. [2017 3rd sp.s. c 6 § 320; 2013 c 321 § 1; 1993 c 81 § 3; 1990 c 145 § 2.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

26.33.347 Consent or refusal to release adoptee's identifying information—Desire to be contacted—Certified statement. (1) An adopted person over the age of eighteen may file with the department of health a certified statement declaring any one or more of the following:

(a) The adoptee refuses to consent to the release of any identifying information to a biological parent, biological sibling, or other biological relative and does not wish to be contacted by a confidential intermediary except in the case of a medical emergency as determined by a court of competent jurisdiction;

(b) The adoptee consents to the release of any identifying information to a confidential intermediary appointed under RCW 26.33.343, a biological parent, biological sibling, or other biological relative;

(c) The adoptee desires to be contacted by his or her biological parents, biological siblings, other biological relatives, or a confidential intermediary appointed under RCW 26.33.343;

(d) The current name, address, and telephone number of the adoptee who desires to be contacted.

(2) The certified statement shall be filed with the department of health and placed with the adoptee's original birth certificate if the adoptee was born in this state, or in a separate registry file for reference purposes if the adoptee was born in another state or outside of the United States. When the statement includes a request for confidentiality or a refusal to consent to the disclosure of identifying information, a prominent notice stating substantially the following shall also be placed at the front of the file: "AT THE REQUEST OF THE ADOPTEE, ALL RECORDS AND IDENTIFYING INFORMATION RELATING TO THIS ADOPTION SHALL REMAIN CONFIDENTIAL AND SHALL NOT BE DISCLOSED OR RELEASED WITHOUT A COURT ORDER SO DIRECTING."

(3) An adopted person who files a certified statement under subsection (1) of this section may subsequently file another certified statement requesting to rescind or amend the prior certified statement. [1996 c 243 § 2.]

Finding—1996 c 243: "The legislature finds that it is in the best interest of the people of the state of Washington to support the adoption process in a variety of ways, including protecting the privacy interests of adult adoptees when the confidential intermediary process is used." [1996 c 243 § 1.]

26.33.350 Medical reports—Requirements. (1) Every person, firm, society, association, corporation, or state agency receiving, securing a home for, or otherwise caring for a minor child shall transmit to the prospective adopting parent prior to placement and shall make available to all persons with whom a child has been placed by adoption a complete medical report containing all known and available information concerning the disabilities of the child.

(2) The report shall not reveal the identity of the birth parent of the child except as authorized under this chapter but

shall include any known or available mental or physical health history of the birth parent that needs to be known by the adoptive parent to facilitate proper health care for the child or that will assist the adoptive parent in maximizing the developmental potential of the child.

(3) Where known or available, the information provided shall include:

(a) A review of the birth family's and the child's previous medical history, including the child's x-rays, examinations, hospitalizations, and immunizations. After July 1, 1992, medical histories shall be given on a standardized reporting form developed by the department;

(b) A physical exam of the child by a licensed physician with appropriate laboratory tests and x-rays;

(c) A referral to a specialist if indicated; and

(d) A written copy of the evaluation with recommendations to the adoptive family receiving the report.

(4) Entities and persons obligated to provide information under this section shall make reasonable efforts to locate records and information concerning the child's disabilities. The entities or persons providing the information have no duty, beyond providing the information, to explain or interpret the records or information regarding the child's present or future health. [2020 c 274 § 4; 1994 c 170 § 1; 1991 c 136 § 4; 1990 c 146 § 6; 1989 c 281 § 1; 1984 c 155 § 37.]

26.33.360 Petition by natural parent to set aside adoption—Costs—Time limit. (1) If a natural parent unsuccessfully petitions to have an adoption set aside, the court shall award costs, including reasonable attorneys' fees, to the adoptive parent.

(2) If a natural parent successfully petitions to have an adoption set aside, the natural parent shall be liable to the adoptive parent for both the actual expenditures and the value of services rendered by the adoptive parents in caring for the child.

(3) A natural parent who has executed a written consent to adoption shall not bring an action to set aside an adoption more than one year after the date the court approved the written consent. [1984 c 155 § 35.]

26.33.370 Permanent care and custody of a child—Assumption, relinquishment, or transfer except by court order or statute, when prohibited—Penalty. (1) Unless otherwise permitted by court order or statute, it is unlawful for any person, partnership, society, association, or corporation, except the parents, to assume the permanent care and custody of a child. Unless otherwise permitted by court order or statute, it is unlawful for any parent to relinquish or transfer to another person, partnership, society, association, or corporation the permanent care and custody of any child for adoption or any other purpose.

(2) Any relinquishment or transfer in violation of this section shall be void.

(3) Violation of this section is a gross misdemeanor. [1984 c 155 § 36.]

26.33.380 Family and social history report required—Identity of birth parents confidential. (1) Every person, firm, society, association, corporation, or state agency receiving, securing a home for, or otherwise caring

for a minor child shall transmit to the prospective adopting parent prior to placement and shall make available to all persons with whom a child has been placed by adoption, a family background and child and family social history report, which includes a chronological history of the circumstances surrounding the adoptive placement and any available psychiatric reports, psychological reports, court reports pertaining to dependency or custody, or school reports. Such reports or information shall not reveal the identity of the birth parents of the child but shall contain reasonably available nonidentifying information.

(2) Entities and persons obligated to provide information under this section shall make reasonable efforts to locate records and information concerning the child's family background and social history. The entities or persons providing the information have no duty, beyond providing the information, to explain or interpret the records or information regarding the child's mental or physical health. [1994 c 170 § 2; 1993 c 81 § 4; 1989 c 281 § 2.]

26.33.385 Standards for locating records and information—Rules. The department shall adopt rules, in consultation with affected parties, establishing minimum standards for making reasonable efforts to locate records and information relating to adoptions as required under RCW 26.33.350 and 26.33.380. [1994 c 170 § 3.]

26.33.390 Information on adoption-related services. (1) All persons adopting a child through the department shall receive written information on the department's adoption-related services including, but not limited to, adoption support, family reconciliation services, archived records, mental health, and developmental disabilities.

(2) Any person adopting a child shall receive from the adoption facilitator written information on adoption-related services. This information may be that published by the department or any other social service provider and shall include information about how to find and evaluate appropriate adoption therapists, and may include other resources for adoption-related issues.

(3) Any person involved in providing adoption-related services shall respond to requests for written information by providing materials explaining adoption procedures, practices, policies, fees, and services. [1991 c 136 § 5; 1990 c 146 § 7; 1989 c 281 § 3.]

26.33.400 Advertisements—Prohibitions—Exceptions—Application of consumer protection act. (1) Unless the context clearly requires otherwise, "advertisement" means communication by newspaper, radio, television, handbills, placards or other print, broadcast, or the electronic medium. This definition applies throughout this section.

(2) No person or entity shall cause to be published for circulation, or broadcast on a radio or television station, within the geographic borders of this state, an advertisement of a child or children offered or wanted for adoption, or shall hold himself or herself out through such advertisement as having the ability to place, locate, dispose, or receive a child or children for adoption unless such person or entity is:

(a) A duly authorized agent, contractee, or employee of the department or a children's agency or institution licensed by the department to care for and place children;

(b) A person who has a completed preplacement report as set forth in RCW 26.33.190 (1) and (2) or chapter 26.34 RCW with a favorable recommendation as to the fitness of the person to be an adoptive parent, or such person's duly authorized uncompensated agent, or such person's attorney who is licensed to practice in the state. Verification of compliance with the requirements of this section shall consist of a written declaration by the person or entity who prepared the preplacement report.

Nothing in this section prohibits an attorney licensed to practice in Washington state from advertising his or her availability to practice or provide services related to the adoption of children.

(3)(a) A violation of subsection (2) of this section is a matter affecting the public interest and constitutes an unfair or deceptive act or practice in trade or commerce for the purpose of applying chapter 19.86 RCW.

(b) The attorney general may bring an action in the name of the state against any person violating the provisions of this section in accordance with the provisions of RCW 19.86.080.

(c) Nothing in this section applies to any radio or television station or any publisher, printer, or distributor of any newspaper, magazine, billboard, or other advertising medium which accepts advertising in good faith without knowledge of its violation of any provision of this section after an attempt to verify the advertising is in compliance with this section. [2006 c 248 § 4; 1991 c 136 § 6; 1989 c 255 § 1.]

26.33.420 Postadoption contact between siblings—Intent—Findings. The legislature finds that the importance of children's relationships with their siblings is well recognized in law and science. The bonds between siblings are often irreplaceable, leading some experts to believe that sibling relationships can be longer lasting and more influential than any other over a person's lifetime. For children who have been removed from home due to abuse or neglect, these bonds are often much stronger because siblings have learned early the importance of depending on one another and cooperating in order to cope with their common problems. The legislature further finds that when children are in the foster care system they typically have some degree of contact or visitation with their siblings even when they are not living together. The legislature finds, however, that when one or more of the siblings is adopted from foster care, these relationships may be severed completely if an open adoption agreement fails to attend to the needs of the siblings for continuing postadoption contact. The legislature intends to promote a greater focus, in permanency planning and adoption proceedings, on the interests of siblings separated by adoptive placements and to encourage the inclusion in adoption agreements of provisions to support ongoing postadoption contact between siblings. [2009 c 234 § 1.]

26.33.430 Postadoption contact between siblings—Duty of court. The court, in reviewing and approving an agreement under RCW 26.33.295 for the adoption of a child from foster care, shall encourage the adoptive parents, birth parents, foster parents, kinship caregivers, and the depart-

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ment or other supervising agency to seriously consider the long-term benefits to the child adoptee and siblings of the child adoptee of providing for and facilitating continuing postadoption contact between siblings. To the extent feasible, and when in the best interests of the child adoptee and siblings of the child adoptee, contact between the siblings should be frequent and of a similar nature as that which existed prior to the adoption. If the child adoptee or known siblings of the child adoptee are represented by an attorney or guardian ad litem in a proceeding under this chapter or in any other child custody proceeding, the court shall inquire of each attorney and guardian ad litem regarding the potential benefits of continuing contact between the siblings and the potential detriments of severing contact. [2009 c 234 § 2.]

26.33.900 Effective date—Application—1984 c 155. This act shall take effect January 1, 1985. Any proceeding initiated before January 1, 1985, shall be governed by the law in effect on the date the proceeding was initiated. [1984 c 155 § 41.]

26.33.902 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 70.]

26.33.903 Construction—Religious or nonprofit organizations. Nothing contained in chapter 3, Laws of 2012 shall be construed to alter or affect existing law regarding the manner in which a religious or nonprofit organization may be licensed to and provide adoption, foster care, or other child-placing services under this chapter or chapter 74.15 or 74.13 RCW. [2012 c 3 § 14 (Referendum Measure No. 74, approved November 6, 2012).]

Notice—2012 c 3: See note following RCW 26.04.010.

Chapter 26.34 RCW

INTERSTATE COMPACT ON PLACEMENT OF CHILDREN

Sections

26.34.010	Compact enacted—Provisions.
26.34.020	Financial responsibility.
26.34.030	"Appropriate public authorities" defined.
26.34.040	"Appropriate authority of the receiving state" defined.
26.34.050	Authority of state officers and agencies to enter into agreements—Approval.
26.34.060	Jurisdiction of courts.
26.34.070	"Executive head" defined—Compact administrator.
26.34.080	Violations—Penalty.

26.34.010 Compact enacted—Provisions. The interstate compact on the placement of children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

ARTICLE I. *Purpose and Policy*

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. *Definitions*

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. *Conditions for Placement*

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring,

or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. *Penalty for Illegal Placement*

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V. *Retention of Jurisdiction*

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of

one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI. *Institutional Care of Delinquent Children*

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

- (1) Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
- (2) Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. *Compact Administrator*

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. *Limitations*

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. *Enactment and Withdrawal*

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties

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and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. *Construction and Severability*

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1971 ex.s. c 168 § 1.]

26.34.020 Financial responsibility. Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of RCW 26.16.205 and 26.20.030 shall apply. [1971 ex.s. c 168 § 2.]

26.34.030 "Appropriate public authorities" defined. The "appropriate public authorities" as used in Article III of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the department of children, youth, and families, and said agency shall receive and act with reference to notices required by said Article III. [2017 3rd sp.s. c 6 § 330; 1971 ex.s. c 168 § 3.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

26.34.040 "Appropriate authority of the receiving state" defined. As used in paragraph (a) of Article V of the Interstate Compact on the Placement of Children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the department of children, youth, and families. [2017 3rd sp.s. c 6 § 331; 1971 ex.s. c 168 § 4.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

26.34.050 Authority of state officers and agencies to enter into agreements—Approval. The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of Article V of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obli-

gation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the director of financial management in the case of the state and of the treasurer in the case of a subdivision of the state. [1979 c 151 § 10; 1971 ex.s. c 168 § 5.]

26.34.060 Jurisdiction of courts. Any court having jurisdiction to place delinquent children may place such a child in an institution of or in another state pursuant to Article VI of the Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in Article V thereof. [1971 ex.s. c 168 § 6.]

26.34.070 "Executive head" defined—Compact administrator. As used in Article VII of the Interstate Compact on the Placement of Children, the term "executive head" means the governor. The governor is hereby authorized to appoint a compact administrator in accordance with the terms of said Article VII. [1971 ex.s. c 168 § 7.]

26.34.080 Violations—Penalty. Any person, firm, corporation, association or agency which places a child in the state of Washington without meeting the requirements set forth herein, or any person, firm, corporation, association or agency which receives a child in the state of Washington, where there has been no compliance with the requirements set forth herein, shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense. [1971 ex.s. c 168 § 8.]

Chapter 26.40 RCW HANDICAPPED CHILDREN

Sections

26.40.010	Declaration of purpose.
26.40.020	Removal, denial of parental responsibility—Commitment not an admission requirement to any school.
26.40.030	Petition by parent for order of commitment—Grounds.
26.40.040	Petition by parent for order of commitment—Contents—Who may be co-custodians—Effective date.
26.40.050	Petition by parent for order of commitment—Hearing—Written consent of co-custodians required.
26.40.060	Notice, copies, filing of order of commitment.
26.40.070	Petition by parent for rescission, change in co-custodians, determination of parental responsibility.
26.40.080	Health and welfare of committed child—State and co-custodian responsibilities.
26.40.090	Petition by co-custodians for rescission of commitment—Hearing.
26.40.100	Chapter does not affect commitments under other laws.

Child welfare agencies: Chapter 74.15 RCW.

Council for children and families: Chapter 43.121 RCW.

Juvenile courts and offenders: Title 13 RCW.

Mental illness: Chapter 71.05 RCW.

Special education: Chapter 28A.155 RCW.

State institutions: Title 72 RCW.

Temporary assistance for needy families—Child welfare services—Services to children with disabilities: Chapter 74.12 RCW.

26.40.010 Declaration of purpose. The purpose of this chapter is to assure the right of every child with disabilities to parental love and care as long as possible, to provide for adequate custody of a child with a disability who has lost parental care, and to make available to the child with a disability the services of the state through its various departments and

agencies. [2020 c 274 § 5; 1977 ex.s. c 80 § 22; 1955 c 272 § 1.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.40.020 Removal, denial of parental responsibility—Commitment not an admission requirement to any school. So long as the parents of a child with a disability are able to assume parental responsibility for such child, their parental responsibility may not be removed or denied, and commitment by the state or any officer or official thereof shall never be a requirement for the admission of such child to any state school, or institution, or to the common schools. [2020 c 274 § 6; 1955 c 272 § 2.]

26.40.030 Petition by parent for order of commitment—Grounds. The parents or parent of any child who is temporarily or permanently delayed in normal educational processes and/or normal social adjustment by reason of physical, sensory or mental disability, or by reason of social or emotional maladjustment, or by reason of other disability, may petition the superior court for the county in which such child resides for an order for the commitment of such child to custody as provided in RCW 26.40.040, as now or hereafter amended. [2020 c 274 § 7; 1977 ex.s. c 80 § 23; 1955 c 272 § 3.]

Purpose—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.40.040 Petition by parent for order of commitment—Contents—Who may be co-custodians—Effective date. The petition for an order for the commitment of a child to custody shall request the court to issue an order for the commitment of such child to the co-custody of the state and a relative or relatives, a friend or friends, an attorney or attorneys, a church through its chief officers, a fraternal organization through its chief officers, or a service organization through its chief officers, who shall be named in the petition. The petition shall also request the court to issue such order making the commitment of such child to custody effective as of the date that both parents of such child are deceased or are determined by the court to be unable to continue parental responsibilities for such child as provided in RCW 26.40.070. [1955 c 272 § 4.]

26.40.050 Petition by parent for order of commitment—Hearing—Written consent of co-custodians required. Upon the filing of a petition for an order for the commitment of a child to custody, a hearing upon such petition shall be held in open court, and, if the court finds that the petition should be granted, the court shall issue an order for the commitment of the child to custody as petitioned and not otherwise. Written consent of the co-custodians other than the state must be filed with the court before such order for commitment may be issued. [1955 c 272 § 5.]

26.40.060 Notice, copies, filing of order of commitment. Upon the issuance of an order for the commitment of a child to custody, the court shall transmit copies thereof to the co-custodians named therein. For the state as co-custodian the copy of such order shall be filed with the department

of social and health services whose duty it shall be to notify the state superintendent of public instruction, the state department of social and health services, and such other state departments or agencies as may have services for the child, of the filing of such order, which notice shall be given by the department of social and health services at the time commitment to custody becomes effective under the order. [1982 c 35 § 195; 1979 c 141 § 35; 1955 c 272 § 6.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

26.40.070 Petition by parent for rescission, change in co-custodians, determination of parental responsibility. The parents or parent upon whose petition an order for the commitment of a child to custody has been issued may, before such commitment becomes effective, petition the court for a rescission of the order or for a change in the co-custodians other than the state, or to determine that they are unable to continue parental responsibilities for the child, and the court shall proceed on such petition as on the original petition. [1955 c 272 § 7.]

26.40.080 Health and welfare of committed child—State and co-custodian responsibilities. It shall be the responsibility of the state and the appropriate departments and agencies thereof to discover methods and procedures by which the mental and/or physical health of the child in custody may be improved and, with the consent of the co-custodians, to apply those methods and procedures. The co-custodians other than the state shall have no financial responsibility for the child committed to their co-custody except as they may in written agreement with the state accept such responsibility. At any time after the commitment of such child they may inquire into his or her well-being, and the state and any of its agencies may do nothing with respect to the child that would in any way affect his or her mental or physical health without the consent of the co-custodians. The legal status of the child may not be changed without the consent of the co-custodians. If it appears to the state as co-custodian of a child that the health and/or welfare of such child is impaired or jeopardized by the failure of the co-custodians other than the state to consent to the application of certain methods and procedures with respect to such child, the state through its proper department or agency may petition the court for an order to proceed with such methods and procedures. Upon the filing of such petition a hearing shall be held in open court, and if the court finds that such petition should be granted it shall issue the order. [2011 c 336 § 699; 1955 c 272 § 8.]

26.40.090 Petition by co-custodians for rescission of commitment—Hearing. When the co-custodians of any child committed to custody under provisions of this chapter agree that such child is no longer in need of custody they may petition the court for a rescission of the commitment to custody. Upon the filing of such petition a hearing shall be held in open court and if the court finds that such petition should be granted it shall rescind the order of commitment to custody. [1955 c 272 § 9.]

26.40.100 Chapter does not affect commitments under other laws. Nothing in this chapter shall be construed

as affecting the authority of the courts to make commitments as otherwise provided by law. [1955 c 272 § 10.]

Chapter 26.44 RCW ABUSE OF CHILDREN

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Witness of offense against child, duty: RCW 9.69.100.

26.44.010 Declaration of purpose. The Washington state legislature finds and declares: The bond between a child and his or her parent, custodian, or guardian is of paramount importance, and any intervention into the life of a child is also an intervention into the life of the parent, custodian, or guardian; however, instances of nonaccidental injury, neglect, death, sexual abuse and cruelty to children by their parents, custodians or guardians have occurred, and in the instance where a child is deprived of his or her right to conditions of minimal nurture, health, and safety, the state is justified in emergency intervention based upon verified information; and therefore the Washington state legislature hereby provides for the reporting of such cases to the appropriate public authorities. It is the intent of the legislature that, as a result of such reports, protective services shall be made available in an effort to prevent further abuses, and to safeguard the general welfare of such children. When the child's physical or mental health is jeopardized, or the safety of the child conflicts with the legal rights of a parent, custodian, or guardian, the health and safety interests of the child should prevail. When determining whether a child and a parent, custodian, or guardian should be separated during or immediately following an investigation of alleged child abuse or neglect, the safety of the child shall be the department's paramount concern. Reports of child abuse and neglect shall be maintained and disseminated with strictest regard for the privacy of the subjects of such reports and so as to safeguard against arbitrary, malicious or erroneous information or actions. This chapter shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline,

which are not proved to be injurious to the child's health, welfare and safety. [2012 c 259 § 12; 1999 c 176 § 27; 1987 c 206 § 1; 1984 c 97 § 1; 1977 ex.s. c 80 § 24; 1975 1st ex.s. c 217 § 1; 1969 ex.s. c 35 § 1; 1965 c 13 § 1.]

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.44.015 Limitations of chapter. (1) This chapter shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not injurious to the child's health, welfare, or safety.

(2) Nothing in this chapter may be used to prohibit the reasonable use of corporal punishment as a means of discipline.

(3) No parent or guardian may be deemed abusive or neglectful solely by reason of the parent's or child's blindness, deafness, developmental disability, or other disability. [2020 c 274 § 8; 2005 c 512 § 4; 1999 c 176 § 28; 1997 c 386 § 23; 1993 c 412 § 11.]

Finding—Intent—Effective date—Short title—2005 c 512: See notes following RCW 26.44.100.

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

Additional notes found at www.leg.wa.gov

26.44.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Child" or "children" means any person under the age of eighteen years of age.

(3) "Child forensic interview" means a developmentally sensitive and legally sound method of gathering factual information regarding allegations of child abuse, child neglect, or exposure to violence. This interview is conducted by a competently trained, neutral professional utilizing techniques informed by research and best practice as part of a larger investigative process.

(4) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to

provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(5) "Child protective services section" means the child protective services section of the department.

(6) "Child who is a candidate for foster care" means a child who the department identifies as being at imminent risk of entering foster care but who can remain safely in the child's home or in a kinship placement as long as services or programs that are necessary to prevent entry of the child into foster care are provided, and includes but is not limited to a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement. The term includes a child for whom there is reasonable cause to believe that any of the following circumstances exist:

(a) The child has been abandoned by the parent as defined in RCW 13.34.030 and the child's health, safety, and welfare is seriously endangered as a result;

(b) The child has been abused or neglected as defined in chapter 26.44 RCW and the child's health, safety, and welfare is seriously endangered as a result;

(c) There is no parent capable of meeting the child's needs such that the child is in circumstances that constitute a serious danger to the child's development;

(d) The child is otherwise at imminent risk of harm.

(7) "Children's advocacy center" means a child-focused facility in good standing with the state chapter for children's advocacy centers and that coordinates a multidisciplinary process for the investigation, prosecution, and treatment of sexual and other types of child abuse. Children's advocacy centers provide a location for forensic interviews and coordinate access to services such as, but not limited to, medical evaluations, advocacy, therapy, and case review by multidisciplinary teams within the context of county protocols as defined in RCW 26.44.180 and 26.44.185.

(8) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(9) "Court" means the superior court of the state of Washington, juvenile department.

(10) "Department" means the department of children, youth, and families.

(11) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.

(12) "Family assessment response" means a way of responding to certain reports of child abuse or neglect made under this chapter using a differential response approach to child protective services. The family assessment response shall focus on the safety of the child, the integrity and preservation of the family, and shall assess the status of the child and the family in terms of risk of abuse and neglect including the parent's or guardian's or other caretaker's capacity and

willingness to protect the child and, if necessary, plan and arrange the provision of services to reduce the risk and otherwise support the family. No one is named as a perpetrator, and no investigative finding is entered in the record as a result of a family assessment.

(13) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.

(14) "Inconclusive" means the determination following an investigation by the department of social and health services, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur.

(15) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment, or care.

(16) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(17) "Malice" or "maliciously" means an intent, wish, or design to intimidate, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(18) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

(19) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(20) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner. A person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(21) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and

family services and programs are not remedial services or family reunification services as described in RCW 13.34.025 (2).

(22) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(23) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(24) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

(25) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(26) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(27) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(28) "Unfounded" means the determination following an investigation by the department that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur. [2019 c 172 § 5. Prior: 2018 c 284 § 33; (2018 c 284 § 32 expired July 1, 2018); 2018 c 171 § 3; (2018 c 171 § 2 expired July 1, 2018); 2017 3rd sp.s. c 6 § 321; 2012 c 259 § 1; prior: 2010 c 176 § 1; 2009 c 520 § 17; 2007 c 220 § 1; 2006 c 339 § 108; (2006 c 339 § 107 expired January 1, 2007); 2005 c 512 § 5; 2000 c 162 § 19; 1999 c 176 § 29; 1998 c 314 § 7; prior: 1997 c 386 § 45; 1997 c 386 § 24; 1997 c 282 § 4; 1997 c 132 § 2; 1996 c 178 § 10; prior: 1993 c 412 § 12; 1993 c 402 § 1; 1988 c 142 § 1; prior: 1987 c 524 § 9; 1987 c 206 § 2; 1984 c 97 § 2; 1982 c 129 § 6; 1981 c 164 § 1; 1977 ex.s. c 80 § 25; 1975 1st ex.s. c 217 § 2; 1969 ex.s. c 35 § 2; 1965 c 13 § 2.]

Effective date—2018 c 284 §§ 3, 8, 13, 20, 33, 36, and 67: See note following RCW 13.34.030.

Expiration date—2018 c 284 §§ 2, 7, 12, 19, 32, 35, and 66: See note following RCW 13.34.030.

Effective date—2018 c 171 § 3: "Section 3 of this act takes effect July 1, 2018." [2018 c 171 § 10.]

Expiration date—2018 c 171 § 2: "Section 2 of this act expires July 1, 2018." [2018 c 171 § 9.]

Effective date—2018 c 171: See note following RCW 26.44.188.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Effective date—2012 c 259 §§ 1 and 3-10: "Sections 1 and 3 through 10 of this act take effect December 1, 2013." [2012 c 259 § 15.]

Intent—Part headings not law—2006 c 339: See notes following RCW 74.34.020.

Finding—Intent—Effective date—Short title—2005 c 512: See notes following RCW 26.44.100.

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

Findings—1997 c 132: "The legislature finds that housing is frequently influenced by the economic situation faced by the family. This may include siblings sharing a bedroom. The legislature also finds that the family living situation due to economic circumstances in and of itself is not sufficient to justify a finding of child abuse, negligent treatment, or maltreatment." [1997 c 132 § 1.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Additional notes found at www.leg.wa.gov

26.44.030 Reports—Duty and authority to make—Duty of receiving agency—Duty to notify—Case planning and consultation—Penalty for unauthorized exchange of information—Filing dependency petitions—Investigations—Interviews of children—Records—Risk assessment process. (1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of children, youth, and families, licensed or certified child care providers or their employees, employee of the department of social and health services, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, state family and children's ombuds or any volunteer in the ombuds's office, or host home program has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person

who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Organization" includes a sole proprietor, partnership, corporation, limited liability company, trust, association, financial institution, governmental entity, other than the federal government, and any other individual or group engaged in a trade, occupation, enterprise, governmental function, charitable function, or similar activity in this state whether or not the entity is operated as a nonprofit or for-profit entity.

(iii) "Reasonable cause" means a person witnesses or receives a credible written or oral report alleging abuse, including sexual contact, or neglect of a child.

(iv) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(v) "Sexual contact" has the same meaning as in RCW 9A.44.010.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court-appointed special advocates, appointed under Titles 11 and 13 RCW and this title, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The reporting requirement in (a) of this subsection also applies to administrative and academic or athletic department employees, including student employees, of institutions of higher education, as defined in RCW 28B.10.016, and of private institutions of higher education.

(g) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse

or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency, including military law enforcement, if appropriate. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file

a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report that a child is a candidate for foster care as defined in RCW 26.44.020, the department may provide prevention and family services and programs to the child's parents, guardian, or caregiver. The department may not be held civilly liable for the decision regarding whether to provide prevention and family services and programs, or for the provision of those services and programs, for a child determined to be a candidate for foster care.

(11) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(12)(a) Upon receiving a report of alleged abuse or neglect, the department shall use one of the following discrete responses to reports of child abuse or neglect that are screened in and accepted for departmental response:

(i) Investigation; or

(ii) Family assessment.

(b) In making the response in (a) of this subsection the department shall:

(i) Use a method by which to assign cases to investigation or family assessment which are based on an array of factors that may include the presence of: Imminent danger, level of risk, number of previous child abuse or neglect reports, or other presenting case characteristics, such as the type of alleged maltreatment and the age of the alleged victim. Age of the alleged victim shall not be used as the sole criterion for determining case assignment;

(ii) Allow for a change in response assignment based on new information that alters risk or safety level;

(iii) Allow families assigned to family assessment to choose to receive an investigation rather than a family assessment;

(iv) Provide a full investigation if a family refuses the initial family assessment;

(v) Provide voluntary services to families based on the results of the initial family assessment. If a family refuses voluntary services, and the department cannot identify specific facts related to risk or safety that warrant assignment to investigation under this chapter, and there is not a history of reports of child abuse or neglect related to the family, then the department must close the family assessment response case. However, if at any time the department identifies risk or safety factors that warrant an investigation under this chapter, then the family assessment response case must be reassigned to investigation;

(vi) Conduct an investigation, and not a family assessment, in response to an allegation that, the department determines based on the intake assessment:

(A) Indicates a child's health, safety, and welfare will be seriously endangered if not taken into custody for reasons including, but not limited to, sexual abuse and sexual exploitation of the child as defined in this chapter;

(B) Poses a serious threat of substantial harm to a child;

(C) Constitutes conduct involving a criminal offense that has, or is about to occur, in which the child is the victim;

(D) The child is an abandoned child as defined in RCW 13.34.030;

(E) The child is an adjudicated dependent child as defined in RCW 13.34.030, or the child is in a facility that is licensed, operated, or certified for care of children by the department under chapter 74.15 RCW.

(c) In addition, the department may use a family assessment response to assess for and provide prevention and family services and programs, as defined in RCW 26.44.020, for the following children and their families, consistent with requirements under the federal family first prevention services act and this section:

(i) A child who is a candidate for foster care, as defined in RCW 26.44.020; and

(ii) A child who is in foster care and who is pregnant, parenting, or both.

(d) The department may not be held civilly liable for the decision to respond to an allegation of child abuse or neglect by using the family assessment response under this section unless the state or its officers, agents, or employees acted with reckless disregard.

(13)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected

the child, the department shall adopt the finding in its investigation.

(14) For reports of alleged abuse or neglect that are responded to through family assessment response, the department shall:

(a) Provide the family with a written explanation of the procedure for assessment of the child and the family and its purposes;

(b) Collaborate with the family to identify family strengths, resources, and service needs, and develop a service plan with the goal of reducing risk of harm to the child and improving or restoring family well-being;

(c) Complete the family assessment response within forty-five days of receiving the report except as follows:

(i) Upon parental agreement, the family assessment response period may be extended up to one hundred twenty days. The department's extension of the family assessment response period must be operated within the department's appropriations;

(ii) For cases in which the department elects to use a family assessment response as authorized under subsection (12)(c) of this section, and upon agreement of the child's parent, legal guardian, legal custodian, or relative placement, the family assessment response period may be extended up to one year. The department's extension of the family assessment response must be operated within the department's appropriations.

(d) Offer services to the family in a manner that makes it clear that acceptance of the services is voluntary;

(e) Implement the family assessment response in a consistent and cooperative manner;

(f) Have the parent or guardian agree to participate in services before services are initiated. The department shall inform the parents of their rights under family assessment response, all of their options, and the options the department has if the parents do not agree to participate in services.

(15)(a) In conducting an investigation or family assessment of alleged abuse or neglect, the department or law enforcement agency:

(i) May interview children. If the department determines that the response to the allegation will be family assessment response, the preferred practice is to request a parent's, guardian's, or custodian's permission to interview the child before conducting the child interview unless doing so would compromise the safety of the child or the integrity of the assessment. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. If the allegation is investigated, parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(ii) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(b) The Washington state school directors' association shall adopt a model policy addressing protocols when an interview, as authorized by this subsection, is conducted on school premises. In formulating its policy, the association shall consult with the department and the Washington association of sheriffs and police chiefs.

(16) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombuds of the contents of the report. The department shall also notify the ombuds of the disposition of the report.

(17) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(18)(a) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(b) In the family assessment response, the department shall not make a finding as to whether child abuse or neglect occurred. No one shall be named as a perpetrator and no investigative finding shall be entered in the department's child abuse or neglect database.

(19) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor.

(20) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(21) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

(22) The department shall make efforts as soon as practicable to determine the military status of parents whose children are subject to abuse or neglect allegations. If the department determines that a parent or guardian is in the military, the department shall notify a department of defense family advocacy program that there is an allegation of abuse and neglect that is screened in and open for investigation that relates to that military parent or guardian.

(23) The department shall make available on its public web site a downloadable and printable poster that includes the reporting requirements included in this section. The poster must be no smaller than eight and one-half by eleven inches with all information on one side. The poster must be made available in both the English and Spanish languages. Organizations that include employees or volunteers subject to the reporting requirements of this section must clearly display this poster in a common area. At a minimum, this poster must include the following:

- (a) Who is required to report child abuse and neglect;
- (b) The standard of knowledge to justify a report;
- (c) The definition of reportable crimes;
- (d) Where to report suspected child abuse and neglect;

and

(e) What should be included in a report and the appropriate timing. [2019 c 172 § 6; 2018 c 77 § 1. Prior: 2017 3rd sp.s. c 20 § 24; 2017 3rd sp.s. c 6 § 322; 2017 c 118 § 1; 2016 c 166 § 4; 2015 1st sp.s. c 6 § 1; prior: 2013 c 273 § 2; (2013 c 273 § 1 expired December 1, 2013); 2013 c 48 § 2; (2013 c 48 § 1 expired December 1, 2013); 2013 c 23 § 43; (2013 c 23 § 42 expired December 1, 2013); prior: 2012 c 259 § 3; 2012 c 55 § 1; 2009 c 480 § 1; 2008 c 211 § 5; (2008 c 211 § 4 expired October 1, 2008); prior: 2007 c 387 § 3; 2007 c 220 § 2; 2005 c 417 § 1; 2003 c 207 § 4; prior: 1999 c 267 § 20; 1999 c 176 § 30; 1998 c 328 § 5; 1997 c 386 § 25; 1996 c 278 § 2; 1995 c 311 § 17; prior: 1993 c 412 § 13; 1993 c 237 § 1; 1991 c 111 § 1; 1989 c 22 § 1; prior: 1988 c 142 § 2; 1988 c 39 § 1; prior: 1987 c 524 § 10; 1987 c 512 § 23; 1987 c 206 § 3; 1986 c 145 § 1; 1985 c 259 § 2; 1984 c 97 § 3; 1982 c 129 § 7; 1981 c 164 § 2; 1977 ex.s. c 80 § 26; 1975 1st ex.s. c 217 § 3; 1971 ex.s. c 167 § 1; 1969 ex.s. c 35 § 3; 1965 c 13 § 3.]

Effective date—2018 c 77: "This act takes effect July 1, 2018." [2018 c 77 § 2.]

Construction—Competitive procurement process and contract provisions—Conflict with federal requirements and Indian Child Welfare Act of 1978—2017 3rd sp.s. c 20: See notes following RCW 74.13.270.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Effective date—2013 c 273 § 2: "Section 2 of this act takes effect December 1, 2013." [2013 c 273 § 4.]

Expiration date—2013 c 273 § 1: "Section 1 of this act expires December 1, 2013." [2013 c 273 § 3.]

Effective date—2013 c 48 § 2: "Section 2 of this act takes effect December 1, 2013." [2013 c 48 § 4.]

Expiration date—2013 c 48 § 1: "Section 1 of this act expires December 1, 2013." [2013 c 48 § 3.]

Effective date—2013 c 23 § 43: "Section 43 of this act takes effect December 1, 2013." [2013 c 23 § 639.]

Expiration date—2013 c 23 § 42: "Section 42 of this act expires December 1, 2013." [2013 c 23 § 638.]

Effective date—2012 c 259 §§ 1 and 3-10: See note following RCW 26.44.020.

Findings—Intent—Severability—1999 c 267: See notes following RCW 43.20A.790.

Short title—Purpose—Entitlement not granted—Federal waivers—1999 c 267 §§ 10-26: See RCW 74.15.900 and 74.15.901.

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

Finding—Intent—1996 c 278: "The legislature finds that including certain department of corrections personnel among the professionals who are mandated to report suspected abuse or neglect of children, dependent adults, or people with developmental disabilities is an important step toward improving the protection of these vulnerable populations. The legislature intends, however, to limit the circumstances under which department of corrections personnel are mandated reporters of suspected abuse or neglect to only those circumstances when the information is obtained during the course of their employment. This act is not to be construed to alter the circumstances under which other professionals are mandated to report suspected abuse or neglect, nor is it the legislature's intent to alter current practices and procedures utilized by other professional organizations who are mandated reporters under RCW 26.44.030(1)(a)." [1996 c 278 § 1.]

Legislative findings—1985 c 259: "The Washington state legislature finds and declares:

The children of the state of Washington are the state's greatest resource and the greatest source of wealth to the state of Washington. Children of all ages must be protected from child abuse. Governmental authorities must give the prevention, treatment, and punishment of child abuse the highest priority, and all instances of child abuse must be reported to the proper authorities who should diligently and expeditiously take appropriate action, and child abusers must be held accountable to the people of the state for their actions.

The legislature recognizes the current heavy caseload of governmental authorities responsible for the prevention, treatment, and punishment of child abuse. The information obtained by child abuse reporting requirements, in addition to its use as a law enforcement tool, will be used to determine the need for additional funding to ensure that resources for appropriate governmental response to child abuse are available." [1985 c 259 § 1.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Additional notes found at www.leg.wa.gov

26.44.031 Records—Maintenance and disclosure—Destruction of screened-out, unfounded, or inconclusive reports—Rules—Proceedings for enforcement. (1) To protect the privacy in reporting and the maintenance of reports of nonaccidental injury, neglect, death, sexual abuse, and cruelty to children by their parents, and to safeguard against arbitrary, malicious, or erroneous information or actions, the department shall not disclose or maintain information related to reports of child abuse or neglect except as provided in this section or as otherwise required by state and federal law.

(2) The department shall destroy all of its records concerning:

(a) A screened-out report, within three years from the receipt of the report; and

(b) An unfounded or inconclusive report, within six years of completion of the investigation, unless a prior or subsequent founded report has been received regarding the child who is the subject of the report, a sibling or half-sibling of the child, or a parent, guardian, or legal custodian of the child, before the records are destroyed.

(3) The department may keep records concerning founded reports of child abuse or neglect as the department determines by rule.

(4) No unfounded, screened-out, or inconclusive report or information about a family's participation or nonparticipation in the family assessment response may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW without the consent of the individual who is the subject of the report or family assessment, unless:

(a) The individual seeks to become a licensed foster parent or adoptive parent; or

(b) The individual is the parent or legal custodian of a child being served by one of the agencies referenced in this subsection.

(5)(a) If the department fails to comply with this section, an individual who is the subject of a report may institute proceedings for injunctive or other appropriate relief for enforcement of the requirement to purge information. These proceedings may be instituted in the superior court for the county in which the person resides or, if the person is not then a resident of this state, in the superior court for Thurston county.

(b) If the department fails to comply with subsection (4) of this section and an individual who is the subject of the report or family assessment response information is harmed by the disclosure of information, in addition to the relief provided in (a) of this subsection, the court may award a penalty of up to one thousand dollars and reasonable attorneys' fees and court costs to the petitioner.

(c) A proceeding under this subsection does not preclude other methods of enforcement provided for by law.

(6) Nothing in this section shall prevent the department from retaining general, nonidentifying information which is required for state and federal reporting and management purposes. [2012 c 259 § 4; 2007 c 220 § 3; 1997 c 282 § 1.]

Effective date—2012 c 259 §§ 1 and 3-10: See note following RCW 26.44.020.

Additional notes found at www.leg.wa.gov

26.44.032 Legal defense of public employee. In cases in which a public employee subject to RCW 26.44.030 acts in good faith and without gross negligence in his or her reporting duty, and if the employee's judgment as to what constitutes reasonable cause to believe that a child has suffered abuse or neglect is being challenged, the public employer shall provide for the legal defense of the employee. [1999 c 176 § 31; 1988 c 87 § 1.]

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

26.44.035 Response to complaint by more than one agency—Procedure—Written records. (1) If the department or a law enforcement agency responds to a complaint of alleged child abuse or neglect and discovers that another agency has also responded to the complaint, the agency shall notify the other agency of their presence, and the agencies shall coordinate the investigation and keep each other apprised of progress.

(2) The department, each law enforcement agency, each county prosecuting attorney, each city attorney, and each court shall make as soon as practicable a written record and shall maintain records of all incidents of suspected child abuse reported to that person or agency.

(3) Every employee of the department who conducts an interview of any person involved in an allegation of abuse or neglect shall retain his or her original written records or notes setting forth the content of the interview unless the notes were entered into the electronic system operated by the department which is designed for storage, retrieval, and preservation of such records.

(4) Written records involving child sexual abuse shall, at a minimum, be a near verbatim record for the disclosure interview. The near verbatim record shall be produced within fifteen calendar days of the disclosure interview, unless waived by management on a case-by-case basis.

(5) Records kept under this section shall be identifiable by means of an agency code for child abuse. [1999 c 389 § 7; 1997 c 386 § 26; 1985 c 259 § 3.]

Legislative findings—1985 c 259: See note following RCW 26.44.030.

Additional notes found at www.leg.wa.gov

26.44.040 Reports—Oral, written—Contents. An immediate oral report must be made by telephone or other-

(2020 Ed.)

wise to the proper law enforcement agency or the department and, upon request, must be followed by a report in writing. Such reports must contain the following information, if known:

- (1) The name, address, and age of the child;
- (2) The name and address of the child's parents, stepparents, guardians, or other persons having custody of the child;
- (3) The nature and extent of the alleged injury or injuries;
- (4) The nature and extent of the alleged neglect;
- (5) The nature and extent of the alleged sexual abuse;
- (6) Any evidence of previous injuries, including their nature and extent; and
- (7) Any other information that may be helpful in establishing the cause of the child's death, injury, or injuries and the identity of the alleged perpetrator or perpetrators. [2017 3rd sp.s. c 6 § 323; 1999 c 176 § 32; 1997 c 386 § 27; 1993 c 412 § 14; 1987 c 206 § 4; 1984 c 97 § 4; 1977 ex.s. c 80 § 27; 1975 1st ex.s. c 217 § 4; 1971 ex.s. c 167 § 2; 1969 ex.s. c 35 § 4; 1965 c 13 § 4.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Additional notes found at www.leg.wa.gov

26.44.050 Abuse or neglect of child—Duty of law enforcement agency or department of children, youth, and families—Taking child into custody without court order, when. Except as provided in *RCW 26.44.030(11), upon the receipt of a report alleging that abuse or neglect has occurred, the law enforcement agency or the department must investigate and provide the protective services section with a report in accordance with chapter 74.13 RCW, and where necessary to refer such report to the court.

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. The law enforcement agency or the department investigating such a report is hereby authorized to photograph such a child for the purpose of providing documentary evidence of the physical condition of the child. [2020 c 71 § 1; 2017 3rd sp.s. c 6 § 324; 2012 c 259 § 5; 1999 c 176 § 33. Prior: 1987 c 450 § 7; 1987 c 206 § 5; 1984 c 97 § 5; 1981 c 164 § 3; 1977 ex.s. c 291 § 51; 1977 ex.s. c 80 § 28; 1975 1st ex.s. c 217 § 5; 1971 ex.s. c 302 § 15; 1969 ex.s. c 35 § 5; 1965 c 13 § 5.]

***Reviser's note:** RCW 26.44.030 was amended by 2019 c 172 § 6, changing subsection (11) to subsection (12).

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Effective date—2012 c 259 §§ 1 and 3-10: See note following RCW 26.44.020.

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Additional notes found at www.leg.wa.gov

26.44.053 Guardian ad litem, appointment—Examination of person having legal custody—Hearing—Procedure. (1) In any judicial proceeding under this chapter or chapter 13.34 RCW in which it is alleged that a child has been subjected to child abuse or neglect, the court shall appoint a guardian ad litem for the child as provided in chapter 13.34 RCW. The requirement of a guardian ad litem may be deemed satisfied if the child is represented by counsel in the proceedings.

(2) At any time prior to or during a hearing in such a case, the court may, on its own motion, or the motion of the guardian ad litem, or other parties, order the examination by a physician, psychologist, or psychiatrist, of any parent or child or other person having custody of the child at the time of the alleged child abuse or neglect, if the court finds such an examination is necessary to the proper determination of the case. The hearing may be continued pending the completion of such examination. The physician, psychologist, or psychiatrist conducting such an examination may be required to testify concerning the results of such examination and may be asked to give his or her opinion as to whether the protection of the child requires that he or she not be returned to the custody of his or her parents or other persons having custody of him or her at the time of the alleged child abuse or neglect. Persons so testifying shall be subject to cross-examination as are other witnesses. No information given at any such examination of the parent or any other person having custody of the child may be used against such person in any subsequent criminal proceedings against such person or custodian concerning the alleged abuse or neglect of the child.

(3) A parent or other person having legal custody of a child alleged to be abused or neglected shall be a party to any proceeding that may impair or impede such person's interest in and custody or control of the child. [1997 c 386 § 28; 1996 c 249 § 16; 1994 c 110 § 1; 1993 c 241 § 4. Prior: 1987 c 524 § 11; 1987 c 206 § 7; 1975 1st ex.s. c 217 § 8.]

Intent—1996 c 249: See note following RCW 2.56.030.

Additional notes found at www.leg.wa.gov

26.44.056 Protective detention or custody of abused child—Reasonable cause—Notice—Time limits—Monitoring plan—Liability. (1) An administrator of a hospital or similar institution or any physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may detain a child without consent of a person legally responsible for the child whether or not medical treatment is required, if the circumstances or conditions of the child are such that the detaining individual has reasonable cause to believe that permitting the child to continue in his or her place of residence or in the care and custody of the parent, guardian, custodian or other person legally responsible for the child's care would present an imminent danger to that child's safety: PROVIDED, That such administrator or physician shall notify or cause to be

notified the appropriate law enforcement agency or child protective services pursuant to RCW 26.44.040. Such notification shall be made as soon as possible and in no case longer than seventy-two hours. Such temporary protective custody by an administrator or doctor shall not be deemed an arrest. Child protective services may detain the child until the court assumes custody, but in no case longer than seventy-two hours, excluding Saturdays, Sundays, and holidays.

(2) Whenever an administrator or physician has reasonable cause to believe that a child would be in imminent danger if released to a parent, guardian, custodian, or other person or is in imminent danger if left in the custody of a parent, guardian, custodian, or other person, the administrator or physician may notify a law enforcement agency and the law enforcement agency shall take the child into custody or cause the child to be taken into custody. The law enforcement agency shall release the child to the custody of child protective services. Child protective services shall detain the child until the court assumes custody or upon a documented and substantiated record that in the professional judgment of the child protective services the child's safety will not be endangered if the child is returned. If the child is returned, the department shall establish a six-month plan to monitor and assure the continued safety of the child's life or health. The monitoring period may be extended for good cause.

(3) A child protective services employee, an administrator, doctor, or law enforcement officer shall not be held liable in any civil action for the decision for taking the child into custody, if done in good faith under this section. [1983 c 246 § 3; 1982 c 129 § 8; 1975 1st ex.s. c 217 § 9.]

Additional notes found at www.leg.wa.gov

26.44.060 Immunity from civil or criminal liability—Confidential communications not violated—Actions against state not affected—False report, penalty. (1)(a) Except as provided in (b) of this subsection, any person participating in good faith in the making of a report pursuant to this chapter, testifying as to alleged child abuse or neglect in a judicial proceeding, or otherwise providing information or assistance, including medical evaluations or consultations, in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect shall in so doing be immune from any civil or criminal liability arising out of such reporting or testifying under any law of this state or its political subdivisions.

(b) A person convicted of a violation of subsection (4) of this section shall not be immune from liability under (a) of this subsection.

(2) An administrator of a hospital or similar institution or any physician licensed pursuant to chapters 18.71 or 18.57 RCW taking a child into custody pursuant to RCW 26.44.056 shall not be subject to criminal or civil liability for such taking into custody.

(3) Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and 18.83.110. Nothing in this chapter shall be construed as to supersede or abridge remedies provided in chapter 4.92 RCW.

(4) A person who, intentionally and in bad faith, knowingly makes a false report of alleged abuse or neglect shall be

guilty of a misdemeanor punishable in accordance with RCW 9A.20.021.

(5) A person who, in good faith and without gross negligence, cooperates in an investigation arising as a result of a report made pursuant to this chapter, shall not be subject to civil liability arising out of his or her cooperation. This subsection does not apply to a person who caused or allowed the child abuse or neglect to occur. [2020 c 71 § 2; 2007 c 118 § 1; 2004 c 37 § 1; 1997 c 386 § 29; 1988 c 142 § 3; 1982 c 129 § 9; 1975 1st ex.s. c 217 § 6; 1965 c 13 § 6.]

Nurse-patient privilege subject to RCW 26.44.060(3): RCW 5.62.030.

Additional notes found at www.leg.wa.gov

26.44.061 False reporting—Statement warning against—Determination letter and referral. (1) The child protective services section shall prepare a statement warning against false reporting of alleged child abuse or neglect for inclusion in any instructions, informational brochures, educational forms, and handbooks developed or prepared for or by the department and relating to the reporting of abuse or neglect of children. Such statement shall include information on the criminal penalties that apply to false reports of alleged child abuse or neglect under RCW 26.44.060(4). It shall not be necessary to reprint existing materials if any other less expensive technique can be used. Materials shall be revised when reproduced.

(2) The child protective services section shall send a letter by certified mail to any person determined by the section to have made a false report of child abuse or neglect informing the person that such a determination has been made and that a second or subsequent false report will be referred to the proper law enforcement agency for investigation. [2007 c 118 § 2.]

26.44.063 Temporary restraining order or preliminary injunction—Enforcement—Notice of modification or termination of restraining order. (1) It is the intent of the legislature to minimize trauma to a child involved in an allegation of sexual or physical abuse. The legislature declares that removing the child from the home or the care of a parent, guardian, or legal custodian often has the effect of further traumatizing the child. It is, therefore, the legislature's intent that the alleged abuser, rather than the child, shall be removed or restrained from the child's residence and that this should be done at the earliest possible point of intervention in accordance with RCW 10.31.100, chapter 13.34 RCW, this section, and RCW 26.44.130.

(2) In any judicial proceeding in which it is alleged that a child has been subjected to sexual or physical abuse, if the court finds reasonable grounds to believe that an incident of sexual or physical abuse has occurred, the court may, on its own motion, or the motion of the guardian ad litem or other parties, issue a temporary restraining order or preliminary injunction restraining or enjoining the person accused of committing the abuse from:

(a) Molesting or disturbing the peace of the alleged victim;

(b) Entering the family home of the alleged victim except as specifically authorized by the court;

(c) Having any contact with the alleged victim, except as specifically authorized by the court;

(2020 Ed.)

(d) Knowingly coming within, or knowingly remaining within, a specified distance of a specified location.

(3) If the caretaker is willing, and does comply with the duties prescribed in subsection (8) of this section, uncertainty by the caretaker that the alleged abuser has in fact abused the alleged victim shall not, alone, be a basis to remove the alleged victim from the caretaker, nor shall it be considered neglect.

(4) In issuing a temporary restraining order or preliminary injunction, the court may impose any additional restrictions that the court in its discretion determines are necessary to protect the child from further abuse or emotional trauma pending final resolution of the abuse allegations.

(5) The court shall issue a temporary restraining order prohibiting a person from entering the family home if the court finds that the order would eliminate the need for an out-of-home placement to protect the child's right to nurturance, health, and safety and is sufficient to protect the child from further sexual or physical abuse or coercion.

(6) The court may issue a temporary restraining order without requiring notice to the party to be restrained or other parties 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.

(7) A 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; and

(b) May be revoked or modified.

(8) The person having physical custody of the child shall have an affirmative duty to assist in the enforcement of the restraining order including but not limited to a duty to notify the court as soon as practicable of any violation of the order, a duty to request the assistance of law enforcement officers to enforce the order, and a duty to notify the department of any violation of the order as soon as practicable if the department is a party to the action. Failure by the custodial party to discharge these affirmative duties shall be subject to contempt proceedings.

(9) Willful violation of a court order entered under this section is a misdemeanor. A written order shall contain the court's directive and shall bear the legend: "Violation of this order with actual notice of its terms is a criminal offense under chapter 26.44 RCW, is also subject to contempt proceedings, and will subject a violator to arrest."

(10) If a restraining order issued under 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. [2017 3rd sp.s. c 6 § 325; 2008 c 267 § 4; 2000 c 119 § 12; 1993 c 412 § 15; 1988 c 190 § 3; 1985 c 35 § 1.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Ex parte temporary order for protection: RCW 26.50.070.

Orders for protection in cases of domestic violence: RCW 26.50.030.

Orders prohibiting contact: RCW 10.99.040.

Temporary restraining order: RCW 26.09.060.

Additional notes found at www.leg.wa.gov

26.44.067 Temporary restraining order or preliminary injunction—Contents—Notice—Noncompliance—Defense—Penalty. (1) Any person having had actual notice of the existence of a restraining order issued by a court of competent jurisdiction pursuant to RCW 26.44.063 who refuses to comply with the provisions of such order shall be guilty of a misdemeanor.

(2) The notice requirements of subsection (1) of this section may be satisfied by the peace officer giving oral or written evidence to the person subject to the order by reading from or handing to that person a copy certified by a notary public or the clerk of the court to be an accurate copy of the original court order which is on file. The copy may be supplied by the court or any party.

(3) The remedies provided in this section shall not apply unless restraining orders subject to this section bear this legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.44 RCW AND IS ALSO SUBJECT TO CONTEMPT PROCEEDINGS.

(4) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule. No right of action shall accrue against any peace officer acting upon a properly certified copy of a court order lawful on its face if such officer employs otherwise lawful means to effect the arrest. [2000 c 119 § 13; 1993 c 412 § 16; 1989 c 373 § 23; 1985 c 35 § 2.]

Additional notes found at www.leg.wa.gov

26.44.075 Inclusion of number of child abuse reports and cases in prosecuting attorney's annual report. Commencing in 1986, the prosecuting attorney shall include in the annual report a section stating the number of child abuse reports received by the office under this chapter and the number of cases where charges were filed. [1985 c 259 § 4.]

Legislative findings—1985 c 259: See note following RCW 26.44.030.

26.44.080 Violation—Penalty. Every person who is required to make, or to cause to be made, a report pursuant to RCW 26.44.030 and 26.44.040, and who knowingly fails to make, or fails to cause to be made, such report, shall be guilty of a gross misdemeanor. [1982 c 129 § 10; 1971 ex.s. c 167 § 3.]

Additional notes found at www.leg.wa.gov

26.44.100 Information about rights—Legislative purpose—Notification of investigation, report, and findings. (1) The legislature finds parents and children often are not aware of their due process rights when agencies are investigating allegations of child abuse and neglect. The legislature reaffirms that all citizens, including parents, shall be afforded due process, that protection of children remains the priority of the legislature, and that this protection includes protecting the family unit from unnecessary disruption. To facilitate this goal, the legislature wishes to ensure that parents and children be advised in writing and orally, if feasible, of their basic rights and other specific information as set forth

in this chapter, provided that nothing contained in this chapter shall cause any delay in protective custody action.

(2) The department shall notify the parent, guardian, or legal custodian of a child of any allegations of child abuse or neglect made against such person at the initial point of contact with such person, in a manner consistent with the laws maintaining the confidentiality of the persons making the complaints or allegations. Investigations of child abuse and neglect should be conducted in a manner that will not jeopardize the safety or protection of the child or the integrity of the investigation process.

Whenever the department completes an investigation of a child abuse or neglect report under this chapter, the department shall notify the subject of the report of the department's investigative findings. The notice shall also advise the subject of the report that:

(a) A written response to the report may be provided to the department and that such response will be filed in the record following receipt by the department;

(b) Information in the department's record may be considered in subsequent investigations or proceedings related to child protection or child custody;

(c) Founded reports of child abuse and neglect may be considered in determining whether the person is disqualified from being licensed to provide child care, employed by a licensed child care agency, or authorized by the department to care for children; and

(d) A subject named in a founded report of child abuse or neglect has the right to seek review of the finding as provided in this chapter.

(3) The founded finding notification required by this section shall be made by certified mail, return receipt requested, to the person's last known address.

(4) The unfounded finding notification required by this section must be made by regular mail to the person's last known address or by email.

(5) The duty of notification created by this section is subject to the ability of the department to ascertain the location of the person to be notified. The department shall exercise reasonable, good-faith efforts to ascertain the location of persons entitled to notification under this section.

(6) The department shall provide training to all department personnel who conduct investigations under this section that shall include, but is not limited to, training regarding the legal duties of the department from the initial time of contact during investigation through treatment in order to protect children and families. [2017 c 269 § 2; 2005 c 512 § 1; 1998 c 314 § 8; 1997 c 282 § 2; 1993 c 412 § 17; 1985 c 183 § 1.]

Finding—Intent—2005 c 512: "The legislature finds that whenever possible, children should remain in the home of their parents. It is only when the safety of the child is in jeopardy that the child should be removed from the home.

It is the intent of the legislature that the department of social and health services be permitted to intervene in cases of chronic neglect where the health, welfare, or safety of the child is at risk. One incident of neglect may not rise to the level requiring state intervention; however, a pattern of neglect has been shown to cause damage to the health and well-being of the child subject to the neglect.

It is the intent of the legislature that, when chronic neglect has been found to exist in a family, the legal system reinforce the need for the parent's early engagement in services that will decrease the likelihood of future neglect. However, if the parents fail to comply with the offered necessary and available services, the state has the authority to intervene to protect the children who are at risk. If a parent fails to engage in available substance

abuse or mental health services necessary to maintain the safety of a child or a parent fails to correct substance abuse deficiencies that jeopardize the safety of a child, the state has the authority to intervene to protect a child." [2005 c 512 § 2.]

Additional notes found at www.leg.wa.gov

26.44.105 Information about rights—Oral and written information—Copies of dependency petition and any court order. Whenever a dependency petition is filed by the department, it shall advise the parents, and any child over the age of twelve who is subject to the dependency action, of their respective rights under RCW 13.34.090. The parents and the child shall be provided a copy of the dependency petition and a copy of any court orders which have been issued. This advice of rights under RCW 13.34.090 shall be in writing. The department caseworker shall also make reasonable efforts to advise the parent and child of these same rights orally. [2017 3rd sp.s. c 6 § 326; 1985 c 183 § 2.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

26.44.110 Information about rights—Custody without court order—Written statement required—Contents. If a child has been taken into custody by law enforcement pursuant to RCW 26.44.050, the law enforcement agency shall leave a written statement with a parent or in the residence of the parent if no parent is present. The statement shall give the reasons for the removal of the child from the home and the telephone number of the child protective services office in the parent's jurisdiction. [1985 c 183 § 3.]

26.44.115 Child taken into custody under court order—Information to parents. If a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.062, the child protective services worker shall take reasonable steps to advise the parents immediately, regardless of the time of day, that the child has been taken into custody, the reasons why the child was taken into custody, and general information about the child's placement. The department shall comply with RCW 13.34.060 when providing notice under this section. [2000 c 122 § 39; 1990 c 246 § 10; 1985 c 183 § 4.]

Additional notes found at www.leg.wa.gov

26.44.120 Information about rights—Notice to non-custodial parent. Whenever the child protective services worker is required to notify parents and children of their basic rights and other specific information as set forth in RCW 26.44.105 through 26.44.115, the child protective services worker shall also make a reasonable effort to notify the non-custodial parent of the same information in a timely manner. [1985 c 183 § 5.]

26.44.125 Alleged perpetrators—Right to review and amendment of finding—Hearing. (1) A person who is named as an alleged perpetrator after October 1, 1998, in a founded report of child abuse or neglect has the right to seek review and amendment of the finding as provided in this section.

(2) Within thirty calendar days after the department has notified the alleged perpetrator under RCW 26.44.100 that the person is named as an alleged perpetrator in a founded report of child abuse or neglect, he or she may request that the department review the finding. The request must be made in writing. The written notice provided by the department must contain at least the following information in plain language:

(a) Information about the department's investigative finding as it relates to the alleged perpetrator;

(b) Sufficient factual information to apprise the alleged perpetrator of the date and nature of the founded reports;

(c) That the alleged perpetrator has the right to submit to child protective services a written response regarding the child protective services finding which, if received, shall be filed in the department's records;

(d) That information in the department's records, including information about this founded report, may be considered in a later investigation or proceeding related to a different allegation of child abuse or neglect or child custody;

(e) That founded allegations of child abuse or neglect may be used by the department in determining:

(i) If a perpetrator is qualified to be licensed or approved to care for children or vulnerable adults; or

(ii) If a perpetrator is qualified to be employed by the department in a position having unsupervised access to children or vulnerable adults;

(f) That the alleged perpetrator has a right to challenge a founded allegation of child abuse or neglect.

(3) If a request for review is not made as provided in this subsection, the alleged perpetrator may not further challenge the finding and shall have no right to agency review or to an adjudicative hearing or judicial review of the finding, unless he or she can show that the department did not comply with the notice requirements of RCW 26.44.100.

(4) Upon receipt of a written request for review, the department shall review and, if appropriate, may amend the finding. Management level staff within the department designated by the secretary shall be responsible for the review. The review must be completed within thirty days after receiving the written request for review. The review must be conducted in accordance with procedures the department establishes by rule. Upon completion of the review, the department shall notify the alleged perpetrator in writing of the agency's determination. The notification must be sent by certified mail, return receipt requested, to the person's last known address.

(5) If, following agency review, the report remains founded, the person named as the alleged perpetrator in the report may request an adjudicative hearing to contest the finding. The adjudicative proceeding is governed by chapter 34.05 RCW and this section. The request for an adjudicative proceeding must be filed within thirty calendar days after receiving notice of the agency review determination. If a request for an adjudicative proceeding is not made as provided in this subsection, the alleged perpetrator may not further challenge the finding and shall have no right to agency review or to an adjudicative hearing or judicial review of the finding.

(6) Reviews and hearings conducted under this section are confidential and shall not be open to the public. Information about reports, reviews, and hearings may be disclosed

only in accordance with federal and state laws pertaining to child welfare records and child protective services reports.

(7) The department may adopt rules to implement this section. [2018 c 58 § 64; 2012 c 259 § 11; 1998 c 314 § 9.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Additional notes found at www.leg.wa.gov

26.44.130 Arrest without warrant. When a peace officer responds to a call alleging that a child has been subjected to sexual or physical abuse or criminal mistreatment and has probable cause to believe that a crime has been committed or responds to a call alleging that a temporary restraining order or preliminary injunction has been violated, the peace officer has the authority to arrest the person without a warrant pursuant to RCW 10.31.100. [2002 c 219 § 11; 1988 c 190 § 4.]

Intent—Finding—2002 c 219: See note following RCW 9A.42.037.

26.44.140 Treatment for abusive person removed from home. The court shall require that an individual who, while acting in a parental role, has physically or sexually abused a child and has been removed from the home pursuant to a court order issued in a proceeding under chapter 13.34 RCW, prior to being permitted to reside in the home where the child resides, complete the treatment and education requirements necessary to protect the child from future abuse. The court may require the individual to continue treatment as a condition for remaining in the home where the child resides. Unless a parent, custodian, or guardian has been convicted of the crime for the acts of abuse determined in a fact-finding hearing under chapter 13.34 RCW, such person shall not be required to admit guilt in order to begin to fulfill any necessary treatment and education requirements under this section.

The department or supervising agency shall be responsible for advising the court as to appropriate treatment and education requirements, providing referrals to the individual, monitoring and assessing the individual's progress, informing the court of such progress, and providing recommendations to the court.

The person removed from the home shall pay for these services unless the person is otherwise eligible to receive financial assistance in paying for such services. Nothing in this section shall be construed to create in any person an entitlement to services or financial assistance in paying for services. [2017 3rd sp.s. c 6 § 327; 1997 c 344 § 1; 1991 c 301 § 15; 1990 c 3 § 1301.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Finding—1991 c 301: See note following RCW 10.99.020.

26.44.150 Temporary restraining order restricting visitation for persons accused of sexually or physically abusing a child—Penalty for violating court order. (1) If a person who has unsupervised visitation rights with a minor child pursuant to a court order is accused of sexually or physically abusing a child and the alleged abuse has been reported to the proper authorities for investigation, the law enforcement officer conducting the investigation may file an affida-

vit with the prosecuting attorney stating that the person is currently under investigation for sexual or physical abuse of a child and that there is a risk of harm to the child if a temporary restraining order is not entered. Upon receipt of the affidavit, the prosecuting attorney shall determine whether there is a risk of harm to the child if a temporary restraining order is not entered. If the prosecutor determines there is a risk of harm, the prosecutor shall immediately file a motion for an order to show cause seeking to restrict visitation with the child, and seek a temporary restraining order. The restraining order shall be issued for up to ninety days or until the investigation has been concluded in favor of the alleged abuser, whichever is shorter.

(2) Willful violation of a court order entered under this section is a misdemeanor. The court order shall state: "Violation of this order is a criminal offense under chapter 26.44 RCW and will subject the violator to arrest." [1993 c 412 § 18.]

26.44.160 Allegations that child under twelve committed sex offense—Investigation—Referral to prosecuting attorney—Referral to department—Referral for treatment. (1) If a law enforcement agency receives a complaint that alleges that a child under age twelve has committed a sex offense as defined in RCW 9.94A.030, the agency shall investigate the complaint. If the investigation reveals that probable cause exists to believe that the youth may have committed a sex offense and the child is at least eight years of age, the agency shall refer the case to the proper county prosecuting attorney for appropriate action to determine whether the child may be prosecuted or is a sexually aggressive youth. If the child is less than eight years old, the law enforcement agency shall refer the case to the department.

(2) If the prosecutor or a judge determines the child cannot be prosecuted for the alleged sex offense because the child is incapable of committing a crime as provided in RCW 9A.04.050 and the prosecutor believes that probable cause exists to believe that the child engaged in acts that would constitute a sex offense, the prosecutor shall refer the child as a sexually aggressive youth to the department. The prosecutor shall provide the department with an affidavit stating that the prosecutor has determined that probable cause exists to believe that the juvenile has committed acts that could be prosecuted as a sex offense but the case is not being prosecuted because the juvenile is incapable of committing a crime as provided in RCW 9A.04.050.

(3) The department shall investigate any referrals that allege that a child is a sexually aggressive youth. The purpose of the investigation shall be to determine whether the child is abused or neglected, as defined in this chapter, and whether the child or the child's parents are in need of services or treatment. The department may offer appropriate available services and treatment to a sexually aggressive youth and his or her parents or legal guardians as provided in RCW 74.13.075 and may refer the child and his or her parents to appropriate treatment and services available within the community. If the parents refuse to accept or fail to obtain appropriate treatment or services under circumstances that indicate that the refusal or failure is child abuse or neglect, as defined in this chapter, the department may pursue a dependency action as provided in chapter 13.34 RCW.

(4) Nothing in this section shall affect the responsibility of a law enforcement agency to report incidents of abuse or neglect as required in RCW 26.44.030(5). [1993 c 402 § 2.]

26.44.170 Alleged child abuse or neglect—Use of alcohol or controlled substances as contributing factor—

Evaluation. (1) When, as a result of a report of alleged child abuse or neglect, an investigation is made that includes an in-person contact with the person who is alleged to have committed the abuse or neglect, there shall be a determination of whether it is probable that the use of alcohol or controlled substances is a contributing factor to the alleged abuse or neglect.

(2) The department shall provide appropriate training for persons who conduct the investigations under subsection (1) of this section. The training shall include methods of identifying indicators of abuse of alcohol or controlled substances.

(3) If a determination is made under subsection (1) of this section that there is probable cause to believe abuse of alcohol or controlled substances has contributed to the child abuse or neglect, the department shall, within available funds, cause a comprehensive chemical dependency evaluation to be made of the person or persons so identified. The evaluation shall be conducted by a physician or persons certified under rules adopted by the department to make such evaluation. The department shall perform the duties assigned under this section within existing personnel resources. [1997 c 386 § 48.]

26.44.175 Multidisciplinary child protection teams—Information sharing—Confidentiality—Immunity from liability.

(1) The legislature finds that the purpose of multidisciplinary child protection teams as described in RCW 26.44.180 (1) and (2) is to ensure the protection and well-being of the child and to advance and coordinate the prompt investigation of suspected cases of child abuse or neglect to reduce the trauma of any child victim.

(2)(a) When a case as described in RCW 26.44.180 (1) or (2) is referred to the team, records pertaining to the case must be made available to team members. Any member of the team may use or disclose records made available by the team members under this subsection only as necessary for the performance of the member's duties as a member of the multidisciplinary child protection team.

(b) Team members may share information about criminal child abuse investigations and case planning following such investigations with other participants in the multidisciplinary coordination to the extent necessary to protect a child from abuse or neglect. This section is not intended to permit, direct, or compel team members to share information if sharing would constitute a violation of their professional ethical obligations or disclose privileged communications as described in RCW 5.60.060, or if sharing is otherwise impermissible under chapter 13.50 RCW or other applicable statutes.

(3)(a) Every member of the multidisciplinary child protection team who receives information or records regarding children and families in his or her capacity as a member of the team is subject to the same privacy and confidentiality obligations and confidentiality penalties as the person disclosing or providing the information or records. The information or

records obtained by any team member must be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

(b) Multidisciplinary child protection team members must execute a confidentiality agreement every year.

(c) This section must not be construed to restrict guarantees of confidentiality provided under state or federal law.

(4) As convened by the county prosecutor, or his or her designee, a multidisciplinary child protection team should meet regularly, at least monthly, unless the needs and resources of each team dictate less frequent meetings. Team meetings are closed to the public and are not subject to chapter 42.30 RCW.

(5) Information and records communicated or provided to the multidisciplinary child protection team members by all providers and agencies, as well as information and records created in the course of a child abuse or neglect case investigation, are deemed private and confidential and are protected from discovery and disclosure by all applicable statutory and common law protections. Existing civil and criminal penalties apply to the inappropriate disclosure of information held by team members. To the extent that the records communicated or provided are confidential under RCW 13.50.100, these records may only be further released as authorized by RCW 13.50.100 or other applicable law.

(6) Any person who presented information before the multidisciplinary child protection team or who is a team member may testify as to matters within the person's knowledge. However, in a civil or criminal proceeding, such person or team member may not be questioned about opinions formed as a result of the case consultation meetings.

(7) Any multidisciplinary child protection team member whose action in facilitating the exchange and sharing of information in serving any child in the course of the member's profession, specialties, interests, or occupation, for the purpose of ensuring the safety of the child and the community and providing early intervention to avert more serious problems, is immune from any civil liability arising out of any good faith act relevant to participation on the team that might otherwise be incurred or imposed under this section. In a proceeding regarding immunity from liability, there is a rebuttable presumption of good faith. [2019 c 82 § 3.]

26.44.180 Multidisciplinary child protection teams—Investigation of child sexual abuse, online sexual exploitation and commercial sexual exploitation of minors, child fatality, child physical abuse, and criminal child neglect cases—Protocols.

(1) Each agency involved in investigating child sexual abuse, online sexual exploitation and commercial sexual exploitation of minors, as well as investigations of child fatality, child physical abuse, and criminal child neglect cases, shall document its role in handling cases and how it will coordinate with other local agencies or systems and shall adopt a local protocol based on the state guidelines. The department and local law enforcement agencies may include other agencies and systems that are involved with child sexual abuse victims in the multidisciplinary coordination.

(2)(a) Each county shall develop a written protocol for handling investigations of criminal child sexual abuse, online sexual exploitation and commercial sexual exploitation of minors, and child fatality, child physical abuse, and criminal

child neglect cases. The protocol shall address the coordination of such criminal investigations among multidisciplinary child protection team members, identified as representatives from the prosecutor's office, law enforcement, children's protective services, children's advocacy centers where available, local advocacy groups, community sexual assault programs as defined in RCW 70.125.030, licensed physical and mental health practitioners that are involved with child sexual abuse victims, and any other local agency involved in such criminal investigations, including those investigations involving multiple victims and multiple offenders. The protocol shall be developed by the prosecuting attorney with the assistance of the agencies referenced in this subsection.

(b) County protocol for handling investigations of online sexual exploitation and commercial sexual exploitation of minors must be implemented by July 1, 2021.

(3) Local protocols under this section shall be adopted and in place by July 1, 2000, and shall be submitted to the legislature prior to that date. Beginning on July 28, 2019, local protocols under subsection (1) of this section must be reviewed every two years to determine whether modifications are needed. [2019 c 82 § 2; 2010 c 176 § 2; 1999 c 389 § 4.]

26.44.185 Investigation of child sexual abuse—Revision and expansion of protocols—Child fatality, child physical abuse, and criminal child neglect cases. (1) Each county shall revise and expand its existing child sexual abuse investigation protocol to address investigations of child fatality, child physical abuse, and criminal child neglect cases and to incorporate the statewide guidelines for first responders to child fatalities developed by the criminal justice training commission. The protocols shall address the coordination of child fatality, child physical abuse, and criminal child neglect investigations between the county and city prosecutor's offices, law enforcement, children's protective services, children's advocacy centers, where available, local advocacy groups, emergency medical services, and any other local agency involved in the investigation of such cases. The protocol shall include the handling of child forensic interview audio and video recordings in accordance with RCW 26.44.186. The protocol revision and expansion shall be developed by the prosecuting attorney in collaboration with the agencies referenced in this section.

(2) Revised and expanded protocols under this section shall be adopted and in place by July 1, 2008. Thereafter, the protocols shall be reviewed every two years to determine whether modifications are needed. [2018 c 171 § 5; 2010 c 176 § 3; 2007 c 410 § 3.]

Effective date—2018 c 171: See note following RCW 26.44.188.

Additional notes found at www.leg.wa.gov

26.44.186 Child forensic interview recordings disclosed in a criminal or civil proceeding subject to protective order—Civil penalties and sanctions. (1) Any and all audio and video recordings of child forensic interviews disclosed in a criminal or civil proceeding must be subject to a protective order, or other such order, unless the court finds good cause that the interview should not be subject to such an order. The protective order shall include the following: (a) That the recording be used only for the purposes of conduct-

ing the party's side of the case, unless otherwise agreed by the parties or ordered by the court; (b) that the recording not be copied, photographed, duplicated, or otherwise reproduced except as a written transcript that does not reveal the identity of the child; (c) that the recording not be given, displayed, or in any way provided to a third party, except as permitted in (d) or (e) of this subsection or as necessary at trial; (d) that the recording remain in the exclusive custody of the attorneys, their employees, or agents, including expert witnesses retained by either party, who shall be provided a copy of the protective order; (e) that, if the party is not represented by an attorney, the party, their employees, and agents, including expert witnesses, shall not be given a copy of the recording but shall be given reasonable access to view the recording by the custodian of the recording; and (f) that upon termination of representation or upon disposition of the matter at the trial court level, attorneys and other custodians of recordings promptly return all copies of the recording.

(2) A violation of a court order pursuant to this section is subject to a civil penalty of up to ten thousand dollars, in addition to any other appropriate sanction by the court.

(3) Nothing in this section is intended to restrict the ability of the department or law enforcement to share child welfare information as authorized or required by state or federal law. [2018 c 171 § 6.]

Effective date—2018 c 171: See note following RCW 26.44.188.

26.44.187 Child forensic interviews—Audio/video recordings exempt from disclosure under public records act—Court order required for disclosure. Any and all audio and video recordings of child forensic interviews as defined in this chapter are exempt from disclosure under the public records act, chapter 42.56 RCW. Such recordings are confidential under chapter 13.50 RCW and federal law and may only be disclosed pursuant to a court order entered upon a showing of good cause and with advance notice to the child's parent, guardian, or legal custodian. However, if the child is an emancipated minor or has attained the age of majority as defined in RCW 26.28.010, advance notice must be to the child. Failure to disclose an audio or video recording of a child forensic interview as defined in this chapter is not grounds for penalties or other sanctions available under chapter 42.56 RCW or RCW 13.50.100(10). Nothing in this section is intended to restrict the ability of the department or law enforcement to share child welfare information as authorized or required by state or federal law. [2018 c 171 § 4.]

Effective date—2018 c 171: See note following RCW 26.44.188.

26.44.188 Finding—Intent—Restrictions on dissemination of child forensic interview recordings. The legislature recognizes an inherent privacy interest that a child has with respect to the child's recorded voice and image when describing the highly sensitive details of abuse or neglect upon the child as defined in RCW 26.44.020. The legislature further finds that reasonable restrictions on the dissemination of these recordings can accommodate both privacy interests and due process. To that end, the legislature intends to exempt these recordings from dissemination under the public records act and provide additional sanction authority for violations of protective orders that set forth such terms and con-

ditions as are necessary to protect the privacy of the child. [2018 c 171 § 1.]

Effective date—2018 c 171: "Except for section 3 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 22, 2018]." [2018 c 171 § 11.]

26.44.190 Investigation of child abuse or neglect—Participation by law enforcement officer. A law enforcement agency shall not allow a law enforcement officer to participate as an investigator in the investigation of alleged abuse or neglect concerning a child for whom the law enforcement officer is, or has been, a parent, guardian, or foster parent. This section is not intended to limit the authority or duty of a law enforcement officer to report, testify, or be examined as authorized or required by this chapter, or to perform other official duties as a law enforcement officer. [1999 c 389 § 9.]

Findings—Intent—1999 c 389 § 9: "The legislature finds that the parent, guardian, or foster parent of a child who may be the victim of abuse or neglect may become involved in the investigation of the abuse or neglect. The parent, guardian, or foster parent may also be made a party to later court proceedings and be subject to a court-ordered examination by a physician, psychologist, or psychiatrist. It is the intent of the legislature by enacting section 9 of this act to avoid actual or perceived conflicts of interest that may occur when the parent, guardian, or foster parent is also a law enforcement officer and is assigned to conduct the investigation of alleged abuse or neglect concerning the child." [1999 c 389 § 8.]

26.44.195 Negligent treatment or maltreatment—Offer of services—Evidence of substance abuse—In-home services—Initiation of dependency proceedings. (1) If the department, upon investigation of a report that a child has been abused or neglected as defined in this chapter, determines that the child has been subject to negligent treatment or maltreatment, the department may offer services to the child's parents, guardians, or legal custodians to: (a) Ameliorate the conditions that endangered the welfare of the child; or (b) address or treat the effects of mistreatment or neglect upon the child.

(2) When evaluating whether the child has been subject to negligent treatment or maltreatment, evidence of a parent's substance abuse as a contributing factor to a parent's failure to provide for a child's basic health, welfare, or safety shall be given great weight.

(3) If the child's parents, guardians, or legal custodians are available and willing to participate on a voluntary basis in in-home services, and the department determines that in-home services on a voluntary basis are appropriate for the family, the department may offer such services.

(4) In cases where the department has offered appropriate and reasonable services under subsection (1) of this section, and the parents, guardians, or legal custodians refuse to accept or fail to obtain available and appropriate treatment or services, or are unable or unwilling to participate in or successfully and substantially complete the treatment or services identified by the department, the department may initiate a dependency proceeding under chapter 13.34 RCW on the basis that the negligent treatment or maltreatment by the parent, guardian, or legal custodian constitutes neglect. When evaluating whether to initiate a dependency proceeding on this basis, the evidence of a parent's substance abuse as a con-

tributing factor to the negligent treatment or maltreatment shall be given great weight.

(5) Nothing in this section precludes the department from filing a dependency petition as provided in chapter 13.34 RCW if it determines that such action is necessary to protect the child from abuse or neglect.

(6) Nothing in this section shall be construed to create in any person an entitlement to services or financial assistance in paying for services or to create judicial authority to order the provision of services to any person or family if the services are unavailable or unsuitable or if the child or family is not eligible for such services. [2005 c 512 § 6.]

Finding—Intent—Effective date—Short title—2005 c 512: See notes following RCW 26.44.100.

26.44.200 Methamphetamine manufacture—Presence of child. A law enforcement agency in the course of investigating: (1) An allegation under RCW 69.50.401 (1) and (2) (a) through (e) relating to manufacture of methamphetamine; or (2) an allegation under RCW 69.50.440 relating to possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, that discovers a child present at the site, shall contact the department immediately. [2009 c 520 § 18; 2002 c 134 § 4; 2001 c 52 § 3.]

Finding—Construction—2001 c 52: See notes following RCW 13.34.350.

Additional notes found at www.leg.wa.gov

26.44.210 Alleged child abuse or neglect at the state school for the deaf—Investigation by department—Investigation report. (1) The department must investigate referrals of alleged child abuse or neglect occurring at the state school for the deaf, including alleged incidents involving students abusing other students; determine whether there is a finding of abuse or neglect; and determine whether a referral to law enforcement is appropriate under this chapter.

(2) The department must send a copy of the investigation report, including the finding, regarding any incidents of alleged child abuse or neglect at the state school for the deaf to the director of the Washington center for deaf and hard of hearing youth, or the director's designee. The department may include recommendations to the director and the board of trustees or its successor board for increasing the safety of the school's students. [2019 c 266 § 13; 2009 c 381 § 23; 2002 c 208 § 1.]

Findings—Intent—2009 c 381: See note following RCW 72.40.015.

26.44.220 Abuse of adolescents—Staff training curriculum. (1) Within existing resources, the department shall develop a curriculum designed to train department staff who assess or provide services to adolescents on how to screen and respond to referrals to child protective services when those referrals may involve victims of abuse or neglect between the ages of eleven and eighteen. At a minimum, the curriculum developed pursuant to this section shall include:

(a) Review of relevant laws and regulations, including the requirement that the department investigate complaints if a parent's or caretaker's actions result in serious physical or

emotional harm or present an imminent risk of serious harm to any person under eighteen;

(b) Review of departmental policies that require assessment and screening of abuse and neglect referrals on the basis of risk and not age;

(c) Explanation of safety assessment and risk assessment models;

(d) Case studies of situations in which the department has received reports of alleged abuse or neglect of older children and adolescents;

(e) Discussion of best practices in screening and responding to referrals involving older children and adolescents; and

(f) Discussion of how abuse and neglect referrals related to adolescents are investigated and when law enforcement must be notified.

(2) As it develops its curriculum pursuant to this section, the department shall request that the office of the family and children's ombuds review and comment on its proposed training materials. The department shall consider the comments and recommendations of the office of the family and children's ombuds as it develops the curriculum required by this section.

(3) The department shall complete the curriculum materials required by this section no later than December 31, 2005.

(4) Within existing resources, the department shall incorporate training on the curriculum developed pursuant to this section into existing training for child protective services workers who screen intake calls, department staff responsible for assessing or providing services to older children and adolescents, and all new employees of the department responsible for assessing or providing services to older children and adolescents. [2018 c 58 § 46; 2013 c 23 § 44; 2005 c 345 § 1.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

26.44.240 Out-of-home care—Emergency placement—Criminal history record check. (1) During an emergency situation when a child must be placed in out-of-home care due to the absence of appropriate parents or custodians, the department shall, or an authorized agency of a federally recognized tribe may, request a federal name-based criminal history record check of each adult residing in the home of the potential placement resource. Upon receipt of the results of the name-based check, the department shall, or an authorized agency of a federally recognized tribe may, provide a complete set of each adult resident's fingerprints to the Washington state patrol for submission to the federal bureau of investigation within fifteen calendar days from the date the name search was conducted. The child shall be removed from the home immediately if any adult resident fails to provide fingerprints and written permission to perform a federal criminal history record check when requested.

(2) When placement of a child in a home is denied as a result of a name-based criminal history record check of a resident, and the resident contests that denial, the resident shall, within fifteen calendar days, submit to the department or an authorized agency of a federally recognized tribe a complete set of the resident's fingerprints with written permission allowing the department or an authorized agency of a feder-

ally recognized tribe to forward the fingerprints to the Washington state patrol for submission to the federal bureau of investigation.

(3) The Washington state patrol and the federal bureau of investigation may each charge a reasonable fee for processing a fingerprint-based criminal history record check.

(4) As used in this section, "emergency placement" refers to those limited instances when the department or an authorized agency of a federally recognized tribe is placing a child in the home of private individuals, including neighbors, friends, or relatives, as a result of a sudden unavailability of the child's primary caretaker. [2016 c 49 § 1; 2008 c 232 § 2.]

Finding—2008 c 232: "The legislature finds that the safety of children in foster care depends upon receipt of comprehensive, accurate, and timely information about the background of prospective foster parents. It is vital to ensure that all relevant information about prospective foster parents is received and carefully reviewed. The legislature believes that some foster parents may have previously resided in other countries and that it is important to determine whether those countries have background information on the prospective foster parents that might impact the safety of children in their care." [2008 c 232 § 1.]

26.44.250 Arrest upon drug or alcohol-related driving offense—Child protective services notified if child is present and operator is a parent, guardian, or custodian.

A law enforcement officer shall promptly notify child protective services whenever a child is present in a vehicle being driven by his or her parent, guardian, or legal custodian and that person is being arrested for a drug or alcohol-related driving offense. This section does not require law enforcement to take custody of the child unless there is no other responsible person, or an agency having the right to physical custody of the child that can be contacted, or the officer has reasonable grounds to believe the child should be taken into custody pursuant to RCW 13.34.050 or 26.44.050. For purposes of this section, "child" means any person under thirteen years of age. [2010 c 214 § 2.]

Reviser's note: The same language was codified under RCW 46.61.507 pursuant to 2010 c 214 § 1. However, RCW 46.61.507 was further amended by 2012 c 42 § 1 without amendment to this section.

26.44.260 Family assessment response. (1) No later than December 1, 2013, the department shall implement the family assessment response. The department may implement the family assessment response on a phased-in basis, by geographical area.

(2) The department shall develop an implementation plan in consultation with stakeholders, including tribes. The department shall submit a report of the implementation plan to the appropriate committees of the legislature by December 31, 2012. At a minimum, the following must be developed before implementation and included in the report to the legislature:

(a) Description of the family assessment response practice model;

(b) Identification of possible additional noninvestigative responses or pathways;

(c) Development of an intake screening tool and a family assessment tool specifically to be used in the family assessment response. The family assessment tool must, at minimum, evaluate the safety of the child and determine services needed by the family to improve or restore family well-being;

(d) Delineation of staff training requirements;

- (e) Development of strategies to reduce disproportionality;
- (f) Development of strategies to assist and connect families with the appropriate private or public housing support agencies, for those parents whose inability to obtain or maintain safe housing creates a risk of harm to the child, risk of out-of-home placement of the child, or a barrier to reunification;
- (g) Identification of methods to involve local community partners in the development of community-based resources to meet families' needs. Local community partners may include, but are not limited to: Alumni of the foster care system and veteran parents, local private service delivery agencies, schools, local health departments and other health care providers, juvenile court, law enforcement, office of public defense social workers or local defense attorneys, domestic violence victims advocates, and other available community-based entities;
- (h) Delineation of procedures to assure continuous quality assurance;
- (i) Identification of current departmental expenditures for services appropriate for the family assessment response, to the greatest practicable extent;
- (j) Identification of philanthropic funding and other private funding available to supplement public resources in response to identified family needs;
- (k) Mechanisms to involve the child's Washington state tribe, if any, in any family assessment response, when the child subject to the family assessment response is an Indian child, as defined in RCW 13.38.040;
- (l) A potential phase-in schedule if proposed; and
- (m) Recommendations for legislative action required to implement the plan. [2012 c 259 § 2.]

26.44.270 Family assessment—Recommendation of services. (1) Within ten days of the conclusion of the family assessment, the department must meet with the child's parent or guardian to discuss the recommendation for services to address child safety concerns or significant risk of subsequent child maltreatment.

(2) If the parent or guardian disagrees with the department's recommendation regarding the provision of services, the department shall convene a family team decision-making meeting to discuss the recommendations and objections. The caseworker's supervisor and area administrator shall attend the meeting.

(3) If the department determines, based on the results of the family assessment, that services are not recommended then the department shall close the family assessment response case. [2012 c 259 § 6.]

Effective date—2012 c 259 §§ 1 and 3-10: See note following RCW 26.44.020.

26.44.272 Family assessment—Assessment for child safety and well-being—Referral to preschool, child care, or early learning programs—Communicating with and assisting families. (1) The family assessment response worker must assess for child safety and child well-being when collaborating with a family to determine the need for child care, preschool, or home visiting services and, as appropriate, the family assessment response worker must refer

children to preschool programs that are enrolled in the early achievers program and rate at a level 3, 4, or 5 unless:

(a) The family lives in an area with no local preschool programs that rate at a level 3, 4, or 5 in the early achievers program;

(b) The local preschool programs that rate at a level 3, 4, or 5 in the early achievers program are not able to meet the needs of the child; or

(c) The child is attending a preschool program prior to participating in family assessment response and the parent or caregiver does not want the child to change preschool programs.

(2) The family assessment response worker may make child care referrals for nonschool-aged children to licensed child care programs that rate at a level 3, 4, or 5 in the early achievers program described in *RCW 43.215.100 unless:

(a) The family lives in an area with no local programs that rate at level 3, 4, or 5 in the early achievers program;

(b) The local child care programs that rate at a level 3, 4, or 5 in the early achievers program are not able to meet the needs of the child; or

(c) The child is attending a child care program prior to participating in family assessment response and the parent or caregiver does not want the child to change child care programs.

(3) The family assessment response worker shall, when appropriate, provide referrals to high quality child care and early learning programs.

(4) The family assessment response worker shall, when appropriate, provide referrals to state and federally subsidized programs such as, but not limited to, licensed child care programs that receive state subsidy pursuant to *RCW 43.215.135; early childhood education and assistance programs; head start programs; and early head start programs.

(5) Prior to closing the family assessment response case, the family assessment response worker must, when appropriate, discuss child care and early learning services with the child's parent or caregiver.

If the family plans to use child care or early learning services, the family assessment response worker must work with the family to facilitate enrollment. [2014 c 160 § 1.]

***Reviser's note:** RCW 43.215.100 and 43.215.135 were recodified as RCW 43.216.085 and 43.216.135, respectively, pursuant to 2017 3rd sp.s. c 6 § 821, effective July 1, 2018.

26.44.280 Liability limited. Consistent with the paramount concern of the department to protect the child's interests of basic nurture, physical and mental health, and safety, and the requirement that the child's health and safety interests prevail over conflicting legal interests of a parent, custodian, or guardian, the liability of governmental entities, and their officers, agents, employees, and volunteers, to parents, custodians, or guardians accused of abuse or neglect is limited as provided in RCW 4.24.595. [2012 c 259 § 14.]

26.44.290 Near fatalities—Review of case files—Investigation. (1) When a case worker or other employee of the department responds to an allegation of child abuse or neglect that is screened in and open for investigation and there is a subsequent allegation of abuse or neglect resulting in a near fatality within one year of the initial allegation that

is screened in and open for investigation, the department is to immediately conduct a review of the case worker's and case worker's supervisor's case files and actions taken during the initial report of alleged child abuse or neglect. The purpose of the review is to determine if there were any errors by the employees under department policy, rule, or state statute. If any violations of policy, rule, or statute are found, the department is to conduct a formal employee investigation.

(2) A review conducted under this section is subject to the restrictions of RCW 74.13.640(4).

(3) "Near fatality" has the same meaning as in RCW 74.13.640. [2015 c 298 § 2.]

Short title—2015 c 298: "This act may be known and cited as Aiden's act." [2015 c 298 § 3.]

26.44.901 Construction—Prevention services. Nothing in this chapter may be construed to limit the department's authority to offer or provide prevention services or primary prevention services as defined in chapters 13.34 and 74.13 RCW, respectively. [2019 c 172 § 16.]

Chapter 26.50 RCW

DOMESTIC VIOLENCE PREVENTION

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26.50.900	Short title.
26.50.901	Effective date—1984 c 263.

Abuse of children: Chapter 26.44 RCW.

Arrest without warrant: RCW 10.31.100(2).

Dissolution of marriage: Chapter 26.09 RCW.

Domestic violence, official response: Chapter 10.99 RCW.

Nonparental actions for child custody: Chapter 26.10 RCW.

Shelters for victims of domestic violence: Chapter 70.123 RCW.

26.50.010 Definitions. As used in this chapter, the following terms shall have the meanings given them:

(1) "Court" includes the superior, district, and municipal courts of the state of Washington.

(2) "Dating relationship" means a social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties.

(3) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, sexual assault, or stalking as defined in RCW 9A.46.110 of one intimate partner by another intimate partner; or (b) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, sexual assault, or stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

(4) "Electronic monitoring" has the same meaning as in RCW 9.94A.030.

(5) "Essential personal effects" means those items necessary for a person's immediate health, welfare, and livelihood. "Essential personal effects" includes but is not limited to clothing, cribs, bedding, documents, medications, and personal hygiene items.

(6) "Family or household members" means: (a) Adult persons related by blood or marriage; (b) adult persons who are presently residing together or who have resided together in the past; and (c) persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(7) "Intimate partner" means: (a) Spouses, or domestic partners; (b) former spouses, or former domestic partners; (c) persons who have a child in common regardless of whether they have been married or have lived together at any time; (d) adult persons presently or previously residing together who have or have had a dating relationship; (e) persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship; and (f) persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship.

(8) "Judicial day" does not include Saturdays, Sundays, or legal holidays. [2019 c 263 § 204. Prior: 2015 c 287 § 8; 2008 c 6 § 406; 1999 c 184 § 13; 1995 c 246 § 1; prior: 1992 c 111 § 7; 1992 c 86 § 3; 1991 c 301 § 8; 1984 c 263 § 2.]

Findings—Intent—2019 c 263 §§ 202-803: See note following RCW 10.01.240.

Intent—Definition of domestic violence—2019 c 263 §§ 202-205: See note following RCW 10.01.240.

Findings—1992 c 111: See note following RCW 26.50.030.

Finding—1991 c 301: See note following RCW 10.99.020.

Domestic violence offenses defined: RCW 10.99.020.

Additional notes found at www.leg.wa.gov

26.50.020 Commencement of action—Jurisdiction—

Venue. (1)(a) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

(b) Any person thirteen years of age or older may seek relief under this chapter by filing a petition with a court alleging that he or she has been the victim of violence in a dating relationship and the respondent is sixteen years of age or older.

(2)(a) A person under eighteen years of age who is sixteen years of age or older may seek relief under this chapter and is not required to seek relief by a guardian or next friend.

(b) A person under sixteen years of age who is seeking relief under subsection (1)(b) of this section is required to seek relief by a parent, guardian, guardian ad litem, or next friend.

(3) No guardian or guardian ad litem need be appointed on behalf of a respondent to an action under this chapter who is under eighteen years of age if such respondent is sixteen years of age or older.

(4) The court may, if it deems necessary, appoint a guardian ad litem for a petitioner or respondent who is a party to an action under this chapter.

(5) Any petition filed under this chapter must specify whether the victim and respondent of the alleged domestic violence are intimate partners or family or household members within the meaning of RCW 26.50.010.

(6) The courts defined in RCW 26.50.010 have jurisdiction over proceedings under this chapter. The jurisdiction of district and municipal courts under this chapter shall be limited to enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders for protection provided for in RCW 26.50.070 if: (a) A superior court has exercised or is exercising jurisdiction over a proceeding under this title or chapter 13.34 RCW involving the parties; (b) the petition for relief under this chapter presents issues of residential schedule of and contact with children of the parties; or (c) the petition for relief under this chapter requests the court to exclude a party from the dwelling which the parties share. When the jurisdiction of a district or municipal court is limited to the issuance and enforcement of a temporary order, the district or municipal court shall set the full hearing provided for in RCW 26.50.050 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court shall have concurrent jurisdiction with the superior court to extend the order for protection.

(7) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid abuse. In that case, the petitioner may bring an action in the county or municipality of the previous or the new household or residence.

(2020 Ed.)

(8) A person's right to petition for relief under this chapter is not affected by the person leaving the residence or household to avoid abuse.

(9) For the purposes of this section "next friend" means any competent individual, over eighteen years of age, chosen by the minor and who is capable of pursuing the minor's stated interest in the action. [2019 c 263 § 205; 2010 c 274 § 302; 1992 c 111 § 8; 1989 c 375 § 28; 1987 c 71 § 1; 1985 c 303 § 1; 1984 c 263 § 3.]

Findings—Intent—2019 c 263 §§ 202-803: See note following RCW 10.01.240.

Intent—Definition of domestic violence—2019 c 263 §§ 202-205: See note following RCW 10.01.240.

Intent—2010 c 274: See note following RCW 10.31.100.

Findings—1992 c 111: See note following RCW 26.50.030.

Additional notes found at www.leg.wa.gov

26.50.021 Actions on behalf of vulnerable adults—Authority of department of social and health services—Immunity from liability.

The department of social and health services, in its discretion, may seek the relief provided in this chapter on behalf of and with the consent of any vulnerable adult as those persons are defined in RCW 74.34.020. Neither the department nor the state of Washington shall be liable for failure to seek relief on behalf of any persons under this section. [2000 c 119 § 1.]

Additional notes found at www.leg.wa.gov

26.50.025 Orders under this chapter and chapter 26.09, 26.10, 26.26A, or 26.26B RCW—Enforcement—Consolidation.

(1) Any order available under this chapter may be issued in actions under chapter 26.09, *26.10, 26.26A, or 26.26B RCW. If an order for protection is issued in an action under chapter 26.09, *26.10, 26.26A, or 26.26B RCW, the order shall be issued on the forms mandated by RCW 26.50.035(1). An order issued in accordance with this subsection is fully enforceable and shall be enforced under the provisions of this chapter.

(2) If a party files an action under chapter 26.09, *26.10, 26.26A, or 26.26B RCW, an order issued previously under this chapter between the same parties may be consolidated by the court under that action and cause number. Any order issued under this chapter after consolidation shall contain the original cause number and the cause number of the action under chapter 26.09, *26.10, 26.26A, or 26.26B RCW. Relief under this chapter shall not be denied or delayed on the grounds that the relief is available in another action. [2019 c 46 § 5036; 1995 c 246 § 2.]

***Reviser's note:** Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

Additional notes found at www.leg.wa.gov

26.50.030 Petition for an order for protection—Availability of forms and informational brochures—Bond not required.

There shall exist an action known as a petition for an order for protection in cases of domestic violence.

(1) A petition for relief shall allege the existence of domestic violence, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. Petitioner and respondent shall

disclose the existence of any other litigation concerning the custody or residential placement of a child of the parties as set forth in RCW 26.27.281 and the existence of any other restraining, protection, or no-contact orders between the parties.

(2) A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties except in cases where the court realigns petitioner and respondent in accordance with RCW 26.50.060(4).

(3) Within ninety days of receipt of the master copy from the administrative office of the courts, all court clerk's offices shall make available the standardized forms, instructions, and informational brochures required by RCW 26.50.035 and shall fill in and keep current specific program names and telephone numbers for community resources. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(4) No filing fee may be charged for proceedings under this section. Forms and instructional brochures shall be provided free of charge.

(5) A person is not required to post a bond to obtain relief in any proceeding under this section. [2005 c 282 § 39; 1996 c 248 § 12; 1995 c 246 § 3; 1992 c 111 § 2; 1985 c 303 § 2; 1984 c 263 § 4.]

Findings—1992 c 111: "The legislature finds that:

Domestic violence is a problem of immense proportions affecting individuals as well as communities. Domestic violence has long been recognized as being at the core of other major social problems: Child abuse, other crimes of violence against person or property, juvenile delinquency, and alcohol and drug abuse. Domestic violence costs millions of dollars each year in the state of Washington for health care, absence from work, services to children, and more. The crisis is growing.

While the existing protection order process can be a valuable tool to increase safety for victims and to hold batterers accountable, specific problems in its use have become evident. Victims have difficulty completing the paperwork required particularly if they have limited English proficiency; model forms have been modified to be inconsistent with statutory language; different forms create confusion for law enforcement agencies about the contents and enforceability of orders. Refinements are needed so that victims have the easy, quick, and effective access to the court system envisioned at the time the protection order process was first created.

When courts issue mutual protection orders without the filing of separate written petitions, notice to each respondent, and hearing on each petition, the original petitioner is deprived of due process. Mutual protection orders label both parties as violent and treat both as being equally at fault: Batterers conclude that the violence is excusable or provoked and victims who are not violent are confused and stigmatized. Enforcement may be ineffective and mutual orders may be used in other proceedings as evidence that the victim is equally at fault.

Valuable information about the reported incidents of domestic violence in the state of Washington is unobtainable without gathering data from all law enforcement agencies; without this information, it is difficult for policy-makers, funders, and service providers to plan for the resources and services needed to address the issue.

Domestic violence must be addressed more widely and more effectively in our state: Greater knowledge by professionals who deal frequently with domestic violence is essential to enforce existing laws, to intervene in domestic violence situations that do not come to the attention of the law enforcement or judicial systems, and to reduce and prevent domestic violence by intervening before the violence becomes severe.

Adolescent dating violence is occurring at increasingly high rates: Preventing and confronting adolescent violence is important in preventing potential violence in future adult relationships." [1992 c 111 § 1.]

Child abuse, temporary restraining order: RCW 26.44.063.

Orders prohibiting contact: RCW 10.99.040.

Temporary restraining order: RCW 26.09.060.

26.50.035 Development of instructions, informational brochures, forms, and handbook by the administrative office of the courts—Community resource list—Distribution of master copy. (1) The administrative office of the courts shall develop and prepare instructions and informational brochures required under RCW 26.50.030(4), standard petition and order for protection forms, and a court staff handbook on domestic violence and the protection order process. The standard petition and order for protection forms must be used after September 1, 1994, for all petitions filed and orders issued under this chapter. The instructions, brochures, forms, and handbook shall be prepared in consultation with interested persons, including a representative of the state domestic violence coalition, judges, and law enforcement personnel.

(a) The instructions shall be designed to assist petitioners in completing the petition, and shall include a sample of standard petition and order for protection forms.

(b) The informational brochure shall describe the use of and the process for obtaining, modifying, and terminating a domestic violence protection order as provided under this chapter, an antiharassment no-contact order as provided under chapter 9A.46 RCW, a domestic violence no-contact order as provided under chapter 10.99 RCW, a restraining order as provided under chapters 26.09, *26.10, 26.26A, 26.26B, and 26.44 RCW, an antiharassment protection order as provided by chapter 10.14 RCW, a foreign protection order as defined in chapter 26.52 RCW, and a Canadian domestic violence protection order as defined in RCW 26.55.010.

(c) The order for protection form shall include, in a conspicuous location, notice of criminal penalties resulting from violation of the order, and the following statement: "You can be arrested even if the person or persons who obtained the order invite or allow you to violate the order's prohibitions. The respondent has the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written application."

(d) The court staff handbook shall allow for the addition of a community resource list by the court clerk.

(2) All court clerks shall obtain a community resource list from a domestic violence program, defined in RCW 70.123.020, serving the county in which the court is located. The community resource list shall include the names and telephone numbers of domestic violence programs serving the community in which the court is located, including law enforcement agencies, domestic violence agencies, sexual assault agencies, legal assistance programs, interpreters, multicultural programs, and batterers' treatment programs. The court shall make the community resource list available as part of or in addition to the informational brochures described in subsection (1) of this section.

(3) The administrative office of the courts shall distribute a master copy of the petition and order forms, instructions, and informational brochures to all court clerks and shall distribute a master copy of the petition and order forms to all superior, district, and municipal courts.

(4) For purposes of this section, "court clerks" means court administrators in courts of limited jurisdiction and elected court clerks.

(5) The administrative office of the courts shall determine the significant non-English-speaking or limited English-speaking populations in the state. The administrator shall then arrange for translation of the instructions and informational brochures required by this section, which shall contain a sample of the standard petition and order for protection forms, into the languages spoken by those significant non-English-speaking populations and shall distribute a master copy of the translated instructions and informational brochures to all court clerks by January 1, 1997.

(6) The administrative office of the courts shall update the instructions, brochures, standard petition and order for protection forms, and court staff handbook when changes in the law make an update necessary. [2019 c 263 § 912; 2019 c 46 § 5037; 2005 c 282 § 40; 2000 c 119 § 14; 1995 c 246 § 4; 1993 c 350 § 2; 1985 c 303 § 3; 1984 c 263 § 31.]

Reviser's note: *(1) Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

(2) This section was amended by 2019 c 46 § 5037 and by 2019 c 263 § 912, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 263 §§ 901-915, 1001, and 1002: See RCW 26.55.903.

Findings—1993 c 350: "The legislature finds that domestic violence is a problem of immense proportions affecting individuals as well as communities. Domestic violence has long been recognized as being at the core of other major social problems including child abuse, crimes of violence against person or property, juvenile delinquency, and alcohol and drug abuse. Domestic violence costs include the loss of lives as well as millions of dollars each year in the state of Washington for health care, absence from work, and services to children. The crisis is growing.

While the existing protection order process can be a valuable tool to increase safety for victims and to hold batterers accountable, specific problems in its use have become evident. Victims have difficulty completing the paperwork required; model forms have been modified to be inconsistent with statutory language; different forms create confusion for law enforcement agencies about the contents and enforceability of orders. Refinements are needed so that victims have the easy, quick, and effective access to the court system envisioned at the time the protection order process was first created.

Valuable information about the reported incidents of domestic violence in the state of Washington is unobtainable without gathering data from all law enforcement agencies. Without this information, it is difficult for policymakers, funders, and service providers to plan for the resources and services needed to address the issue." [1993 c 350 § 1.]

Additional notes found at www.leg.wa.gov

26.50.040 Fees not permitted—Filing, service of process, certified copies. No fees for filing or service of process may be charged by a public agency to petitioners seeking relief under this chapter. Petitioners shall be provided the necessary number of certified copies at no cost. [1995 c 246 § 5; 1985 c 303 § 4; 1984 c 263 § 5.]

Additional notes found at www.leg.wa.gov

26.50.050 Hearing—Service—Time. Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. The court may schedule a hearing by telephone pursuant to local court rule, to reasonably accommodate a disability, or in exceptional circumstances to protect a petitioner from further acts of domestic violence. The court shall require assurances of the petitioner's identity before conducting a telephonic

(2020 Ed.)

hearing. Except as provided in RCW 26.50.085 and 26.50.123, personal service shall be made upon the respondent not less than five court days prior to the hearing. If timely personal service cannot be made, the court shall set a new hearing date and shall either require an additional attempt at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or service by mail as provided in RCW 26.50.123. The court shall not require more than two attempts at obtaining personal service and shall permit service by publication or by mail unless the petitioner requests additional time to attempt personal service. If the court permits service by publication or by mail, the court shall set the hearing date not later than twenty-four days from the date of the order. The court may issue an ex parte order for protection pending the hearing as provided in RCW 26.50.070, 26.50.085, and 26.50.123. [2008 c 287 § 2; 1995 c 246 § 6; 1992 c 143 § 1; 1984 c 263 § 6.]

Additional notes found at www.leg.wa.gov

26.50.055 Appointment of interpreter. (1) Pursuant to chapter 2.42 RCW, an interpreter shall be appointed for any party who, because of a hearing or speech impairment, cannot readily understand or communicate in spoken language.

(2) Pursuant to chapter 2.43 RCW, an interpreter shall be appointed for any party who cannot readily speak or understand the English language.

(3) The interpreter shall translate or interpret for the party in preparing forms, participating in the hearing and court-ordered assessments, and translating any orders. [1995 c 246 § 11.]

Additional notes found at www.leg.wa.gov

26.50.060 Relief—Duration—Realignment of designation of parties—Award of costs, service fees, attorneys' fees, and limited license legal technician fees. (Effective until January 1, 2021.) (1) Upon notice and after hearing, the court may provide relief as follows:

(a) Restrain the respondent from committing acts of domestic violence;

(b) Exclude the respondent from the dwelling that the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;

(c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(e) Order the respondent to participate in a domestic violence perpetrator treatment program approved under RCW 26.50.150;

(f) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;

(g) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including rea-

sonable attorneys' fees or limited license legal technician fees when such fees are incurred by a person licensed and practicing in accordance with the state supreme court's admission to practice rule 28, the limited practice rule for limited license legal technicians;

(h) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household;

(i) Restrain the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260;

(j) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;

(k) Consider the provisions of RCW 9.41.800;

(l) Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included. Personal effects may include pets. The court may order that a petitioner be granted the exclusive custody or control of any pet owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child residing with either the petitioner or respondent and may prohibit the respondent from interfering with the petitioner's efforts to remove the pet. The court may also prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the pet is regularly found; and

(m) Order use of a vehicle.

(2) If a protection order restrains the respondent from contacting the respondent's minor children the restraint shall be for a fixed period not to exceed one year. This limitation is not applicable to orders for protection issued under chapter 26.09, *26.10, 26.26A, or 26.26B RCW. With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09, 26.26A, or 26.26B RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before

the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123. If the court permits service by publication or mail, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection (1)(g) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service, service by publication, or service by mail and whether the court has approved service by publication or mail of an order issued under this section.

(7) If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial. [2019 c 46 § 5038; 2018 c 84 § 1; 2010 c 274 § 304; 2009 c 439 § 2; 2000 c 119 § 15; 1999 c 147 § 2; 1996 c 248 § 13; 1995 c 246 § 7; 1994 sp.s. c 7 § 457. Prior: 1992 c 143 § 2; 1992 c 111 § 4; 1992 c 86 § 4; 1989 c 411 § 1; 1987 c 460 § 55; 1985 c 303 § 5; 1984 c 263 § 7.]

***Reviser's note:** Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

Intent—2010 c 274: See note following RCW 10.31.100.

Finding—Intent—2009 c 439: "The legislature finds that considerable research shows a strong correlation between animal abuse, child abuse, and domestic violence. The legislature intends that perpetrators of domestic violence not be allowed to further terrorize and manipulate their victims, or the children of their victims, by using the threat of violence toward pets." [2009 c 439 § 1.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Findings—1992 c 111: See note following RCW 26.50.030.

Additional notes found at www.leg.wa.gov

26.50.060 Relief—Duration—Realignment of designation of parties—Award of costs, service fees, attorneys' fees, and limited license legal technician fees. (Effective January 1, 2021.) (1) Upon notice and after hearing, the court may provide relief as follows:

(a) Restrain the respondent from committing acts of domestic violence;

(b) Exclude the respondent from the dwelling that the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;

(c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(e) Order the respondent to participate in a domestic violence perpetrator treatment program approved under RCW 26.50.150;

(f) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;

(g) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys' fees or limited license legal technician fees when such fees are incurred by a person licensed and practicing in accordance with the state supreme court's admission to practice rule 28, the limited practice rule for limited license legal technicians;

(h) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household;

(i) Restrain the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260;

(j) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;

(k) Consider the provisions of RCW 9.41.800;

(l) Order possession and use of essential personal effects. The court shall list the essential personal effects with suffi-

cient specificity to make it clear which property is included. Personal effects may include pets. The court may order that a petitioner be granted the exclusive custody or control of any pet owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child residing with either the petitioner or respondent and may prohibit the respondent from interfering with the petitioner's efforts to remove the pet. The court may also prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the pet is regularly found;

(m) Order use of a vehicle; and

(n) Enter an order restricting the respondent from engaging in abusive litigation as set forth in chapter 26.51 RCW. A petitioner may request this relief in the petition or by separate motion. A petitioner may request this relief by separate motion at any time within five years of the date the order for protection is entered even if the order has since expired. A stand-alone motion for an order restricting abusive litigation may be brought by a party who meets the requirements of chapter 26.51 RCW regardless of whether the party has previously sought an order for protection under this chapter, provided the motion is made within five years of the date the order that made a finding of domestic violence was entered. In cases where a finding of domestic violence was entered pursuant to an order under chapter 26.09, *26.26, or 26.26A RCW, a motion for an order restricting abusive litigation may be brought under the family law case or as a stand-alone action filed under this chapter, when it is not reasonable or practical to file under the family law case.

(2) If a protection order restrains the respondent from contacting the respondent's minor children the restraint shall be for a fixed period not to exceed one year. This limitation is not applicable to orders for protection issued under chapter 26.09, **26.10, 26.26A, or 26.26B RCW. With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09, 26.26A, or 26.26B RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit

service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123. If the court permits service by publication or mail, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection (1)(g) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service, service by publication, or service by mail and whether the court has approved service by publication or mail of an order issued under this section.

(7) If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial. [2020 c 311 § 9; 2019 c 46 § 5038; 2018 c 84 § 1; 2010 c 274 § 304; 2009 c 439 § 2; 2000 c 119 § 15; 1999 c 147 § 2; 1996 c 248 § 13; 1995 c 246 § 7; 1994 sp.s. c 7 § 457. Prior: 1992 c 143 § 2; 1992 c 111 § 4; 1992 c 86 § 4; 1989 c 411 § 1; 1987 c 460 § 55; 1985 c 303 § 5; 1984 c 263 § 7.]

Reviser's note: *(1) The majority of chapter 26.26 RCW was repealed by 2018 c 6 § 907. For later enactment of the uniform parentage act, see chapter 26.26A RCW.

***(2) Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2121.

Effective date—2020 c 311: See RCW 26.51.901.

Intent—2010 c 274: See note following RCW 10.31.100.

Finding—Intent—2009 c 439: "The legislature finds that considerable research shows a strong correlation between animal abuse, child abuse, and domestic violence. The legislature intends that perpetrators of domestic violence not be allowed to further terrorize and manipulate their victims, or the children of their victims, by using the threat of violence toward pets." [2009 c 439 § 1.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Findings—1992 c 111: See note following RCW 26.50.030.

Additional notes found at www.leg.wa.gov

26.50.070 Ex parte temporary order for protection.

(1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of domestic violence;

(b) Restraining any party from going onto the grounds of or entering the dwelling that the parties share, from the residence, workplace, or school of the other, or from the day care or school of a child until further order of the court;

(c) Prohibiting any party from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court;

(e) Restraining any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household; and

(f) Restraining the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260.

(2) In issuing the order, the court shall consider the provisions of RCW 9.41.800, and shall order the respondent to surrender, and prohibit the respondent from possessing, all firearms, dangerous weapons, and any concealed pistol license as required in RCW 9.41.800.

(3) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

(4) The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

(5) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte temporary order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the ex parte temporary order or not later than twenty-four days if service by publication or by mail is permitted. Except as provided in RCW 26.50.050, 26.50.085, and 26.50.123, the respondent shall be personally served with a copy of the ex parte temporary order along with a copy of the petition and notice of the date set for the hearing.

(6) Any order issued under this section shall contain the date and time of issuance and the expiration date and shall be entered into a statewide judicial information system by the clerk of the court within one judicial day after issuance.

(7) If the court declines to issue an ex parte temporary order for protection the court shall state the particular reasons for the court's denial. The court's denial of a motion for an ex parte temporary order for protection shall be filed with the court. [2019 c 245 § 14; 2018 c 22 § 9; 2010 c 274 § 305; 2000 c 119 § 16; 1996 c 248 § 14; 1995 c 246 § 8; 1994 sp.s. c 7 § 458; 1992 c 143 § 3; 1989 c 411 § 2; 1984 c 263 § 8.]

Explanatory statement—2018 c 22: See note following RCW 1.20.051.

Intent—2010 c 274: See note following RCW 10.31.100.

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Child abuse, temporary restraining order: RCW 26.44.063.

Orders prohibiting contact: RCW 10.99.040.

Temporary restraining order: RCW 26.09.060.

Additional notes found at www.leg.wa.gov

26.50.080 Issuance of order—Assistance of peace officer—Designation of appropriate law enforcement agency. (1) When an order is issued under this chapter upon request of the petitioner, the court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of those items indicated in the order or to otherwise assist in the execution of the order of protection. The order shall list all items that are to be included with sufficient specificity to make it clear which property is included. Orders issued under this chapter shall include a designation of the appropriate law enforcement agency to execute, serve, or enforce the order.

(2) Upon order of a court, a peace officer shall accompany the petitioner in an order of protection and assist in placing the petitioner in possession of all items listed in the order and to otherwise assist in the execution of the order. [1995 c 246 § 9; 1984 c 263 § 9.]

Additional notes found at www.leg.wa.gov

26.50.085 Hearing reset after ex parte order—Service by publication—Circumstances. (1) If the respondent was not personally served with the petition, notice of hearing, and ex parte order before the hearing, the court shall reset the hearing for twenty-four days from the date of entry of the order and may order service by publication instead of personal service under the following circumstances:

- (a) The sheriff or municipal officer files an affidavit stating that the officer was unable to complete personal service upon the respondent. The affidavit must describe the number and types of attempts the officer made to complete service;
- (b) The petitioner files an affidavit stating that the petitioner believes that the respondent is hiding from the server to avoid service. The petitioner's affidavit must state the reasons for the belief that the respondent is avoiding service;
- (c) The server has deposited a copy of the summons, in substantially the form prescribed in subsection (3) of this section, notice of hearing, and the ex parte order of protection in the post office, directed to the respondent at the respondent's last known address, unless the server states that the server does not know the respondent's address; and
- (d) The court finds reasonable grounds exist to believe that the respondent is concealing himself or herself to avoid service, and that further attempts to personally serve the respondent would be futile or unduly burdensome.

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(2) The court shall reissue the temporary order of protection not to exceed another twenty-four days from the date of reissuing the ex parte protection order and order to provide service by publication.

(3) The publication shall be made in a newspaper of general circulation in the county where the petition was brought and in the county of the last known address of the respondent once a week for three consecutive weeks. The newspaper selected must be one of the three most widely circulated papers in the county. The publication of summons shall not be made until the court orders service by publication under this section. Service of the summons shall be considered complete when the publication has been made for three consecutive weeks. The summons must be signed by the petitioner. The summons shall contain the date of the first publication, and shall require the respondent upon whom service by publication is desired, to appear and answer the petition on the date set for the hearing. The summons shall also contain a brief statement of the reason for the petition and a summary of the provisions under the ex parte order. The summons shall be essentially in the following form:

In the court of the state of Washington for the county of
., Petitioner
vs. No.
., Respondent

The state of Washington to (respondent):

You are hereby summoned to appear on the day of, (year), at a.m./p.m., and respond to the petition. If you fail to respond, an order of protection will be issued against you pursuant to the provisions of the domestic violence protection act, chapter 26.50 RCW, for a minimum of one year from the date you are required to appear. A temporary order of protection has been issued against you, restraining you from the following: (Insert a brief statement of the provisions of the ex parte order). A copy of the petition, notice of hearing, and ex parte order has been filed with the clerk of this court.

.
Petitioner

[2016 c 202 § 25; 1992 c 143 § 4.]

26.50.090 Order—Service—Fees. (1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsections (6) and (8) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party. If the order includes a requirement under RCW 9.41.800 for the immediate surrender of all firearms, dangerous weapons, and any concealed pistol license, the order must be served by a law enforcement officer.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order

issued under this chapter electronically forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(7) Municipal police departments serving documents as required under this chapter may collect from respondents ordered to pay fees under RCW 26.50.060 the same fees for service and mileage authorized by RCW 36.18.040 to be collected by sheriffs.

(8) If the court previously entered an order allowing service of the notice of hearing and temporary order of protection by publication pursuant to RCW 26.50.085 or by mail pursuant to RCW 26.50.123, the court may permit service by publication or by mail of the order of protection issued under RCW 26.50.060. Service by publication must comply with the requirements of RCW 26.50.085 and service by mail must comply with the requirements of RCW 26.50.123. The court order must state whether the court permitted service by publication or by mail. [2019 c 245 § 15; 1995 c 246 § 10; 1992 c 143 § 6; 1985 c 303 § 6; 1984 c 263 § 10.]

Additional notes found at www.leg.wa.gov

26.50.095 Order following service by publication.

Following completion of service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123, if the respondent fails to appear at the hearing, the court may issue an order of protection as provided in RCW 26.50.060. That order must be served pursuant to RCW 26.50.090, and forwarded to the appropriate law enforcement agency pursuant to RCW 26.50.100. [1995 c 246 § 12; 1992 c 143 § 5.]

Additional notes found at www.leg.wa.gov

26.50.100 Order—Transmittal to law enforcement agency—Record in law enforcement information system—Enforceability. (1) A copy of an order for protection granted under this chapter shall 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 forthwith 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 shall remain in the computer for the period stated in the order. The law enforcement agency shall only expunge from the computer-based criminal intelligence information system orders that are expired, vacated, or superseded. Entry into the law enforcement 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.

(2) The information entered into the computer-based criminal intelligence information system shall include notice to law enforcement whether the order was personally served, served by publication, or served by mail. [1996 c 248 § 15; 1995 c 246 § 13; 1992 c 143 § 7; 1984 c 263 § 11.]

Additional notes found at www.leg.wa.gov

26.50.110 Violation of order—Penalties. (1)(a) Whenever an order is granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, *26.10, 26.26A, 26.26B, or 74.34 RCW, any temporary order for protection is granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW, there is a valid foreign protection order as defined in RCW 26.52.020, or there is a valid Canadian domestic violence protection order as defined in RCW 26.55.010, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

(i) The restraint provisions prohibiting acts or threats of violence against, or stalking of, a protected party, or restraint provisions prohibiting contact with a protected party;

(ii) A provision excluding the person from a residence, workplace, school, or day care;

(iii) A provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location;

(iv) A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, respondent, or a minor child residing with either the petitioner or the respondent; or

(v) A provision of a foreign protection order or a Canadian domestic violence protection order specifically indicating that a violation will be a crime.

(b) Upon conviction, and in addition to any other penalties provided by law, the court:

(i) May require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(ii) Shall impose a fine of fifteen dollars, in addition to any penalty or fine imposed, for a violation of a domestic violence protection order issued under this chapter. Revenue from the fifteen dollar fine must be remitted monthly to the state treasury for deposit in the domestic violence prevention account.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, *26.10, 26.26A, 26.26B, or 74.34 RCW, any temporary order for protection granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW, a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in RCW

26.55.010, that restrains the person or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, *26.10, 26.26A, 26.26B, or 74.34 RCW, a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in RCW 26.55.010, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, *26.10, 26.26A, 26.26B, or 74.34 RCW, a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in RCW 26.55.010, and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of such an order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, *26.10, 26.26A, 26.26B, or 74.34 RCW, a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in RCW 26.55.010, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, *26.10, 26.26A, 26.26B, or 74.34 RCW, a valid foreign protection order as defined in RCW 26.52.020 or a valid Canadian domestic violence protection order as defined in RCW 26.55.010. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, *26.10, 26.26A, 26.26B, or 74.34 RCW, a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in RCW 26.55.010, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation. [2019 c 263 § 913; 2019 c 46 § 5039; 2017 c 230 § 9. Prior: 2015 c 275 § 15; 2015 c 248 § 1; 2013 c 84 § 31; prior: 2009 c 439 § 3; 2009 c 288 § 3; 2007 c 173 § 2; 2006 c 138 § 25; 2000 c 119 § 24; 1996 c 248 § 16; 1995 c 246 § 14; 1992 c 86 § 5; 1991 c 301 § 6; 1984 c 263 § 12.]

Reviser's note: *(1) Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

(2020 Ed.)

(2) This section was amended by 2019 c 46 § 5039 and by 2019 c 263 § 913, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 263 §§ 901-915, 1001, and 1002: See RCW 26.55.903.

Finding—Intent—2009 c 439: See note following RCW 26.50.060.

Findings—2009 c 288: See note following RCW 9.94A.637.

Finding—Intent—2007 c 173: "The legislature finds this act necessary to restore and make clear its intent that a willful violation of a no-contact provision of a court order is a criminal offense and shall be enforced accordingly to preserve the integrity and intent of the domestic violence act. This act is not intended to broaden the scope of law enforcement power or effectuate any substantive change to any criminal provision in the Revised Code of Washington." [2007 c 173 § 1.]

Finding—1991 c 301: See note following RCW 10.99.020.

Violation of order protecting vulnerable adult: RCW 74.34.145.

Additional notes found at www.leg.wa.gov

26.50.115 Enforcement of ex parte order—Knowledge of order prerequisite to penalties—Reasonable efforts to serve copy of order. (1) When the court issues an ex parte order pursuant to RCW 26.50.070 or an order of protection pursuant to RCW 26.50.060, the court shall advise the petitioner that the respondent may not be subjected to the penalties set forth in RCW 26.50.110 for a violation of the order unless the respondent knows of the order.

(2) When a peace officer investigates a report of an alleged violation of an order for protection issued under this chapter the officer shall attempt to determine whether the respondent knew of the existence of the protection order. If the law enforcement officer determines that the respondent did not or probably did not know about the protection order and the officer is provided a current copy of the order, the officer shall serve the order on the respondent if the respondent is present. If the respondent is not present, the officer shall make reasonable efforts to serve a copy of the order on the respondent. If the officer serves the respondent with the petitioner's copy of the order, the officer shall give petitioner a receipt indicating that petitioner's copy has been served on the respondent. After the officer has served the order on the respondent, the officer shall enforce prospective compliance with the order.

(3) Presentation of an unexpired, certified copy of a protection order with proof of service is sufficient for a law enforcement officer to enforce the order regardless of the presence of the order in the law enforcement computer-based criminal intelligence information system. [1996 c 248 § 17; 1995 c 246 § 15; 1992 c 143 § 8.]

Additional notes found at www.leg.wa.gov

26.50.120 Violation of order—Prosecuting attorney or attorney for municipality may be requested to assist—Costs and attorney's fee. When a party alleging a violation of an order for protection issued under this chapter states that the party is unable to afford private counsel and asks the prosecuting attorney for the county or the attorney for the municipality in which the order was issued for assistance, the attorney shall initiate and prosecute a contempt proceeding if there is probable cause to believe that the violation occurred. In this action, the court may require the violator of the order

to pay the costs incurred in bringing the action, including a reasonable attorney's fee. [1984 c 263 § 13.]

26.50.123 Service by mail. (1) In circumstances justifying service by publication under RCW 26.50.085(1), if the serving party files an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as service by publication and that the serving party is unable to afford the cost of service by publication, the court may order that service be made by mail. Such service shall be made by any person over eighteen years of age, who is competent to be a witness, other than a party, by mailing copies of the order and other process to the party to be served at his or her last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first-class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender.

(2) Proof of service under this section shall be consistent with court rules for civil proceedings.

(3) Service under this section may be used in the same manner and shall have the same jurisdictional effect as service by publication for purposes of this chapter. Service shall be deemed complete upon the mailing of two copies as prescribed in this section. [1995 c 246 § 16.]

Additional notes found at www.leg.wa.gov

26.50.125 Service by publication or mailing—Costs. Except as provided in RCW 10.14.055, the court may permit service by publication or by mail under this chapter only if the petitioner pays the cost of publication or mailing unless the county legislative authority allocates funds for service of process by publication or by mail for indigent petitioners. [2002 c 117 § 5; 1995 c 246 § 17; 1992 c 143 § 9.]

Additional notes found at www.leg.wa.gov

26.50.130 Order for protection—Modification or termination—Service—Transmittal. (1) Upon a motion with notice to all parties and after a hearing, the court may modify the terms of an existing order for protection or may terminate an existing order for protection.

(2) A respondent's motion to modify or terminate an order for protection that is permanent or issued for a fixed period exceeding two years must include a declaration setting forth facts supporting the requested order for termination or modification. The motion and declaration must be served according to subsection (8) of this section. The nonmoving parties to the proceeding may file opposing declarations. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the declarations. If the court finds that the respondent established adequate cause, the court shall set a date for hearing the respondent's motion.

(3)(a) The court may not terminate an order for protection that is permanent or issued for a fixed period exceeding two years upon a motion of the respondent unless the respondent proves by a preponderance of the evidence that there has been a substantial change in circumstances such that the respondent is not likely to resume acts of domestic violence against the petitioner or those persons protected by the pro-

tection order if the order is terminated. In a motion by the respondent for termination of an order for protection that is permanent or issued for a fixed period exceeding two years, the petitioner bears no burden of proving that he or she has a current reasonable fear of imminent harm by the respondent.

(b) For the purposes of this subsection, a court shall determine whether there has been a "substantial change in circumstances" by considering only factors which address whether the respondent is likely to commit future acts of domestic violence against the petitioner or those persons protected by the protection order.

(c) In determining whether there has been a substantial change in circumstances the court may consider the following unweighted factors, and no inference is to be drawn from the order in which the factors are listed:

(i) Whether the respondent has committed or threatened domestic violence, sexual assault, stalking, or other violent acts since the protection order was entered;

(ii) Whether the respondent has violated the terms of the protection order, and the time that has passed since the entry of the order;

(iii) Whether the respondent has exhibited suicidal ideation or attempts since the protection order was entered;

(iv) Whether the respondent has been convicted of criminal activity since the protection order was entered;

(v) Whether the respondent has either acknowledged responsibility for the acts of domestic violence that resulted in entry of the protection order or successfully completed domestic violence perpetrator treatment or counseling since the protection order was entered;

(vi) Whether the respondent has a continuing involvement with drug or alcohol abuse, if such abuse was a factor in the protection order;

(vii) Whether the petitioner consents to terminating the protection order, provided that consent is given voluntarily and knowingly;

(viii) Whether the respondent or petitioner has relocated to an area more distant from the other party, giving due consideration to the fact that acts of domestic violence may be committed from any distance;

(ix) Other factors relating to a substantial change in circumstances.

(d) In determining whether there has been a substantial change in circumstances, the court may not base its determination solely on: (i) The fact that time has passed without a violation of the order; or (ii) the fact that the respondent or petitioner has relocated to an area more distant from the other party.

(e) Regardless of whether there is a substantial change in circumstances, the court may decline to terminate a protection order if it finds that the acts of domestic violence that resulted in the issuance of the protection order were of such severity that the order should not be terminated.

(4) The court may not modify an order for protection that is permanent or issued for a fixed period exceeding two years upon a motion of the respondent unless the respondent proves by a preponderance of the evidence that the requested modification is warranted. If the requested modification would reduce the duration of the protection order or would eliminate provisions in the protection order restraining the respondent from harassing, stalking, threatening, or committing other

acts of domestic violence against the petitioner or the petitioner's children or family or household members or other persons protected by the order, the court shall consider the factors in subsection (3)(c) of this section in determining whether the protection order should be modified. Upon a motion by the respondent for modification of an order for protection that is permanent or issued for a fixed period exceeding two years, the petitioner bears no burden of proving that he or she has a current reasonable fear of imminent harm by the respondent.

(5) A respondent may file a motion to terminate or modify an order no more than once in every twelve-month period that the order is in effect, starting from the date of the order and continuing through any renewal.

(6) Upon a motion by a petitioner, the court may modify or terminate an existing order for protection. The court shall hear the motion without an adequate cause hearing.

(7) A court may require the respondent to pay court costs and service fees, as established by the county or municipality incurring the expense and to pay the petitioner for costs incurred in responding to a motion to terminate or modify a protection order, including reasonable attorneys' fees.

(8) Except as provided in RCW 26.50.085 and 26.50.123, a motion to modify or terminate an order for protection must be personally served on the nonmoving party not less than five court days prior to the hearing.

(a) If a moving party seeks to modify or terminate an order for protection that is permanent or issued for a fixed period exceeding two years, the sheriff of the county or the peace officers of the municipality in which the nonmoving party resides or a licensed process server shall serve the nonmoving party personally except when a petitioner is the moving party and elects to have the nonmoving party served by a private party. If the order includes a requirement under RCW 9.41.800 for the immediate surrender of all firearms, dangerous weapons, and any concealed pistol license, the order must be served by a law enforcement officer.

(b) If the sheriff, municipal peace officer, or licensed process server cannot complete service upon the nonmoving party within ten days, the sheriff, municipal peace officer, or licensed process server shall notify the moving party. The moving party shall provide information sufficient to permit notification by the sheriff, municipal peace officer, or licensed process server.

(c) If timely personal service cannot be made, the court shall set a new hearing date and shall either require an additional attempt at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or service by mail as provided in RCW 26.50.123.

(d) The court shall not require more than two attempts at obtaining personal service and shall permit service by publication or by mail unless the moving party requests additional time to attempt personal service.

(e) If the court permits service by publication or by mail, the court shall set the hearing date not later than twenty-four days from the date of the order permitting service by publication or by mail.

(9) Municipal police departments serving documents as required under this chapter may recover from a respondent ordered to pay fees under subsection (7) of this section the

same fees for service and mileage authorized by RCW 36.18.040 to be collected by sheriffs.

(10) In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modified or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the law enforcement information system. [2019 c 245 § 16; 2011 c 137 § 2; 2008 c 287 § 3; 1984 c 263 § 14.]

Findings—2011 c 137: "The legislature finds that civil domestic violence protection orders are an essential tool for interrupting an abuser's ability to perpetrate domestic violence. The legislature has authorized courts to enter permanent or fixed term domestic violence protection orders if the court finds that the respondent is likely to resume acts of domestic violence when the order expires. However, the legislature has not established procedures or guidelines for terminating or modifying a protection order after it is entered.

The legislature finds that some of the factors articulated in the Washington supreme court's decision in *In re Marriage of Freeman*, 169 Wn.2d 664, 239 P.3d 557 (2010), for terminating or modifying domestic violence protection orders do not demonstrate that a restrained person is unlikely to resume acts of domestic violence when the order expires, and place an improper burden on the person protected by the order. By this act, the legislature establishes procedures and guidelines for determining whether a domestic violence protection order should be terminated or modified." [2011 c 137 § 1.]

Additional notes found at www.leg.wa.gov

26.50.135 Residential placement or custody of a child—Prerequisite. (1) Before granting an order under this chapter directing residential placement of a child or restraining or limiting a party's contact with a child, the court shall consult the judicial information system, if available, to determine the pendency of other proceedings involving the residential placement of any child of the parties for whom residential placement has been requested.

(2) Jurisdictional issues regarding out-of-state proceedings involving the custody or residential placement of any child of the parties shall be governed by the uniform child custody jurisdiction [and enforcement] act, chapter 26.27 RCW. [1995 c 246 § 19.]

Additional notes found at www.leg.wa.gov

26.50.140 Peace officers—Immunity. No peace officer may be held criminally or civilly liable for making an arrest under RCW 26.50.110 if the police officer acts in good faith and without malice. [1984 c 263 § 17.]

26.50.150 Domestic violence perpetrator programs. Any program that provides domestic violence treatment to perpetrators of domestic violence must be certified by the department of social and health services and meet minimum standards for domestic violence treatment purposes. The department of social and health services shall adopt rules for standards of approval of domestic violence perpetrator programs. The treatment must meet the following minimum qualifications:

(1) All treatment must be based upon a full, complete clinical intake including but not limited to: Current and past violence history; a lethality risk assessment; history of treatment from past domestic violence perpetrator treatment programs; a complete diagnostic evaluation; a substance abuse assessment; criminal history; assessment of cultural issues,

learning disabilities, literacy, and special language needs; and a treatment plan that adequately and appropriately addresses the treatment needs of the individual.

(2) To facilitate communication necessary for periodic safety checks and case monitoring, the program must require the perpetrator to sign the following releases:

(a) A release for the program to inform the victim and victim's community and legal advocates that the perpetrator is in treatment with the program, and to provide information, for safety purposes, to the victim and victim's community and legal advocates;

(b) A release to prior and current treatment agencies to provide information on the perpetrator to the program; and

(c) A release for the program to provide information on the perpetrator to relevant legal entities including: Lawyers, courts, parole, probation, child protective services, and child welfare services.

(3) Treatment must be for a minimum treatment period defined by the secretary of the department of social and health services by rule. The weekly treatment sessions must be in a group unless there is a documented, clinical reason for another modality. Any other therapies, such as individual, marital, or family therapy, substance abuse evaluations or therapy, medication reviews, or psychiatric interviews, may be concomitant with the weekly group treatment sessions described in this section but not a substitute for it.

(4) The treatment must focus primarily on ending the violence, holding the perpetrator accountable for his or her violence, and changing his or her behavior. The treatment must be based on nonvictim-blaming strategies and philosophies and shall include education about the individual, family, and cultural dynamics of domestic violence. If the perpetrator or the victim has a minor child, treatment must specifically include education regarding the effects of domestic violence on children, such as the emotional impacts of domestic violence on children and the long-term consequences that exposure to incidents of domestic violence may have on children.

(5) Satisfactory completion of treatment must be contingent upon the perpetrator meeting specific criteria, defined by rule by the secretary of the department of social and health services, and not just upon the end of a certain period of time or a certain number of sessions.

(6) The program must have policies and procedures for dealing with reoffenses and noncompliance.

(7) All evaluation and treatment services must be provided by, or under the supervision of, qualified personnel.

(8) The secretary of the department of social and health services may adopt rules and establish fees as necessary to implement this section.

(9) The department of social and health services may conduct on-site monitoring visits as part of its plan for certifying domestic violence perpetrator programs and monitoring implementation of the rules adopted by the secretary of the department of social and health services to determine compliance with the minimum qualifications for domestic violence perpetrator programs. The applicant or certified domestic violence perpetrator program shall cooperate fully with the department of social and health services in the monitoring visit and provide all program and management records requested by the department of social and health ser-

vices to determine the program's compliance with the minimum certification qualifications and rules adopted by the department of social and health services. [2019 c 470 § 5; 2017 3rd sp.s. c 6 § 334; 2010 c 274 § 501; 1999 c 147 § 1; 1991 c 301 § 7.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Intent—2010 c 274: See note following RCW 10.31.100.

Finding—1991 c 301: See note following RCW 10.99.020.

26.50.160 Judicial information system—Database.

To prevent the issuance of competing protection orders in different courts and to give courts needed information for issuance of orders, the judicial information system shall be available in each district, municipal, and superior court by July 1, 1997, and shall include a database containing the following information:

(1) The names of the parties and the cause number for every order of protection issued under this title, every sexual assault protection order issued under chapter 7.90 RCW, every criminal no-contact order issued under chapters 9A.46 and 10.99 RCW, every antiharassment order issued under chapter 10.14 RCW, every dissolution action under chapter 26.09 RCW, every third-party custody action under *chapter 26.10 RCW, every parentage action under chapter 26.26A or 26.26B RCW, every restraining order issued on behalf of an abused child or adult dependent person under chapter 26.44 RCW, every foreign protection order filed under chapter 26.52 RCW, every Canadian domestic violence protection order filed under chapter 26.55 RCW, and every order for protection of a vulnerable adult under chapter 74.34 RCW. When a guardian or the department of social and health services or department of children, youth, and families has petitioned for relief on behalf of an abused child, adult dependent person, or vulnerable adult, the name of the person on whose behalf relief was sought shall be included in the database as a party rather than the guardian or appropriate department;

(2) A criminal history of the parties; and

(3) Other relevant information necessary to assist courts in issuing orders under this chapter as determined by the judicial information system committee. [2019 c 263 § 914; 2019 c 46 § 5040; 2017 3rd sp.s. c 6 § 335; 2006 c 138 § 26. Prior: 2000 c 119 § 25; 2000 c 51 § 1; 1995 c 246 § 18.]

Reviser's note: *(1) Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

(2) This section was amended by 2019 c 46 § 5040 and by 2019 c 263 § 914, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 263 §§ 901-915, 1001, and 1002: See RCW 26.55.903.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Additional notes found at www.leg.wa.gov

26.50.165 Judicial information system—Names of adult cohabitants in third-party custody actions. In addition to the information required to be included in the judicial information system under RCW 26.50.160, the database shall contain the names of any adult cohabitant of a petitioner to a third-party custody action under *chapter 26.10 RCW. [2003 c 105 § 4.]

*Reviser's note: Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

26.50.200 Title to real estate—Effect. Nothing in this chapter may affect the title to real estate: PROVIDED, That a judgment for costs or fees awarded under this chapter shall constitute a lien on real estate to the extent provided in chapter 4.56 RCW. [1985 c 303 § 7; 1984 c 263 § 15.]

26.50.210 Proceedings additional. Any proceeding under chapter 263, Laws of 1984 is in addition to other civil or criminal remedies. [1984 c 263 § 16.]

26.50.220 Parenting plan—Designation of parent for other state and federal purposes. 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. [1989 c 375 § 26.]

26.50.230 Protection order against person with a disability, brain injury, or impairment. (1) The administrative office of the courts shall update the law enforcement information form which it provides for the use of a petitioner who is seeking an ex parte protection order in such a fashion as to prompt the person to disclose on the form whether the person who the petitioner is seeking to restrain has a disability, brain injury, or impairment requiring special assistance.

(2) Any peace officer who serves a protection order on a respondent with the knowledge that the respondent requires special assistance due to a disability, brain injury, or impairment shall make a reasonable effort to accommodate the needs of the respondent to the extent practicable without compromise to the safety of the petitioner. [2010 c 274 § 303.]

Intent—2010 c 274: See note following RCW 10.31.100.

26.50.240 Personal jurisdiction—Nonresident individuals. (1) In a proceeding in which a petition for an order for protection under this chapter is sought, a court of this state may exercise personal jurisdiction over a nonresident individual if:

(a) The individual is personally served with a petition within this state;

(b) The individual submits to the jurisdiction of this state by consent, entering a general appearance, or filing a responsive document having the effect of waiving any objection to consent to personal jurisdiction;

(c) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred within this state;

(d)(i) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred outside this state and are part of an ongoing pattern of domestic violence or stalking that has an adverse effect on the petitioner or a member of the petitioner's family or household and the petitioner resides in this state; or

(ii) As a result of acts of domestic violence or stalking, the petitioner or a member of the petitioner's family or household has sought safety or protection in this state and currently resides in this state; or

(e) There is any other basis consistent with RCW 4.28.185 or with the Constitutions of this state and the United States.

(2) For jurisdiction to be exercised under subsection (1)(d)(i) or (ii) of this section, the individual must have communicated with the petitioner or a member of the petitioner's family, directly or indirectly, or made known a threat to the safety of the petitioner or member of the petitioner's family while the petitioner or family member resides in this state. For the purposes of subsection (1)(d)(i) or (ii) of this section, "communicated or made known" includes, but is not limited to, through the mail, telephonically, or a posting on an electronic communication site or medium. Communication on any electronic medium that is generally available to any individual residing in the state shall be sufficient to exercise jurisdiction under subsection (1)(d)(i) or (ii) of this section.

(3) For the purposes of this section, an act or acts that "occurred within this state" includes, but is not limited to, an oral or written statement made or published by a person outside of this state to any person in this state by means of the mail, interstate commerce, or foreign commerce. Oral or written statements sent by electronic mail or the internet are deemed to have "occurred within this state." [2010 c 274 § 306.]

Intent—2010 c 274: See note following RCW 10.31.100.

26.50.250 Disclosure of information. (1)(a) No court or administrative body may compel any person or domestic violence program as defined in RCW 70.123.020 to disclose the name, address, or location of any domestic violence program, including a shelter or transitional housing facility location, in any civil or criminal case or in any administrative proceeding unless the court finds by clear and convincing evidence that disclosure is necessary for the implementation of justice after consideration of safety and confidentiality concerns of the parties and other residents of the domestic violence program, and other alternatives to disclosure that would protect the interests of the parties.

(b) The court's findings shall be made following a hearing in which the domestic violence program has been provided notice of the request for disclosure and an opportunity to respond.

(2) In any proceeding where the confidential name, address, or location of a domestic violence program is ordered to be disclosed, the court shall order that the parties be prohibited from further dissemination of the confidential

information, and that any portion of any records containing such confidential information be sealed.

(3) Any person who obtains access to and intentionally and maliciously releases confidential information about the location of a domestic violence program for any purpose other than required by a court proceeding is guilty of a gross misdemeanor. [2012 c 223 § 9.]

26.50.900 Short title. This chapter may be cited as the "Domestic Violence Prevention Act". [1984 c 263 § 1.]

26.50.901 Effective date—1984 c 263. Sections 1 through 29 of this act shall take effect on September 1, 1984. [1984 c 263 § 32.]

Chapter 26.51 RCW

ABUSIVE LITIGATION—DOMESTIC VIOLENCE

Sections

26.51.010	Findings—Intent.
26.51.020	Definitions.
26.51.030	Order restricting abusive litigation—Who may request, when—Instructions, brochures, and forms—Fees.
26.51.040	Hearing—Procedure.
26.51.050	Evidence creating a rebuttable presumption that the litigation is primarily for the purpose of harassing, intimidating, or maintaining contact with the other party.
26.51.060	Burden of proof—Dismissal or denial of pending abusive litigation—Entry of order restricting abusive litigation.
26.51.070	Filing of new case or motion by person subject to an order restricting abusive litigation—Requirements—Procedures.
26.51.900	Construction—2020 c 311.
26.51.901	Effective date—2020 c 311.

26.51.010 Findings—Intent. (Effective January 1, 2021.) The legislature recognizes that individuals who abuse their intimate partners often misuse court proceedings in order to control, harass, intimidate, coerce, and/or impoverish the abused partner. Court proceedings can provide a means for an abuser to exert and reestablish power and control over a domestic violence survivor long after a relationship has ended. The legal system unwittingly becomes another avenue that abusers exploit to cause psychological, emotional, and financial devastation. This misuse of the court system by abusers has been referred to as legal bullying, stalking through the courts, paper abuse, and similar terms. The legislature finds that the term "abusive litigation" is the most common term and that it accurately describes this problem. Abusive litigation against domestic violence survivors arises in a variety of contexts. Family law cases such as dissolutions, legal separations, parenting plan actions or modifications, and protection order proceedings are particularly common forums for abusive litigation. It is also not uncommon for abusers to file civil lawsuits against survivors, such as defamation, tort, or breach of contract claims. Even if a lawsuit is meritless, forcing a survivor to spend time, money, and emotional resources responding to the action provides a means for the abuser to assert power and control over the survivor.

The legislature finds that courts have considerable authority to respond to abusive litigation tactics, while upholding litigants' constitutional rights to access to the courts. Because courts have inherent authority to control the conduct of litigants, they have considerable discretion to fashion creative remedies in order to curb abusive litigation.

The legislature intends to provide the courts with an additional tool to curb abusive litigation and to mitigate the harms abusive litigation perpetuates. [2020 c 311 § 1.]

26.51.020 Definitions. (Effective January 1, 2021.)

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abusive litigation" means litigation where the following apply:

(a)(i) The opposing parties have a current or former intimate partner relationship;

(ii) The party who is filing, initiating, advancing, or continuing the litigation has been found by a court to have committed domestic violence against the other party pursuant to: (A) An order entered under this chapter; (B) a parenting plan with restrictions based on RCW 26.09.191(2)(a)(iii); or (C) a restraining order entered under chapter 26.09, *26.26, or 26.26A RCW, provided that the issuing court made a specific finding that the restraining order was necessary due to domestic violence; and

(iii) The litigation is being initiated, advanced, or continued primarily for the purpose of harassing, intimidating, or maintaining contact with the other party; and

(b) At least one of the following factors apply:

(i) Claims, allegations, and other legal contentions made in the litigation are not warranted by existing law or by a reasonable argument for the extension, modification, or reversal of existing law, or the establishment of new law;

(ii) Allegations and other factual contentions made in the litigation are without the existence of evidentiary support; or

(iii) An issue or issues that are the basis of the litigation have previously been filed in one or more other courts or jurisdictions and the actions have been litigated and disposed of unfavorably to the party filing, initiating, advancing, or continuing the litigation.

(2) "Intimate partner" is defined in RCW 26.50.010.

(3) "Litigation" means any kind of legal action or proceeding including, but not limited to: (i) [(a)] Filing a summons, complaint, demand, or petition; (ii) [(b)] serving a summons, complaint, demand, or petition, regardless of whether it has been filed; (iii) [(c)] filing a motion, notice of court date, note for motion docket, or order to appear; (iv) [(d)] serving a motion, notice of court date, note for motion docket, or order to appear, regardless of whether it has been filed or scheduled; (v) [(e)] filing a subpoena, subpoena duces tecum, request for interrogatories, request for production, notice of deposition, or other discovery request; or (vi) [(f)] serving a subpoena, subpoena duces tecum, request for interrogatories, request for production, notice of deposition, or other discovery request.

(4) "Perpetrator of abusive litigation" means a person who files, initiates, advances, or continues litigation in violation of an order restricting abusive litigation. [2020 c 311 § 2.]

***Reviser's note:** The majority of chapter 26.26 RCW was repealed by 2018 c 6 § 907. For later enactment of the uniform parentage act, see chapter 26.26A RCW.

26.51.030 Order restricting abusive litigation—Who may request, when—Instructions, brochures, and forms—Fees. (Effective January 1, 2021.) (1) A party to a case

may request from the court an order restricting abusive litigation if the parties are current or former intimate partners and one party has been found by the court to have committed domestic violence against the other party:

(a) In any answer or response to the litigation being filed, initiated, advanced, or continued;

(b) By motion made at any time during any open or ongoing case; or

(c) By separate motion made under this chapter, within five years of the entry of an order for protection even if the order has since expired.

(2) Any court of competent jurisdiction may, on its own motion, determine that a hearing pursuant to RCW 26.51.040 is necessary to determine if a party is engaging in abusive litigation.

(3) The administrative office of the courts shall update the instructions, brochures, standard petition, and order for protection forms, and create new forms for the motion for order restricting abusive litigation and order restricting abusive litigation, and update the court staff handbook when changes in the law make an update necessary.

(4) No filing fee may be charged to the unrestricted party for proceedings under this section regardless of whether it is filed under this chapter or another action in this title. Forms and instructional brochures shall be provided free of charge.

(5) The provisions of this section are nonexclusive and do not affect any other remedy available. [2020 c 311 § 3.]

26.51.040 Hearing—Procedure. (Effective January 1, 2021.) (1) If a party asserts that they are being subjected to abusive litigation, the court shall attempt to verify that the parties have or previously had an intimate partner relationship and that the party raising the claim of abusive litigation has been found to be a victim of domestic violence by the other party. If the court verifies that both elements are true, or is unable to verify that they are not true, the court shall set a hearing to determine whether the litigation meets the definition of abusive litigation.

(2) At the time set for the hearing on the alleged abusive civil action, the court shall hear all relevant testimony and may require any affidavits, documentary evidence, or other records the court deems necessary. [2020 c 311 § 4.]

26.51.050 Evidence creating a rebuttable presumption that the litigation is primarily for the purpose of harassing, intimidating, or maintaining contact with the other party. (Effective January 1, 2021.) At the hearing conducted pursuant to RCW 26.51.040, evidence of any of the following creates a rebuttable presumption that litigation is being initiated, advanced, or continued primarily for the purpose of harassing, intimidating, or maintaining contact with the other party:

(1) The same or substantially similar issues between the same or substantially similar parties have been litigated within the past five years in the same court or any other court of competent jurisdiction; or

(2) The same or substantially similar issues between the same or substantially similar parties have been raised, pled, or alleged in the past five years and were dismissed on the merits or with prejudice; or

(2020 Ed.)

(3) Within the last ten years, the party allegedly engaging in abusive litigation has been sanctioned under superior court civil rule 11 or a similar rule or law in another jurisdiction for filing one or more cases, petitions, motions, or other filings, that were found to have been frivolous, vexatious, intransigent, or brought in bad faith involving the same opposing party; or

(4) A court of record in another judicial district has determined that the party allegedly engaging in abusive litigation has previously engaged in abusive litigation or similar conduct and has been subject to a court order imposing pre-filing restrictions. [2020 c 311 § 5.]

26.51.060 Burden of proof—Dismissal or denial of pending abusive litigation—Entry of order restricting abusive litigation. (Effective January 1, 2021.) (1) If the court finds by a preponderance of the evidence that a party is engaging in abusive litigation, and that any or all of the motions or actions pending before the court are abusive litigation, the litigation shall be dismissed, denied, stricken, or resolved by other disposition with prejudice.

(2) In addition to dismissal or denial of any pending abusive litigation within the jurisdiction of the court, the court shall enter an "order restricting abusive litigation." The order shall:

(a) Impose all costs of any abusive civil action pending in the court at the time of the court's finding pursuant to subsection (1) of this section against the party advancing the abusive litigation;

(b) Award the other party reasonable attorneys' fees and costs of responding to the abusive litigation including the cost of seeking the order restricting abusive litigation; and

(c) Identify the party protected by the order and impose pre-filing restrictions upon the party found to have engaged in abusive litigation for a period of not less than forty-eight months nor more than seventy-two months.

(3) If the court finds by a preponderance of the evidence that the litigation does not constitute abusive litigation, the court shall enter written findings and the litigation shall proceed. Nothing in this section or chapter shall be construed as limiting the court's inherent authority to control the proceedings and litigants before it.

(4) The provisions of this section are nonexclusive and do not affect any other remedy available to the person who is protected by the order restricting abusive litigation or to the court. [2020 c 311 § 6.]

26.51.070 Filing of new case or motion by person subject to an order restricting abusive litigation—Requirements—Procedures. (Effective January 1, 2021.) (1) Except as provided in this section, a person who is subject to an order restricting abusive litigation is prohibited from filing, initiating, advancing, or continuing the litigation against the protected party for the period of time the filing restrictions are in effect.

(2) Notwithstanding subsection (1) of this section and consistent with the state Constitution, a person who is subject to an order restricting abusive litigation may seek permission to file a new case or a motion in an existing case using the procedure set out in subsection (3) of this section.

(3)(a) A person who is subject to an order restricting litigation against whom prefiling restrictions have been imposed pursuant to this chapter who wishes to initiate a new case or file a motion in an existing case during the time the person is under filing restrictions must first appear before the judicial officer who imposed the prefiling restrictions to make application for permission to institute the civil action.

(b)(i) The judicial officer may examine witnesses, court records, and any other available evidence to determine if the proposed litigation is abusive litigation or if there are reasonable and legitimate grounds upon which the litigation is based.

(ii) If the judicial officer determines the proposed litigation is abusive litigation, based on reviewing the records as well as any evidence from the person who is subject to the order, then it is not necessary for the person protected by the order to appear or participate in any way. If the judicial officer is unable to determine whether the proposed litigation is abusive without hearing from the person protected by the order, then the court shall issue an order scheduling a hearing, and notifying the protected party of the party's right to appear and/or participate in the hearing. The order should specify whether the protected party is expected to submit a written response. When possible, the protected party should be permitted to appear telephonically and provided instructions for how to appear telephonically.

(c)(i) If the judicial officer believes the litigation that the party who is subject to the prefiling order is making application to file will constitute abusive litigation, the application shall be denied, dismissed, or otherwise disposed with prejudice.

(ii) If the judicial officer reasonably believes that the litigation the party who is subject to the prefiling order is making application to file will not be abusive litigation, the judicial officer may grant the application and issue an order permitting the filing of the case, motion, or pleading. The order shall be attached to the front of the pleading to be filed with the clerk. The party who is protected by the order shall be served with a copy of the order at the same time as the underlying pleading.

(d) The findings of the judicial officer shall be reduced to writing and made a part of the record in the matter. If the party who is subject to the order disputes the finding of the judge, the party may seek review of the decision as provided by the applicable court rules.

(4) If the application for the filing of a pleading is granted pursuant to this section, the period of time commencing with the filing of the application requesting permission to file the action and ending with the issuance of an order permitting filing of the action shall not be computed as a part of any applicable period of limitations within which the matter must be instituted.

(5) If, after a party who is subject to prefiling restrictions has made application and been granted permission to file or advance a case pursuant to this section, any judicial officer hearing or presiding over the case, or any part thereof, determines that the person is attempting to add parties, amend the complaint, or is otherwise attempting to alter the parties and issues involved in the litigation in a manner that the judicial officer reasonably believes would constitute abusive litigation, the judicial officer shall stay the proceedings and refer

the case back to the judicial officer who granted the application to file, for further disposition.

(6)(a) If a party who is protected by an order restricting abusive litigation is served with a pleading filed by the person who is subject to the order, and the pleading does not have an attached order allowing the pleading, the protected party may respond to the case by filing a copy of the order restricting abusive litigation.

(b) If it is brought to the attention of the court that a person against whom prefiling restrictions have been imposed has filed a new case or is continuing an existing case without having been granted permission pursuant to this section, the court shall dismiss, deny, or otherwise dispose of the matter. This action may be taken by the court on the court's own motion or initiative. The court may take whatever action against the perpetrator of abusive litigation deemed necessary and appropriate for a violation of the order restricting abusive litigation.

(c) If a party who is protected by an order restricting abusive litigation is served with a pleading filed by the person who is subject to the order, and the pleading does not have an attached order allowing the pleading, the protected party is under no obligation or duty to respond to the summons, complaint, petition, motion, to answer interrogatories, to appear for depositions, or any other responsive action required by rule or statute in a civil action.

(7) If the judicial officer who imposed the prefiling restrictions is no longer serving in the same capacity in the same judicial district where the restrictions were placed, or is otherwise unavailable for any reason, any other judicial officer in that judicial district may perform the review required and permitted by this section. [2020 c 311 § 7.]

26.51.900 Construction—2020 c 311. This act shall be construed liberally so as to effectuate the goal of protecting survivors of domestic violence from abusive litigation. [2020 c 311 § 11.]

26.51.901 Effective date—2020 c 311. This act takes effect January 1, 2021. [2020 c 311 § 13.]

Chapter 26.52 RCW

FOREIGN PROTECTION ORDER FULL FAITH AND CREDIT ACT

Sections

26.52.005	Findings—Intent.
26.52.010	Definitions.
26.52.020	Foreign protection orders—Validity.
26.52.030	Foreign protection orders—Filing—Assistance.
26.52.040	Filed foreign protection orders—Transmittal to law enforcement agency—Entry into law enforcement information system.
26.52.050	Peace officer immunity.
26.52.060	Fees not permitted for filing, preparation, or copies.
26.52.070	Violation of foreign orders—Penalties.
26.52.080	Child custody disputes.
26.52.900	Short title—1999 c 184.

26.52.005 Findings—Intent. The problem of women fleeing across state lines to escape their abusers is epidemic in the United States. In 1994, Congress enacted the violence against women act (VAWA) as Title IV of the violent crime control and law enforcement act (P.L. 103-322). The VAWA

provides for improved prevention and prosecution of violent crimes against women and children. Section 2265 of the VAWA (Title IV, P.L. 103-322) provides for nationwide enforcement of civil and criminal protection orders in state and tribal courts throughout the country.

The legislature finds that existing statutes may not provide an adequate mechanism for victims, police, prosecutors, and courts to enforce a foreign protection order in our state. It is the intent of the legislature that the barriers faced by persons entitled to protection under a foreign protection order will be removed and that violations of foreign protection orders be criminally prosecuted in this state. [1999 c 184 § 2.]

26.52.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Domestic or family violence" includes, but is not limited to, conduct when committed by one family member against another that is classified in the jurisdiction where the conduct occurred as a domestic violence crime or a crime committed in another jurisdiction that under the laws of this state would be classified as domestic violence under RCW 10.99.020.

(2) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(3) "Foreign protection order" means an injunction or other order related to domestic or family violence, harassment, sexual abuse, or stalking, for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to another person issued by a court of another state, territory, or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, or any United States military tribunal, or a tribal court, in a civil or criminal action.

(4) "Harassment" includes, but is not limited to, conduct that is classified in the jurisdiction where the conduct occurred as harassment or a crime committed in another jurisdiction that under the laws of this state would be classified as harassment under RCW 9A.46.040.

(5) "Judicial day" does not include Saturdays, Sundays, or legal holidays in Washington state.

(6) "Person entitled to protection" means a person, regardless of whether the person was the moving party in the foreign jurisdiction, who is benefited by the foreign protection order.

(7) "Person under restraint" means a person, regardless of whether the person was the responding party in the foreign jurisdiction, whose ability to contact or communicate with

another person, or to be physically close to another person, is restricted by the foreign protection order.

(8) "Sexual abuse" includes, but is not limited to, conduct that is classified in the jurisdiction where the conduct occurred as a sex offense or a crime committed in another jurisdiction that under the laws of this state would be classified as a sex offense under RCW 9.94A.030.

(9) "Stalking" includes, but is not limited to, conduct that is classified in the jurisdiction where the conduct occurred as stalking or a crime committed in another jurisdiction that under the laws of this state would be classified as stalking under RCW 9A.46.110.

(10) "Washington court" includes the superior, district, and municipal courts of the state of Washington. [1999 c 184 § 3.]

26.52.020 Foreign protection orders—Validity. A foreign protection order is valid if the issuing court had jurisdiction over the parties and matter under the law of the state, territory, possession, tribe, or United States military tribunal. There is a presumption in favor of validity where an order appears authentic on its face.

A person under restraint must be given reasonable notice and the opportunity to be heard before the order of the foreign state, territory, possession, tribe, or United States military tribunal was issued, provided, in the case of ex parte orders, notice and opportunity to be heard was given as soon as possible after the order was issued, consistent with due process. [1999 c 184 § 4.]

26.52.030 Foreign protection orders—Filing—Assistance. (1) A person entitled to protection who has a valid foreign protection order may file that order by presenting a certified, authenticated, or exemplified copy of the foreign protection order to a clerk of the court of a Washington court in which the person entitled to protection resides or to a clerk of the court of a Washington court where the person entitled to protection believes enforcement may be necessary. Any out-of-state department, agency, or court responsible for maintaining protection order records, may by facsimile or electronic transmission send a reproduction of the foreign protection order to the clerk of the court of Washington as long as it contains a facsimile or electronic signature by any person authorized to make such transmission.

(2) Filing of a foreign protection order with a court and entry of the foreign protection order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants are not prerequisites for enforcement of the foreign protection order.

(3) The court shall accept the filing of a foreign protection order without a fee or cost.

(4) The clerk of the court shall provide information to a person entitled to protection of the availability of domestic violence, sexual abuse, and other services to victims in the community where the court is located and in the state.

(5) The clerk of the court shall assist the person entitled to protection in completing an information form that must include, but need not be limited to, the following:

(a) The name of the person entitled to protection and any other protected parties;

(b) The name and address of the person who is subject to the restraint provisions of the foreign protection order;

(c) The date the foreign protection order was entered;

(d) The date the foreign protection order expires;

(e) The relief granted under (specify the relief awarded and citations thereto, and designate which of the violations are arrestable offenses);

(f) The judicial district and contact information for court administration for the court in which the foreign protection order was entered;

(g) The social security number, date of birth, and description of the person subject to the restraint provisions of the foreign protection order;

(h) Whether the person who is subject to the restraint provisions of the foreign protection order is believed to be armed and dangerous;

(i) Whether the person who is subject to the restraint provisions of the foreign protection order was served with the order, and if so, the method used to serve the order;

(j) The type and location of any other legal proceedings between the person who is subject to the restraint provisions and the person entitled to protection.

An inability to answer any of the above questions does not preclude the filing or enforcement of a foreign protection order.

(6) The clerk of the court shall provide the person entitled to protection with a copy bearing proof of filing with the court.

(7) Any assistance provided by the clerk under this section does not constitute the practice of law. The clerk is not liable for any incomplete or incorrect information that he or she is provided. [2020 c 57 § 83; 1999 c 184 § 5.]

26.52.040 Filed foreign protection orders—Transmittal to law enforcement agency—Entry into law enforcement information system. (1) The clerk of the court shall forward a copy of a foreign protection order that is filed under this chapter on or before the next judicial day to the county sheriff along with the completed information form. The clerk may forward the foreign protection order to the county sheriff by facsimile or electronic transmission.

Upon receipt of a filed foreign protection order, the county sheriff shall immediately enter the foreign protection order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The foreign protection order must remain in the computer for the period stated in the order. The county sheriff shall only expunge from the computer-based criminal intelligence information system foreign protection orders that are expired, vacated, or superseded. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the foreign protection order. The foreign protection order is fully enforceable in any county in the state.

(2) The information entered into the computer-based criminal intelligence information system must include, if available, notice to law enforcement whether the foreign protection order was served and the method of service. [1999 c 184 § 6.]

26.52.050 Peace officer immunity. A peace officer or a peace officer's legal advisor may not be held criminally or civilly liable for making an arrest under this chapter if the peace officer or the peace officer's legal advisor acted in good faith and without malice. [1999 c 184 § 7.]

26.52.060 Fees not permitted for filing, preparation, or copies. A public agency may not charge a fee for filing or preparation of certified, authenticated, or exemplified copies to a person entitled to protection who seeks relief under this chapter or to a foreign prosecutor or a foreign law enforcement agency seeking to enforce a protection order entered by a Washington court. A person entitled to protection and foreign prosecutors or law enforcement agencies must be provided the necessary number of certified, authenticated, or exemplified copies at no cost. [1999 c 184 § 8.]

26.52.070 Violation of foreign orders—Penalties. (1) Whenever a foreign protection order is granted to a person entitled to protection and the person under restraint knows of the foreign protection order, a violation of a provision prohibiting the person under restraint from contacting or communicating with another person, or of a provision excluding the person under restraint from a residence, workplace, school, or day care, or of a provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime, is punishable under RCW 26.50.110.

(2) A peace officer shall arrest without a warrant and take into custody a person when the peace officer has probable cause to believe that a foreign protection order has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order that prohibits the person under restraint from contacting or communicating with another person, or a provision that excludes the person under restraint from a residence, workplace, school, or day care, or of a provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order. [2000 c 119 § 26; 1999 c 184 § 9.]

Additional notes found at www.leg.wa.gov

26.52.080 Child custody disputes. (1) Any disputes regarding provisions in foreign protection orders dealing with custody of children, residential placement of children, or visitation with children shall be resolved judicially. The proper venue and jurisdiction for such judicial proceedings shall be determined in accordance with chapter 26.27 RCW and in accordance with the parental kidnapping prevention act, 28 U.S.C. 1738A.

(2) A peace officer shall not remove a child from his or her current placement unless:

(a) A writ of habeas corpus to produce the child has been issued by a superior court of this state; or

(b) There is probable cause to believe that the child is abused or neglected and the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. [1999 c 184 § 10.]

26.52.900 Short title—1999 c 184. This act may be known and cited as the foreign protection order full faith and credit act. [1999 c 184 § 1.]

Chapter 26.55 RCW

UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDERS ACT

Sections

26.55.005	Short title.
26.55.010	Definitions.
26.55.020	Enforcement of Canadian domestic violence protection order by law enforcement officer.
26.55.030	Enforcement of Canadian domestic violence protection order by tribunal.
26.55.040	Registration of Canadian domestic violence protection order.
26.55.050	Immunity from civil and criminal liability.
26.55.060	Other remedies.
26.55.900	Uniformity of application and construction—2019 c 263.
26.55.901	Relation to electronic signatures in global and national commerce act.
26.55.902	Applicability.
26.55.903	Effective date—2019 c 263 §§ 901-915, 1001, and 1002.

26.55.005 Short title. This chapter may be cited as the uniform recognition and enforcement of Canadian domestic violence protection orders act. [2019 c 263 § 901.]

26.55.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Canadian domestic violence protection order" means a judgment or part of a judgment or order issued in a civil proceeding by a court of Canada under law of the issuing jurisdiction which relates to domestic violence and prohibits a respondent from:

(a) Being in physical proximity to a protected individual or following a protected individual;

(b) Directly or indirectly contacting or communicating with a protected individual or other individual described in the order;

(c) Being within a certain distance of a specified place or location associated with a protected individual; or

(d) Molesting, annoying, harassing, or engaging in threatening conduct directed at a protected individual.

(2) "Domestic protection order" means an injunction or other order issued by a tribunal which relates to domestic or family violence laws to prevent an individual from engaging in violent or threatening acts against, harassment of, direct or indirect contact or communication with, or being in physical proximity to another individual.

(3) "Issuing court" means the court that issues a Canadian domestic violence protection order.

(4) "Law enforcement officer" means an individual authorized by law of this state other than this chapter to enforce a domestic protection order.

(5) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or govern-

mental subdivision, agency, or instrumentality, or other legal entity.

(6) "Protected individual" means an individual protected by a Canadian domestic violence protection order.

(7) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(8) "Respondent" means an individual against whom a Canadian domestic violence protection order is issued.

(9) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

(10) "Tribunal" means a court, agency, or other entity authorized by law of this state other than this chapter to establish, enforce, or modify a domestic protection order. [2019 c 263 § 902.]

26.55.020 Enforcement of Canadian domestic violence protection order by law enforcement officer. (1) If a law enforcement officer determines under subsection (2) or (3) of this section that there is probable cause to believe a valid Canadian domestic violence protection order exists and the order has been violated, the officer shall enforce the terms of the Canadian domestic violence protection order as if the terms were in an order of a tribunal. Presentation to a law enforcement officer of a certified copy of a Canadian domestic violence protection order is not required for enforcement.

(2) Presentation to a law enforcement officer of a record of a Canadian domestic violence protection order that identifies both a protected individual and a respondent and on its face is in effect constitutes probable cause to believe that a valid order exists.

(3) If a record of a Canadian domestic violence protection order is not presented as provided in subsection (2) of this section, a law enforcement officer may consider other information in determining whether there is probable cause to believe that a valid Canadian domestic violence protection order exists.

(4) If a law enforcement officer determines that an otherwise valid Canadian domestic violence protection order cannot be enforced because the respondent has not been notified of or served with the order, the officer shall notify the protected individual that the officer will make reasonable efforts to contact the respondent, consistent with the safety of the protected individual. After notice to the protected individual and consistent with the safety of the individual, the officer shall make a reasonable effort to inform the respondent of the order, notify the respondent of the terms of the order, provide a record of the order, if available, to the respondent, and allow the respondent a reasonable opportunity to comply with the order before the officer enforces the order.

(5) If a law enforcement officer determines that an individual is a protected individual, the officer shall inform the individual of available local victim services. [2019 c 263 § 903.]

26.55.030 Enforcement of Canadian domestic violence protection order by tribunal. (1) A tribunal may issue an order enforcing or refusing to enforce a Canadian domestic violence protection order on application of:

(a) A person authorized by law of this state other than this chapter to seek enforcement of a domestic protection order; or

(b) A respondent.

(2) In a proceeding under subsection (1) of this section, the tribunal shall follow the procedures of this state for enforcement of a domestic protection order. An order entered under this section is limited to the enforcement of the terms of the Canadian domestic violence protection order as defined in RCW 26.55.010.

(3) A Canadian domestic violence protection order is enforceable under this section if:

(a) The order identifies a protected individual and a respondent;

(b) The order is valid and in effect;

(c) The issuing court had jurisdiction over the parties and the subject matter under law applicable in the issuing court; and

(d) The order was issued after:

(i) The respondent was given reasonable notice and had an opportunity to be heard before the court issued the order; or

(ii) In the case of an ex parte order, the respondent was given reasonable notice and had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the right of the respondent to due process.

(4) A Canadian domestic violence protection order valid on its face is prima facie evidence of its enforceability under this section.

(5) A claim that a Canadian domestic violence protection order does not comply with subsection (3) of this section is an affirmative defense in a proceeding seeking enforcement of the order. If the tribunal determines that the order is not enforceable, the tribunal shall issue an order that the Canadian domestic violence protection order is not enforceable under this section and RCW 26.55.020 and may not be registered under RCW 26.55.040. [2019 c 263 § 904.]

26.55.040 Registration of Canadian domestic violence protection order. (1) A person entitled to protection who has a valid Canadian domestic violence protection order may file that order by presenting a certified, authenticated, or exemplified copy of the Canadian domestic violence protection order to a clerk of the court of a Washington court in which the person entitled to protection resides or to a clerk of the court of a Washington court where the person entitled to protection believes enforcement may be necessary. Any out-of-state department, agency, or court responsible for maintaining protection order records, may by facsimile or electronic transmission send a reproduction of the foreign protection order to the clerk of the court of Washington as long as it contains a facsimile or digital signature by any person authorized to make such transmission.

(2) On receipt of a certified copy of a Canadian domestic violence protection order, the clerk of the court shall register the order in accordance with this section.

(3) An individual registering a Canadian domestic violence protection order under this section shall file an affidavit stating that, to the best of the individual's knowledge, the order is valid and in effect.

(4) After a Canadian domestic violence protection order is registered under this section, the clerk of the court shall provide the individual registering the order a certified copy of the registered order.

(5) A Canadian domestic violence protection order registered under this section may be entered in a state or federal registry of protection orders in accordance with law.

(6) An inaccurate, expired, or unenforceable Canadian domestic violence protection order may be corrected or removed from the registry of protection orders maintained in this state in accordance with law of this state other than this chapter.

(7) A fee may not be charged for the registration of a Canadian domestic violence protection order under this section.

(8) Registration in this state or filing under law of this state other than this chapter of a Canadian domestic violence protection order is not required for its enforcement under this chapter. [2019 c 263 § 905.]

26.55.050 Immunity from civil and criminal liability.

The state, state agency, local governmental agency, law enforcement officer, prosecuting attorney, clerk of court, and state or local governmental official acting in an official capacity are immune from civil and criminal liability for an act or omission arising out of the registration or enforcement of a Canadian domestic violence protection order or the detention or arrest of an alleged violator of a Canadian domestic violence protection order if the act or omission was a good faith effort to comply with this chapter. [2019 c 263 § 906.]

26.55.060 Other remedies. An individual who seeks a remedy under this chapter may seek other legal or equitable remedies. [2019 c 263 § 907.]

26.55.900 Uniformity of application and construction—2019 c 263. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. [2019 c 263 § 908.]

26.55.901 Relation to electronic signatures in global and national commerce act. This chapter modifies, limits, or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b). [2019 c 263 § 909.]

26.55.902 Applicability. This chapter applies to a Canadian domestic violence protection order issued before, on, or after January 1, 2020, and to a continuing action for enforcement of a Canadian domestic violence protection order commenced before, on, or after January 1, 2020. A request for enforcement of a Canadian domestic violence

protection order made on or after January 1, 2020, for a violation of the order occurring before, on, or after January 1, 2020, is governed by this chapter. [2019 c 263 § 910.]

26.55.903 Effective date—2019 c 263 §§ 901-915, 1001, and 1002. Sections 901 through 915, 1001, and 1002 of this act take effect January 1, 2020. [2019 c 263 § 1003.]

Chapter 26.60 RCW

STATE REGISTERED DOMESTIC PARTNERSHIPS

Sections

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Certificate of death—Domestic partnership information: RCW 70.58.175.

Domestic partnership registry—Forms—Rules: RCW 43.07.400.

Public employees—Domestic partner benefits: RCW 41.05.066.

26.60.010 Finding. Many Washingtonians are in intimate, committed, and exclusive relationships with another person to whom they are not legally married. These relationships are important to the individuals involved and their families; they also benefit the public by providing a private source of mutual support for the financial, physical, and emotional health of those individuals and their families. The public has an interest in providing a legal framework for such mutually supportive relationships, whether the partners are of the same or different sexes, and irrespective of their sexual orientation.

The legislature finds that the public interest would be served by extending rights and benefits to couples in which either or both of the partners are at least sixty-two years of age. While these couples are entitled to marry under the state's marriage statutes, some social security and pension laws nevertheless make it impractical for these couples to marry. For this reason, chapter 156, Laws of 2007 specifically allows couples to enter into a state registered domestic partnership if one of the persons is at least sixty-two years of age, the age at which many people choose to retire and are eligible to begin collecting social security and pension benefits.

The rights granted to state registered domestic partners in chapter 156, Laws of 2007 will further Washington's interest in promoting family relationships and protecting family members during life crises. Chapter 156, Laws of 2007 does not affect marriage or any other ways in which legal rights and responsibilities between two adults may be created, recognized, or given effect in Washington. [2012 c 3 § 8 (Referendum Measure No. 74, approved November 6, 2012); 2007 c 156 § 1.]

(2020 Ed.)

Effective date—2012 c 3 §§ 8 and 9: "Sections 8 and 9 of this act take effect June 30, 2014, but only if all other provisions of this act are implemented." [2012 c 3 § 18 (Referendum Measure No. 74, approved November 6, 2012).]

Notice—2012 c 3: See note following RCW 26.04.010.

26.60.015 Intent. It is the intent of the legislature that for all purposes under state law, state registered domestic partners shall be treated the same as married spouses. Any privilege, immunity, right, benefit, or responsibility granted or imposed by statute, administrative or court rule, policy, common law or any other law to an individual because the individual is or was a spouse, or because the individual is or was an in-law in a specified way to another individual, is granted on equivalent terms, substantive and procedural, to an individual because the individual is or was in a state registered domestic partnership or because the individual is or was, based on a state registered domestic partnership, related in a specified way to another individual. The provisions of chapter 521, Laws of 2009 shall be liberally construed to achieve equal treatment, to the extent not in conflict with federal law, of state registered domestic partners and married spouses. [2009 c 521 § 1.]

26.60.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "State registered domestic partners" means two adults who meet the requirements for a valid state registered domestic partnership as established by RCW 26.60.030 and who have been issued a certificate of state registered domestic partnership by the secretary.

(2) "Secretary" means the secretary of state's office.

(3) "Share a common residence" means inhabit the same residence. Two persons shall be considered to share a common residence even if:

(a) Only one of the domestic partners has legal ownership of the common residence;

(b) One or both domestic partners have additional residences not shared with the other domestic partner; or

(c) One domestic partner leaves the common residence with the intent to return. [2007 c 156 § 2.]

26.60.025 Definition—Domestic partnership. Whenever the term "domestic partnership" is used in the Revised Code of Washington it shall be defined to mean "state registered domestic partnership" and whenever the term "domestic partner" is used in the Revised Code of Washington it shall be defined to mean "state registered domestic partner." [2008 c 6 § 1201.]

26.60.030 Requirements. To enter into a state registered domestic partnership the two persons involved must meet the following requirements:

(1) Both persons share a common residence;

(2) Both persons are at least eighteen years of age and at least one of the persons is sixty-two years of age or older;

(3) Neither person is married to someone other than the party to the domestic partnership and neither person is in a state registered domestic partnership with another person;

(4) Both persons are capable of consenting to the domestic partnership; and

(5) Both of the following are true:

(a) The persons are not nearer of kin to each other than second cousins, whether of the whole or half blood computed by the rules of the civil law; and

(b) Neither person is a sibling, child, grandchild, aunt, uncle, niece, or nephew to the other person. [2012 c 3 § 9 (Referendum Measure No. 74, approved November 6, 2012); 2007 c 156 § 4.]

Effective date—2012 c 3 §§ 8 and 9: See note following RCW 26.60.010.

Notice—2012 c 3: See note following RCW 26.04.010.

26.60.040 Registration—Records—Fees. (1) Two persons desiring to become state registered domestic partners who meet the requirements of RCW 26.60.030 may register their domestic partnership by filing a declaration of state registered domestic partnership with the secretary and paying the filing fee established pursuant to subsection (4) of this section. The declaration must be signed by both parties and notarized.

(2) Upon receipt of a signed, notarized declaration and the filing fee, the secretary shall register the declaration and provide a certificate of state registered domestic partnership to each party named on the declaration.

(3) The secretary shall permanently maintain a record of each declaration of state registered domestic partnership filed with the secretary. The secretary has the authority to update the records to reflect changes in the status of a state registered domestic partnership, such as a change of address, name, dissolution, or death. The secretary shall provide the state registrar of vital statistics with records of declarations of state registered domestic partnerships.

(4) The secretary shall set by rule and collect a reasonable fee for filing the declaration, calculated to cover the secretary's costs, but not to exceed fifty dollars. Fees collected under this section are expressly designated for deposit in the secretary of state's revolving fund established under RCW 43.07.130. [2009 c 521 § 71; 2007 c 156 § 5.]

26.60.060 Domestic partnerships created by subdivisions of the state. (1)(a) A domestic partnership created by a subdivision of the state is not a state registered domestic partnership for the purposes of a state registered domestic partnership under this chapter. Those persons desiring to become state registered domestic partners under this chapter must register pursuant to RCW 26.60.040.

(b) A subdivision of the state that provides benefits to the domestic partners of its employees and chooses to use the definition of state registered domestic partner as set forth in RCW 26.60.020 must allow the certificate issued by the secretary of state to satisfy any registration requirements of the subdivision. A subdivision that uses the definition of state registered domestic partner as set forth in RCW 26.60.020 shall notify the secretary of state. The secretary of state shall compile and maintain a list of all subdivisions that have filed such notice. The secretary of state shall post this list on the secretary's web page and provide a copy of the list to each person that receives a certificate of state registered domestic partnership under RCW 26.60.040(2).

(c) Nothing in this section shall affect domestic partnerships created by any public entity.

(2) Nothing in chapter 156, Laws of 2007 affects any remedy available in common law. [2007 c 156 § 7.]

26.60.070 Patient visitation. A patient's state registered domestic partner shall have the same rights as a spouse with respect to visitation of the patient in a health care facility as defined in RCW 48.43.005. [2007 c 156 § 8.]

26.60.080 Community property rights—Date of application. Any community property rights of domestic partners established by chapter 6, Laws of 2008 shall apply from the date of the initial registration of the domestic partnership or June 12, 2008, whichever is later. [2008 c 6 § 601.]

26.60.090 Reciprocity. A legal union, other than a marriage, of two persons that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under this chapter, shall be recognized as a valid domestic partnership in this state and shall be treated the same as a domestic partnership registered in this state regardless of whether it bears the name domestic partnership. [2012 c 3 § 12 (Referendum Measure No. 74, approved November 6, 2012); 2011 c 9 § 1; 2009 c 521 § 72; 2008 c 6 § 1101.]

Notice—2012 c 3: See note following RCW 26.04.010.

26.60.100 Application for marriage—Dissolution of partnership by marriage—Automatic merger of partnership into marriage—Legal date of marriage. (1) Partners in a state registered domestic partnership may apply and receive a marriage license and have such marriage solemnized pursuant to chapter 26.04 RCW, so long as the parties are otherwise eligible to marry, and the parties to the marriage are the same as the parties to the state registered domestic partnership.

(2) A state registered domestic partnership is dissolved by operation of law by any marriage of the same parties to each other, as of the date of the marriage stated in the certificate.

(3)(a) Except as provided in (b) of this subsection, any state registered domestic partnership in which the parties are the same sex, and neither party is sixty-two years of age or older, that has not been dissolved or converted into a marriage by the parties by June 30, 2014, is automatically merged into a marriage and is deemed a marriage as of June 30, 2014.

(b) If the parties to a state registered domestic partnership have proceedings for dissolution, annulment, or legal separation pending as of June 30, 2014, the parties' state registered domestic partnership is not automatically merged into a marriage and the dissolution, annulment, or legal separation of the state registered domestic partnership is governed by the provisions of the statutes applicable to state registered domestic partnerships in effect before June 30, 2014. If such proceedings are finalized without dissolution, annulment, or legal separation, the state registered domestic partnership is automatically merged into a marriage and is deemed a marriage as of June 30, 2014.

(4) For purposes of determining the legal rights and responsibilities involving individuals who had previously had a state registered domestic partnership and have been issued a marriage license or are deemed married under the

provisions of this section, the date of the original state registered domestic partnership is the legal date of the marriage. Nothing in this subsection prohibits a different date from being included on the marriage license. [2012 c 3 § 10 (Referendum Measure No. 74, approved November 6, 2012).]

Notice—2012 c 3: See note following RCW 26.04.010.

26.60.900 Part headings not law—2008 c 6. Part headings used in this act are not any part of the law. [2008 c 6 § 1301.]

26.60.901 Severability—2008 c 6. 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. [2008 c 6 § 1302.]

