

government and its existing public institutions, and shall take effect June 30, 1989.

Passed the Senate April 17, 1989.

Passed the House April 11, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

CHAPTER 326

[Substitute Senate Bill No. 5108]

ABUSED CHILDREN—VISITATION OF THE CHILD BY THE ABUSER

AN ACT Relating to visitation between an abused child and the abuser; and amending RCW 26.09.191 and 26.10.160.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 10, chapter 460, Laws of 1987 and RCW 26.09.191 are each amended to read as follows:

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

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

(b) The limitations imposed by the court shall be reasonably calculated to protect the child from physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting residential time. If the court expressly finds limitation 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.

(c) If the court expressly finds 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 harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations (or unless it is shown not to have had an impact on the child) of (a) and (b) of this subsection, or if the court expressly finds the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a) and (b) 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.

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

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

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

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

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

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

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

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

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

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

Sec. 2. Section 44, chapter 460, Laws of 1987 and RCW 26.10.160 are each amended to read as follows:

(1) A parent not granted custody of the child is entitled to reasonable visitation rights (unless the court finds, after a hearing, that visitation would endanger the child's physical, mental, or emotional health. The court may order visitation rights for any person when visitation may serve the best interest of the child whether or not there has been any change of circumstances) 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; or (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

(b) The limitations imposed by the court 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 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.

(c) If the court expressly finds 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 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) and (b) of this subsection, or if the court expressly finds the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a) and (b) 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.

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

(4) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child ((but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger the child's physical, mental, or emotional health)). Modification of a parent's visitation rights shall be subject to the requirements of subsection (2) of this section.

Passed the Senate April 20, 1989.

Passed the House April 6, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

CHAPTER 327

[House Bill No. 1520]

FERRY SYSTEM EMPLOYEES—SALARY SURVEY

AN ACT Relating to the salary survey for ferry system employees; amending RCW 47-64.006, 47.64.220, and 47.64.240; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington: