
HOUSE BILL 2000

State of Washington

59th Legislature

2005 Regular Session

By Representatives Kagi, McDonald and Moeller

Read first time 02/14/2005. Referred to Committee on Juvenile Justice & Family Law.

1 AN ACT Relating to grandparents' visitation rights; and amending
2 RCW 26.09.004 and 26.09.240.

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

4 **Sec. 1.** RCW 26.09.004 and 1987 c 460 s 3 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter.

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

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

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

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

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

8 (c) Attending to adequate education for the child, including
9 remedial or other education essential to the best interests of the
10 child;

11 (d) Assisting the child in developing and maintaining appropriate
12 interpersonal relationships, including those with grandparents in
13 recognition that such relationships are recognized to be in the best
14 interests of the child;

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

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

19 (4) "Grandparent" means a person who is the parent of a child's
20 father or mother, who is related to the child by blood, in whole or by
21 half, adoption, or marriage.

22 **Sec. 2.** RCW 26.09.240 and 1996 c 177 s 1 are each amended to read
23 as follows:

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

30 (2) A grandparent may petition the court for visitation with a
31 child one time regardless of whether there is a pending dissolution,
32 legal separation, or modification of parenting plan proceeding.

33 (a) Any grandparent filing a subsequent petition must prove, in a
34 threshold hearing, that a substantial change of circumstances has
35 occurred. If the court finds good cause to allow grandparents to file
36 more than one time, the court shall allow the filing and consider the
37 petition.

1 (b) A death or incapacitation of a parent occurring subsequent to
2 any petition is a substantial change in circumstances, permitting the
3 grandparent to file an additional petition requesting visitation with
4 the child for each death or incapacitation.

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

7 ~~((3))~~ (4) A petition for visitation or a motion to intervene
8 pursuant to this section shall be dismissed unless the petitioner or
9 intervenor can demonstrate by clear and convincing evidence that a
10 significant relationship exists with the child with whom visitation is
11 sought. If the petition or motion is dismissed for failure to
12 establish the existence of a significant relationship, the petitioner
13 or intervenor shall be ordered to pay reasonable attorney's fees and
14 costs to the parent, parents, other custodian, or representative of the
15 child who responds to this petition or motion.

16 ~~((4))~~ (5) The court may order visitation between the petitioner
17 or intervenor and the child between whom a significant relationship
18 exists upon a finding supported by the evidence that the visitation is
19 in the child's best interests.

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

25 ~~(b))~~ (6) In order to give deference to the decisions of a fit
26 parent in any proceeding under this subsection, the court must give
27 some weight to the parents' own determination regarding visitation with
28 the child.

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

34 ~~((6))~~ (8) The court ~~((may))~~ shall consider the following
35 nonexclusive factors when making a determination of the child's best
36 interests:

37 (a) The love, affection, and strength of the relationship between
38 the child and the petitioner;

1 (b) The length and quality of the prior relationship between the
2 child and the grandparent, the role performed by the grandparent, and
3 the emotional ties that existed between the child and the grandparent;

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

6 ~~((+e))~~ (d) The nature and reason for either parent's objection to
7 granting the petitioner visitation;

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

11 ~~((+e))~~ (f) The residential time sharing arrangements between the
12 parents;

13 ~~((+f))~~ (g) The good faith of the petitioner;

14 ~~((+g))~~ (h) Any criminal history or history of physical, emotional,
15 or sexual abuse or neglect by the petitioner; ~~((and~~

16 ~~+h))~~ (i) The child's reasonable preference, if the court considers
17 the child to be of sufficient age to express a preference; and

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

19 ~~((+7))~~ (9) The restrictions of RCW 26.09.191 that apply to parents
20 shall be applied to a petitioner or intervenor who is not a parent.
21 The nature and extent of visitation, subject to these restrictions, is
22 in the discretion of the court.

23 ~~((+8))~~ (10) The court may order an investigation and report
24 concerning the proposed visitation or may appoint a guardian ad litem
25 as provided in RCW 26.09.220.

26 ~~((+9))~~ (11) Visitation granted pursuant to this section shall be
27 incorporated into the parenting plan for the child.

28 ~~((+10))~~ (12) The court may modify or terminate visitation rights
29 granted pursuant to this section in any subsequent modification action
30 upon a showing that the visitation is no longer in the best interest of
31 the child.

32 NEW SECTION. Sec. 3. If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

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