

# The Hotsheet

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## Pregnancy and Divorce

In response to a recent case in Spokane County, **HB 1171** has been introduced. This bill would prohibit courts from denying dissolutions simply because the wife is pregnant. The bill is being worked on to make it consistent with the Uniform Parentage Act. That act prohibits the disestablishment of parentage before the birth of a child, although a disestablishment action can be started before the child is born. A possibility for the bill is to reserve the issue of parentage or to otherwise use language consistent with the UPA.

This bill would not have changed the outcome of the Spokane case because that case had procedural errors, including not giving the husband notice that the wife was pregnant and then, in the decree, stating that the husband (the presumed father under the UPA) was not the father.

## Parents Monitoring Children's Phone Con- versations

In a recent case, a criminal conviction was overturned because a mother had listened in on her daughter's phone conversation with the defendant in the case and had testified about that conversation. In response to this story, **HB 1178** would amend RCW 9.73.020 to specifically allow parents to listen in

on and even record their children's phone conversations, although evidence gathered in this manner at the request of law enforcement could not be then used in a criminal prosecution of a third person. The bill would also allow parents to monitor their children's mail.

A possible concern over the bill is that it may allow one parent to listen in on and tape the other parent's conversations with the children.

A related bill, **SB 5081**, would amend RCW 9.73.080 as follows:

"(1) Except as otherwise provided in this chapter, any person, other than a parent or legal guardian who is monitoring his or her own minor child's telephone conversations, who violates RCW 9.73.030 is guilty of a gross misdemeanor.

"(2) Any person who knowingly alters, erases, or wrongfully discloses any recording in violation of RCW 9.73.090(1)(c) is guilty of a gross misdemeanor."

The underlined language would be added to the current law.

## Collaborative Law

Collaborative law is a practice in which the parties and their attorneys contract to negotiate in good faith and to avoid using the courts except to formalize agreements reached through the collabo-

rative process. Under this system, the parties and the attorneys sign an agreement that states that if either party files a contested matter in court, both attorneys must withdraw and any experts who have been retained during the collaborative process are disqualified from participating in the case.

An as yet un-numbered bill is being considered to formalize and recognize this procedure by statute. Among other things, the bill would likely exempt collaborative cases from case schedules and other timelines that would otherwise apply.

## GALs as Pro Tems

Current law prevents attorneys from being on the GAL list and the pro tem list in the same county (with some exceptions for small counties and Division III of the Court of Appeals). **HB 1139** would eliminate that restriction while prohibiting attorneys from being a GAL and pro tem in the SAME CASE. It would prohibit an attorney from being a pro tem judicial officer if the attorney had ever represented a party or been a GAL for the child of a party, and would prevent an attorney from being a GAL in a case if the attorney had ever been a pro tem in a matter involving one of the litigants.

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## Resolution to Prohibit Same-Sex Marriage

**House Joint Resolutions 4207 and 4208** would seek a constitutional amendment to define marriage as a union between a man and a woman only. The joint resolutions would prevent the state and its political subdivisions from recognizing a legal status for relationships between unmarried individuals, including civil unions and domestic partnerships. They would prevent the state from “[extending] or [confer] the legal incidents [of marriage], including any marital, spousal, or familial right, benefit, privilege, advantage, immunity, or entitlement, or any equivalent thereof, that is authorized or recognized by law, or is paid for, directly or indirectly, in whole or in part, with public funds” to other than married couples.

## Permission for Medical Services

**HB 1281** would add to the list of persons who can give informed consent for medical services for minors. The bill would allow physicians to rely on such permission given by a competent adult who claims to be responsible for the care of the minor patient. This will allow relatives to give such permission when children are left with them, without the necessity of a formal guardianship, third-party custody decree, or other formal court action.

## Antiharassment Standards

**HB 1294** would require a *prima facie* case to be shown before an antiharassment case would be set for hearing. Under current law, such a hearing is set when a peti-

tion is filed without the necessity of a *prima facie* showing. The bill exempts allegations of sexual offenses from the necessity of the *prima facie* showing.

## New Hearsay Exception

**HB 1508** would create a new exception to the hearsay rule. That exception would read, “(1) The declarant is unavailable as a witness; and (2) the statement is being offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.”

## Mandatory Abuse Reporters

**SB 5308** would add to the list of mandatory abuse and neglect reporters. The bill would add this language to RCW 26.44.030: “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.”

## Shared Parenting

**SB 5350** would require parenting plans to allow each parent a minimum of one third of the time

with the children absent an agreement of the parties or specific findings that such an arrangement would be detrimental to the children.

## Family Law Listserv

One of the benefits provided by your section is the popular listserv. There you can post questions or otherwise find useful information. Check our web site for instructions on joining the listserv.

## Legislation Web Site

You may obtain up to date information on bills in the Washington State Legislature through the state government web site. The address for this site is

<http://www.leg.wa.gov>

## WSBA Web Site Section Membership Renewal

Your Family Law Section membership can be renewed from the WSBA website page at [www.wsba.org/familylaw](http://www.wsba.org/familylaw). Prospective new members can join from the same web site.

*“The acme of judicial distinction means the ability to look a lawyer straight in the eyes for two hours and not hear a damned word he says.”*

*- Chief Justice  
John Marshall*

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