

# The Hotsheet

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## Reminder 2005 WSBA Family Law Mid-year June 24, 25, & 26, 2005 Shilo Inn Ocean Shores, Washington

### Correction and Apology

In Volume 9, Issue 5 of *The Hotsheet*, I mistakenly reported that *In re Parentage of C.A.M.A.*, slip number 75262-1, held Washington's third party custody statute to be unconstitutional. I should have reported that the court held RCW 26.09.240, a third party VISITATION statute, to be unconstitutional. *C.A.M.A.* did not deal with custody. I apologize for the error.

Members of the Family Law Section's listserv pointed out this error on the listserv itself, proving once again the value of this service.

It is likely that a work group will be organized to put together a new third party visitation bill to be consistent with *C.A.M.A.* and its predecessors.

### Pregnancy and Divorce

**SHB 1171** was signed into law on April 14, 2005, to be effective 90 days after the

end of the legislative session. The new law states that pregnancy alone cannot be a basis for denying or delaying the entry of a decree of dissolution, and that the granting of a decree of dissolution does not affect further proceedings under the uniform parentage act, chapter 26.26 RCW.

### Alternate Service in Modifications and other Cases

**SB 5053** was signed into law by the governor. This new law authorizes service by publication in parentage actions, modifications of parenting plans, non-parental custody actions, and actions for legal separation or invalidity of marriage. Prior law did not explicitly authorize such service except for actions for "divorce". The new statute takes effect 90 days after the end of the legislative session.

### Service Members' Civil Relief Act

The federal service members' civil relief act does not apply to reservists or national guardsmen who

are called up to active duty unless the President exercises the War Powers Act, which has not been done. **SB 6028**, which was signed into law, creates such protections to national guardsmen and reservists from the time they are called up until 180 days after the end of their active duty.

The bill allows a service member to waive his or her rights under the state SCRA, as allowed under the federal law. The bill includes language to address the possible misuse of the law's protections, as is in the federal statute. The bill also includes a definition of "judgment" to exclude temporary orders for domestic relations cases under RCW 26, with additional language to specifically allow entry of temporary orders in child support and similar cases.

### Kinship Caregivers and Medical Consent

**SHB 1281** was passed into law. The bill allows responsible related adult caregivers to give consent

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for medical treatment for children. A health care provider may rely on such consent if the health care provider does not have actual notice of the falsity of a claim of competence to give such consent.

### Standards Revised for Initial Antiharassment Protection Orders

**HB 1294** was signed into law, and changes the standards for the issuance of initial antiharassment protection orders. Under current law, there are no standards for the issuance of an initial antiharassment order; hence, such orders tend to be issued without a showing of a *prima facie* case of harassment. Under the new law, a court may order a hearing on a petition for an anti-harassment protection order that does not allege a sex offense only if the petition alleges a *prima facie* case of harassment. A petition that alleges a sex offense does not need to make this *prima facie* showing in order for the court to set a hearing on the petition.

### Procedures for Investigation of Child Abuse and Neglect Changed

**ESSB 5922** was signed into law, and changes the procedure for investigation allegations of abuse and neglect. Under the new law, if a parent is the subject of an abuse and neglect

investigation, then DSHS personnel or law enforcement must notify him or her, at the initial point of contact, of the complaints and allegations against him or her. The parent must be advised of the name of the investigator, who the investigator represents, and specific complaints or allegations made against him or her.

The written notice to parents that a child has been taken into custody by CPS must include notice of the right to know of complaints or allegations made against the parent.

### Bills that Didn't Make the Cut

Interesting bills that were introduced but did not pass this session include the following:

**HB 1139**, which would have amended the prohibition against attorneys acting as guardians *ad litem* and commissioners *pro tem* in the same county;

Several third party visitation bills;

**HB 2068**, which would have required a judge to allow children to testify in dissolution proceedings unless the court made a finding that this was not in the family's best interest;

**HB 2119**, which would have privatized child support collection;

**HB 2139**, which would have required written parental permission for children to participate in sex education in schools;

One bill which would have allowed and another which would have decriminalized parental interception of children's phone conversations.

### 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.

*"Nearly every lawsuit is an insult to the intelligence of both plaintiff and defendant.*

*- Edgar Watson Howe*

### 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.

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