

The Hotsheet

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Many family law-related bills have been introduced this session. The following are some of them.

HB 1108 and SB 5071—Grandparent visitation. Under this bill, grandparents would have standing in some situations to seek visitation with grandchildren. This would apply to grandparents only. To prove standing, a grandparent would have to show:

- a significant relationship with the child for a substantial period of time.
- the parent consented to or allowed the relationship or the relationship was forced due to the unavailability of a parent or the inability to perform caretaking functions.
- the relationship is beneficial to the child.
- the parent or guardian has substantially interfered with the relationship and the grandparent has unsuccessfully tried to resolve any disagreement prior to going to court.
- the child would

likely suffer harm or the substantial risk of harm if the contact is not ordered.

If the above is found, the court will consider the parent's reasons for denying visitation and determine whether they are reasonable, keeping in mind the deference given to parents' decisions.

SB 5277 – Non-parental visitation. This bill is not limited to grandparents. It requires a petitioner to show

- a parent-like relationship including significant financial support
- a parent allowed the relationship or it was necessary because of the inability of the parent to care for the child
- the relationship is beneficial to the child
- a parent substantially interfered with the relationship and the applicant tried to resolve differences unsuccessfully before going to court.

If the action is dis-

missed for lack of standing, attorney's fees are mandatory.

To prevail, a petitioner must show a likelihood of harm to the child if the relationship is not allowed.

There must be a pending action for the petitioner to ask for visitation, and it must be prior to the entry of a final parenting plan.

SB 5234—Shared parenting. This bill would create a presumption in favor of shared parenting unless it is not in the child's best interests. "Shared parenting" is defined to require at least one third of the time in the control of each parent. The parents can agree that shared parenting will not apply. There will be no shared parenting if section 191 limitations are dispositive or if the court finds that it would be harmful to the child. A parent alleging that shared parenting is detrimental to the child has the burden of proving such by a preponderance of the evidence. If

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the court declines to order shared parenting, findings as to why are necessary.

The bill eliminates the second clause of RCW 26.09.187 factor i. Instead of reading, "The relative strength, nature, and stability of the child's relationship with each parent, including whether a parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child" that factor would read, "The relative strength, nature, and stability of the child's relationship with each parent."

The bill would add another factor which would read, "Which parent is more likely to allow and encourage the child's frequent and continuing contact with the other parent." Whether the child is a nursing child is also added as a factor.

The bill requires the Administrative Office of the Courts to keep statistics regarding parenting plans.

HB 1009—Child support work group. This bill is substantially the same as the bill that failed last year. It would provide for a work group to review the state child support schedule every four years. A FLEC member would be a part of the work group.

HB 1351 and SB 5336—Domestic partnerships.

This bill would allow same sex couples (and other couples so long as one is 62 or older) to register as domestic partners. The bill would then give domestic partners many of the same legal rights married couples enjoy in Washington. This would not affect federal law, of course, but would include such rights as medical decision-making, inheritance, and other rights.

HB 1350—Same sex marriage. This bill would allow same sex couples to marry, and would then state that in state laws defining spouses' rights, terms are to construed as gender-neutral so that same sex married couples have all the same rights as heterosexual married couples.

SB 5069—Retirement benefits. This bill would extend state retirement benefits that apply to spouses to domestic partners. "Domestic partner" is defined as two persons in a relationship who:

- have a close personal relationship
- are each other's sole domestic partner and are responsible for each other's common welfare
- share the same regular and permanent residence
- are jointly responsible for basic living expenses

- are not married to anyone
- are each 18 or older
- are not related by blood such that they would be prohibited from marrying each other
- are mentally competent

SB 5189 – Relating to administrative proceedings. The bill would require the party registering a foreign support order to notify the other party. Currently, the Division of Child Support or the court is required to do so. At times, the registering party does not know where the other party is, so this could be a problem.

Family Law Listserv

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"Congress is so strange. A man gets up to speak and says nothing. Nobody listens — and then everybody disagrees."

-Boris Marsholov
