

# The Hotsheet

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## Family Law Section Midyear Seminar

Be sure to sign up for the Family Law Midyear, if you haven't done so already. The phone number for the Davenport Hotel is 800-899-1482. Be sure to state that you are part of the Family Law Section's mid-year group.

## SB 5336 and SB 5470

This was a busy year for family law in the legislature. Two bills in particular generated a lot of interest in the family law community and on the Family Law Section's listserv. These were SB 5336, relating to domestic partnerships, and SB 5470, a bill dealing with several aspects of RCW 26.09. Both bills passed the legislature. As of the time of this writing, SB 5336 has been signed by the governor; SB 5470 is expected to be so. (Of course, but the time of the mid-year seminar, we will know!)

**SB 5336—Domestic Partnerships :** This bill allows same sex couples, and other couples if one of them is 62 or older, to register as domestic partnerships. This gives the domestic partners certain rights that are available to married couples, but by no means all such rights. The bill is limited to very few such rights.

The preamble to the bill states that allowing domestic partnerships will promote

family relationships and protect family members during life crises. The preamble recognizes that certain social security rights make it difficult for older people to get married. (They lose certain rights if they do.) A domestic partnership will give them certain benefits without requiring them to give up other rights.

To enter into a state registered domestic partnership, the partners must meet the following requirements:

Share a common residence.

Be at least 18 years of age.

Neither person is married to anyone other than the other partner, and neither is in a state registered domestic partnership with another person.

Both are capable of consenting to the domestic partnership.

The persons are not nearer of kin than second cousins, and neither is a sibling, child, grandchild, niece, nephew, aunt, or uncle to the other person.

Either the parties are of the same sex, or one of them is over the age of 62.

A state registered domestic partnership confers the following rights on the partners:

The same visitation rights a spouse enjoys in a health care facility.

The same right a spouse enjoys regarding state health benefits.

The same right a spouse enjoys to give informed consent for medical care for one who is not competent to give such consent himself or herself.

The automatic revocation of a provision for transfer of non-probate assets on death that applies in a dissolution of marriage also applies in a termination of a domestic partnership.

As in a dissolution of marriage, the appointment of a domestic partner as the attorney-in-fact of his or her partner is revoked by the termination of the domestic partnership.

A domestic partner has the same right a spouse has to ownership and placement in a cemetery plot.

A domestic partner has the same right a spouse does to dispose of a deceased partner's remains.

A domestic partner has the same intestate inheritance rights a spouse has. (The bill does not define community property in the context of domestic partnerships. Query: If the surviving domestic partner is to receive all of the community property, as would a surviving spouse, what exactly does that mean?)

A domestic partner has the same rights a spouse does to administer the estate of a deceased domestic partner.

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A domestic partner has standing to file a wrongful death action.

**SB 5470-Domestic Relations:** Counties may, and to the extent state funding is provided shall, create a programs to provide services to all litigants involved in RCW 26.09 actions. At a minimum, those programs shall include:

an individual to act as the initial point of contact for domestic relations litigants

informing parties about courthouse facilitators and orientations

informing parties about alternatives to dissolutions, such as marriage counseling

informing parties about alternatives to litigation, including counseling, legal separation, and mediation

informing parties of supportive family services available in the community

screening for referral for services in the areas of domestic violence, child abuse, substance abuse, and mental health

Handbooks explaining the rights of marriage partners and children are to be distributed to petitioners, and to respondents if they file responses.

Before entering a permanent parenting plan, a court is required to look into any relevant information available on the judicial information system.

The supreme court is asked to convene a task force to produce statewide protocols for dissolution cases.

RCW 26.09.184 was amended by the addition of the following language: "CONSIDERATION IN ESTABLISHING THE PERMANENT PARENTING PLAN: In establishing a permanent parenting plan, the court may consider the cultural heritage and religious beliefs of a child." This was a floor amendment, meaning

stakeholders did not have an opportunity to comment on it.

**RCW 26.09.187.** The factors for establishing a permanent parenting plan were amended. Factor i currently reads, "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." This factor is given the greatest weight. This bill splits this factor in two; the new factor i will read, "The relative strength, nature, and stability of the child's relationship with each parent." The second part of the old factor i is made a part of factor iii.

The "anti-shared parenting" presumption contained in RCW 26.09.187 (b) is eliminated. The new language does not, however, create a presumption in favor of shared parenting. It allows more judicial discretion.

**RCW 26.09.197 – temporary parenting plans.** Which parent has taken more responsibility in taking care of the daily needs of the child has been eliminated as a factor in entering temporary orders. The relative strength, nature, and stability of each parent's relationship with the child, and what arrangement will cause the least disruption to the child's emotional stability while the action is pending are the standards to be used by the court in establishing a temporary parenting plan.

**Data tracking –** The parties are to file a parenting plan summary report on a form to be developed by the administrative office of the courts. Clerks of the court are to send the forms to the division of child support. The forms will be used to track residential time by parent, enforcement practices, whether or not the parties were represented by counsel, the existence of do-

mestic violence, child abuse, or substance abuse, mental health issues, and whether the matter was contested or agreed.

**HB 1009** also passed. This bill re-establishes the child support work group. The group must review and make recommendations regarding the child support schedule this year and every four years thereafter. FLEC has a seat on the work group by statute.

## 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.

## WSBA Web Site Section Membership Renewal

Your Family Law Section membership can be renewed from the WSBA website page at [www.wsba.org](http://www.wsba.org).

Prospective new members can join from the same web site.

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*"I don't think necessity is the mother of invention. Invention . . . arises directly from idleness, possibly also from laziness. To save oneself trouble."*

*-Agatha Christie*

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