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IN THE COURT OF APPEALS OF  
THE STATE OF WASHINGTON  
DIVISION THREE

In the Matter of the Custody ) No. 37108-5-III  
of ) PUBLISHED  
SA-M, ) OPINION  
 ) (Filed Jun. 15, 2021)

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STAAB, J. — In 2016, Karina Morales-Rodriguez was murdered at her work. At the time of her death, Ms. Morales-Rodriguez was living with and engaged to the petitioner, Gabriel Pinon. Their blended family included SA-M, Ms. Morales-Rodriguez's five-year-old daughter from her prior relationship with the respondent, Jose Luis Alvarez. Shortly after Ms. Morales-Rodriguez was killed, Mr. Pinon filed a petition for custody of SA-M. Mr. Alvarez disputed this petition and sought custody as well. In 2019, Mr. Pinon amended his petition for custody to include a claim under the newly enacted de facto parenting statute, RCW 26.26A.440.

This case provides an opportunity to interpret and apply RCW 26.26A.440. We conclude that the trial court properly focused on SA-M's relationship with Mr. Pinon in finding that Mr. Pinon was SA-M's de facto parent. Under the statute, the child's best interest in continuing the relationship is now a primary factor in determining whether a de facto parentage exists. If custody is an issue, the court must then make a separate determination of the child's best interest for

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purposes of custody and a scheduling order. The two interests are not necessarily the same. In this case, substantial evidence supports the trial court's finding that it is in SA-M's best interest for the de facto parent to retain primary custody while limiting Mr. Alvarez's residential time with his daughter. We affirm.

### FACTS

#### BACKGROUND

SA-M was born in 2010 to Karina Morales-Rodriguez and Jose Luis Alvarez. Ms. Morales and Mr. Alvarez ended their relationship at some point in early 2012, and Ms. Morales began living with Gabriel Pinon in April 2012. At the time, SA-M was 18 months old. Shortly thereafter, Mr. Alvarez moved to Oklahoma.

For the next four years, Ms. Morales and Mr. Pinon continued to live together as a family. Mr. Pinon was heavily involved in SA-M's life and was the only father she knew. He took SA-M to school nearly every day and was involved in her education. The two had a close and bonded relationship. SA-M considered Mr. Pinon her father and always referred to him as "dad."

SA-M's mother, Ms. Morales-Rodriguez, encouraged their relationship, especially after Mr. Alvarez moved out of state. Mr. Alvarez was largely absent from SA-M's life, although he engaged in periodic phone calls every three to four months. From 2012 to 2016, Mr. Alvarez visited his daughter one time.

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By 2016, Ms. Morales and Mr. Pinon were engaged to be married. These plans were cut short when Ms. Morales was murdered at her job. At the time, there were four children in their family, Mr. Pinon's two children from a prior marriage, SA-M, and the couples' young child.

### PRETRIAL EVENTS

Several weeks after Ms. Morales' death, Mr. Pinon filed a pro se petition for third-party custody of SA-M and made arrangements to serve Mr. Alvarez. Mr. Alvarez moved back to Yakima and responded to Mr. Pinon's petition by seeking custody of SA-M. Mr. Pinon hired counsel, filed an amended petition to include a claim for common law de facto parent, and moved to retain custody of SA-M.

At an initial hearing, the court granted Mr. Pinon's motion to retain custody, reserved the issue of de facto parenting for trial, and ordered visitation with Mr. Alvarez. Mr. Alvarez took advantage of his scheduled visitation, took a parenting class, and filed a motion to transfer custody in August 2016. The commissioner denied the motion but appointed a guardian ad litem (GAL).

At a hearing in April 2017, the court adopted the GAL's report. After interviewing the parties and numerous witnesses, the GAL concluded that both men seemed capable of fulfilling parental duties, although he expressed concern that Mr. Alvarez had been willingly non-present for an extended period of time and

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was not aware of SA-M's progress in school or mental health issues. The GAL noted that if this were a case between two legal parents, he would not recommend a change of custody from Mr. Pinon to Mr. Alvarez. But since he did not find the extreme circumstances needed to justify a nonparental custody order, the GAL recommended a slow transition of custody from Mr. Pinon to Mr. Alvarez.

Trial on Mr. Pinon's petition was continued several times as Mr. Alvarez cycled through attorneys. Meanwhile, as SA-M transitioned to custody with Mr. Alvarez, her grades in school fell, and her mental health deteriorated. Several reports were filed with Child Protective Services (CPS) regarding Mr. Alvarez's care of SA-M. In one instance, SA-M told a school counselor that Mr. Alvarez had hit her with the metal part of a belt, leaving a bruise on her rib cage. In another report, a hospital called CPS after SA-M was found some distance from Mr. Alvarez's home at 11:00 p.m. She was treated for scratches that she said were from her father hitting her with a fishing pole. Mr. Alvarez told the police that SA-M regularly runs away from home.

In follow-up investigations, a social worker noted that SA-M sometimes tells "tall tales" and exaggerates about being hit and her needs being met. SA-M and Mr. Alvarez began therapy sessions together and their relationship improved. After several follow-up visits in which no concerns were noted, the case was marked as ready for closure.

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In March 2019, CPS received two more anonymous reports of abuse by Mr. Alvarez against SA-M. The anonymous source alleged that Mr. Alvarez regularly hit SA-M with a belt, pulled her by the ear and hair, and otherwise physically abused her. It appears these reports were made by Mr. Alvarez's ex-girlfriend, Veronica Granillo, who is also the mother of his second child born in 2018. At no point did any of these reports result in SA-M being removed from Mr. Alvarez's home.

Trial was continued for the last time from May 2019 to July to allow the GAL to review newly available CPS reports and update the GAL report. In the meantime, Mr. Pinon filed a petition for de facto parentage under the newly enacted de facto parenting statute, RCW 26.26A.440.

### TRIAL

At trial, several witnesses testified for both parties. Only some of the testimony is outlined below.

Mr. Pinon testified about the strength and nature of his relationship with SA-M—how she grew up calling him dad and how he regarded her as his daughter on the same footing with his other children. He testified about how Ms. Morales-Rodriguez regarded him as a good parent to SA-M. He testified about how he arranged for SA-M to see a therapist in the wake of her mother's death until custody switched to Mr. Alvarez. He testified how he felt Mr. Alvarez was not a fit parent—he observed SA-M returning wearing clothing

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inappropriate for the weather, using social media inappropriately and performing much worse in school. He observed SA-M struggling with transfers to Mr. Alvarez, and was concerned about the CPS reports.

Mr. Alvarez's ex-girlfriend, Veronica Granillo, testified on behalf of Mr. Pinon. She stated that she had a six-month relationship with Mr. Alvarez and during that time she became pregnant with his daughter, who was eleven months old at the time of trial. Ms. Granillo testified that while she was in a relationship with Mr. Alvarez, he treated SA-M poorly—pulling her hair and ears, spanking her with a belt, not using a car seat or seatbelt, not bathing her, and not knowing her whereabouts at times. She stated that she would intervene during episodes of physical abuse and hug SA-M. She further testified that Mr. Alvarez's sister is the one who primarily performs parenting duties when SA-M is with him. She recalled that at one point Mr. Alvarez threatened to take SA-M to Mexico and leave her there if he lost this case. She testified that she sends pictures of their daughter to Mr. Alvarez, but that he never responds and has no interest in custody of his other daughter.

Mr. Alvarez testified that he was present for SA-M's birth, first steps, and first word. He said he left Washington after his relationship with Ms. Morales ended so he could find work. He called SA-M every three or four months, and visited her in 2014 for a few days. He also sent \$200 to SA-M's mother every month.

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Mr. Alvarez testified that his relationship with SA-M has improved since they started counseling. He believes Mr. Pinon wants to exclude SA-M from his life. He testified that he performs all parenting functions and attends school events. He denied ever physically abusing SA-M and denied ever spanking her. He testified that SA-M was hit with a belt when he hit a table in anger and the belt fell off the table. He testified that Ms. Granillo owes him money for bills. Although he denied telling SA-M to make up allegations against Mr. Pinon, Mr. Alvarez confirmed that he does not want Mr. Pinon to have any legal rights to SA-M. He also confirmed that he had been held in contempt for denying Mr. Pinon visits with SA-M.

The court-appointed GAL also testified. He indicated that Mr. Pinon seemed to meet all the statutory requirements of a de facto parent under the newly enacted statute, RCW 26.26A.440. The GAL testified that Mr. Pinon has had the stronger bond with SAM for the majority of her life, that Mr. Pinon has the better past and potential future ability to parent, and that it was not in SA-M's best interest to lose contact with Mr. Pinon.

The GAL further testified that he had some concerns about Mr. Alvarez but does not believe that he is an unfit parent. During his most recent interview with SA-M, she indicated that she had changed her mind and now wanted to live with Mr. Alvarez. The GAL testified, however, that her statements to him, about being uncomfortable with Mr. Pinon, seemed rehearsed and came out in "odd spurts." He testified that her

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statements about how she wanted to live with Mr. Alvarez also seemed “very rehearsed.” He commented that Mr. Alvarez seemed to have an overriding concern with the economic aspects of the case. In his report, on the subject of abusive use of conflict, the GAL specifically noted that it appears Mr. Alvarez continues to discuss the case, including financial issues, in front of SA-M. Ultimately, however, the GAL recommended that SAM stay with Mr. Alvarez. The GAL’s recommendation was based on his concern for the disruption that another change in custody would cause to SA-M.

### TRIAL COURT’S RULING

After the evidence was presented, the trial court provided its oral ruling. As the court put it, the first issue, whether Mr. Pinon was a de facto parent, “was easy; the second part is complicated.” Considering residential placement of SA-M, the court put great weight in the GAL’s statement that if the statute on de facto parenting had been in effect in 2017, the GAL would not have recommended a change in custody. The court concluded it was in the child’s best interest to place custody with Mr. Pinon.

In its final parenting plan, the court designated Mr. Pinon as SA-M’s custodian, ordered SA-M to live primarily with Mr. Pinon, and found that limitations should be put on Mr. Alvarez’s time with SA-M. These limitations were supported by the court’s findings:

Child Abuse – Jose Luis Alvarez (or someone living in that parent’s home) abused or

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threatened to abuse a child. The abuse was: physical repeated emotional abuse.

....

Abusive use of conflict—Jose Luis Alvarez uses conflict in a way that endangers or damages the psychological development of the child listed in 2.

Clerk's Papers (CP) at 908-09.

Mr. Alvarez appeals.

## ANALYSIS

### DE FACTO PARENTING

Effective January 1, 2019, the Washington Uniform Parentage Act (WUPA), ch. 26.26A RCW, was updated to provide statutory recognition of de facto parents. “This provision ensures that individuals who form strong parent-child bonds with children with the consent and encouragement of the child’s legal parent are not excluded from a determination of parentage simply because they entered the child’s life sometime after the child’s birth.” UNIF. PARENTAGE ACT (2017) § 609 cmt., 98 U.L.A. 81 (2019).

To establish rights as a de facto parent, the petitioner must prove, by a preponderance of the evidence, the seven factors set forth in RCW 26.26A.440(4):

- (a) The individual resided with the child as a regular member of the child’s household for a significant period;

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- (b) The individual engaged in consistent caretaking of the child;
- (c) The individual undertook full and permanent responsibilities of a parent of the child without expectation of financial compensation;
- (d) The individual held out the child as the individual's child;
- (e) The individual established a bonded and dependent relationship with the child which is parental in nature;
- (f) Another parent of the child fostered or supported the bonded and dependent relationship required under (e) of this subsection; and
- (g) Continuing the relationship between the individual and the child is in the best interest of the child.

At trial in this case, the court found that Mr. Pinon had proved all seven factors and was therefore SA-M's de facto parent. On appeal, Mr. Alvarez only challenges the court's finding on the last factor: that it was in SA-M's best interest to continue her relationship with Mr. Pinon. With respect to this factor, the court made two findings. First, that it was in SA-M's best interest to continue her relationship with Mr. Pinon. The court also found, "It is in [SA-M's] best interest that Petitioner be her primary parent because of his shown parenting abilities and the close bond [SA-M] has with him and because respondent is not a fit parent." CP at

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805. Mr. Alvarez raises several issues with respect to this finding.

Before reaching the specific arguments raised by Mr. Alvarez, it is important to distinguish the findings that support a de facto parent from the findings that support a residential schedule. The first step is to decide whether Mr. Pinon is a de facto parent. By statute, this conclusion now requires a finding that “[c]ontinuing the relationship between the individual and the child is in the best interest of the child.” RCW 26.26A.440(4)(g).<sup>1</sup> Once declared a de facto parent, the petitioner “stands in legal parity with an otherwise legal parent, whether biological, adoptive, or otherwise.” *In re Parentage of L.B.*, 155 Wn.2d 679, 708, 122 P.3d 161 (2005).

If the court finds a de facto parentage has been established, then the court can decide custody if residential placement is also an issue. “[R]ecognition of a person as a child’s *de facto* parent necessarily ‘authorizes [a] court to consider an award of parental rights and responsibilities . . . based on its determination of the best interest of the child.’” *Id.* (quoting *C.E. W. v. D.E. W.*, 2004 ME 43, 845 A.2d 1146, 1151-52). In deciding a child’s residential schedule, a court must again consider the child’s best interest. RCW

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<sup>1</sup> This statutory element to finding a de facto parent relationship is different from the common law elements. Under common law, the child’s best interest was a secondary consideration, and only came into play when the court was determining parental rights and responsibilities. *In re Parentage of L.B.*, 155 Wn.2d 679, 708, 122 P.3d 161 (2005).

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26.09.184(1)(g). But finding that it is in the child's best interest to continue a de facto relationship is distinct from determining the child's best interest for purposes of custody. The interests are not necessarily the same.

In challenging the "best interest" factor for purposes of the de facto parenting petition, Mr. Alvarez argues that both he and Mr. Pinon are equally capable parents, Mr. Alvarez is not unfit, and Mr. Alvarez's biological connection gives him an advantage over Mr. Pinon in determining custody. To the extent that Mr. Alvarez is contesting the court's finding that Mr. Pinon is a de facto parent, we reject his argument.

In finding that it is in SA-M's best interest to continue a relationship with Mr. Pinon, the court does not have to find that Mr. Pinon is a better parent than Mr. Alvarez or that Mr. Alvarez is unfit. Instead, the focus is on the relationship between SA-M and Mr. Pinon. *See In re Matter of L.J.M.*, 15 Wn. App. 2d 588, 602, 476 P.3d 636 (2020) (requisite finding that one parent supported the de facto relationship has nothing to do with the other genetic parent). Finding that a person is a de facto parent is not a zero-sum determination. Indeed WUPA makes clear that a court may find that a child has more than two parents if failing to recognize a de facto parent would be detrimental to the child. RCW 26.26A.460(3). "A finding of detriment to the child does not require a finding of unfitness of any parent or individual seeking an adjudication of parentage." *Id.*

In his reply brief, Mr. Alvarez argues that the trial court conflated the best interest standards for a de

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facto parent and custody determinations. Again, the trial court found that it was in “SA-M’s best interest that [Mr. Pinon] be her primary parent because of his shown parenting abilities and the close bond [SA-M] has with him and because respondent is not a fit parent.” We agree that the trial court seemed to combine the findings for a de facto parent with the findings necessary for custody, but any error was harmless.

To be clear, the court found that it was in SA-M’s best interest to continue her relationship with Mr. Pinon. As the court noted, this finding is supported by evidence that SA-M and Mr. Pinon had a strong bond and Mr. Pinon had demonstrated parenting abilities. The additional finding—that it is in SA-M’s best interest for Mr. Pinon to be her primary parent—implicitly recognizes that their relationship should continue.

In this case, the trial court found that Mr. Pinon proved the seven factors set forth in RCW 26.26A. 440(4) by a preponderance of the evidence and declared him a de facto parent to SA-M. Other than the court’s determination on the child’s best interest, Mr. Alvarez does not seriously contest the court’s other findings with respect to Mr. Pinon’s de facto parenting status.

### RESIDENTIAL SCHEDULE

Mr. Alvarez’s primary challenge on appeal seems to be the trial court’s determination of custody, not parentage. His arguments focus on which of the two men is the better parent, and he challenges the trial court’s

finding that he is an unfit parent and that his time with SA-M should be limited.

In reviewing Mr. Alvarez's challenge to the determination of custody, we give broad deference to the trial court's findings. An appellate court will not lightly disturb a custody ruling due to the trial court's "unique opportunity to personally observe the parties." *In re Custody of Stell*, 56 Wn. App. 356, 366, 783 P.2d 615 (1989). The trial court's decision will stand absent an abuse of discretion. *In re Marriage of McDole*, 122 Wn.2d 604, 610, 859 P.2d 1239 (1993). A trial court abuses its discretion if it applies the law incorrectly or relies on unsupported facts. *Gildon v. Simon Prop. Grp., Inc.*, 158 Wn.2d 483, 494, 145 P.3d 1196 (2006).

Findings of fact will be reviewed to determine if they are supported by substantial evidence. *Price v. Kitsap Transit*, 125 Wn.2d 456, 465, 886 P.2d 556 (1994). Substantial evidence is evidence sufficient to persuade a fair and rational person of the truth of a premise. *Id.* at 466. Appellate courts review *de novo* whether a trial court's conclusions of law flow from its findings. *Rogers v. Dep't of Labor & Indus.*, 151 Wn. App. 174, 180, 210 P.3d 355 (2009).

Whether evidence is sufficient to meet or overcome a burden of proof is a question that requires weighing of the evidence. *Spivey v. City of Bellevue*, 187 Wn.2d 716, 728-29, 389 P.3d 504 (2017). "Appellate courts are not suited for, and therefore not in the business of, weighing and balancing competing evidence." *Renz v. Spokane Eye Clinic, P.S.*, 114 Wn. App. 611, 623, 60

P.3d 106 (2002). Nor will a reviewing court make credibility determinations on appeal. *State v. Camarillo*, 115 Wn.2d 60, 71, 794 P.2d 850 (1990). Instead, an appellate court considers the evidence in a light most favorable to the prevailing party to determine if a rational trier of fact could find the fact more likely than not to be true. *In re Welfare of X.T.*, 174 Wn. App. 733, 737, 300 P.3d 824 (2013). If there is substantial evidence to support a finding, it does not matter if there is contradictory evidence in the record. *Burrill v. Burrill*, 113 Wn. App. 863, 868, 56 P.3d 993 (2002).

Preliminarily, we reject Mr. Alvarez's argument that the trial court's parenting plan interferes with his fundamental rights as a natural parent. Once the court properly declared Mr. Pinon to be a de facto parent, he stood in parity with Mr. Alvarez for purposes of residential time and decision-making: "a parent-child relationship established under this chapter applies for all purposes, except as otherwise provided by law of this state other than this chapter." RCW 26.26A.110. Thus, the rights and responsibilities that attach to de facto parents "do not infringe on the fundamental liberty interests of the other legal parent in the family unit." *L.B.*, 155 Wn.2d at 712.

Decisions on custody are governed by RCW 26.09.187. The statute sets forth seven factors to consider in deciding residential schedules and decision-making authority between parents, with the greatest weight given to the first factor:

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- (i) The relative strength, nature, and stability of the child's relationship with each parent;
- (ii) The agreements of the parties, provided they were entered into knowingly and voluntarily;
- (iii) Each parent's past and potential for future performance of parenting functions as defined in \*RCW 26.09.004(3), including whether a parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child;
- (iv) The emotional needs and developmental level of the child;
- (v) The child's relationship with siblings and with other significant adults, as well as the child's involvement with his or her physical surroundings, school, or other significant activities;
- (vi) The wishes of the parents and the wishes of a child who is sufficiently mature to express reasoned and independent preferences as to his or her residential schedule; and
- (vii) Each parent's employment schedule, and shall make accommodations consistent with those schedules.

RCW 26.09.187(3)(a).

In concluding that Mr. Pinon should be awarded primary custody, the court found:

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[SA-M'S] strength, nature and stability of relationship is stronger with Gabriel Pinon than Jose [Alvarez] and she is more closely bonded to Gabriel than Jose and views Gabriel as her father. Gabriel has done the majority of parenting factors on a daily basis for the majority of the child's life and taken greater responsibility to perform the role of a parent than Jose. Gabriel's past and potential to perform parenting functions is stronger than Jose's. Considering[SA-M]'s age and her developmental level, [SA-M]'s best interests are served by placing her care, custody and control with Gabriel.

CP at 853. The court also found that Mr. Alvarez is subject to limiting factors under RCW 26.09.191 and is not a fit parent. *Id.*

There is substantial evidence in the record to support these findings. The trial court adopted the GAL's trial testimony concerning these statutory factors. Mr. Pinon was the only father figure in SA-M's life from the time she was 18 months old until almost her sixth birthday. During that time, Mr. Pinon provided consistent caretaking and full parenting responsibilities for SA-M and the other children in his household. There was ample testimony about Mr. Pinon's passion for parenthood and how he has successfully raised other children. There was evidence from several witnesses that he and SA-M share a strong, durable bond. The trial court had the opportunity to listen firsthand to all witnesses, make credibility determinations on disputed testimony, and weigh the evidence.

Finally, substantial evidence supports the trial court's finding that Mr. Alvarez is an unfit parent and should have limitations imposed on his residential time. The trial court found that Mr. Alvarez was physically and emotionally abusive and that he employed an abusive use of conflict in a way that damaged SA-M's development. As the court noted, Mr. Alvarez had a history of abandoning both of his children. Prior to the death of Ms. Morales, Mr. Alvarez had visited his daughter SA-M one time in four years. Testimony at trial indicated that he was making no attempt to be involved in his youngest daughter's life.

There was also evidence that while SA-M was in Mr. Alvarez's custody, her performance in school fell sharply and her mental health deteriorated. There were several allegations from different sources that Mr. Alvarez used corporal punishment and failed to care for SA-M. There was testimony in the GAL's report that SA-M would have bruises she did not want to explain when she came from Mr. Alvarez's house. As the GAL explained, he was not surprised by CPS's finding because the majority of their reports come back unfounded.

The evidence also supported the court's finding that Mr. Alvarez employed abusive use of conflict. He threatened to leave the country with SA-M if he lost his court case. Mr. Alvarez testified at trial that he does not want Mr. Pinon to have any legal rights regarding SA-M. The trial court noted SA-M's spontaneous and reoccurring statements to the GAL that she wanted to live with Mr. Alvarez appeared rehearsed and

suggested that Mr. Alvarez was applying pressure on the child to support his claim for custody. SA-M also made unprompted comments to the GAL about Mr. Pinon's use of funds that were intended for SA-M, and Mr. Alvarez admitted talking to her about the funds she was receiving from Social Security.

While much of this evidence was disputed, it is fully within the trial court's discretion to weigh the evidence and determine witness credibility. In the end, there is substantial evidence to support the trial court's findings and conclusions that Mr. Pinon is SA-M's de facto parent, that primary residential time should be granted to Mr. Pinon, with limitations placed on Mr. Alvarez's residential time.

ATTORNEY FEES

Mr. Pinon requests attorney fees on appeal, arguing that the appeal was frivolous. RAP 18.9 empowers this court to award attorney fees for frivolous appeals. An appeal is frivolous when it presents "no debatable issues upon which reasonable minds could differ," and is lacking in merit "that there [is] no reasonable possibility of reversal." *Mahoney v. Shinpoch*, 107 Wn.2d 679, 691, 732 P.2d 510 (1987). RCW 26.26B.060 and RCW 26.26A.510 also empower this court to order reasonable attorney fees.

CONCLUSION

Mr. Alvarez's appeal is not frivolous. The law is not well-developed on the newly enacted statute

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pertaining to de facto parentage. The issues were well presented and meritorious. The court below ordered each party to pay their own fees. We deny Mr. Pinon's request for attorney fees.

Affirm.

/s/ Stabb, J.

WE CONCUR:

/s/ Lawrence-Berrey, J. /s/ Pennell, C.J.  
Lawrence-Berrey, J. Pennell, C.J.

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**Superior Court of Washington,  
County of YAKIMA**

In re the Custody of: [REDACTED]	No. 16-3-00354-39
Petitioner: GABRIEL PINON	Final Parentage Order (JDOEP)
And Respondents: JOSE L. ALVAREZ	(Filed Aug. 16, 2019)

**Final Parentage Order**

**1. Money Judgment Summary**

No money judgment is ordered.

*The court approved Findings and Conclusions  
for this case and now orders:*

**2. Child**

This case is about the parentage of:

Child's name	Born	Lives in
[REDACTED]	[REDACTED]	Yakima, WA

***Important! Don't list more than one child unless  
they have all the same parents or possible parents.  
If they have (or may have) different parents, fill out  
a separate Petition for each child. If multiple  
children are listed, change "child" to "children" in  
this form as needed.***

**3. Parentage Decision**

**Parent** – GABRIEL PINON is a legal parent of the child with all the rights and responsibilities of natural or adoptive parent based on Trial

**Parent** – JOSE ALVAREZ is a legal parent of the child with all the rights and responsibilities of natural or adoptive parents based on Trial

**4. Child's Name Change**

The child's names is changed by this order or a previous order in this case as follows:

From: [REDACTED] [REDACTED]

To:

<i>First</i>	<i>Middle</i>	<i>Last</i>
[REDACTED]		[REDACTED]

**5. Birth Record**

The state registrar of vital statistics must amend the child's birth certificate and any other birth record to list the parents as decided above and change the child's name if ordered above.

***Important!*** The court does not forward this order to the state registrar. A party must do this. If the child was born in Washington State, a party must mail a certified copy of this *Order*, with the filing fee, to the state registrar of vital statistics, Center for Health Statistics, Department of Health, P.O. Box 9709, Olympia, WA 98507. (For more information call (360) 236-4300)

If the child was not born in Washington, contact the appropriate agency in the state where the child was born.

**6. Parents' contact and employment information**

Each parent must fill out and file with the court a *Confidential Information* form (FL All Family 001) including personal identifying information, mailing address, home address, and employer contact information.

***Important!*** If you move or get a new job any time while support is still owed, you must:

- notify the Support Registry, and
- fill out and file an updated *Confidential Information* form with the court.

***Warning!*** Any notice of a child support action delivered to the last address you provided on the *Confidential Information* form will be considered adequate notice, if the party trying to serve you has shown diligent efforts to locate you.

**7. Parenting Plan or Residential Schedule**

The court has jurisdiction over the child. The child will live with GABRIEL PINON most of the time. This parent is named custodian for those state and federal laws that require a custodian. The court signed the final *Parenting Plan or Residential Schedule* filed separately today

**8. Child Support**

The court signed the final *Child Support Order* and *Worksheets* filed separately today

**9. Past due child support**

This order **does not decide** past due child support issues.

**10. Payment Plan**

Does not apply.

**11. Enforcement of judgment through income withholding (garnishment)**

Does not apply because no money judgment is ordered in section **9** above.

**12. Money judgment for fees and costs**

No money judgment is ordered.

**13. Protection Order**

No one requested an *Order for Protection* in this case.

**14. Restraining Order**

No one requested a *Restraining Order* in this case.

**15. Guardian ad Litem**

The guardian ad litem (GAL) is discharged.

**16. Other Orders**

The *Warnings* below are required by law and are made part of this order.

Other:

1. Mr. Alvarez shall turn over any social security and L&I funds in [REDACTED]'s name within 14 days of entry of this order.

*Ordered.*

8-16-19 /s/ BGG / Blaine G. Gibson  
Date *Judge or Commissioner*

**Petitioner and Respondents or their lawyers fill out below.**

/s/ [Illegible] 52486] 7833 /s/ [Illegible] 47291  
*Petitioner signs here* *Respondent signs*  
*or lawyer signs here* *her or lawyer signs*  
*+ WSBA #* *here + WSBA #*

David Hazel 8/16/19 Brook Barnes  
Print Name Date Print Name Date

This document: This document:

/s/ [Illegible] /s/ [Illegible]  
*Other Respondent* *Other party or*  
*or lawyer signs here* *Guardian ad Litem*  
*+ WSBA #* *signs here*

Gabriel Pinon 8/16/2019 Jose Luis Alvarez  
Print Name Date Print Name Date

**Warnings about Moving with the Children (Relocation)!**

If the person with whom the children are scheduled to reside a majority of the time plans to move (relocating person), s/he must notify every person who has court-ordered time with the children.

**Move to a different school district**

If the move is to a different school district, the relocating person must complete the form *Notice of*

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*Intent to Move with Children* (FL Relocate 701) and deliver it at least **60 days** before the intended move.

### *Exceptions:*

- If the relocating person could not reasonably have known enough information to complete the form in time to give 60 days' notice, s/he must give notice within 5 days after learning the information.
- If the relocating person is relocating to a domestic violence shelter or moving to avoid a clear, immediate and unreasonable risk to health or safety, notice may be delayed **21 days**.
- If information is protected under a court order or the address confidentiality program, it may be withheld from the notice.
- A relocating person who believes that giving notice would put her/himself or a child at unreasonable risk of harm, may ask the court for permission to leave things out of the notice or to be allowed to move without giving notice. Use form *Motion to Limit Notice of Intent to Move with Children (Ex Parte)* (FL Relocate 702).

The *Notice of Intent to Move with Children* can be delivered by having someone personally serve the other party or by any form of mail that requires a return receipt.

If the relocating person wants to change the *Parenting Plan* because of the move, s/he must deliver a proposed *Parenting Plan* together with the *Notice*.

***Move within the same school district***

If the move is within the *same* school district, the relocating person still has to let the other parent know. However, the notice does not have to be served personally or by mail with a return receipt. Notice to the other party can be made in any reasonable way. No specific form is required.

***Warning! If you do not notify . . .***

A relocating person who does not give the required notice may be found in contempt of court. If that happens the court can impose sanctions. Sanctions can include requiring the relocating person to bring the children back if the move has already happened, and ordering the relocating person to pay the other side's costs and lawyer's fees.

***Right to object***

A person who has court-ordered time with the children can object to a move to a different school district and/or to the relocating person's proposed *Parenting Plan*. If the move is within the same school district, the other party doesn't have the right to object to the move, but s/he may ask to change the *Parenting Plan* if there are adequate reasons under the modification law (RCW 26.09.260).

An objection is made by filing the *Objection about Moving with Children and Petition about Changing a Parenting / Custody Order (Relocation)* (form FL Relocate 721). File your *Objection* with the court and serve a copy on the relocating person and anyone else

who has court-ordered time with the children. Service of the *Objection* must be by personal service or by mailing a copy to each person by any form of mail that requires a return receipt. The *Objection* must be filed and served no later than **30 days** after the *Notice of intent to Move with Children* was received.

***Right to move***

During the 30 days after the *Notice* was served, the relocating person may not move to a different school district with the children unless s/he has a court order allowing the move.

After the 30 days, if no *Objection* is filed, the relocating person may move with the children without getting a court order allowing the move.

After the 30 days, if an *Objection* has been filed, the relocating person may move with the children **pending** the final hearing on the *Objection unless*:

- The other party gets a court order saying the children cannot move, or
- The other party has scheduled a hearing to take place no more than 15 days after the date the *Objection* was served on the relocating person. (However, the relocating person may ask the court for an order allowing the move even though a hearing is pending if s/he believes that s/he or a child is at unreasonable risk of harm.)

The court may make a different decision about the move at a final hearing on the *Objection*.

### ***Parenting Plan after move***

If the relocating person served a proposed *Parenting Plan* with the *Notice*, **and** if no *Objection* is filed within 30 days after the Notice was served (or if the parties agree):

- Both parties may follow that proposed plan without being held in contempt of the *Parenting Plan* that was in place before the move. However, the proposed plan cannot be enforced by contempt unless it has been approved by a court.
- Either party may ask the court to approve the proposed plan. Use form *Ex Parte Motion for Final Order Changing Parenting Plan – No Objection to Moving with Children* (FL Relocate 706).

### ***Forms***

You can find forms about moving with children at:

- The Washington State Courts' website:  
[www.courts.wa.gov/forms](http://www.courts.wa.gov/forms),
- The Administrative Office of the Courts – call:  
(360) 705-5328,
- Washington LawHelp:  
[www.washingtonlawhelp.org](http://www.washingtonlawhelp.org), or
- The Superior Court Clerk's office or county law library (for a fee).

*(This is a summary of the law. The complete law is in RCW 26.09.430 through 26.09*

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**Superior Court of Washington,  
County of YAKIMA**

In re parenting and support of: Children: [REDACTED]	No. 16-3-00354-39 Final Order and Findings for a Parenting Plan, Residential Schedule and/or Child Support (JDPPCS)
Petitioner: GABRIEL PINON	(Filed Aug. 16, 2019)
And Respondents: JOSE L. ALVAREZ	

**Final Order and Findings for a Parenting Plan,  
Residential Schedule and/or Child Support**

**1. Money Judgment Summary**

No money judgment is ordered.

**2. Court findings based on:**

The court's decision after a contested hearing on  
July 10, 2019.

The following people were at the hearing:

Gabriel Pinion, Petitioner; David Hazel,  
Attorney for Petitioner; Jose Luis Alvarez,  
Respondent; Brooke Barnes, Attorney for  
Respondent; together with witnesses called by  
the parties

***Findings & Conclusions***

**3. Children**

Petitioner and Respondent are parents of the following children who will be covered by a *Parenting Plan, Residential Schedule and/or Child Support Order*.

Child's name	Age
1. [REDACTED]	8

**4. Parentage established**

**Court Order** – Parentage was established by court order for [REDACTED] on July 10, 2019 by Yakima County Superior Court.

**5. Washington state deadlines for Acknowledgment of Parentage**

Does not apply because parentage was established either by court order or by an *Acknowledgment of Parentage* (Affidavit) filed in a different state than Washington.

**6. Acknowledgment of Parentage filed in another state**

Does not apply because parentage was established either by court order or by *Acknowledgment of Parentage* filed in Washington state.

**7. Notice and jurisdiction over parents**

- Notice was given to everyone with a legal right to receive it, and The court has jurisdiction over the parents in this case because:

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The Petitioner lives in Washington State.

The Respondent lives in Washington State.

The Respondent was personally served in this state with the *Summons and Petition*.

**8. Jurisdiction over the children**  
(RCW 26.27.201-.221, .231, .261, .271)

The court **can** order a parenting/custody order for the children because:

**Exclusive, continuing jurisdiction** – A Washington court has already made a custody order or parenting plan for the child, and the court still has authority to make other orders for [REDACTED].

**Home state jurisdiction** – Washington is the child's home state because:

[REDACTED] lived in Washington with a parent or someone acting as a parent for at least the 6 months just before this case was filed, or if the child is less than 6 months old when the case was filed, they have lived in Washington with a parent or someone acting as a parent since birth.

**9. Parenting Plan or Residential Schedule**

The court signed the final *Parenting Plan or Residential Schedule* filed separately today or on

**10. Child Support**

The court signed the final *Child Support Order and Worksheets* filed separately today or on

**11. Protection Order**

No one requested an *Order for Protection* in this case.

**12. Restraining Order**

No one requested a *Restraining Order* in this case.

**13. Fees and Costs**

Each party should pay his/her own fees and costs.

**14. Other findings, if any**

1. Mr. Alvarez shall immediately surrender [REDACTED]'s passport, birth certificate, social security card, and any other official documents in her name to Mr. Pinion;
2. Mr. Alvarez shall transfer all social security and L&I money for [REDACTED] to Mr. Pinion within 14 days entry of this order.

***Court Orders***

**15. Decision**

**Approved** – The court approves the *Petition*. All temporary orders are ended. The court signed the following orders filed separately:

*Parenting Plan*

*Child Support Order*

The guardian ad litem is discharged.

**16. Money Judgment (summarized on page 1)**

No money judgment is ordered.

**17. Other orders, if any**

1. Mr. Alvarez shall immediately surrender [REDACTED]'s passport, birth certificate, social security card, and any other official documents in her name to Mr. Pinion;
2. Mr. Alvarez shall transfer all social security and L&I money for [REDACTED] to Mr. Pinion within 14 days entry of this order

***Ordered.***

8-16-19 /s/ BGG / Blaine G. Gibson  
Date *Judge or Commissioner*

**Petitioner and Respondents or their lawyers fill out below.**

This document: This document:  
Is presented by me

/s/ [Illegible] [52486] 7833 /s/ [Illegible] 47291  
*Petitioner signs here* *Respondent signs*  
*or lawyer signs here* *her or lawyer signs*  
*+ WSBA #* *here + WSBA #*

David Hazel 8/16/19 Brook Barnes 8/16/19  
Print Name Date Print Name Date

/s/ [Illegible] /s/ [Illegible]  
*Petitioner signs here* *Respondent signs here*

Gabriel Pinon 8/16/2019 Jose Luis Alvarez  
Print Name Date Print Name Date

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**Guardian ad Litem:**

This document:

<i>GAL signs here</i>	<u>Branden Silva</u>	<i>Print name and WSBA #</i>	<i>Date</i>
		<i>(if any)</i>	

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**Superior Court of Washington,  
County of YAKIMA**

In re the Custody of: [REDACTED]	No. 16-3-00354-39
Petitioner: GABRIEL PINON	Findings and Conclusions about De Facto Parentage (FNFCL)
And Respondents: JOSE L. ALVAREZ	(Filed Aug. 16, 2019)

**Findings and Conclusions  
about De Facto Parentage**

*Use this form together with either a Final Parentage Order (form FL Parentage 316) or a Final Order Denying Parentage Petition (form FL Parentage 317).*

**1. Basis for findings and conclusions:**

Trial for this case on July 10, 2019, with the following people present:

Gabriel Pinion, Petitioner; David Hazel, Attorney for Petitioner; Jose Louis Alvarez, Respondent; Brooke Barnes, Attorney for Respondent; together with witnesses called by the parties

**2. Child**

This case is about whether Petitioner is the de facto parent of:

Child's name	Born	Lives in
[REDACTED]	[REDACTED]	Yakima, WA

***The court makes the following findings of fact and conclusions of law:***

**3. Guardian ad Litem**

The Court appointed Branden Silva Guardian ad Litem (GAL) for the child.

The court has considered the report and recommendations of the GAL about:

*Parenting Plan or Residential Schedule*

**4. Notice and Personal Jurisdiction**

All people with a right to receive notice of this case were served with the *Summons* and *Petition*. Petitioner and the child are and were at all times material, residents of Yakima County, Washington.

<b>Basis for Personal Jurisdiction</b>	<b>Respondent's Name:</b> JOSE LUIS ALVAREZ	<b>Other Respondent's Name:</b> N/A
Was served in Washington	[X]	[ ]
Lives in Washington now	[X]	[ ]
Lived in Washington with child	[X]	[ ]
Lived in Washington and paid pregnancy costs	[X]	[ ]

or support for child		
Caused child to live in Washington	[X]	[ ]
Had sex in Washington that may have produced the child	[X]	[ ]
Agrees to Washington deciding	[X]	[ ]
None of the above	[ ]	[ ]

**Conclusion:** The court has personal jurisdiction over all parties to this case.

***De Facto Parentage***

Findings and conclusions are below in **5-11**.

**5. Residence for a significant period**

Did Petitioner live with the child as a regular member of the child's household for a significant period?

Yes.

This conclusion is based on the following facts:

████████ and her mother continuously lived in Petitioner's home from 2012 until her mother was murdered in 2016. They lived as a family which

included another child, Mateo, born to Karina Morales and Petitioner in 2015 and to whom [REDACTED] is closely bonded. [REDACTED] continued to live in his home until entry of a temporary order which resulted in transfer to Respondent's home in August, 2017.

**6. Caretaking/Parenting responsibilities**

Did Petitioner provide consistent caretaking for the child and undertake full and permanent parenting responsibilities without expectation of being paid?

Yes.

This conclusion is based on the following facts:

Petitioner provided for child's daily needs both before and after her mother was murdered with no expectation of being paid and to his financial detriment.

**7. Holding out**

Did Petitioner hold the child out as his own?

Yes.

This conclusion is based on the following facts:

[REDACTED] thinks of Petitioner as her father and calls him Dad. Teachers and friends at school believed that he was her only father before Respondent came back to Yakima following the Mother's death.

**8. Bonded Relationship**

Did Petitioner have a bonded and dependent parental relationship with the child?

Yes.

This conclusion is based on the following facts:

Petitioner was the only father [REDACTED] knew before her mother was murdered. He changed her diapers, taught her to tie her shoes, took her to school nearly every day, was heavily involved in her education and nurtured her from the age of eighteen months for the majority of her life and at a time which was crucial to her development. He and [REDACTED] have a close and bonded relationship and she sees him as her father and has always referred to him as "dad" without prompting.

**9. Parent Fostered/Supported Relationship**

Did at least one of the child's parents foster or support Petitioner's bonded and dependent relationship with the child?

Yes.

This conclusion is based on the following facts:

Petitioner was engaged to be married to [REDACTED]'s mother at the time of her death. Her mother encouraged him to take on a parental role after Respondent moved out of state and was largely absent from her life, engaging only in periodic phone calls with gaps as long as four months or more and saw her only once between 2012 and 2016.

**10. Best interest**

Is it in the child's best interest for the relationship with Petitioner to continue?

Yes.

This conclusion is based on the following facts:

It is in [REDACTED]'s best interest that Petitioner be her primary parent because of his shown parenting abilities and the close bond [REDACTED] has with him and because respondent is not a fit parent.

**11. Conclusion about de facto parentage**

The court should **order** that Petitioner is a legal parent.

***Parenting Plan / Residential Schedule***

**12. Jurisdiction over the child (RCW 26.27.201-.221, .231, .261, .271)**

The court **can** approve a *Parenting Plan* or *Residential Schedule* for the child and decide who the child should live with most of the time because:

**Exclusive, continuing jurisdiction** – A Washington court has already made a custody order or parenting plan for the child, and the court still has authority to make other orders for the child.

**Home state jurisdiction** – Washington is the child's home state because:

The child lived in Washington with a parent or someone acting as a parent for at least the 6 months just before this case was filed, or if the child was less than 6 months old when the case was filed, the child had lived in Washington with a parent or someone acting as a parent since birth.

**13. Parenting Plan or Residential Schedule**

The court signed the final *Parenting Plan or Residential Schedule* filed separately today

The plan or schedule is approved after trial.  
The court considered all of the evidence admitted at trial.

***Other Requests***

**14. Child's name**

~~The child's name should be changed as listed on the *Final Parentage Order*. [BB BBG]~~

**15. Birth Record**

The birth certificate and any other birth record should be changed as listed on the *Final Parentage Order*.

**16. Child Support**

The child should be supported according to state law. The court signed the final *Child Support Order* and *Worksheets* filed separately today [8/16/19 BB]

**17. Protection Order**

No one requested an *Order for Protection* in this case.

**18. Restraining Order**

No one requested a *Restraining Order* in this case.

**19. Fees and costs**

Each party should pay his or her own fees and costs.

**20. Other findings or conclusions**

Jose Alvarez is subject to limiting factors under RCW 26.09.191 and is not a fit parent. Further, the court specifically adopts the trial testimony of the guardian ad litem relative to the factors of RCW 26.09.187. [REDACTED]'s strength, nature and stability of relationship is stronger with Gabriel Pinon than Jose and she is more closely bonded to Gabriel than Jose and views Gabriel as her father. Gabriel has done the majority of parenting factors on a daily basis for the majority of the child's life and taken greater responsibility to perform the role of a parent than Jose. Gabriel's past and potential to perform parenting functions is stronger than Jose's. Considering [REDACTED]'s age and her developmental level, [REDACTED]'s best interests are served by placing her care, custody and control with Gabriel. Gabriel has a strong attachment to her half-brother, Mateo, the issue born as a result of the union of Gabriel and [REDACTED]'s mother and who resides exclusively with Gabriel. [REDACTED] further has stronger ties to Gabriel's extended family than Jose's. [REDACTED] does not possess the maturity to express a reasoned and independent wish for her custodial care.

8-16-19

*Date*

/s/ BGG / Blaine G. Gibson

*Judge or Commissioner*

**Petitioner and Respondents or their lawyers fill out below.**

This document:  
Is presented by me

/s/ [Illegible] [52486] 7833 /s/ [Illegible] 47291  
*Petitioner signs here  
or lawyer signs here  
+ WSBA #* *Respondent signs  
her or lawyer signs  
here + WSBA #*

David Hazel 8/16/19 Brook Barnes  
Print Name Date Print Name Date

/s/ [Illegible] /s/ Other party or  
Guardian ad Litem  
signs here

Gabriel Pinon 8/16/2019 Jose Luis Alvarez  
Print Name Date Print Name Date

*Guardian ad Litem signs here*

Branden Silva  
*Print name* *Date*

**Superior Court of Washington,  
County of YAKIMA**

In re the Custody of: [REDACTED]	No. 16-3-00354-39
Petitioner: GABRIEL PINON	Parenting Plan (PPP / PPT / PP) [X] Clerk's action required: 1.
And Respondents: JOSE L. ALVAREZ	(Filed Aug. 16, 2019)

**Parenting Plan**

1. This parenting plan is a **Court Order** signed by a judge or commissioner. This is a Final order (PP).
2. **Children** – This parenting plan is for the following children:

Child's name	Age
1. [REDACTED]	8

3. **Reasons for putting limitations on a parent** (under RCW 26.09.191)
  - a. **Abandonment, neglect, child abuse, domestic violence, assault, or sex offense.**

A parent has one or more of these problems as follows:

**Child Abuse** – Jose Luis Alvarez (or someone living in that parent's home) abused or threatened to abuse a child. The abuse was: physical repeated emotional abuse.

**b. Other problems** that may harm the child's best interests:

A parent has one or more of these problems as follows:

**Abusive use of conflict** – Jose Luis Alvarez uses conflict in a way that endangers or damages the psychological development of the child listed in **2**.

**4. Limitations on a parent**

**The following limits or conditions apply to Jose Luis Alvarez.**

**Supervised contact.** All parenting time shall be supervised. Any costs of supervision must be paid by Jose Luis Alvarez.

The supervisor shall be a non-professional supervisor: as agreed by the parties.

The dates and times of supervised contact will be as listed in **8b**.

[\* Schedule may reviewed with court in 4 months after input from child's counselor Katherine Hill. This court retains jurisdiction. BB CJ]

**5. Decision-making**

When the child is with you, you are responsible for her. You can make day-to-day decisions for the child when they are with you, including decisions about safety and emergency health care. Major decisions must be made as follows.

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**a. Who can make major decisions about the children?**

Type of Major Decision	Joint (parents make these decisions together)	Limited (only the parent named below has authority to make these decisions)
School / Educational		Gabriel Pinion
Health care (not emergency)		Gabriel Pinion

**b. Reasons for limits on major decision-making, if any:**

Major decision-making **must** be limited because one of the parents has problems as described in 3.a. above.

**6. Dispute Resolution** – If you and the other parent disagree:

From time to time, the parents may have disagreements about shared decisions or about what parts of this parenting plan mean. To solve disagreements about this parenting plan, the parents will go to a dispute resolution provider or court. The court may only require a dispute resolution provider if there are no limitations in 3a.

**a. The parents will go to the dispute resolution provider below:**

Mediation: DRC

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*If there are domestic violence issues, you may only use mediation if the victim asks for mediation, mediation is a good fit for the situation, and the victim can bring a support person to mediation.*

If a dispute resolution provider is not named above, or if the named provider is no longer available, the parents may agree on a provider or ask the court to name one.

**Important!** Unless there is an emergency, the parents must participate in the dispute resolution process listed above in good faith, before going to court. This section does **not** apply to disagreements about money or support.

- b.** If mediation, arbitration, or counseling is required, one parent must notify the other parent by certified mail. The parents will pay for the mediation, arbitration, or counseling services as follows: Gabriel Pinion will pay 50%, Jose Luis Alvarez will pay 50%.

### **What to expect in the dispute resolution process**

- Preference shall be given to carrying out the parenting plan.
- If you reach an agreement, it must be put into writing, signed, and both parents must get a copy.
- If the court finds that you have used or frustrated the dispute resolution process without a good reason, the court can order

you to pay financial sanctions (penalties) including the other parent's legal fees.

- You may go back to court if the dispute resolution process doesn't solve the disagreement or if you disagree with the arbitrator's decision.

## 7. Custodian

The custodian is Gabriel Pinion solely for the purpose of all state and federal statutes which require a designation of determination of custody. Even though one parent is called the custodian, this does not change the parenting rights and responsibilities described in this plan.

*(Washington law generally refers to parenting time and decision-making, rather than custody. However, some state and federal laws require that one person be named the custodian. The custodian is the person with whom the children are scheduled to reside a majority of their time.)*

## Parenting Time Schedule (Residential Provisions)

*Complete the parenting time schedule in sections 8-11.*

## 8. School Schedule

### a. Children under School-Age

Does not apply. All children are school-age. [Schedule may be reviewed with court in 4 months after input from child's counselor Katherine Hill. CJ BB]

**b. School-Age Children**

The children are scheduled to live with Gabriel Pinion except when they are scheduled to live with Jose Luis Alvarez on:

WEEKENDS: every other week.

From Saturday at 9:00 a.m. to Saturday at 5:00 p.m.

From Sunday at 9:00 a.m. to Sunday at 5:00 p.m.

**9. Summer Schedule**

Summer begins and ends according to the school calendar.

The Summer Schedule is the **same** as the School Schedule (*Skip to 10.*)

**10. Holiday Schedule (includes school breaks)**

This is the Holiday Schedule for all children:

<b>Holiday</b>	<b>Children with: Gabriel Pinion</b>	<b>Children with: Jose Luis Alvarez</b>
Martin Luther King Jr. Day	Every Yr. Begin day/time: _____ End day/time: _____	Begin day/time: _____ End day/time: _____
Presidents' Day	Every Yr. Begin day/time: _____ End day/time: _____	Begin day/time: _____ End day/time: _____

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March 26* * The anniversary of mother's death	Every Yr. Begin day/time: <u>9:00 am</u> End day/time: <u>5:00 pm</u>	Begin day/time:  End day/time:  
Spring Break	Every Yr. Begin day/time: <u>Monday 9:00 am</u> End day/time: <u>Saturday 9:00 am</u>	Begin day/time:  End day/time:  
Mother's Day	Odd Years Begin day/time: <u>9:00 am</u> End day/time: <u>5:00 pm</u>	Even Years Begin day/time: <u>9:00 am</u> End day/time: <u>5:00 pm</u>
Memorial Day	Every Yr. Begin day/time:  End day/time:  	Begin day/time:  End day/time:  
Father's Day	Even Years Begin day/time: <u>9:00 am</u> End day/time: <u>5:00 pm</u>	Odd Years Begin day/time: <u>9:00 am</u> End day/time: <u>5:00 pm</u>
Fourth of July	Odd Years Begin day/time: <u>12:00 pm</u> End day/time: <u>8:00 pm</u>	Even Years Begin day/time: <u>12:00 pm</u> End day/time: <u>8:00 pm</u>
Labor Day	Every Yr. Begin day/time:  	Begin day/time:  

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	End day/time: _____	End day/time: _____
October 10 * Mother's birthday	Every Yr. Begin day/time: <u>9:00 am</u> End day/time: <u>5:00 pm</u>	Begin day/time: _____ End day/time: _____
Halloween	Every Yr. Begin day/time: <u>5:00 pm</u> End day/time: <u>8:00 pm</u>	Begin day/time: _____ End day/time: _____
Thanksgiving Day	Even Years Begin day/time: <u>9:00 am</u> End day/time: <u>5:00 pm</u>	Odd Years Begin day/time: <u>9:00 am</u> End day/time: <u>5:00 pm</u>
Christmas Eve	Odd Years Begin day/time: <u>12:00 pm</u> End day/time: <u>8:00 pm</u>	Even Years Begin day/time: <u>12:00 pm</u> End day/time: <u>8:00 pm</u>
Christmas Day	Even Years Begin day/time: <u>9:00 am</u> End day/time: <u>5:00 pm</u>	Odd Years Begin day/time: <u>9:00 am</u> End day/time: <u>5:00 pm</u>
Children's Birthdays	Every Yr. Begin day/time: _____ End day/time: _____	Begin day/time: _____ End day/time: _____

	Other plan: Both parents shall have 4 hours with the child within 2 days of her birthday as agreed		
All three-day weekends not listed elsewhere	<i>(Federal holidays, school in-service days, etc.)</i> Other plan: Mr. Pinion will have [REDACTED]		
Other occasion important to the family: Easter	Every Yr. Begin day/time: <u>9:00 am</u> End day/time: <u>5:00 pm</u>	Begin day/time: [REDACTED]	End day/time: [REDACTED]

## 11. Conflicts in Scheduling

The Holiday Schedule must be observed over all other schedules. If there are conflicts within the Holiday Schedule:

Named holidays shall be followed before school breaks. Higher numbered paragraphs take priority

## 12. Transportation Arrangements

The children will be exchanged for parenting time (picked up and dropped off) at Who is responsible for arranging transportation?

Other details: [Exchanges will be at the Wapato police station. /s/ Illegible]

~~Mr. Pinion will pick up [REDACTED] at the Toppenish police station and Mr. Alvarez will pick up [REDACTED]~~

~~at the Yakima Sheriff's station to be delivered, or retrieved, by the supervisor.~~

### **13. Moving with the Children (Relocation)**

If the person with whom the children are scheduled to reside a majority of their time plans to move (relocating person), s/he **must notify** every person who has court-ordered time with the children.

#### ***Move to a different school district***

If the move is to a different school district, the relocating person must complete the form *Notice of Intent to Move with Children (FL Relocate 701)* and deliver it at least **60** days before the intended move.

#### *Exceptions:*

- If the relocating person could not reasonably have known enough information to complete the form in time to give 60 days' notice, s/he must give notice within **5 days** after learning the information.
- If the relocating person is relocating to a domestic violence shelter or moving to avoid a clear, immediate and unreasonable risk to health or safety, notice *may* be delayed **21 days**.
- If information is protected under a court order or the address confidentiality program, it may be withheld from the notice.
- A relocating person who believes that giving notice would put her/himself or a child at

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unreasonable risk of harm, may ask the court for permission to leave things out of the notice or to be allowed to move without giving notice. Use form *Motion to Limit Notice of Intent to Move with Children (Ex Parte)* (FL Relocate 702).

The *Notice of Intent to Move with Children* can be delivered by having someone personally serve the other party or by any form of mail that requires a return receipt.

If the relocating person wants to change the *Parenting Plan* because of the move, s/he must deliver a proposed *Parenting Plan* together with the *Notice*.

### ***Move within the same school district***

If the move is within the *same* school district, the relocating person still has to let the other parent know. However, the notice does not have to be served personally or by mail with a return receipt. Notice to the other party can be made in any reasonable way. No specific form is required.

### ***Warning! If you do not notify . . .***

A relocating person who does not give the required notice may be found in contempt of court. If that happens the court can impose sanctions. Sanctions can include requiring the relocating person to bring the children back if the move has already happened, and ordering the relocating person to pay the other side's costs and lawyer's fees.

***Right to object***

A person who has court-ordered time with the children can object to a move to a different school district and/or to the relocating person's proposed *Parenting Plan*. If the move is within the same school district, the other party doesn't have the right to object to the move but s/he may ask to change the *Parenting Plan* if there are adequate reasons under the modification law (RCW 26.09.260).

An objection is made by filing the *Objection about Moving with children and Petition about Changing a Parenting/Custody Order (Relocation)* (form FL Relocate 721). File your Objection with the court and serve a copy on the relocating person and anyone else who has court-ordered time with the children. Service of the *Objection* must be by personal service or by mailing a copy to each person by any form of mail that requires a return receipt. The *Objection* must be filed and served no later than **30 days** after the *Notice of intent to Move with Children* was received.

***Right to move***

During the 30 days after the *Notice* was served, the relocating person may not move to a different school district with the children unless s/he has a court order allowing the move.

After the 30 days, if no *Objection* is filed, the relocating person may move with the children without getting a court order allowing the move.

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After the 30 days, if an *Objection* has been filed, the relocating person may move with the children **pending** the final hearing on the *Objection* **unless**:

- The other party gets a court order saying the children cannot move, or
- The other party has scheduled a hearing to take place no more than 15 days after the date the *Objection* was served on the relocating person. (However, the relocating person may ask the court for an order allowing the move even though a hearing is pending if the relocating person believes that s/he or a child is at unreasonable risk of harm.)
- the court may make a different decision about the move at a final hearing on the *Objection*.

### ***Parenting Plan after move***

If the relocating person served a proposed *Parenting Plan* with the *Notice*, **and** if no *Objection* is filed within 30 days after the *Notice* was served (or if the parties agree):

- Both parties may follow that proposed plan without being held in contempt of the *Parenting Plan* that was in place before the move. However, the proposed plan cannot be enforced by contempt unless it has been approved by a court.
- Either party may ask the court to approve the proposed plan. Use form *Ex Parte Motion for Final Order Changing Parenting Plan – No*

*Objection to Moving with Children* (FL Relocate 706).

**Forms**

You can find forms about moving with children at:

The Washington State Courts' website: [www.courts.wa.gov/forms](http://www.courts.wa.gov/forms), The Administrative Office of the Courts – call: (360) 705-5328, Washington LawHelp: [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org), or The Superior Court Clerk's office or county law library (for a fee).

*(This is a summary of the law. The complete law is in RCW 26.09.430 through 26.09.480.)*

**14. Other**

1. Neither parent shall speak disparagingly about the other, or his family, within hearing of the child, and shall not permit others to do so;
2. There shall be no corporal punishment;
3. Mr. Alvarez shall immediately surrender child's passport, birth certificate, social security card, and any other official documents in her name;

**15. Proposal**

Does not apply. This is a court order.

**16. Court Order**

This is a court order (if signed by a judge or commissioner below).

**Findings of Fact** – Based on the pleadings and any other evidence considered:

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The Court adopts the statements in section 3. (Reasons for putting limitations on a parent) as its findings.

- The other party gets a court order saying the children cannot move, or
- The other party has scheduled a hearing to take place no more than 15 days after the date the *Objection* was served on the relocating person. (However, the relocating person may ask the court for an order allowing the move even though a hearing is pending if the relocating person believes that s/he or a child is at unreasonable risk of harm.)
- the court may make a different decision about the move at a final hearing on the *Objection*.

### ***Parenting Plan after move***

If the relocating person served a proposed *Parenting Plan* with the *Notice*, **and** if no *Objection* is filed within 30 days after the *Notice* was served (or if the parties agree):

- Both parties may follow that proposed plan without being held in contempt of the *Parenting Plan* that was in place before the move. However, the proposed plan cannot be enforced by contempt unless it has been approved by a court.
- Either party may ask the court to approve the proposed plan. Use form *Ex Parte Motion for Final Order Changing*

*Parenting Plan – No Objection to Moving with Children (FL Relocate 706).*

***Forms***

You can find forms about moving with children at:

- The Washington State Courts' website: [www.courts.wa.gov/forms](http://www.courts.wa.gov/forms),
- The Administrative Office of the Courts – call: (360) 705-5328,
- Washington LawHelp: [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org), or
- The Superior Court Clerk's office or county law library (for a fee).

*(This is a summary of the law. The complete law is in RCW 26.09.430 through 26.09.480.)*

**14. Other**

**Language for Parenting Plan**

Neither party shall take the child outside of the United States without the express written consent of the other party or by court order.

The parents will make mutual efforts to maintain open, ongoing communication concerning the child's developmental needs and interest and will communicate regarding any major decisions which have to be made about or for the child.

Each parent shall be prohibited from making disparaging remarks about the other party or allow

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others to do so in the presence of the child. Neither parent shall allow or encourage the child to make derogatory comments about the other parent. The child shall not be used, directly or indirectly, by the parent to gather information about the other parent or take verbal messages to the other parent.

Responsibility to communicate for visitation-related issues shall be that of the ~~mother and father~~ [parents].

Neither parent shall encourage the child to change his [her] primary residence or encourage him to believe it is his choice to do so.

Neither parent shall advise the child of the status of their child support payments or other legal matters regarding the parents' relationship.

Each parent shall have equal and independent authority to confer with school, daycare and other programs with regard to child's progress and each shall have free access to school, daycare, and other records. Each parent shall have authority to give parental consent or permission as may be required concerning school, daycare, or other programs for the child while the child is residing with him or her.

The parent with whom the child is not residing shall have access, upon request to information concerning the well-being of the child including, but not limited to, copies of report cards, requests for conferences, result of standardized or diagnostic tests, sample of school work, communications from health

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care providers, the names, addresses and telephone numbers of health care providers and counselors.

Each parent shall be empowered to obtain emergency health care for the child without the consent of the other parent. Each parent is to notify the other parent as soon as reasonably possible of any illness requiring medical attention, or any emergency involving the child. Each parent shall have equal and independent authority to provide routine and emergency medical and dental services for the child while the child is in his ~~or her~~ care and residence.

The child shall have liberal telephone privileges with the parent with whom he is not then residing without the interference of the residential parent except that the cost, if any, of such telephone contact shall be borne by the non-residential parent unless otherwise specifically agreed to by the residential parent. The non-residential parent shall take in to consideration the hour the child goes to bed.

The child shall be accompanied by the parent with whom he [she] is residing at the time of a given social event. The other parent shall not be limited from attendance at that event providing said attendance by non-residential parent is not disruptive to the other participants. Each parent shall be responsible for keeping himself ~~or~~ herself advised of school, athletic, and social events in which the child participates. Both parents may participate in school activities for the child such as an open house, athletic events, etc.

**15. Proposal**

Does not apply. This is a court order.

**16. Court Order**

[ ] Does not apply. This is a proposal.

[X] This is a court order (if signed by a judge or commissioner below).

**Findings of Fact** – Based on the pleadings and any other evidence considered:

**Conclusions of Law** – This *Parenting Plan* is in the best interest of the children.

**Order** – The parties must follow this *Parenting Plan*.

8-16-19 /s/ BGG / Blaine G. Gibson  
Date Judge or Commissioner

**Warning!** If you don't follow this *Parenting Plan*, the court may find you in contempt (RCW 26.09.160). You still have to follow this *Parenting Plan* even if the other parent doesn't.

Violation of **residential** provisions of this order with actual knowledge of its terms is punishable by contempt of court and may be a criminal offense under RCW 9A.40.060(2) or 9A.40.070(2). Violation of this order may subject a violator to arrest.

**If this is a court order, the parties and/or their lawyers (and any GAL) sign below.**

**Petitioner and Respondents or their lawyers fill out below.**

This order:  
Is presented by me.

/s/ [Illegible] 52486] 7833 /s/ [Illegible] 47291  
*Petitioner signs here*  
*or lawyer signs here*  
*+ WSBA #* *Respondent signs*  
*her or lawyer signs*  
*here + WSBA #*

David Hazel 8/16/19 Brook Barnes  
*Print Name* *Date* *Print Name* *Date*

This order: This order:

/s/ [Illegible] /s/  
*Other Respondent*  
*or lawyer signs here*  
*+ WSBA #* *Other party or*  
*Guardian ad Litem*  
*signs here*

Gabriel Pinon 8/16/2019 Jose Luis Alvarez  
*Print Name* *Date* *Print Name* *Date*

Guardian ad Litem signs here

Branden Silva  
*Print name* *Date*

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