

2 **SHB 2761** - H AMD 968
3 By Representative Carrell

4

5 Strike everything after the enacting clause and insert the
6 following:

7 **"PART I - CRISIS RESIDENTIAL CENTERS AND TREATMENT SERVICES**

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 74.13 RCW
9 to read as follows:

10 Any county or group of counties may make application to the
11 department of social and health services in the manner and form
12 prescribed by the department to administer and provide the services
13 established under RCW 13.32A.197. Any such application must include a
14 plan or plans for providing such services to at-risk youth.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.13 RCW
16 to read as follows:

17 No county may receive any state funds provided by this chapter
18 until its application and plan are received by the department.

19 (1) The distribution of funds to a county or a group of counties
20 shall be based on criteria including but not limited to the county's
21 per capita income, regional or county at-risk populations, rates of
22 poverty, and the presence of existing programs serving at-risk
23 children.

24 (2) The secretary of social and health services shall reimburse a
25 county upon presentation and approval of a valid claim pursuant to this
26 chapter based on actual performance in meeting the terms and conditions
27 of the approved plan and contract. Funds received by participating
28 counties under this chapter shall not be used to replace local funds
29 for existing programs.

30 (3) Funds available for county-operated treatment facilities and
31 services under RCW 13.32A.197 shall not exceed the appropriation for
32 these services specified in the biennial operating budget.

1 **Sec. 3.** RCW 74.13.031 and 1997 c 386 s 32 and 1997 c 272 s 1 are
2 each reenacted and amended to read as follows:

3 The department shall have the duty to provide child welfare
4 services and shall:

5 (1) Develop, administer, supervise, and monitor a coordinated and
6 comprehensive plan that establishes, aids, and strengthens services for
7 the protection and care of homeless, runaway, dependent, or neglected
8 children.

9 (2) Within available resources, recruit an adequate number of
10 prospective adoptive and foster homes, both regular and specialized,
11 i.e. homes for children of ethnic minority, including Indian homes for
12 Indian children, sibling groups, handicapped and emotionally disturbed,
13 teens, pregnant and parenting teens, and annually report to the
14 governor and the legislature concerning the department's success in:
15 (a) Meeting the need for adoptive and foster home placements; (b)
16 reducing the foster parent turnover rate; (c) completing home studies
17 for legally free children; and (d) implementing and operating the
18 passport program required by RCW 74.13.285. The report shall include
19 a section entitled "Foster Home Turn-Over, Causes and Recommendations."

20 (3) Investigate complaints of alleged neglect, abuse, or
21 abandonment of children, and on the basis of the findings of such
22 investigation, offer child welfare services in relation to the problem
23 to such parents, legal custodians, or persons serving in loco parentis,
24 and/or bring the situation to the attention of an appropriate court, or
25 another community agency: PROVIDED, That an investigation is not
26 required of nonaccidental injuries which are clearly not the result of
27 a lack of care or supervision by the child's parents, legal custodians,
28 or persons serving in loco parentis. If the investigation reveals that
29 a crime may have been committed, the department shall notify the
30 appropriate law enforcement agency.

31 (4) Offer, on a voluntary basis, family reconciliation services to
32 families who are in conflict.

33 (5) Monitor out-of-home placements, on a timely and routine basis,
34 to assure the safety, well-being, and quality of care being provided is
35 within the scope of the intent of the legislature as defined in RCW
36 74.13.010 and 74.15.010, and annually submit a report measuring the
37 extent to which the department achieved the specified goals to the
38 governor and the legislature.

1 (6) Have authority to accept custody of children from parents and
2 to accept custody of children from juvenile courts, where authorized to
3 do so under law, to provide child welfare services including placement
4 for adoption, and to provide for the physical care of such children and
5 make payment of maintenance costs if needed. Except where required by
6 Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency
7 which receives children for adoption from the department shall
8 discriminate on the basis of race, creed, or color when considering
9 applications in their placement for adoption.

10 (7) Have authority to provide temporary shelter to children who
11 have run away from home and who are admitted to crisis residential
12 centers.

13 (8) Have authority to purchase care for children; and shall follow
14 in general the policy of using properly approved private agency
15 services for the actual care and supervision of such children insofar
16 as they are available, paying for care of such children as are accepted
17 by the department as eligible for support at reasonable rates
18 established by the department.

19 (9) Establish a children's services advisory committee which shall
20 assist the secretary in the development of a partnership plan for
21 utilizing resources of the public and private sectors, and advise on
22 all matters pertaining to child welfare, licensing of child care
23 agencies, adoption, and services related thereto. At least one member
24 shall represent the adoption community.

25 (10) Have authority to provide continued foster care or group care
26 for individuals from eighteen through twenty years of age to enable
27 them to complete their high school or vocational school program.

28 (11) Have authority within funds appropriated for foster care
29 services to purchase care for Indian children who are in the custody of
30 a federally recognized Indian tribe or tribally licensed child-placing
31 agency pursuant to parental consent, tribal court order, or state
32 juvenile court order; and the purchase of such care shall be subject to
33 the same eligibility standards and rates of support applicable to other
34 children for whom the department purchases care.

35 (12) Provide funding for counties to operate treatment facilities
36 and provide treatment services to children who have been ordered placed
37 in a staff secure facility under RCW 13.32A.197.

38 Notwithstanding any other provision of RCW 13.32A.170 through
39 13.32A.200 and 74.13.032 through 74.13.036, or of this section all

1 services to be provided by the department of social and health services
2 under subsections (4), (6), and (7) of this section, or counties under
3 subsection (12) of this section, subject to the limitations of these
4 subsections, may be provided by any program offering such services
5 funded pursuant to Titles II and III of the federal juvenile justice
6 and delinquency prevention act of 1974.

7 **Sec. 4.** RCW 74.13.032 and 1995 c 312 s 60 are each amended to read
8 as follows:

9 (1) The department shall establish, by contracts with private or
10 public vendors, regional crisis residential centers with semi-secure
11 facilities. These facilities shall be structured group care facilities
12 licensed under rules adopted by the department and shall have an
13 average of at least four adult staff members and in no event less than
14 three adult staff members to every eight children.

15 (2) Within available funds appropriated for this purpose, the
16 department shall establish, by contracts with private or public
17 vendors, regional crisis residential centers with secure facilities.
18 These facilities shall be facilities licensed under rules adopted by
19 the department. These centers may also include semi-secure facilities
20 and to such extent shall be subject to subsection (1) of this section.

21 (3) The department shall, in addition to the facilities established
22 under subsections (1) and (2) of this section, establish additional
23 crisis residential centers pursuant to contract with licensed private
24 group care facilities.

25 (4) The staff at the facilities established under this section
26 shall be trained so that they may effectively counsel juveniles
27 admitted to the centers, provide treatment, supervision, and structure
28 to the juveniles that recognize the need for support and the varying
29 circumstances that cause children to leave their families, and carry
30 out the responsibilities stated in RCW 13.32A.090. The
31 responsibilities stated in RCW 13.32A.090 may, in any of the centers,
32 be carried out by the department.

33 (5) The secure facilities located within crisis residential centers
34 shall be operated to conform with the definition in RCW 13.32A.030.
35 The facilities shall have an average of no ~~((more))~~ less than ~~((three))~~
36 one adult staff member~~((s))~~ to every ~~((eight))~~ ten children. The
37 staffing ratio shall continue to ensure the safety of the children.

1 (6) (~~(A center with secure facilities created under this section~~
2 ~~may not be located within, or on the same grounds as, other secure~~
3 ~~structures including jails, juvenile detention facilities operated by~~
4 ~~the state, or units of local government. However, the secretary may,~~
5 ~~following consultation with the appropriate county legislative~~
6 ~~authority, make a written finding that location of a center with secure~~
7 ~~facilities on the same grounds as another secure structure is the only~~
8 ~~practical location for a secure facility. Upon the written finding a~~
9 ~~secure facility may be located on the same grounds as the secure~~
10 ~~structure. Where)) If a secure crisis residential center is located in
11 or adjacent to a secure juvenile detention facility, the center shall
12 be operated in a manner that prevents in-person contact between the
13 residents of the center and the persons held in such facility.~~

14 NEW SECTION. Sec. 5. A new section is added to chapter 74.13 RCW
15 to read as follows:

16 (1) A county or group of counties operating a treatment facility
17 under sections 1 and 2 of this act shall establish, by contracts with
18 private or public vendors, treatment centers with staff secure
19 facilities. These facilities shall be structured group care facilities
20 licensed under rules adopted by the department.

21 (2) The staff at the facilities established under RCW 13.32A.197
22 shall be trained so that they may effectively counsel, supervise,
23 provide treatment for behavioral difficulties or needs, and provide
24 structure to the juveniles admitted to treatment facilities. The
25 treatment, supervision, and counseling must recognize the need for
26 support and the varying circumstances that cause children to leave
27 their families.

28 (3) Juveniles shall be admitted to the facilities based on a court
29 order for placement at a staff secure facility to receive treatment
30 under RCW 13.32A.197. Juveniles shall not be denied admission based on
31 their county of residence.

32 **PART II - MENTAL HEALTH AND CHEMICAL DEPENDENCY TREATMENT**

33 NEW SECTION. Sec. 6. The legislature finds it is often necessary
34 for parents to obtain mental health or chemical dependency treatment
35 for their minor children prior to the time the child's condition
36 presents a likelihood of serious harm or the child becomes gravely

1 disabled. The legislature finds that treatment of such conditions is
2 not the equivalent of incarceration or detention, but is a legitimate
3 act of parental discretion, when supported by decisions of credentialed
4 professionals. The legislature finds that, consistent with *Parham v.*
5 *J.R.*, 442 U.S. 584 (1979), state action is not involved in the
6 determination of a parent and professional person to admit a minor
7 child to treatment and finds this act provides sufficient independent
8 review by the department of social and health services, as a neutral
9 fact-finder, to protect the interests of all parties. The legislature
10 finds it is necessary to provide parents a statutory process, other
11 than the petition process provided in chapters 70.96A and 71.34 RCW, to
12 obtain treatment for their minor children without the consent of the
13 children.

14 The legislature finds that differing standards of admission and
15 review in parent-initiated mental health and chemical dependency
16 treatment for their minor children are necessary and the admission
17 standards and procedures under state involuntary treatment procedures
18 are not adequate to provide safeguards for the safety and well-being of
19 all children. The legislature finds the timeline for admission and
20 reviews under existing law do not provide sufficient opportunities for
21 assessment of the mental health and chemically dependent status of
22 every minor child and that additional time and different standards will
23 facilitate the likelihood of successful treatment of children who are
24 in need of assistance but unwilling to obtain it voluntarily. The
25 legislature finds there are children whose behavior presents a clear
26 need of medical treatment but is not so extreme as to require immediate
27 state intervention under the state involuntary treatment procedures.

28 **PART II-A - MENTAL HEALTH**

29 **Sec. 7.** RCW 71.34.010 and 1992 c 205 s 302 are each amended to
30 read as follows:

31 It is the purpose of this chapter to ~~((ensure))~~ assure that minors
32 in need of mental health care and treatment receive an appropriate
33 continuum of culturally relevant care and treatment, ~~((from))~~ including
34 prevention and early intervention ~~((to))~~, self-directed care, parent-
35 directed care, and involuntary treatment. To facilitate the continuum
36 of care and treatment to minors in out-of-home placements, all

1 divisions of the department that provide mental health services to
2 minors shall jointly plan and deliver those services.

3 It is also the purpose of this chapter to protect the rights of
4 minors against needless hospitalization and deprivations of liberty and
5 to enable treatment decisions to be made in response to clinical needs
6 in accordance with sound professional judgment. The mental health care
7 and treatment providers shall encourage the use of voluntary services
8 and, whenever clinically appropriate, the providers shall offer less
9 restrictive alternatives to inpatient treatment. Additionally, all
10 mental health care and treatment providers shall ((ensure)) assure that
11 minors' parents are given an opportunity to participate in the
12 treatment decisions for their minor children. The mental health care
13 and treatment providers shall, to the extent possible, offer services
14 that involve minors' parents or family.

15 It is also the purpose of this chapter to assure the ability of
16 parents to exercise reasonable, compassionate care and control of their
17 minor children when there is a medical necessity for treatment and
18 without the requirement of filing a petition under this chapter.

19 **Sec. 8.** RCW 71.34.020 and 1985 c 354 s 2 are each amended to read
20 as follows:

21 Unless the context clearly requires otherwise, the definitions in
22 this section apply throughout this chapter.

23 (1) "Child psychiatrist" means a person having a license as a
24 physician and surgeon in this state, who has had graduate training in
25 child psychiatry in a program approved by the American Medical
26 Association or the American Osteopathic Association, and who is board
27 eligible or board certified in child psychiatry.

28 (2) "Children's mental health specialist" means:

29 (a) A mental health professional who has completed a minimum of one
30 hundred actual hours, not quarter or semester hours, of specialized
31 training devoted to the study of child development and the treatment of
32 children; and

33 (b) A mental health professional who has the equivalent of one year
34 of full-time experience in the treatment of children under the
35 supervision of a children's mental health specialist.

36 (3) "Commitment" means a determination by a judge or court
37 commissioner, made after a commitment hearing, that the minor is in

1 need of inpatient diagnosis, evaluation, or treatment or that the minor
2 is in need of less restrictive alternative treatment.

3 (4) "County-designated mental health professional" means a mental
4 health professional designated by one or more counties to perform the
5 functions of a county-designated mental health professional described
6 in this chapter.

7 (5) "Department" means the department of social and health
8 services.

9 (6) "Evaluation and treatment facility" means a public or private
10 facility or unit that is certified by the department to provide
11 emergency, inpatient, residential, or outpatient mental health
12 evaluation and treatment services for minors. A physically separate
13 and separately-operated portion of a state hospital may be designated
14 as an evaluation and treatment facility for minors. A facility which
15 is part of or operated by the department or federal agency does not
16 require certification. No correctional institution or facility,
17 juvenile court detention facility, or jail may be an evaluation and
18 treatment facility within the meaning of this chapter.

19 (7) "Evaluation and treatment program" means the total system of
20 services and facilities coordinated and approved by a county or
21 combination of counties for the evaluation and treatment of minors
22 under this chapter.

23 (8) "Gravely disabled minor" means a minor who, as a result of a
24 mental disorder, is in danger of serious physical harm resulting from
25 a failure to provide for his or her essential human needs of health or
26 safety, or manifests severe deterioration in routine functioning
27 evidenced by repeated and escalating loss of cognitive or volitional
28 control over his or her actions and is not receiving such care as is
29 essential for his or her health or safety.

30 (9) "Inpatient treatment" means twenty-four-hour-per-day mental
31 health care provided within a general hospital, psychiatric hospital,
32 or residential treatment facility certified by the department as an
33 evaluation and treatment facility for minors.

34 (10) "Less restrictive alternative" or "less restrictive setting"
35 means outpatient treatment provided to a minor who is not residing in
36 a facility providing inpatient treatment as defined in this chapter.

37 (11) "Likelihood of serious harm" means either: (a) A substantial
38 risk that physical harm will be inflicted by an individual upon his or
39 her own person, as evidenced by threats or attempts to commit suicide

1 or inflict physical harm on oneself; (b) a substantial risk that
2 physical harm will be inflicted by an individual upon another, as
3 evidenced by behavior which has caused such harm or which places
4 another person or persons in reasonable fear of sustaining such harm;
5 or (c) a substantial risk that physical harm will be inflicted by an
6 individual upon the property of others, as evidenced by behavior which
7 has caused substantial loss or damage to the property of others.

8 (12) "Medical necessity" for inpatient care means a requested
9 service which is reasonably calculated to: (a) Diagnose, correct,
10 cure, or alleviate a mental disorder; or (b) prevent the worsening of
11 mental conditions that endanger life or cause suffering and pain, or
12 result in illness or infirmity or threaten to cause or aggravate a
13 handicap, or cause physical deformity or malfunction, and there is no
14 adequate less restrictive alternative available.

15 (13) "Mental disorder" means any organic, mental, or emotional
16 impairment that has substantial adverse effects on an individual's
17 cognitive or volitional functions. The presence of alcohol abuse, drug
18 abuse, juvenile criminal history, antisocial behavior, or mental
19 retardation alone is insufficient to justify a finding of "mental
20 disorder" within the meaning of this section.

21 (~~(13)~~) (14) "Mental health professional" means a psychiatrist,
22 psychologist, psychiatric nurse, or social worker, and such other
23 mental health professionals as may be defined by rules adopted by the
24 secretary under this chapter.

25 (~~(14)~~) (15) "Minor" means any person under the age of eighteen
26 years.

27 (~~(15)~~) (16) "Outpatient treatment" means any of the
28 nonresidential services mandated under chapter 71.24 RCW and provided
29 by licensed services providers as identified by RCW 71.24.025(3).

30 (~~(16)~~) (17) "Parent" means:

31 (a) A biological or adoptive parent who has legal custody of the
32 child, including either parent if custody is shared under a joint
33 custody agreement; or

34 (b) A person or agency judicially appointed as legal guardian or
35 custodian of the child.

36 (~~(17)~~) (18) "Professional person in charge" or "professional
37 person" means a physician or other mental health professional empowered
38 by an evaluation and treatment facility with authority to make
39 admission and discharge decisions on behalf of that facility.

1 (~~(18)~~) (19) "Psychiatric nurse" means a registered nurse who has
2 a bachelor's degree from an accredited college or university, and who
3 has had, in addition, at least two years' experience in the direct
4 treatment of mentally ill or emotionally disturbed persons, such
5 experience gained under the supervision of a mental health
6 professional. "Psychiatric nurse" shall also mean any other registered
7 nurse who has three years of such experience.

8 (~~(19)~~) (20) "Psychiatrist" means a person having a license as a
9 physician in this state who has completed residency training in
10 psychiatry in a program approved by the American Medical Association or
11 the American Osteopathic Association, and is board eligible or board
12 certified in psychiatry.

13 (~~(20)~~) (21) "Psychologist" means a person licensed as a
14 psychologist under chapter 18.83 RCW.

15 (~~(21)~~) (22) "Responsible other" means the minor, the minor's
16 parent or estate, or any other person legally responsible for support
17 of the minor.

18 (~~(22)~~) (23) "Secretary" means the secretary of the department or
19 secretary's designee.

20 (~~(23)~~) (24) "Start of initial detention" means the time of
21 arrival of the minor at the first evaluation and treatment facility
22 offering inpatient treatment if the minor is being involuntarily
23 detained at the time. With regard to voluntary patients, "start of
24 initial detention" means the time at which the minor gives notice of
25 intent to leave under the provisions of this chapter.

26 **Sec. 9.** RCW 71.34.025 and 1995 c 312 s 56 are each amended to read
27 as follows:

28 (1) (~~The admission of any child under RCW 71.34.030 may be~~
29 ~~reviewed by the county-designated mental health professional between~~
30 ~~fifteen and thirty days following admission. The county-designated~~
31 ~~mental health professional may undertake the review on his or her own~~
32 ~~initiative and may seek reimbursement from the parents, their~~
33 ~~insurance, or medicaid for the expense of the review.~~

34 (2) The department shall (~~ensure~~) assure that, for any minor
35 admitted to inpatient treatment under section 18 of this act, a review
36 is conducted (~~no later than sixty days~~) by a physician or other
37 mental health professional who is employed by the department, or an
38 agency under contract with the department, and who neither has a

1 financial interest in continued inpatient treatment of the minor nor is
2 affiliated with the facility providing the treatment. The physician or
3 other mental health professional shall conduct the review not less than
4 seven nor more than fourteen days following ((admission)) the date the
5 minor was brought to the facility under section 18(1) of this act to
6 determine whether it is ((medically appropriate)) a medical necessity
7 to continue the ((child's)) minor's treatment on an inpatient basis.
8 ~~((The department may, subject to available funds, contract with a~~
9 ~~county for the conduct of the review conducted under this subsection~~
10 ~~and may seek reimbursement from the parents, their insurance, or~~
11 ~~medicaid for the expense of any review conducted by an agency under~~
12 ~~contract.~~

13 ~~If the county designated mental health professional determines that~~
14 ~~continued inpatient treatment of the child is no longer medically~~
15 ~~appropriate, the professional shall notify the facility, the child, the~~
16 ~~child's parents, and the department of the finding within twenty four~~
17 ~~hours of the determination.~~

18 ~~((3) For purposes of eligibility for medical assistance under~~
19 ~~chapter 74.09 RCW, children in inpatient mental health or chemical~~
20 ~~dependency treatment shall be considered to be part of their parent's~~
21 ~~or legal guardian's household, unless the child has been assessed by~~
22 ~~the department of social and health services or its designee as likely~~
23 ~~to require such treatment for at least ninety consecutive days, or is~~
24 ~~in out of home care in accordance with chapter 13.34 RCW, or the~~
25 ~~child's parents are found to not be exercising responsibility for care~~
26 ~~and control of the child. Payment for such care by the department of~~
27 ~~social and health services shall be made only in accordance with rules,~~
28 ~~guidelines, and clinical criteria applicable to inpatient treatment of~~
29 ~~minors established by the department.))~~

30 (2) In making a determination under subsection (1) of this section,
31 the department shall consider the opinion of the treatment provider,
32 the safety of the minor, and the likelihood the minor's mental health
33 will deteriorate if released from inpatient treatment. The department
34 shall consult with the parent in advance of making its determination.

35 (3) If, after any review conducted by the department under this
36 section, the department determines it is no longer a medical necessity
37 for a minor to receive inpatient treatment, the department shall
38 immediately notify the parents and the facility. The facility shall
39 release the minor to the parents within twenty-four hours of receiving

1 notice. If the professional person in charge and the parent believe
2 that it is a medical necessity for the minor to remain in inpatient
3 treatment, the minor shall be released to the parent on the second
4 judicial day following the department's determination in order to allow
5 the parent time to file an at-risk youth petition under chapter 13.32A
6 RCW. If the department determines it is a medical necessity for the
7 minor to receive outpatient treatment and the minor declines to obtain
8 such treatment, such refusal shall be grounds for the parent to file an
9 at-risk youth petition.

10 (4) If the evaluation conducted under section 18 of this act is
11 done by the department, the reviews required by subsection (1) of this
12 section shall be done by contract with an independent agency.

13 (5) The department may, subject to available funds, contract with
14 other governmental agencies to conduct the reviews under this section.
15 The department may seek reimbursement from the parents, their
16 insurance, or medicaid for the expense of any review conducted by an
17 agency under contract.

18 (6) In addition to the review required under this section, the
19 department may periodically determine and redetermine the medical
20 necessity of treatment for purposes of payment under the medical
21 assistance program.

22 NEW SECTION. Sec. 10. A new section is added to chapter 71.34 RCW
23 to read as follows:

24 For purposes of eligibility for medical assistance under chapter
25 74.09 RCW, minors in inpatient mental health treatment shall be
26 considered to be part of their parent's or legal guardian's household,
27 unless the minor has been assessed by the department or its designee as
28 likely to require such treatment for at least ninety consecutive days,
29 or is in out-of-home care in accordance with chapter 13.34 RCW, or the
30 parents are found to not be exercising responsibility for care and
31 control of the minor. Payment for such care by the department shall be
32 made only in accordance with rules, guidelines, and clinical criteria
33 applicable to inpatient treatment of minors established by the
34 department.

35 **PART II-B - VOLUNTARY MENTAL HEALTH OUTPATIENT TREATMENT**

1 **Sec. 11.** RCW 71.34.030 and 1995 c 312 s 52 are each amended to
2 read as follows:

3 ~~((1))~~ Any minor thirteen years or older may request and receive
4 outpatient treatment without the consent of the minor's parent.
5 Parental authorization is required for outpatient treatment of a minor
6 under the age of thirteen.

7 ~~((2) When in the judgment of the professional person in charge of
8 an evaluation and treatment facility there is reason to believe that a
9 minor is in need of inpatient treatment because of a mental disorder,
10 and the facility provides the type of evaluation and treatment needed
11 by the minor, and it is not feasible to treat the minor in any less
12 restrictive setting or the minor's home, the minor may be admitted to
13 an evaluation and treatment facility in accordance with the following
14 requirements:~~

15 ~~(a) A minor may be voluntarily admitted by application of the
16 parent. The consent of the minor is not required for the minor to be
17 evaluated and admitted as appropriate.~~

18 ~~(b) A minor thirteen years or older may, with the concurrence of
19 the professional person in charge of an evaluation and treatment
20 facility, admit himself or herself without parental consent to the
21 evaluation and treatment facility, provided that notice is given by the
22 facility to the minor's parent in accordance with the following
23 requirements:~~

24 ~~(i) Notice of the minor's admission shall be in the form most
25 likely to reach the parent within twenty four hours of the minor's
26 voluntary admission and shall advise the parent that the minor has been
27 admitted to inpatient treatment; the location and telephone number of
28 the facility providing such treatment; and the name of a professional
29 person on the staff of the facility providing treatment who is
30 designated to discuss the minor's need for inpatient treatment with the
31 parent.~~

32 ~~(ii) The minor shall be released to the parent at the parent's
33 request for release unless the facility files a petition with the
34 superior court of the county in which treatment is being provided
35 setting forth the basis for the facility's belief that the minor is in
36 need of inpatient treatment and that release would constitute a threat
37 to the minor's health or safety.~~

38 ~~(iii) The petition shall be signed by the professional person in
39 charge of the facility or that person's designee.~~

1 ~~(iv) The parent may apply to the court for separate counsel to~~
2 ~~represent the parent if the parent cannot afford counsel.~~

3 ~~(v) There shall be a hearing on the petition, which shall be held~~
4 ~~within three judicial days from the filing of the petition.~~

5 ~~(vi) The hearing shall be conducted by a judge, court commissioner,~~
6 ~~or licensed attorney designated by the superior court as a hearing~~
7 ~~officer for such hearing. The hearing may be held at the treatment~~
8 ~~facility.~~

9 ~~(vii) At such hearing, the facility must demonstrate by a~~
10 ~~preponderance of the evidence presented at the hearing that the minor~~
11 ~~is in need of inpatient treatment and that release would constitute a~~
12 ~~threat to the minor's health or safety. The hearing shall not be~~
13 ~~conducted using the rules of evidence, and the admission or exclusion~~
14 ~~of evidence sought to be presented shall be within the exercise of~~
15 ~~sound discretion by the judicial officer conducting the hearing.~~

16 ~~(c) Written renewal of voluntary consent must be obtained from the~~
17 ~~applicant no less than once every twelve months.~~

18 ~~(d) The minor's need for continued inpatient treatments shall be~~
19 ~~reviewed and documented no less than every one hundred eighty days.~~

20 ~~(3) A notice of intent to leave shall result in the following:~~

21 ~~(a) Any minor under the age of thirteen must be discharged~~
22 ~~immediately upon written request of the parent.~~

23 ~~(b) Any minor thirteen years or older voluntarily admitted may give~~
24 ~~notice of intent to leave at any time. The notice need not follow any~~
25 ~~specific form so long as it is written and the intent of the minor can~~
26 ~~be discerned.~~

27 ~~(c) The staff member receiving the notice shall date it~~
28 ~~immediately, record its existence in the minor's clinical record, and~~
29 ~~send copies of it to the minor's attorney, if any, the county-~~
30 ~~designated mental health professional, and the parent.~~

31 ~~(d) The professional person in charge of the evaluation and~~
32 ~~treatment facility shall discharge the minor, thirteen years or older,~~
33 ~~from the facility within twenty four hours after receipt of the minor's~~
34 ~~notice of intent to leave, unless the county-designated mental health~~
35 ~~professional or a parent or legal guardian files a petition or an~~
36 ~~application for initial detention within the time prescribed by this~~
37 ~~chapter.~~

38 ~~(4) The ability of a parent to apply to a certified evaluation and~~
39 ~~treatment program for the involuntary admission of his or her minor~~

1 ~~child does not create a right to obtain or benefit from any funds or~~
2 ~~resources of the state. However, the state may provide services for~~
3 ~~indigent minors to the extent that funds are available therefor.))~~

4 NEW SECTION. **Sec. 12.** For the purpose of gathering information
5 related to parental notification of outpatient mental health treatment
6 of minors, the department of health shall conduct a survey of providers
7 of outpatient treatment, as defined in chapter 71.34 RCW. The survey
8 shall gather information from a statistically valid sample of
9 providers. In accordance with confidentiality statutes and the
10 physician-patient privilege, the survey shall secure information from
11 the providers related to:

- 12 (1) The number of minors receiving outpatient treatment;
- 13 (2) The number of parents of minors in treatment notified of the
14 minor's treatment;
- 15 (3) The average number of outpatient visits prior to parental
16 notification;
- 17 (4) The average number of treatments with parental notification;
- 18 (5) The average number of treatments without parental notification;
- 19 (6) The percentage of minors in treatment who are prescribed
20 medication;
- 21 (7) The medication prescribed;
- 22 (8) The number of patients terminating treatment due to parental
23 notification; and
- 24 (9) Any other pertinent information.

25 The department shall submit the survey results to the governor and
26 the appropriate committees of the legislature by December 1, 1998.

27 This section expires June 1, 1999.

28 **PART II-C - VOLUNTARY MENTAL HEALTH INPATIENT TREATMENT**

29 NEW SECTION. **Sec. 13.** A new section is added to chapter 71.34 RCW
30 to read as follows:

- 31 (1) A minor thirteen years or older may admit himself or herself to
32 an evaluation and treatment facility for inpatient mental treatment,
33 without parental consent. The admission shall occur only if the
34 professional person in charge of the facility concurs with the need for
35 inpatient treatment.

1 (2) When, in the judgment of the professional person in charge of
2 an evaluation and treatment facility, there is reason to believe that
3 a minor is in need of inpatient treatment because of a mental disorder,
4 and the facility provides the type of evaluation and treatment needed
5 by the minor, and it is not feasible to treat the minor in any less
6 restrictive setting or the minor's home, the minor may be admitted to
7 an evaluation and treatment facility.

8 (3) Written renewal of voluntary consent must be obtained from the
9 applicant no less than once every twelve months. The minor's need for
10 continued inpatient treatments shall be reviewed and documented no less
11 than every one hundred eighty days.

12 NEW SECTION. Sec. 14. A new section is added to chapter 71.34 RCW
13 to read as follows:

14 The administrator of the treatment facility shall provide notice to
15 the parents of a minor when the minor is voluntarily admitted to
16 inpatient treatment under section 13 of this act. The notice shall be
17 in the form most likely to reach the parent within twenty-four hours of
18 the minor's voluntary admission and shall advise the parent: (1) That
19 the minor has been admitted to inpatient treatment; (2) of the location
20 and telephone number of the facility providing such treatment; (3) of
21 the name of a professional person on the staff of the facility
22 providing treatment who is designated to discuss the minor's need for
23 inpatient treatment with the parent; and (4) of the medical necessity
24 for admission.

25 NEW SECTION. Sec. 15. A new section is added to chapter 71.34 RCW
26 to read as follows:

27 (1) Any minor thirteen years or older who has voluntarily admitted
28 himself or herself to inpatient treatment shall be released to the
29 parent upon the parent's written request for release unless the
30 professional person in charge of the facility exercises his or her
31 option to file a petition for commitment of a minor.

32 (2)(a) The petition shall be filed with the superior court of the
33 county in which treatment is being provided setting forth the basis for
34 the facility's belief that the minor is in need of inpatient treatment
35 and that release would constitute a threat to the minor's health or
36 safety.

1 (b) The petition shall be signed by the minor and the professional
2 person in charge of the facility or that person's designee.

3 (c) The parent may apply to the court for separate counsel to
4 represent the parent if the parent cannot afford counsel.

5 (d) There shall be a hearing on the petition, which shall be held
6 within seventy-two hours from the filing of the petition.

7 (3) The commitment hearing shall be conducted at the superior court
8 or an appropriate place at the treatment facility.

9 (4) The professional person must demonstrate, by a preponderance of
10 the evidence, that the minor is in need of inpatient treatment and that
11 the release would constitute a threat to the minor's health or safety.
12 The rules of evidence shall not apply at the hearing.

13 NEW SECTION. **Sec. 16.** A new section is added to chapter 71.34 RCW
14 to read as follows:

15 (1) Any minor thirteen years or older voluntarily admitted to an
16 evaluation and treatment facility under section 13 of this act may give
17 notice of intent to leave at any time. The notice need not follow any
18 specific form so long as it is written and the intent of the minor can
19 be discerned.

20 (2) The staff member receiving the notice shall date it
21 immediately, record its existence in the minor's clinical record, and
22 send copies of it to the minor's attorney, if any, the county-
23 designated mental health professional, and the parent.

24 (3) The professional person shall discharge the minor, thirteen
25 years or older, from the facility within twenty-four hours after
26 receipt of the minor's notice of intent to leave, unless the county-
27 designated mental health professional commences an initial detention
28 proceeding under the provisions of this chapter.

29 NEW SECTION. **Sec. 17.** A new section is added to chapter 71.34 RCW
30 to read as follows:

31 Any minor admitted to inpatient treatment under section 13 or 18 of
32 this act shall be discharged immediately from inpatient treatment upon
33 written request of the parent.

34 **PART II-D - PARENT-INITIATED MENTAL HEALTH TREATMENT**

1 NEW SECTION. Sec. 18. A new section is added to chapter 71.34 RCW
2 to read as follows:

3 (1) A parent may bring, or authorize the bringing of, his or her
4 minor child to an evaluation and treatment facility and request that
5 the professional person examine the minor to determine whether the
6 minor has a mental disorder and is in need of inpatient treatment.

7 (2) The consent of the minor is not required for admission,
8 evaluation, and treatment if the parent brings the minor to the
9 facility.

10 (3) An appropriately trained professional person may evaluate
11 whether the minor has a mental disorder. The evaluation shall be
12 completed within twenty-four hours of the time the minor was brought to
13 the facility, unless the professional person determines that the
14 condition of the minor necessitates additional time for evaluation. In
15 no event shall a minor be held longer than seventy-two hours for
16 evaluation without being admitted or released. If, in the judgment of
17 the professional person, it is determined it is a medical necessity for
18 the minor to receive inpatient treatment, the minor may be admitted.
19 Prior to admission, the facility shall limit treatment to that which
20 the professional person determines is medically necessary to stabilize
21 the minor's condition. Within twenty-four hours of the admission, the
22 professional person shall notify the department of the admission.

23 (4) No provider is obligated to provide treatment to a minor under
24 the provisions of this section. No provider may admit a minor to
25 treatment under this section unless it is medically necessary.

26 (5) No minor receiving inpatient treatment under this section may
27 be discharged from the facility based solely on his or her request.

28 (6) For the purposes of this section "professional person" does not
29 include a social worker, unless the social worker is certified under
30 RCW 18.19.110 and appropriately trained and qualified by education and
31 experience, as defined by the department, in psychiatric social work.

32 NEW SECTION. Sec. 19. A new section is added to chapter 71.34 RCW
33 to read as follows:

34 (1) A parent may bring, or authorize the bringing of, his or her
35 minor child to a provider of outpatient mental health treatment and
36 request that an appropriately trained professional person examine the
37 minor to determine whether the minor has a mental disorder and is in
38 need of outpatient treatment.

1 (2) The consent of the minor is not required for evaluation if the
2 parent brings the minor to the provider.

3 (3) The professional person may evaluate whether the minor has a
4 mental disorder and is in need of outpatient treatment.

5 NEW SECTION. **Sec. 20.** A new section is added to chapter 71.34 RCW
6 to read as follows:

7 Following the review conducted under RCW 71.34.025, a minor child
8 may petition the superior court for his or her release from the
9 facility. The petition may be filed not sooner than five days
10 following the review. The court shall release the minor unless it
11 finds, upon a preponderance of the evidence, that it is a medical
12 necessity for the minor to remain at the facility.

13 NEW SECTION. **Sec. 21.** A new section is added to chapter 71.34 RCW
14 to read as follows:

15 If the minor is not released as a result of the petition filed
16 under section 20 of this act, he or she shall be released not later
17 than thirty days following the later of: (1) The date of the
18 department's determination under RCW 71.34.025(2); or (2) the filing of
19 a petition for judicial review under section 20 of this act, unless a
20 professional person or the county designated mental health professional
21 initiates proceedings under this chapter.

22 NEW SECTION. **Sec. 22.** A new section is added to chapter 71.34 RCW
23 to read as follows:

24 The ability of a parent to bring his or her minor child to a
25 certified evaluation and treatment program for evaluation and treatment
26 does not create a right to obtain or benefit from any funds or
27 resources of the state. The state may provide services for indigent
28 minors to the extent that funds are available.

29 **PART II-E - CHEMICAL DEPENDENCY**

30 **Sec. 23.** RCW 70.96A.020 and 1996 c 178 s 23 and 1996 c 133 s 33
31 are each reenacted and amended to read as follows:

32 For the purposes of this chapter the following words and phrases
33 shall have the following meanings unless the context clearly requires
34 otherwise:

- 1 (1) "Alcoholic" means a person who suffers from the disease of
2 alcoholism.
- 3 (2) "Alcoholism" means a disease, characterized by a dependency on
4 alcoholic beverages, loss of control over the amount and circumstances
5 of use, symptoms of tolerance, physiological or psychological
6 withdrawal, or both, if use is reduced or discontinued, and impairment
7 of health or disruption of social or economic functioning.
- 8 (3) "Approved treatment program" means a discrete program of
9 chemical dependency treatment provided by a treatment program certified
10 by the department of social and health services as meeting standards
11 adopted under this chapter.
- 12 (4) "Chemical dependency" means alcoholism or drug addiction, or
13 dependence on alcohol and one or more other psychoactive chemicals, as
14 the context requires.
- 15 (5) "Chemical dependency program" means expenditures and activities
16 of the department designed and conducted to prevent or treat alcoholism
17 and other drug addiction, including reasonable administration and
18 overhead.
- 19 (6) "Department" means the department of social and health
20 services.
- 21 (7) "Designated chemical dependency specialist" means a person
22 designated by the county alcoholism and other drug addiction program
23 coordinator designated under RCW 70.96A.310 to perform the commitment
24 duties described in RCW 70.96A.140 and qualified to do so by meeting
25 standards adopted by the department.
- 26 (8) "Director" means the person administering the chemical
27 dependency program within the department.
- 28 (9) "Drug addict" means a person who suffers from the disease of
29 drug addiction.
- 30 (10) "Drug addiction" means a disease characterized by a dependency
31 on psychoactive chemicals, loss of control over the amount and
32 circumstances of use, symptoms of tolerance, physiological or
33 psychological withdrawal, or both, if use is reduced or discontinued,
34 and impairment of health or disruption of social or economic
35 functioning.
- 36 (11) "Emergency service patrol" means a patrol established under
37 RCW 70.96A.170.
- 38 (12) "Gravely disabled by alcohol or other drugs" means that a
39 person, as a result of the use of alcohol or other drugs: (a) Is in

1 danger of serious physical harm resulting from a failure to provide for
2 his or her essential human needs of health or safety; or (b) manifests
3 severe deterioration in routine functioning evidenced by a repeated and
4 escalating loss of cognition or volitional control over his or her
5 actions and is not receiving care as essential for his or her health or
6 safety.

7 (13) "Incapacitated by alcohol or other psychoactive chemicals"
8 means that a person, as a result of the use of alcohol or other
9 psychoactive chemicals, has his or her judgment so impaired that he or
10 she is incapable of realizing and making a rational decision with
11 respect to his or her need for treatment and presents a likelihood of
12 serious harm to himself or herself, to any other person, or to
13 property.

14 (14) "Incompetent person" means a person who has been adjudged
15 incompetent by the superior court.

16 (15) "Intoxicated person" means a person whose mental or physical
17 functioning is substantially impaired as a result of the use of alcohol
18 or other psychoactive chemicals.

19 (16) "Licensed physician" means a person licensed to practice
20 medicine or osteopathic medicine and surgery in the state of
21 Washington.

22 (17) "Likelihood of serious harm" means either: (a) A substantial
23 risk that physical harm will be inflicted by an individual upon his or
24 her own person, as evidenced by threats or attempts to commit suicide
25 or inflict physical harm on one's self; (b) a substantial risk that
26 physical harm will be inflicted by an individual upon another, as
27 evidenced by behavior that has caused the harm or that places another
28 person or persons in reasonable fear of sustaining the harm; or (c) a
29 substantial risk that physical harm will be inflicted by an individual
30 upon the property of others, as evidenced by behavior that has caused
31 substantial loss or damage to the property of others.

32 (18) "Medical necessity" for inpatient care of a minor means a
33 requested certified inpatient service that is reasonably calculated to:
34 (a) Diagnose, arrest, or alleviate a chemical dependency; or (b)
35 prevent the worsening of chemical dependency conditions that endanger
36 life or cause suffering and pain, or result in illness or infirmity or
37 threaten to cause or aggravate a handicap, or cause physical deformity
38 or malfunction, and there is no adequate less restrictive alternative
39 available.

1 (19) "Minor" means a person less than eighteen years of age.

2 ~~((19))~~ (20) "Parent" means the parent or parents who have the
3 legal right to custody of the child. Parent includes custodian or
4 guardian.

5 ~~((20))~~ (21) "Peace officer" means a law enforcement official of
6 a public agency or governmental unit, and includes persons specifically
7 given peace officer powers by any state law, local ordinance, or
8 judicial order of appointment.

9 ~~((21))~~ (22) "Person" means an individual, including a minor.

10 ~~((22))~~ (23) "Professional person in charge" or "professional
11 person" means a physician or chemical dependency counselor as defined
12 in rule by the department, who is empowered by a certified treatment
13 program with authority to make assessment, admission, continuing care,
14 and discharge decisions on behalf of the certified program.

15 (24) "Secretary" means the secretary of the department of social
16 and health services.

17 ~~((23))~~ (25) "Treatment" means the broad range of emergency,
18 detoxification, residential, and outpatient services and care,
19 including diagnostic evaluation, chemical dependency education and
20 counseling, medical, psychiatric, psychological, and social service
21 care, vocational rehabilitation and career counseling, which may be
22 extended to alcoholics and other drug addicts and their families,
23 persons incapacitated by alcohol or other psychoactive chemicals, and
24 intoxicated persons.

25 ~~((24))~~ (26) "Treatment program" means an organization,
26 institution, or corporation, public or private, engaged in the care,
27 treatment, or rehabilitation of alcoholics or other drug addicts.

28 **PART II-F - VOLUNTARY CHEMICAL DEPENDENCY OUTPATIENT TREATMENT**

29 **Sec. 24.** RCW 70.96A.095 and 1996 c 133 s 34 are each amended to
30 read as follows:

31 ~~((1))~~ Any person thirteen years of age or older may give consent
32 for himself or herself to the furnishing of outpatient treatment by a
33 chemical dependency treatment program certified by the department.
34 ~~((Consent of the parent of a person less than eighteen years of age for~~
35 ~~inpatient treatment is necessary to authorize the care unless the child~~
36 ~~meets the definition of a child in need of services in RCW~~
37 ~~13.32A.030(4)(c), as determined by the department.)) Parental~~

1 authorization is required for any treatment of a minor under the age of
2 thirteen. ((The parent of a minor is not liable for payment of care
3 for such persons pursuant to this chapter, unless they have joined in
4 the consent to the treatment.

5 (2) The parent of any minor child may apply to a certified
6 treatment program for the admission of his or her minor child for
7 purposes authorized in this chapter. The consent of the minor child
8 shall not be required for the application or admission. The certified
9 treatment program shall accept the application and evaluate the child
10 for admission. The ability of a parent to apply to a certified
11 treatment program for the admission of his or her minor child does not
12 create a right to obtain or benefit from any funds or resources of the
13 state. However, the state may provide services for indigent minors to
14 the extent that funds are available therefor.

15 (3) Any provider of outpatient treatment who provides outpatient
16 treatment to a minor thirteen years of age or older shall provide
17 notice of the minor's request for treatment to the minor's parents if:
18 (a) The minor signs a written consent authorizing the disclosure; or
19 (b) the treatment program director determines that the minor lacks
20 capacity to make a rational choice regarding consenting to disclosure.
21 The notice shall be made within seven days of the request for
22 treatment, excluding Saturdays, Sundays, and holidays, and shall
23 contain the name, location, and telephone number of the facility
24 providing treatment, and the name of a professional person on the staff
25 of the facility providing treatment who is designated to discuss the
26 minor's need for treatment with the parent.))

27 NEW SECTION. **Sec. 25.** A new section is added to chapter 70.96A
28 RCW to read as follows:

29 Any provider of outpatient treatment who provides outpatient
30 treatment to a minor thirteen years of age or older shall provide
31 notice of the minor's request for treatment to the minor's parents if:
32 (1) The minor signs a written consent authorizing the disclosure; or
33 (2) the treatment program director determines that the minor lacks
34 capacity to make a rational choice regarding consenting to disclosure.
35 The notice shall be made within seven days of the request for
36 treatment, excluding Saturdays, Sundays, and holidays, and shall
37 contain the name, location, and telephone number of the facility
38 providing treatment, and the name of a professional person on the staff

1 of the facility providing treatment who is designated to discuss the
2 minor's need for treatment with the parent.

3 **PART II-G - VOLUNTARY CHEMICAL DEPENDENCY INPATIENT TREATMENT**

4 NEW SECTION. **Sec. 26.** A new section is added to chapter 70.96A
5 RCW to read as follows:

6 Parental consent is required for inpatient chemical dependency
7 treatment of a minor, unless the child meets the definition of a child
8 in need of services in RCW 13.32A.030(4)(c) as determined by the
9 department: PROVIDED, That parental consent is required for any
10 treatment of a minor under the age of thirteen.

11 This section does not apply to petitions filed under this chapter.

12 NEW SECTION. **Sec. 27.** A new section is added to chapter 70.96A
13 RCW to read as follows:

14 (1) The parent of a minor is not liable for payment of inpatient or
15 outpatient chemical dependency treatment unless the parent has joined
16 in the consent to the treatment.

17 (2) The ability of a parent to apply to a certified treatment
18 program for the admission of his or her minor child does not create a
19 right to obtain or benefit from any funds or resources of the state.
20 However, the state may provide services for indigent minors to the
21 extent that funds are available therefor.

22 **PART II-H - PARENT-INITIATED CHEMICAL DEPENDENCY TREATMENT**

23 NEW SECTION. **Sec. 28.** A new section is added to chapter 70.96A
24 RCW to read as follows:

25 (1) A parent may bring, or authorize the bringing of, his or her
26 minor child to a certified treatment program and request that a
27 chemical dependency assessment be conducted by a professional person to
28 determine whether the minor is chemically dependent and in need of
29 inpatient treatment.

30 (2) The consent of the minor is not required for admission,
31 evaluation, and treatment if the parent brings the minor to the
32 program.

33 (3) An appropriately trained professional person may evaluate
34 whether the minor is chemically dependent. The evaluation shall be

1 completed within twenty-four hours of the time the minor was brought to
2 the program, unless the professional person determines that the
3 condition of the minor necessitates additional time for evaluation. In
4 no event shall a minor be held longer than seventy-two hours for
5 evaluation without being admitted or released. If, in the judgment of
6 the professional person, it is determined it is a medical necessity for
7 the minor to receive inpatient treatment, the minor may be admitted.
8 Prior to admission, the facility shall limit treatment to that which
9 the professional person determines is medically necessary to stabilize
10 the minor's condition. Within twenty-four hours of the admission the
11 professional person shall notify the department of the admission.

12 (4) No provider is obligated to provide treatment to a minor under
13 the provisions of this section. No provider may admit a minor to
14 treatment under this section unless it is medically necessary.

15 (5) No minor receiving inpatient treatment under this section may
16 be discharged from the program based solely on his or her request.

17 (6) Any minor admitted to inpatient treatment under this section
18 shall be discharged immediately from inpatient treatment upon written
19 request of the parent.

20 **Sec. 29.** RCW 70.96A.097 and 1995 c 312 s 48 are each amended to
21 read as follows:

22 ~~(1) ((The admission of any child under RCW 70.96A.095 may be
23 reviewed by the county designated chemical dependency specialist
24 between fifteen and thirty days following admission. The county-
25 designated chemical dependency specialist may undertake the review on
26 his or her own initiative and may seek reimbursement from the parents,
27 their insurance, or medicaid for the expense of the review.~~

28 ~~(2))~~ The department shall ensure that, for any minor admitted to
29 inpatient treatment under section 28 of this act, a review is conducted
30 ((no later than sixty days)) by a physician or chemical dependency
31 counselor, as defined in rule by the department, who is employed by the
32 department or an agency under contract with the department and who
33 neither has a financial interest in continued inpatient treatment of
34 the minor nor is affiliated with the program providing the treatment.
35 The physician or chemical dependency counselor shall conduct the review
36 not less than seven nor more than fourteen days following ((admission))
37 the date the minor was brought to the facility under section 28(1) of
38 this act to determine whether it is ((medically appropriate)) a medical

1 ~~necessity to continue the ((child's)) minor's treatment on an inpatient~~
2 ~~basis. ((The department may, subject to available funds, contract with~~
3 ~~a county for the conduct of the review conducted under this subsection~~
4 ~~and may seek reimbursement from the parents, their insurance, or~~
5 ~~medicaid for the expense of any review conducted by an agency under~~
6 ~~contract.~~

7 ~~If the county designated chemical dependency specialist determines~~
8 ~~that continued inpatient treatment of the child is no longer medically~~
9 ~~appropriate, the specialist shall notify the facility, the child, the~~
10 ~~child's parents, and the department of the finding within twenty four~~
11 ~~hours of the determination.~~

12 ~~((3) For purposes of eligibility for medical assistance under~~
13 ~~chapter 74.09 RCW, children in inpatient mental health or chemical~~
14 ~~dependency treatment shall be considered to be part of their parent's~~
15 ~~or legal guardian's household, unless the child has been assessed by~~
16 ~~the department of social and health services or its designee as likely~~
17 ~~to require such treatment for at least ninety consecutive days, or is~~
18 ~~in out of home care in accordance with chapter 13.34 RCW, or the~~
19 ~~child's parents are found to not be exercising responsibility for care~~
20 ~~and control of the child. Payment for such care by the department of~~
21 ~~social and health services shall be made only in accordance with rules,~~
22 ~~guidelines, and clinical criteria applicable to inpatient treatment of~~
23 ~~minors established by the department.))~~

24 ~~(2) In making a determination under subsection (1) of this section~~
25 ~~whether it is a medical necessity to release the minor from inpatient~~
26 ~~treatment, the department shall consider the opinion of the treatment~~
27 ~~provider, the safety of the minor, the likelihood the minor's chemical~~
28 ~~dependency recovery will deteriorate if released from inpatient~~
29 ~~treatment, and the wishes of the parent.~~

30 ~~(3) If, after any review conducted by the department under this~~
31 ~~section, the department determines it is no longer a medical necessity~~
32 ~~for a minor to receive inpatient treatment, the department shall~~
33 ~~immediately notify the parents and the professional person in charge.~~
34 ~~The professional person in charge shall release the minor to the~~
35 ~~parents within twenty-four hours of receiving notice. If the~~
36 ~~professional person in charge and the parent believe that it is a~~
37 ~~medical necessity for the minor to remain in inpatient treatment, the~~
38 ~~minor shall be released to the parent on the second judicial day~~
39 ~~following the department's determination in order to allow the parent~~

1 time to file an at-risk youth petition under chapter 13.32A RCW. If the
2 department determines it is a medical necessity for the minor to
3 receive outpatient treatment and the minor declines to obtain such
4 treatment, such refusal shall be grounds for the parent to file an at-
5 risk youth petition.

6 (4) The department may, subject to available funds, contract with
7 other governmental agencies for the conduct of the reviews conducted
8 under this section and may seek reimbursement from the parents, their
9 insurance, or medicaid for the expense of any review conducted by an
10 agency under contract.

11 (5) In addition to the review required under this section, the
12 department may periodically determine and redetermine the medical
13 necessity of treatment for purposes of payment under the medical
14 assistance program.

15 NEW SECTION. Sec. 30. A new section is added to chapter 70.96A
16 RCW to read as follows:

17 (1) A parent may bring, or authorize the bringing of, his or her
18 minor child to a provider of outpatient chemical dependency treatment
19 and request that an appropriately trained professional person examine
20 the minor to determine whether the minor has a chemical dependency and
21 is in need of outpatient treatment.

22 (2) The consent of the minor is not required for evaluation if the
23 parent brings the minor to the provider.

24 (3) The professional person in charge of the program may evaluate
25 whether the minor has a chemical dependency and is in need of
26 outpatient treatment.

27 NEW SECTION. Sec. 31. A new section is added to chapter 70.96A
28 RCW to read as follows:

29 Following the review conducted under RCW 70.96A.097, a minor child
30 may petition the superior court for his or her release from the
31 facility. The petition may be filed not sooner than five days
32 following the review. The court shall release the minor unless it
33 finds, upon a preponderance of the evidence, that it is a medical
34 necessity for the minor to remain at the facility.

35 NEW SECTION. Sec. 32. A new section is added to chapter 70.96A
36 RCW to read as follows:

1 If the minor is not released as a result of the petition filed
2 under section 31 of this act, he or she shall be released not later
3 than thirty days following the later of: (1) The date of the
4 department's determination under RCW 70.96A.097(2); or (2) the filing
5 of a petition for judicial review under section 31 of this act, unless
6 a professional person or the designated chemical dependency specialist
7 initiates proceedings under this chapter.

8 NEW SECTION. **Sec. 33.** A new section is added to chapter 70.96A
9 RCW to read as follows:

10 For purposes of eligibility for medical assistance under chapter
11 74.09 RCW, minors in inpatient chemical dependency treatment shall be
12 considered to be part of their parent's or legal guardian's household,
13 unless the minor has been assessed by the department or its designee as
14 likely to require such treatment for at least ninety consecutive days,
15 or is in out-of-home care in accordance with chapter 13.34 RCW, or the
16 parents are found to not be exercising responsibility for care and
17 control of the minor. Payment for such care by the department shall be
18 made only in accordance with rules, guidelines, and clinical criteria
19 applicable to inpatient treatment of minors established by the
20 department.

21 NEW SECTION. **Sec. 34.** It is the purpose of sections 28 and 30 of
22 this act to assure the ability of parents to exercise reasonable,
23 compassionate care and control of their minor children when there is a
24 medical necessity for treatment and without the requirement of filing
25 a petition under chapter 70.96A RCW.

26 NEW SECTION. **Sec. 35.** The department of social and health
27 services shall adopt rules defining "appropriately trained professional
28 person" for the purposes of conducting mental health and chemical
29 dependency evaluations under sections 18(3), 19(1), 28(3), and 30(1) of
30 this act.

31 **PART III - MISCELLANEOUS**

32 NEW SECTION. **Sec. 36.** The legislature finds that an essential
33 component of the children in need of services, dependency, and truancy
34 laws is the use of juvenile detention. As chapter 7.21 RCW is

1 currently written, courts may not order detention time without a
2 criminal charge being filed. It is the intent of the legislature to
3 avoid the bringing of criminal charges against youth who need the
4 guidance of the court rather than its punishment. The legislature
5 further finds that ordering a child placed in detention is a remedial
6 action, not a punitive one. Since the legislature finds that the state
7 is required to provide instruction to children in detention, use of the
8 courts' contempt powers is an effective means for furthering the
9 education and protection of these children. Thus, it is the intent of
10 the legislature to authorize a limited sanction of time in juvenile
11 detention independent of chapter 7.21 RCW for failure to comply with
12 court orders in truancy, child in need of services, at-risk youth, and
13 dependency cases for the sole purpose of providing the courts with the
14 tools necessary to enforce orders in these limited types of cases
15 because other statutory contempt remedies are inadequate.

16 **Sec. 37.** RCW 7.21.030 and 1989 c 373 s 3 are each amended to read
17 as follows:

18 (1) The court may initiate a proceeding to impose a remedial
19 sanction on its own motion or on the motion of a person aggrieved by a
20 contempt of court in the proceeding to which the contempt is related.
21 Except as provided in RCW 7.21.050, the court, after notice and
22 hearing, may impose a remedial sanction authorized by this chapter.

23 (2) If the court finds that the person has failed or refused to
24 perform an act that is yet within the person's power to perform, the
25 court may find the person in contempt of court and impose one or more
26 of the following remedial sanctions:

27 (a) Imprisonment if the contempt of court is of a type defined in
28 RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so
29 long as it serves a coercive purpose.

30 (b) A forfeiture not to exceed two thousand dollars for each day
31 the contempt of court continues.

32 (c) An order designed to ensure compliance with a prior order of
33 the court.

34 (d) Any other remedial sanction other than the sanctions specified
35 in (a) through (c) of this subsection if the court expressly finds that
36 those sanctions would be ineffectual to terminate a continuing contempt
37 of court.

1 (e) In cases under chapters 13.32A, 13.34, and 28A.225 RCW,
2 commitment to juvenile detention for a period of time not to exceed
3 seven days. This sanction may be imposed in addition to, or as an
4 alternative to, any other remedial sanction authorized by this chapter.
5 This remedy is specifically determined to be a remedial sanction.

6 (3) The court may, in addition to the remedial sanctions set forth
7 in subsection (2) of this section, order a person found in contempt of
8 court to pay a party for any losses suffered by the party as a result
9 of the contempt and any costs incurred in connection with the contempt
10 proceeding, including reasonable attorney's fees.

11 **Sec. 38.** RCW 13.32A.250 and 1996 c 133 s 28 are each amended to
12 read as follows:

13 (1) In all child in need of services proceedings and at-risk youth
14 proceedings, the court shall verbally notify the parents and the child
15 of the possibility of a finding of contempt for failure to comply with
16 the terms of a court order entered pursuant to this chapter. Except as
17 otherwise provided in this section, the court shall treat the parents
18 and the child equally for the purposes of applying contempt of court
19 processes and penalties under this section.

20 (2) Failure by a party to comply with an order entered under this
21 chapter is a civil contempt of court as provided in (~~chapter 7.21~~)
22 RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of
23 this section.

24 (3) The court may impose remedial sanctions including a fine of up
25 to one hundred dollars and confinement for up to seven days, or both
26 for contempt of court under this section.

27 (4) A child placed in confinement for contempt under this section
28 shall be placed in confinement only in a secure juvenile detention
29 facility operated by or pursuant to a contract with a county.

30 (5) A motion for contempt may be made by a parent, a child,
31 juvenile court personnel, or by any public agency, organization, or
32 person having custody of the child under a court order adopted pursuant
33 to this chapter.

34 (6) Whenever the court finds probable cause to believe, based upon
35 consideration of a motion for contempt and the information set forth in
36 a supporting declaration, that a child has violated a placement order
37 entered under this chapter, the court may issue an order directing law
38 enforcement to pick up and take the child to detention. The order may

1 be entered ex parte without prior notice to the child or other parties.
2 Following the child's admission to detention, a detention review
3 hearing must be held in accordance with RCW 13.32A.065.

4 **Sec. 39.** RCW 13.34.165 and 1996 c 133 s 29 are each amended to
5 read as follows:

6 (1) Failure by a party to comply with an order entered under this
7 chapter is civil contempt of court as provided in (~~chapter 7.21~~) RCW
8 7.21.030(2)(e).

9 (2) The maximum term of imprisonment that may be imposed as a
10 (~~punitive~~) remedial sanction for contempt of court under this section
11 is confinement for up to seven days.

12 (3) A child imprisoned for contempt under this section shall be
13 confined only in a secure juvenile detention facility operated by or
14 pursuant to a contract with a county.

15 (4) A motion for contempt may be made by a parent, juvenile court
16 personnel, or by any public agency, organization, or person having
17 custody of the child under a court order entered pursuant to this
18 chapter.

19 (5) Whenever the court finds probable cause to believe, based upon
20 consideration of a motion for contempt and the information set forth in
21 a supporting declaration, that a child has violated a placement order
22 entered under this chapter, the court may issue an order directing law
23 enforcement to pick up and take the child to detention. The order may
24 be entered ex parte without prior notice to the child or other parties.
25 Following the child's admission to detention, a detention review
26 hearing must be held in accordance with RCW 13.32A.065.

27 **Sec. 40.** RCW 28A.225.090 and 1997 c 68 s 2 are each amended to
28 read as follows:

29 (1) A court may order a child subject to a petition under RCW
30 28A.225.035 to:

31 (a) Attend the child's current school;

32 (b) If there is space available and the program can provide
33 educational services appropriate for the child, order the child to
34 attend another public school, an alternative education program, center,
35 a skill center, dropout prevention program, or another public
36 educational program;

1 (c) Attend a private nonsectarian school or program including an
2 education center. Before ordering a child to attend an approved or
3 certified private nonsectarian school or program, the court shall: (i)
4 Consider the public and private programs available; (ii) find that
5 placement is in the best interest of the child; and (iii) find that the
6 private school or program is willing to accept the child and will not
7 charge any fees in addition to those established by contract with the
8 student's school district. If the court orders the child to enroll in
9 a private school or program, the child's school district shall contract
10 with the school or program to provide educational services for the
11 child. The school district shall not be required to contract for a
12 weekly rate that exceeds the state general apportionment dollars
13 calculated on a weekly basis generated by the child and received by the
14 district. A school district shall not be required to enter into a
15 contract that is longer than the remainder of the school year. A
16 school district shall not be required to enter into or continue a
17 contract if the child is no longer enrolled in the district;

18 (d) Be referred to a community truancy board, if available; or

19 (e) Submit to testing for the use of controlled substances or
20 alcohol based on a determination that such testing is appropriate to
21 the circumstances and behavior of the child and will facilitate the
22 child's compliance with the mandatory attendance law.

23 (2) If the child fails to comply with the court order, the court
24 may order the child to be punished by detention, as provided in RCW
25 7.21.030(2)(e), or may impose alternatives to detention such as
26 community service. Failure by a child to comply with an order issued
27 under this subsection shall not be punishable by detention for a period
28 greater than that permitted pursuant to a civil contempt proceeding
29 against a child under chapter 13.32A RCW.

30 (3) Any parent violating any of the provisions of either RCW
31 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five
32 dollars for each day of unexcused absence from school. It shall be a
33 defense for a parent charged with violating RCW 28A.225.010 to show
34 that he or she exercised reasonable diligence in attempting to cause a
35 child in his or her custody to attend school or that the child's school
36 did not perform its duties as required in RCW 28A.225.020. The court
37 may order the parent to provide community service instead of imposing
38 a fine. Any fine imposed pursuant to this section may be suspended
39 upon the condition that a parent charged with violating RCW 28A.225.010

1 shall participate with the school and the child in a supervised plan
2 for the child's attendance at school or upon condition that the parent
3 attend a conference or conferences scheduled by a school for the
4 purpose of analyzing the causes of a child's absence.

5 NEW SECTION. **Sec. 41.** The legislature finds that predatory
6 individuals, such as drug dealers, sexual marauders, and panderers,
7 provide shelter to at-risk youth as a means of preying upon them. The
8 legislature further finds that at-risk youth are vulnerable to the
9 influence of these individuals. Thus, the legislature finds that it is
10 important to the safety of Washington's youth that they be prevented
11 from coming in contact with these predatory individuals. The
12 legislature further finds that locating runaway children is the first
13 step to preventing individuals from preying on these youth and to
14 achieving family reconciliation. Therefore, the legislature intends to
15 use punitive measures to create a clear disincentive for predatory
16 individuals intending to take advantage of at-risk youth. The
17 legislature further intends that all persons be required to report the
18 location of a runaway minor, but that those individuals who fail to
19 make such a report because they wish to have the minor remain unlocated
20 as a means of preying upon them be punished for their failure to report
21 the child's location.

22 **Sec. 42.** RCW 13.32A.080 and 1994 sp.s. c 7 s 507 are each amended
23 to read as follows:

24 (1)(a) A person commits the crime of unlawful harboring of a minor
25 if the person provides shelter to a minor without the consent of a
26 parent of the minor and after the person knows that the minor is away
27 from the home of the parent, without the parent's permission, and if
28 the person intentionally:

29 (i) Fails to release the minor to a law enforcement officer after
30 being requested to do so by the officer; or

31 (ii) Fails to disclose the location of the minor to a law
32 enforcement officer after being requested to do so by the officer, if
33 the person knows the location of the minor and had either taken the
34 minor to that location or had assisted the minor in reaching that
35 location; or

36 (iii) Obstructs a law enforcement officer from taking the minor
37 into custody; or

1 (iv) Assists the minor in avoiding or attempting to avoid the
2 custody of the law enforcement officer; or

3 (v) Engages the child in a crime; or

4 (iv) Engages in a clear course of conduct that demonstrates an
5 intent to contribute to the delinquency of a minor or the involvement
6 of a minor in a sex offense as defined in RCW 9.94A.030.

7 (b) It is a defense to a prosecution under this section that the
8 defendant had custody of the minor pursuant to a court order.

9 (2) Harboring a minor is punishable as a gross misdemeanor.

10 (3) Any person who provides shelter to a child, absent from home,
11 may notify the department's local community service office of the
12 child's presence.

13 (4) An adult responsible for involving a child in the commission of
14 an offense may be prosecuted under existing criminal statutes
15 including, but not limited to:

16 (a) Distribution of a controlled substance to a minor, as defined
17 in RCW 69.50.406;

18 (b) Promoting prostitution as defined in chapter 9A.88 RCW; and

19 (c) Complicity of the adult in the crime of a minor, under RCW
20 9A.08.020.

21 **Sec. 43.** RCW 13.32A.082 and 1996 c 133 s 14 are each amended to
22 read as follows:

23 (1) Any person who, without legal authorization, provides shelter
24 to a minor and who knows at the time of providing the shelter that the
25 minor is away from the parent's home, or other lawfully prescribed
26 residence, without the permission of the parent, shall promptly report
27 the location of the child to the parent, the law enforcement agency of
28 the jurisdiction in which the person lives, or the department. The
29 report may be made by telephone or any other reasonable means.

30 (2) Unless the context clearly requires otherwise, the definitions
31 in this subsection apply throughout this section.

32 (a) "Shelter" means the person's home or any structure over which
33 the person has any control.

34 (b) "Promptly report" means to report within eight hours after the
35 person has knowledge that the minor is away from home without parental
36 permission.

37 (3) When the department receives a report under subsection (1) of
38 this section, it shall make a good faith attempt to notify the parent

1 that a report has been received and offer services designed to resolve
2 the conflict and accomplish a reunification of the family.

3 (4) A person who violates subsection (1) of this section with the
4 intent to contribute to the delinquency of a minor or the involvement
5 of a minor in a sex offense as defined in RCW 9.94A.030 is guilty of a
6 misdemeanor.

7 NEW SECTION. **Sec. 44.** Part headings used in this act do not
8 constitute any part of the law.

9 NEW SECTION. **Sec. 45.** This act may be known and cited as "the
10 Becca act of 1998."

11 Correct the title.

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