
HOUSE BILL 1034

State of Washington

55th Legislature

1997 Regular Session

By Representatives Mulliken, Backlund, McMorris, Koster, Johnson, Thompson, Boldt, Sheahan, Sherstad, Smith and Mielke

Read first time 01/13/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to the restoration of parents' rights; amending RCW
2 70.96A.095, 71.34.030, 46.20.292, and 70.24.105; reenacting and
3 amending RCW 70.96A.020; adding a new section to chapter 13.32A RCW;
4 adding a new section to chapter 13.40 RCW; adding a new section to
5 chapter 4.24 RCW; adding a new section to chapter 13.04 RCW; adding a
6 new section to chapter 28A.320 RCW; adding a new section to chapter
7 28A.600 RCW; adding a new section to chapter 28A.150 RCW; adding new
8 sections to chapter 26.28 RCW; creating new sections; prescribing
9 penalties; and declaring an emergency.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

11 NEW SECTION. **Sec. 1.** The legislature finds there has been a
12 gradual encroachment by the state into the fundamental rights of
13 parents to exercise legitimate care, responsibility, and guidance over
14 the upbringing of their children. The legislature also finds
15 government's inability to adequately support reasonable attempts by
16 parents to guide, discipline, and prepare their children for a
17 productive, fulfilling life is both a result and cause of the breakdown
18 in the family unit and harmful to society.

1 The result is a breakdown in the traditional role of the family as
2 the primary provider, protector, an promoter of the health, safety, and
3 well-being of children and of the basic values and character traits
4 essential for attaining individual liberty, fulfillment, and happiness.

5 This act is intended to ensure parents can rightfully guide and
6 direct the affairs of their minor or dependent children. This act is
7 also intended to ensure government appropriately respects and
8 reinforces those rights, and to ensure parents meet the
9 responsibilities inherent in bearing and raising young children. The
10 legislature recognizes upholding the rights of parents is in the best
11 interest of the families and minor children of Washington state.

12 This act is also intended to assist parents in furthering the
13 following important values: (1) Honest, integrity, and trust; (2)
14 respect for self and others; (3) responsibility for personal actions
15 and commitments; (4) self-discipline and moderation; (5) diligence and
16 a positive work ethic; (6) respect for law and authority; (7) healthy
17 and constructive behavior; and (8) family as the basis of society.

18 Neither the state of Washington, nor its political subdivisions,
19 should by any means enact or enforce any policy that supersedes or
20 infringes upon the abilities and the rights of parents as recognized
21 and protected by this act.

22 **Sec. 2.** RCW 70.96A.020 and 1996 c 178 s 23 and 1996 c 133 s 33 are
23 each reenacted and amended to read as follows:

24 For the purposes of this chapter the following words and phrases
25 shall have the following meanings unless the context clearly requires
26 otherwise:

27 (1) "Alcoholic" means a person who suffers from the disease of
28 alcoholism.

29 (2) "Alcoholism" means a disease, characterized by a dependency on
30 alcoholic beverages, loss of control over the amount and circumstances
31 of use, symptoms of tolerance, physiological or psychological
32 withdrawal, or both, if use is reduced or discontinued, and impairment
33 of health or disruption of social or economic functioning.

34 (3) "Approved treatment program" means a discrete program of
35 chemical dependency treatment provided by a treatment program certified
36 by the department of social and health services as meeting standards
37 adopted under this chapter.

1 (4) "Chemical dependency" means alcoholism or drug addiction, or
2 dependence on alcohol and one or more other psychoactive chemicals, as
3 the context requires.

4 (5) "Chemical dependency program" means expenditures and activities
5 of the department designed and conducted to prevent or treat alcoholism
6 and other drug addiction, including reasonable administration and
7 overhead.

8 (6) "Department" means the department of social and health
9 services.

10 (7) "Designated chemical dependency specialist" means a person
11 designated by the county alcoholism and other drug addiction program
12 coordinator designated under RCW 70.96A.310 to perform the commitment
13 duties described in RCW 70.96A.140 and qualified to do so by meeting
14 standards adopted by the department.

15 (8) "Director" means the person administering the chemical
16 dependency program within the department.

17 (9) "Drug addict" means a person who suffers from the disease of
18 drug addiction.

19 (10) "Drug addiction" means a disease characterized by a dependency
20 on psychoactive chemicals, loss of control over the amount and
21 circumstances of use, symptoms of tolerance, physiological or
22 psychological withdrawal, or both, if use is reduced or discontinued,
23 and impairment of health or disruption of social or economic
24 functioning.

25 (11) "Emergency service patrol" means a patrol established under
26 RCW 70.96A.170.

27 (12) "Gravely disabled by alcohol or other drugs" means that a
28 person, as a result of the use of alcohol or other drugs: (a) Is in
29 danger of serious physical harm resulting from a failure to provide for
30 his or her essential human needs of health or safety; or (b) manifests
31 severe deterioration in routine functioning evidenced by a repeated and
32 escalating loss of cognition or volitional control over his or her
33 actions and is not receiving care as essential for his or her health or
34 safety.

35 (13) "Incapacitated by alcohol or other psychoactive chemicals"
36 means that a person, as a result of the use of alcohol or other
37 psychoactive chemicals, has his or her judgment so impaired that he or
38 she is incapable of realizing and making a rational decision with
39 respect to his or her need for treatment and presents a likelihood of

1 serious harm to himself or herself, to any other person, or to
2 property.

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

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

8 (16) "Licensed physician" means a person licensed to practice
9 medicine or osteopathic medicine and surgery in the state of
10 Washington.

11 (17) "Likelihood of serious harm" means either: (a) A substantial
12 risk that physical harm will be inflicted by an individual upon his or
13 her own person, as evidenced by threats or attempts to commit suicide
14 or inflict physical harm on one's self; (b) a substantial risk that
15 physical harm will be inflicted by an individual upon another, as
16 evidenced by behavior that has caused the harm or that places another
17 person or persons in reasonable fear of sustaining the harm; or (c) a
18 substantial risk that physical harm will be inflicted by an individual
19 upon the property of others, as evidenced by behavior that has caused
20 substantial loss or damage to the property of others.

21 (18) "Minor" means a person less than eighteen years of age.

22 (19) "Parent" means (~~the parent or parents who have the legal~~
23 ~~right to custody of the child. Parent includes custodian or guardian~~)
24 (a) a biological or adoptive parent who has legal custody of the child,
25 including either parent if custody is shared under a joint custody
26 agreement; or (b) a person or agency judicially appointed as legal
27 guardian or custodian of the child.

28 (20) "Peace officer" means a law enforcement official of a public
29 agency or governmental unit, and includes persons specifically given
30 peace officer powers by any state law, local ordinance, or judicial
31 order of appointment.

32 (21) "Person" means an individual, including a minor.

33 (22) "Secretary" means the secretary of the department of social
34 and health services.

35 (23) "Treatment" means the broad range of emergency,
36 detoxification, residential, and outpatient services and care,
37 including diagnostic evaluation, chemical dependency education and
38 counseling, medical, psychiatric, psychological, and social service
39 care, vocational rehabilitation and career counseling, which may be

1 extended to alcoholics and other drug addicts and their families,
2 persons incapacitated by alcohol or other psychoactive chemicals, and
3 intoxicated persons.

4 (24) "Treatment program" means an organization, institution, or
5 corporation, public or private, engaged in the care, treatment, or
6 rehabilitation of alcoholics or other drug addicts.

7 **Sec. 3.** RCW 70.96A.095 and 1996 c 133 s 34 are each amended to
8 read as follows:

9 (1) Any person (~~((thirteen))~~) eighteen years of age or older may give
10 consent for himself or herself to the furnishing of outpatient
11 treatment by a chemical dependency treatment program certified by the
12 department. (~~((Consent of the parent of a person less than eighteen
13 years of age for inpatient treatment is necessary to authorize the care
14 unless the child meets the definition of a child in need of services in
15 RCW 13.32A.030(4)(c), as determined by the department. Parental
16 authorization is required for any treatment of a minor under the age of
17 thirteen. The parent of a minor is not liable for payment of care for
18 such persons pursuant to this chapter, unless they have joined in the
19 consent to the treatment.))~~) No treatment program may be provided to any
20 minor child without prior written consent of the child's parent or
21 legal guardian. If a minor child seeks outpatient substance abuse or
22 alcohol abuse treatment and a parent or legal guardian is unable or
23 unavailable to give consent for the treatment, the minor may petition
24 a superior court for a waiver of the consent requirement and may
25 participate in proceedings on his or her own behalf.

26 (2) (~~((The))~~) A parent or legal guardian of any minor child may apply
27 to a certified treatment program for the admission of his or her minor
28 child for purposes authorized in this chapter. The consent of the
29 minor child shall not be required for the application or admission.
30 The certified treatment program shall accept the application and
31 evaluate the minor child for admission. The ability of a parent or
32 legal guardian to apply to a certified treatment program for the
33 admission of his or her minor child does not create a right to obtain
34 or benefit from any funds or resources of the state. However, the
35 state may provide services for indigent minor(~~((s))~~) children to the
36 extent that funds are available therefor.

37 (~~((3))~~) ~~Any provider of outpatient treatment who provides outpatient
38 treatment to a minor thirteen years of age or older shall provide~~

1 notice of the minor's request for treatment to the minor's parents if:
2 (a) The minor signs a written consent authorizing the disclosure; or
3 (b) the treatment program director determines that the minor lacks
4 capacity to make a rational choice regarding consenting to disclosure.
5 The notice shall be made within seven days of the request for
6 treatment, excluding Saturdays, Sundays, and holidays, and shall
7 contain the name, location, and telephone number of the facility
8 providing treatment, and the name of a professional person on the staff
9 of the facility providing treatment who is designated to discuss the
10 minor's need for treatment with the parent.))

11 **Sec. 4.** RCW 71.34.030 and 1995 c 312 s 52 are each amended to read
12 as follows:

13 (1) (~~Any minor thirteen years or older may request and receive~~
14 ~~outpatient treatment without the consent of the minor's parent.~~
15 ~~Parental authorization~~) Written consent of a parent or legal guardian
16 is required for outpatient treatment of a minor ((under the age of
17 thirteen)) child. If a minor child seeks outpatient mental health
18 treatment and a parent or legal guardian is unable or unavailable to
19 give consent for the treatment, the minor may petition a superior court
20 for a waiver of the consent requirement and may participate in
21 proceedings on his or her own behalf.

22 (2) When in the judgment of the professional person in charge of an
23 evaluation and treatment facility there is reason to believe that a
24 minor is in need of inpatient treatment because of a mental disorder,
25 and the facility provides the type of evaluation and treatment needed
26 by the minor, and it is not feasible to treat the minor in any less
27 restrictive setting or the minor's home, the minor may be admitted to
28 an evaluation and treatment facility in accordance with the following
29 requirements:

30 (a) A minor may be voluntarily admitted by application of the
31 parent. The consent of the minor is not required for the minor to be
32 evaluated and admitted as appropriate.

33 (b) (~~A minor thirteen years or older may, with the concurrence of~~
34 ~~the professional person in charge of an evaluation and treatment~~
35 ~~facility, admit himself or herself without parental consent to the~~
36 ~~evaluation and treatment facility, provided that notice is given by the~~
37 ~~facility to the minor's parent in accordance with the following~~
38 ~~requirements:~~

1 ~~(i) Notice of the minor's admission shall be in the form most~~
2 ~~likely to reach the parent within twenty four hours of the minor's~~
3 ~~voluntary admission and shall advise the parent that the minor has been~~
4 ~~admitted to inpatient treatment; the location and telephone number of~~
5 ~~the facility providing such treatment; and the name of a professional~~
6 ~~person on the staff of the facility providing treatment who is~~
7 ~~designated to discuss the minor's need for inpatient treatment with the~~
8 ~~parent.~~

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

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

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

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

21 ~~(vi) The hearing shall be conducted by a judge, court commissioner,~~
22 ~~or licensed attorney designated by the superior court as a hearing~~
23 ~~officer for such hearing. The hearing may be held at the treatment~~
24 ~~facility.~~

25 ~~(vii) At such hearing, the facility must demonstrate by a~~
26 ~~preponderance of the evidence presented at the hearing that the minor~~
27 ~~is in need of inpatient treatment and that release would constitute a~~
28 ~~threat to the minor's health or safety. The hearing shall not be~~
29 ~~conducted using the rules of evidence, and the admission or exclusion~~
30 ~~of evidence sought to be presented shall be within the exercise of~~
31 ~~sound discretion by the judicial officer conducting the hearing.~~

32 ~~(e))~~ Written renewal of voluntary consent must be obtained from
33 the applicant no less than once every twelve months.

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

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

1 (a) Any minor (~~(under the age of thirteen)~~) child must be
2 discharged immediately upon (~~(written)~~) request of the parent or legal
3 guardian.

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

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

12 (~~((d) The professional person in charge of the evaluation and~~
13 ~~treatment facility shall discharge the minor, thirteen years or older,~~
14 ~~from the facility within twenty four hours after receipt of the minor's~~
15 ~~notice of intent to leave, unless the county designated mental health~~
16 ~~professional or a parent or legal guardian files a petition or an~~
17 ~~application for initial detention within the time prescribed by this~~
18 ~~chapter.))~~

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

24 NEW SECTION. Sec. 5. A new section is added to chapter 13.32A RCW
25 to read as follows:

26 (1) A person who, without legal authorization, provides shelter to
27 a minor child or dependent child and who knows or has reason to know at
28 the time of providing the shelter that the minor child is away from the
29 home of a parent, legal guardian, or other lawfully prescribed
30 residence without the permission of a parent, legal guardian, or person
31 in charge of the lawfully prescribed residence, shall promptly report
32 the location of the child to a parent, legal guardian, custodian in
33 charge of the lawfully prescribed residence, or to a law enforcement
34 agency of the jurisdiction in which the person lives. The report may
35 be made by telephone or any other reasonable means and must be made
36 within eight hours after the person has knowledge or reason to know
37 that the minor child is away from the home or residence without
38 permission.

1 (2) A violation of this section is a misdemeanor.

2 **Sec. 6.** RCW 46.20.292 and 1979 c 61 s 8 are each amended to read
3 as follows:

4 The department may suspend, revoke, restrict, or condition any
5 driver's license upon a showing of its records that the licensee has
6 been found by a juvenile court, chief probation officer, or any other
7 duly authorized officer of a juvenile court to have committed any
8 offense or offenses which under Title 46 RCW constitutes grounds for
9 said action. If the department takes an action to suspend or revoke
10 the driver's license of a juvenile who is a minor, the department shall
11 give written notice of the action to a parent or legal guardian of the
12 juvenile.

13 NEW SECTION. **Sec. 7.** A new section is added to chapter 13.40 RCW
14 to read as follows:

15 The state and its political subdivisions shall provide written
16 notice to a parent or legal guardian of a minor or dependent child of
17 an arrest, detention, or penalty imposed under color of law upon the
18 minor or dependent child by the state or any of its political
19 subdivisions.

20 NEW SECTION. **Sec. 8.** A new section is added to chapter 4.24 RCW
21 to read as follows:

22 A parent or legal guardian is liable for monetary damages or
23 penalties awarded or approved by a court in a civil or criminal matter
24 that are incurred by or result from the conduct of an unemancipated
25 minor or dependent child. Liability may include actual damages and
26 reasonable attorneys' fees and court costs unless otherwise restricted
27 by law.

28 NEW SECTION. **Sec. 9.** A new section is added to chapter 13.04 RCW
29 to read as follows:

30 A parent, legal guardian, or custodian who has custody of a
31 juvenile alleged or found to have committed an offense, traffic
32 infraction, or violation as provided in RCW 13.40.020 through
33 13.40.230, is subject to the jurisdiction of the court for purposes of
34 participating in diversion agreements under RCW 13.40.080.

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 28A.320
2 RCW to read as follows:

3 (1) Upon the written request or personal appearance of a parent or
4 legal guardian of a student, a public school shall make available for
5 inspection by the parent or legal guardian, during school hours, any
6 classroom instructional materials, including textbooks, teacher
7 manuals, library books, films, videotapes, audio tapes, computer
8 programs, supplementary materials, or any other materials associated
9 with the education or instruction of the student by the school.
10 Materials physically located in the school must be made available
11 within five working days of the request. Materials within the school
12 district must be made available within fourteen working days of the
13 request.

14 (2) A student may attend or participate in a public school-
15 sponsored class, program, or activity that concerns suicide or
16 euthanasia, or includes human sexuality issues dealing with sex
17 education, sexually transmitted diseases, contraception, or sexual
18 orientation, only if the school has on file a signed confirmation from
19 the parent that the parent has received notification that the class,
20 program, or activity concerns suicide or euthanasia, or includes human
21 sexuality issues dealing with sex education, sexually transmitted
22 diseases, contraception, or sexual orientation and the parent approves
23 of his or her child's participation in the specific class, program, or
24 activity. A school or school district may comply with the notification
25 requirement in this section by notifying the parent at least once per
26 school year of the planned classes, programs, or activities.

27 (3) A parent may inspect all instructional materials including
28 teachers' manuals, tapes, or other supplementary materials, or
29 instructional materials that may be used by any guest speaker, in
30 presenting any of the components of subsection (1) of this section.

31 (4) Employees of a school district may not encourage a student to
32 withhold materials or other information concerning classroom
33 activities, tests, discussions, or programs from his or her parents.

34 NEW SECTION. **Sec. 11.** A new section is added to chapter 28A.600
35 RCW to read as follows:

36 (1) Except when generated by a student as a part of coursework, a
37 public school must give parents or legal guardians advance written
38 notice before the school, or before a person or organization under

1 contract with the school, conducts a student test, questionnaire,
2 survey, analysis, or evaluation that requests disclosure by the student
3 of information about either the student or the student's parent or
4 legal guardian's personal political or religious affiliations, mental
5 or psychological problems, sexual behavior or attitudes, illegal, self-
6 incriminating, or demeaning behavior, critical appraisals of any other
7 individual with whom the student has a family relationship, legally
8 privileged information arising out of confidential relationships with
9 persons such as lawyers, physicians, or ministers, or religious issues.
10 The notice must provide complete disclosure to the student's parent or
11 legal guardian regarding the subject matter and nature of the test,
12 questionnaire, survey, analysis, or evaluation.

13 (2) No student may participate in a test, questionnaire, survey,
14 analysis, or evaluation listed in subsection (1) of this section
15 without prior written consent from the student's parent or legal
16 guardian.

17 (3) All materials that a school uses in conducting a student test,
18 questionnaire, survey, analysis, or evaluation that involves disclosure
19 of information described in subsection (1) of this section must be
20 readily available for inspection by the parent or legal guardian of a
21 student, at least ten days before their administration, at the school
22 during normal school hours. School personnel must also be readily
23 available to answer questions about the materials.

24 NEW SECTION. **Sec. 12.** A new section is added to chapter 28A.150
25 RCW to read as follows:

26 (1) No person may provide a student with counseling services
27 regarding social, emotional, mental health, or personal issues without
28 prior written consent from the student's parent or legal guardian.
29 Counseling for the above services may be provided by school employees
30 without parent consent only when: (a) Students are engaging in
31 physically or verbally violent actions against themselves or others; or
32 (b) when the student shows visible signs of physical or sexual abuse.
33 The school must immediately notify the student's parent or legal
34 guardian when counseling services have been provided to a student
35 engaging in violent actions against themselves or others and must
36 obtain the parent's written consent in order to continue providing
37 counseling services relative to the incident.

1 (2) All records regarding social, emotional, mental health, or
2 personal counseling sessions must be made available to the parent or
3 legal guardian upon demand, and must be delivered to the parent or
4 legal guardian with no copy of them retained upon the student's
5 graduation or permanent transfer from the school. The records must not
6 be transferred or released to anyone other than the parent, student
7 over age eighteen, or an emancipated minor, without consent of the
8 parent or legal guardian.

9 (3) No school employee may knowingly engage in counseling
10 techniques, either with an individual student, or a group of students,
11 that is beyond his or her scope of certification.

12 NEW SECTION. **Sec. 13.** A new section is added to chapter 26.28 RCW
13 to read as follows:

14 (1) No person may provide health care to an unemancipated minor
15 child unless: (a) The health care provider has first obtained the
16 signed consent of the minor child's parent or legal guardian; or (b) in
17 the good faith clinical judgment of a licensed nurse or physician, a
18 medical emergency exists that necessitates the immediate provision of
19 medical care in order to avert the death of the minor child or for
20 which a delay will create a serious risk of substantial and
21 irreversible impairment of a major bodily function.

22 (2) A parent or legal guardian of an unemancipated minor child has
23 the right to be notified and present whenever the minor child is
24 receiving health care, unless a court order has been issued prohibiting
25 the parent or legal guardian from contact with the child. However, a
26 physician may exclude the presence of a parent or legal guardian when
27 in the physician's good faith clinical judgment the presence threatens
28 the success of a medical procedure, treatment, diagnosis, or
29 examination that involves the physical touching of the child.

30 For the purposes of this section, "health care" means any mental or
31 physical health service, including medical care; "medical care" means
32 any medical procedure, treatment, diagnosis, or examination that
33 involves the physical touching of the child, or any consultation, that
34 is performed by a person licensed in this state to provide health care;
35 and "physician" means a person licensed to practice medicine or
36 osteopathy in this state.

1 NEW SECTION. **Sec. 14.** A new section is added to chapter 26.28 RCW
2 to read as follows:

3 An invasive medical procedure may not be performed upon an
4 unemancipated minor or dependent child unless the physician has first
5 obtained the signed consent of the child's parent or legal guardian.

6 This prior written consent requirement does not apply if, on the
7 basis of a physician's good faith clinical judgment, a medical
8 emergency exists that necessitates the immediate performance of an
9 invasive medical procedure so as to avert the death of the child or for
10 which a delay will create a serious risk of substantial and
11 irreversible impairment of a major bodily function.

12 If an invasive medical procedure is being performed under chapter
13 9.02 RCW, an unemancipated minor or dependent child may petition a
14 superior court for a waiver of the consent requirement and may
15 participate in proceedings on her own behalf. The petition must
16 include a statement that the petitioner is pregnant and is an
17 unemancipated minor or dependent child. The court shall appoint a
18 guardian ad litem for the petitioner. Any guardian ad litem appointed
19 under this section shall act to maintain the confidentiality of the
20 proceedings.

21 The court shall advise the petitioner that she has a right to
22 court-appointed counsel and provide a counsel upon request.

23 Court proceedings under this section must be confidential and
24 ensure the anonymity of the petitioner. All court proceedings under
25 this section must be sealed. The petitioner has the right to file her
26 petition in the court using a pseudonym or using solely her initials.
27 All documents related to this petition are confidential and not
28 available to the public. These proceedings are given precedence over
29 other pending matters to the extent necessary to ensure that the court
30 reaches a decision promptly. The court shall rule, and issue written
31 findings of fact and conclusions of law, within forty-eight hours of
32 the time that the petition was filed, except that the forty-eight-hour
33 limitation may be extended at the request of the petitioner. If the
34 court fails to rule within the forty-eight-hour period and an extension
35 was not requested, the petition is deemed to have been granted, and the
36 consent requirement is waived.

37 In the case of a petition by a petitioner, if the court finds, by
38 clear and convincing evidence, that the petitioner is sufficiently
39 mature or able to decide whether to have an abortion, the court shall

1 issue an order authorizing the petitioner to consent to the performance
2 or inducement of an abortion without the consent of a parent or
3 guardian. If the court does not make the finding that the petitioner
4 is sufficiently mature or able to decide whether to have an abortion,
5 it shall dismiss the petition.

6 In the case of a petition by a petitioner, if the court finds, by
7 clear and convincing evidence, that there is evidence of a pattern of
8 physical or sexual abuse by a parent or guardian of the petitioner, or
9 that the notification of a parent or guardian is not in the best
10 interest of the petitioner, the court shall issue an order authorizing
11 the petitioner to consent to the performance or inducement of an
12 abortion without the consent of a parent or guardian. If the court
13 does not make the finding that there is evidence of a pattern of
14 physical or sexual abuse by a parent or guardian of the petitioner, or
15 that the consent of a parent or guardian is not in the best interest of
16 the petitioner, it shall dismiss the petition.

17 A court that conducts proceedings under this section shall issue
18 written and specific factual findings and legal conclusions supporting
19 its decision and order a confidential record of the evidence and the
20 judge's findings and conclusions be maintained.

21 An expedited confidential appeal is available, as the supreme court
22 provides by rule, to a petitioner to whom the court denies a waiver of
23 notice. An order authorizing an abortion without notice is not subject
24 to appeal.

25 Filing fees are not required of a petitioner who petitions a court
26 for a waiver of parental consent under this section at either the trial
27 or the appellate level.

28 The supreme court is respectfully requested to establish rules to
29 ensure that proceedings under this section are handled in an
30 expeditious and confidential manner and to satisfy any requirements of
31 federal courts binding on this jurisdiction.

32 **Sec. 15.** RCW 70.24.105 and 1994 c 72 s 1 are each amended to read
33 as follows:

34 (1) No person may disclose or be compelled to disclose the identity
35 of any person who has investigated, considered, or requested a test or
36 treatment for a sexually transmitted disease, except as authorized by
37 this chapter.

1 (2) No person may disclose or be compelled to disclose the identity
2 of any person upon whom an HIV antibody test is performed, or the
3 results of such a test, nor may the result of a test for any other
4 sexually transmitted disease when it is positive be disclosed. This
5 protection against disclosure of test subject, diagnosis, or treatment
6 also applies to any information relating to diagnosis of or treatment
7 for HIV infection and for any other confirmed sexually transmitted
8 disease. The following persons, however, may receive such information:

9 (a) The subject of the test or the subject's legal representative
10 for health care decisions in accordance with RCW 7.70.065(~~(, with the~~
11 ~~exception of such a representative of a minor child over fourteen years~~
12 ~~of age and otherwise competent))~~);

13 (b) Any person who secures a specific release of test results or
14 information relating to HIV or confirmed diagnosis of or treatment for
15 any other sexually transmitted disease executed by the subject or the
16 subject's legal representative for health care decisions in accordance
17 with RCW 7.70.065(~~(, with the exception of such a representative of a~~
18 ~~minor child over fourteen years of age and otherwise competent))~~);

19 (c) The state public health officer, a local public health officer,
20 or the centers for disease control of the United States public health
21 service in accordance with reporting requirements for a diagnosed case
22 of a sexually transmitted disease;

23 (d) A health facility or health care provider that procures,
24 processes, distributes, or uses: (i) A human body part, tissue, or
25 blood from a deceased person with respect to medical information
26 regarding that person; (ii) semen, including that provided prior to
27 March 23, 1988, for the purpose of artificial insemination; or (iii)
28 blood specimens;

29 (e) Any state or local public health officer conducting an
30 investigation pursuant to RCW 70.24.024, provided that such record was
31 obtained by means of court ordered HIV testing pursuant to RCW
32 70.24.340 or 70.24.024;

33 (f) A person allowed access to the record by a court order granted
34 after application showing good cause therefor. In assessing good
35 cause, the court shall weigh the public interest and the need for
36 disclosure against the injury to the patient, to the physician-patient
37 relationship, and to the treatment services. Upon the granting of the
38 order, the court, in determining the extent to which any disclosure of
39 all or any part of the record of any such test is necessary, shall

1 impose appropriate safeguards against unauthorized disclosure. An
2 order authorizing disclosure shall: (i) Limit disclosure to those
3 parts of the patient's record deemed essential to fulfill the objective
4 for which the order was granted; (ii) limit disclosure to those persons
5 whose need for information is the basis for the order; and (iii)
6 include any other appropriate measures to keep disclosure to a minimum
7 for the protection of the patient, the physician-patient relationship,
8 and the treatment services, including but not limited to the written
9 statement set forth in subsection (5) of this section;

10 (g) Persons who, because of their behavioral interaction with the
11 infected individual, have been placed at risk for acquisition of a
12 sexually transmitted disease, as provided in RCW 70.24.022, if the
13 health officer or authorized representative believes that the exposed
14 person was unaware that a risk of disease exposure existed and that the
15 disclosure of the identity of the infected person is necessary;

16 (h) A law enforcement officer, fire fighter, health care provider,
17 health care facility staff person, or other persons as defined by the
18 board in rule pursuant to RCW 70.24.340(4), who has requested a test of
19 a person whose bodily fluids he or she has been substantially exposed
20 to, pursuant to RCW 70.24.340(4), if a state or local public health
21 officer performs the test;

22 (i) Claims management personnel employed by or associated with an
23 insurer, health care service contractor, health maintenance
24 organization, self-funded health plan, state-administered health care
25 claims payer, or any other payer of health care claims where such
26 disclosure is to be used solely for the prompt and accurate evaluation
27 and payment of medical or related claims. Information released under
28 this subsection shall be confidential and shall not be released or
29 available to persons who are not involved in handling or determining
30 medical claims payment; and

31 (j) A department of social and health services worker, a child
32 placing agency worker, or a guardian ad litem who is responsible for
33 making or reviewing placement or case-planning decisions or
34 recommendations to the court regarding a child, who is less than
35 fourteen years of age, has a sexually transmitted disease, and is in
36 the custody of the department of social and health services or a
37 licensed child placing agency; this information may also be received by
38 a person responsible for providing residential care for such a child
39 when the department of social and health services or a licensed child

1 placing agency determines that it is necessary for the provision of
2 child care services.

3 (3) No person to whom the results of a test for a sexually
4 transmitted disease have been disclosed pursuant to subsection (2) of
5 this section may disclose the test results to another person except as
6 authorized by that subsection.

7 (4) The release of sexually transmitted disease information
8 regarding an offender, except as provided in subsection (2)(e) of this
9 section, shall be governed as follows:

10 (a) The sexually transmitted disease status of a department of
11 corrections offender shall be made available by department of
12 corrections health care providers to a department of corrections
13 superintendent or administrator as necessary for disease prevention or
14 control and for protection of the safety and security of the staff,
15 offenders, and the public. The information may be submitted to
16 transporting officers and receiving facilities, including facilities
17 that are not under the department of correction's jurisdiction.

18 (b) The sexually transmitted disease status of a person detained in
19 a jail shall be made available by the local public health officer to a
20 jail administrator as necessary for disease prevention or control and
21 for protection of the safety and security of the staff, offenders, and
22 the public. The information may be submitted to transporting officers
23 and receiving facilities.

24 (c) Information regarding a department of corrections offender's
25 sexually transmitted disease status is confidential and may be
26 disclosed by a correctional superintendent or administrator or local
27 jail administrator only as necessary for disease prevention or control
28 and for protection of the safety and security of the staff, offenders,
29 and the public. Unauthorized disclosure of this information to any
30 person may result in disciplinary action, in addition to any other
31 penalties as may be prescribed by law.

32 (5) Whenever disclosure is made pursuant to this section, except
33 for subsections (2)(a) and (6) of this section, it shall be accompanied
34 by a statement in writing which includes the following or substantially
35 similar language: "This information has been disclosed to you from
36 records whose confidentiality is protected by state law. State law
37 prohibits you from making any further disclosure of it without the
38 specific written consent of the person to whom it pertains, or as
39 otherwise permitted by state law. A general authorization for the

1 release of medical or other information is NOT sufficient for this
2 purpose." An oral disclosure shall be accompanied or followed by such
3 a notice within ten days.

4 (6) The requirements of this section shall not apply to the
5 customary methods utilized for the exchange of medical information
6 among health care providers in order to provide health care services to
7 the patient, nor shall they apply within health care facilities where
8 there is a need for access to confidential medical information to
9 fulfill professional duties.

10 (7) Upon request of the victim, disclosure of test results under
11 this section to victims of sexual offenses under chapter 9A.44 RCW
12 shall be made if the result is negative or positive. The county
13 prosecuting attorney shall notify the victim of the right to such
14 disclosure. Such disclosure shall be accompanied by appropriate
15 counseling, including information regarding follow-up testing.

16 NEW SECTION. **Sec. 16.** This act may be known and cited as the
17 Restoration of Parents' Rights and Responsibilities Act.

18 NEW SECTION. **Sec. 17.** The provisions of this act must be
19 liberally construed to effectuate the policies and purposes of this
20 act. In the event of conflict between this act and any other provision
21 of law, the provisions of this act govern.

22 NEW SECTION. **Sec. 18.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 19.** This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of the
28 state government and its existing public institutions, and takes effect
29 immediately.

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