
SENATE BILL 6208

State of Washington 55th Legislature 1998 Regular Session

By Senators Hargrove, Long, Franklin, Winsley and Oke

Read first time 01/13/98. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to at-risk youth; amending RCW 71.34.010,
2 71.34.020, 71.34.025, 71.34.030, 70.96A.095, 70.96A.097, 13.32A.250,
3 and 28A.225.030; reenacting and amending RCW 70.96A.020; adding new
4 sections to chapter 71.34 RCW; adding new sections to chapter 70.96A
5 RCW; creating new sections; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds it is often necessary
8 for parents to obtain mental health or chemical dependency treatment
9 for their minor children prior to the time the child's condition
10 presents a likelihood of serious harm or the child becomes gravely
11 disabled. The legislature finds that treatment of such conditions is
12 not the equivalent of incarceration or detention, but is a legitimate
13 act of parental discretion, when supported by decisions of credentialed
14 professionals. The legislature finds that, consistent with *Parham v.*
15 *J.R.*, 442 U.S. 584 (1979), state action is not involved in the
16 determination of a parent and professional person to admit a minor
17 child to treatment and finds this act provides sufficient independent
18 review by the department of social and health services, as a neutral
19 fact-finder, to protect the interests of all parties. The legislature

1 finds it is necessary to provide parents a statutory process, other
2 than the petition process provided in chapters 70.96A and 71.34 RCW, to
3 obtain treatment for their minor children without the consent of the
4 children.

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

19

PART I - MENTAL HEALTH

20 **Sec. 2.** RCW 71.34.010 and 1992 c 205 s 302 are each amended to
21 read as follows:

22 It is the purpose of this chapter to ~~((ensure))~~ assure that minors
23 in need of mental health care and treatment receive an appropriate
24 continuum of culturally relevant care and treatment, ~~((from))~~ including
25 prevention and early intervention ~~((to))~~, self-directed care, parent-
26 directed care, and involuntary treatment. To facilitate the continuum
27 of care and treatment to minors in out-of-home placements, all
28 divisions of the department that provide mental health services to
29 minors shall jointly plan and deliver those services.

30 It is also the purpose of this chapter to protect the rights of
31 minors against needless hospitalization and deprivations of liberty and
32 to enable treatment decisions to be made in response to clinical needs
33 in accordance with sound professional judgment. The mental health care
34 and treatment providers shall encourage the use of voluntary services
35 and, whenever clinically appropriate, the providers shall offer less
36 restrictive alternatives to inpatient treatment. Additionally, all
37 mental health care and treatment providers shall ~~((ensure))~~ assure that

1 minors' parents are given an opportunity to participate in the
2 treatment decisions for their minor children. The mental health care
3 and treatment providers shall, to the extent possible, offer services
4 that involve minors' parents or family.

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

9 **Sec. 3.** RCW 71.34.020 and 1985 c 354 s 2 are each amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

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

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

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

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

26 (3) "Commitment" means a determination by a judge or court
27 commissioner, made after a commitment hearing, that the minor is in
28 need of inpatient diagnosis, evaluation, or treatment or that the minor
29 is in need of less restrictive alternative treatment.

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

34 (5) "Department" means the department of social and health
35 services.

36 (6) "Evaluation and treatment facility" means a public or private
37 facility or unit that is certified by the department to provide
38 emergency, inpatient, residential, or outpatient mental health

1 evaluation and treatment services for minors. A physically separate
2 and separately-operated portion of a state hospital may be designated
3 as an evaluation and treatment facility for minors. A facility which
4 is part of or operated by the department or federal agency does not
5 require certification. No correctional institution or facility,
6 juvenile court detention facility, or jail may be an evaluation and
7 treatment facility within the meaning of this chapter.

8 (7) "Evaluation and treatment program" means the total system of
9 services and facilities coordinated and approved by a county or
10 combination of counties for the evaluation and treatment of minors
11 under this chapter.

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

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

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

26 (11) "Likelihood of serious harm" means either: (a) A substantial
27 risk that physical harm will be inflicted by an individual upon his or
28 her own person, as evidenced by threats or attempts to commit suicide
29 or inflict physical harm on oneself; (b) a substantial risk that
30 physical harm will be inflicted by an individual upon another, as
31 evidenced by behavior which has caused such harm or which places
32 another person or persons in reasonable fear of sustaining such harm;
33 or (c) a substantial risk that physical harm will be inflicted by an
34 individual upon the property of others, as evidenced by behavior which
35 has caused substantial loss or damage to the property of others.

36 (12) "Medical necessity" for inpatient care means a requested
37 service which is reasonably calculated to: (a) Diagnose, correct,
38 cure, or alleviate a mental disorder; or (b) prevent the worsening of
39 mental conditions that endanger life or cause suffering and pain, or

1 result in illness or infirmity or threaten to cause or aggravate a
2 handicap, or cause physical deformity or malfunction, and there is no
3 adequate less restrictive alternative available.

4 (13) "Medically appropriate" means that a minor admitted to
5 inpatient treatment, under section 13 of this act, has not sufficiently
6 improved his or her condition to be released to a less restrictive
7 setting.

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

14 ~~((13))~~ (15) "Mental health professional" means a psychiatrist,
15 psychologist, psychiatric nurse, or social worker, and such other
16 mental health professionals as may be defined by rules adopted by the
17 secretary under this chapter.

18 ~~((14))~~ (16) "Minor" means any person under the age of eighteen
19 years.

20 ~~((15))~~ (17) "Outpatient treatment" means any of the
21 nonresidential services mandated under chapter 71.24 RCW and provided
22 by licensed services providers as identified by RCW 71.24.025(3).

23 ~~((16))~~ (18) "Parent" means:

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

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

29 ~~((17))~~ (19) "Professional person in charge" or "professional
30 person" means a physician or other mental health professional empowered
31 by an evaluation and treatment facility with authority to make
32 admission and discharge decisions on behalf of that facility.

33 ~~((18))~~ (20) "Psychiatric nurse" means a registered nurse who has
34 a bachelor's degree from an accredited college or university, and who
35 has had, in addition, at least two years' experience in the direct
36 treatment of mentally ill or emotionally disturbed persons, such
37 experience gained under the supervision of a mental health
38 professional. "Psychiatric nurse" shall also mean any other registered
39 nurse who has three years of such experience.

1 (~~(19)~~) (21) "Psychiatrist" means a person having a license as a
2 physician in this state who has completed residency training in
3 psychiatry in a program approved by the American Medical Association or
4 the American Osteopathic Association, and is board eligible or board
5 certified in psychiatry.

6 (~~(20)~~) (22) "Psychologist" means a person licensed as a
7 psychologist under chapter 18.83 RCW.

8 (~~(21)~~) (23) "Responsible other" means the minor, the minor's
9 parent or estate, or any other person legally responsible for support
10 of the minor.

11 (~~(22)~~) (24) "Secretary" means the secretary of the department or
12 secretary's designee.

13 (~~(23)~~) (25) "Start of initial detention" means the time of
14 arrival of the minor at the first evaluation and treatment facility
15 offering inpatient treatment if the minor is being involuntarily
16 detained at the time. With regard to voluntary patients, "start of
17 initial detention" means the time at which the minor gives notice of
18 intent to leave under the provisions of this chapter.

19 **Sec. 4.** RCW 71.34.025 and 1995 c 312 s 56 are each amended to read
20 as follows:

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

27 (~~2~~) The department shall (~~ensure~~) assure that, for any minor
28 admitted to inpatient treatment under section 13 of this act, a review
29 is conducted by a physician or other mental health professional who is
30 employed by the department, or an agency under contract with the
31 department, and who neither has a financial interest in continued
32 inpatient treatment of the minor nor is affiliated with the facility
33 providing the treatment. The physician or other mental health
34 professional shall conduct the review no sooner than five days and no
35 later than (~~sixty~~) seven days, excluding Saturdays, Sundays, and
36 holidays, following admission to determine whether it is medically
37 appropriate to continue the (~~child's~~) minor's treatment on an
38 inpatient basis. (~~The department may, subject to available funds,~~

1 contract with a county for the conduct of the review conducted under
2 this subsection and may seek reimbursement from the parents, their
3 insurance, or medicaid for the expense of any review conducted by an
4 agency under contract.

5 If the county designated mental health professional determines that
6 continued inpatient treatment of the child is no longer medically
7 appropriate, the professional shall notify the facility, the child, the
8 child's parents, and the department of the finding within twenty four
9 hours of the determination.

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

22 (2) The department shall, at thirty-day intervals following the
23 review conducted under subsection (1) of this section, conduct three
24 reviews of the treatment status of each minor admitted to inpatient
25 treatment, under section 13 of this act, to determine whether it is
26 medically appropriate to continue the minor's treatment under inpatient
27 status. The reviews shall be conducted by a physician or other mental
28 health professional who is employed by the department, or an agency
29 under contract with the department, and who neither has a financial
30 interest in continued inpatient treatment of the minor nor is
31 affiliated with the facility providing the treatment.

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

38 (4) If, after any review conducted by the department under this
39 section, the department determines it is no longer medically

1 appropriate for a minor to receive inpatient treatment, the department
2 shall immediately notify the parents and the facility. The facility
3 shall release the minor to the parents within twenty-four hours of
4 receiving notice. If the professional person in charge and the parent
5 believe that it is medically appropriate for the minor to remain in
6 inpatient treatment, the minor shall be released to the parent on the
7 second judicial day following the department's determination in order
8 to allow the parent time to file an at-risk youth petition under
9 chapter 13.32A RCW. If the department determines it is medically
10 appropriate for the minor to receive outpatient treatment and the minor
11 declines to obtain such treatment, such refusal shall be grounds for
12 the parent to file an at-risk youth petition.

13 (5) If after the third department review under subsection (2) of
14 this section, the department determines that it is medically
15 appropriate to continue the minor's inpatient treatment, the
16 department, or the department's designee, shall file a petition under
17 RCW 71.34.070 within seven days of the department's determination. For
18 the purposes of this section, it is not necessary to file a petition
19 for initial detention.

20 (6) If the evaluation conducted under section 13 of this act is
21 done by the department, the reviews required by subsections (1) and (2)
22 of this section shall be done by contract with an independent agency.

23 (7) The department may, subject to available funds, contract with
24 other governmental agencies to conduct the reviews under this section.
25 The department may seek reimbursement from the parents, their
26 insurance, or medicaid for the expense of any review conducted by an
27 agency under contract.

28 NEW SECTION. Sec. 5. A new section is added to chapter 71.34 RCW
29 to read as follows:

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

1 applicable to inpatient treatment of minors established by the
2 department.

3 **PART II - VOLUNTARY MENTAL HEALTH OUTPATIENT TREATMENT**

4 **Sec. 6.** RCW 71.34.030 and 1995 c 312 s 52 are each amended to read
5 as follows:

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

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

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

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

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

35 ~~(ii) The minor shall be released to the parent at the parent's~~
36 ~~request for release unless the facility files a petition with the~~
37 ~~superior court of the county in which treatment is being provided~~

1 setting forth the basis for the facility's belief that the minor is in
2 need of inpatient treatment and that release would constitute a threat
3 to the minor's health or safety.

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

6 (iv) The parent may apply to the court for separate counsel to
7 represent the parent if the parent cannot afford counsel.

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

10 (vi) The hearing shall be conducted by a judge, court commissioner,
11 or licensed attorney designated by the superior court as a hearing
12 officer for such hearing. The hearing may be held at the treatment
13 facility.

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

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

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

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

26 (a) Any minor under the age of thirteen must be discharged
27 immediately upon written request of the parent.

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

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

36 (d) The professional person in charge of the evaluation and
37 treatment facility shall discharge the minor, thirteen years or older,
38 from the facility within twenty-four hours after receipt of the minor's
39 notice of intent to leave, unless the county-designated mental health

1 professional or a parent or legal guardian files a petition or an
2 application for initial detention within the time prescribed by this
3 chapter.

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

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

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

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

32 This section expires June 1, 1999.

33 **PART III - VOLUNTARY MENTAL HEALTH INPATIENT TREATMENT**

34 NEW SECTION. **Sec. 8.** A new section is added to chapter 71.34 RCW
35 to read as follows:

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

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

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

17 NEW SECTION. **Sec. 9.** A new section is added to chapter 71.34 RCW
18 to read as follows:

19 The administrator of the treatment facility shall provide notice to
20 the parents of a minor when the minor is voluntarily admitted to
21 inpatient treatment under section 8 of this act. The notice shall be
22 in the form most likely to reach the parent within twenty-four hours of
23 the minor's voluntary admission and shall advise the parent: (1) That
24 the minor has been admitted to inpatient treatment; (2) of the location
25 and telephone number of the facility providing such treatment; (3) of
26 the name of a professional person on the staff of the facility
27 providing treatment who is designated to discuss the minor's need for
28 inpatient treatment with the parent; and (4) of the medical necessity
29 for admission.

30 NEW SECTION. **Sec. 10.** A new section is added to chapter 71.34 RCW
31 to read as follows:

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

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

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

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

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

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

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

18 NEW SECTION. Sec. 11. A new section is added to chapter 71.34 RCW
19 to read as follows:

20 (1) Any minor thirteen years or older voluntarily admitted to an
21 evaluation and treatment facility under section 8 of this act may give
22 notice of intent to leave at any time. The notice need not follow any
23 specific form so long as it is written and the intent of the minor can
24 be discerned.

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

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

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

1 Any minor admitted to inpatient treatment under section 8 or 13 of
2 this act shall be discharged immediately from inpatient treatment upon
3 written request of the parent.

4 **PART IV - PARENT-INITIATED MENTAL HEALTH TREATMENT**

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

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

11 (2) The consent of the minor is not required for admission,
12 evaluation, and treatment if the parent brings the minor to the
13 facility.

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

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

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

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

1 NEW SECTION. **Sec. 14.** 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 a provider of outpatient mental health treatment and
5 request that an appropriately trained professional person examine the
6 minor to determine whether the minor has a mental disorder and is in
7 need of outpatient treatment.

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

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

12 NEW SECTION. **Sec. 15.** A new section is added to chapter 71.34 RCW
13 to read as follows:

14 The ability of a parent to apply to a certified evaluation and
15 treatment program for the admission of his or her minor does not create
16 a right to obtain or benefit from any funds or resources of the state.
17 The state may provide services for indigent minors to the extent that
18 funds are available.

19 **PART V - CHEMICAL DEPENDENCY**

20 **Sec. 16.** RCW 70.96A.020 and 1996 c 178 s 23 and 1996 c 133 s 33
21 are each reenacted and amended to read as follows:

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

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

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

32 (3) "Approved treatment program" means a discrete program of
33 chemical dependency treatment provided by a treatment program certified
34 by the department of social and health services as meeting standards
35 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) "Medical necessity" for inpatient care of a minor means a
22 requested certified inpatient service that is reasonably calculated to:
23 (a) Diagnose, arrest, or alleviate a chemical dependency; or (b)
24 prevent the worsening of chemical dependency conditions that endanger
25 life or cause suffering and pain, or result in illness or infirmity or
26 threaten to cause or aggravate a handicap, or cause physical deformity
27 or malfunction, and there is no adequate less restrictive alternative
28 available.

29 (19) "Medically appropriate" means a minor admitted by his or her
30 parents to inpatient treatment under section 21 of this act has not
31 sufficiently improved his or her condition to be released to a less
32 restrictive setting.

33 (20) "Minor" means a person less than eighteen years of age.

34 (~~((19))~~) (21) "Parent" means the parent or parents who have the
35 legal right to custody of the child. Parent includes custodian or
36 guardian.

37 (~~((20))~~) (22) "Peace officer" means a law enforcement official of
38 a public agency or governmental unit, and includes persons specifically

1 given peace officer powers by any state law, local ordinance, or
2 judicial order of appointment.

3 ~~((21))~~ (23) "Person" means an individual, including a minor.

4 ~~((22))~~ (24) "Professional person in charge" or "professional
5 person" means a physician or chemical dependency counselor as defined
6 in rule by the department, who is empowered by a certified treatment
7 program with authority to make assessment, admission, continuing care,
8 and discharge decisions on behalf of the certified program.

9 (25) "Secretary" means the secretary of the department of social
10 and health services.

11 ~~((23))~~ (26) "Treatment" means the broad range of emergency,
12 detoxification, residential, and outpatient services and care,
13 including diagnostic evaluation, chemical dependency education and
14 counseling, medical, psychiatric, psychological, and social service
15 care, vocational rehabilitation and career counseling, which may be
16 extended to alcoholics and other drug addicts and their families,
17 persons incapacitated by alcohol or other psychoactive chemicals, and
18 intoxicated persons.

19 ~~((24))~~ (27) "Treatment program" means an organization,
20 institution, or corporation, public or private, engaged in the care,
21 treatment, or rehabilitation of alcoholics or other drug addicts.

22 **PART VI - VOLUNTARY CHEMICAL DEPENDENCY OUTPATIENT TREATMENT**

23 **Sec. 17.** RCW 70.96A.095 and 1996 c 133 s 34 are each amended to
24 read as follows:

25 ~~((1))~~ Any person thirteen years of age or older may give consent
26 for himself or herself to the furnishing of outpatient treatment by a
27 chemical dependency treatment program certified by the department.
28 ~~((Consent of the parent of a person less than eighteen years of age for~~
29 ~~inpatient treatment is necessary to authorize the care unless the child~~
30 ~~meets the definition of a child in need of services in RCW~~
31 ~~13.32A.030(4)(c), as determined by the department.))~~ Parental
32 authorization is required for any treatment of a minor under the age of
33 thirteen. ~~((The parent of a minor is not liable for payment of care~~
34 ~~for such persons pursuant to this chapter, unless they have joined in~~
35 ~~the consent to the treatment.~~

36 ~~(2) The parent of any minor child may apply to a certified~~
37 ~~treatment program for the admission of his or her minor child for~~

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

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

21 NEW SECTION. **Sec. 18.** A new section is added to chapter 70.96A
22 RCW to read as follows:

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

35 **PART VII - VOLUNTARY CHEMICAL DEPENDENCY INPATIENT TREATMENT**

1 NEW SECTION. **Sec. 19.** A new section is added to chapter 70.96A
2 RCW to read as follows:

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

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

9 NEW SECTION. **Sec. 20.** A new section is added to chapter 70.96A
10 RCW to read as follows:

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

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

19 **PART VIII - PARENT-INITIATED CHEMICAL DEPENDENCY TREATMENT**

20 NEW SECTION. **Sec. 21.** A new section is added to chapter 70.96A
21 RCW to read as follows:

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

27 (2) The consent of the minor is not required for admission,
28 evaluation, and treatment if the parent brings the minor to the
29 program.

30 (3) An appropriately trained professional person may evaluate
31 whether the minor is chemically dependent. The evaluation shall be
32 completed within twenty-four hours of the time the minor was brought to
33 the program, unless the professional person determines that the
34 condition of the minor necessitates additional time for evaluation. In
35 no event shall a minor be held longer than seventy-two hours for
36 evaluation without being admitted or released. If, in the judgment of

1 the professional person, it is determined it is a medical necessity for
2 the minor to receive inpatient treatment, the minor may be admitted.
3 Prior to admission, the facility shall limit treatment to that which
4 the professional person determines is medically necessary to stabilize
5 the minor's condition. Within twenty-four hours of the admission the
6 professional person shall notify the department of the admission.

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

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

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

15 **Sec. 22.** RCW 70.96A.097 and 1995 c 312 s 48 are each amended to
16 read as follows:

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

23 ~~(2))~~ The department shall ensure that, for any minor admitted to
24 inpatient treatment under section 21 of this act, a review is conducted
25 by a physician or chemical dependency counselor, as defined in rule by
26 the department, who is employed by the department or an agency under
27 contract with the department and who neither has a financial interest
28 in continued inpatient treatment of the minor nor is affiliated with
29 the program providing the treatment. The physician or chemical
30 dependency counselor shall conduct the review no sooner than five days
31 and no later than ((sixty)) seven days, excluding Saturdays, Sundays,
32 and holidays, following admission to determine whether it is medically
33 appropriate to continue the ((child's)) minor's treatment on an
34 inpatient basis. ((The department may, subject to available funds,
35 contract with a county for the conduct of the review conducted under
36 this subsection and may seek reimbursement from the parents, their
37 insurance, or medicaid for the expense of any review conducted by an
38 agency under contract.

1 If the county-designated chemical dependency specialist determines
2 that continued inpatient treatment of the child is no longer medically
3 appropriate, the specialist shall notify the facility, the child, the
4 child's parents, and the department of the finding within twenty-four
5 hours of the determination.

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

18 (2) The department shall, at thirty-day intervals following the
19 review conducted under subsection (1) of this section, conduct reviews
20 of the treatment status of each minor admitted to inpatient treatment,
21 under section 21 of this act, to determine whether it is medically
22 appropriate to continue the minor's treatment under inpatient status.
23 The reviews shall be conducted by a physician or chemical dependency
24 counselor, as defined in rule by the department, who is employed by the
25 department, or an agency under contract with the department, and who
26 neither has a financial interest in continued inpatient treatment of
27 the minor nor is affiliated with the program providing the treatment.

28 (3) In making a determination under subsection (1) or (2) of this
29 section whether it is medically appropriate to release the minor from
30 inpatient treatment, the department shall consider the opinion of the
31 treatment provider, the safety of the minor, the likelihood the minor's
32 chemical dependency recovery will deteriorate if released from
33 inpatient treatment, and the wishes of the parent.

34 (4) If, after any review conducted by the department under this
35 section, the department determines it is no longer medically
36 appropriate for a minor to receive inpatient treatment, the department
37 shall immediately notify the parents and the professional person in
38 charge. The professional person in charge shall release the minor to
39 the parents within twenty-four hours of receiving notice. If the

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

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

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

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

1 applicable to inpatient treatment of minors established by the
2 department.

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

8 NEW SECTION. **Sec. 26.** The department of social and health
9 services shall adopt rules defining "appropriately trained professional
10 person" for the purposes of conducting mental health and chemical
11 dependency evaluations under sections 13(3), 14(1), 21(3), and 23(1) of
12 this act.

13 **PART IX - MISCELLANEOUS**

14 **Sec. 27.** RCW 13.32A.250 and 1996 c 133 s 28 are each amended to
15 read as follows:

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

23 (2) Failure by a party to comply with an order entered under this
24 chapter is a contempt of court (~~as provided in chapter 7.21 RCW,~~
25 ~~subject to the limitations of subsection (3) of this section~~) and may
26 be filed as either remedial sanctions under RCW 7.21.030 or punitive
27 sanctions under RCW 7.21.040.

28 (3) The court may, at each hearing on contempt, impose a fine of up
29 to one hundred dollars and confinement for up to seven days, or both
30 for contempt of court under this section.

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

34 (5) A motion for (~~contempt~~) remedial sanctions may be made by a
35 parent, a child, juvenile court personnel, or by any public agency,

1 organization, or person having custody of the child under a court order
2 adopted pursuant to this chapter. A motion for punitive sanctions may
3 be made by a prosecuting attorney, however, filing of a complaint or
4 information by a prosecuting attorney is not required.

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

13 **Sec. 28.** RCW 28A.225.030 and 1996 c 134 s 3 are each amended to
14 read as follows:

15 (1) If a child is required to attend school under RCW 28A.225.010
16 and if the actions taken by a school district under RCW 28A.225.020 are
17 not successful in substantially reducing an enrolled student's absences
18 from public school, not later than the seventh unexcused absence by a
19 child within any month during the current school year or not later than
20 the tenth unexcused absence during the current school year the school
21 district shall file a petition and supporting affidavit for a civil
22 action with the juvenile court alleging a violation of RCW 28A.225.010:

23 (a) By the parent; (b) by the child; or (c) by the parent and the
24 child. Except as provided in this subsection, no additional documents
25 need be filed with the petition. The petition may be served on the
26 child or parent in any manner reasonably likely to provide adequate
27 notice of the filing.

28 (2) The district shall not later than the fifth unexcused absence
29 in a month:

30 (a) Enter into an agreement with a student and parent that
31 establishes school attendance requirements;

32 (b) Refer a student to a community truancy board as defined in RCW
33 28A.225.025. The community truancy board shall enter into an agreement
34 with the student and parent that establishes school attendance
35 requirements and take other appropriate actions to reduce the child's
36 absences; or

37 (c) File a petition under subsection (1) of this section.

1 (3) The petition may be filed by a school district employee who is
2 not an attorney.

3 (4) If the school district fails to file a petition under this
4 section, the parent of a child with five or more unexcused absences in
5 any month during the current school year or upon the tenth unexcused
6 absence during the current school year may file a petition with the
7 juvenile court alleging a violation of RCW 28A.225.010.

8 NEW SECTION. **Sec. 29.** Part headings used in this act do not
9 constitute any part of the law.

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