

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 5082**

55th Legislature  
1997 Regular Session

Passed by the Senate April 26, 1997  
YEAS 37 NAYS 6

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**President of the Senate**

Passed by the House April 25, 1997  
YEAS 82 NAYS 15

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**Speaker of the  
House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5082** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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ENGROSSED SUBSTITUTE SENATE BILL 5082

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AS RECOMMENDED BY CONFERENCE COMMITTEE

Passed Legislature - 1997 Regular Session

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Long, Franklin, Oke and Winsley)

Read first time 02/13/97.

1 AN ACT Relating to mental health and chemical dependency treatment  
2 for minors; amending RCW 71.34.010, 71.34.020, 71.34.025, 71.34.030,  
3 70.96A.095, and 70.96A.097; reenacting and amending RCW 70.96A.020;  
4 adding new sections to chapter 71.34 RCW; adding new sections to  
5 chapter 70.96A RCW; creating new sections; and providing an expiration  
6 date.

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

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

1 fact-finder, to protect the interests of all parties. The legislature  
2 finds it is necessary to provide parents a statutory process, other  
3 than the petition process provided in chapters 70.96A and 71.34 RCW, to  
4 obtain treatment for their minor children without the consent of the  
5 children.

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

20

## MENTAL HEALTH

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (6) "Evaluation and treatment facility" means a public or private  
38 facility or unit that is certified by the department to provide

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

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

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

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

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

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

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

1 mental conditions that endanger life or cause suffering and pain, or  
2 result in illness or infirmity or threaten to cause or aggravate a  
3 handicap, or cause physical deformity or malfunction, and there is no  
4 adequate less restrictive alternative available.

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

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

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

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

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

24 ~~((16))~~ (18) "Parent" means:

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

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

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

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

1 professional. "Psychiatric nurse" shall also mean any other registered  
2 nurse who has three years of such experience.

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

8 ~~((20))~~ (22) "Psychologist" means a person licensed as a  
9 psychologist under chapter 18.83 RCW.

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

13 ~~((22))~~ (24) "Secretary" means the secretary of the department or  
14 secretary's designee.

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

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

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

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

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

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

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

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

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



1       (4) If the department determines it is no longer medically  
2 appropriate for a minor to receive inpatient treatment, the department  
3 shall immediately notify the parents and the facility. The facility  
4 shall release the minor to the parents within twenty-four hours of  
5 receiving notice. If the professional person in charge and the parent  
6 believe that it is medically appropriate for the minor to remain in  
7 inpatient treatment, the minor shall be released to the parent on the  
8 second judicial day following the department's determination in order  
9 to allow the parent time to file an at-risk youth petition under  
10 chapter 13.32A RCW. If the department determines it is medically  
11 appropriate for the minor to receive outpatient treatment and the minor  
12 declines to obtain such treatment, such refusal shall be grounds for  
13 the parent to file an at-risk youth petition.

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

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

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

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

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

1 made only in accordance with rules, guidelines, and clinical criteria  
2 applicable to inpatient treatment of minors established by the  
3 department.

4 **VOLUNTARY MENTAL HEALTH OUTPATIENT TREATMENT**

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

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

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

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

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

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

36 ~~(ii) The minor shall be released to the parent at the parent's~~  
37 ~~request for release unless the facility files a petition with the~~

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

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

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

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

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

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

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

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

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

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

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

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

37 (d) The professional person in charge of the evaluation and  
38 treatment facility shall discharge the minor, thirteen years or older,  
39 from the facility within twenty-four hours after receipt of the minor's

1 notice of intent to leave, unless the county designated mental health  
2 professional or a parent or legal guardian files a petition or an  
3 application for initial detention within the time prescribed by this  
4 chapter.

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

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

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

31 The department shall submit the survey results to the governor and  
32 the appropriate committees of the legislature by December 1, 1997.

33 This section expires June 1, 1998.

34 **VOLUNTARY MENTAL HEALTH INPATIENT TREATMENT**

35 NEW SECTION. **Sec. 8.** A new section is added to chapter 71.34 RCW  
36 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 **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 (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 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 **VOLUNTARY CHEMICAL DEPENDENCY INPATIENT TREATMENT**



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)) ten days, excluding Saturdays, Sundays, and  
32 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 the department determines it is no longer medically  
35 appropriate for a minor to receive inpatient treatment, the department  
36 shall immediately notify the parents and the professional person in  
37 charge. The professional person in charge shall release the minor to  
38 the parents within twenty-four hours of receiving notice. If the  
39 professional person in charge and the parent believe that it is

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

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

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

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

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

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

26 NEW SECTION. Sec. 24. A new section is added to chapter 70.96A  
27 RCW to read as follows:

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

10 NEW SECTION. **Sec. 27.** The department of social and health  
11 services shall adopt rules defining "appropriately trained professional  
12 person" for the purposes of conducting mental health and chemical  
13 dependency evaluations under sections 13(3), 14(1), 21(3), and 23(1) of  
14 this act.

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