
SENATE BILL 5415

State of Washington

57th Legislature

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By Senators Patterson, Long, Hargrove, Stevens, Winsley, McAuliffe and Kohl-Welles

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1 AN ACT Relating to providing chemical dependency treatment service
2 to minors upon request; amending RCW 70.96A.010, 70.96A.095,
3 70.96A.140, 70.96A.145, 70.96A.235, 70.96A.240, 70.96A.905, and
4 70.96A.915; amending 1991 c 364 s 7 (uncodified); amending 1991 c 364
5 s 13 (uncodified); and adding a new section to chapter 70.96A RCW.

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

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

9 Notwithstanding any other provision of this chapter, the department
10 shall provide services as follows:

11 (1) For minors who request chemical dependency treatment, according
12 to the needs indicated by the minor's chemical dependency assessment.
13 Determination of appropriate chemical dependency treatment or placement
14 shall consider the minor's chemical dependency treatment needs in light
15 of any existing co-occurring disorders;

16 (2) Involuntary treatment;

17 (3) To meet federal program requirements; and

18 (4) Within available funds, to meet the other duties of the
19 department as defined in this chapter.

1 **Sec. 2.** RCW 70.96A.010 and 1989 c 271 s 304 are each amended to
2 read as follows:

3 It is the policy of this state that ~~((alcoholics and intoxicated))~~
4 chemically dependent persons may not be subjected to criminal
5 prosecution solely because of their consumption of ~~((alcoholic~~
6 ~~beverages))~~ alcohol or other psychoactive chemicals but rather should,
7 within available funds, be afforded a continuum of treatment, as
8 prescribed in this chapter, in order that they may lead normal lives as
9 productive members of society. ~~((Within available funds,))~~ Medically
10 necessary treatment ~~((should also))~~ shall be provided ~~((for drug~~
11 ~~addicts))~~ to minors upon request.

12 **Sec. 3.** 1991 c 364 s 7 (uncodified) is amended to read as follows:

13 The legislature finds that the use of alcohol and illicit drugs
14 continues to be a primarycrippler of our youth. This translates into
15 incredible costs to individuals, families, and society in terms of
16 traffic fatalities, suicides, criminal activity including homicides,
17 sexual promiscuity, familial incorrigibility, and conduct disorders,
18 and educational fallout. Among children of all socioeconomic groups
19 lower expectations for the future, low motivation and self-esteem,
20 alienation, and depression are associated with alcohol and drug abuse.

21 Studies reveal that deaths from alcohol and other drug-related
22 injuries rise sharply through adolescence, peaking in the early
23 twenties. But second peak occurs in later life, where it accounts for
24 three times as many deaths from chronic diseases. A young victim's
25 life expectancy is likely to be reduced by an average of twenty-six
26 years.

27 Yet the cost of treating alcohol and drug addicts can be recouped
28 in the first three years of abstinence in health care savings alone.
29 Public money spent on treatment saves not only the life of the chemical
30 abuser, it makes us safer as individuals, and in the long-run costs
31 less.

32 The legislature further finds that many children who abuse alcohol
33 ~~((and))~~ or other ~~((drugs))~~ psychoactive chemicals may not require
34 involuntary treatment, but still are not adequately served. These
35 children remain at risk for future chemical dependency, and may become
36 mentally ill or a juvenile offender or need out-of-home placement.
37 Children placed at risk because of ~~((chemical))~~ abuse of alcohol or

1 other psychoactive chemicals may be better served by the creation of a
2 comprehensive integrated system for children in crisis.

3 The legislature declares that an emphasis on the treatment of youth
4 will pay the largest dividend in terms of preventable costs to
5 individuals themselves, their families, and to society. The provision
6 of augmented involuntary alcohol treatment services to youths, as well
7 as involuntary treatment for youths addicted by other ~~((drugs))~~
8 psychoactive chemicals, is in the interest of the public health and
9 safety.

10 **Sec. 4.** 1991 c 364 s 13 (uncodified) is amended to read as
11 follows:

12 The purpose of sections 7 through 12 ~~((of this act))~~, chapter 364,
13 Laws of 1991 is solely to provide authority for the involuntary
14 commitment of minors addicted by drugs within ~~((available funds and))~~
15 current programs and facilities. Nothing in sections 7 through 12 ~~((of~~
16 ~~this act))~~, chapter 364, Laws of 1991 shall be construed to ~~((require~~
17 ~~the addition of new facilities nor))~~ affect the department's authority
18 for the uses of existing programs and facilities authorized by law.
19 Nothing in sections 7 through 12 ~~((of this act))~~, chapter 364, Laws of
20 1991 shall prevent a parent or guardian from requesting the involuntary
21 commitment of a minor through a county designated chemical dependency
22 specialist on an ability to pay basis.

23 **Sec. 5.** RCW 70.96A.095 and 1998 c 296 s 23 are each amended to
24 read as follows:

25 Any person thirteen years of age or older may give consent for
26 himself or herself to the furnishing of ~~((outpatient))~~ treatment by a
27 chemical dependency treatment program certified by the department.
28 Parental authorization is required for any treatment of a minor under
29 the age of thirteen.

30 **Sec. 6.** RCW 70.96A.140 and 1995 c 312 s 49 are each amended to
31 read as follows:

32 (1) When a designated chemical dependency specialist receives
33 information alleging that a person is incapacitated as a result of
34 chemical dependency, the designated chemical dependency specialist,
35 after investigation and evaluation of the specific facts alleged and of
36 the reliability and credibility of the information, may file a petition

1 for commitment of such person with the superior court or district
2 court.

3 If a petition for commitment is not filed in the case of a minor,
4 the parent, guardian, or custodian who has custody of the minor may
5 seek review of that decision made by the designated chemical dependency
6 specialist in superior or district court. The parent, guardian, or
7 custodian shall file notice with the court and provide a copy of the
8 designated chemical dependency specialist's report.

9 If the designated chemical dependency specialist finds that the
10 initial needs of such person would be better served by placement within
11 the mental health system, the person shall be referred to an evaluation
12 and treatment facility as defined in RCW 71.05.020 or 71.34.020. (~~If~~
13 ~~placement in a chemical dependency program is available and deemed~~
14 ~~appropriate,~~) The petition shall allege that: The person is
15 chemically dependent and is incapacitated by alcohol or drug addiction,
16 or that the person has twice before in the preceding twelve months been
17 admitted for detoxification or chemical dependency treatment pursuant
18 to RCW 70.96A.110, and is in need of a more sustained treatment
19 program, or that the person is chemically dependent and has threatened,
20 attempted, or inflicted physical harm on another and is likely to
21 inflict physical harm on another unless committed. A refusal to
22 undergo treatment, by itself, does not constitute evidence of lack of
23 judgment as to the need for treatment. The petition shall be
24 accompanied by a certificate of a licensed physician who has examined
25 the person within five days before submission of the petition, unless
26 the person whose commitment is sought has refused to submit to a
27 medical examination, in which case the fact of refusal shall be alleged
28 in the petition. The certificate shall set forth the licensed
29 physician's findings in support of the allegations of the petition. A
30 physician employed by the petitioning program or the department is
31 eligible to be the certifying physician.

32 (2) Upon filing the petition, the court shall fix a date for a
33 hearing no less than two and no more than seven days after the date the
34 petition was filed unless the person petitioned against is presently
35 being detained in a program, pursuant to RCW 70.96A.120, 71.05.210, or
36 71.34.050, in which case the hearing shall be held within seventy-two
37 hours of the filing of the petition: PROVIDED, HOWEVER, That the above
38 specified seventy-two hours shall be computed by excluding Saturdays,
39 Sundays, and holidays: PROVIDED FURTHER, That, the court may, upon

1 motion of the person whose commitment is sought, or upon motion of
2 petitioner with written permission of the person whose commitment is
3 sought, or his or her counsel and, upon good cause shown, extend the
4 date for the hearing. A copy of the petition and of the notice of the
5 hearing, including the date fixed by the court, shall be served by the
6 designated chemical dependency specialist on the person whose
7 commitment is sought, his or her next of kin, a parent or his or her
8 legal guardian if he or she is a minor, and any other person the court
9 believes advisable. A copy of the petition and certificate shall be
10 delivered to each person notified.

11 (3) At the hearing the court shall hear all relevant testimony,
12 including, if possible, the testimony, which may be telephonic, of at
13 least one licensed physician who has examined the person whose
14 commitment is sought. Communications otherwise deemed privileged under
15 the laws of this state are deemed to be waived in proceedings under
16 this chapter when a court of competent jurisdiction in its discretion
17 determines that the waiver is necessary to protect either the detained
18 person or the public. The waiver of a privilege under this section is
19 limited to records or testimony relevant to evaluation of the detained
20 person for purposes of a proceeding under this chapter. Upon motion by
21 the detained person, or on its own motion, the court shall examine a
22 record or testimony sought by a petitioner to determine whether it is
23 within the scope of the waiver.

24 The record maker shall not be required to testify in order to
25 introduce medical, nursing, or psychological records of detained
26 persons so long as the requirements of RCW 5.45.020 are met, except
27 that portions of the record that contain opinions as to whether the
28 detained person is chemically dependent shall be deleted from the
29 records unless the person offering the opinions is available for cross-
30 examination. The person shall be present unless the court believes
31 that his or her presence is likely to be injurious to him or her; in
32 this event the court may deem it appropriate to appoint a guardian ad
33 litem to represent him or her throughout the proceeding. If deemed
34 advisable, the court may examine the person out of courtroom. If the
35 person has refused to be examined by a licensed physician, he or she
36 shall be given an opportunity to be examined by a court appointed
37 licensed physician. If he or she refuses and there is sufficient
38 evidence to believe that the allegations of the petition are true, or
39 if the court believes that more medical evidence is necessary, the

1 court may make a temporary order committing him or her to the
2 department for a period of not more than five days for purposes of a
3 diagnostic examination.

4 (4) If after hearing all relevant evidence, including the results
5 of any diagnostic examination, the court finds that grounds for
6 involuntary commitment have been established by clear, cogent, and
7 convincing proof, it shall make an order of commitment to an approved
8 treatment program. (~~It shall not order commitment of a person unless
9 it determines that an approved treatment program is available and able
10 to provide adequate and appropriate treatment for him or her.~~)

11 (5) A person committed under this section shall remain in the
12 program for treatment for a period of sixty days unless sooner
13 discharged. At the end of the sixty-day period, he or she shall be
14 discharged automatically unless the program, before expiration of the
15 period, files a petition for his or her recommitment upon the grounds
16 set forth in subsection (1) of this section for a further period of
17 ninety days unless sooner discharged.

18 If a petition for recommitment is not filed in the case of a minor,
19 the parent, guardian, or custodian who has custody of the minor may
20 seek review of that decision made by the designated chemical dependency
21 specialist in superior or district court. The parent, guardian, or
22 custodian shall file notice with the court and provide a copy of the
23 treatment progress report.

24 If a person has been committed because he or she is chemically
25 dependent and likely to inflict physical harm on another, the program
26 shall apply for recommitment if after examination it is determined that
27 the likelihood still exists.

28 (6) Upon the filing of a petition for recommitment under subsection
29 (5) of this section, the court shall fix a date for hearing no less
30 than two and no more than seven days after the date the petition was
31 filed: PROVIDED, That, the court may, upon motion of the person whose
32 commitment is sought and upon good cause shown, extend the date for the
33 hearing. A copy of the petition and of the notice of hearing,
34 including the date fixed by the court, shall be served by the treatment
35 program on the person whose commitment is sought, his or her next of
36 kin, the original petitioner under subsection (1) of this section if
37 different from the petitioner for recommitment, one of his or her
38 parents or his or her legal guardian if he or she is a minor, and his
39 or her attorney and any other person the court believes advisable. At

1 the hearing the court shall proceed as provided in subsection (3) of
2 this section.

3 (7) The approved treatment program shall provide for adequate and
4 appropriate treatment of a person committed to its custody. A person
5 committed under this section may be transferred from one approved
6 public treatment program to another if transfer is medically advisable.

7 (8) A person committed to the custody of a program for treatment
8 shall be discharged at any time before the end of the period for which
9 he or she has been committed and he or she shall be discharged by order
10 of the court if either of the following conditions are met:

11 (a) In case of a chemically dependent person committed on the
12 grounds of likelihood of infliction of physical harm upon himself,
13 herself, or another, the likelihood no longer exists; or further
14 treatment will not be likely to bring about significant improvement in
15 the person's condition, or treatment is no longer adequate or
16 appropriate.

17 (b) In case of a chemically dependent person committed on the
18 grounds of the need of treatment and incapacity, that the incapacity no
19 longer exists.

20 (9) The court shall inform the person whose commitment or
21 recommitment is sought of his or her right to contest the application,
22 be represented by counsel at every stage of any proceedings relating to
23 his or her commitment and recommitment, and have counsel appointed by
24 the court or provided by the court, if he or she wants the assistance
25 of counsel and is unable to obtain counsel. If the court believes that
26 the person needs the assistance of counsel, the court shall require, by
27 appointment if necessary, counsel for him or her regardless of his or
28 her wishes. The person shall, if he or she is financially able, bear
29 the costs of such legal service; otherwise such legal service shall be
30 at public expense. The person whose commitment or recommitment is
31 sought shall be informed of his or her right to be examined by a
32 licensed physician of his or her choice. If the person is unable to
33 obtain a licensed physician and requests examination by a physician,
34 the court shall employ a licensed physician.

35 (10) A person committed under this chapter may at any time seek to
36 be discharged from commitment by writ of habeas corpus in a court of
37 competent jurisdiction.

38 (11) The venue for proceedings under this section is the county in
39 which person to be committed resides or is present.

1 (12) When in the opinion of the professional person in charge of
2 the program providing involuntary treatment under this chapter, the
3 committed patient can be appropriately served by less restrictive
4 treatment before expiration of the period of commitment, then the less
5 restrictive care may be required as a condition for early release for
6 a period which, when added to the initial treatment period, does not
7 exceed the period of commitment. If the program designated to provide
8 the less restrictive treatment is other than the program providing the
9 initial involuntary treatment, the program so designated must agree in
10 writing to assume such responsibility. A copy of the conditions for
11 early release shall be given to the patient, the designated chemical
12 dependency specialist of original commitment, and the court of original
13 commitment. The program designated to provide less restrictive care
14 may modify the conditions for continued release when the modifications
15 are in the best interests of the patient. If the program providing
16 less restrictive care and the designated chemical dependency specialist
17 determine that a conditionally released patient is failing to adhere to
18 the terms and conditions of his or her release, or that substantial
19 deterioration in the patient's functioning has occurred, then the
20 designated chemical dependency specialist shall notify the court of
21 original commitment and request a hearing to be held no less than two
22 and no more than seven days after the date of the request to determine
23 whether or not the person should be returned to more restrictive care.
24 The designated chemical dependency specialist shall file a petition
25 with the court stating the facts substantiating the need for the
26 hearing along with the treatment recommendations. The patient shall
27 have the same rights with respect to notice, hearing, and counsel as
28 for the original involuntary treatment proceedings. The issues to be
29 determined at the hearing are whether the conditionally released
30 patient did or did not adhere to the terms and conditions of his or her
31 release to less restrictive care or that substantial deterioration of
32 the patient's functioning has occurred and whether the conditions of
33 release should be modified or the person should be returned to a more
34 restrictive program. The hearing may be waived by the patient and his
35 or her counsel and his or her guardian or conservator, if any, but may
36 not be waived unless all such persons agree to the waiver. Upon
37 waiver, the person may be returned for involuntary treatment or
38 continued on conditional release on the same or modified conditions.

1 **Sec. 7.** RCW 70.96A.145 and 1993 c 137 s 1 are each amended to read
2 as follows:

3 The prosecuting attorney of the county in which such action is
4 taken (~~(may, at the discretion of the prosecuting attorney,)~~) shall
5 represent the designated chemical dependency specialist or treatment
6 program in judicial proceedings under RCW 70.96A.140 for the
7 involuntary commitment or recommitment of an individual, including any
8 judicial proceeding where the individual sought to be committed or
9 recommitted challenges the action. Within the discretion of the
10 secretary, the department may reimburse the prosecuting attorney for
11 costs of representation incurred under this section.

12 **Sec. 8.** RCW 70.96A.235 and 1998 c 296 s 25 are each amended to
13 read as follows:

14 Parental consent is not required for inpatient chemical dependency
15 treatment of a minor over the age of thirteen, (~~(unless)~~) or when the
16 child meets the definition of a child in need of services in RCW
17 13.32A.030(~~((4)(e))~~) (5)(c) as determined by the department: PROVIDED,
18 That parental consent is required for any treatment of a minor under
19 the age of thirteen.

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

21 **Sec. 9.** RCW 70.96A.240 and 1998 c 296 s 26 are each amended to
22 read as follows:

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

26 (2) The ability of a parent to apply to a certified treatment
27 program for the admission of his or her minor child does not create a
28 right to obtain or benefit from any funds or resources of the state.
29 However, the state (~~(may)~~) shall provide appropriate services for
30 indigent minors (~~(to the extent that funds are available therefor)~~).

31 **Sec. 10.** RCW 70.96A.905 and 1992 c 205 s 306 are each amended to
32 read as follows:

33 The department shall ensure that the provisions of this chapter are
34 applied by the counties in a consistent and uniform manner. The
35 department shall also ensure that(~~(, to the extent possible within~~
36 ~~available funds,)~~) the county-designated chemical dependency

1 specialists are specifically trained in adolescent chemical dependency
2 issues, the chemical dependency commitment laws, and the criteria for
3 commitment.

4 **Sec. 11.** RCW 70.96A.915 and 1989 c 271 s 309 are each amended to
5 read as follows:

6 The department is authorized to allocate appropriated funds in the
7 manner that it determines best meets the purposes of this chapter.
8 Nothing in this chapter shall be construed to entitle any
9 (~~individual~~) adult to services authorized in this chapter, or to
10 require the department or its contractors to reallocate funds in order
11 to ensure that services are available to any eligible (~~person~~) adult
12 upon demand.

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