
SENATE BILL 5649

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By Senators Oke, Hargrove, A. Anderson, Winsley, Deccio, Schow, Wood, Owen, Swecker, McDonald, Prince and Rasmussen

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1 AN ACT Relating to juveniles; amending RCW 13.04.030, 13.40.040,
2 13.40.050, 13.40.130, 28A.225.020, 28A.225.030, 28A.225.150, 74.13.032,
3 13.32A.030, 13.32A.130, 70.96A.140, 71.34.030, 71.34.050, and
4 71.34.070; adding a new section to chapter 28A.225 RCW; and creating a
5 new section.

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

7 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
8 establish and assure a body of law that will assist parents who
9 struggle with runaway, truancy, and criminal conduct by their children.
10 At the same time, parents must be held accountable to ensure that their
11 responsibilities to their children and to society are carried out.

12 In order to meet those goals the legislature adopts these revisions
13 to the 1977 juvenile justice act emphasizing juvenile and parental
14 accountability and encouraging early and effective intervention in the
15 lives of juveniles at risk to become runaways, truants, or criminal
16 offenders.

17 **Sec. 2.** RCW 13.04.030 and 1994 sp.s. c 7 s 519 are each amended to
18 read as follows:

1 (1) Except as provided in subsection (2) of this section, the
2 juvenile courts in the several counties of this state, shall have
3 exclusive original jurisdiction over all proceedings:

4 (a) Under the interstate compact on placement of children as
5 provided in chapter 26.34 RCW;

6 (b) Relating to children alleged or found to be dependent as
7 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

8 (c) Relating to the termination of a parent and child relationship
9 as provided in RCW 13.34.180 through 13.34.210;

10 (d) To approve or disapprove alternative residential placement as
11 provided in RCW 13.32A.170;

12 (e) Relating to juveniles alleged or found to have committed
13 offenses, traffic infractions, or violations as provided in RCW
14 13.40.020 through 13.40.230, unless:

15 (i) The juvenile court transfers jurisdiction of a particular
16 juvenile to adult criminal court pursuant to RCW 13.40.110; or

17 (ii) The statute of limitations applicable to adult prosecution for
18 the offense, traffic infraction, or violation has expired; or

19 (iii) The alleged offense or infraction is a traffic, fish,
20 boating, or game offense or traffic infraction committed by a juvenile
21 sixteen years of age or older and would, if committed by an adult, be
22 tried or heard in a court of limited jurisdiction, in which instance
23 the appropriate court of limited jurisdiction shall have jurisdiction
24 over the alleged offense or infraction: PROVIDED, That if such an
25 alleged offense or infraction and an alleged offense or infraction
26 subject to juvenile court jurisdiction arise out of the same event or
27 incident, the juvenile court may have jurisdiction of both matters:
28 PROVIDED FURTHER, That the jurisdiction under this subsection does not
29 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)
30 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited
31 jurisdiction which confine juveniles for an alleged offense or
32 infraction may place juveniles in juvenile detention facilities under
33 an agreement with the officials responsible for the administration of
34 the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

35 (iv) The juvenile is sixteen or seventeen years old and the alleged
36 offense is: (A) A serious violent offense as defined in RCW 9.94A.030
37 committed on or after June 13, 1994; or (B) a violent offense as
38 defined in RCW 9.94A.030 committed on or after June 13, 1994, and the
39 juvenile has a criminal history consisting of: (I) One or more prior

1 serious violent offenses; (II) two or more prior violent offenses; or
2 (III) three or more of any combination of the following offenses: Any
3 class A felony, any class B felony, vehicular assault, or manslaughter
4 in the second degree, all of which must have been committed after the
5 juvenile's thirteenth birthday and prosecuted separately. In such a
6 case the adult criminal court shall have exclusive original
7 jurisdiction.

8 If the juvenile challenges the state's determination of the
9 juvenile's criminal history, the state may establish the offender's
10 criminal history by a preponderance of the evidence. If the criminal
11 history consists of adjudications entered upon a plea of guilty, the
12 state shall not bear a burden of establishing the knowing and
13 voluntariness of the plea;

14 (f) Under the interstate compact on juveniles as provided in
15 chapter 13.24 RCW;

16 (g) Relating to termination of a diversion agreement under RCW
17 13.40.080, including a proceeding in which the divertee has attained
18 eighteen years of age; and

19 (h) Relating to court validation of a voluntary consent to foster
20 care placement under chapter 13.34 RCW, by the parent or Indian
21 custodian of an Indian child, except if the parent or Indian custodian
22 and child are residents of or domiciled within the boundaries of a
23 federally recognized Indian reservation over which the tribe exercises
24 exclusive jurisdiction.

25 (2) The family court shall have concurrent original jurisdiction
26 with the juvenile court over all proceedings under this section if the
27 superior court judges of a county authorize concurrent jurisdiction as
28 provided in RCW 26.12.010.

29 (3) A juvenile subject to adult superior court jurisdiction under
30 subsection (1)(e) (i) through (iv) of this section, who is detained
31 pending trial, may be detained in a county detention facility as
32 defined in RCW 13.40.020 pending sentencing or a dismissal.

33 (4) A parent, guardian, or custodian who has custody of any
34 juvenile described in this section, if such parent, guardian, or
35 custodian was served with summons, shall be subject to the jurisdiction
36 of the court for purposes of this section.

37 **Sec. 3.** RCW 13.40.040 and 1979 c 155 s 57 are each amended to read
38 as follows:

1 (1) A juvenile may be taken into custody:

2 (a) Pursuant to a court order if a complaint is filed with the
3 court alleging, and the court finds probable cause to believe, that the
4 juvenile has committed an offense or has violated terms of a
5 disposition order or release order; or

6 (b) Without a court order, by a law enforcement officer if grounds
7 exist for the arrest of an adult in identical circumstances. Admission
8 to, and continued custody in, a court detention facility shall be
9 governed by subsection (2) of this section; or

10 (c) Pursuant to a court order that the juvenile be held as a
11 material witness; or

12 (d) Where the secretary or the secretary's designee has suspended
13 the parole of a juvenile offender.

14 (2) A juvenile may not be held in detention unless there is
15 probable cause to believe that:

16 (a) The juvenile has committed an offense or has violated the terms
17 of a disposition order; and

18 (i) The juvenile will likely fail to appear for further
19 proceedings; or

20 (ii) Detention is required to protect the juvenile from himself or
21 herself; or

22 (iii) The juvenile is a threat to community safety; or

23 (iv) The juvenile will intimidate witnesses or otherwise unlawfully
24 interfere with the administration of justice; or

25 (v) The juvenile has committed a crime while another case was
26 pending; or

27 (b) The juvenile is a fugitive from justice; or

28 (c) The juvenile's parole has been suspended or modified; or

29 (d) The juvenile is a material witness.

30 (3) Upon a finding that members of the community have threatened
31 the health of a juvenile taken into custody, at the juvenile's request
32 the court may order continued detention pending further order of the
33 court.

34 (4) A juvenile detained under this section may be released upon
35 posting bond set by the court. A court authorizing such a release
36 shall issue an order containing a statement of conditions imposed upon
37 the juvenile and shall set the date of his or her next court
38 appearance. The court shall advise the juvenile of any conditions
39 specified in the order and may at any time amend such an order in order

1 to impose additional or different conditions of release upon the
2 juvenile or to return the juvenile to custody for failing to conform to
3 the conditions imposed. A juvenile shall not be released except to a
4 responsible adult. Failure to appear on the date scheduled by the
5 court pursuant to this section shall constitute the crime of bail
6 jumping.

7 **Sec. 4.** RCW 13.40.050 and 1992 c 205 s 106 are each amended to
8 read as follows:

9 (1) When a juvenile taken into custody is held in detention:

10 (a) An information, a community supervision modification or
11 termination of diversion petition, or a parole modification petition
12 shall be filed within seventy-two hours, Saturdays, Sundays, and
13 holidays excluded, or the juvenile shall be released; and

14 (b) A detention hearing, a community supervision modification or
15 termination of diversion petition, or a parole modification petition
16 shall be held within seventy-two hours, Saturdays, Sundays, and
17 holidays excluded, from the time of filing the information or petition,
18 to determine whether continued detention is necessary under RCW
19 13.40.040.

20 (2) Notice of the detention hearing, stating the time, place, and
21 purpose of the hearing, ~~((and))~~ stating the right to counsel, and
22 requiring attendance, shall be given to the parent, guardian, or
23 custodian if such person can be found and shall also be given to the
24 juvenile if over twelve years of age.

25 (3) At the commencement of the detention hearing, the court shall
26 advise the parties of their rights under this chapter and shall appoint
27 counsel as specified in this chapter.

28 (4) The court shall, based upon the allegations in the information,
29 determine whether the case is properly before it or whether the case
30 should be treated as a diversion case under RCW 13.40.080. If the case
31 is not properly before the court the juvenile shall be ordered
32 released.

33 (5) Notwithstanding a determination that the case is properly
34 before the court and that probable cause exists, a juvenile shall at
35 the detention hearing be ordered released on the juvenile's personal
36 recognizance pending further hearing unless the court finds detention
37 is necessary under RCW 13.40.040 ~~((as now or hereafter amended))~~.

1 (6) If detention is not necessary under RCW 13.40.040, (~~as now or~~
2 ~~hereafter amended,~~) the court shall impose the most appropriate of the
3 following conditions or, if necessary, any combination of the following
4 conditions:

5 (a) Place the juvenile in the custody of a designated person
6 agreeing to supervise such juvenile;

7 (b) Place restrictions on the travel of the juvenile during the
8 period of release;

9 (c) Require the juvenile to report regularly to and remain under
10 the supervision of the juvenile court;

11 (d) Impose any condition other than detention deemed reasonably
12 necessary to assure appearance as required; or

13 (e) Require that the juvenile return to detention during specified
14 hours.

15 (7) A juvenile shall not be released except to a responsible adult.

16 (8) If the parent, guardian, or custodian of the juvenile in
17 detention is available, the court shall consult with them prior to a
18 determination to further detain or release the juvenile or treat the
19 case as a diversion case under RCW 13.40.080.

20 (9) If the person notified as provided in this section fails
21 without reasonable cause to appear and abide the order of the court,
22 the person may be proceeded against as for contempt of court.

23 **Sec. 5.** RCW 13.40.130 and 1981 c 299 s 10 are each amended to read
24 as follows:

25 (1) The respondent shall be advised of the allegations in the
26 information and shall be required to plead guilty or not guilty to the
27 allegation(s). The state or the respondent may make preliminary
28 motions up to the time of the plea.

29 (2) If the respondent pleads guilty, the court may proceed with
30 disposition or may continue the case for a dispositional hearing. If
31 the respondent denies guilt, an adjudicatory hearing date shall be set.
32 The court shall notify the parent, guardian, or custodian who has
33 custody of any juvenile described in the charging document of the date,
34 time, and place of the dispositional or adjudicatory hearing, and
35 require attendance.

36 (3) At the adjudicatory hearing it shall be the burden of the
37 prosecution to prove the allegations of the information beyond a
38 reasonable doubt.

1 (4) The court shall record its findings of fact and shall enter its
2 decision upon the record. Such findings shall set forth the evidence
3 relied upon by the court in reaching its decision.

4 (5) If the respondent is found not guilty he or she shall be
5 released from detention.

6 (6) If the respondent is found guilty the court may immediately
7 proceed to disposition or may continue the case for a dispositional
8 hearing. Notice of the time and place of the continued hearing may be
9 given in open court. If notice is not given in open court to a party,
10 the party and the parent, guardian, or custodian who has custody of the
11 juvenile shall be notified by mail of the time and place of the
12 continued hearing.

13 (7) The court following an adjudicatory hearing may request that a
14 predisposition study be prepared to aid the court in its evaluation of
15 the matters relevant to disposition of the case.

16 (8) The disposition hearing shall be held within fourteen days
17 after the adjudicatory hearing or plea of guilty unless good cause is
18 shown for further delay, or within twenty-one days if the juvenile is
19 not held in a detention facility, unless good cause is shown for
20 further delay.

21 (9) In sentencing an offender, the court shall use the disposition
22 standards in effect on the date of the offense.

23 (10) If the person notified as provided in this section fails
24 without reasonable cause to appear and abide the order of the court,
25 the person may be proceeded against as for contempt of court.

26 **Sec. 6.** RCW 28A.225.020 and 1992 c 205 s 202 are each amended to
27 read as follows:

28 If a juvenile required to attend school under the laws of the state
29 of Washington fails to attend school without valid justification, the
30 juvenile's school shall:

31 (1) Inform the juvenile's custodial parent, parents or guardian by
32 a notice in writing or by telephone that the juvenile has failed to
33 attend school without valid justification after one unexcused absence
34 within any month during the current school year;

35 (2) Schedule a conference or conferences with the custodial parent,
36 parents or guardian and juvenile at a time and place reasonably
37 convenient for all persons included for the purpose of analyzing the
38 causes of the juvenile's absences after two unexcused absences within

1 any month during the current school year. If a regularly scheduled
2 parent-teacher conference day is to take place within thirty days of
3 the second unexcused absence, then the school district may schedule
4 this conference on that day; and

5 (3) Take steps to eliminate or reduce the juvenile's absences.
6 These steps shall include, where appropriate, adjusting the juvenile's
7 school program or school or course assignment, providing more
8 individualized or remedial instruction, preparing the juvenile for
9 employment with specific vocational courses or work experience, or
10 (~~both~~) refer the juvenile to a community truancy board, and assisting
11 the parent or student to obtain supplementary services that might
12 eliminate or ameliorate the cause or causes for the absence from
13 school.

14 **Sec. 7.** RCW 28A.225.030 and 1992 c 205 s 203 are each amended to
15 read as follows:

16 If action taken by a school pursuant to RCW 28A.225.020 is not
17 successful in substantially reducing a student's absences from school,
18 any of the following actions may be taken after five or more unexcused
19 absences during the current school year: (1) The attendance officer of
20 the school district or the community truancy board through its attorney
21 may petition the (~~juvenile~~) court to assume jurisdiction under RCW
22 28A.200.010, 28A.200.020, and 28A.225.010 through 28A.225.150 for the
23 purpose of alleging a violation of RCW 28A.225.010 by the parent; or
24 (2) a petition alleging a violation of RCW 28A.225.010 by a child may
25 be filed with the (~~juvenile~~) court by the parent of such child or by
26 the attendance officer of the school district or the community truancy
27 board through its attorney at the request of the parent. If the court
28 assumes jurisdiction in such an instance, the provisions of RCW
29 28A.200.010, 28A.200.020, and 28A.225.010 through 28A.225.150, except
30 where otherwise stated, shall apply.

31 NEW SECTION. **Sec. 8.** A new section is added to chapter 28A.225
32 RCW to read as follows:

33 For purposes of this chapter, "community truancy board" means a
34 board comprised of members of the local community in which the juvenile
35 attends school. The local school district shall direct the formation
36 of the board, and if possible include a variety of representatives from
37 the community. The community truancy board shall set conditions

1 designed to improve school attendance and monitor subsequent school
2 attendance.

3 **Sec. 9.** RCW 28A.225.150 and 1992 c 205 s 205 are each amended to
4 read as follows:

5 The school district attendance officer shall report biannually to
6 the educational service district superintendent, in the instance of
7 petitions filed alleging a violation by a child under RCW 28A.225.030:

8 (1) The number of petitions filed by a school district or by a
9 parent;

10 (2) The frequency of each action taken under RCW 28A.225.020 prior
11 to the filing of such petition;

12 (3) When deemed appropriate under RCW 28A.225.020, the frequency of
13 delivery of supplemental services; and

14 (4) Disposition of cases filed with the ((juvenile)) court,
15 including the frequency of contempt orders issued to enforce a court's
16 order under RCW 28A.225.090.

17 The educational service district superintendent shall compile such
18 information and report annually to the superintendent of public
19 instruction. The superintendent of public instruction shall compile
20 such information and report to the committees of the house of
21 representatives and the senate by September 1 of each year.

22 **Sec. 10.** RCW 74.13.032 and 1979 c 155 s 78 are each amended to
23 read as follows:

24 (1) The department shall establish, by contracts with private
25 vendors, ((not less than eight regional)) crisis residential centers
26 geographically located pursuant to a need-based formula developed by
27 the Washington association of sheriffs and police chiefs having a
28 state-wide total of at least two hundred eighty beds, which shall be
29 structured group care facilities licensed under rules adopted by the
30 department. Each regional center shall have an average of at least
31 four adult staff members and in no event less than three adult staff
32 members to every eight children. The staff shall be trained so that
33 they may effectively counsel juveniles admitted to the centers, provide
34 treatment, supervision, and structure to the juveniles, and carry out
35 the responsibilities outlined in RCW 13.32A.090.

36 (2) The department shall, in addition to the regional facilities
37 established under subsection (1) of this section, establish not less

1 than thirty additional crisis residential centers pursuant to contract
2 with licensed private group care or specialized foster home facilities.
3 The staff at the facilities shall be trained so that they may
4 effectively counsel juveniles admitted to the centers, provide
5 treatment, supervision, and structure to the juveniles, and carry out
6 the responsibilities stated in RCW 13.32A.090. The responsibilities
7 stated in RCW 13.32A.090 may, in any of the centers, be carried out by
8 the department.

9 Crisis residential (~~facilities shall be operated as semi-secure~~
10 ~~facilities~~) center means a facility operated in a manner to reasonably
11 assure that juveniles placed there will not run away.

12 **Sec. 11.** RCW 13.32A.030 and 1990 c 276 s 3 are each amended to
13 read as follows:

14 As used in this chapter the following terms have the meanings
15 indicated unless the context clearly requires otherwise:

16 (1) "Department" means the department of social and health
17 services;

18 (2) "Child," "juvenile," and "youth" mean any individual who is
19 under the chronological age of eighteen years;

20 (3) "Parent" means the legal custodian(s) or guardian(s) of a
21 child;

22 (4) "Semi-secure facility" means any facility, including but not
23 limited to (~~crisis residential centers or~~) specialized foster family
24 homes, operated in a manner to reasonably assure that youth placed
25 there will not run away: PROVIDED, That such facility shall not be a
26 secure institution or facility as defined by the federal juvenile
27 justice and delinquency prevention act of 1974 (P.L. 93-415; 42 U.S.C.
28 Sec. 5634 et seq.) and regulations and clarifying instructions
29 promulgated thereunder. Pursuant to rules established by the
30 department, the facility administrator shall establish reasonable hours
31 for residents to come and go from the facility such that no residents
32 are free to come and go at all hours of the day and night. To prevent
33 residents from taking unreasonable actions, the facility administrator,
34 where appropriate, may condition a resident's leaving the facility upon
35 the resident being accompanied by the administrator or the
36 administrator's designee and the resident may be required to notify the
37 administrator or the administrator's designee of any intent to leave,
38 his or her intended destination, and the probable time of his or her

1 return to the ((center)) facility. The facility administrator shall
2 notify a parent and the appropriate law enforcement agency within four
3 hours of all unauthorized leaves;

4 (5) "At-risk youth" means an individual under the chronological age
5 of eighteen years who:

6 (a) Is absent from home for more than seventy-two consecutive hours
7 without consent of his or her parent;

8 (b) Is beyond the control of his or her parent such that the
9 child's behavior substantially endangers the health, safety, or welfare
10 of the child or any other person; or

11 (c) Has a serious substance abuse problem for which there are no
12 pending criminal charges related to the substance abuse.

13 **Sec. 12.** RCW 13.32A.130 and 1994 sp.s. c 7 s 508 are each amended
14 to read as follows:

15 A child admitted to a crisis residential center under this chapter
16 who is not returned to the home of his or her parent or who is not
17 placed in an alternative residential placement under an agreement
18 between the parent and child, shall, except as provided for by RCW
19 13.32A.140 and 13.32A.160(2), reside in the placement under the rules
20 established for the center for a period not to exceed ((five)) seven
21 consecutive days from the time of intake, except as otherwise provided
22 by this chapter. Crisis residential center staff shall make a
23 concerted effort to achieve a reconciliation of the family. If a
24 reconciliation and voluntary return of the child has not been achieved
25 within forty-eight hours from the time of intake, and if the person in
26 charge of the center does not consider it likely that reconciliation
27 will be achieved within the ((five-day)) seven-day period, then the
28 person in charge shall ((inform the parent and child of (1) the
29 availability of counseling services; (2) the right to file a petition
30 for an alternative residential placement, the right of a parent to))
31 file an at-risk youth petition((, and the right of the parent and child
32 to obtain assistance in filing the petition; and (3) the right to
33 request a review of any alternative residential placement)).

34 At no time shall information regarding a parent's or child's rights
35 be withheld if requested. The department shall develop and distribute
36 to all law enforcement agencies and to each crisis residential center
37 administrator a written statement delineating the services and rights.
38 Every officer taking a child into custody shall provide the child and

1 his or her parent(s) or responsible adult with whom the child is placed
2 with a copy of the statement. In addition, the administrator of the
3 facility or his or her designee shall provide every resident and parent
4 with a copy of the statement.

5 **Sec. 13.** RCW 70.96A.140 and 1993 c 362 s 1 are each amended to
6 read as follows:

7 (1) When a designated chemical dependency specialist receives
8 information alleging that a person is incapacitated as a result of
9 chemical dependency, the designated chemical dependency specialist,
10 after investigation and evaluation of the specific facts alleged and of
11 the reliability and credibility of the information, may file a petition
12 for commitment of such person with the superior court or district
13 court.

14 If a petition for commitment is not filed in the case of a minor,
15 the parent, guardian, or custodian who has custody of the minor may
16 seek review of that decision made by the designated chemical dependency
17 specialist in superior or district court. The parent, guardian, or
18 custodian shall file notice with the court and provide a copy of the
19 designated chemical dependency specialist's report.

20 If the designated chemical dependency specialist finds that the
21 initial needs of such person would be better served by placement within
22 the mental health system, the person shall be referred to an evaluation
23 and treatment facility as defined in RCW 71.05.020 or 71.34.020. If
24 placement in a chemical dependency program is available and deemed
25 appropriate, the petition shall allege that: The person is chemically
26 dependent and is incapacitated by alcohol or drug addiction, or that
27 the person has twice before in the preceding twelve months been
28 admitted for detoxification or chemical dependency treatment pursuant
29 to RCW 70.96A.110, and is in need of a more sustained treatment
30 program, or that the person is chemically dependent and has threatened,
31 attempted, or inflicted physical harm on another and is likely to
32 inflict physical harm on another unless committed. A refusal to
33 undergo treatment, by itself, does not constitute evidence of lack of
34 judgment as to the need for treatment. The petition shall be
35 accompanied by a certificate of a licensed physician who has examined
36 the person within five days before submission of the petition, unless
37 the person whose commitment is sought has refused to submit to a
38 medical examination, in which case the fact of refusal shall be alleged

1 in the petition. The certificate shall set forth the licensed
2 physician's findings in support of the allegations of the petition. A
3 physician employed by the petitioning program or the department is
4 eligible to be the certifying physician.

5 (2) Upon filing the petition, the court shall fix a date for a
6 hearing no less than two and no more than seven days after the date the
7 petition was filed unless the person petitioned against is presently
8 being detained in a program, pursuant to RCW 70.96A.120, 71.05.210, or
9 71.34.050, (~~as now or hereafter amended,~~) in which case the hearing
10 shall be held within seventy-two hours of the filing of the petition:
11 PROVIDED, HOWEVER, That the above specified seventy-two hours shall be
12 computed by excluding Saturdays, Sundays, and holidays: PROVIDED
13 FURTHER, That, the court may, upon motion of the person whose
14 commitment is sought, or upon motion of petitioner with written
15 permission of the person whose commitment is sought, or his or her
16 counsel and, upon good cause shown, extend the date for the hearing.
17 A copy of the petition and of the notice of the hearing, including the
18 date fixed by the court, shall be served by the designated chemical
19 dependency specialist on the person whose commitment is sought, his or
20 her next of kin, a parent or his or her legal guardian if he or she is
21 a minor, and any other person the court believes advisable. A copy of
22 the petition and certificate shall be delivered to each person
23 notified.

24 (3) At the hearing the court shall hear all relevant testimony,
25 including, if possible, the testimony, which may be telephonic, of at
26 least one licensed physician who has examined the person whose
27 commitment is sought. Communications otherwise deemed privileged under
28 the laws of this state are deemed to be waived in proceedings under
29 this chapter when a court of competent jurisdiction in its discretion
30 determines that the waiver is necessary to protect either the detained
31 person or the public. The waiver of a privilege under this section is
32 limited to records or testimony relevant to evaluation of the detained
33 person for purposes of a proceeding under this chapter. Upon motion by
34 the detained person, or on its own motion, the court shall examine a
35 record or testimony sought by a petitioner to determine whether it is
36 within the scope of the waiver.

37 The record maker shall not be required to testify in order to
38 introduce medical, nursing, or psychological records of detained
39 persons so long as the requirements of RCW 5.45.020 are met, except

1 that portions of the record that contain opinions as to whether the
2 detained person is chemically dependent shall be deleted from the
3 records unless the person offering the opinions is available for cross-
4 examination. The person shall be present unless the court believes
5 that his or her presence is likely to be injurious to him or her; in
6 this event the court may deem it appropriate to appoint a guardian ad
7 litem to represent him or her throughout the proceeding. If deemed
8 advisable, the court may examine the person out of courtroom. If the
9 person has refused to be examined by a licensed physician, he or she
10 shall be given an opportunity to be examined by a court appointed
11 licensed physician. If he or she refuses and there is sufficient
12 evidence to believe that the allegations of the petition are true, or
13 if the court believes that more medical evidence is necessary, the
14 court may make a temporary order committing him or her to the
15 department for a period of not more than five days for purposes of a
16 diagnostic examination.

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

24 (5) A person committed under this section shall remain in the
25 program for treatment for a period of sixty days unless sooner
26 discharged. At the end of the sixty-day period, he or she shall be
27 discharged automatically unless the program, before expiration of the
28 period, files a petition for his or her recommitment upon the grounds
29 set forth in subsection (1) of this section for a further period of
30 ninety days unless sooner discharged.

31 If a petition for recommitment is not filed in the case of a minor,
32 the parent, guardian, or custodian who has custody of the minor may
33 seek review of that decision made by the designated chemical dependency
34 specialist in superior or district court. The parent, guardian, or
35 custodian shall file notice with the court and provide a copy of the
36 treatment progress report.

37 If a person has been committed because he or she is chemically
38 dependent and likely to inflict physical harm on another, the program

1 shall apply for recommitment if after examination it is determined that
2 the likelihood still exists.

3 (6) Upon the filing of a petition for recommitment under subsection
4 (5) of this section, the court shall fix a date for hearing no less
5 than two and no more than seven days after the date the petition was
6 filed: PROVIDED, That, the court may, upon motion of the person whose
7 commitment is sought and upon good cause shown, extend the date for the
8 hearing. A copy of the petition and of the notice of hearing,
9 including the date fixed by the court, shall be served by the treatment
10 program on the person whose commitment is sought, his or her next of
11 kin, the original petitioner under subsection (1) of this section if
12 different from the petitioner for recommitment, one of his or her
13 parents or his or her legal guardian if he or she is a minor, and his
14 or her attorney and any other person the court believes advisable. At
15 the hearing the court shall proceed as provided in subsection (3) of
16 this section.

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

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

25 (a) In case of a chemically dependent person committed on the
26 grounds of likelihood of infliction of physical harm upon himself,
27 herself, or another, the likelihood no longer exists; or further
28 treatment will not be likely to bring about significant improvement in
29 the person's condition, or treatment is no longer adequate or
30 appropriate.

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

34 (9) The court shall inform the person whose commitment or
35 recommitment is sought of his or her right to contest the application,
36 be represented by counsel at every stage of any proceedings relating to
37 his or her commitment and recommitment, and have counsel appointed by
38 the court or provided by the court, if he or she wants the assistance
39 of counsel and is unable to obtain counsel. If the court believes that

1 the person needs the assistance of counsel, the court shall require, by
2 appointment if necessary, counsel for him or her regardless of his or
3 her wishes. The person shall, if he or she is financially able, bear
4 the costs of such legal service; otherwise such legal service shall be
5 at public expense. The person whose commitment or recommitment is
6 sought shall be informed of his or her right to be examined by a
7 licensed physician of his or her choice. If the person is unable to
8 obtain a licensed physician and requests examination by a physician,
9 the court shall employ a licensed physician.

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

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

15 (12) When in the opinion of the professional person in charge of
16 the program providing involuntary treatment under this chapter, the
17 committed patient can be appropriately served by less restrictive
18 treatment before expiration of the period of commitment, then the less
19 restrictive care may be required as a condition for early release for
20 a period which, when added to the initial treatment period, does not
21 exceed the period of commitment. If the program designated to provide
22 the less restrictive treatment is other than the program providing the
23 initial involuntary treatment, the program so designated must agree in
24 writing to assume such responsibility. A copy of the conditions for
25 early release shall be given to the patient, the designated chemical
26 dependency specialist of original commitment, and the court of original
27 commitment. The program designated to provide less restrictive care
28 may modify the conditions for continued release when the modifications
29 are in the best interests of the patient. If the program providing
30 less restrictive care and the designated chemical dependency specialist
31 determine that a conditionally released patient is failing to adhere to
32 the terms and conditions of his or her release, or that substantial
33 deterioration in the patient's functioning has occurred, then the
34 designated chemical dependency specialist shall notify the court of
35 original commitment and request a hearing to be held no less than two
36 and no more than seven days after the date of the request to determine
37 whether or not the person should be returned to more restrictive care.
38 The designated chemical dependency specialist shall file a petition
39 with the court stating the facts substantiating the need for the

1 hearing along with the treatment recommendations. The patient shall
2 have the same rights with respect to notice, hearing, and counsel as
3 for the original involuntary treatment proceedings. The issues to be
4 determined at the hearing are whether the conditionally released
5 patient did or did not adhere to the terms and conditions of his or her
6 release to less restrictive care or that substantial deterioration of
7 the patient's functioning has occurred and whether the conditions of
8 release should be modified or the person should be returned to a more
9 restrictive program. The hearing may be waived by the patient and his
10 or her counsel and his or her guardian or conservator, if any, but may
11 not be waived unless all such persons agree to the waiver. Upon
12 waiver, the person may be returned for involuntary treatment or
13 continued on conditional release on the same or modified conditions.

14 **Sec. 14.** RCW 71.34.030 and 1985 c 354 s 3 are each amended to read
15 as follows:

16 (1) Any minor thirteen years or older may request and receive
17 outpatient treatment without the consent of the minor's parent.
18 Parental authorization is required for outpatient treatment of a minor
19 under the age of thirteen.

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

28 (a) A minor under thirteen years of age may only be admitted on the
29 application of the minor's parent.

30 (b) A minor (~~((thirteen years or older))~~) may be voluntarily admitted
31 by application of the parent without the minor's consent. (~~((Such
32 application must be accompanied by the written consent, knowingly and
33 voluntarily given, of the minor.))~~)

34 (c) A minor thirteen years or older may, with the concurrence of
35 the professional person in charge of an evaluation and treatment
36 facility, admit himself or herself without parental consent to the
37 evaluation and treatment facility, provided that notice is given by the

1 facility to the minor's parent in accordance with the following
2 requirements:

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

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

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

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

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

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

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

34 (d) Written renewal of voluntary consent must be obtained from the
35 applicant (~~((and the minor thirteen years or older))~~) no less than once
36 every twelve months.

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

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

1 (a) Any minor under the age of thirteen and any minor age thirteen
2 or older admitted by the parent under subsection (2)(b) of this section
3 must be discharged immediately upon written request of the parent.

4 (b) Any minor thirteen years or older voluntarily admitted by
5 himself or herself under subsection (2)(c) of this section may give
6 notice of intent to leave at any time. The notice need not follow any
7 specific form so long as it is written and the intent of the minor can
8 be discerned.

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

13 (d) The professional person in charge of the evaluation and
14 treatment facility shall discharge the minor, thirteen years or older
15 admitted by himself or herself under subsection (2)(c) of this section,
16 from the facility within twenty-four hours after receipt of the minor's
17 notice of intent to leave, unless the county-designated mental health
18 professional files a petition for initial detention within the time
19 prescribed by this chapter.

20 **Sec. 15.** RCW 71.34.050 and 1985 c 354 s 5 are each amended to read
21 as follows:

22 (1) When a county-designated mental health professional receives
23 information that a minor, thirteen years or older, as a result of a
24 mental disorder presents a likelihood of serious harm or is gravely
25 disabled, has investigated the specific facts alleged and of the
26 credibility of the person or persons providing the information, and has
27 determined that voluntary admission for inpatient treatment is not
28 possible, the county-designated mental health professional may take the
29 minor, or cause the minor to be taken, into custody and transported to
30 an evaluation and treatment facility providing inpatient treatment.

31 If the minor is not taken into custody for evaluation and
32 treatment, the parent, guardian, or custodian who has custody of the
33 minor may seek review of that decision made by the county designated
34 mental health professional in court. The parent, guardian, or
35 custodian shall file notice with the court and provide a copy of the
36 county designated mental health professional's report or notes.

37 (2) Within twelve hours of the minor's arrival at the evaluation
38 and treatment facility, the county-designated mental health

1 professional shall serve on the minor a copy of the petition for
2 initial detention, notice of initial detention, and statement of
3 rights. The county-designated mental health professional shall file
4 with the court on the next judicial day following the initial detention
5 the original petition for initial detention, notice of initial
6 detention, and statement of rights along with an affidavit of service.
7 The county-designated mental health professional shall commence service
8 of the petition for initial detention and notice of the initial
9 detention on the minor's parent and the minor's attorney as soon as
10 possible following the initial detention.

11 (3) At the time of initial detention, the county-designated mental
12 health professional shall advise the minor both orally and in writing
13 that if admitted to the evaluation and treatment facility for inpatient
14 treatment, a commitment hearing shall be held within seventy-two hours
15 of the minor's provisional acceptance to determine whether probable
16 cause exists to commit the minor for further mental health treatment.

17 The minor shall be advised that he or she has a right to
18 communicate immediately with an attorney and that he or she has a right
19 to have an attorney appointed to represent him or her before and at the
20 hearing if the minor is indigent.

21 (4) Whenever the county designated mental health professional
22 petitions for detention of a minor under this chapter, an evaluation
23 and treatment facility providing seventy-two hour evaluation and
24 treatment must immediately accept on a provisional basis the petition
25 and the person. Within twenty-four hours of the minor's arrival, the
26 facility must evaluate the minor's condition and either admit or
27 release the minor in accordance with this chapter.

28 (5) If a minor is not approved for admission by the inpatient
29 evaluation and treatment facility, the facility shall make such
30 recommendations and referrals for further care and treatment of the
31 minor as necessary.

32 **Sec. 16.** RCW 71.34.070 and 1985 c 354 s 7 are each amended to read
33 as follows:

34 (1) The professional person in charge of an evaluation and
35 treatment facility where a minor has been admitted involuntarily for
36 the initial seventy-two hour treatment period under this chapter may
37 petition to have a minor committed to an evaluation and treatment
38 facility for fourteen-day diagnosis, evaluation, and treatment.

1 If the professional person in charge of the treatment and
2 evaluation facility does not petition to have the minor committed, the
3 parent, guardian, or custodian who has custody of the minor may seek
4 review of that decision in court. The parent, guardian, or custodian
5 shall file notice with the court and provide a copy of the treatment
6 and evaluation facility's report.

7 (2) A petition for commitment of a minor under this section shall
8 be filed with the superior court in the county where the minor is
9 residing or being detained.

10 (a) A petition for a fourteen-day commitment shall be signed either
11 by two physicians or by one physician and a mental health professional
12 who have examined the minor and shall contain the following:

13 (i) The name and address of the petitioner;

14 (ii) The name of the minor alleged to meet the criteria for
15 fourteen-day commitment;

16 (iii) The name, telephone number, and address if known of every
17 person believed by the petitioner to be legally responsible for the
18 minor;

19 (iv) A statement that the petitioner has examined the minor and
20 finds that the minor's condition meets required criteria for fourteen-
21 day commitment and the supporting facts therefor;

22 (v) A statement that the minor has been advised of the need for
23 voluntary treatment but has been unwilling or unable to consent to
24 necessary treatment;

25 (vi) A statement recommending the appropriate facility or
26 facilities to provide the necessary treatment; and

27 (vii) A statement concerning whether a less restrictive alternative
28 to inpatient treatment is in the best interests of the minor.

29 (b) A copy of the petition shall be personally delivered to the
30 minor by the petitioner or petitioner's designee. A copy of the
31 petition shall be sent to the minor's attorney and the minor's parent.

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