

FINAL BILL REPORT

SSB 6208

PARTIAL VETO

C 296 L 98

Synopsis as Enacted

Brief Description: Revising procedures for at-risk youth.

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

Senate Committee on Human Services & Corrections

House Committee on Children & Family Services

House Committee on Appropriations

Background: In 1995, the Legislature passed a comprehensive act dealing with runaway, truant, and at-risk youth, commonly referred to as the Becca Bill. Part of the act dealt with parents' rights to seek chemical dependency and mental health treatment for their minor children. The Legislature intended to broaden parents' rights to seek professional help for their children without the necessity of a court proceeding.

The Washington State Supreme Court ruled, in *State v. CPC Fairfax Hospital*, 129 Wn2d 439 (1996), that the mental health treatment process set up by the Becca Bill allowed a child to be released from treatment upon his or her request, unless the parents filed a petition under the state's involuntary commitment procedures. The child who was the subject of the *CPC Fairfax* case was not released upon her request, nor did her parents file a petition with the court. The court therefore ruled that the child's due process rights were violated. The court did not rule on the constitutionality of the ability of parents to seek treatment for their children.

In 1997, the Legislature passed ESSB 5082 in response to the court's ruling in *Fairfax*. The Governor vetoed the bill in its entirety citing due process and fiscal concerns.

The 1995 Becca Bill provided parents court access to deal with issues relating to their children's behavior. Those petitions are known as Children in Need of Special Services–(CHINS) and At-Risk Youth–(ARY) petitions. Two recent appellate court decisions have limited the use of contempt in CHINS and ARY proceedings.

Summary: The processes for the admission of a child to mental health or chemical dependency treatment are clarified by clearly separating the procedures for (1) voluntary outpatient and inpatient treatment, (2) parent-initiated treatment, and (3) court-authorized involuntary treatment petitions.

Mental health and chemical dependency treatment of children is allowed, without the child's consent, when the decision is made by a medical professional at the request of a parent.

Admitting professionals may admit a child to treatment when the professional determines the treatment is medically necessary. The professional must be appropriately trained, as provided by rule, to conduct the evaluation. The evaluation must be completed within 24 hours unless the professional determines additional time is necessary. A decision to hold or release the child must be made within 72 hours. During the evaluation period, the professional may only provide such treatment as necessary to stabilize the child's condition. The child must be provided with a statement of his or her rights within 72 hours of admission.

The independent review of the professional's decision to treat the child is made on the basis of whether the continued treatment is medically necessary. The review must be conducted by a professional person and occur between seven and 14 days after admission to the facility. Five days after the independent review, the child may file a petition requesting judicial review. At the hearing, the facility or parents must show the medical necessity for continued treatment.

Thirty days after the independent or judicial review, whichever is later, a professional person or a county designated mental health professional must file a petition under the Involuntary Treatment Act or the child must be released. The department may contract out the independent reviews. The child must be released upon written request of the parent.

If the department determines that the treatment is no longer medically necessary, and the parents and the treating professional disagree, the facility may hold the child for up to three judicial days in order to allow the parents to file an ARY petition with the court. This determination may occur following any review by the department.

The Department of Health must conduct a survey of providers of mental health services to minors. The survey collects information relating to parental notification of their minor children's mental health treatment.

Parents are notified of their child's chemical dependency treatment only if the child consents to the notice or the treatment provider determines the child lacks the capacity to provide consent to the notice. The chemical dependency notice provision is based upon federal law.

The court may use remedial (civil) contempt when enforcing CHINS, ARY and truancy petitions.

Counties may apply to DSHS for funding to operate staff secure treatment facilities for youth. Secure crisis residential centers may be located on the grounds of a juvenile detention center. Staffing ratios at secure crisis residential centers are modified to provide not less than one staff person per 10 children.

The crime of unlawful harboring is expanded to include providing shelter to a runaway with the intent to engage the child in a crime or contribute to the delinquency of a minor.

Votes on Final Passage:

Senate	45	3	
House	98	0	(House amended)
Senate	34	9	(Senate concurred)

Effective: June 11, 1998

Partial Veto Summary: The Governor vetoed the provisions allowing DSHS to transfer funds to the counties for the operation of staff secure crisis residential centers; requiring DSHS to report the number of parent-initiated admissions of their children to treatment facilities; and expanding the crime of unlawful harboring of a minor child.–