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**SENATE BILL 5706**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Becker, Rivers, Bailey, Brown, O'Ban, Fortunato, and Warnick

AN ACT Relating to parent-initiated behavioral health treatment for children aged thirteen to seventeen years old; amending RCW 71.34.600, 71.34.600, 71.34.650, 71.34.650, 71.34.660, and 71.34.660; adding a new section to chapter 71.34 RCW; providing an effective date; and providing an expiration date.

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

**Sec.**  RCW 71.34.600 and 2007 c 375 s 11 are each amended to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to an evaluation and treatment facility or an inpatient facility licensed under chapter 70.41, 71.12, or 72.23 RCW and request that the professional person examine the minor to determine whether the minor has a mental disorder and is in need of inpatient treatment.

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

(3) An appropriately trained professional person may evaluate whether the minor has a mental disorder. The evaluation shall be completed within twenty-four hours of the time the minor was brought to the facility, unless the professional person determines that the condition of the minor necessitates additional time for evaluation. In no event shall a minor be held longer than seventy-two hours for evaluation. If, in the judgment of the professional person, it is determined it is a medical necessity for the minor to receive inpatient treatment, the minor may be held for treatment. The facility shall limit treatment to that which the professional person determines is medically necessary to stabilize the minor's condition until the evaluation has been completed. The parent shall be considered the personal representative of the child except as provided under section 7 of this act. Within twenty-four hours of completion of the evaluation, the professional person shall notify the department if the child is held for treatment and of the date of admission.

(4) No provider is obligated to provide treatment to a minor under the provisions of this section except that no provider may refuse to treat a minor under the provisions of this section solely on the basis that the minor has not consented to the treatment. No provider may admit a minor to treatment under this section unless it is medically necessary.

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

(6) Prior to the review conducted under RCW 71.34.610, the professional person shall notify the minor of his or her right to petition superior court for release from the facility.

(7) For the purposes of this section "professional person" means "professional person" as defined in RCW 71.05.020.

**Sec.**  RCW 71.34.600 and 2016 sp.s. c 29 s 263 are each amended to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to:

(a) An evaluation and treatment facility or an inpatient facility licensed under chapter 70.41, 71.12, or 72.23 RCW and request that the professional person examine the minor to determine whether the minor has a mental disorder and is in need of inpatient treatment; or

(b) A secure detoxification facility or approved substance use disorder treatment program and request that a substance use disorder assessment be conducted by a professional person to determine whether the minor has a substance use disorder and is in need of inpatient treatment.

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

(3) An appropriately trained professional person may evaluate whether the minor has a mental disorder or has a substance use disorder. The evaluation shall be completed within twenty-four hours of the time the minor was brought to the facility, unless the professional person determines that the condition of the minor necessitates additional time for evaluation. In no event shall a minor be held longer than seventy-two hours for evaluation. If, in the judgment of the professional person, it is determined it is a medical necessity for the minor to receive inpatient treatment, the minor may be held for treatment. The facility shall limit treatment to that which the professional person determines is medically necessary to stabilize the minor's condition until the evaluation has been completed. The parent shall be considered the personal representative of the child except as provided under section 7 of this act. Within twenty-four hours of completion of the evaluation, the professional person shall notify the department if the child is held for treatment and of the date of admission.

(4) No provider is obligated to provide treatment to a minor under the provisions of this section except that no provider may refuse to treat a minor under the provisions of this section solely on the basis that the minor has not consented to the treatment. No provider may admit a minor to treatment under this section unless it is medically necessary.

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

(6) Prior to the review conducted under RCW 71.34.610, the professional person shall notify the minor of his or her right to petition superior court for release from the facility.

(7) For the purposes of this section "professional person" means "professional person" as defined in RCW 71.05.020.

**Sec.**  RCW 71.34.650 and 1998 c 296 s 18 are each amended to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to a provider of outpatient mental health treatment and request that an appropriately trained professional person examine the minor to determine whether the minor has a mental disorder and is in need of outpatient treatment. If, in the judgment of the provider, it is determined that it is a medical necessity for the minor to receive outpatient treatment, the parent shall be considered the personal representative for the minor except as provided under section 7 of this act, and the provider shall collaborate with the parent to determine a course of treatment for the minor.

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

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

(4) Any minor admitted to inpatient treatment under RCW 71.34.500 or 71.34.600 shall be discharged immediately from inpatient treatment upon written request of the parent.

**Sec.**  RCW 71.34.650 and 2016 sp.s. c 29 s 265 are each amended to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to((~~:~~

~~(a) A~~)) either a provider of outpatient mental health treatment or a provider of outpatient substance abuse disorder treatment and request that an appropriately trained professional person examine the minor to determine whether the minor ((~~has a mental disorder and~~)) is in need of outpatient treatment((~~; or~~

~~(b) A provider of outpatient substance use disorder treatment and request that an appropriately trained professional person examine the minor to determine whether the minor has a substance use disorder and is in need of outpatient treatment~~)). If, in the judgment of the provider, it is determined that it is a medical necessity for the minor to receive outpatient treatment, the parent shall be considered the personal representative for the minor except as provided under section 7 of this act, and the provider shall collaborate with the parent to determine a course of treatment for the minor.

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

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

(4) Any minor admitted to inpatient treatment under RCW 71.34.500 or 71.34.600 shall be discharged immediately from inpatient treatment upon written request of the parent.

**Sec.**  RCW 71.34.660 and 2005 c 371 s 3 are each amended to read as follows:

(1) A minor child shall have no cause of action against an evaluation and treatment facility, inpatient facility, or provider of outpatient mental health treatment for admitting or accepting the minor in good faith for evaluation or treatment under RCW 71.34.600 or 71.34.650 based solely upon the fact that the minor did not consent to evaluation or treatment if the minor's parent has consented to the evaluation or treatment.

(2) A provider shall not be liable for communications with the parent of a minor evaluated under RCW 71.34.600 or 71.34.650 related to the exchange of information or treatment discussions permitted under section 7 of this act.

**Sec.**  RCW 71.34.660 and 2016 sp.s. c 29 s 266 are each amended to read as follows:

(1) A minor child shall have no cause of action against an evaluation and treatment facility, secure detoxification facility, approved substance use disorder treatment program, inpatient facility, or provider of outpatient mental health treatment or outpatient substance use disorder treatment for admitting or accepting the minor in good faith for evaluation or treatment under RCW 71.34.600 or 71.34.650 based solely upon the fact that the minor did not consent to evaluation or treatment if the minor's parent has consented to the evaluation or treatment.

(2) A provider shall not be liable for communications with the parent of a minor evaluated under RCW 71.34.600 or 71.34.650 related to the exchange of information or treatment discussions permitted under section 7 of this act.

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

During the evaluation of a minor at the request of a parent under RCW 71.34.600 or 71.34.650 and during the course of medically necessary treatment commenced pursuant to this evaluation, the parent shall be considered the personal representative of the minor for the purpose of transmission of medical information, making treatment decisions, and reviewing the compliance of the minor with treatment recommendations. RCW 71.34.500 through 71.34.530 are suspended for the limited purpose of this evaluation and course of follow-up treatment, unless the parent agrees to a confidential relationship between the child and the health care provider, or the receipt of new information or a material change in circumstances causes the provider to reevaluate the medical necessity for treatment under RCW 71.34.600 or 71.34.650. Nothing in this section requires a health care provider to enter into a treatment relationship or make disclosures which would, in the judgment of the provider, place the child at risk of harm. The obligation to share treatment information with a parent under this section shall not include a right of access to psychotherapy notes as defined under the federal health insurance portability and accountability act.

NEW SECTION. **Sec.**  Sections 1, 3, and 5 of this act expire April 1, 2018.

NEW SECTION. **Sec.**  Sections 2, 4, and 6 of this act take effect April 1, 2018.

**--- END ---**