

E2SHB 1874 - S COMM AMD

By Subcommittee on Behavioral Health

NOT ADOPTED 04/15/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 71.34.010 and 2018 c 201 s 5001 are each amended to
4 read as follows:

5 It is the purpose of this chapter to assure that minors in need
6 of mental health care and treatment receive an appropriate continuum
7 of culturally relevant care and treatment, including prevention and
8 early intervention, self-directed care, parent-directed care, and
9 involuntary treatment. To facilitate the continuum of care and
10 treatment to minors in out-of-home placements, all divisions of the
11 authority and the department that provide mental health services to
12 minors shall jointly plan and deliver those services.

13 It is also the purpose of this chapter to protect the rights of
14 ~~((minors))~~ adolescents to confidentiality and to independently seek
15 services for mental health and substance use disorders. Mental health
16 and chemical dependency professionals shall guard against needless
17 hospitalization and deprivations of liberty ~~((and to)),~~ enable
18 treatment decisions to be made in response to clinical needs in
19 accordance with sound professional judgment ~~((The mental health care~~
20 ~~and treatment providers shall))~~, and encourage the use of voluntary
21 services ~~((and))~~. Mental health and chemical dependency professionals
22 shall, whenever clinically appropriate, ~~((the providers shall))~~ offer
23 less restrictive alternatives to inpatient treatment. Additionally,
24 all mental health care and treatment providers shall assure that
25 minors' parents are given an opportunity to participate in the
26 treatment decisions for their minor children. The mental health care
27 and treatment providers shall, to the extent possible, offer services
28 that involve minors' parents or family.

29 It is also the purpose of this chapter to assure the ability of
30 parents to exercise reasonable, compassionate care and control of
31 their minor children when there is a medical necessity for treatment

1 and without the requirement of filing a petition under this chapter,
2 including the ability to request and receive medically necessary
3 treatment for their adolescent children without the consent of the
4 adolescent.

5 **Sec. 2.** RCW 71.34.020 and 2018 c 201 s 5002 are each amended to
6 read as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Alcoholism" means a disease, characterized by a dependency
10 on alcoholic beverages, loss of control over the amount and
11 circumstances of use, symptoms of tolerance, physiological or
12 psychological withdrawal, or both, if use is reduced or discontinued,
13 and impairment of health or disruption of social or economic
14 functioning.

15 (2) "Approved substance use disorder treatment program" means a
16 program for minors with substance use disorders provided by a
17 treatment program licensed or certified by the department of health
18 as meeting standards adopted under chapter 71.24 RCW.

19 (3) "Authority" means the Washington state health care authority.

20 (4) "Chemical dependency" means:

21 (a) Alcoholism;

22 (b) Drug addiction; or

23 (c) Dependence on alcohol and one or more other psychoactive
24 chemicals, as the context requires.

25 (5) "Chemical dependency professional" means a person certified
26 as a chemical dependency professional by the department of health
27 under chapter 18.205 RCW, or a person certified as a chemical
28 dependency professional trainee under RCW 18.205.095 working under
29 the direct supervision of a certified chemical dependency
30 professional.

31 (6) "Child psychiatrist" means a person having a license as a
32 physician and surgeon in this state, who has had graduate training in
33 child psychiatry in a program approved by the American Medical
34 Association or the American Osteopathic Association, and who is board
35 eligible or board certified in child psychiatry.

36 (7) "Children's mental health specialist" means:

37 (a) A mental health professional who has completed a minimum of
38 one hundred actual hours, not quarter or semester hours, of

1 specialized training devoted to the study of child development and
2 the treatment of children; and

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

6 (8) "Commitment" means a determination by a judge or court
7 commissioner, made after a commitment hearing, that the minor is in
8 need of inpatient diagnosis, evaluation, or treatment or that the
9 minor is in need of less restrictive alternative treatment.

10 (9) "Department" means the department of social and health
11 services.

12 (10) "Designated crisis responder" means a person designated by a
13 behavioral health organization to perform the duties specified in
14 this chapter.

15 (11) "Director" means the director of the authority.

16 (12) "Drug addiction" means a disease, characterized by a
17 dependency on psychoactive chemicals, loss of control over the amount
18 and circumstances of use, symptoms of tolerance, physiological or
19 psychological withdrawal, or both, if use is reduced or discontinued,
20 and impairment of health or disruption of social or economic
21 functioning.

22 (13) "Evaluation and treatment facility" means a public or
23 private facility or unit that is licensed or certified by the
24 department of health to provide emergency, inpatient, residential, or
25 outpatient mental health evaluation and treatment services for
26 minors. A physically separate and separately-operated portion of a
27 state hospital may be designated as an evaluation and treatment
28 facility for minors. A facility which is part of or operated by the
29 state or federal agency does not require licensure or certification.
30 No correctional institution or facility, juvenile court detention
31 facility, or jail may be an evaluation and treatment facility within
32 the meaning of this chapter.

33 (14) "Evaluation and treatment program" means the total system of
34 services and facilities coordinated and approved by a county or
35 combination of counties for the evaluation and treatment of minors
36 under this chapter.

37 (15) "Gravely disabled minor" means a minor who, as a result of a
38 mental disorder, or as a result of the use of alcohol or other
39 psychoactive chemicals, is in danger of serious physical harm
40 resulting from a failure to provide for his or her essential human

1 needs of health or safety, or manifests severe deterioration in
2 routine functioning evidenced by repeated and escalating loss of
3 cognitive or volitional control over his or her actions and is not
4 receiving such care as is essential for his or her health or safety.

5 (16) "Inpatient treatment" means twenty-four-hour-per-day mental
6 health care provided within a general hospital, psychiatric hospital,
7 residential treatment facility licensed or certified by the
8 department of health as an evaluation and treatment facility for
9 minors, secure detoxification facility for minors, or approved
10 substance use disorder treatment program for minors.

11 (17) "Intoxicated minor" means a minor whose mental or physical
12 functioning is substantially impaired as a result of the use of
13 alcohol or other psychoactive chemicals.

14 (18) "Less restrictive alternative" or "less restrictive setting"
15 means outpatient treatment provided to a minor who is not residing in
16 a facility providing inpatient treatment as defined in this chapter.

17 (19) "Likelihood of serious harm" means either: (a) A substantial
18 risk that physical harm will be inflicted by an individual upon his
19 or her own person, as evidenced by threats or attempts to commit
20 suicide or inflict physical harm on oneself; (b) a substantial risk
21 that physical harm will be inflicted by an individual upon another,
22 as evidenced by behavior which has caused such harm or which places
23 another person or persons in reasonable fear of sustaining such harm;
24 or (c) a substantial risk that physical harm will be inflicted by an
25 individual upon the property of others, as evidenced by behavior
26 which has caused substantial loss or damage to the property of
27 others.

28 (20) "Medical necessity" for inpatient care means a requested
29 service which is reasonably calculated to: (a) Diagnose, correct,
30 cure, or alleviate a mental disorder or substance use disorder; or
31 (b) prevent the progression of a substance use disorder that
32 endangers life or causes suffering and pain, or results in illness or
33 infirmity or threatens to cause or aggravate a handicap, or causes
34 physical deformity or malfunction, and there is no adequate less
35 restrictive alternative available.

36 (21) "Mental disorder" means any organic, mental, or emotional
37 impairment that has substantial adverse effects on an individual's
38 cognitive or volitional functions. The presence of alcohol abuse,
39 drug abuse, juvenile criminal history, antisocial behavior, or

1 intellectual disabilities alone is insufficient to justify a finding
2 of "mental disorder" within the meaning of this section.

3 (22) "Mental health professional" means a psychiatrist,
4 psychiatric advanced registered nurse practitioner, physician
5 assistant working with a supervising psychiatrist, psychologist,
6 psychiatric nurse, ~~((or))~~ social worker, and such other mental health
7 professionals as ~~((may be))~~ defined by rules adopted by the secretary
8 of the department of health under this chapter.

9 (23) "Minor" means any person under the age of eighteen years.

10 (24) "Outpatient treatment" means any of the nonresidential
11 services mandated under chapter 71.24 RCW and provided by licensed or
12 certified service providers as identified by RCW 71.24.025.

13 (25) "Parent" means ~~((~~

14 ~~+~~)) a biological or adoptive parent who has legal custody of
15 the child, including either parent if custody is shared under a joint
16 custody agreement ~~((or))~~ or ~~((+))~~ a person or agency judicially
17 appointed as legal guardian or custodian of the child. For purposes
18 of family-initiated treatment under RCW 71.34.600 through 71.34.670,
19 "parent" also includes a person to whom a parent under this
20 subsection has given a signed authorization to make health care
21 decisions for the adolescent, a stepparent who is actively involved
22 in caring for the adolescent, a kinship caregiver who is actively
23 involved in caring for the adolescent, or another relative who is
24 responsible for the health care of the adolescent, who may be
25 required to provide a declaration under penalty of perjury stating
26 that he or she is a relative responsible for the health care of the
27 adolescent pursuant to RCW 9A.72.085.

28 (26) "Private agency" means any person, partnership, corporation,
29 or association that is not a public agency, whether or not financed
30 in whole or in part by public funds, that constitutes an evaluation
31 and treatment facility or private institution, or hospital, or
32 approved substance use disorder treatment program, that is conducted
33 for, or includes a distinct unit, floor, or ward conducted for, the
34 care and treatment of persons with mental illness, substance use
35 disorders, or both mental illness and substance use disorders.

36 (27) "Physician assistant" means a person licensed as a physician
37 assistant under chapter 18.57A or 18.71A RCW.

38 (28) "Professional person in charge" or "professional person"
39 means a physician, other mental health professional, or other person
40 empowered by an evaluation and treatment facility, secure

1 detoxification facility, or approved substance use disorder treatment
2 program with authority to make admission and discharge decisions on
3 behalf of that facility.

4 (29) "Psychiatric nurse" means a registered nurse who has
5 experience in the direct treatment of persons who have a mental
6 illness or who are emotionally disturbed, such experience gained
7 under the supervision of a mental health professional.

8 (30) "Psychiatrist" means a person having a license as a
9 physician in this state who has completed residency training in
10 psychiatry in a program approved by the American Medical Association
11 or the American Osteopathic Association, and is board eligible or
12 board certified in psychiatry.

13 (31) "Psychologist" means a person licensed as a psychologist
14 under chapter 18.83 RCW.

15 (32) "Public agency" means any evaluation and treatment facility
16 or institution, or hospital, or approved substance use disorder
17 treatment program that is conducted for, or includes a distinct unit,
18 floor, or ward conducted for, the care and treatment of persons with
19 mental illness, substance use disorders, or both mental illness and
20 substance use disorders if the agency is operated directly by
21 federal, state, county, or municipal government, or a combination of
22 such governments.

23 (33) "Responsible other" means the minor, the minor's parent or
24 estate, or any other person legally responsible for support of the
25 minor.

26 (34) "Secretary" means the secretary of the department or
27 secretary's designee.

28 (35) "Secure detoxification facility" means a facility operated
29 by either a public or private agency or by the program of an agency
30 that:

31 (a) Provides for intoxicated minors:

32 (i) Evaluation and assessment, provided by certified chemical
33 dependency professionals;

34 (ii) Acute or subacute detoxification services; and

35 (iii) Discharge assistance provided by certified chemical
36 dependency professionals, including facilitating transitions to
37 appropriate voluntary or involuntary inpatient services or to less
38 restrictive alternatives as appropriate for the minor;

39 (b) Includes security measures sufficient to protect the
40 patients, staff, and community; and

1 (c) Is licensed or certified as such by the department of health.

2 (36) "Social worker" means a person with a master's or further
3 advanced degree from a social work educational program accredited and
4 approved as provided in RCW 18.320.010.

5 (37) "Start of initial detention" means the time of arrival of
6 the minor at the first evaluation and treatment facility, secure
7 detoxification facility, or approved substance use disorder treatment
8 program offering inpatient treatment if the minor is being
9 involuntarily detained at the time. With regard to voluntary
10 patients, "start of initial detention" means the time at which the
11 minor gives notice of intent to leave under the provisions of this
12 chapter.

13 (38) "Substance use disorder" means a cluster of cognitive,
14 behavioral, and physiological symptoms indicating that an individual
15 continues using the substance despite significant substance-related
16 problems. The diagnosis of a substance use disorder is based on a
17 pathological pattern of behaviors related to the use of the
18 substances.

19 (39) "Adolescent" means a minor thirteen years of age or older.

20 (40) "Kinship caregiver" has the same meaning as in RCW
21 74.13.031(19)(a).

22 **Sec. 3.** RCW 71.34.500 and 2016 sp.s. c 29 s 261 are each amended
23 to read as follows:

24 (1) (~~(A minor thirteen years or older)~~) An adolescent may admit
25 himself or herself to an evaluation and treatment facility for
26 inpatient mental health treatment or an approved substance use
27 disorder treatment program for inpatient substance use disorder
28 treatment without parental consent. The admission shall occur only if
29 the professional person in charge of the facility concurs with the
30 need for inpatient treatment. Parental authorization, or
31 authorization from a person who may consent on behalf of the minor
32 pursuant to RCW 7.70.065, is required for inpatient treatment of a
33 minor under the age of thirteen.

34 (2) When, in the judgment of the professional person in charge of
35 an evaluation and treatment facility or approved substance use
36 disorder treatment program, there is reason to believe that a minor
37 is in need of inpatient treatment because of a mental disorder or
38 substance use disorder, and the facility provides the type of
39 evaluation and treatment needed by the minor, and it is not feasible

1 to treat the minor in any less restrictive setting or the minor's
2 home, the minor may be admitted to the facility.

3 (3) Written renewal of voluntary consent must be obtained from
4 the applicant no less than once every twelve months. The minor's need
5 for continued inpatient treatments shall be reviewed and documented
6 no less than every one hundred eighty days.

7 **Sec. 4.** RCW 71.34.510 and 1998 c 296 s 15 are each amended to
8 read as follows:

9 (1) The ((administrator)) professional person in charge of
10 ((the)) an evaluation and treatment facility shall provide notice to
11 the parent((s)) of ((a—minor)) an adolescent when the ((minor))
12 adolescent is voluntarily admitted to inpatient treatment under RCW
13 71.34.500 solely for mental health treatment and not for substance
14 use disorder treatment, unless the professional person has a
15 compelling reason to believe that such disclosure would be
16 detrimental to the adolescent or contact cannot be made, in which
17 case the professional person must document the reasons in the
18 adolescent's medical record.

19 (2) The professional person in charge of an evaluation and
20 treatment facility or an approved substance use disorder treatment
21 program shall provide notice to the parent of an adolescent
22 voluntarily admitted to inpatient treatment under RCW 71.34.500 for
23 substance use disorder treatment only if: (a) The adolescent provides
24 written consent to the disclosure of the fact of admission and such
25 other substance use disorder treatment information in the notice; or
26 (b) permitted by federal law.

27 (3) If the professional person withholds notice to a parent under
28 subsection (1) of this section, or such notice cannot be provided,
29 the professional person in charge of the facility must consult the
30 information that the Washington state patrol makes publicly available
31 under RCW 43.43.510(2) at least once every eight hours while the
32 adolescent continues to receive inpatient services until the time
33 that the professional person contacts a parent of the adolescent. If
34 the adolescent is publicly listed as missing, the professional person
35 must immediately notify the department of children, youth, and
36 families of its contact with the youth listed as missing. The
37 notification must include a description of the adolescent's physical
38 and emotional condition.

1 (4) The notice required under subsections (1) and (2) of this
2 section shall be in the form most likely to reach the parent within
3 twenty-four hours of the ((minor's)) adolescent's voluntary admission
4 and shall advise the parent: ((1)) (a) That the ((minor))
5 adolescent has been admitted to inpatient treatment; ((2)) (b) of
6 the location and telephone number of the facility providing such
7 treatment; ((3)) (c) of the name of a professional person on the
8 staff of the facility providing treatment who is designated to
9 discuss the ((minor's)) adolescent's need for inpatient treatment
10 with the parent; and ((4)) (d) of the medical necessity for
11 admission. Notification efforts under subsections (1) and (2) of this
12 section shall begin as soon as reasonably practicable, considering
13 the adolescent's immediate medical needs.

14 **Sec. 5.** RCW 71.34.520 and 2016 sp.s. c 29 s 262 are each amended
15 to read as follows:

16 (1) Any ~~((minor thirteen years or older))~~ adolescent voluntarily
17 admitted to an evaluation and treatment facility or approved
18 substance use disorder treatment program under RCW 71.34.500 may give
19 notice of intent to leave at any time. The notice need not follow any
20 specific form so long as it is written and the intent of the
21 ~~((minor))~~ adolescent can be discerned.

22 (2) The staff member receiving the notice shall date it
23 immediately~~((7))~~ and record its existence in the ~~((minor's))~~
24 adolescent's clinical record~~((7 and send))~~.

25 (a) If the evaluation and treatment facility is providing the
26 adolescent solely with mental health treatment and not substance use
27 disorder treatment, copies of ((it)) the notice must be sent to the
28 ~~((minor's))~~ adolescent's attorney, if any, the designated crisis
29 responders, and the parent.

30 (b) If the evaluation and treatment facility or substance use
31 disorder treatment program is providing the adolescent with substance
32 use disorder treatment, copies of the notice must be sent to the
33 adolescent's attorney, if any, the designated crisis responders, and
34 the parent only if: (i) The adolescent provides written consent to
35 the disclosure of the adolescent's notice of intent to leave and such
36 other substance use disorder information; or (ii) permitted by
37 federal law.

38 (3) The professional person shall discharge the ~~((minor, thirteen~~
39 ~~years or older,))~~ adolescent from the facility by the second judicial

1 day following receipt of the ((~~minor's~~)) adolescent's notice of
2 intent to leave.

3 **Sec. 6.** RCW 71.34.530 and 2006 c 93 s 4 are each amended to read
4 as follows:

5 Any ((~~minor thirteen years or older~~)) adolescent may request and
6 receive outpatient treatment without the consent of the ((~~minor's~~))
7 adolescent's parent. Parental authorization, or authorization from a
8 person who may consent on behalf of the minor pursuant to RCW
9 7.70.065, is required for outpatient treatment of a minor under the
10 age of thirteen.

11 **Sec. 7.** RCW 71.34.600 and 2018 c 201 s 5013 are each amended to
12 read as follows:

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

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

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

25 (2) The consent of the ((~~minor~~)) adolescent is not required for
26 admission, evaluation, and treatment if ((~~the parent brings the minor~~
27 ~~to the facility~~)) a parent provides consent.

28 (3) An appropriately trained professional person may evaluate
29 whether the ((~~minor~~)) adolescent has a mental disorder or has a
30 substance use disorder. The evaluation shall be completed within
31 twenty-four hours of the time the ((~~minor~~)) adolescent was brought to
32 the facility, unless the professional person determines that the
33 condition of the ((~~minor~~)) adolescent necessitates additional time
34 for evaluation. In no event shall ((~~a minor~~)) an adolescent be held
35 longer than seventy-two hours for evaluation. If, in the judgment of
36 the professional person, it is determined it is a medical necessity
37 for the ((~~minor~~)) adolescent to receive inpatient treatment, the
38 ((~~minor~~)) adolescent may be held for treatment. The facility shall

1 limit treatment to that which the professional person determines is
2 medically necessary to stabilize the ((~~minor's~~)) adolescent's
3 condition until the evaluation has been completed. Within twenty-four
4 hours of completion of the evaluation, the professional person shall
5 notify the authority if the ((~~child~~)) adolescent is held solely for
6 mental health and not substance use disorder treatment and of the
7 date of admission. If the adolescent is held for substance use
8 disorder treatment only, the professional person shall provide notice
9 to the authority which redacts all patient identifying information
10 about the adolescent unless: (a) The adolescent provides written
11 consent to the disclosure of the fact of admission and such other
12 substance use disorder treatment information in the notice; or (b)
13 permitted by federal law.

14 (4) No provider is obligated to provide treatment to ((~~a minor~~))
15 an adolescent under the provisions of this section except that no
16 provider may refuse to treat ((~~a minor~~)) an adolescent under the
17 provisions of this section solely on the basis that the ((~~minor~~))
18 adolescent has not consented to the treatment. No provider may admit
19 ((~~a minor~~)) an adolescent to treatment under this section unless it
20 is medically necessary.

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

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

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

29 **Sec. 8.** RCW 71.34.610 and 2018 c 201 s 5014 are each amended to
30 read as follows:

31 (1) The authority shall assure that, for any ((~~minor~~)) adolescent
32 admitted to inpatient treatment under RCW 71.34.600, a review is
33 conducted by a physician or other mental health professional who is
34 employed by the authority, or an agency under contract with the
35 authority, and who neither has a financial interest in continued
36 inpatient treatment of the ((~~minor~~)) adolescent nor is affiliated
37 with the facility providing the treatment. The physician or other
38 mental health professional shall conduct the review not less than
39 seven nor more than fourteen days following the date the ((~~minor~~))

1 adolescent was brought to the facility under RCW 71.34.600 to
2 determine whether it is a medical necessity to continue the
3 (~~minor's~~) adolescent's treatment on an inpatient basis.

4 (2) In making a determination under subsection (1) of this
5 section, the authority shall consider the opinion of the treatment
6 provider, the safety of the (~~minor~~) adolescent, and the likelihood
7 the (~~minor's~~) adolescent's mental health will deteriorate if
8 released from inpatient treatment. The authority shall consult with
9 the parent in advance of making its determination.

10 (3) If, after any review conducted by the authority under this
11 section, the authority determines it is no longer a medical necessity
12 for (~~a minor~~) an adolescent to receive inpatient treatment, the
13 authority shall immediately notify the parents and the facility. The
14 facility shall release the (~~minor~~) adolescent to the parents within
15 twenty-four hours of receiving notice. If the professional person in
16 charge and the parent believe that it is a medical necessity for the
17 (~~minor~~) adolescent to remain in inpatient treatment, the (~~minor~~)
18 adolescent shall be released to the parent on the second judicial day
19 following the authority's determination in order to allow the parent
20 time to file an at-risk youth petition under chapter 13.32A RCW. If
21 the authority determines it is a medical necessity for the (~~minor~~)
22 adolescent to receive outpatient treatment and the (~~minor~~)
23 adolescent declines to obtain such treatment, such refusal shall be
24 grounds for the parent to file an at-risk youth petition.

25 (4) If the evaluation conducted under RCW 71.34.600 is done by
26 the authority, the reviews required by subsection (1) of this section
27 shall be done by contract with an independent agency.

28 (5) The authority may, subject to available funds, contract with
29 other governmental agencies to conduct the reviews under this
30 section. The authority may seek reimbursement from the parents, their
31 insurance, or medicaid for the expense of any review conducted by an
32 agency under contract.

33 (6) In addition to the review required under this section, the
34 authority may periodically determine and redetermine the medical
35 necessity of treatment for purposes of payment with public funds.

36 **Sec. 9.** RCW 71.34.620 and 1998 c 296 s 19 are each amended to
37 read as follows:

38 Following the review conducted under RCW 71.34.610, (~~a minor~~
39 ~~child~~) an adolescent may petition the superior court for his or her

1 release from the facility. The petition may be filed not sooner than
2 five days following the review. The court shall release the ((~~minor~~))
3 adolescent unless it finds, upon a preponderance of the evidence,
4 that it is a medical necessity for the ((~~minor~~)) adolescent to remain
5 at the facility.

6 **Sec. 10.** RCW 71.34.630 and 2018 c 201 s 5015 are each amended to
7 read as follows:

8 If the ((~~minor~~)) adolescent is not released as a result of the
9 petition filed under RCW 71.34.620, he or she shall be released not
10 later than thirty days following the later of: (1) The date of the
11 authority's determination under RCW 71.34.610(2); or (2) the filing
12 of a petition for judicial review under RCW 71.34.620, unless a
13 professional person or the designated crisis responder initiates
14 proceedings under this chapter.

15 **Sec. 11.** RCW 71.34.640 and 2018 c 201 s 5016 are each amended to
16 read as follows:

17 The authority shall randomly select and review the information on
18 ((~~children~~)) adolescents who are admitted to inpatient treatment on
19 application of the ((~~child's~~)) adolescent's parent regardless of the
20 source of payment, if any, subject to the limitations under RCW
21 71.34.600(3). The review shall determine whether the ((~~children~~))
22 adolescents reviewed were appropriately admitted into treatment based
23 on an objective evaluation of the ((~~child's~~)) adolescent's condition
24 and the outcome of the ((~~child's~~)) adolescent's treatment.

25 **Sec. 12.** RCW 71.34.650 and 2016 sp.s. c 29 s 265 are each
26 amended to read as follows:

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

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

33 (b) A provider of outpatient substance use disorder treatment and
34 request that an appropriately trained professional person examine the
35 ((~~minor~~)) adolescent to determine whether the ((~~minor~~)) adolescent
36 has a substance use disorder and is in need of outpatient treatment.

1 (2) The consent of the (~~minor~~) adolescent is not required for
2 evaluation if (~~the parent brings the minor to the provider~~) a
3 parent provides consent.

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

7 (4) If a determination is made by a professional person under
8 this section that an adolescent is in need of outpatient mental
9 health or substance use disorder treatment, a parent of an adolescent
10 may request and receive such outpatient treatment for his or her
11 adolescent without the consent of the adolescent for up to twelve
12 outpatient sessions occurring within a three-month period.

13 (5) Following the treatment periods under subsection (4) of this
14 section, an adolescent must provide his or her consent for further
15 treatment with that specific professional person.

16 (6) If a determination is made by a professional person under
17 this section that an adolescent is in need of treatment in a less
18 restrictive setting, including partial hospitalization or intensive
19 outpatient treatment, a parent of an adolescent may request and
20 receive such treatment for his or her adolescent without the consent
21 of the adolescent.

22 (a) A professional person providing solely mental health
23 treatment to an adolescent under this subsection (6) must convene a
24 treatment review at least every thirty days after treatment begins
25 that includes the adolescent, parent, and other treatment team
26 members as appropriate to determine whether continued care under this
27 subsection is medically necessary.

28 (b) A professional person providing solely mental health
29 treatment to an adolescent under this subsection (6) shall provide
30 notification of the adolescent's treatment to an independent reviewer
31 at the authority within twenty-four hours of the adolescent's first
32 receipt of treatment under this subsection. At least every forty-five
33 days after the adolescent's first receipt of treatment under this
34 subsection, the authority shall conduct a review to determine whether
35 the current level of treatment is medically necessary.

36 (c) A professional person providing substance use disorder
37 treatment under this subsection (6) shall convene a treatment review
38 under (a) of this subsection and provide the notification of the
39 adolescent's receipt of treatment to an independent reviewer at the
40 authority as described in (b) of this subsection only if: (i) The

1 adolescent provides written consent to the disclosure of substance
2 use disorder treatment information including the fact of his or her
3 receipt of such treatment; or (ii) permitted by federal law.

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

7 **Sec. 13.** RCW 71.34.660 and 2016 sp.s. c 29 s 266 are each
8 amended to read as follows:

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

19 **Sec. 14.** RCW 71.34.700 and 2016 sp.s. c 29 s 267 are each
20 amended to read as follows:

21 (1) If (~~a minor, thirteen years or older,~~) an adolescent is
22 brought to an evaluation and treatment facility or hospital emergency
23 room for immediate mental health services, the professional person in
24 charge of the facility shall evaluate the (~~minor's~~) adolescent's
25 mental condition, determine whether the (~~minor~~) adolescent suffers
26 from a mental disorder, and whether the (~~minor~~) adolescent is in
27 need of immediate inpatient treatment.

28 (2) If (~~a minor, thirteen years or older,~~) an adolescent is
29 brought to a secure detoxification facility with available space, or
30 a hospital emergency room for immediate substance use disorder
31 treatment, the professional person in charge of the facility shall
32 evaluate the (~~minor's~~) adolescent's condition, determine whether
33 the (~~minor~~) adolescent suffers from a substance use disorder, and
34 whether the (~~minor~~) adolescent is in need of immediate inpatient
35 treatment.

36 (3) If it is determined under subsection (1) or (2) of this
37 section that the (~~minor~~) adolescent suffers from a mental disorder
38 or substance use disorder, inpatient treatment is required, the

1 ((~~minor~~)) adolescent is unwilling to consent to voluntary admission,
2 and the professional person believes that the ((~~minor~~)) adolescent
3 meets the criteria for initial detention set forth herein, the
4 facility may detain or arrange for the detention of the ((~~minor~~))
5 adolescent for up to twelve hours in order to enable a designated
6 crisis responder to evaluate the ((~~minor~~)) adolescent and commence
7 initial detention proceedings under the provisions of this chapter.

8 **Sec. 15.** RCW 71.34.700 and 2016 sp.s. c 29 s 268 are each
9 amended to read as follows:

10 (1) If ((~~a minor, thirteen years or older,~~)) an adolescent is
11 brought to an evaluation and treatment facility or hospital emergency
12 room for immediate mental health services, the professional person in
13 charge of the facility shall evaluate the ((~~minor's~~)) adolescent's
14 mental condition, determine whether the ((~~minor~~)) adolescent suffers
15 from a mental disorder, and whether the ((~~minor~~)) adolescent is in
16 need of immediate inpatient treatment.

17 (2) If ((~~a minor, thirteen years or older,~~)) an adolescent is
18 brought to a secure detoxification facility or a hospital emergency
19 room for immediate substance use disorder treatment, the professional
20 person in charge of the facility shall evaluate the ((~~minor's~~))
21 adolescent's condition, determine whether the ((~~minor~~)) adolescent
22 suffers from a substance use disorder, and whether the ((~~minor~~))
23 adolescent is in need of immediate inpatient treatment.

24 (3) If it is determined under subsection (1) or (2) of this
25 section that the ((~~minor~~)) adolescent suffers from a mental disorder
26 or substance use disorder, inpatient treatment is required, the
27 ((~~minor~~)) adolescent is unwilling to consent to voluntary admission,
28 and the professional person believes that the ((~~minor~~)) adolescent
29 meets the criteria for initial detention set forth herein, the
30 facility may detain or arrange for the detention of the ((~~minor~~))
31 adolescent for up to twelve hours in order to enable a designated
32 crisis responder to evaluate the ((~~minor~~)) adolescent and commence
33 initial detention proceedings under the provisions of this chapter.

34 **Sec. 16.** RCW 71.34.710 and 2016 sp.s. c 29 s 269 are each
35 amended to read as follows:

36 (1)(a)(i) When a designated crisis responder receives information
37 that ((~~a minor, thirteen years or older,~~)) an adolescent as a result
38 of a mental disorder presents a likelihood of serious harm or is

1 gravely disabled, has investigated the specific facts alleged and of
2 the credibility of the person or persons providing the information,
3 and has determined that voluntary admission for inpatient treatment
4 is not possible, the designated crisis responder may take the
5 ((~~minor~~)) adolescent, or cause the ((~~minor~~)) adolescent to be taken,
6 into custody and transported to an evaluation and treatment facility
7 providing inpatient treatment.

8 (ii) When a designated crisis responder receives information that
9 ((~~a minor, thirteen years or older,~~)) an adolescent as a result of a
10 substance use disorder presents a likelihood of serious harm or is
11 gravely disabled, has investigated the specific facts alleged and of
12 the credibility of the person or persons providing the information,
13 and has determined that voluntary admission for inpatient treatment
14 is not possible, the designated crisis responder may take the
15 ((~~minor~~)) adolescent, or cause the ((~~minor~~)) adolescent to be taken,
16 into custody and transported to a secure detoxification facility or
17 approved substance use disorder treatment program, if a secure
18 detoxification facility or approved substance use disorder treatment
19 program is available and has adequate space for the ((~~minor~~))
20 adolescent.

21 (b) If the ((~~minor~~)) adolescent is not taken into custody for
22 evaluation and treatment, the parent who has custody of the ((~~minor~~))
23 adolescent may seek review of that decision made by the designated
24 crisis responder in court. The parent shall file notice with the
25 court and provide a copy of the designated crisis responder's report
26 or notes.

27 (2) Within twelve hours of the ((~~minor's~~)) adolescent's arrival
28 at the evaluation and treatment facility, secure detoxification
29 facility, or approved substance use disorder treatment program, the
30 designated crisis responder shall serve on the ((~~minor~~)) adolescent a
31 copy of the petition for initial detention, notice of initial
32 detention, and statement of rights. The designated crisis responder
33 shall file with the court on the next judicial day following the
34 initial detention the original petition for initial detention, notice
35 of initial detention, and statement of rights along with an affidavit
36 of service. The designated crisis responder shall commence service of
37 the petition for initial detention and notice of the initial
38 detention on the ((~~minor's~~)) adolescent's parent and the ((~~minor's~~))
39 adolescent's attorney as soon as possible following the initial
40 detention.

1 (3) At the time of initial detention, the designated crisis
2 responder shall advise the ((~~minor~~)) adolescent both orally and in
3 writing that if admitted to the evaluation and treatment facility,
4 secure detoxification facility, or approved substance use disorder
5 treatment program for inpatient treatment, a commitment hearing shall
6 be held within seventy-two hours of the ((~~minor's~~)) adolescent's
7 provisional acceptance to determine whether probable cause exists to
8 commit the ((~~minor~~)) adolescent for further treatment.

9 The ((~~minor~~)) adolescent shall be advised that he or she has a
10 right to communicate immediately with an attorney and that he or she
11 has a right to have an attorney appointed to represent him or her
12 before and at the hearing if the ((~~minor~~)) adolescent is indigent.

13 (4) Subject to subsection (5) of this section, whenever the
14 designated crisis responder petitions for detention of ((~~a minor~~)) an
15 adolescent under this chapter, an evaluation and treatment facility,
16 secure detoxification facility, or approved substance use disorder
17 treatment program providing seventy-two hour evaluation and treatment
18 must immediately accept on a provisional basis the petition and the
19 person. Within twenty-four hours of the ((~~minor's~~)) adolescent's
20 arrival, the facility must evaluate the ((~~minor's~~)) adolescent's
21 condition and either admit or release the ((~~minor~~)) adolescent in
22 accordance with this chapter.

23 (5) A designated crisis responder may not petition for detention
24 of ((~~a minor~~)) an adolescent to a secure detoxification facility or
25 approved substance use disorder treatment program unless there is a
26 secure detoxification facility or approved substance use disorder
27 treatment program available and that has adequate space for the
28 ((~~minor~~)) adolescent.

29 (6) If ((~~a minor~~)) an adolescent is not approved for admission by
30 the inpatient evaluation and treatment facility, secure
31 detoxification facility, or approved substance use disorder treatment
32 program, the facility shall make such recommendations and referrals
33 for further care and treatment of the ((~~minor~~)) adolescent as
34 necessary.

35 **Sec. 17.** RCW 71.34.710 and 2016 sp.s. c 29 s 270 are each
36 amended to read as follows:

37 (1)(a)(i) When a designated crisis responder receives information
38 that ((~~a minor, thirteen years or older,~~)) an adolescent as a result
39 of a mental disorder presents a likelihood of serious harm or is

1 gravely disabled, has investigated the specific facts alleged and of
2 the credibility of the person or persons providing the information,
3 and has determined that voluntary admission for inpatient treatment
4 is not possible, the designated crisis responder may take the
5 ((~~minor~~)) adolescent, or cause the ((~~minor~~)) adolescent to be taken,
6 into custody and transported to an evaluation and treatment facility
7 providing inpatient treatment.

8 (ii) When a designated crisis responder receives information that
9 ((~~a minor, thirteen years or older,~~)) an adolescent as a result of a
10 substance use disorder presents a likelihood of serious harm or is
11 gravely disabled, has investigated the specific facts alleged and of
12 the credibility of the person or persons providing the information,
13 and has determined that voluntary admission for inpatient treatment
14 is not possible, the designated crisis responder may take the
15 ((~~minor~~)) adolescent, or cause the ((~~minor~~)) adolescent to be taken,
16 into custody and transported to a secure detoxification facility or
17 approved substance use disorder treatment program.

18 (b) If the ((~~minor~~)) adolescent is not taken into custody for
19 evaluation and treatment, the parent who has custody of the ((~~minor~~))
20 adolescent may seek review of that decision made by the designated
21 crisis responder in court. The parent shall file notice with the
22 court and provide a copy of the designated crisis responder's report
23 or notes.

24 (2) Within twelve hours of the ((~~minor's~~)) adolescent's arrival
25 at the evaluation and treatment facility, secure detoxification
26 facility, or approved substance use disorder treatment program, the
27 designated crisis responder shall serve on the ((~~minor~~)) adolescent a
28 copy of the petition for initial detention, notice of initial
29 detention, and statement of rights. The designated crisis responder
30 shall file with the court on the next judicial day following the
31 initial detention the original petition for initial detention, notice
32 of initial detention, and statement of rights along with an affidavit
33 of service. The designated crisis responder shall commence service of
34 the petition for initial detention and notice of the initial
35 detention on the ((~~minor's~~)) adolescent's parent and the ((~~minor's~~))
36 adolescent's attorney as soon as possible following the initial
37 detention.

38 (3) At the time of initial detention, the designated crisis
39 responder shall advise the ((~~minor~~)) adolescent both orally and in
40 writing that if admitted to the evaluation and treatment facility,

1 secure detoxification facility, or approved substance use disorder
2 treatment program for inpatient treatment, a commitment hearing shall
3 be held within seventy-two hours of the ((~~minor's~~)) adolescent's
4 provisional acceptance to determine whether probable cause exists to
5 commit the ((~~minor~~)) adolescent for further treatment.

6 The ((~~minor~~)) adolescent shall be advised that he or she has a
7 right to communicate immediately with an attorney and that he or she
8 has a right to have an attorney appointed to represent him or her
9 before and at the hearing if the ((~~minor~~)) adolescent is indigent.

10 (4) Whenever the designated crisis responder petitions for
11 detention of ((~~a minor~~)) an adolescent under this chapter, an
12 evaluation and treatment facility, secure detoxification facility, or
13 approved substance use disorder treatment program providing seventy-
14 two hour evaluation and treatment must immediately accept on a
15 provisional basis the petition and the person. Within twenty-four
16 hours of the ((~~minor's~~)) adolescent's arrival, the facility must
17 evaluate the ((~~minor's~~)) adolescent's condition and either admit or
18 release the ((~~minor~~)) adolescent in accordance with this chapter.

19 (5) If ((~~a minor~~)) an adolescent is not approved for admission by
20 the inpatient evaluation and treatment facility, secure
21 detoxification facility, or approved substance use disorder treatment
22 program, the facility shall make such recommendations and referrals
23 for further care and treatment of the ((~~minor~~)) adolescent as
24 necessary.

25 NEW SECTION. **Sec. 18.** A new section is added to chapter 70.02
26 RCW to read as follows:

27 (1)(a) When an adolescent voluntarily consents to his or her own
28 mental health treatment under RCW 71.34.500 or 71.34.530, a mental
29 health professional shall not proactively exercise his or her
30 discretion under RCW 70.02.240 to release information or records
31 related to solely mental health services received by the adolescent
32 to a parent of the adolescent, beyond any notification required under
33 RCW 71.34.510, unless the adolescent states a clear desire to do so
34 which is documented by the mental health professional, except in
35 situations concerning an imminent threat to the health and safety of
36 the adolescent or others, or as otherwise may be required by law.

37 (b) In the event a mental health professional discloses
38 information or releases records, or both, that relate solely to
39 mental health services of an adolescent, to a parent pursuant to RCW

1 70.02.240(3), the mental health professional must provide notice of
2 this disclosure to the adolescent and the adolescent must have a
3 reasonable opportunity to express any concerns about this disclosure
4 to the mental health professional prior to the disclosure of the
5 information or records related solely to mental health services. The
6 mental health professional shall document any objections to
7 disclosure in the adolescent's medical record if the mental health
8 professional subsequently discloses information or records related
9 solely to mental health services over the objection of the
10 adolescent.

11 (2) When an adolescent receives a mental health evaluation or
12 treatment at the direction of a parent under RCW 71.34.600 through
13 71.34.670, the mental health professional is encouraged to exercise
14 his or her discretion under RCW 70.02.240 to proactively release to
15 the parent such information and records related to solely mental
16 health services received by the adolescent, excluding psychotherapy
17 notes, that are necessary to assist the parent in understanding the
18 nature of the evaluation or treatment and in supporting their child.
19 Such information includes:

- 20 (a) Diagnosis;
- 21 (b) Treatment plan and progress in treatment;
- 22 (c) Recommended medications, including risks, benefits, side
23 effects, typical efficacy, dose, and schedule;
- 24 (d) Psychoeducation about the child's mental health;
- 25 (e) Referrals to community resources;
- 26 (f) Coaching on parenting or behavioral management strategies;
- 27 and
- 28 (g) Crisis prevention planning and safety planning.

29 (3) If, after receiving a request from a parent for release of
30 mental health treatment information relating to an adolescent, the
31 mental health professional determines that disclosure of information
32 or records related solely to mental health services pursuant to RCW
33 70.02.240(3) would be detrimental to the adolescent and declines to
34 disclose such information or records, the mental health professional
35 shall document the reasons for the lack of disclosure in the
36 adolescent's medical record.

37 (4) Information or records about an adolescent's substance use
38 disorder evaluation or treatment may be provided to a parent without
39 the written consent of the adolescent only if permitted by federal
40 law. A mental health professional or chemical dependency professional

1 providing substance use disorder evaluation or treatment to an
2 adolescent may seek the written consent of the adolescent to provide
3 substance use disorder treatment information or records to a parent
4 when the mental health professional or chemical dependency
5 professional determines that both seeking the written consent and
6 sharing the substance use disorder treatment information or records
7 of the adolescent would not be detrimental to the adolescent.

8 (5) A mental health professional providing inpatient or
9 outpatient mental health evaluation or treatment is not civilly
10 liable for the decision to disclose information or records related to
11 solely mental health services or not disclose such information or
12 records so long as the decision was reached in good faith and without
13 gross negligence.

14 (6) A chemical dependency professional or mental health
15 professional providing inpatient or outpatient substance use disorder
16 evaluation or treatment is not civilly liable for the decision to
17 disclose information or records related to substance use disorder
18 treatment information with the written consent of the adolescent or
19 to not disclose such information or records to a parent without an
20 adolescent's consent pursuant to this section so long as the decision
21 was reached in good faith and without gross negligence.

22 (7) For purposes of this section, "adolescent" means a minor
23 thirteen years of age or older.

24 **Sec. 19.** RCW 70.02.230 and 2018 c 201 s 8002 are each amended to
25 read as follows:

26 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
27 74.09.295, 70.02.210, 70.02.240, 70.02.250, (~~and~~) 70.02.260, and
28 section 18 of this act, or pursuant to a valid authorization under
29 RCW 70.02.030, the fact of admission to a provider for mental health
30 services and all information and records compiled, obtained, or
31 maintained in the course of providing mental health services to
32 either voluntary or involuntary recipients of services at public or
33 private agencies must be confidential.

34 (2) Information and records related to mental health services,
35 other than those obtained through treatment under chapter 71.34 RCW,
36 may be disclosed only:

37 (a) In communications between qualified professional persons to
38 meet the requirements of chapter 71.05 RCW, in the provision of

1 services or appropriate referrals, or in the course of guardianship
2 proceedings if provided to a professional person:

3 (i) Employed by the facility;

4 (ii) Who has medical responsibility for the patient's care;

5 (iii) Who is a designated crisis responder;

6 (iv) Who is providing services under chapter 71.24 RCW;

7 (v) Who is employed by a state or local correctional facility
8 where the person is confined or supervised; or

9 (vi) Who is providing evaluation, treatment, or follow-up
10 services under chapter 10.77 RCW;

11 (b) When the communications regard the special needs of a patient
12 and the necessary circumstances giving rise to such needs and the
13 disclosure is made by a facility providing services to the operator
14 of a facility in which the patient resides or will reside;

15 (c)(i) When the person receiving services, or his or her
16 guardian, designates persons to whom information or records may be
17 released, or if the person is a minor, when his or her parents make
18 such a designation;

19 (ii) A public or private agency shall release to a person's next
20 of kin, attorney, personal representative, guardian, or conservator,
21 if any:

22 (A) The information that the person is presently a patient in the
23 facility or that the person is seriously physically ill;

24 (B) A statement evaluating the mental and physical condition of
25 the patient, and a statement of the probable duration of the
26 patient's confinement, if such information is requested by the next
27 of kin, attorney, personal representative, guardian, or conservator;
28 and

29 (iii) Other information requested by the next of kin or attorney
30 as may be necessary to decide whether or not proceedings should be
31 instituted to appoint a guardian or conservator;

32 (d)(i) To the courts as necessary to the administration of
33 chapter 71.05 RCW or to a court ordering an evaluation or treatment
34 under chapter 10.77 RCW solely for the purpose of preventing the
35 entry of any evaluation or treatment order that is inconsistent with
36 any order entered under chapter 71.05 RCW.

37 (ii) To a court or its designee in which a motion under chapter
38 10.77 RCW has been made for involuntary medication of a defendant for
39 the purpose of competency restoration.

1 (iii) Disclosure under this subsection is mandatory for the
2 purpose of the federal health insurance portability and
3 accountability act;

4 (e)(i) When a mental health professional or designated crisis
5 responder is requested by a representative of a law enforcement or
6 corrections agency, including a police officer, sheriff, community
7 corrections officer, a municipal attorney, or prosecuting attorney to
8 undertake an investigation or provide treatment under RCW 71.05.150,
9 10.31.110, or 71.05.153, the mental health professional or designated
10 crisis responder shall, if requested to do so, advise the
11 representative in writing of the results of the investigation
12 including a statement of reasons for the decision to detain or
13 release the person investigated. The written report must be submitted
14 within seventy-two hours of the completion of the investigation or
15 the request from the law enforcement or corrections representative,
16 whichever occurs later.

17 (ii) Disclosure under this subsection is mandatory for the
18 purposes of the federal health insurance portability and
19 accountability act;

20 (f) To the attorney of the detained person;

21 (g) To the prosecuting attorney as necessary to carry out the
22 responsibilities of the office under RCW 71.05.330(2),
23 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
24 access to records regarding the committed person's treatment and
25 prognosis, medication, behavior problems, and other records relevant
26 to the issue of whether treatment less restrictive than inpatient
27 treatment is in the best interest of the committed person or others.
28 Information must be disclosed only after giving notice to the
29 committed person and the person's counsel;

30 (h)(i) To appropriate law enforcement agencies and to a person,
31 when the identity of the person is known to the public or private
32 agency, whose health and safety has been threatened, or who is known
33 to have been repeatedly harassed, by the patient. The person may
34 designate a representative to receive the disclosure. The disclosure
35 must be made by the professional person in charge of the public or
36 private agency or his or her designee and must include the dates of
37 commitment, admission, discharge, or release, authorized or
38 unauthorized absence from the agency's facility, and only any other
39 information that is pertinent to the threat or harassment. The agency
40 or its employees are not civilly liable for the decision to disclose

1 or not, so long as the decision was reached in good faith and without
2 gross negligence.

3 (ii) Disclosure under this subsection is mandatory for the
4 purposes of the federal health insurance portability and
5 accountability act;

6 (i)(i) To appropriate corrections and law enforcement agencies
7 all necessary and relevant information in the event of a crisis or
8 emergent situation that poses a significant and imminent risk to the
9 public. The mental health service agency or its employees are not
10 civilly liable for the decision to disclose or not so long as the
11 decision was reached in good faith and without gross negligence.

12 (ii) Disclosure under this subsection is mandatory for the
13 purposes of the health insurance portability and accountability act;

14 (j) To the persons designated in RCW 71.05.425 for the purposes
15 described in those sections;

16 (k) Upon the death of a person. The person's next of kin,
17 personal representative, guardian, or conservator, if any, must be
18 notified. Next of kin who are of legal age and competent must be
19 notified under this section in the following order: Spouse, parents,
20 children, brothers and sisters, and other relatives according to the
21 degree of relation. Access to all records and information compiled,
22 obtained, or maintained in the course of providing services to a
23 deceased patient are governed by RCW 70.02.140;

24 (l) To mark headstones or otherwise memorialize patients interred
25 at state hospital cemeteries. The department of social and health
26 services shall make available the name, date of birth, and date of
27 death of patients buried in state hospital cemeteries fifty years
28 after the death of a patient;

29 (m) To law enforcement officers and to prosecuting attorneys as
30 are necessary to enforce RCW 9.41.040(2)(a) (~~(iii)~~) (iv). The extent
31 of information that may be released is limited as follows:

32 (i) Only the fact, place, and date of involuntary commitment, an
33 official copy of any order or orders of commitment, and an official
34 copy of any written or oral notice of ineligibility to possess a
35 firearm that was provided to the person pursuant to RCW 9.41.047(1),
36 must be disclosed upon request;

37 (ii) The law enforcement and prosecuting attorneys may only
38 release the information obtained to the person's attorney as required
39 by court rule and to a jury or judge, if a jury is waived, that

1 presides over any trial at which the person is charged with violating
2 RCW 9.41.040(2)(a) (~~(iii)~~) (iv);

3 (iii) Disclosure under this subsection is mandatory for the
4 purposes of the federal health insurance portability and
5 accountability act;

6 (n) When a patient would otherwise be subject to the provisions
7 of this section and disclosure is necessary for the protection of the
8 patient or others due to his or her unauthorized disappearance from
9 the facility, and his or her whereabouts is unknown, notice of the
10 disappearance, along with relevant information, may be made to
11 relatives, the department of corrections when the person is under the
12 supervision of the department, and governmental law enforcement
13 agencies designated by the physician or psychiatric advanced
14 registered nurse practitioner in charge of the patient or the
15 professional person in charge of the facility, or his or her
16 professional designee;

17 (o) Pursuant to lawful order of a court;

18 (p) To qualified staff members of the department, to the
19 authority, to the director of behavioral health organizations, to
20 resource management services responsible for serving a patient, or to
21 service providers designated by resource management services as
22 necessary to determine the progress and adequacy of treatment and to
23 determine whether the person should be transferred to a less
24 restrictive or more appropriate treatment modality or facility;

25 (q) Within the mental health service agency where the patient is
26 receiving treatment, confidential information may be disclosed to
27 persons employed, serving in bona fide training programs, or
28 participating in supervised volunteer programs, at the facility when
29 it is necessary to perform their duties;

30 (r) Within the department and the authority as necessary to
31 coordinate treatment for mental illness, developmental disabilities,
32 alcoholism, or substance use disorder of persons who are under the
33 supervision of the department;

34 (s) Between the department of social and health services, the
35 department of children, youth, and families, and the health care
36 authority as necessary to coordinate treatment for mental illness,
37 developmental disabilities, alcoholism, or drug abuse of persons who
38 are under the supervision of the department of social and health
39 services or the department of children, youth, and families;

1 (t) To a licensed physician or psychiatric advanced registered
2 nurse practitioner who has determined that the life or health of the
3 person is in danger and that treatment without the information and
4 records related to mental health services could be injurious to the
5 patient's health. Disclosure must be limited to the portions of the
6 records necessary to meet the medical emergency;

7 (u) (i) Consistent with the requirements of the federal health
8 insurance portability and accountability act, to:

9 (A) A health care provider who is providing care to a patient, or
10 to whom a patient has been referred for evaluation or treatment; or

11 (B) Any other person who is working in a care coordinator role
12 for a health care facility or health care provider or is under an
13 agreement pursuant to the federal health insurance portability and
14 accountability act with a health care facility or a health care
15 provider and requires the information and records to assure
16 coordinated care and treatment of that patient.

17 (ii) A person authorized to use or disclose information and
18 records related to mental health services under this subsection
19 (2)(u) must take appropriate steps to protect the information and
20 records relating to mental health services.

21 (iii) Psychotherapy notes may not be released without
22 authorization of the patient who is the subject of the request for
23 release of information;

24 (v) To administrative and office support staff designated to
25 obtain medical records for those licensed professionals listed in (u)
26 of this subsection;

27 (w) To a facility that is to receive a person who is
28 involuntarily committed under chapter 71.05 RCW, or upon transfer of
29 the person from one evaluation and treatment facility to another. The
30 release of records under this subsection is limited to the
31 information and records related to mental health services required by
32 law, a record or summary of all somatic treatments, and a discharge
33 summary. The discharge summary may include a statement of the
34 patient's problem, the treatment goals, the type of treatment which
35 has been provided, and recommendation for future treatment, but may
36 not include the patient's complete treatment record;

37 (x) To the person's counsel or guardian ad litem, without
38 modification, at any time in order to prepare for involuntary
39 commitment or recommitment proceedings, reexaminations, appeals, or

1 other actions relating to detention, admission, commitment, or
2 patient's rights under chapter 71.05 RCW;

3 (y) To staff members of the protection and advocacy agency or to
4 staff members of a private, nonprofit corporation for the purpose of
5 protecting and advocating the rights of persons with mental disorders
6 or developmental disabilities. Resource management services may limit
7 the release of information to the name, birthdate, and county of
8 residence of the patient, information regarding whether the patient
9 was voluntarily admitted, or involuntarily committed, the date and
10 place of admission, placement, or commitment, the name and address of
11 a guardian of the patient, and the date and place of the guardian's
12 appointment. Any staff member who wishes to obtain additional
13 information must notify the patient's resource management services in
14 writing of the request and of the resource management services' right
15 to object. The staff member shall send the notice by mail to the
16 guardian's address. If the guardian does not object in writing within
17 fifteen days after the notice is mailed, the staff member may obtain
18 the additional information. If the guardian objects in writing within
19 fifteen days after the notice is mailed, the staff member may not
20 obtain the additional information;

21 (z) To all current treating providers of the patient with
22 prescriptive authority who have written a prescription for the
23 patient within the last twelve months. For purposes of coordinating
24 health care, the department or the authority may release without
25 written authorization of the patient, information acquired for
26 billing and collection purposes as described in RCW 70.02.050(1)(d).
27 The department, or the authority, if applicable, shall notify the
28 patient that billing and collection information has been released to
29 named providers, and provide the substance of the information
30 released and the dates of such release. Neither the department nor
31 the authority may release counseling, inpatient psychiatric
32 hospitalization, or drug and alcohol treatment information without a
33 signed written release from the client;

34 (aa)(i) To the secretary of social and health services and the
35 director of the health care authority for either program evaluation
36 or research, or both so long as the secretary or director, where
37 applicable, adopts rules for the conduct of the evaluation or
38 research, or both. Such rules must include, but need not be limited
39 to, the requirement that all evaluators and researchers sign an oath
40 of confidentiality substantially as follows:

1 "As a condition of conducting evaluation or research concerning
2 persons who have received services from (fill in the facility,
3 agency, or person) I,, agree not to divulge, publish, or
4 otherwise make known to unauthorized persons or the public any
5 information obtained in the course of such evaluation or research
6 regarding persons who have received services such that the person who
7 received such services is identifiable.

8 I recognize that unauthorized release of confidential information
9 may subject me to civil liability under the provisions of state law.

10 /s/"

11 (ii) Nothing in this chapter may be construed to prohibit the
12 compilation and publication of statistical data for use by government
13 or researchers under standards, including standards to assure
14 maintenance of confidentiality, set forth by the secretary, or
15 director, where applicable;

16 (bb) To any person if the conditions in RCW 70.02.205 are met.

17 (3) Whenever federal law or federal regulations restrict the
18 release of information contained in the information and records
19 related to mental health services of any patient who receives
20 treatment for chemical dependency, the department or the authority
21 may restrict the release of the information as necessary to comply
22 with federal law and regulations.

23 (4) Civil liability and immunity for the release of information
24 about a particular person who is committed to the department of
25 social and health services or the authority under RCW 71.05.280(3)
26 and 71.05.320(4)(c) after dismissal of a sex offense as defined in
27 RCW 9.94A.030, is governed by RCW 4.24.550.

28 (5) The fact of admission to a provider of mental health
29 services, as well as all records, files, evidence, findings, or
30 orders made, prepared, collected, or maintained pursuant to chapter
31 71.05 RCW are not admissible as evidence in any legal proceeding
32 outside that chapter without the written authorization of the person
33 who was the subject of the proceeding except as provided in RCW
34 70.02.260, in a subsequent criminal prosecution of a person committed
35 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were
36 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand
37 trial, in a civil commitment proceeding pursuant to chapter 71.09
38 RCW, or, in the case of a minor, a guardianship or dependency
39 proceeding. The records and files maintained in any court proceeding

1 pursuant to chapter 71.05 RCW must be confidential and available
2 subsequent to such proceedings only to the person who was the subject
3 of the proceeding or his or her attorney. In addition, the court may
4 order the subsequent release or use of such records or files only
5 upon good cause shown if the court finds that appropriate safeguards
6 for strict confidentiality are and will be maintained.

7 (6) (a) Except as provided in RCW 4.24.550, any person may bring
8 an action against an individual who has willfully released
9 confidential information or records concerning him or her in
10 violation of the provisions of this section, for the greater of the
11 following amounts:

12 (i) One thousand dollars; or

13 (ii) Three times the amount of actual damages sustained, if any.

14 (b) It is not a prerequisite to recovery under this subsection
15 that the plaintiff suffered or was threatened with special, as
16 contrasted with general, damages.

17 (c) Any person may bring an action to enjoin the release of
18 confidential information or records concerning him or her or his or
19 her ward, in violation of the provisions of this section, and may in
20 the same action seek damages as provided in this subsection.

21 (d) The court may award to the plaintiff, should he or she
22 prevail in any action authorized by this subsection, reasonable
23 attorney fees in addition to those otherwise provided by law.

24 (e) If an action is brought under this subsection, no action may
25 be brought under RCW 70.02.170.

26 **Sec. 20.** RCW 70.02.240 and 2018 c 201 s 8003 are each amended to
27 read as follows:

28 The fact of admission and all information and records related to
29 inpatient or outpatient mental health (~~((services obtained through))~~)
30 treatment of a minor under chapter 71.34 RCW (~~((is))~~) must be kept
31 confidential, except ((as)) for disclosures authorized (~~((in))~~) by this
32 section and under RCW 70.02.050, 70.02.210, 70.02.230, 70.02.250,
33 (~~((and))~~) 70.02.260, and section 18 of this act. (~~((Such))~~) Confidential
34 information related solely to the mental health treatment of a minor
35 may be disclosed ((only)):

36 (1) In communications between mental health professionals to meet
37 the requirements of chapter 71.34 RCW, in the provision of services
38 to the minor, or in making appropriate referrals;

39 (2) In the course of guardianship or dependency proceedings;

1 (3) To the minor, the minor's parent, including those acting as a
2 parent as defined in RCW 71.34.020 for purposes of family-initiated
3 treatment, and the minor's attorney, subject to RCW 13.50.100;

4 (4) To the courts as necessary to administer chapter 71.34 RCW;

5 (5) To law enforcement officers or public health officers as
6 necessary to carry out the responsibilities of their office. However,
7 only the fact and date of admission, and the date of discharge, the
8 name and address of the treatment provider, if any, and the last
9 known address must be disclosed upon request;

10 (6) To law enforcement officers, public health officers,
11 relatives, and other governmental law enforcement agencies, if a
12 minor has escaped from custody, disappeared from an evaluation and
13 treatment facility, violated conditions of a less restrictive
14 treatment order, or failed to return from an authorized leave, and
15 then only such information as may be necessary to provide for public
16 safety or to assist in the apprehension of the minor. The officers
17 are obligated to keep the information confidential in accordance with
18 this chapter;

19 (7) To the secretary of social and health services and the
20 director of the health care authority for assistance in data
21 collection and program evaluation or research so long as the
22 secretary or director, where applicable, adopts rules for the conduct
23 of such evaluation and research. The rules must include, but need not
24 be limited to, the requirement that all evaluators and researchers
25 sign an oath of confidentiality substantially as follows:

26 "As a condition of conducting evaluation or research concerning
27 persons who have received services from (fill in the facility,
28 agency, or person) I,, agree not to divulge, publish, or
29 otherwise make known to unauthorized persons or the public any
30 information obtained in the course of such evaluation or research
31 regarding minors who have received services in a manner such that the
32 minor is identifiable.

33 I recognize that unauthorized release of confidential information
34 may subject me to civil liability under state law.

35 /s/";

36 (8) To appropriate law enforcement agencies, upon request, all
37 necessary and relevant information in the event of a crisis or
38 emergent situation that poses a significant and imminent risk to the
39 public. The mental health service agency or its employees are not

1 civilly liable for the decision to disclose or not, so long as the
2 decision was reached in good faith and without gross negligence;

3 (9) To appropriate law enforcement agencies and to a person, when
4 the identity of the person is known to the public or private agency,
5 whose health and safety has been threatened, or who is known to have
6 been repeatedly harassed, by the patient. The person may designate a
7 representative to receive the disclosure. The disclosure must be made
8 by the professional person in charge of the public or private agency
9 or his or her designee and must include the dates of admission,
10 discharge, authorized or unauthorized absence from the agency's
11 facility, and only any other information that is pertinent to the
12 threat or harassment. The agency or its employees are not civilly
13 liable for the decision to disclose or not, so long as the decision
14 was reached in good faith and without gross negligence;

15 (10) To a minor's next of kin, attorney, guardian, or
16 conservator, if any, the information that the minor is presently in
17 the facility or that the minor is seriously physically ill and a
18 statement evaluating the mental and physical condition of the minor
19 as well as a statement of the probable duration of the minor's
20 confinement;

21 (11) Upon the death of a minor, to the minor's next of kin;

22 (12) To a facility in which the minor resides or will reside;

23 (13) To law enforcement officers and to prosecuting attorneys as
24 are necessary to enforce RCW 9.41.040(2)(a) ~~((iii))~~ (iv). The extent
25 of information that may be released is limited as follows:

26 (a) Only the fact, place, and date of involuntary commitment, an
27 official copy of any order or orders of commitment, and an official
28 copy of any written or oral notice of ineligibility to possess a
29 firearm that was provided to the person pursuant to RCW 9.41.047(1),
30 must be disclosed upon request;

31 (b) The law enforcement and prosecuting attorneys may only
32 release the information obtained to the person's attorney as required
33 by court rule and to a jury or judge, if a jury is waived, that
34 presides over any trial at which the person is charged with violating
35 RCW 9.41.040(2)(a) ~~((iii))~~ (iv);

36 (c) Disclosure under this subsection is mandatory for the
37 purposes of the federal health insurance portability and
38 accountability act;

39 (14) This section may not be construed to prohibit the
40 compilation and publication of statistical data for use by government

1 or researchers under standards, including standards to assure
2 maintenance of confidentiality, set forth by the director of the
3 health care authority or the secretary of the department of social
4 and health services, where applicable. The fact of admission and all
5 information obtained pursuant to chapter 71.34 RCW are not admissible
6 as evidence in any legal proceeding outside chapter 71.34 RCW, except
7 guardianship or dependency, without the written consent of the minor
8 or the minor's parent;

9 (15) For the purpose of a correctional facility participating in
10 the postinstitutional medical assistance system supporting the
11 expedited medical determinations and medical suspensions as provided
12 in RCW 74.09.555 and 74.09.295;

13 (16) Pursuant to a lawful order of a court.

14 **Sec. 21.** RCW 74.13.280 and 2018 c 284 s 45 are each amended to
15 read as follows:

16 (1) Except as provided in RCW 70.02.220, whenever a child is
17 placed in out-of-home care by the department or with an agency, the
18 department or agency shall share information known to the department
19 or agency about the child and the child's family with the care
20 provider and shall consult with the care provider regarding the
21 child's case plan. If the child is dependent pursuant to a proceeding
22 under chapter 13.34 RCW, the department or agency shall keep the care
23 provider informed regarding the dates and location of dependency
24 review and permanency planning hearings pertaining to the child.

25 (2) Information about the child and the child's family shall
26 include information known to the department or agency as to whether
27 the child is a sexually reactive child, has exhibited high-risk
28 behaviors, or is physically assaultive or physically aggressive, as
29 defined in this section.

30 (3) Information about the child shall also include information
31 known to the department or agency that the child:

32 (a) Has received a medical diagnosis of fetal alcohol syndrome or
33 fetal alcohol effect;

34 (b) Has been diagnosed by a qualified mental health professional
35 as having a mental health disorder;

36 (c) Has witnessed a death or substantial physical violence in the
37 past or recent past; or

38 (d) Was a victim of sexual or severe physical abuse in the recent
39 past.

1 (4) Any person who receives information about a child or a
2 child's family pursuant to this section shall keep the information
3 confidential and shall not further disclose or disseminate the
4 information except as authorized by law. Care providers shall agree
5 in writing to keep the information that they receive confidential and
6 shall affirm that the information will not be further disclosed or
7 disseminated, except as authorized by law.

8 (5) Nothing in this section shall be construed to limit the
9 authority of the department or an agency to disclose client
10 information or to maintain client confidentiality as provided by law.

11 (6) ((As used in)) The department may share the following mental
12 health treatment records with a care provider, even if the child does
13 not consent to releasing those records, if the department has
14 initiated treatment pursuant to RCW 71.34.600 through 71.34.670:

15 (a) Diagnosis;

16 (b) Treatment plan and progress in treatment;

17 (c) Recommended medications, including risks, benefits, side
18 effects, typical efficacy, dose, and schedule;

19 (d) Psychoeducation about the child's mental health;

20 (e) Referrals to community resources;

21 (f) Coaching on parenting or behavioral management strategies;

22 and

23 (g) Crisis prevention planning and safety planning.

24 (7) The department may not share substance use disorder treatment
25 records with a care provider without the written consent of the child
26 except as permitted by federal law.

27 (8) For the purposes of this section:

28 (a) "Sexually reactive child" means a child who exhibits sexual
29 behavior problems including, but not limited to, sexual behaviors
30 that are developmentally inappropriate for their age or are harmful
31 to the child or others.

32 (b) "High-risk behavior" means an observed or reported and
33 documented history of one or more of the following:

34 (i) Suicide attempts or suicidal behavior or ideation;

35 (ii) Self-mutilation or similar self-destructive behavior;

36 (iii) Fire-setting or a developmentally inappropriate fascination
37 with fire;

38 (iv) Animal torture;

39 (v) Property destruction; or

40 (vi) Substance or alcohol abuse.

1 (c) "Physically assaultive or physically aggressive" means a
2 child who exhibits one or more of the following behaviors that are
3 developmentally inappropriate and harmful to the child or to others:

4 (i) Observed assaultive behavior;

5 (ii) Reported and documented history of the child willfully
6 assaulting or inflicting bodily harm; or

7 (iii) Attempting to assault or inflict bodily harm on other
8 children or adults under circumstances where the child has the
9 apparent ability or capability to carry out the attempted assaults
10 including threats to use a weapon.

11 (d) "Care provider" means a person with whom a child is placed in
12 out-of-home care, or a designated official for a group care facility
13 licensed by the department.

14 NEW SECTION. Sec. 22. A new section is added to chapter 71.34
15 RCW to read as follows:

16 A mental health agency, psychiatric hospital, or evaluation and
17 treatment facility may release mental health information about an
18 adolescent to a parent of the adolescent without the consent of the
19 adolescent by following the limitations and restrictions of RCW
20 70.02.240 and section 18 of this act.

21 NEW SECTION. Sec. 23. A new section is added to chapter 71.34
22 RCW to read as follows:

23 Subject to the availability of amounts appropriated for this
24 specific purpose, the authority must provide an online training for
25 behavioral health providers regarding state law and best practices
26 when providing behavioral health services to children, youth, and
27 families. The training must be free for providers and must include
28 information related to family-initiated treatment, adolescent-
29 initiated treatment, other treatment services provided under this
30 chapter, and standards for sharing of information about behavioral
31 health services received by an adolescent under RCW 70.02.240 and
32 section 18 of this act.

33 NEW SECTION. Sec. 24. A new section is added to chapter 71.34
34 RCW to read as follows:

35 (1) Subject to the availability of amounts appropriated for this
36 specific purpose, the authority must conduct an annual survey of a
37 sample group of parents, youth, and behavioral health providers to

1 measure the impacts of implementing policies resulting from this act
2 during the first three years of implementation. The first survey must
3 be complete by July 1, 2020, followed by subsequent annual surveys
4 completed by July 1, 2021, and by July 1, 2022. The authority must
5 report on the results of the surveys annually to the governor and the
6 legislature beginning November 1, 2020. The final report is due
7 November 1, 2022, and must include any recommendations for statutory
8 changes identified as needed based on survey results.

9 (2) This section expires December 31, 2022.

10 NEW SECTION. **Sec. 25.** This act may be known and cited as the
11 adolescent behavioral health care access act.

12 NEW SECTION. **Sec. 26.** Sections 14 and 16 of this act expire
13 July 1, 2026.

14 NEW SECTION. **Sec. 27.** Sections 15 and 17 of this act take
15 effect July 1, 2026.

16 NEW SECTION. **Sec. 28.** If specific funding for the purposes of
17 this act, referencing this act by bill or chapter number, is not
18 provided by June 30, 2019, in the omnibus appropriations act, this
19 act is null and void.

20 NEW SECTION. **Sec. 29.** LEGISLATIVE DIRECTIVE. (1) Chapter 71.34
21 RCW must be codified under the chapter heading "behavioral health
22 services for minors."

23 (2) RCW 71.34.500 through 71.34.530 must be codified under the
24 subchapter heading "adolescent-initiated treatment."

25 (3) RCW 71.34.600 through 71.34.670 must be codified under the
26 subchapter heading "family-initiated treatment."

E2SHB 1874 - S COMM AMD
By Subcommittee on Behavioral Health

NOT ADOPTED 04/15/2019

27 On page 1, line 3 of the title, after "group;" strike the
28 remainder of the title and insert "amending RCW 71.34.010, 71.34.020,
29 71.34.500, 71.34.510, 71.34.520, 71.34.530, 71.34.600, 71.34.610,

1 71.34.620, 71.34.630, 71.34.640, 71.34.650, 71.34.660, 71.34.700,
2 71.34.700, 71.34.710, 71.34.710, 70.02.230, 70.02.240, and 74.13.280;
3 adding a new section to chapter 70.02 RCW; adding new sections to
4 chapter 71.34 RCW; creating new sections; providing an effective
5 date; and providing expiration dates."

EFFECT: References to "family-accessed treatment" are changed to "family-initiated treatment" and references to "adolescent-accessed treatment" are changed to "adolescent-initiated treatment." A professional person in charge of a facility has discretion to withhold notice to a parent when an adolescent admits himself or herself for voluntary mental health treatment if the professional person has a compelling reason to believe that such disclosure would be detrimental and documents the reasons in the adolescent's medical record, but must consult a list of runaway children maintained by the Washington State Patrol once every eight hours and report the condition of the adolescent to the Department of Children, Youth, and Families if the adolescent has been reported missing. The definition of parent for the purposes of family-initiated treatment includes a person with a signed authorization from a parent, stepparents and kinship caregivers who are actively involved in caring for an adolescent, or a relative responsible for health care, who may be required to provide a signed declaration. A facility that admits an adolescent for substance use disorder treatment at the direction of a parent must provide notice of the admission to the Health Care Authority which redacts patient identifying information unless the adolescent provides written consent or permitted by federal law. A mental health professional who treats an adolescent at the direction of a parent is encouraged to share appropriate information or records with the parent. The training provided to mental health providers must include information about state standards for sharing information about behavioral health services received by an adolescent with a parent.

--- END ---