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ENGROSSED SUBSTITUTE SENATE BILL 5082

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State of Washington

55th Legislature

1997 Regular Session

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

Read first time 02/13/97.

1 AN ACT Relating to mental health and chemical dependency treatment  
2 for minors; amending RCW 71.34.010, 71.34.020, 71.34.025, 71.34.030,  
3 70.96A.095, and 70.96A.097; reenacting and amending RCW 70.96A.020;  
4 adding new sections to chapter 71.34 RCW; adding new sections to  
5 chapter 70.96A RCW; and creating new sections.

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

7 NEW SECTION. **Sec. 1.** The legislature finds it is often necessary  
8 for parents to obtain mental health or chemical dependency treatment  
9 for their minor children prior to the time the child's condition  
10 presents a likelihood of serious harm or the child becomes gravely  
11 disabled. The legislature finds that treatment of such conditions is  
12 not the equivalent of incarceration or detention, but is a legitimate  
13 act of parental discretion, when supported by decisions of credentialed  
14 professionals. The legislature finds that, consistent with *Parham v.*  
15 *J.R.*, 442 U.S. 584 (1979), state action is not involved in the  
16 determination of a parent and professional person to admit a minor  
17 child to treatment and finds this act provides sufficient independent  
18 review by the department of social and health services, as a neutral  
19 fact-finder, to protect the interests of all parties. The legislature

1 finds it is necessary to provide parents a statutory process, other  
2 than the petition process provided in chapters 70.96A and 71.34 RCW, to  
3 obtain treatment for their minor children without the consent of the  
4 children.

5 The legislature finds that differing standards of admission and  
6 review in parent-initiated mental health and chemical dependency  
7 treatment for their minor children are necessary and the admission  
8 standards and procedures under state involuntary treatment procedures  
9 are not adequate to provide safeguards for the safety and well-being of  
10 all children. The legislature finds the timeline for admission and  
11 reviews under existing law do not provide sufficient opportunities for  
12 assessment of the mental health and chemically dependent status of  
13 every minor child and that additional time and different standards will  
14 facilitate the likelihood of successful treatment of children who are  
15 in need of assistance but unwilling to obtain it voluntarily. The  
16 legislature finds there are children whose behavior presents a clear  
17 need of medical treatment but is not so extreme as to require immediate  
18 state intervention under the state involuntary treatment procedures.

19

#### **MENTAL HEALTH**

20 **Sec. 2.** RCW 71.34.010 and 1992 c 205 s 302 are each amended to  
21 read as follows:

22 It is the purpose of this chapter to ~~((ensure))~~ assure that minors  
23 in need of mental health care and treatment receive an appropriate  
24 continuum of culturally relevant care and treatment, ~~((from))~~ including  
25 prevention and early intervention ~~((to))~~, self-directed care, parent-  
26 directed care, and involuntary treatment. To facilitate the continuum  
27 of care and treatment to minors in out-of-home placements, all  
28 divisions of the department that provide mental health services to  
29 minors shall jointly plan and deliver those services.

30 It is also the purpose of this chapter to protect the rights of  
31 minors against needless hospitalization and deprivations of liberty and  
32 to enable treatment decisions to be made in response to clinical needs  
33 in accordance with sound professional judgment. The mental health care  
34 and treatment providers shall encourage the use of voluntary services  
35 and, whenever clinically appropriate, the providers shall offer less  
36 restrictive alternatives to inpatient treatment. Additionally, all  
37 mental health care and treatment providers shall ~~((ensure))~~ assure that

1 minors' parents are given an opportunity to participate in the  
2 treatment decisions for their minor children. The mental health care  
3 and treatment providers shall, to the extent possible, offer services  
4 that involve minors' parents or family.

5 It is also the purpose of this chapter to assure the ability of  
6 parents to exercise reasonable, compassionate care and control of their  
7 minor children when there is a medical necessity for treatment and  
8 without the requirement of filing a petition under this chapter.

9 **Sec. 3.** RCW 71.34.020 and 1985 c 354 s 2 are each amended to read  
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in  
12 this section apply throughout this chapter.

13 (1) "Child psychiatrist" means a person having a license as a  
14 physician and surgeon in this state, who has had graduate training in  
15 child psychiatry in a program approved by the American Medical  
16 Association or the American Osteopathic Association, and who is board  
17 eligible or board certified in child psychiatry.

18 (2) "Children's mental health specialist" means:

19 (a) A mental health professional who has completed a minimum of one  
20 hundred actual hours, not quarter or semester hours, of specialized  
21 training devoted to the study of child development and the treatment of  
22 children; and

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

26 (3) "Commitment" means a determination by a judge or court  
27 commissioner, made after a commitment hearing, that the minor is in  
28 need of inpatient diagnosis, evaluation, or treatment or that the minor  
29 is in need of less restrictive alternative treatment.

30 (4) "County-designated mental health professional" means a mental  
31 health professional designated by one or more counties to perform the  
32 functions of a county-designated mental health professional described  
33 in this chapter.

34 (5) "Department" means the department of social and health  
35 services.

36 (6) "Evaluation and treatment facility" means a public or private  
37 facility or unit that is certified by the department to provide  
38 emergency, inpatient, residential, or outpatient mental health

1 evaluation and treatment services for minors. A physically separate  
2 and separately-operated portion of a state hospital may be designated  
3 as an evaluation and treatment facility for minors. A facility which  
4 is part of or operated by the department or federal agency does not  
5 require certification. No correctional institution or facility,  
6 juvenile court detention facility, or jail may be an evaluation and  
7 treatment facility within the meaning of this chapter.

8 (7) "Evaluation and treatment program" means the total system of  
9 services and facilities coordinated and approved by a county or  
10 combination of counties for the evaluation and treatment of minors  
11 under this chapter.

12 (8) "Gravely disabled minor" means a minor who, as a result of a  
13 mental disorder, is in danger of serious physical harm resulting from  
14 a failure to provide for his or her essential human needs of health or  
15 safety, or manifests severe deterioration in routine functioning  
16 evidenced by repeated and escalating loss of cognitive or volitional  
17 control over his or her actions and is not receiving such care as is  
18 essential for his or her health or safety.

19 (9) "Inpatient treatment" means twenty-four-hour-per-day mental  
20 health care provided within a general hospital, psychiatric hospital,  
21 or residential treatment facility certified by the department as an  
22 evaluation and treatment facility for minors.

23 (10) "Less restrictive alternative" or "less restrictive setting"  
24 means outpatient treatment provided to a minor who is not residing in  
25 a facility providing inpatient treatment as defined in this chapter.

26 (11) "Likelihood of serious harm" means either: (a) A substantial  
27 risk that physical harm will be inflicted by an individual upon his or  
28 her own person, as evidenced by threats or attempts to commit suicide  
29 or inflict physical harm on oneself; (b) a substantial risk that  
30 physical harm will be inflicted by an individual upon another, as  
31 evidenced by behavior which has caused such harm or which places  
32 another person or persons in reasonable fear of sustaining such harm;  
33 or (c) a substantial risk that physical harm will be inflicted by an  
34 individual upon the property of others, as evidenced by behavior which  
35 has caused substantial loss or damage to the property of others.

36 (12) "Medical necessity" for inpatient care means a requested  
37 service which is reasonably calculated to: (a) Diagnose, correct,  
38 cure, or alleviate a mental disorder; or (b) prevent the worsening of  
39 mental conditions that endanger life or cause suffering and pain, or

1 result in illness or infirmity or threaten to cause or aggravate a  
2 handicap, or cause physical deformity or malfunction, and there is no  
3 adequate less restrictive alternative available.

4 (13) "Medically appropriate" means that a minor admitted to  
5 inpatient treatment, under section 13 of this act, has not sufficiently  
6 improved his or her condition to be released to a less restrictive  
7 setting.

8 (14) "Mental disorder" means any organic, mental, or emotional  
9 impairment that has substantial adverse effects on an individual's  
10 cognitive or volitional functions. The presence of alcohol abuse, drug  
11 abuse, juvenile criminal history, antisocial behavior, or mental  
12 retardation alone is insufficient to justify a finding of "mental  
13 disorder" within the meaning of this section.

14 ~~((13))~~ (15) "Mental health professional" means a psychiatrist,  
15 psychologist, psychiatric nurse, or social worker, and such other  
16 mental health professionals as may be defined by rules adopted by the  
17 secretary under this chapter.

18 ~~((14))~~ (16) "Minor" means any person under the age of eighteen  
19 years.

20 ~~((15))~~ (17) "Outpatient treatment" means any of the  
21 nonresidential services mandated under chapter 71.24 RCW and provided  
22 by licensed services providers as identified by RCW 71.24.025(3).

23 ~~((16))~~ (18) "Parent" means:

24 (a) A biological or adoptive parent who has legal custody of the  
25 child, including either parent if custody is shared under a joint  
26 custody agreement; or

27 (b) A person or agency judicially appointed as legal guardian or  
28 custodian of the child.

29 ~~((17))~~ (19) "Professional person in charge" or "professional  
30 person" means a physician or other mental health professional empowered  
31 by an evaluation and treatment facility with authority to make  
32 admission and discharge decisions on behalf of that facility.

33 ~~((18))~~ (20) "Psychiatric nurse" means a registered nurse who has  
34 a bachelor's degree from an accredited college or university, and who  
35 has had, in addition, at least two years' experience in the direct  
36 treatment of mentally ill or emotionally disturbed persons, such  
37 experience gained under the supervision of a mental health  
38 professional. "Psychiatric nurse" shall also mean any other registered  
39 nurse who has three years of such experience.

1       (~~(19)~~) (21) "Psychiatrist" means a person having a license as a  
2 physician in this state who has completed residency training in  
3 psychiatry in a program approved by the American Medical Association or  
4 the American Osteopathic Association, and is board eligible or board  
5 certified in psychiatry.

6       (~~(20)~~) (22) "Psychologist" means a person licensed as a  
7 psychologist under chapter 18.83 RCW.

8       (~~(21)~~) (23) "Responsible other" means the minor, the minor's  
9 parent or estate, or any other person legally responsible for support  
10 of the minor.

11       (~~(22)~~) (24) "Secretary" means the secretary of the department or  
12 secretary's designee.

13       (~~(23)~~) (25) "Start of initial detention" means the time of  
14 arrival of the minor at the first evaluation and treatment facility  
15 offering inpatient treatment if the minor is being involuntarily  
16 detained at the time. With regard to voluntary patients, "start of  
17 initial detention" means the time at which the minor gives notice of  
18 intent to leave under the provisions of this chapter.

19       **Sec. 4.** RCW 71.34.025 and 1995 c 312 s 56 are each amended to read  
20 as follows:

21       (1) ~~((The admission of any child under RCW 71.34.030 may be  
22 reviewed by the county designated mental health professional between  
23 fifteen and thirty days following admission. The county designated  
24 mental health professional may undertake the review on his or her own  
25 initiative and may seek reimbursement from the parents, their  
26 insurance, or medicaid for the expense of the review.~~

27       ~~(2))~~ The department shall ~~((ensure))~~ assure that, for any minor  
28 admitted to inpatient treatment under section 13 of this act, a review  
29 is conducted by a professional person at the department or at a  
30 contracted agency no sooner than seven days and no later than ~~((sixty))~~  
31 fourteen days following admission to determine whether it is medically  
32 appropriate to continue the ~~((child's))~~ minor's treatment on an  
33 inpatient basis. ~~((The department may, subject to available funds,  
34 contract with a county for the conduct of the review conducted under  
35 this subsection and may seek reimbursement from the parents, their  
36 insurance, or medicaid for the expense of any review conducted by an  
37 agency under contract.~~

1 If the county-designated mental health professional determines that  
2 continued inpatient treatment of the child is no longer medically  
3 appropriate, the professional shall notify the facility, the child, the  
4 child's parents, and the department of the finding within twenty-four  
5 hours of the determination.

6 (3) ~~For purposes of eligibility for medical assistance under  
7 chapter 74.09 RCW, children in inpatient mental health or chemical  
8 dependency treatment shall be considered to be part of their parent's  
9 or legal guardian's household, unless the child has been assessed by  
10 the department of social and health services or its designee as likely  
11 to require such treatment for at least ninety consecutive days, or is  
12 in out-of-home care in accordance with chapter 13.34 RCW, or the  
13 child's parents are found to not be exercising responsibility for care  
14 and control of the child. Payment for such care by the department of  
15 social and health services shall be made only in accordance with rules,  
16 guidelines, and clinical criteria applicable to inpatient treatment of  
17 minors established by the department.)~~

18 (2) The department shall, at thirty-day intervals following the  
19 review conducted under subsection (1) of this section, conduct reviews  
20 of the treatment status of each minor admitted to inpatient treatment,  
21 under section 13 of this act, to determine whether it is medically  
22 appropriate to continue the minor's treatment under inpatient status.  
23 The reviews shall be conducted by a professional person at the  
24 department or at a contracted agency.

25 (3) In making a determination under subsection (1) or (2) of this  
26 section, the department shall consider the opinion of the treatment  
27 provider, the safety of the minor, and the likelihood the minor's  
28 mental health will deteriorate if released from inpatient treatment.  
29 The department shall consult with the parent in advance of making its  
30 determination.

31 (4) If the department determines it is no longer medically  
32 appropriate for a minor to receive inpatient treatment, the department  
33 shall immediately notify the parents and the facility. The facility  
34 shall release the minor to the parents within twenty-four hours of  
35 receiving notice. If the professional person in charge and the parent  
36 believe that it is medically appropriate for the minor to remain in  
37 inpatient treatment, the minor shall be released to the parent on the  
38 second judicial day following the department's determination in order  
39 to allow the parent time to file an at-risk youth petition under

1 chapter 13.32A RCW. If the department determines it is medically  
2 appropriate for the minor to receive outpatient treatment and the minor  
3 declines to obtain such treatment, such refusal shall be grounds for  
4 the parent to file an at-risk youth petition.

5 (5) If the evaluation conducted under section 13 of this act is  
6 done by the department, the reviews required by subsections (1) and (2)  
7 of this section shall be done by contract with an independent agency.

8 (6) The department may, subject to available funds, contract with  
9 other governmental agencies to conduct the reviews under this section.  
10 The department may seek reimbursement from the parents, their  
11 insurance, or medicaid for the expense of any review conducted by an  
12 agency under contract.

13 NEW SECTION. Sec. 5. A new section is added to chapter 71.34 RCW  
14 to read as follows:

15 For purposes of eligibility for medical assistance under chapter  
16 74.09 RCW, minors in inpatient mental health treatment shall be  
17 considered to be part of their parent's or legal guardian's household,  
18 unless the minor has been assessed by the department or its designee as  
19 likely to require such treatment for at least ninety consecutive days,  
20 or is in out-of-home care in accordance with chapter 13.34 RCW, or the  
21 parents are found to not be exercising responsibility for care and  
22 control of the minor. Payment for such care by the department shall be  
23 made only in accordance with rules, guidelines, and clinical criteria  
24 applicable to inpatient treatment of minors established by the  
25 department.

26 **VOLUNTARY MENTAL HEALTH OUTPATIENT TREATMENT**

27 **Sec. 6.** RCW 71.34.030 and 1995 c 312 s 52 are each amended to read  
28 as follows:

29 ~~((1))~~ Any minor thirteen years or older may request and receive  
30 outpatient treatment without the consent of the minor's parent.  
31 Parental authorization is required for outpatient treatment of a minor  
32 under the age of thirteen.

33 ~~((2) When in the judgment of the professional person in charge of~~  
34 ~~an evaluation and treatment facility there is reason to believe that a~~  
35 ~~minor is in need of inpatient treatment because of a mental disorder,~~  
36 ~~and the facility provides the type of evaluation and treatment needed~~



1 by the minor, and it is not feasible to treat the minor in any less  
2 restrictive setting or the minor's home, the minor may be admitted to  
3 an evaluation and treatment facility in accordance with the following  
4 requirements:

5 (a) A minor may be voluntarily admitted by application of the  
6 parent. The consent of the minor is not required for the minor to be  
7 evaluated and admitted as appropriate.

8 (b) A minor thirteen years or older may, with the concurrence of  
9 the professional person in charge of an evaluation and treatment  
10 facility, admit himself or herself without parental consent to the  
11 evaluation and treatment facility, provided that notice is given by the  
12 facility to the minor's parent in accordance with the following  
13 requirements:

14 (i) Notice of the minor's admission shall be in the form most  
15 likely to reach the parent within twenty four hours of the minor's  
16 voluntary admission and shall advise the parent that the minor has been  
17 admitted to inpatient treatment; the location and telephone number of  
18 the facility providing such treatment; and the name of a professional  
19 person on the staff of the facility providing treatment who is  
20 designated to discuss the minor's need for inpatient treatment with the  
21 parent.

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

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

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

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

34 (vi) The hearing shall be conducted by a judge, court commissioner,  
35 or licensed attorney designated by the superior court as a hearing  
36 officer for such hearing. The hearing may be held at the treatment  
37 facility.

38 (vii) At such hearing, the facility must demonstrate by a  
39 preponderance of the evidence presented at the hearing that the minor

1 is in need of inpatient treatment and that release would constitute a  
2 threat to the minor's health or safety. The hearing shall not be  
3 conducted using the rules of evidence, and the admission or exclusion  
4 of evidence sought to be presented shall be within the exercise of  
5 sound discretion by the judicial officer conducting the hearing.

6 (c) Written renewal of voluntary consent must be obtained from the  
7 applicant no less than once every twelve months.

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

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

11 (a) Any minor under the age of thirteen must be discharged  
12 immediately upon written request of the parent.

13 (b) Any minor thirteen years or older voluntarily admitted may give  
14 notice of intent to leave at any time. The notice need not follow any  
15 specific form so long as it is written and the intent of the minor can  
16 be discerned.

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

21 (d) The professional person in charge of the evaluation and  
22 treatment facility shall discharge the minor, thirteen years or older,  
23 from the facility within twenty four hours after receipt of the minor's  
24 notice of intent to leave, unless the county designated mental health  
25 professional or a parent or legal guardian files a petition or an  
26 application for initial detention within the time prescribed by this  
27 chapter.

28 (4) The ability of a parent to apply to a certified evaluation and  
29 treatment program for the involuntary admission of his or her minor  
30 child does not create a right to obtain or benefit from any funds or  
31 resources of the state. However, the state may provide services for  
32 indigent minors to the extent that funds are available therefor.))

33 NEW SECTION. **Sec. 7.** A new section is added to chapter 71.34 RCW  
34 to read as follows:

35 (1) Any provider of outpatient treatment for a minor thirteen years  
36 of age or older shall provide notice of the treatment to the minor's  
37 parents. The notice shall be made upon the completion of the minor's  
38 third visit for treatment, and shall contain the name, location, and

1 telephone number of the mental health care provider who is designated  
2 to discuss the minor's need for treatment with the parent.

3 (2) A treatment provider may defer notification to a parent of a  
4 minor's request for treatment if: (a) The minor alleges physical or  
5 sexual abuse by the parent and the treatment provider notifies the  
6 department of the alleged abuse. Upon completion of its assessment of  
7 the allegation, the department shall notify the treatment provider of  
8 its findings. If the department determines the allegation is not  
9 valid, the treatment provider shall immediately notify the parent of  
10 the minor's treatment. If the department determines the allegation is  
11 valid, the treatment provider need not provide notice to the parent; or  
12 (b) the provider believes the parental notification will interfere with  
13 the necessary treatment for the minor. If the provider believes the  
14 notification will interfere with the necessary treatment, the provider  
15 shall notify the department. The department shall review the  
16 circumstances and pursue either a child in need of services petition,  
17 if the child meets the definition of a child in need of services under  
18 RCW 13.32A.030(4)(c), or a dependency petition under chapter 13.34 RCW,  
19 if the child meets the definition of a dependent child under RCW  
20 13.34.030(4). If the department determines neither petition is  
21 appropriate it shall immediately inform the provider, who shall notify  
22 the parent of the treatment within twenty-four hours or after the third  
23 visit for treatment, whichever is later.

24 **VOLUNTARY MENTAL HEALTH INPATIENT TREATMENT**

25 NEW SECTION. **Sec. 8.** A new section is added to chapter 71.34 RCW  
26 to read as follows:

27 (1) A minor thirteen years or older may admit himself or herself to  
28 an evaluation and treatment facility for inpatient mental treatment,  
29 without parental consent. The admission shall occur only if the  
30 professional person in charge of the facility concurs with the need for  
31 inpatient treatment.

32 (2) When, in the judgment of the professional person in charge of  
33 an evaluation and treatment facility, there is reason to believe that  
34 a minor is in need of inpatient treatment because of a mental disorder,  
35 and the facility provides the type of evaluation and treatment needed  
36 by the minor, and it is not feasible to treat the minor in any less

1 restrictive setting or the minor's home, the minor may be admitted to  
2 an evaluation and treatment facility.

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

7 NEW SECTION. **Sec. 9.** A new section is added to chapter 71.34 RCW  
8 to read as follows:

9 The administrator of the treatment facility shall provide notice to  
10 the parents of a minor when the minor is voluntarily admitted to  
11 inpatient treatment under section 8 of this act. The notice shall be  
12 in the form most likely to reach the parent within twenty-four hours of  
13 the minor's voluntary admission and shall advise the parent: (1) That  
14 the minor has been admitted to inpatient treatment; (2) of the location  
15 and telephone number of the facility providing such treatment; (3) of  
16 the name of a professional person on the staff of the facility  
17 providing treatment who is designated to discuss the minor's need for  
18 inpatient treatment with the parent; and (4) of the medical necessity  
19 for admission.

20 NEW SECTION. **Sec. 10.** A new section is added to chapter 71.34 RCW  
21 to read as follows:

22 (1) Any minor thirteen years or older who has voluntarily admitted  
23 himself or herself to inpatient treatment shall be released to the  
24 parent upon the parent's written request for release unless the  
25 professional person in charge of the facility exercises his or her  
26 option to file a petition for commitment of a minor.

27 (2)(a) The petition shall be filed with the superior court of the  
28 county in which treatment is being provided setting forth the basis for  
29 the facility's belief that the minor is in need of inpatient treatment  
30 and that release would constitute a threat to the minor's health or  
31 safety.

32 (b) The petition shall be signed by the minor and the professional  
33 person in charge of the facility or that person's designee.

34 (c) The parent may apply to the court for separate counsel to  
35 represent the parent if the parent cannot afford counsel.

36 (d) There shall be a hearing on the petition, which shall be held  
37 within seventy-two hours from the filing of the petition.

1 (3) The commitment hearing shall be conducted at the superior court  
2 or an appropriate place at the treatment facility.

3 (4) The professional person must demonstrate, by a preponderance of  
4 the evidence, that the minor is in need of inpatient treatment and that  
5 the release would constitute a threat to the minor's health or safety.  
6 The rules of evidence shall not apply at the hearing.

7 NEW SECTION. **Sec. 11.** A new section is added to chapter 71.34 RCW  
8 to read as follows:

9 (1) Any minor thirteen years or older voluntarily admitted to an  
10 evaluation and treatment facility under section 8 of this act may give  
11 notice of intent to leave at any time. The notice need not follow any  
12 specific form so long as it is written and the intent of the minor can  
13 be discerned.

14 (2) The staff member receiving the notice shall date it  
15 immediately, record its existence in the minor's clinical record, and  
16 send copies of it to the minor's attorney, if any, the county-  
17 designated mental health professional, and the parent.

18 (3) The professional person shall discharge the minor, thirteen  
19 years or older, from the facility within twenty-four hours after  
20 receipt of the minor's notice of intent to leave, unless the county-  
21 designated mental health professional commences an initial detention  
22 proceeding under the provisions of this chapter.

23 NEW SECTION. **Sec. 12.** A new section is added to chapter 71.34 RCW  
24 to read as follows:

25 Any minor admitted to inpatient treatment under section 8 or 13 of  
26 this act shall be discharged immediately from inpatient treatment upon  
27 written request of the parent.

28 **PARENT-INITIATED MENTAL HEALTH TREATMENT**

29 NEW SECTION. **Sec. 13.** A new section is added to chapter 71.34 RCW  
30 to read as follows:

31 (1) A parent may bring, or authorize the bringing of, his or her  
32 minor child to an evaluation and treatment facility and request that  
33 the professional person examine the child to determine whether the  
34 child has a mental disorder and is in need of inpatient treatment.

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

4 (3) An appropriately trained professional person may evaluate  
5 whether the minor has a mental disorder. The evaluation shall be  
6 completed within twenty-four hours of the time the child was brought to  
7 the facility, unless the professional person determines that the  
8 condition of the child necessitates additional time for evaluation. In  
9 no event shall a child be held longer than seventy-two hours for  
10 evaluation without being admitted or released. If, in the judgment of  
11 the professional person, it is determined it is a medical necessity for  
12 the minor to receive inpatient treatment, the minor may be admitted.  
13 Within twenty-four hours of the admission, the professional person  
14 shall notify the department of the admission.

15 (4) No provider is obligated to provide treatment to a child under  
16 the provisions of this section. No provider may admit a child to  
17 treatment under this section unless it is medically necessary.

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

20 (6) For the purposes of this section "professional person" does not  
21 include a social worker, unless the social worker is appropriately  
22 trained and qualified by education and experience, as defined by the  
23 department, in psychiatric social work.

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

26 (1) A parent may bring, or authorize the bringing of, his or her  
27 minor child to a provider of outpatient mental health treatment and  
28 request that an appropriately trained professional person examine the  
29 child to determine whether the child has a mental disorder and is in  
30 need of outpatient treatment.

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

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

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

1 The ability of a parent to apply to a certified evaluation and  
2 treatment program for the admission of his or her minor does not create  
3 a right to obtain or benefit from any funds or resources of the state.  
4 The state may provide services for indigent minors to the extent that  
5 funds are available.

6 **CHEMICAL DEPENDENCY**

7 **Sec. 16.** RCW 70.96A.020 and 1996 c 178 s 23 and 1996 c 133 s 33  
8 are each reenacted and amended to read as follows:

9 For the purposes of this chapter the following words and phrases  
10 shall have the following meanings unless the context clearly requires  
11 otherwise:

12 (1) "Alcoholic" means a person who suffers from the disease of  
13 alcoholism.

14 (2) "Alcoholism" means a disease, characterized by a dependency on  
15 alcoholic beverages, loss of control over the amount and circumstances  
16 of use, symptoms of tolerance, physiological or psychological  
17 withdrawal, or both, if use is reduced or discontinued, and impairment  
18 of health or disruption of social or economic functioning.

19 (3) "Approved treatment program" means a discrete program of  
20 chemical dependency treatment provided by a treatment program certified  
21 by the department of social and health services as meeting standards  
22 adopted under this chapter.

23 (4) "Chemical dependency" means alcoholism or drug addiction, or  
24 dependence on alcohol and one or more other psychoactive chemicals, as  
25 the context requires.

26 (5) "Chemical dependency program" means expenditures and activities  
27 of the department designed and conducted to prevent or treat alcoholism  
28 and other drug addiction, including reasonable administration and  
29 overhead.

30 (6) "Department" means the department of social and health  
31 services.

32 (7) "Designated chemical dependency specialist" means a person  
33 designated by the county alcoholism and other drug addiction program  
34 coordinator designated under RCW 70.96A.310 to perform the commitment  
35 duties described in RCW 70.96A.140 and qualified to do so by meeting  
36 standards adopted by the department.

1 (8) "Director" means the person administering the chemical  
2 dependency program within the department.

3 (9) "Drug addict" means a person who suffers from the disease of  
4 drug addiction.

5 (10) "Drug addiction" means a disease characterized by a dependency  
6 on psychoactive chemicals, loss of control over the amount and  
7 circumstances of use, symptoms of tolerance, physiological or  
8 psychological withdrawal, or both, if use is reduced or discontinued,  
9 and impairment of health or disruption of social or economic  
10 functioning.

11 (11) "Emergency service patrol" means a patrol established under  
12 RCW 70.96A.170.

13 (12) "Gravely disabled by alcohol or other drugs" means that a  
14 person, as a result of the use of alcohol or other drugs: (a) Is in  
15 danger of serious physical harm resulting from a failure to provide for  
16 his or her essential human needs of health or safety; or (b) manifests  
17 severe deterioration in routine functioning evidenced by a repeated and  
18 escalating loss of cognition or volitional control over his or her  
19 actions and is not receiving care as essential for his or her health or  
20 safety.

21 (13) "Incapacitated by alcohol or other psychoactive chemicals"  
22 means that a person, as a result of the use of alcohol or other  
23 psychoactive chemicals, has his or her judgment so impaired that he or  
24 she is incapable of realizing and making a rational decision with  
25 respect to his or her need for treatment and presents a likelihood of  
26 serious harm to himself or herself, to any other person, or to  
27 property.

28 (14) "Incompetent person" means a person who has been adjudged  
29 incompetent by the superior court.

30 (15) "Intoxicated person" means a person whose mental or physical  
31 functioning is substantially impaired as a result of the use of alcohol  
32 or other psychoactive chemicals.

33 (16) "Licensed physician" means a person licensed to practice  
34 medicine or osteopathic medicine and surgery in the state of  
35 Washington.

36 (17) "Likelihood of serious harm" means either: (a) A substantial  
37 risk that physical harm will be inflicted by an individual upon his or  
38 her own person, as evidenced by threats or attempts to commit suicide  
39 or inflict physical harm on one's self; (b) a substantial risk that



1 physical harm will be inflicted by an individual upon another, as  
2 evidenced by behavior that has caused the harm or that places another  
3 person or persons in reasonable fear of sustaining the harm; or (c) a  
4 substantial risk that physical harm will be inflicted by an individual  
5 upon the property of others, as evidenced by behavior that has caused  
6 substantial loss or damage to the property of others.

7 (18) "Medical necessity" for inpatient care of a minor means a  
8 requested certified inpatient service that is reasonably calculated to:  
9 (a) Diagnose, arrest, or alleviate a chemical dependency; or (b)  
10 prevent the worsening of chemical dependency conditions that endanger  
11 life or cause suffering and pain, or result in illness or infirmity or  
12 threaten to cause or aggravate a handicap, or cause physical deformity  
13 or malfunction, and there is no adequate less restrictive alternative  
14 available.

15 (19) "Medically appropriate" means a minor admitted by his or her  
16 parents to inpatient treatment under section 21 of this act has not  
17 sufficiently improved his or her condition to be released to a less  
18 restrictive setting.

19 (20) "Minor" means a person less than eighteen years of age.

20 (~~(19)~~) (21) "Parent" means the parent or parents who have the  
21 legal right to custody of the child. Parent includes custodian or  
22 guardian.

23 (~~(20)~~) (22) "Peace officer" means a law enforcement official of  
24 a public agency or governmental unit, and includes persons specifically  
25 given peace officer powers by any state law, local ordinance, or  
26 judicial order of appointment.

27 (~~(21)~~) (23) "Person" means an individual, including a minor.

28 (~~(22)~~) (24) "Professional person in charge" or "professional  
29 person" means a physician or chemical dependency counselor as defined  
30 in rule by the department, who is empowered by a certified treatment  
31 program with authority to make assessment, admission, continuing care,  
32 and discharge decisions on behalf of the certified program.

33 (25) "Secretary" means the secretary of the department of social  
34 and health services.

35 (~~(23)~~) (26) "Treatment" means the broad range of emergency,  
36 detoxification, residential, and outpatient services and care,  
37 including diagnostic evaluation, chemical dependency education and  
38 counseling, medical, psychiatric, psychological, and social service  
39 care, vocational rehabilitation and career counseling, which may be

1 extended to alcoholics and other drug addicts and their families,  
2 persons incapacitated by alcohol or other psychoactive chemicals, and  
3 intoxicated persons.

4 (~~((24))~~) (27) "Treatment program" means an organization,  
5 institution, or corporation, public or private, engaged in the care,  
6 treatment, or rehabilitation of alcoholics or other drug addicts.

7 **VOLUNTARY CHEMICAL DEPENDENCY OUTPATIENT TREATMENT**

8 **Sec. 17.** RCW 70.96A.095 and 1996 c 133 s 34 are each amended to  
9 read as follows:

10 (~~((1))~~) Any person thirteen years of age or older may give consent  
11 for himself or herself to the furnishing of outpatient treatment by a  
12 chemical dependency treatment program certified by the department.  
13 (~~(Consent of the parent of a person less than eighteen years of age for~~  
14 ~~inpatient treatment is necessary to authorize the care unless the child~~  
15 ~~meets the definition of a child in need of services in RCW~~  
16 ~~13.32A.030(4)(c), as determined by the department.)) Parental  
17 authorization is required for any treatment of a minor under the age of  
18 thirteen. (~~The parent of a minor is not liable for payment of care~~  
19 ~~for such persons pursuant to this chapter, unless they have joined in~~  
20 ~~the consent to the treatment.~~~~

21 ~~(2) The parent of any minor child may apply to a certified~~  
22 ~~treatment program for the admission of his or her minor child for~~  
23 ~~purposes authorized in this chapter. The consent of the minor child~~  
24 ~~shall not be required for the application or admission. The certified~~  
25 ~~treatment program shall accept the application and evaluate the child~~  
26 ~~for admission. The ability of a parent to apply to a certified~~  
27 ~~treatment program for the admission of his or her minor child does not~~  
28 ~~create a right to obtain or benefit from any funds or resources of the~~  
29 ~~state. However, the state may provide services for indigent minors to~~  
30 ~~the extent that funds are available therefor.~~

31 ~~(3) Any provider of outpatient treatment who provides outpatient~~  
32 ~~treatment to a minor thirteen years of age or older shall provide~~  
33 ~~notice of the minor's request for treatment to the minor's parents if:~~  
34 ~~(a) The minor signs a written consent authorizing the disclosure; or~~  
35 ~~(b) the treatment program director determines that the minor lacks~~  
36 ~~capacity to make a rational choice regarding consenting to disclosure.~~  
37 ~~The notice shall be made within seven days of the request for~~

1 ~~treatment, excluding Saturdays, Sundays, and holidays, and shall~~  
2 ~~contain the name, location, and telephone number of the facility~~  
3 ~~providing treatment, and the name of a professional person on the staff~~  
4 ~~of the facility providing treatment who is designated to discuss the~~  
5 ~~minor's need for treatment with the parent.))~~

6 NEW SECTION. **Sec. 18.** A new section is added to chapter 70.96A  
7 RCW to read as follows:

8 Any provider of outpatient treatment who provides outpatient  
9 treatment to a minor thirteen years of age or older shall provide  
10 notice of the minor's request for treatment to the minor's parents if:  
11 (1) The minor signs a written consent authorizing the disclosure; or  
12 (2) the treatment program director determines that the minor lacks  
13 capacity to make a rational choice regarding consenting to disclosure.  
14 The notice shall be made within seven days of the request for  
15 treatment, excluding Saturdays, Sundays, and holidays, and shall  
16 contain the name, location, and telephone number of the facility  
17 providing treatment, and the name of a professional person on the staff  
18 of the facility providing treatment who is designated to discuss the  
19 minor's need for treatment with the parent.

20 **VOLUNTARY CHEMICAL DEPENDENCY INPATIENT TREATMENT**

21 NEW SECTION. **Sec. 19.** A new section is added to chapter 70.96A  
22 RCW to read as follows:

23 Parental consent is required for inpatient chemical dependency  
24 treatment of a minor, unless the child meets the definition of a child  
25 in need of services in RCW 13.32A.030(4)(c) as determined by the  
26 department: PROVIDED, That parental consent is required for any  
27 treatment of a minor under the age of thirteen.

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

29 NEW SECTION. **Sec. 20.** A new section is added to chapter 70.96A  
30 RCW to read as follows:

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

34 (2) The ability of a parent to apply to a certified treatment  
35 program for the admission of his or her minor child does not create a

1 right to obtain or benefit from any funds or resources of the state.  
2 However, the state may provide services for indigent minors to the  
3 extent that funds are available therefor.

4 **PARENT-INITIATED CHEMICAL DEPENDENCY TREATMENT**

5 NEW SECTION. **Sec. 21.** A new section is added to chapter 70.96A  
6 RCW to read as follows:

7 (1) A parent may bring, or authorize the bringing of, his or her  
8 minor child to a certified treatment program and request that a  
9 chemical dependency assessment be conducted by a professional person to  
10 determine whether the child is chemically dependent and in need of  
11 inpatient treatment.

12 (2) The consent of the minor is not required for admission,  
13 evaluation, and treatment if the parent brings the child to the  
14 program.

15 (3) An appropriately trained professional person may evaluate  
16 whether the minor is chemically dependent. The evaluation shall be  
17 completed within twenty-four hours of the time the child was brought to  
18 the facility, unless the professional person determines that the  
19 condition of the child necessitates additional time for evaluation. In  
20 no event shall a child be held longer than seventy-two hours for  
21 evaluation without being admitted or released. If, in the judgment of  
22 the professional person, it is determined it is a medical necessity for  
23 the minor to receive inpatient treatment, the minor may be admitted.  
24 Within twenty-four hours of the admission the professional person shall  
25 notify the department of the admission.

26 (4) No provider is obligated to provide treatment to a child under  
27 the provisions of this section. No provider may admit a child to  
28 treatment under this section unless it is medically necessary.

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

31 (6) Any minor child admitted to inpatient treatment under this  
32 section shall be discharged immediately from inpatient treatment upon  
33 written request of the parent.

34 **Sec. 22.** RCW 70.96A.097 and 1995 c 312 s 48 are each amended to  
35 read as follows:

1       ~~((The admission of any child under RCW 70.96A.095 may be~~  
2 ~~reviewed by the county designated chemical dependency specialist~~  
3 ~~between fifteen and thirty days following admission. The county-~~  
4 ~~designated chemical dependency specialist may undertake the review on~~  
5 ~~his or her own initiative and may seek reimbursement from the parents,~~  
6 ~~their insurance, or medicaid for the expense of the review.~~

7       ~~((2))~~ The department shall ensure that, for any minor admitted to  
8 inpatient treatment under section 21 of this act, a review is conducted  
9 by a professional person at the department or at a contracted agency no  
10 sooner than seven days and no later than ((sixty)) fourteen days  
11 following admission to determine whether it is medically appropriate to  
12 continue the ((child's)) minor's treatment on an inpatient basis.  
13 ~~((The department may, subject to available funds, contract with a~~  
14 ~~county for the conduct of the review conducted under this subsection~~  
15 ~~and may seek reimbursement from the parents, their insurance, or~~  
16 ~~medicaid for the expense of any review conducted by an agency under~~  
17 ~~contract.~~

18       If the county-designated chemical dependency specialist determines  
19 that continued inpatient treatment of the child is no longer medically  
20 appropriate, the specialist shall notify the facility, the child, the  
21 child's parents, and the department of the finding within twenty-four  
22 hours of the determination.

23       ~~((3))~~ For purposes of eligibility for medical assistance under  
24 chapter 74.09 RCW, children in inpatient mental health or chemical  
25 dependency treatment shall be considered to be part of their parent's  
26 or legal guardian's household, unless the child has been assessed by  
27 the department of social and health services or its designee as likely  
28 to require such treatment for at least ninety consecutive days, or is  
29 in out-of-home care in accordance with chapter 13.34 RCW, or the  
30 child's parents are found to not be exercising responsibility for care  
31 and control of the child. Payment for such care by the department of  
32 social and health services shall be made only in accordance with rules,  
33 guidelines, and clinical criteria applicable to inpatient treatment of  
34 minors established by the department.))

35       ((2)) The department shall, at thirty-day intervals following the  
36 review conducted under subsection (1) of this section, conduct reviews  
37 of the treatment status of each minor admitted to inpatient treatment,  
38 under section 21 of this act, to determine whether it is medically  
39 appropriate to continue the minor's treatment under inpatient status.

1 The reviews shall be conducted by a professional person at the  
2 department or at a contracted agency.

3 (3) In making a determination under subsection (1) or (2) of this  
4 section whether it is medically appropriate to release the minor from  
5 inpatient treatment, the department shall consider the opinion of the  
6 treatment provider, the safety of the minor, the likelihood the minor's  
7 chemical dependency recovery will deteriorate if released from  
8 inpatient treatment, and the wishes of the parent.

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

22 (5) The department may, subject to available funds, contract with  
23 other governmental agencies for the conduct of the reviews conducted  
24 under this section and may seek reimbursement from the parents, their  
25 insurance, or medicaid for the expense of any review conducted by an  
26 agency under contract.

27 NEW SECTION. Sec. 23. A new section is added to chapter 70.96A  
28 RCW to read as follows:

29 (1) A parent may bring, or authorize the bringing of, his or her  
30 minor child to a provider of outpatient chemical dependency treatment  
31 and request that an appropriately trained professional person examine  
32 the child to determine whether the child has a chemical dependency and  
33 is in need of outpatient treatment.

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

36 (3) The professional person in charge of the facility may evaluate  
37 whether the minor has a chemical dependency and is in need of  
38 outpatient treatment.

1        NEW SECTION.    **Sec. 24.**    A new section is added to chapter 70.96A  
2 RCW to read as follows:

3        For purposes of eligibility for medical assistance under chapter  
4 74.09 RCW, children in inpatient chemical dependency treatment shall be  
5 considered to be part of their parent's or legal guardian's household,  
6 unless the child has been assessed by the department or its designee as  
7 likely to require such treatment for at least ninety consecutive days,  
8 or is in out-of-home care in accordance with chapter 13.34 RCW, or the  
9 child's parents are found to not be exercising responsibility for care  
10 and control of the child.    Payment for such care by the department  
11 shall be made only in accordance with rules, guidelines, and clinical  
12 criteria applicable to inpatient treatment of minors established by the  
13 department.

14        NEW SECTION.    **Sec. 25.**    It is the purpose of sections 21 and 23 of  
15 this act to assure the ability of parents to exercise reasonable,  
16 compassionate care and control of their minor children when there is a  
17 medical necessity for treatment and without the requirement of filing  
18 a petition under chapter 70.96A RCW.

19        NEW SECTION.    **Sec. 26.**    Part headings used in this act do not  
20 constitute any part of the law.

21        NEW SECTION.    **Sec. 27.**    The department of social and health  
22 services shall adopt rules defining "appropriately trained professional  
23 person" for the purposes of conducting mental health and chemical  
24 dependency evaluations under sections 13(3), 14(1), 21(3), and 23(1) of  
25 this act.

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