
Juvenile Justice & Family Law
Committee

HB 1070

Brief Description: Changing the age of consent for minors receiving chemical dependency and mental health treatment.

Sponsors: Representatives Delvin, Dickerson, Carrell, Hinkle, Eickmeyer, Armstrong, Holmquist, Darneille and Kagi.

Brief Summary of Bill

- Requires parental consent for mental health and chemical dependency treatment of minors under the age of 16.

Hearing Date: 1/23/03

Staff: Sonja Hallum (786-7092).

Background:

The traditional common law view of minors and consent to treatment was that a minor could not consent to medical or surgical treatment. A physician was obliged to obtain the consent of the child's parents or responsible person before providing treatment. The only acceptable exception was if there was an emergency and it was either impracticable to obtain parental consent or any delay would unduly endanger the minor's life.

The legislature has modified this common law approach and the current law allows for treatment of minors without parental consent under certain circumstances and specific conditions.

Outpatient Chemical Dependency Treatment

A minor, age 13 or older, may consent to outpatient chemical dependency treatment. Parental consent is not required for outpatient chemical dependency treatment for a minor over the age of 13.

Inpatient Chemical Dependency Treatment

Parental consent is required for all chemical dependency inpatient treatment unless the minor is over 13 years of age and meets the definition of a Child in Need of Services under RCW 13.34.030.

Outpatient Mental Health Treatment:

A minor, age 13 or older, may consent to outpatient mental health treatment. Parental consent is not required for outpatient mental health treatment for a minor over the age of 13.

Inpatient Mental Health Treatment:

(a) Voluntary Treatment: A minor, age 13 or older, may consent to inpatient mental health treatment. Parental consent is not required for inpatient mental health treatment for a minor over the age of 13.

(b) Involuntary Commitment: The state may institute involuntary commitment proceedings against a minor, age 13 or older, if the state meets the statutory requirements and follows the procedures outlined in the statutes.

(c) Parent-Initiated: A parent may bring a child in to a mental health facility and have the child evaluated and treated without the consent of the minor even if the minor is over the age of 13. The facility must follow the statutory guidelines for the evaluation and notification of the department of social and health services. Once notified the department must conduct an independent evaluation. The minor also has the option of seeking a court review. The minor may be held under this option for 30 days.

Summary of Bill:

Chemical Dependency:

Outpatient Treatment:

The age of consent for outpatient chemical dependency treatment is changed to 16 years of age. It adds an exception to this rule that the treatment provider may provide treatment to a minor under the age of 16 without parental consent if the provider determines the following:

- (a) Requiring consent or notification of a parent or guardian would cause the minor to reject such treatment;
- (b) The provision of such treatment is clinically indicated;
- (c) The failure to provide such treatment would be seriously detrimental to the minor's well-being;
- (d) The minor has knowingly and voluntarily sought such treatment; and
- (e) In the opinion of the provider of treatment, the minor is mature enough to participate in the treatment productively.

If these conditions are met the provider may conduct up to 10 outpatient sessions with the minor. Subsequent sessions may be permissible without parental consent if the provider determines that it would be seriously detrimental to the minor to notify his or her parent.

Mental Health:

Outpatient Treatment:

The age of consent for outpatient mental health treatment is changed to 16 years of age. It adds an exception to this rule that the treatment provider may provide treatment to a minor under the age of 16 without parental consent if the provider determines the following:

- (a) Requiring consent or notification of a parent or guardian would cause the minor to reject such treatment;
- (b) The provision of such treatment is clinically indicated;
- (c) The failure to provide such treatment would be seriously detrimental to the minor's well-being;
- (d) The minor has knowingly and voluntarily sought such treatment; and
- (e) In the opinion of the provider of treatment, the minor is mature enough to participate in the treatment productively.

If these conditions are met the provider may conduct up to 10 outpatient sessions with the minor. Subsequent sessions may be permissible without parental consent if the provider determines that it would be seriously detrimental to the minor to notify his or her parent.

Inpatient Treatment

(a) Voluntary Treatment: The age of consent for voluntary inpatient mental health treatment is changed to 16 years of age. The age at which the minor may give notice and be released from a mental health facility is changed from age 13 to age 16.

(b) Involuntary Commitment: The age at which the state may initiate involuntary commitment proceedings for a minor is changed from age 13 to age 16.

(c) Parent-Initiated: A requirement is added that the parent must reasonably believe his or her child is suffering from a mental disorder and needs treatment. The parent-initiated option is clarified to apply to a minor of any age. An additional definition of medical necessity– is provided. The evaluation and treatment portions of the section are divided into two separate sections.

Other:

A section is added which limits the effect of the changes in the bill to those interests which existed prior to the changes in this bill.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.