

HOUSE BILL REPORT

SHB 2329

As Passed House:
February 12, 2004

Title: An act relating to mental health treatment for minors.

Brief Description: Revising provisions relating to mental health treatment for minors.

Sponsors: By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson, Kenney, Upthegrove, Delvin, Moeller, Edwards and Darneille).

Brief History:

Committee Activity:

Juvenile Justice & Family Law: 1/20/04, 1/27/04 [DPS].

Floor Activity:

Passed House: 2/12/04, 80-16.

Brief Summary of Substitute Bill

- Codifies common law by statutorily authorizing admission of a minor under the age of 13 to a mental health evaluation and treatment facility without the minor's consent.
- Specifies that parent-initiated mental health treatment for minors is permitted only for minors over the age of 13 and changes the time for review of the decisions to hold the minor.
- Removes the section that defines which social workers are classified as "professional persons" for the purposes of the juvenile mental health statutes by referencing a repealed statute.
- Adds a liability limitation for providers.

HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Dickerson, Chair; Pettigrew, Vice Chair; Delvin, Ranking Minority Member; Hinkle, Lovick and Upthegrove.

Minority Report: Do not pass. Signed by 1 member: Representative Carrell.

Staff: Sonja Hallum (786-7092).

Background:

Traditionally, parental consent has been required before any medical treatment could be provided to a minor. The only acceptable exception to this rule 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 Washington Legislature has modified this common law approach and current law permits a minor who is over the age of 13 to consent to inpatient mental health treatment. The consent of the minor's parent or guardian is not required.

If a parent would like to obtain mental health treatment for his or her minor child the parent is currently able to have the child treated without the child's consent if he or she is under the age of 13. However, if the child is over the age of 13, and is not consenting to mental health treatment, the only means a parent has for obtaining mental health treatment for the child is through the parent-initiated alternative.

Under the parent-initiated alternative, a parent may bring a child into a mental health evaluation and treatment 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 (Department). 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. The following is an outline of the current time frames under which the process must occur:

Initial evaluation: The initial evaluation of the minor must take place within 24-72 hours from the time the minor was brought into the facility.

Department review: The review by the Department must occur between *7 and 14 days* following the date the minor was brought into the facility.

Judicial review: The minor may seek a judicial review of the Department's decision to hold the minor. The petition for judicial review may be filed *five days* after the Department review.

Summary of Substitute Bill:

I. Minor under the age of 13:

The bill codifies common law by specifically authorizing a parent to obtain mental health treatment for his or her child who is under the age of 13.

II. Minor over the age of 13:

The time limits are decreased for a decision to hold a minor under the parent-initiated alternative for mental health treatment. The following is the outline of the time frames under which the parent-initiated process must occur under the bill:

Initial evaluation: The initial evaluation of the minor must take place within 24-72 hours from the time the minor was brought into the facility.

Department review: The review by the Department must occur between *three and seven days* following the date the minor was brought into the facility.

Judicial review: The minor may seek a judicial review of the Department's decision to hold the minor. The petition for judicial review may be filed *immediately* following the Department review.

III. Social Worker:

The bill removes reference to an out-dated statute defining which social workers qualify as "professional persons" under the juvenile mental health statute. The statute defines social worker qualifications according to a statute that has been repealed.

IV. Liability limitation:

The bill adds evaluation and treatment facilities, as well as physicians and mental health professionals who are empowered to make admission and discharge decisions for the evaluation and treatment facilities, to the statute providing a liability limitation. Under the statute, decisions to admit, release, or detain a person for evaluation and treatment cannot be the basis for a civil or criminal suit against the listed entities so long as the decisions were made in good faith and without gross negligence.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (In support) The intent of the bill is that the parent-initiated option be used. We support the intent of the bill. We also support the liability limitation. We are concerned about capacity and resources. This bill will be useful and helpful to parents. It is important to look at whether the mechanism has changed as a result of this. Parents are frustrated by not being able to access treatment. It is important to identify if it is working and, if not, what is standing in the way.

Testimony Against: None.

Persons Testifying: (In support) Kevin Glackin-Coley, Children's Alliance; Cris Kessler, Masters in Social Work; and Laurie Lippold, Children's Home Society.

Persons Signed In To Testify But Not Testifying: None.