

SENATE BILL REPORT

SHB 2329

As Reported By Senate Committee On:
Children & Family Services & Corrections, February 26, 2004

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

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

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

Brief History:

Committee Activity: Children & Family Services & Corrections: 2/20/04, 2/26/04 [DPA].

SENATE COMMITTEE ON CHILDREN & FAMILY SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Stevens, Chair; Parlette, Vice Chair; Carlson, Deccio, Hargrove and Regala.

Staff: Fara Daun (786-7459)

Background: Current law permits a parent to admit his or her minor child to mental health treatment without the consent of the minor. Current law also permits a minor who is at least 13 years old to consent independently to mental health treatment. The statute specifies a process for a parent to admit his or her child over the age of 13 to treatment. This process includes a review by the Department of Social and Health Services (DSHS) and a subsequent ability for the child to petition the court for release from inpatient treatment.

Despite having statutory authority, treatment facilities are concerned that they could be held liable if they admit a minor over the age of 12 on the parent's consent if the minor has not also consented. This has minimized the effectiveness of the parent initiated treatment option.

Summary of Amended Bill: When a parent brings his or her minor child to an evaluation and treatment facility to determine whether the child has a mental disorder and is in need of treatment, the treatment provider may not refuse to treat the minor based solely on the failure of the minor to consent.

A minor who is admitted to treatment under the parent-initiated treatment provisions may not sue the evaluation and treatment facility or treatment provider based solely on the minor's lack of consent.

A parent has a right of action against a public evaluation and treatment facility or treatment provider if the public facility or public provider refuses to admit the minor child under the parent-initiated provisions if the refusal is based solely on the minor's lack of consent.

References to social workers certified under a repealed section are removed.

Amended Bill Compared to Substitute Bill: The striking amendment strikes the entire bill and replaces it with provisions that a minor may not file a civil suit against a provider that admits the child to treatment under the parent-initiated provisions solely on the basis that the minor had not consented, and a parent may file suit against a public facility if that facility refuses to admit the minor under the parent-initiated provisions based solely on the minor's lack of consent. The existing provision that a facility is not obligated to treat a minor under the parent-initiated provisions is amended to include an exception that no provider may refuse to treat a minor under the parent-initiated provisions based solely on the failure of the minor to consent.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: In looking at the issue of age of consent, two issues in addition to the scarcity of beds came up: one had to do with provider fears of liability and the other to do with due process. Currently, facilities are not admitting children without their consent and parents are having to send their children to out-of-state hospitals in order to access the care that the children need. This bill gets at some of the underlying problems and allows parents to better access care. It provides clear due process for the child.

Testimony Against: There are fiscal considerations that are not reflected in the fiscal note that relate to the actual cost of hospitalizing children. There are concerns that private psychiatric facilities will see this option as a new marketing tool for unneeded hospitalizations. There is a report stating that the majority of children leave the hospital with the same problems that brought them too the hospital.

Testified: Representative Mary Lou Dickerson, sponsor (pro); Cris Kessler, social worker (pro); Richard Warner, Citizen's Commission on Human Rights (con); Laurie Lippold, Children's Home Society (pro); Kevin Glackin-Coley, Children's Alliance (pro).