**1874-S2 AMH FRAM H2340.1 - NOT FOR FLOOR USE**

**2SHB 1874** - H AMD **282**

By Representative Frame

**ADOPTED 03/11/2019**

Strike everything after the enacting clause and insert the following:

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

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

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

It is also the purpose of this chapter to assure the ability of parents to exercise reasonable, compassionate care and control of their minor children when there is a medical necessity for treatment and without the requirement of filing a petition under this chapter. This includes a parent's ability to request and receive medically necessary treatment for his or her adolescent without the consent of the adolescent.

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

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

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

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

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

(4) "Chemical dependency" means:

(a) Alcoholism;

(b) Drug addiction; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(25) "Parent" means((~~:~~

~~(a)~~)) a biological or adoptive parent who has legal custody of the child, including either parent if custody is shared under a joint custody agreement((~~;~~)) or ((~~(b)~~)) a person or agency judicially appointed as legal guardian or custodian of the child. For purposes of family-accessed treatment under RCW 71.34.600 through 71.34.670, "parent" also includes a person who may consent on behalf of a minor under RCW 7.70.065(2).

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

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

(28) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

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

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

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

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

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

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

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

(a) Provides for intoxicated minors:

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

(ii) Acute or subacute detoxification services; and

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

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

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

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

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

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

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

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

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

(2) When, in the judgment of the professional person in charge of an evaluation and treatment facility or approved substance use disorder treatment program, there is reason to believe that a minor is in need of inpatient treatment because of a mental disorder or substance use disorder, and the facility provides the type of evaluation and treatment needed by the minor, and it is not feasible to treat the minor in any less restrictive setting or the minor's home, the minor may be admitted to the facility.

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

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

(1) The ((~~administrator~~)) professional person in charge of ((~~the~~)) an evaluation and treatment facility shall provide notice to the parent((~~s~~)) of ((~~a minor~~)) an adolescent when the ((~~minor~~)) adolescent is voluntarily admitted to inpatient treatment under RCW 71.34.500 solely for mental health treatment and not for substance use disorder treatment.

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

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

(4) Subject to the limitations described in subsection (2) of this section, if there are compelling reasons not to notify the parent or contact with the parent cannot be made, the professional person in charge shall provide notice to the department of children, youth, and families.

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

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

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

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

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

(3) The professional person shall discharge the ((~~minor, thirteen years or older,~~)) adolescent from the facility by the second judicial day following receipt of the ((~~minor's~~)) adolescent's notice of intent to leave.

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

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

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

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

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

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

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

(3) An appropriately trained professional person may evaluate whether the ((~~minor~~)) adolescent has a mental disorder or has a substance use disorder. The evaluation shall be completed within twenty-four hours of the time the ((~~minor~~)) adolescent was brought to the facility, unless the professional person determines that the condition of the ((~~minor~~)) adolescent necessitates additional time for evaluation. In no event shall ((~~a minor~~)) an adolescent be held longer than seventy-two hours for evaluation. If, in the judgment of the professional person, it is determined it is a medical necessity for the ((~~minor~~)) adolescent to receive inpatient treatment, the ((~~minor~~)) adolescent may be held for treatment. The facility shall limit treatment to that which the professional person determines is medically necessary to stabilize the ((~~minor's~~)) adolescent's condition until the evaluation has been completed. Within twenty-four hours of completion of the evaluation, the professional person shall notify the authority if the ((~~child~~)) adolescent is held solely for mental health and not substance use disorder treatment and of the date of admission. The professional person shall provide notice to the authority if the adolescent is held for substance use disorder treatment only if: (a) The adolescent provides written consent to the disclosure of the fact of admission and such other substance use disorder treatment information in the notice; or (b) permitted by federal law.

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

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

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

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

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

(1) The authority shall assure that, for any ((~~minor~~)) adolescent admitted to inpatient treatment under RCW 71.34.600, a review is conducted by a physician or other mental health professional who is employed by the authority, or an agency under contract with the authority, and who neither has a financial interest in continued inpatient treatment of the ((~~minor~~)) adolescent nor is affiliated with the facility providing the treatment. The physician or other mental health professional shall conduct the review not less than seven nor more than fourteen days following the date the ((~~minor~~)) adolescent was brought to the facility under RCW 71.34.600 to determine whether it is a medical necessity to continue the ((~~minor's~~)) adolescent's treatment on an inpatient basis.

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

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

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

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

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

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

Following the review conducted under RCW 71.34.610, ((~~a minor child~~)) an adolescent may petition the superior court for his or her release from the facility. The petition may be filed not sooner than five days following the review. The court shall release the ((~~minor~~)) adolescent unless it finds, upon a preponderance of the evidence, that it is a medical necessity for the ((~~minor~~)) adolescent to remain at the facility.

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

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

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

The authority shall randomly select and review the information on ((~~children~~)) adolescents who are admitted to inpatient treatment on application of the ((~~child's~~)) adolescent's parent regardless of the source of payment, if any, if the information relates solely to mental health and not substance use disorder treatment. The authority may review a patient's inpatient substance use disorder treatment information only if: (1) The adolescent provides written consent to the review; or (2) permitted by federal law. The review shall determine whether the ((~~children~~)) adolescents reviewed were appropriately admitted into treatment based on an objective evaluation of the ((~~child's~~)) adolescent's condition and the outcome of the ((~~child's~~)) adolescent's treatment.

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

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

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

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

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

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

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

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

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

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

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

(c) A professional person providing substance use disorder treatment under this subsection (6) shall convene a treatment review under (a) of this subsection and provide the notification of the adolescent's receipt of treatment to an independent reviewer at the authority as described in (b) of this subsection only if: (i) The adolescent provides written consent to the disclosure of substance use disorder treatment information including the fact of his or her receipt of such treatment; or (ii) permitted by federal law.

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

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

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

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

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

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

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

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

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

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

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

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

(1)(a)(i) When a designated crisis responder receives information that ((~~a minor, thirteen years or older,~~)) an adolescent as a result of a mental disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the ((~~minor~~)) adolescent, or cause the ((~~minor~~)) adolescent to be taken, into custody and transported to an evaluation and treatment facility providing inpatient treatment.

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

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

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

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

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

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

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

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

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

(1)(a)(i) When a designated crisis responder receives information that ((~~a minor, thirteen years or older,~~)) an adolescent as a result of a mental disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the ((~~minor~~)) adolescent, or cause the ((~~minor~~)) adolescent to be taken, into custody and transported to an evaluation and treatment facility providing inpatient treatment.

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

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

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

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

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

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

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

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

(1) When an adolescent voluntarily consents to his or her own mental health treatment under RCW 71.34.500 or 71.34.530, a mental health professional shall not proactively provide information and records related solely to mental health services to a parent unless the adolescent states a clear and documented desire to do so, or in cases concerning the imminent health and safety of the adolescent.

(2) In the event a mental health professional discloses information and records related solely to mental health services of an adolescent to a parent pursuant to RCW 70.02.240(3), the mental health professional must provide notice of this disclosure to the adolescent and the adolescent must have ample opportunity to express any concerns about this disclosure to the mental health professional well in advance of action to disclose information and records related solely to mental health services. The mental health professional shall document any objections to disclosure in the adolescent's medical record if the mental health professional discloses information and records related solely to mental health services over the objection of the adolescent.

(3) If the mental health professional determines that disclosure of information and records related solely to mental health services pursuant to RCW 70.02.240(3) would be detrimental to the adolescent and declines to disclose such information or records, the mental health professional shall document the reasons for the lack of disclosure in the adolescent's medical record.

(4) Information about an adolescent's substance use disorder evaluation or treatment may only be provided to a parent without the written consent of the adolescent if permitted by federal law. A mental health professional or chemical dependency professional providing substance use disorder treatment to an adolescent may seek the written consent of the adolescent to provide substance use disorder treatment information to a parent who is involved in the treatment of the adolescent when the mental health professional or chemical dependency professional determines that both seeking the written consent and sharing the substance use disorder treatment information of the adolescent would not be detrimental to the adolescent.

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

(6) A chemical dependency professional or mental health professional providing inpatient or outpatient substance use disorder treatment is not civilly liable for the decision to disclose information and records related to substance use disorder treatment information or not disclose such information and records to a parent without an adolescent's consent pursuant to this section only if permitted by federal law, and so long as the decision was reached in good faith and without gross negligence.

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

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

The fact of admission and all information and records related to mental health services obtained through treatment under chapter 71.34 RCW is confidential, except as authorized in RCW 70.02.050, 70.02.210, 70.02.230, 70.02.250, and 70.02.260. Such confidential information may be disclosed only:

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

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

(3) To the minor, the minor's parent, including those acting as such for purposes of family-accessed treatment under RCW 71.34.600 through 71.34.670, and the minor's attorney, subject to RCW 13.50.100;

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

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

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

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

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

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

/s/ . . . . . . ";

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

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

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

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

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

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

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

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

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

(14) This section may not be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the director of the health care authority or the secretary of the department of social and health services, where applicable. The fact of admission and all information obtained pursuant to chapter 71.34 RCW are not admissible as evidence in any legal proceeding outside chapter 71.34 RCW, except guardianship or dependency, without the written consent of the minor or the minor's parent;

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Diagnosis;

(b) Treatment plan and progress in treatment;

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

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

(e) Referrals to community resources;

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

(g) Crisis prevention planning and safety planning.

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

(8) For the purposes of this section:

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

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

(i) Suicide attempts or suicidal behavior or ideation;

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

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

(iv) Animal torture;

(v) Property destruction; or

(vi) Substance or alcohol abuse.

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

(i) Observed assaultive behavior;

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

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

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

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

Subject to the availability of amounts appropriated for this specific purpose, the authority must provide an online training for behavioral health providers regarding state law and best practices when providing behavioral health services to children, youth, and families. The training must be free for providers and must include information related to family-accessed treatment, adolescent-accessed treatment, and other treatment services provided under this chapter.

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

(1) Subject to the availability of amounts appropriated for this specific purpose, the authority must conduct an annual survey of a sample group of parents, youth, and behavioral health providers to measure the impacts of implementing policies resulting from this act during the first three years of implementation. The first survey must be complete by July 1, 2020, followed by subsequent annual surveys completed by July 1, 2021, and by July 1, 2022. The authority must report on the results of the surveys annually to the governor and the legislature beginning November 1, 2020. The final report is due November 1, 2022, and must include any recommendations for statutory changes identified as needed based on survey results.

(2) This section expires December 31, 2022.

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

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

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

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

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

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

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

Correct the title.

EFFECT: Makes the following changes to the underlying bill:

(1) Modifies the definition of parent for purposes of family-accessed treatment to include individuals who a parent has given a signed authorization to make health care decisions for a minor and relatives responsible for the health care of the minor who have signed a declaration to that effect.

(2) Requires that an evaluation and treatment center notify a parent of a minor's voluntary mental health inpatient admission as soon as reasonably practicable. If there are compelling reasons not to notify the parent or contact cannot be made, the evaluation and treatment center must notify the Department of Children, Youth, and Families.

(3) Replaces the term "minor" or "child" with the term "adolescent" when that term refers to individuals ages thirteen through seventeen.

(4) Specifies that after a parent receives twelve outpatient sessions within a three-month period for his or her adolescent child, the consent of the adolescent is required for further treatment with that specific professional.

(5) References are made to the statute allowing disclosure of mental health information and records to parents.

(6) Prohibits mental health professionals from proactively providing information and records related to an adolescent's voluntary mental health services to a parent unless the adolescent authorizes this disclosure or in cases involving the imminent health and safety of the adolescent.

(7) Modifies the limitation on the liability of behavioral health providers that choose to disclose or not disclose information to parents if that determination was reached in good faith and without gross negligence.

(8) Expands the disclosure of mental health service information and records to those acting as a parent for purposes of family-accessed treatment.

(9) Directs that changes are made to the chapter and subchapter headings in chapter 71.34 RCW to indicate that the: (a) Chapter heading "Mental Health Services for Minors" is replaced with the chapter heading "Behavioral Health Services for Minors;" (b) the subchapter heading "Minor-Initiated Treatment" is replaced with the subchapter heading "Adolescent-Accessed Treatment;" and (c) the subchapter heading "Parent-Initiated Treatment" is replaced with the term "Adolescent-Accessed Treatment."

(10) Makes technical changes.