

2 ESHB 2761 - S COMM AMD

3 By Committee on Human Services & Corrections

4

5 Strike everything after the enacting clause and insert the  
6 following:

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  
20 intends and recognizes that children affected by the provisions of this  
21 act are not children whose mental health or substance abuse problems  
22 are adequately addressed by chapters 70.96A and 71.34 RCW. Therefore  
23 the legislature finds it is necessary to provide parents a statutory  
24 process, other than the petition process provided in chapters 70.96A  
25 and 71.34 RCW, to obtain treatment for their minor children without the  
26 consent of the children.

27 The legislature finds that differing standards of admission and  
28 review in parent-initiated mental health and chemical dependency  
29 treatment for their minor children are necessary and the admission  
30 standards and procedures under state involuntary treatment procedures  
31 are not adequate to provide safeguards for the safety and well-being of  
32 all children. The legislature finds the timeline for admission and  
33 reviews under existing law do not provide sufficient opportunities for  
34 assessment of the mental health and chemically dependent status of  
35 every minor child and that additional time and different standards will  
36 facilitate the likelihood of successful treatment of children who are

1 in need of assistance but unwilling to obtain it voluntarily. The  
2 legislature finds there are children whose behavior presents a clear  
3 need of medical treatment but is not so extreme as to require immediate  
4 state intervention under the state involuntary treatment procedures.

5

## PART I - MENTAL HEALTH

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

8 It is the purpose of this chapter to ~~((ensure))~~ assure that minors  
9 in need of mental health care and treatment receive an appropriate  
10 continuum of culturally relevant care and treatment, ~~((from))~~ including  
11 prevention and early intervention ~~((to))~~, self-directed care, parent-  
12 directed care, and involuntary treatment. To facilitate the continuum  
13 of care and treatment to minors in out-of-home placements, all  
14 divisions of the department that provide mental health services to  
15 minors shall jointly plan and deliver those services.

16 It is also the purpose of this chapter to protect the rights of  
17 minors against needless hospitalization and deprivations of liberty and  
18 to enable treatment decisions to be made in response to clinical needs  
19 in accordance with sound professional judgment. The mental health care  
20 and treatment providers shall encourage the use of voluntary services  
21 and, whenever clinically appropriate, the providers shall offer less  
22 restrictive alternatives to inpatient treatment. Additionally, all  
23 mental health care and treatment providers shall ~~((ensure))~~ assure that  
24 minors' parents are given an opportunity to participate in the  
25 treatment decisions for their minor children. The mental health care  
26 and treatment providers shall, to the extent possible, offer services  
27 that involve minors' parents or family.

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

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

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

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

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

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

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

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

18 (4) "County-designated mental health professional" means a mental  
19 health professional designated by one or more counties to perform the  
20 functions of a county-designated mental health professional described  
21 in this chapter.

22 (5) "Department" means the department of social and health  
23 services.

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

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

38 (8) "Gravely disabled minor" means a minor who, as a result of a  
39 mental disorder, is in danger of serious physical harm resulting from

1 a failure to provide for his or her essential human needs of health or  
2 safety, or manifests severe deterioration in routine functioning  
3 evidenced by repeated and escalating loss of cognitive or volitional  
4 control over his or her actions and is not receiving such care as is  
5 essential for his or her health or safety.

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

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

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

23 (12) "Medical necessity" for inpatient care means a requested  
24 service which is reasonably calculated to: (a) Diagnose, correct,  
25 cure, or alleviate a mental disorder; or (b) prevent the worsening of  
26 mental conditions that endanger life or cause suffering and pain, or  
27 result in illness or infirmity or threaten to cause or aggravate a  
28 handicap, or cause physical deformity or malfunction, and there is no  
29 adequate less restrictive alternative available.

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

36 ((+13+)) (14) "Mental health professional" means a psychiatrist,  
37 psychologist, psychiatric nurse, or social worker, and such other  
38 mental health professionals as may be defined by rules adopted by the  
39 secretary under this chapter.

1       (~~(14)~~) (15) "Minor" means any person under the age of eighteen  
2 years.

3       (~~(15)~~) (16) "Outpatient treatment" means any of the  
4 nonresidential services mandated under chapter 71.24 RCW and provided  
5 by licensed services providers as identified by RCW 71.24.025(3).

6       (~~(16)~~) (17) "Parent" means:

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

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

12       (~~(17)~~) (18) "Professional person in charge" or "professional  
13 person" means a physician or other mental health professional empowered  
14 by an evaluation and treatment facility with authority to make  
15 admission and discharge decisions on behalf of that facility.

16       (~~(18)~~) (19) "Psychiatric nurse" means a registered nurse who has  
17 a bachelor's degree from an accredited college or university, and who  
18 has had, in addition, at least two years' experience in the direct  
19 treatment of mentally ill or emotionally disturbed persons, such  
20 experience gained under the supervision of a mental health  
21 professional. "Psychiatric nurse" shall also mean any other registered  
22 nurse who has three years of such experience.

23       (~~(19)~~) (20) "Psychiatrist" means a person having a license as a  
24 physician in this state who has completed residency training in  
25 psychiatry in a program approved by the American Medical Association or  
26 the American Osteopathic Association, and is board eligible or board  
27 certified in psychiatry.

28       (~~(20)~~) (21) "Psychologist" means a person licensed as a  
29 psychologist under chapter 18.83 RCW.

30       (~~(21)~~) (22) "Responsible other" means the minor, the minor's  
31 parent or estate, or any other person legally responsible for support  
32 of the minor.

33       (~~(22)~~) (23) "Secretary" means the secretary of the department or  
34 secretary's designee.

35       (~~(23)~~) (24) "Start of initial detention" means the time of  
36 arrival of the minor at the first evaluation and treatment facility  
37 offering inpatient treatment if the minor is being involuntarily  
38 detained at the time. With regard to voluntary patients, "start of

1 initial detention" means the time at which the minor gives notice of  
2 intent to leave under the provisions of this chapter.

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

5 (1) ~~((The admission of any child under RCW 71.34.030 may be~~  
6 ~~reviewed by the county designated mental health professional between~~  
7 ~~fifteen and thirty days following admission. The county designated~~  
8 ~~mental health professional may undertake the review on his or her own~~  
9 ~~initiative and may seek reimbursement from the parents, their~~  
10 ~~insurance, or medicaid for the expense of the review.~~

11 ~~(2))~~ The department shall ~~((ensure))~~ assure that, for any minor  
12 admitted to inpatient treatment under section 11 of this act, a review  
13 is conducted ((no later than sixty days)) by a physician or other  
14 mental health professional who is employed by the department, or an  
15 agency under contract with the department, and who neither has a  
16 financial interest in continued inpatient treatment of the minor nor is  
17 affiliated with the facility providing the treatment. The physician or  
18 other mental health professional shall conduct the review not less than  
19 seven nor more than fourteen days following ((admission)) the date the  
20 minor was brought to the facility under section 11(1) of this act to  
21 determine whether it is ((medically appropriate)) a medical necessity  
22 to continue the ((child's)) minor's treatment on an inpatient basis.  
23 ~~((The department may, subject to available funds, contract with a~~  
24 ~~county for the conduct of the review conducted under this subsection~~  
25 ~~and may seek reimbursement from the parents, their insurance, or~~  
26 ~~medicaid for the expense of any review conducted by an agency under~~  
27 ~~contract.~~

28 If the county designated mental health professional determines that  
29 continued inpatient treatment of the child is no longer medically  
30 appropriate, the professional shall notify the facility, the child, the  
31 child's parents, and the department of the finding within twenty four  
32 hours of the determination.

33 ~~(3) For purposes of eligibility for medical assistance under~~  
34 ~~chapter 74.09 RCW, children in inpatient mental health or chemical~~  
35 ~~dependency treatment shall be considered to be part of their parent's~~  
36 ~~or legal guardian's household, unless the child has been assessed by~~  
37 ~~the department of social and health services or its designee as likely~~  
38 ~~to require such treatment for at least ninety consecutive days, or is~~

1 ~~in out of home care in accordance with chapter 13.34 RCW, or the~~  
2 ~~child's parents are found to not be exercising responsibility for care~~  
3 ~~and control of the child. Payment for such care by the department of~~  
4 ~~social and health services shall be made only in accordance with rules,~~  
5 ~~guidelines, and clinical criteria applicable to inpatient treatment of~~  
6 ~~minors established by the department.)~~)

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

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

26 (4) If the evaluation conducted under section 11 of this act is  
27 done by the department, the reviews required by subsection (1) of this  
28 section shall be done by contract with an independent agency.

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

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

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

1 For purposes of eligibility for medical assistance under chapter  
2 74.09 RCW, minors in inpatient mental health treatment shall be  
3 considered to be part of their parent's or legal guardian's household,  
4 unless the minor has been assessed by the department or its designee as  
5 likely to require such treatment for at least ninety consecutive days,  
6 or is in out-of-home care in accordance with chapter 13.34 RCW, or the  
7 parents are found to not be exercising responsibility for care and  
8 control of the minor. Payment for such care by the department shall be  
9 made only in accordance with rules, guidelines, and clinical criteria  
10 applicable to inpatient treatment of minors established by the  
11 department.

12 **PART II - VOLUNTARY MENTAL HEALTH OUTPATIENT TREATMENT**

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

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

19 ~~((2) When in the judgment of the professional person in charge of~~  
20 ~~an evaluation and treatment facility there is reason to believe that a~~  
21 ~~minor is in need of inpatient treatment because of a mental disorder,~~  
22 ~~and the facility provides the type of evaluation and treatment needed~~  
23 ~~by the minor, and it is not feasible to treat the minor in any less~~  
24 ~~restrictive setting or the minor's home, the minor may be admitted to~~  
25 ~~an evaluation and treatment facility in accordance with the following~~  
26 ~~requirements:~~

27 ~~(a) A minor may be voluntarily admitted by application of the~~  
28 ~~parent. The consent of the minor is not required for the minor to be~~  
29 ~~evaluated and admitted as appropriate.~~

30 ~~(b) A minor thirteen years or older may, with the concurrence of~~  
31 ~~the professional person in charge of an evaluation and treatment~~  
32 ~~facility, admit himself or herself without parental consent to the~~  
33 ~~evaluation and treatment facility, provided that notice is given by the~~  
34 ~~facility to the minor's parent in accordance with the following~~  
35 ~~requirements:~~

36 ~~(i) Notice of the minor's admission shall be in the form most~~  
37 ~~likely to reach the parent within twenty four hours of the minor's~~



1 voluntary admission and shall advise the parent that the minor has been  
2 admitted to inpatient treatment; the location and telephone number of  
3 the facility providing such treatment; and the name of a professional  
4 person on the staff of the facility providing treatment who is  
5 designated to discuss the minor's need for inpatient treatment with the  
6 parent.

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

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

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

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

19 (vi) The hearing shall be conducted by a judge, court commissioner,  
20 or licensed attorney designated by the superior court as a hearing  
21 officer for such hearing. The hearing may be held at the treatment  
22 facility.

23 (vii) At such hearing, the facility must demonstrate by a  
24 preponderance of the evidence presented at the hearing that the minor  
25 is in need of inpatient treatment and that release would constitute a  
26 threat to the minor's health or safety. The hearing shall not be  
27 conducted using the rules of evidence, and the admission or exclusion  
28 of evidence sought to be presented shall be within the exercise of  
29 sound discretion by the judicial officer conducting the hearing.

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

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

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

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

37 (b) Any minor thirteen years or older voluntarily admitted may give  
38 notice of intent to leave at any time. The notice need not follow any

1 specific form so long as it is written and the intent of the minor can  
2 be discerned.

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

7 (d) ~~The professional person in charge of the evaluation and~~  
8 ~~treatment facility shall discharge the minor, thirteen years or older,~~  
9 ~~from the facility within twenty-four hours after receipt of the minor's~~  
10 ~~notice of intent to leave, unless the county-designated mental health~~  
11 ~~professional or a parent or legal guardian files a petition or an~~  
12 ~~application for initial detention within the time prescribed by this~~  
13 ~~chapter.~~

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

19 NEW SECTION. **Sec. 7.** For the purpose of gathering information  
20 related to parental notification of outpatient mental health treatment  
21 of minors, the department of health shall conduct a survey of providers  
22 of outpatient treatment, as defined in chapter 71.34 RCW. The survey  
23 shall gather information from a statistically valid sample of  
24 providers. In accordance with confidentiality statutes and the  
25 physician-patient privilege, the survey shall secure information from  
26 the providers related to:

- 27 (1) The number of minors receiving outpatient treatment;  
28 (2) The number of parents of minors in treatment notified of the  
29 minor's treatment;  
30 (3) The average number of outpatient visits prior to parental  
31 notification;  
32 (4) The average number of treatments with parental notification;  
33 (5) The average number of treatments without parental notification;  
34 (6) The percentage of minors in treatment who are prescribed  
35 medication;  
36 (7) The medication prescribed;  
37 (8) The number of patients terminating treatment due to parental  
38 notification; and

1 (9) Any other pertinent information.

2 The department shall submit the survey results to the governor and  
3 the appropriate committees of the legislature by December 1, 1998.

4 This section expires June 1, 1999.

5 **PART III - VOLUNTARY MENTAL HEALTH INPATIENT TREATMENT**

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

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

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

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

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

26 The administrator of the treatment facility shall provide notice to  
27 the parents of a minor when the minor is voluntarily admitted to  
28 inpatient treatment under section 8 of this act. The notice shall be  
29 in the form most likely to reach the parent within twenty-four hours of  
30 the minor's voluntary admission and shall advise the parent: (1) That  
31 the minor has been admitted to inpatient treatment; (2) of the location  
32 and telephone number of the facility providing such treatment; (3) of  
33 the name of a professional person on the staff of the facility  
34 providing treatment who is designated to discuss the minor's need for  
35 inpatient treatment with the parent; and (4) of the medical necessity  
36 for admission.



1 of the evaluation, the professional person shall notify the department  
2 if the child is held for treatment and of the date of admission.

3 (4) No provider is obligated to provide treatment to a minor under  
4 the provisions of this section. No provider may admit a minor to  
5 treatment under this section unless it is medically necessary.

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

8 (6) For the purposes of this section "professional person" does not  
9 include a social worker, unless the social worker is certified under  
10 RCW 18.19.110 and appropriately trained and qualified by education and  
11 experience, as defined by the department, in psychiatric social work.

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

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

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

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

23 (4) Any minor admitted to inpatient treatment under section 8 or 11  
24 of this act shall be discharged immediately from inpatient treatment  
25 upon written request of the parent.

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

28 Following the review conducted under RCW 71.34.025, a minor child  
29 may petition the superior court for his or her release from the  
30 facility. The petition may be filed not sooner than five days  
31 following the review. The court shall release the minor unless it  
32 finds, upon a preponderance of the evidence, that it is a medical  
33 necessity for the minor to remain at the facility.

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

1 If the minor is not released as a result of the petition filed  
2 under section 13 of this act, he or she shall be released not later  
3 than thirty days following the later of: (1) The date of the  
4 department's determination under RCW 71.34.025(2); or (2) the filing of  
5 a petition for judicial review under section 13 of this act, unless a  
6 professional person or the county designated mental health professional  
7 initiates proceedings under this chapter.

8 NEW SECTION. **Sec. 15.** A new section is added to chapter 71.34 RCW  
9 to read as follows:

10 The ability of a parent to bring his or her minor child to a  
11 certified evaluation and treatment program for evaluation and treatment  
12 does not create a right to obtain or benefit from any funds or  
13 resources of the state. The state may provide services for indigent  
14 minors to the extent that funds are available.

15 **PART V - CHEMICAL DEPENDENCY**

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

18 For the purposes of this chapter the following words and phrases  
19 shall have the following meanings unless the context clearly requires  
20 otherwise:

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

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

28 (3) "Approved treatment program" means a discrete program of  
29 chemical dependency treatment provided by a treatment program certified  
30 by the department of social and health services as meeting standards  
31 adopted under this chapter.

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

35 (5) "Chemical dependency program" means expenditures and activities  
36 of the department designed and conducted to prevent or treat alcoholism

1 and other drug addiction, including reasonable administration and  
2 overhead.

3 (6) "Department" means the department of social and health  
4 services.

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

10 (8) "Director" means the person administering the chemical  
11 dependency program within the department.

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

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

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

22 (12) "Gravely disabled by alcohol or other drugs" means that a  
23 person, as a result of the use of alcohol or other drugs: (a) Is in  
24 danger of serious physical harm resulting from a failure to provide for  
25 his or her essential human needs of health or safety; or (b) manifests  
26 severe deterioration in routine functioning evidenced by a repeated and  
27 escalating loss of cognition or volitional control over his or her  
28 actions and is not receiving care as essential for his or her health or  
29 safety.

30 (13) "Incapacitated by alcohol or other psychoactive chemicals"  
31 means that a person, as a result of the use of alcohol or other  
32 psychoactive chemicals, has his or her judgment so impaired that he or  
33 she is incapable of realizing and making a rational decision with  
34 respect to his or her need for treatment and presents a likelihood of  
35 serious harm to himself or herself, to any other person, or to  
36 property.

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

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

4 (16) "Licensed physician" means a person licensed to practice  
5 medicine or osteopathic medicine and surgery in the state of  
6 Washington.

7 (17) "Likelihood of serious harm" means either: (a) A substantial  
8 risk that physical harm will be inflicted by an individual upon his or  
9 her own person, as evidenced by threats or attempts to commit suicide  
10 or inflict physical harm on one's self; (b) a substantial risk that  
11 physical harm will be inflicted by an individual upon another, as  
12 evidenced by behavior that has caused the harm or that places another  
13 person or persons in reasonable fear of sustaining the harm; or (c) a  
14 substantial risk that physical harm will be inflicted by an individual  
15 upon the property of others, as evidenced by behavior that has caused  
16 substantial loss or damage to the property of others.

17 (18) "Medical necessity" for inpatient care of a minor means a  
18 requested certified inpatient service that is reasonably calculated to:  
19 (a) Diagnose, arrest, or alleviate a chemical dependency; or (b)  
20 prevent the worsening of chemical dependency conditions that endanger  
21 life or cause suffering and pain, or result in illness or infirmity or  
22 threaten to cause or aggravate a handicap, or cause physical deformity  
23 or malfunction, and there is no adequate less restrictive alternative  
24 available.

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

26 (~~(19)~~) (20) "Parent" means the parent or parents who have the  
27 legal right to custody of the child. Parent includes custodian or  
28 guardian.

29 (~~(20)~~) (21) "Peace officer" means a law enforcement official of  
30 a public agency or governmental unit, and includes persons specifically  
31 given peace officer powers by any state law, local ordinance, or  
32 judicial order of appointment.

33 (~~(21)~~) (22) "Person" means an individual, including a minor.

34 (~~(22)~~) (23) "Professional person in charge" or "professional  
35 person" means a physician or chemical dependency counselor as defined  
36 in rule by the department, who is empowered by a certified treatment  
37 program with authority to make assessment, admission, continuing care,  
38 and discharge decisions on behalf of the certified program.



1       (24) "Secretary" means the secretary of the department of social  
2 and health services.

3       (~~(23)~~) (25) "Treatment" means the broad range of emergency,  
4 detoxification, residential, and outpatient services and care,  
5 including diagnostic evaluation, chemical dependency education and  
6 counseling, medical, psychiatric, psychological, and social service  
7 care, vocational rehabilitation and career counseling, which may be  
8 extended to alcoholics and other drug addicts and their families,  
9 persons incapacitated by alcohol or other psychoactive chemicals, and  
10 intoxicated persons.

11       (~~(24)~~) (26) "Treatment program" means an organization,  
12 institution, or corporation, public or private, engaged in the care,  
13 treatment, or rehabilitation of alcoholics or other drug addicts.

#### 14           PART VI - VOLUNTARY CHEMICAL DEPENDENCY OUTPATIENT TREATMENT

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

17       (~~(1)~~) Any person thirteen years of age or older may give consent  
18 for himself or herself to the furnishing of outpatient treatment by a  
19 chemical dependency treatment program certified by the department.  
20 (~~Consent of the parent of a person less than eighteen years of age for~~  
21 ~~inpatient treatment is necessary to authorize the care unless the child~~  
22 ~~meets the definition of a child in need of services in RCW~~  
23 ~~13.32A.030(4)(c), as determined by the department.)) Parental  
24 authorization is required for any treatment of a minor under the age of  
25 thirteen. (~~The parent of a minor is not liable for payment of care~~  
26 ~~for such persons pursuant to this chapter, unless they have joined in~~  
27 ~~the consent to the treatment.~~~~

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

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

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

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

27       **PART VII - VOLUNTARY CHEMICAL DEPENDENCY INPATIENT TREATMENT**

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

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

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

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

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

6        (2) The ability of a parent to apply to a certified treatment  
7    program for the admission of his or her minor child does not create a  
8    right to obtain or benefit from any funds or resources of the state.  
9    However, the state may provide services for indigent minors to the  
10   extent that funds are available therefor.

11                    **PART VIII - PARENT-INITIATED CHEMICAL DEPENDENCY TREATMENT**

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

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

19        (2) The consent of the minor is not required for admission,  
20    evaluation, and treatment if the parent brings the minor to the  
21    program.

22        (3) An appropriately trained professional person may evaluate  
23    whether the minor is chemically dependent. The evaluation shall be  
24    completed within twenty-four hours of the time the minor was brought to  
25    the program, unless the professional person determines that the  
26    condition of the minor necessitates additional time for evaluation. In  
27    no event shall a minor be held longer than seventy-two hours for  
28    evaluation. If, in the judgment of the professional person, it is  
29    determined it is a medical necessity for the minor to receive inpatient  
30    treatment, the minor may be held for treatment. The facility shall  
31    limit treatment to that which the professional person determines is  
32    medically necessary to stabilize the minor's condition until the  
33    evaluation has been completed. Within twenty-four hours of completion  
34    of the evaluation, the professional person shall notify the department  
35    if the child is held for treatment and of the date of admission.

1 (4) No provider is obligated to provide treatment to a minor under  
2 the provisions of this section. No provider may admit a minor to  
3 treatment under this section unless it is medically necessary.

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

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

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

14 ~~(2))~~ The department shall ensure that, for any minor admitted to  
15 inpatient treatment under section 21 of this act, a review is conducted  
16 ((no later than sixty days)) by a physician or chemical dependency  
17 counselor, as defined in rule by the department, who is employed by the  
18 department or an agency under contract with the department and who  
19 neither has a financial interest in continued inpatient treatment of  
20 the minor nor is affiliated with the program providing the treatment.  
21 The physician or chemical dependency counselor shall conduct the review  
22 not less than seven nor more than fourteen days following ((admission))  
23 the date the minor was brought to the facility under section 21(1) of  
24 this act to determine whether it is ((medically appropriate)) a medical  
25 necessity to continue the ((child's)) minor's treatment on an inpatient  
26 basis. ((The department may, subject to available funds, contract with  
27 a county for the conduct of the review conducted under this subsection  
28 and may seek reimbursement from the parents, their insurance, or  
29 medicaid for the expense of any review conducted by an agency under  
30 contract.

31 ~~If the county designated chemical dependency specialist determines  
32 that continued inpatient treatment of the child is no longer medically  
33 appropriate, the specialist shall notify the facility, the child, the  
34 child's parents, and the department of the finding within twenty four  
35 hours of the determination.~~

36 ~~(3) For purposes of eligibility for medical assistance under  
37 chapter 74.09 RCW, children in inpatient mental health or chemical  
38 dependency treatment shall be considered to be part of their parent's~~

1 ~~or legal guardian's household, unless the child has been assessed by~~  
2 ~~the department of social and health services or its designee as likely~~  
3 ~~to require such treatment for at least ninety consecutive days, or is~~  
4 ~~in out-of-home care in accordance with chapter 13.34 RCW, or the~~  
5 ~~child's parents are found to not be exercising responsibility for care~~  
6 ~~and control of the child. Payment for such care by the department of~~  
7 ~~social and health services shall be made only in accordance with rules,~~  
8 ~~guidelines, and clinical criteria applicable to inpatient treatment of~~  
9 ~~minors established by the department.)~~)

10 (2) In making a determination under subsection (1) of this section  
11 whether it is a medical necessity to release the minor from inpatient  
12 treatment, the department shall consider the opinion of the treatment  
13 provider, the safety of the minor, the likelihood the minor's chemical  
14 dependency recovery will deteriorate if released from inpatient  
15 treatment, and the wishes of the parent.

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

31 (4) The department may, subject to available funds, contract with  
32 other governmental agencies for the conduct of the reviews conducted  
33 under this section and may seek reimbursement from the parents, their  
34 insurance, or medicaid for the expense of any review conducted by an  
35 agency under contract.

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

1        NEW SECTION.    **Sec. 23.**    A new section is added to chapter 70.96A  
2 RCW to read as follows:

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

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

10       (3) The professional person in charge of the program may evaluate  
11 whether the minor has a chemical dependency and is in need of  
12 outpatient treatment.

13       (4) Any minor admitted to inpatient treatment under section 21 of  
14 this act shall be discharged immediately from inpatient treatment upon  
15 written request of the parent.

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

18       Following the review conducted under RCW 70.96A.097, a minor child  
19 may petition the superior court for his or her release from the  
20 facility.    The petition may be filed not sooner than five days  
21 following the review.    The court shall release the minor unless it  
22 finds, upon a preponderance of the evidence, that it is a medical  
23 necessity for the minor to remain at the facility.

24       NEW SECTION.    **Sec. 25.**    A new section is added to chapter 70.96A  
25 RCW to read as follows:

26       If the minor is not released as a result of the petition filed  
27 under section 24 of this act, he or she shall be released not later  
28 than thirty days following the later of:    (1) The date of the  
29 department's determination under RCW 70.96A.097(2); or (2) the filing  
30 of a petition for judicial review under section 24 of this act, unless  
31 a professional person or the designated chemical dependency specialist  
32 initiates proceedings under this chapter.

33       NEW SECTION.    **Sec. 26.**    A new section is added to chapter 70.96A  
34 RCW to read as follows:

35       For purposes of eligibility for medical assistance under chapter  
36 74.09 RCW, minors in inpatient chemical dependency treatment shall be

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

10 NEW SECTION. **Sec. 27.** It is the purpose of sections 21 and 23 of  
11 this act to assure the ability of parents to exercise reasonable,  
12 compassionate care and control of their minor children when there is a  
13 medical necessity for treatment and without the requirement of filing  
14 a petition under chapter 70.96A RCW.

15 NEW SECTION. **Sec. 28.** The department of social and health  
16 services shall adopt rules defining "appropriately trained professional  
17 person" for the purposes of conducting mental health and chemical  
18 dependency evaluations under sections 11(3), 12(1), 21(3), and 23(1) of  
19 this act.

20 **PART IX - MISCELLANEOUS**

21 **Sec. 29.** RCW 7.21.030 and 1989 c 373 s 3 are each amended to read  
22 as follows:

23 (1) The court may initiate a proceeding to impose a remedial  
24 sanction on its own motion or on the motion of a person aggrieved by a  
25 contempt of court in the proceeding to which the contempt is related.  
26 Except as provided in RCW 7.21.050, the court, after notice and  
27 hearing, may impose a remedial sanction authorized by this chapter.

28 (2) If the court finds that the person has failed or refused to  
29 perform an act that is yet within the person's power to perform, the  
30 court may find the person in contempt of court and impose one or more  
31 of the following remedial sanctions:

32 (a) Imprisonment if the contempt of court is of a type defined in  
33 RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so  
34 long as it serves a coercive purpose.

1 (b) A forfeiture not to exceed two thousand dollars for each day  
2 the contempt of court continues.

3 (c) An order designed to ensure compliance with a prior order of  
4 the court.

5 (d) Any other remedial sanction other than the sanctions specified  
6 in (a) through (c) of this subsection if the court expressly finds that  
7 those sanctions would be ineffectual to terminate a continuing contempt  
8 of court.

9 (e) In cases under chapters 13.32A, 13.34, and 28A.225 RCW,  
10 commitment to juvenile detention for a period of time not to exceed  
11 seven days. This sanction may be imposed in addition to, or as an  
12 alternative to, any other remedial sanction authorized by this chapter.  
13 This remedy is specifically determined to be a remedial sanction.

14 (3) The court may, in addition to the remedial sanctions set forth  
15 in subsection (2) of this section, order a person found in contempt of  
16 court to pay a party for any losses suffered by the party as a result  
17 of the contempt and any costs incurred in connection with the contempt  
18 proceeding, including reasonable attorney's fees.

19 **Sec. 30.** RCW 13.32A.250 and 1996 c 133 s 28 are each amended to  
20 read as follows:

21 (1) In all child in need of services proceedings and at-risk youth  
22 proceedings, the court shall verbally notify the parents and the child  
23 of the possibility of a finding of contempt for failure to comply with  
24 the terms of a court order entered pursuant to this chapter. Except as  
25 otherwise provided in this section, the court shall treat the parents  
26 and the child equally for the purposes of applying contempt of court  
27 processes and penalties under this section.

28 (2) Failure by a party to comply with an order entered under this  
29 chapter is a civil contempt of court as provided in (~~chapter 7.21~~)  
30 RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of  
31 this section.

32 (3) The court may impose remedial sanctions including a fine of up  
33 to one hundred dollars and confinement for up to seven days, or both  
34 for contempt of court under this section.

35 (4) A child placed in confinement for contempt under this section  
36 shall be placed in confinement only in a secure juvenile detention  
37 facility operated by or pursuant to a contract with a county.



1 (5) A motion for contempt may be made by a parent, a child,  
2 juvenile court personnel, or by any public agency, organization, or  
3 person having custody of the child under a court order adopted pursuant  
4 to this chapter.

5 (6) Whenever the court finds probable cause to believe, based upon  
6 consideration of a motion for contempt and the information set forth in  
7 a supporting declaration, that a child has violated a placement order  
8 entered under this chapter, the court may issue an order directing law  
9 enforcement to pick up and take the child to detention. The order may  
10 be entered ex parte without prior notice to the child or other parties.  
11 Following the child's admission to detention, a detention review  
12 hearing must be held in accordance with RCW 13.32A.065.

13 **Sec. 31.** RCW 13.34.165 and 1996 c 133 s 29 are each amended to  
14 read as follows:

15 (1) Failure by a party to comply with an order entered under this  
16 chapter is civil contempt of court as provided in (~~chapter 7.21~~) RCW  
17 7.21.030(2)(e).

18 (2) The maximum term of imprisonment that may be imposed as a  
19 (~~punitive~~) remedial sanction for contempt of court under this section  
20 is confinement for up to seven days.

21 (3) A child imprisoned for contempt under this section shall be  
22 confined only in a secure juvenile detention facility operated by or  
23 pursuant to a contract with a county.

24 (4) A motion for contempt may be made by a parent, juvenile court  
25 personnel, or by any public agency, organization, or person having  
26 custody of the child under a court order entered pursuant to this  
27 chapter.

28 (5) Whenever the court finds probable cause to believe, based upon  
29 consideration of a motion for contempt and the information set forth in  
30 a supporting declaration, that a child has violated a placement order  
31 entered under this chapter, the court may issue an order directing law  
32 enforcement to pick up and take the child to detention. The order may  
33 be entered ex parte without prior notice to the child or other parties.  
34 Following the child's admission to detention, a detention review  
35 hearing must be held in accordance with RCW 13.32A.065.

36 **Sec. 32.** RCW 28A.225.030 and 1996 c 134 s 3 are each amended to  
37 read as follows:

1 (1) If a child is required to attend school under RCW 28A.225.010  
2 and if the actions taken by a school district under RCW 28A.225.020 are  
3 not successful in substantially reducing an enrolled student's absences  
4 from public school, not later than the seventh unexcused absence by a  
5 child within any month during the current school year or not later than  
6 the tenth unexcused absence during the current school year the school  
7 district shall file a petition and supporting affidavit for a civil  
8 action with the juvenile court alleging a violation of RCW 28A.225.010:  
9 (a) By the parent; (b) by the child; or (c) by the parent and the  
10 child. Except as provided in this subsection, no additional documents  
11 need be filed with the petition. The petition may be served on the  
12 child or parent in any manner reasonably likely to provide adequate  
13 notice of the filing.

14 (2) The district shall not later than the fifth unexcused absence  
15 in a month:

16 (a) Enter into an agreement with a student and parent that  
17 establishes school attendance requirements;

18 (b) Refer a student to a community truancy board as defined in RCW  
19 28A.225.025. The community truancy board shall enter into an agreement  
20 with the student and parent that establishes school attendance  
21 requirements and take other appropriate actions to reduce the child's  
22 absences; or

23 (c) File a petition under subsection (1) of this section.

24 (3) The petition may be filed by a school district employee who is  
25 not an attorney.

26 (4) If the school district fails to file a petition under this  
27 section, the parent of a child with five or more unexcused absences in  
28 any month during the current school year or upon the tenth unexcused  
29 absence during the current school year may file a petition with the  
30 juvenile court alleging a violation of RCW 28A.225.010.

31 **Sec. 33.** RCW 28A.225.090 and 1997 c 68 s 2 are each amended to  
32 read as follows:

33 (1) A court may order a child subject to a petition under RCW  
34 28A.225.035 to:

35 (a) Attend the child's current school;

36 (b) If there is space available and the program can provide  
37 educational services appropriate for the child, order the child to  
38 attend another public school, an alternative education program, center,

1 a skill center, dropout prevention program, or another public  
2 educational program;

3 (c) Attend a private nonsectarian school or program including an  
4 education center. Before ordering a child to attend an approved or  
5 certified private nonsectarian school or program, the court shall: (i)  
6 Consider the public and private programs available; (ii) find that  
7 placement is in the best interest of the child; and (iii) find that the  
8 private school or program is willing to accept the child and will not  
9 charge any fees in addition to those established by contract with the  
10 student's school district. If the court orders the child to enroll in  
11 a private school or program, the child's school district shall contract  
12 with the school or program to provide educational services for the  
13 child. The school district shall not be required to contract for a  
14 weekly rate that exceeds the state general apportionment dollars  
15 calculated on a weekly basis generated by the child and received by the  
16 district. A school district shall not be required to enter into a  
17 contract that is longer than the remainder of the school year. A  
18 school district shall not be required to enter into or continue a  
19 contract if the child is no longer enrolled in the district;

20 (d) Be referred to a community truancy board, if available; or

21 (e) Submit to testing for the use of controlled substances or  
22 alcohol based on a determination that such testing is appropriate to  
23 the circumstances and behavior of the child and will facilitate the  
24 child's compliance with the mandatory attendance law.

25 (2) If the child fails to comply with the court order, the court  
26 may order the child to be punished by detention, as provided in RCW  
27 7.21.030(2)(e), or may impose alternatives to detention such as  
28 community service. Failure by a child to comply with an order issued  
29 under this subsection shall not be punishable by detention for a period  
30 greater than that permitted pursuant to a civil contempt proceeding  
31 against a child under chapter 13.32A RCW.

32 (3) Any parent violating any of the provisions of either RCW  
33 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five  
34 dollars for each day of unexcused absence from school. It shall be a  
35 defense for a parent charged with violating RCW 28A.225.010 to show  
36 that he or she exercised reasonable diligence in attempting to cause a  
37 child in his or her custody to attend school or that the child's school  
38 did not perform its duties as required in RCW 28A.225.020. The court  
39 may order the parent to provide community service instead of imposing

1 a fine. Any fine imposed pursuant to this section may be suspended  
2 upon the condition that a parent charged with violating RCW 28A.225.010  
3 shall participate with the school and the child in a supervised plan  
4 for the child's attendance at school or upon condition that the parent  
5 attend a conference or conferences scheduled by a school for the  
6 purpose of analyzing the causes of a child's absence.

7 NEW SECTION. **Sec. 34.** Part headings used in this act do not  
8 constitute any part of the law."

9 **ESHB 2761** - S COMM AMD  
10 By Committee on Human Services & Corrections

11  
12 On page 1, line 1 of the title, after "youth;" strike the remainder  
13 of the title and insert "amending RCW 71.34.010, 71.34.020, 71.34.025,  
14 71.34.030, 70.96A.095, 70.96A.097, 7.21.030, 13.32A.250, 13.34.165,  
15 28A.225.030, and 28A.225.090; reenacting and amending RCW 70.96A.020;  
16 adding new sections to chapter 71.34 RCW; adding new sections to  
17 chapter 70.96A RCW; creating new sections; prescribing penalties; and  
18 providing an expiration date."

--- END ---