

2 **ESSB 5082** - CONF REPT  
3 By Conference Committee

4 ADOPTED 4/26/97

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 finds it is necessary to provide parents a statutory process, other  
21 than the petition process provided in chapters 70.96A and 71.34 RCW, to  
22 obtain treatment for their minor children without the consent of the  
23 children.

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

1 need of medical treatment but is not so extreme as to require immediate  
2 state intervention under the state involuntary treatment procedures.

3 **MENTAL HEALTH**

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

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

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

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

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

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

34 (1) "Child psychiatrist" means a person having a license as a  
35 physician and surgeon in this state, who has had graduate training in  
36 child psychiatry in a program approved by the American Medical

1 Association or the American Osteopathic Association, and who is board  
2 eligible or board certified in child psychiatry.

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

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

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

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

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

19 (5) "Department" means the department of social and health  
20 services.

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

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

35 (8) "Gravely disabled minor" means a minor who, as a result of a  
36 mental disorder, is in danger of serious physical harm resulting from  
37 a failure to provide for his or her essential human needs of health or  
38 safety, or manifests severe deterioration in routine functioning  
39 evidenced by repeated and escalating loss of cognitive or volitional

1 control over his or her actions and is not receiving such care as is  
2 essential for his or her health or safety.

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

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

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

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

27 (13) "Medically appropriate" means that a minor admitted to  
28 inpatient treatment, under section 13 of this act, has not sufficiently  
29 improved his or her condition to be released to a less restrictive  
30 setting.

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

37 (~~(13)~~) (15) "Mental health professional" means a psychiatrist,  
38 psychologist, psychiatric nurse, or social worker, and such other

1 mental health professionals as may be defined by rules adopted by the  
2 secretary under this chapter.

3 ~~((14))~~ (16) "Minor" means any person under the age of eighteen  
4 years.

5 ~~((15))~~ (17) "Outpatient treatment" means any of the  
6 nonresidential services mandated under chapter 71.24 RCW and provided  
7 by licensed services providers as identified by RCW 71.24.025(3).

8 ~~((16))~~ (18) "Parent" means:

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

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

14 ~~((17))~~ (19) "Professional person in charge" or "professional  
15 person" means a physician or other mental health professional empowered  
16 by an evaluation and treatment facility with authority to make  
17 admission and discharge decisions on behalf of that facility.

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

25 ~~((19))~~ (21) "Psychiatrist" means a person having a license as a  
26 physician in this state who has completed residency training in  
27 psychiatry in a program approved by the American Medical Association or  
28 the American Osteopathic Association, and is board eligible or board  
29 certified in psychiatry.

30 ~~((20))~~ (22) "Psychologist" means a person licensed as a  
31 psychologist under chapter 18.83 RCW.

32 ~~((21))~~ (23) "Responsible other" means the minor, the minor's  
33 parent or estate, or any other person legally responsible for support  
34 of the minor.

35 ~~((22))~~ (24) "Secretary" means the secretary of the department or  
36 secretary's designee.

37 ~~((23))~~ (25) "Start of initial detention" means the time of  
38 arrival of the minor at the first evaluation and treatment facility  
39 offering inpatient treatment if the minor is being involuntarily

1 detained at the time. With regard to voluntary patients, "start of  
2 initial detention" means the time at which the minor gives notice of  
3 intent to leave under the provisions of this chapter.

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

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

12 ~~(2))~~ The department shall ~~((ensure))~~ assure that, for any minor  
13 admitted to inpatient treatment under section 13 of this act, a review  
14 is conducted by a physician or other mental health professional who is  
15 employed by the department, or an agency under contract with the  
16 department, and who neither has a financial interest in continued  
17 inpatient treatment of the minor nor is affiliated with the facility  
18 providing the treatment. The physician or other mental health  
19 professional shall conduct the review no sooner than five days and no  
20 later than ((sixty)) ten days, excluding Saturdays, Sundays, and  
21 holidays, following admission to determine whether it is medically  
22 appropriate to continue the ((child's)) minor's treatment on an  
23 inpatient basis. ((The department may, subject to available funds,  
24 contract with a county for the conduct of the review conducted under  
25 this subsection and may seek reimbursement from the parents, their  
26 insurance, or medicaid for the expense of any review conducted by an  
27 agency under 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) The department shall, at thirty-day intervals following the  
8 review conducted under subsection (1) of this section, conduct three  
9 reviews of the treatment status of each minor admitted to inpatient  
10 treatment, under section 13 of this act, to determine whether it is  
11 medically appropriate to continue the minor's treatment under inpatient  
12 status. The reviews shall be conducted by a physician or other mental  
13 health professional who is employed by the department, or an agency  
14 under contract with the department, and who neither has a financial  
15 interest in continued inpatient treatment of the minor nor is  
16 affiliated with the facility providing the treatment.

17 (3) In making a determination under subsection (1) or (2) of this  
18 section, the department shall consider the opinion of the treatment  
19 provider, the safety of the minor, and the likelihood the minor's  
20 mental health will deteriorate if released from inpatient treatment.  
21 The department shall consult with the parent in advance of making its  
22 determination.

23 (4) If the department determines it is no longer medically  
24 appropriate for a minor to receive inpatient treatment, the department  
25 shall immediately notify the parents and the facility. The facility  
26 shall release the minor to the parents within twenty-four hours of  
27 receiving notice. If the professional person in charge and the parent  
28 believe that it is medically appropriate for the minor to remain in  
29 inpatient treatment, the minor shall be released to the parent on the  
30 second judicial day following the department's determination in order  
31 to allow the parent time to file an at-risk youth petition under  
32 chapter 13.32A RCW. If the department determines it is medically  
33 appropriate for the minor to receive outpatient treatment and the minor  
34 declines to obtain such treatment, such refusal shall be grounds for  
35 the parent to file an at-risk youth petition.

36 (5) If after the third department review under subsection (2) of  
37 this section, the department determines that it is medically  
38 appropriate to continue the minor's inpatient treatment, the  
39 department, or the department's designee, shall file a petition under

1 RCW 71.34.070 within seven days of the department's determination. For  
2 the purposes of this section, it is not necessary to file a petition  
3 for initial detention.

4 (6) If the evaluation conducted under section 13 of this act is  
5 done by the department, the reviews required by subsections (1) and (2)  
6 of this section shall be done by contract with an independent agency.

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

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

14 For purposes of eligibility for medical assistance under chapter  
15 74.09 RCW, minors in inpatient mental health treatment shall be  
16 considered to be part of their parent's or legal guardian's household,  
17 unless the minor has been assessed by the department or its designee as  
18 likely to require such treatment for at least ninety consecutive days,  
19 or is in out-of-home care in accordance with chapter 13.34 RCW, or the  
20 parents are found to not be exercising responsibility for care and  
21 control of the minor. Payment for such care by the department shall be  
22 made only in accordance with rules, guidelines, and clinical criteria  
23 applicable to inpatient treatment of minors established by the  
24 department.

25 **VOLUNTARY MENTAL HEALTH OUTPATIENT TREATMENT**

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

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

32 ~~((2) When in the judgment of the professional person in charge of~~  
33 ~~an evaluation and treatment facility there is reason to believe that a~~  
34 ~~minor is in need of inpatient treatment because of a mental disorder,~~  
35 ~~and the facility provides the type of evaluation and treatment needed~~  
36 ~~by the minor, and it is not feasible to treat the minor in any less~~



1 ~~restrictive setting or the minor's home, the minor may be admitted to~~  
2 ~~an evaluation and treatment facility in accordance with the following~~  
3 ~~requirements:~~

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

7 ~~(b) A minor thirteen years or older may, with the concurrence of~~  
8 ~~the professional person in charge of an evaluation and treatment~~  
9 ~~facility, admit himself or herself without parental consent to the~~  
10 ~~evaluation and treatment facility, provided that notice is given by the~~  
11 ~~facility to the minor's parent in accordance with the following~~  
12 ~~requirements:~~

13 ~~(i) Notice of the minor's admission shall be in the form most~~  
14 ~~likely to reach the parent within twenty four hours of the minor's~~  
15 ~~voluntary admission and shall advise the parent that the minor has been~~  
16 ~~admitted to inpatient treatment; the location and telephone number of~~  
17 ~~the facility providing such treatment; and the name of a professional~~  
18 ~~person on the staff of the facility providing treatment who is~~  
19 ~~designated to discuss the minor's need for inpatient treatment with the~~  
20 ~~parent.~~

21 ~~(ii) The minor shall be released to the parent at the parent's~~  
22 ~~request for release unless the facility files a petition with the~~  
23 ~~superior court of the county in which treatment is being provided~~  
24 ~~setting forth the basis for the facility's belief that the minor is in~~  
25 ~~need of inpatient treatment and that release would constitute a threat~~  
26 ~~to the minor's health or safety.~~

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

29 ~~(iv) The parent may apply to the court for separate counsel to~~  
30 ~~represent the parent if the parent cannot afford counsel.~~

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

33 ~~(vi) The hearing shall be conducted by a judge, court commissioner,~~  
34 ~~or licensed attorney designated by the superior court as a hearing~~  
35 ~~officer for such hearing. The hearing may be held at the treatment~~  
36 ~~facility.~~

37 ~~(vii) At such hearing, the facility must demonstrate by a~~  
38 ~~preponderance of the evidence presented at the hearing that the minor~~  
39 ~~is in need of inpatient treatment and that release would constitute a~~

1 threat to the minor's health or safety. The hearing shall not be  
2 conducted using the rules of evidence, and the admission or exclusion  
3 of evidence sought to be presented shall be within the exercise of  
4 sound discretion by the judicial officer conducting the hearing.

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

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

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

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

12 (b) Any minor thirteen years or older voluntarily admitted may give  
13 notice of intent to leave at any time. The notice need not follow any  
14 specific form so long as it is written and the intent of the minor can  
15 be discerned.

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

20 (d) The professional person in charge of the evaluation and  
21 treatment facility shall discharge the minor, thirteen years or older,  
22 from the facility within twenty-four hours after receipt of the minor's  
23 notice of intent to leave, unless the county-designated mental health  
24 professional or a parent or legal guardian files a petition or an  
25 application for initial detention within the time prescribed by this  
26 chapter.

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

32 NEW SECTION. **Sec. 7.** For the purpose of gathering information  
33 related to parental notification of outpatient mental health treatment  
34 of minors, the department of health shall conduct a survey of providers  
35 of outpatient treatment, as defined in chapter 71.34 RCW. The survey  
36 shall gather information from a statistically valid sample of  
37 providers. In accordance with confidentiality statutes and the

1 physician-patient privilege, the survey shall secure information from  
2 the providers related to:

3 (1) The number of minors receiving outpatient treatment;

4 (2) The number of parents of minors in treatment notified of the  
5 minor's treatment;

6 (3) The average number of outpatient visits prior to parental  
7 notification;

8 (4) The average number of treatments with parental notification;

9 (5) The average number of treatments without parental notification;

10 (6) The percentage of minors in treatment who are prescribed  
11 medication;

12 (7) The medication prescribed;

13 (8) The number of patients terminating treatment due to parental  
14 notification; and

15 (9) Any other pertinent information.

16 The department shall submit the survey results to the governor and  
17 the appropriate committees of the legislature by December 1, 1997.

18 This section expires June 1, 1998.

19 **VOLUNTARY MENTAL HEALTH INPATIENT TREATMENT**

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

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

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

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

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

3        The administrator of the treatment facility shall provide notice to  
4 the parents of a minor when the minor is voluntarily admitted to  
5 inpatient treatment under section 8 of this act. The notice shall be  
6 in the form most likely to reach the parent within twenty-four hours of  
7 the minor's voluntary admission and shall advise the parent: (1) That  
8 the minor has been admitted to inpatient treatment; (2) of the location  
9 and telephone number of the facility providing such treatment; (3) of  
10 the name of a professional person on the staff of the facility  
11 providing treatment who is designated to discuss the minor's need for  
12 inpatient treatment with the parent; and (4) of the medical necessity  
13 for admission.

14        NEW SECTION.    **Sec. 10.**    A new section is added to chapter 71.34 RCW  
15 to read as follows:

16        (1) Any minor thirteen years or older who has voluntarily admitted  
17 himself or herself to inpatient treatment shall be released to the  
18 parent upon the parent's written request for release unless the  
19 professional person in charge of the facility exercises his or her  
20 option to file a petition for commitment of a minor.

21        (2)(a) The petition shall be filed with the superior court of the  
22 county in which treatment is being provided setting forth the basis for  
23 the facility's belief that the minor is in need of inpatient treatment  
24 and that release would constitute a threat to the minor's health or  
25 safety.

26        (b) The petition shall be signed by the minor and the professional  
27 person in charge of the facility or that person's designee.

28        (c) The parent may apply to the court for separate counsel to  
29 represent the parent if the parent cannot afford counsel.

30        (d) There shall be a hearing on the petition, which shall be held  
31 within seventy-two hours from the filing of the petition.

32        (3) The commitment hearing shall be conducted at the superior court  
33 or an appropriate place at the treatment facility.

34        (4) The professional person must demonstrate, by a preponderance of  
35 the evidence, that the minor is in need of inpatient treatment and that  
36 the release would constitute a threat to the minor's health or safety.  
37 The rules of evidence shall not apply at the hearing.



1 no event shall a minor be held longer than seventy-two hours for  
2 evaluation without being admitted or released. If, in the judgment of  
3 the professional person, it is determined it is a medical necessity for  
4 the minor to receive inpatient treatment, the minor may be admitted.  
5 Prior to admission, the facility shall limit treatment to that which  
6 the professional person determines is medically necessary to stabilize  
7 the minor's condition. Within twenty-four hours of the admission, the  
8 professional person shall notify the department of the admission.

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

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

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

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

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

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

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

29 NEW SECTION. Sec. 15. A new section is added to chapter 71.34 RCW  
30 to read as follows:

31 The ability of a parent to apply to a certified evaluation and  
32 treatment program for the admission of his or her minor does not create  
33 a right to obtain or benefit from any funds or resources of the state.  
34 The state may provide services for indigent minors to the extent that  
35 funds are available.

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

3       For the purposes of this chapter the following words and phrases  
4 shall have the following meanings unless the context clearly requires  
5 otherwise:

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

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

13       (3) "Approved treatment program" means a discrete program of  
14 chemical dependency treatment provided by a treatment program certified  
15 by the department of social and health services as meeting standards  
16 adopted under this chapter.

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

20       (5) "Chemical dependency program" means expenditures and activities  
21 of the department designed and conducted to prevent or treat alcoholism  
22 and other drug addiction, including reasonable administration and  
23 overhead.

24       (6) "Department" means the department of social and health  
25 services.

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

31       (8) "Director" means the person administering the chemical  
32 dependency program within the department.

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

35       (10) "Drug addiction" means a disease characterized by a dependency  
36 on psychoactive chemicals, loss of control over the amount and  
37 circumstances of use, symptoms of tolerance, physiological or  
38 psychological withdrawal, or both, if use is reduced or discontinued,

1 and impairment of health or disruption of social or economic  
2 functioning.

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

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

13 (13) "Incapacitated by alcohol or other psychoactive chemicals"  
14 means that a person, as a result of the use of alcohol or other  
15 psychoactive chemicals, has his or her judgment so impaired that he or  
16 she is incapable of realizing and making a rational decision with  
17 respect to his or her need for treatment and presents a likelihood of  
18 serious harm to himself or herself, to any other person, or to  
19 property.

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

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

25 (16) "Licensed physician" means a person licensed to practice  
26 medicine or osteopathic medicine and surgery in the state of  
27 Washington.

28 (17) "Likelihood of serious harm" means either: (a) A substantial  
29 risk that physical harm will be inflicted by an individual upon his or  
30 her own person, as evidenced by threats or attempts to commit suicide  
31 or inflict physical harm on one's self; (b) a substantial risk that  
32 physical harm will be inflicted by an individual upon another, as  
33 evidenced by behavior that has caused the harm or that places another  
34 person or persons in reasonable fear of sustaining the harm; or (c) a  
35 substantial risk that physical harm will be inflicted by an individual  
36 upon the property of others, as evidenced by behavior that has caused  
37 substantial loss or damage to the property of others.

38 (18) "Medical necessity" for inpatient care of a minor means a  
39 requested certified inpatient service that is reasonably calculated to:



1 (a) Diagnose, arrest, or alleviate a chemical dependency; or (b)  
2 prevent the worsening of chemical dependency conditions that endanger  
3 life or cause suffering and pain, or result in illness or infirmity or  
4 threaten to cause or aggravate a handicap, or cause physical deformity  
5 or malfunction, and there is no adequate less restrictive alternative  
6 available.

7 (19) "Medically appropriate" means a minor admitted by his or her  
8 parents to inpatient treatment under section 21 of this act has not  
9 sufficiently improved his or her condition to be released to a less  
10 restrictive setting.

11 (20) "Minor" means a person less than eighteen years of age.

12 ~~((19))~~ (21) "Parent" means the parent or parents who have the  
13 legal right to custody of the child. Parent includes custodian or  
14 guardian.

15 ~~((20))~~ (22) "Peace officer" means a law enforcement official of  
16 a public agency or governmental unit, and includes persons specifically  
17 given peace officer powers by any state law, local ordinance, or  
18 judicial order of appointment.

19 ~~((21))~~ (23) "Person" means an individual, including a minor.

20 ~~((22))~~ (24) "Professional person in charge" or "professional  
21 person" means a physician or chemical dependency counselor as defined  
22 in rule by the department, who is empowered by a certified treatment  
23 program with authority to make assessment, admission, continuing care,  
24 and discharge decisions on behalf of the certified program.

25 (25) "Secretary" means the secretary of the department of social  
26 and health services.

27 ~~((23))~~ (26) "Treatment" means the broad range of emergency,  
28 detoxification, residential, and outpatient services and care,  
29 including diagnostic evaluation, chemical dependency education and  
30 counseling, medical, psychiatric, psychological, and social service  
31 care, vocational rehabilitation and career counseling, which may be  
32 extended to alcoholics and other drug addicts and their families,  
33 persons incapacitated by alcohol or other psychoactive chemicals, and  
34 intoxicated persons.

35 ~~((24))~~ (27) "Treatment program" means an organization,  
36 institution, or corporation, public or private, engaged in the care,  
37 treatment, or rehabilitation of alcoholics or other drug addicts.

38 **VOLUNTARY CHEMICAL DEPENDENCY OUTPATIENT TREATMENT**

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

3       (~~(1)~~) Any person thirteen years of age or older may give consent  
4 for himself or herself to the furnishing of outpatient treatment by a  
5 chemical dependency treatment program certified by the department.  
6 (~~(Consent of the parent of a person less than eighteen years of age for~~  
7 ~~inpatient treatment is necessary to authorize the care unless the child~~  
8 ~~meets the definition of a child in need of services in RCW~~  
9 ~~13.32A.030(4)(c), as determined by the department.)~~) Parental  
10 authorization is required for any treatment of a minor under the age of  
11 thirteen. (~~(The parent of a minor is not liable for payment of care~~  
12 ~~for such persons pursuant to this chapter, unless they have joined in~~  
13 ~~the consent to the treatment.~~)

14       ~~(2) The parent of any minor child may apply to a certified~~  
15 ~~treatment program for the admission of his or her minor child for~~  
16 ~~purposes authorized in this chapter. The consent of the minor child~~  
17 ~~shall not be required for the application or admission. The certified~~  
18 ~~treatment program shall accept the application and evaluate the child~~  
19 ~~for admission. The ability of a parent to apply to a certified~~  
20 ~~treatment program for the admission of his or her minor child does not~~  
21 ~~create a right to obtain or benefit from any funds or resources of the~~  
22 ~~state. However, the state may provide services for indigent minors to~~  
23 ~~the extent that funds are available therefor.~~

24       ~~(3) Any provider of outpatient treatment who provides outpatient~~  
25 ~~treatment to a minor thirteen years of age or older shall provide~~  
26 ~~notice of the minor's request for treatment to the minor's parents if:~~  
27 ~~(a) The minor signs a written consent authorizing the disclosure; or~~  
28 ~~(b) the treatment program director determines that the minor lacks~~  
29 ~~capacity to make a rational choice regarding consenting to disclosure.~~  
30 ~~The notice shall be made within seven days of the request for~~  
31 ~~treatment, excluding Saturdays, Sundays, and holidays, and shall~~  
32 ~~contain the name, location, and telephone number of the facility~~  
33 ~~providing treatment, and the name of a professional person on the staff~~  
34 ~~of the facility providing treatment who is designated to discuss the~~  
35 ~~minor's need for treatment with the parent.)~~)

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

1 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 (1) The minor signs a written consent authorizing the disclosure; or  
5 (2) 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 **VOLUNTARY CHEMICAL DEPENDENCY INPATIENT TREATMENT**

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

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

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

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

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

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

32 **PARENT-INITIATED CHEMICAL DEPENDENCY TREATMENT**

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

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

6 (2) The consent of the minor is not required for admission,  
7 evaluation, and treatment if the parent brings the minor to the  
8 program.

9 (3) An appropriately trained professional person may evaluate  
10 whether the minor is chemically dependent. The evaluation shall be  
11 completed within twenty-four hours of the time the minor was brought to  
12 the program, unless the professional person determines that the  
13 condition of the minor necessitates additional time for evaluation. In  
14 no event shall a minor be held longer than seventy-two hours for  
15 evaluation without being admitted or released. If, in the judgment of  
16 the professional person, it is determined it is a medical necessity for  
17 the minor to receive inpatient treatment, the minor may be admitted.  
18 Prior to admission, the facility shall limit treatment to that which  
19 the professional person determines is medically necessary to stabilize  
20 the minor's condition. Within twenty-four hours of the admission the  
21 professional person shall notify the department of the admission.

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

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

27 (6) Any minor admitted to inpatient treatment under this section  
28 shall be discharged immediately from inpatient treatment upon written  
29 request of the parent.

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

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

1       (2)) The department shall ensure that, for any minor admitted to  
2 inpatient treatment under section 21 of this act, a review is conducted  
3 by a physician or chemical dependency counselor, as defined in rule by  
4 the department, who is employed by the department or an agency under  
5 contract with the department and who neither has a financial interest  
6 in continued inpatient treatment of the minor nor is affiliated with  
7 the program providing the treatment. The physician or chemical  
8 dependency counselor shall conduct the review no sooner than five days  
9 and no later than ((sixty)) ten days, excluding Saturdays, Sundays, and  
10 holidays, following admission to determine whether it is medically  
11 appropriate to continue the ((child's)) minor's treatment on an  
12 inpatient basis. ((The department may, subject to available funds,  
13 contract with a county for the conduct of the review conducted under  
14 this subsection and may seek reimbursement from the parents, their  
15 insurance, or medicaid for the expense of any review conducted by an  
16 agency under contract.

17       If the county-designated chemical dependency specialist determines  
18 that continued inpatient treatment of the child is no longer medically  
19 appropriate, the specialist shall notify the facility, the child, the  
20 child's parents, and the department of the finding within twenty-four  
21 hours of the determination.

22       (3) ~~For purposes of eligibility for medical assistance under~~  
23 ~~chapter 74.09 RCW, children in inpatient mental health or chemical~~  
24 ~~dependency treatment shall be considered to be part of their parent's~~  
25 ~~or legal guardian's household, unless the child has been assessed by~~  
26 ~~the department of social and health services or its designee as likely~~  
27 ~~to require such treatment for at least ninety consecutive days, or is~~  
28 ~~in out-of-home care in accordance with chapter 13.34 RCW, or the~~  
29 ~~child's parents are found to not be exercising responsibility for care~~  
30 ~~and control of the child. Payment for such care by the department of~~  
31 ~~social and health services shall be made only in accordance with rules,~~  
32 ~~guidelines, and clinical criteria applicable to inpatient treatment of~~  
33 ~~minors established by the department.)~~

34       (2) The department shall, at thirty-day intervals following the  
35 review conducted under subsection (1) of this section, conduct reviews  
36 of the treatment status of each minor admitted to inpatient treatment,  
37 under section 21 of this act, to determine whether it is medically  
38 appropriate to continue the minor's treatment under inpatient status.  
39 The reviews shall be conducted by a physician or chemical dependency

1 counselor, as defined in rule by the department, who is employed by the  
2 department, or an agency under contract with the department, and who  
3 neither has a financial interest in continued inpatient treatment of  
4 the minor nor is affiliated with the program providing the treatment.

5 (3) In making a determination under subsection (1) or (2) of this  
6 section whether it is medically appropriate to release the minor from  
7 inpatient treatment, the department shall consider the opinion of the  
8 treatment provider, the safety of the minor, the likelihood the minor's  
9 chemical dependency recovery will deteriorate if released from  
10 inpatient treatment, and the wishes of the parent.

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

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

30 NEW SECTION. Sec. 23. A new section is added to chapter 70.96A  
31 RCW to read as follows:

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

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

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

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

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

17 NEW SECTION. **Sec. 25.** It is the purpose of sections 21 and 23 of  
18 this act to assure the ability of parents to exercise reasonable,  
19 compassionate care and control of their minor children when there is a  
20 medical necessity for treatment and without the requirement of filing  
21 a petition under chapter 70.96A RCW.

22 NEW SECTION. **Sec. 26.** Part headings used in this act do not  
23 constitute any part of the law.

24 NEW SECTION. **Sec. 27.** The department of social and health  
25 services shall adopt rules defining "appropriately trained professional  
26 person" for the purposes of conducting mental health and chemical  
27 dependency evaluations under sections 13(3), 14(1), 21(3), and 23(1) of  
28 this act."

29 **ESSB 5082** - CONF REPT  
30 By Conference Committee

31

32 On page 1, line 2 of the title, after "minors;" strike the  
33 remainder of the title and insert "amending RCW 71.34.010, 71.34.020,

1 71.34.025, 71.34.030, 70.96A.095, and 70.96A.097; reenacting and  
2 amending RCW 70.96A.020; adding new sections to chapter 71.34 RCW;  
3 adding new sections to chapter 70.96A RCW; creating new sections; and  
4 providing an expiration date."

--- END ---