

HOUSE BILL REPORT

SSB 6208

As Passed House - Amended:

March 6, 1998

Title: An act relating to at-risk youth.

Brief Description: Revising procedures for at-risk youth.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Long, Franklin, Winsley and Oke).

Brief History:

Committee Activity:

Children & Family Services: 2/24/98, 2/26/98 [DPA];

Appropriations: 2/28/98 [DPA(CFS/APP)s].

Floor Activity:

Passed House - Amended: 3/6/98, 98-0.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: Do pass as amended. Signed by 11 members: Representatives Cooke, Chairman; Boldt, Vice Chairman; Bush, Vice Chairman; Tokuda, Ranking Minority Member; Kastama, Assistant Ranking Minority Member; Ballasiotes; Carrell; Dickerson; Gombosky; McDonald and Wolfe.

Staff: Douglas Ruth (786-7134).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Children & Family Services as such amendment is amended by Committee on Appropriations. Signed by 31 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Dyer; Grant; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Staff: Jason Hall (786-7145).

Background: In 1995, the Legislature passed a comprehensive act dealing with runaway, truant, and at-risk youth. The act is commonly referred to as the Becca Bill. Part of the act dealt with parents' rights to seek chemical dependency and mental health treatment for their minor children. The Legislature intended to broaden parents' rights to seek professional help for their children without the necessity of a court proceeding.

The Washington State Supreme Court ruled, in *State v. CPC Fairfax Hospital*, 129 Wn2d 439 (1996), that the mental health treatment process set up by the Becca Bill allowed a child to be released from treatment upon his or her request, unless the parents filed a petition under the state's involuntary commitment procedures. The child who was the subject of the *CPC Fairfax* case was not released upon her request, nor did her parents file a petition with the court. The court therefore ruled that the child's due process rights were violated. The court did not rule on the constitutionality of the ability of parents to seek treatment for their children.

In 1997, the Legislature passed ESSB 5082 in response to the court's ruling in *Fairfax*. The Governor vetoed the bill in its entirety citing due process and fiscal concerns.

A second part of the Becca Bill was the establishment of secure crisis residential centers for at-risk youth who have run away from home. The department was given the option to contract with private organizations to provide Crisis Residential Centers (CRCs). The selection and operation of the centers are regulated by many provisions of the bill. One regulation prohibits the placement of secure CRCs on the grounds of detention or corrections facilities unless there are no other practical locations for secure CRCs.

Similarly, the department was directed to establish staff-secure facilities for long-term placement of at-risk youth. The courts were authorized to order placement of youth at these facilities for treatment.

A third component of the 1995 Becca Bill provided parents court access to deal with issues relating to their children's behavior. Those petitions are known as "Children in Need of Special Services" (CHINS) and "At-Risk Youth" (ARY) petitions. Violations of court orders entered in response to CHINS and ARY petitions are punishable by contempt of court. Two recent appellate court decisions have limited the use of contempt in CHINS and ARY proceedings.

As a means of getting youth off the streets and into treatment, the Becca Bill also made harboring at-risk youth a crime. To be guilty of harboring, a person must fail to disclose the location of a runaway, prevent the release of the child to an officer, assist the runaway in avoiding an officer, or obstruct an officer in detaining a runaway. Harboring is punishable as a gross misdemeanor. The Becca Bill also required persons to report the whereabouts of runaway youth.

Summary of Amended Bill:

COMMITMENT TO MENTAL HEALTH OR SUBSTANCE ABUSE TREATMENT

The processes for the admission of a child to mental health or chemical dependency treatment are clarified by clearly separating the procedures for: (1) voluntary outpatient and inpatient treatment, (2) parent-initiated treatment, and (3) court-authorized involuntary treatment petitions.

Mental health and chemical dependency treatment of children is allowed, without the child's consent, when the decision is made by a medical professional at the request of a parent.

Admitting professionals may admit a child to treatment when the professional determines the treatment is medically necessary. The professional must be appropriately trained, as provided by rule, to conduct the evaluation. The evaluation must be completed within 24 hours unless the professional determines additional time is necessary. The child cannot be held longer than 72 hours without being admitted or discharged. During the evaluation period, the professional may only provide such treatment as necessary to stabilize the child's condition. The child must be provided with a statement of his or her rights within 72 hours of admission.

An independent review of the professional's decision to treat the child occurs between 7 and 14 days after admission to the mental health or chemical dependency facility. The independent review is made on the basis of whether the continued treatment is medically necessary. The review must be conducted by a professional person, but the department may contract out the reviews.

Five days after the independent review, the child may file a petition requesting court review. At the court hearing, the facility or parents must show the medical necessity for continued treatment.

Thirty days after the independent review or judicial review, whichever is later, a professional person or a county designated mental health professional must file a petition under the Involuntary Treatment Act or the child must be released.

Minors who admit themselves to treatment must be discharged once they have requested release. Similarly, discharge must occur when a parent requests release of his or her self-admitted child.

Parents will be notified of their child's chemical dependency treatment only if the child consents to the notice or the treatment provider determines the child lacks the capacity to provide consent to the notice. These notice restrictions for chemical dependency treatment are based upon federal law.

The Department of Health must conduct a survey of providers of mental health services to minors. The survey collects information relating to parental notification of their minor children's outpatient mental health treatment.

CRC REQUIREMENTS AND COUNTY CONTROL OF TREATMENT CENTERS

The department's duty to provide staff-secure treatment facilities and services for at-risk youth under RCW 13.32A.197 may be delegated to the counties. A county, or group of counties, may present to the department an application and plan for administering the facilities and services for their youth population.

Funds may be distributed according to criteria formed by the department, but the criteria must include a county's at-risk population, rate of poverty, per capita income among other demographic criteria. Funds shall be distributed on a reimbursement basis once the county meets the terms of its plan. The funds given to counties may not replace local funds for existing programs and may not exceed the biennial appropriations for these facilities and services. County administered treatment facilities must be licensed by the department and appropriately staffed. A county may not restrict use of the treatment center to its residents.

The department or a county may locate a secure CRC on the grounds of a detention center. The staffing ratio at secure CRCs is changed from no more than three to eight, to no less than one to 10.

CONTEMPT PROCEDURES

The type of contempt sanctions available to a court, and the process for imposing them, are clarified. The current contempt sanctions for truancy, dependency and at-risk youth actions are declared civil (remedial) contempt sanctions. The court will use the civil contempt procedure for processing contempt actions. This process does not require the involvement of a prosecuting attorney.

HARBORING RUNAWAYS

The crime of unlawful harboring is expanded to include providing shelter to a runaway with the intent to engage the child in a crime or contribute to the child's delinquency. Failing to report the location of a runaway for the same reason is made a misdemeanor crime.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (Children & Family Services) The bill responds to the concerns and inconsistencies in the statute identified by the supreme court in the Fairfax decisions. It allows well intentioned parents to get treatment for their child, while insuring that malevolent parents do not abuse the mental health and chemical dependency treatment procedures. It addresses the concerns of the Governor regarding due process for these children. The bill is an improvement over the current procedure and past proposals. Further improvements could be made by notifying the department of parental admissions, by remedying inconsistent provisions regarding release of a voluntarily admitted child, and by eliminating the time period for admissions.

(Appropriations) None.

Testimony Against: (Children & Family Services) Some parents send their children out of the country to treatment programs that are unhealthy for children. This bill encourages this activity. The medical necessity definition creates a low standard of admissions since mental disorder includes many types of behaviors that are not connected to a mental illness. The bill violates due process since it relies on a biased professional to decide whether it is medically necessary for a child to receive inpatient treatment. The professional has a fiduciary interest in having the child admitted. Since the average stay for a minor is 14 days, many minors will not receive an independent review of their admission prior to release. Federal reports indicate that fraudulent practices do occur at mental health hospitals. Without independent review, private hospitals may admit children to increase their revenues, not because the child has a condition which needs treatment. The bill does not prevent this scenario. Mental health treatment is only marginally effective anyway. A recent state report indicates that 75 percent of patients do not improve with hospitalization.

(Appropriations) None.

Testified: (Children & Family Services) Senator James Hargrove (prime sponsor); Bill France, Snohomish County Prosecutor's Office (concerns); Richard Warner, Citizens Commission on Human Rights (con); Jann Hoppler, DSHS Mental Health (pro with concerns); and Martha Harden, Superior Court Judges Association (pro with concerns).

(Appropriations) None.