HOUSE BILL REPORT
ESSB 5082

As Passed House-Amended:
April 11, 1997

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

Brief Description: Revising procedures for mental health and chemical dependency treatment for minors.

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

Brief History:
Committee Activity:
Children & Family Services: 3/25/97, 4/1/97 [DPA].
Floor Activity:
Passed House-Amended: 4/11/97, 89-7.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: Do pass as amended. Signed by 10 members: Representatives Cooke, Chairman; Boldt, Vice Chairman; Bush, Vice Chairman; Tokuda, Ranking Minority Member; Kastama, Assistant Ranking Minority Member; Ballasiotes; Dickerson; Gombosky; McDonald and Wolfe.

Minority Report: Do not pass. Signed by 1 member: Representative Carrell.

Staff: Douglas Ruth (786-7134).

Background: Prior to enactment of the Becca Bill in 1995, two methods existed for admitting a child to a mental hospital: voluntary and involuntary admissions. The Becca Bill created a new procedure for admitting a child to a mental health facility: parental admission. The intent of the new procedure was to broaden parents' rights to seek professional help for their children without the necessity of a court proceeding. Like voluntary admissions, the parental admissions procedure requires that the professional in charge determine that the child is in need of treatment, that the facility provides the type of treatment needed, and that there are no other lesser restrictive treatment settings for the child.

Under both parental and voluntary procedures, the designated county medical health professional may review a child's admission between 15 and 30 days after the

admission. The Department of Social and Health Services is required to review the medical appropriateness of all admissions 60 days after admission.

In June 1996, the Washington State Supreme Court heard the case *State of Washington v. CPC Fairfax Hospital*. The case involved a parentally-admitted child who had demanded release, but was not allowed to discharge herself. The court examined whether a statutory provision requiring facilities to either release within 24 hours a *voluntarily* admitted child who demands release, or file an involuntary petition to commit the child applies to parentally-admitted children. The court held that the provision does apply to parentally-admitted children and that the Fairfax facility violated the law by neither releasing the child who was the subject of the case nor filing an involuntary commitment petition.

The admission procedures for chemical dependency treatment are similar to those for mental health treatment. A child may be admitted voluntarily, involuntarily, or by parental consent. Involuntary admissions require court authorization. For voluntary admissions, parental consent is necessary unless the child is older than 13 and meets the definition of a child in need of services. Parental admission is permitted for children of all ages regardless of whether the child consents.

Voluntary and parental admissions must be reviewed by the department no later than 60 days following admission. The county designated chemical dependency specialist may review a child's admission between 15 and 30 days following the admission.

Summary of Bill: The procedures for involuntary, parental, and voluntary inpatient and outpatient admissions are clarified by reorganizing and clearly separating the procedures in statute. The procedures for parental and voluntary admission of a child to mental health and chemical dependency treatment are modified.

Parent-Initiated Mental Health and Chemical Dependency Inpatient Treatment

Mental health and chemical dependency treatment of children is allowed, without the child's consent, when the decision to admit the child is made by a medical professional at the request of a parent. Within 24 hours of a child's arrival at a facility, a professional must determine if treatment is a medical necessity–. Medical necessity is defined as:

> a requested service which is reasonably calculated to: (a) diagnose, correct, cure, or alleviate a mental disorder or chemical dependency; or (b) prevent the worsening of mental or chemical dependency conditions that endanger life or cause suffering and pain, or result in illness or infirmity or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no adequate less restrictive alternative available.–

The child cannot be held longer than 72 hours without being admitted or discharged. The professional person conducting the evaluation may be a social worker, but only if certified and trained in psychiatric social work.

Within 72 hours of admission, the department must review the professional's decision to treat the child. The department may contract out the reviews, but the person conducting the reviews must not have a financial interest in the treatment of the child nor be affiliated with the facility providing treatment. The purpose of the review is to determine whether the child's condition has sufficiently improved to be released to a less restrictive setting. During the 72 hours, the facility may only provide treatment which is necessary to stabilize the child's condition. Subsequent department reviews of the child's commitment are provided every 30 days.

If the department finds that it is medically appropriate for the child to be released, the facility must discharge the child to his or her parents' care. If the parents and medical professional disagree with the department's finding, the child may be held for two judicial days so the parent may file an at-risk youth– (ARY) petition in court. Upon release, the department may recommend outpatient treatment for the child. A child's refusal to participate in outpatient treatment is grounds for filing an ARY petition.

At any time after the initial review by the department, the child, the parents, or the department may convene a multidisciplinary team– to assist the family in accessing other services to promote family reconciliation.

If after the department's third 30-day review the child has not been released, the department must file a petition in court for an involuntary commitment hearing. The child and the parents must be given notice of the petition.

A child's parents may demand release of a child at any time, however a child may not gain release through a notice of intent to leave.

Voluntary Mental Health Inpatient Treatment

A facility must immediately discharge a child on the written request of the child's parent.

Periodic review by the department and the county designated mental health professional are eliminated. The current requirements of annual verification of a child's wish to continue voluntary treatment and independent review of a child's condition every 180 days are preserved.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: 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. The current procedures provide for minimal review of parental admission decisions, while the bill provides for reviews 7 days after admission and every 30 days thereafter. The alternate procedure for parents to receive treatment for their child, the involuntary treatment process, is often impractical because of the expenses involved. The review by the department is delayed seven days to allow the child to dry out– and to receive counseling.

Testimony Against: Parental notification will drive children away from applying for outpatient treatment. This hurts parents, since they are more concerned that their children seek treatment than they are with notification. Notification also thwarts any efforts by the professional to build trust between parent and child. Mandating parental notification is unnecessary since current medical practice favors including parents in outpatient care early in the treatment. The exceptions to parental notification provided in the bill require unrealistic actions by the department. 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. Review of this admission decision is provided too late to protect a child. Seven days is too long for a child to stay confined without review. The standard for that review only considers the validity of continuing treatment, not the validity of the original admission decision. 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. It is better to revise the involuntary commitment procedure than to circumvent it through parent-initiated admissions.

Testified: Senator Jim Hargrove, prime sponsor; Seth Dawson, Common Ground for Children (con); Richard Warner, Citizen Commission on Human Rights (con); Rachael Myers, Washington State Coalition for the Homeless (con); Mary Cox, parent (con); Elaine Simons, Peace for the Streets by Kids from the Streets (con); Twilight, Peace for the Streets by Kids from the Streets (con); Roxanne Manly, family counselor (con); Terry Kohl, Washington State Psychological Association (con); Dr. David Stedman, citizen (con); Robert Good, citizen (con); and Jann Hoppler, Department of Social and Health Services (con).