

SENATE BILL REPORT

E2SHB 1938

As Reported By Senate Committee On:
Human Services & Corrections, April 1, 1997

Title: An act relating to at-risk youth.

Brief Description: Changing provisions relating to at-risk youth.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Carrell, Cooke, Talcott, Cairnes, Mulliken, Sterk, Huff, L. Thomas, Reams, D. Schmidt, McMorris, Robertson, Hickel, Mitchell, Buck, D. Sommers, B. Thomas, Delvin and Backlund).

Brief History:

Committee Activity: Human Services & Corrections: 3/25/97, 4/1/97 [DPA, DNPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Long, Chair; Franklin, Hargrove, Schow and Stevens.

Minority Report: Do not pass as amended.

Signed by Senator Kohl.

Staff: Richard Rodger (786-7461)

Background: During the 1995 session, the Legislature passed a comprehensive act to address the problems of runaway, truant, and at-risk youth. The goal of the legislation was to provide increased protection for children who engage in harmful acts or behaviors, and to give parents, the Department of Social and Health Services (DSHS), schools, courts, and law enforcement additional tools to help these children.

Mental Health and Chemical Dependency. The Washington State Supreme Court ruled, in *State v. CPC Fairfax Hospital*, 129 Wn2d 439 (1996), 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.

It has been suggested that the Legislature clarify the statute to: (1) allow parents to seek treatment for their children without the need of a judicial process; (2) prohibit treatment facilities from releasing children, upon the child's request, when they were admitted to the facility at the request of their parents; and (3) ensure that only medical professionals, and

not parents, are authorized to file petitions for court-ordered treatment under the current statutes.

It has also been suggested, consistent with the Supreme Court's ruling, that the Legislature create: (1) a standard for the admission of a child to treatment, upon the request of a parent, that is lower than the standard for a petition for involuntary treatment; and (2) a standard of review for the independent professionals to use when reviewing the appropriateness of the child's treatment.

Crisis Residential Centers. When a law enforcement officer takes a child into custody, the officer must take the child to the parents, a crisis residential center (CRC), or DSHS. Upon the parent's request, the officer may take the child to a family member, responsible adult, CRC, DSHS, or a licensed youth shelter.

If no parent is available or willing to remove a child from a CRC within five days, DSHS must consider filing a child in need of services (CHINS) petition.

In a CHINS proceeding, the court may order the department to submit a dispositional plan that addresses the needs of the child.

Truancy. Schools are required to file a petition in juvenile court when a student accumulates at least five, and not more than seven unexcused absences in a month, or ten unexcused absences in a year. If the allegations in the truancy petition are established by a preponderance of the evidence, the court must assume jurisdiction to intervene for the remainder of the school year. The court may order the student to attend school, or be referred to a community truancy board. If the student fails to comply with the court's order, the court can impose a variety of sanctions, including detention, fines, or community service.

Summary of Amended Bill: Mental Health and Chemical Dependency. 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.

New definitions of medical necessity— and medically appropriate— treatment of minors are provided. Admitting professionals may only 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.

The independent review of the professional's decision to treat the child is made on the basis of whether the continued treatment is medically appropriate. The review must be conducted by a professional person and occurs between seven and 14 days after admission to treatment. Subsequent reviews are provided every 30 days. The department may contract out the independent reviews. The child must be released upon written request of the parent.

If the department determines that the treatment is no longer medically appropriate, and the parents and the treating professional disagree, the facility may hold the child for up to two judicial days in order to allow the parents to file an At-Risk Youth Petition with the court.

Parents are notified when their children seek voluntary mental health treatment. The notice is provided after the child's third visit to a treatment provider. The notice may be deferred, to allow for an investigation by the Department of Social and Health Services, if there are allegations of abuse or if the treatment provider believes the notice will interfere with necessary treatment.

Parents are 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. The chemical dependency notice provision is based upon federal law.

Crisis Residential Centers. A definition for a "staff secure" group care facility is created. The facility has a staffing ratio of one adult to every two children.

After an officer brings a child to DSHS, the department may place the child in a CRC or out-of-home placement for up to 72 hours, excluding weekends and holidays. The department must consider filing a CHINS petition for a child if no parent has taken the child from a CRC within the first 72 hours.

In a CHINS proceeding, the court may order a dispositional plan to be prepared that addresses the needs of the child. The plan must address the needs of the parents if the parents agree or if an out-of-home placement has been ordered at the request of the child or department, otherwise the plan may only recommend voluntary services for the parents.

Truancy. The length of the court's jurisdiction over a truant student is changed from the end of the school year to a period of time necessary to cause the student to return and remain in school. The list of actions that a court may order for a student subject to a truancy petition is expanded to include requiring the student submit to drug or alcohol testing.

Truancy petitions must include the child's history of truancy orders. The attendance officer need not testify regarding certified school records. In entering a truancy order, the child's truancy history may be considered by the court.

Amended Bill Compared to Substitute Bill: The provisions creating a misdemeanor offense to fail to report the location of a runaway child and allowing a court to place a child with behavioral difficulties in a secure facility are removed. The following provisions are added: (1) mental health and chemical dependency provisions; (2) a definition for "staff secure" facilities; (3) the court's dispositional plan may, under certain circumstances, include addressing the needs of the parents; and (4) the court may order a truant may be required to submit to drug or alcohol testing.

Appropriation: None.

Fiscal Note: Available on original bill.

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

Testimony For: This bill addresses youth who repeatedly violate court orders for CHINS, ARY and truancy petitions.

Testimony Against: Kids should be able to ask the court to order their parents to counseling. Runaway youth are being taken to detention, not to crisis residential centers.

Testified: Representative Mike Carrell, original prime sponsor; Elaine Simons, et al, Peace for the Streets (con).