

FINAL BILL REPORT

ESSB 5082

FULL VETO

As Passed Legislature

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).

Senate Committee on Human Services & Corrections

House Committee on Children & Family Services

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 (Chapter 312, Laws of 1995). 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 Wn.2d 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.

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.

Summary: 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. During the evaluation period, the professional may only provide such treatment as necessary to stabilize the child's condition.

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 five and ten days, excluding weekends and holidays, after admission to treatment. Subsequent reviews are provided every 30 days. After the third 30-day review, the Department of Social and Health Services must file a petition under the Involuntary Treatment Act. 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.

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 mental health 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.

Votes on Final Passage:

Senate	35	14	
House	89	7	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	82	15
Senate	37	6