

SENATE BILL REPORT

SB 5082

As Reported By Senate Committee On:
Human Services & Corrections, February 12, 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: Senators Hargrove, Long, Franklin, Oke and Winsley.

Brief History:

Committee Activity: Human Services & Corrections: 1/22/97, 2/12/97 [DPS, DNP].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5082 be substituted therefor, and the substitute bill do pass.

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

Minority Report: Do not pass.

Signed by Senator Kohl.

Staff: Richard Rodger (786-7461)

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 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.

Summary of Substitute Bill: 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 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.

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.

Substitute Bill Compared to Original Bill: The professional must be appropriately trained 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. Independent reviews of the treatment decision must be conducted by professional persons.

Parental notice of a child's mental health outpatient treatment is provided after the child's third visit to a treatment provider.

A technical change to the involuntary commitment statute is removed.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The bill balances the protections for children while lowering the onerous requirements of the involuntary commitment process for parents. The bill creates a medical-type model which provides a substantial basis to determine whether the treatment of a child is necessary. At the present time a judicial review of the treatment decision is not required.

Testimony Against: The notification provision for the mental health treatment will discourage children from seeking treatment. The chemical dependency notification provision is a better approach and should be used for mental health also. This bill does not fit within the scope of the U.S. Supreme Court decision in *Parham v. J.R.* We should not stack the deck in favor of parents who may be abusing their child. The limitation on social workers which prevents them from making treatment admission decisions should be removed.

Testified: Terry Ryan, Attorney General's Office; Chris Kessler (concerns); Rachael Meyers, Homeless Youth Task Force; Richard Warner, Citizen's Commission on Human Rights (con); Seth Dawson, Common Ground for Children (con - one section); Scott Kasemeier (con); Linda Grant, Assoc. of Alcoholism & Addiction Programs.