
SECOND SUBSTITUTE HOUSE BILL 1034

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Mulliken, Backlund, McMorris, Koster, Johnson, Thompson, Boldt, Sheahan, Sherstad, Smith and Mielke)

Read first time 03/10/97.

1 AN ACT Relating to the restoration of parents' rights; amending RCW
2 70.96A.095, 71.34.030, 70.24.110, 70.24.105, 13.32A.082, 28A.230.070,
3 and 46.20.292; reenacting and amending RCW 70.96A.020; adding new
4 sections to chapter 26.28 RCW; adding a new section to chapter 28A.320
5 RCW; adding a new section to chapter 13.40 RCW; creating new sections;
6 prescribing penalties; and declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** The legislature finds there has been a
9 gradual encroachment by the state into the fundamental rights of
10 parents to exercise legitimate care, responsibility, and guidance over
11 the upbringing of their children. The legislature also finds
12 government's failure to adequately support reasonable attempts by
13 parents to guide, discipline, and prepare their children for a
14 productive, fulfilling life has contributed to the breakdown in the
15 family unit and is harmful to society.

16 The result is a breakdown in the traditional role of the family as
17 the primary provider, protector, and promoter of the health, safety,
18 and well-being of children and of the basic values and character traits
19 essential for attaining individual liberty, fulfillment, and happiness.

1 This act is intended to ensure parents can rightfully guide and
2 direct the affairs of their minor children. This act is also intended
3 to ensure government appropriately respects and reinforces those
4 rights, and to facilitate parents in meeting the responsibilities
5 inherent in bearing and raising young children. The legislature
6 recognizes upholding the rights of parents is in the best interest of
7 the families and minor children of Washington state.

8 This act is also intended to assist parents in furthering the
9 following important values: (1) Honesty, integrity, and trust; (2)
10 respect for self and others; (3) responsibility for personal actions
11 and commitments; (4) self-discipline and moderation; (5) diligence and
12 a positive work ethic; (6) respect for law and authority; (7) healthy
13 and constructive behavior; and (8) family as the basis of society.

14 Neither the state of Washington, nor its political subdivisions,
15 should by any means enact or enforce any policy that supersedes or
16 infringes upon the abilities and the rights of parents as recognized
17 and protected by this act.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.28 RCW
19 to read as follows:

20 (1) Except as provided in section 5, 6, or 7 of this act, a person
21 may not provide health care to an unemancipated minor child unless:
22 (a) The health care provider has first obtained the signed consent of
23 the minor child's parent or legal guardian; or (b) in the good faith
24 clinical judgment of a licensed nurse or physician, a medical emergency
25 exists that necessitates the immediate provision of medical care in
26 order to avert the death of the minor child or for which a delay will
27 create a serious risk of substantial and irreversible impairment of a
28 major bodily function.

29 (2) A parent or legal guardian of an unemancipated minor child has
30 the right to be notified and present whenever the minor child is
31 receiving health care, unless a court order has been issued prohibiting
32 the parent or legal guardian from contact with the minor child.
33 However, a physician may exclude the presence of a parent or legal
34 guardian when in the physician's good faith clinical judgment the
35 presence threatens the success of a medical procedure, treatment,
36 diagnosis, or examination that involves the physical touching of the
37 minor child.

1 For the purposes of this section, "health care" means any mental or
2 physical health service, including medical care; "medical care" means
3 any medical procedure, treatment, diagnosis, or examination that
4 involves the physical touching of the minor child, or any consultation,
5 that is performed by a person licensed in this state to provide health
6 care; and "physician" means a person licensed to practice medicine or
7 osteopathy in this state.

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 26.28 RCW
9 to read as follows:

10 Except as provided in chapter 9.02 RCW, an invasive medical
11 procedure may not be performed upon an unemancipated minor child unless
12 the physician has first obtained the signed consent of the child's
13 parent or legal guardian.

14 This prior written consent requirement does not apply if, on the
15 basis of a physician's good faith clinical judgment, a medical
16 emergency exists that necessitates the immediate performance of an
17 invasive medical procedure so as to avert the death of the child or for
18 which a delay will create a serious risk of substantial and
19 irreversible impairment of a major bodily function.

20 **Sec. 4.** RCW 70.96A.020 and 1996 c 178 s 23 and 1996 c 133 s 33 are
21 each reenacted and amended to read as follows:

22 For the purposes of this chapter the following words and phrases
23 shall have the following meanings unless the context clearly requires
24 otherwise:

25 (1) "Alcoholic" means a person who suffers from the disease of
26 alcoholism.

27 (2) "Alcoholism" means a disease, characterized by a dependency on
28 alcoholic beverages, loss of control over the amount and circumstances
29 of use, symptoms of tolerance, physiological or psychological
30 withdrawal, or both, if use is reduced or discontinued, and impairment
31 of health or disruption of social or economic functioning.

32 (3) "Approved treatment program" means a discrete program of
33 chemical dependency treatment provided by a treatment program certified
34 by the department of social and health services as meeting standards
35 adopted under this chapter.

1 (4) "Chemical dependency" means alcoholism or drug addiction, or
2 dependence on alcohol and one or more other psychoactive chemicals, as
3 the context requires.

4 (5) "Chemical dependency program" means expenditures and activities
5 of the department designed and conducted to prevent or treat alcoholism
6 and other drug addiction, including reasonable administration and
7 overhead.

8 (6) "Department" means the department of social and health
9 services.

10 (7) "Designated chemical dependency specialist" means a person
11 designated by the county alcoholism and other drug addiction program
12 coordinator designated under RCW 70.96A.310 to perform the commitment
13 duties described in RCW 70.96A.140 and qualified to do so by meeting
14 standards adopted by the department.

15 (8) "Director" means the person administering the chemical
16 dependency program within the department.

17 (9) "Drug addict" means a person who suffers from the disease of
18 drug addiction.

19 (10) "Drug addiction" means a disease characterized by a dependency
20 on psychoactive chemicals, loss of control over the amount and
21 circumstances of use, symptoms of tolerance, physiological or
22 psychological withdrawal, or both, if use is reduced or discontinued,
23 and impairment of health or disruption of social or economic
24 functioning.

25 (11) "Emergency service patrol" means a patrol established under
26 RCW 70.96A.170.

27 (12) "Gravely disabled by alcohol or other drugs" means that a
28 person, as a result of the use of alcohol or other drugs: (a) Is in
29 danger of serious physical harm resulting from a failure to provide for
30 his or her essential human needs of health or safety; or (b) manifests
31 severe deterioration in routine functioning evidenced by a repeated and
32 escalating loss of cognition or volitional control over his or her
33 actions and is not receiving care as essential for his or her health or
34 safety.

35 (13) "Incapacitated by alcohol or other psychoactive chemicals"
36 means that a person, as a result of the use of alcohol or other
37 psychoactive chemicals, has his or her judgment so impaired that he or
38 she is incapable of realizing and making a rational decision with
39 respect to his or her need for treatment and presents a likelihood of

1 serious harm to himself or herself, to any other person, or to
2 property.

3 (14) "Incompetent person" means a person who has been adjudged
4 incompetent by the superior court.

5 (15) "Intoxicated person" means a person whose mental or physical
6 functioning is substantially impaired as a result of the use of alcohol
7 or other psychoactive chemicals.

8 (16) "Licensed physician" means a person licensed to practice
9 medicine or osteopathic medicine and surgery in the state of
10 Washington.

11 (17) "Likelihood of serious harm" means either: (a) A substantial
12 risk that physical harm will be inflicted by an individual upon his or
13 her own person, as evidenced by threats or attempts to commit suicide
14 or inflict physical harm on one's self; (b) a substantial risk that
15 physical harm will be inflicted by an individual upon another, as
16 evidenced by behavior that has caused the harm or that places another
17 person or persons in reasonable fear of sustaining the harm; or (c) a
18 substantial risk that physical harm will be inflicted by an individual
19 upon the property of others, as evidenced by behavior that has caused
20 substantial loss or damage to the property of others.

21 (18) "Minor" means a person less than eighteen years of age.

22 (19) "Parent" means (~~the parent or parents who have the legal~~
23 ~~right to custody of the child. Parent includes custodian or guardian~~)
24 (a) a biological or adoptive parent who has legal custody of the child,
25 including either parent if custody is shared under a joint custody
26 agreement; or (b) a person or agency judicially appointed as legal
27 guardian or custodian of the child.

28 (20) "Peace officer" means a law enforcement official of a public
29 agency or governmental unit, and includes persons specifically given
30 peace officer powers by any state law, local ordinance, or judicial
31 order of appointment.

32 (21) "Person" means an individual, including a minor.

33 (22) "Secretary" means the secretary of the department of social
34 and health services.

35 (23) "Treatment" means the broad range of emergency,
36 detoxification, residential, and outpatient services and care,
37 including diagnostic evaluation, chemical dependency education and
38 counseling, medical, psychiatric, psychological, and social service
39 care, vocational rehabilitation and career counseling, which may be

1 extended to alcoholics and other drug addicts and their families,
2 persons incapacitated by alcohol or other psychoactive chemicals, and
3 intoxicated persons.

4 (24) "Treatment program" means an organization, institution, or
5 corporation, public or private, engaged in the care, treatment, or
6 rehabilitation of alcoholics or other drug addicts.

7 **Sec. 5.** RCW 70.96A.095 and 1996 c 133 s 34 are each amended to
8 read as follows:

9 ~~(1) ((Any person thirteen years of age or older may give consent
10 for himself or herself to the furnishing of outpatient treatment by a
11 chemical dependency treatment program certified by the department.
12 Consent of the parent of a person less than eighteen years of age for
13 inpatient treatment is necessary to authorize the care unless the child
14 meets the definition of a child in need of services in RCW
15 13.32A.030(4)(c), as determined by the department. Parental
16 authorization is required for any treatment of a minor under the age of
17 thirteen. The parent of a minor is not liable for payment of care for
18 such persons pursuant to this chapter, unless they have joined in the
19 consent to the treatment.~~

20 ~~(2) The))~~ A parent or legal guardian of ~~((any))~~ an unemancipated
21 minor child may apply to a certified treatment program for the
22 admission of his or her minor child for purposes authorized in this
23 chapter. The consent of the minor child shall not be required for the
24 application or admission. The certified treatment program shall accept
25 the application and evaluate the minor child for admission. The
26 ability of a parent or legal guardian to apply to a certified treatment
27 program for the admission of his or her unemancipated minor child does
28 not create a right to obtain or benefit from any funds or resources of
29 the state. However, the state may provide services for indigent
30 minor~~((s))~~ children to the extent that funds are available therefor.

31 ~~((3) Any provider of outpatient treatment who provides outpatient
32 treatment to a minor thirteen years of age or older shall provide
33 notice of the minor's request for treatment to the minor's parents if:
34 (a) The minor signs a written consent authorizing the disclosure; or
35 (b) the treatment program director determines that the minor lacks
36 capacity to make a rational choice regarding consenting to disclosure.
37 The notice shall be made within seven days of the request for
38 treatment, excluding Saturdays, Sundays, and holidays, and shall~~

1 ~~contain the name, location, and telephone number of the facility~~
2 ~~providing treatment, and the name of a professional person on the staff~~
3 ~~of the facility providing treatment who is designated to discuss the~~
4 ~~minor's need for treatment with the parent.))~~

5 (2) An unemancipated minor child may not receive outpatient or
6 inpatient treatment without the consent of the minor child's parent or
7 legal guardian, except as authorized in this subsection. A minor child
8 thirteen years of age or older may request and receive outpatient or
9 inpatient treatment without the consent of the minor child's parent or
10 legal guardian only under the following circumstances:

11 (a)(i) If in the judgment of the professional person in charge of
12 an evaluation and treatment facility, there is reason to believe that
13 the minor child is in need of outpatient or inpatient treatment, and if
14 the minor child is in need of inpatient treatment, that the facility
15 provides the type of evaluation and treatment the minor child needs and
16 it is not feasible to treat the minor child in a less restrictive
17 setting.

18 (ii) The minor child signs a declaration stating that the minor
19 child is unable or unwilling to obtain the consent of the minor child's
20 parent or legal guardian to the treatment and the reason the minor
21 child is unable or unwilling to obtain the consent of a parent or legal
22 guardian.

23 (iii) The professional person in charge of the evaluation and
24 treatment facility provides notification of the treatment being
25 considered to either the minor child's parent or legal guardian or the
26 department of social and health services. The notification must be
27 provided after completion of the first visit for outpatient treatment
28 or within twenty-four hours after the minor child is admitted to the
29 treatment facility for inpatient treatment but in either case before
30 the minor child receives treatment. The notification must contain the
31 location and telephone number of the facility that would provide the
32 treatment and the name of the professional person on the staff of the
33 facility who is designated to discuss the minor child's need for
34 treatment with the parent.

35 (iv) If the department of social and health services receives
36 notification of treatment services to be provided to an unemancipated
37 minor child without the consent of the minor child's parent or legal
38 guardian under (a)(iii) of this subsection, the department shall notify
39 the minor's parent or legal guardian of the treatment services to be

1 provided to the minor child and the treatment facility's determination
2 that the minor child is in need of treatment, and shall provide
3 services designed to resolve the conflict existing between the minor
4 child and the minor child's parent or legal guardian that is resulting
5 in the minor child's inability to seek or obtain the consent of the
6 parent or legal guardian to the treatment.

7 (v)(A) If the parent or legal guardian refuses to give consent to
8 the treatment after notification from the treatment facility or the
9 department of social and health services, the facility may not provide
10 treatment to the minor child and must release the minor child from
11 inpatient treatment upon the request of the parent or legal guardian,
12 unless the facility files a petition with the superior court of the
13 county in which treatment is to be provided setting forth the basis for
14 the facility's belief that the minor child is in need of inpatient or
15 outpatient treatment and that release or failure to provide outpatient
16 treatment would constitute a threat to the minor child's health or
17 safety.

18 (B) The petition must be signed by the professional person in
19 charge of the facility or that person's designee.

20 (C) The parent or legal guardian may apply to the court for
21 separate counsel to represent the parent or legal guardian if the
22 parent or legal guardian cannot afford counsel.

23 (D) A hearing shall be held on the petition within three judicial
24 days from the filing of the petition.

25 (E) The hearing must be conducted by a judge, court commissioner,
26 or licensed attorney designated by the superior court as a hearing
27 officer for the hearing. The hearing may be held at the treatment
28 facility.

29 (F) The facility must demonstrate by a preponderance of the
30 evidence presented at the hearing that the minor child is in need of
31 inpatient or outpatient treatment and that release or failure to
32 provide outpatient treatment would constitute a threat to the minor
33 child's health or safety. The hearing shall not be conducted using the
34 rules of evidence, and the admission or exclusion of evidence sought to
35 be presented shall be within the exercise of sound discretion by the
36 judicial officer conducting the hearing.

37 (b)(i) If the minor child alleges that a parent or legal guardian
38 has committed abuse or neglect, as defined in RCW 26.44.020, against
39 the minor child or against another person residing in the home of the

1 minor child and expresses fear or distress at the prospect of the
2 parent or legal guardian being notified, the minor child shall include
3 the allegations in the minor child's signed declaration.

4 (ii) If the minor child alleges abuse or neglect has occurred and
5 expresses fear or distress at the prospect of notification of the minor
6 child's parent or legal guardian, the professional person in charge of
7 the evaluation and treatment facility shall notify local law
8 enforcement of the allegations. If the officer believes there is a
9 possibility that the minor child is experiencing child abuse or
10 neglect, as defined in RCW 26.44.020, the law enforcement officer shall
11 take the minor child to a designated crisis residential center's secure
12 facility or a semi-secure facility if a secure facility is full, not
13 available, or not located within a reasonable distance.

14 (iii) If a crisis residential center is full, not available, or not
15 located within a reasonable distance, the law enforcement officer may
16 request the department of social and health services to accept custody
17 of the minor child. If the department determines that an appropriate
18 placement is currently available, the department shall accept custody
19 and place the minor child in an out-of-home placement. If the
20 department declines to accept custody of the minor child, the officer
21 may release the minor child after attempting to take the minor child to
22 the following, in the order listed: The home of an adult extended
23 family member; a responsible adult; a licensed youth shelter and shall
24 immediately notify the department of social and health services if no
25 placement option is available and the minor child is released.

26 (iv) If it is determined under (b)(ii) of this subsection that
27 there is a possibility that the minor child is experiencing abuse or
28 neglect, the minor child may receive outpatient or inpatient treatment
29 without the consent of the parent or legal guardian if the professional
30 person in charge of the treatment facility determines that failure to
31 provide treatment would constitute a threat to the minor child's health
32 or safety.

33 (v) The law enforcement agency releasing the minor child shall
34 notify either the minor child's parent or legal guardian of the final
35 placement or disposition of the minor child.

36 (3) A parent or legal guardian is not liable for evaluation or
37 treatment costs provided to a minor child without the consent of the
38 parent or legal guardian.

1 **Sec. 6.** RCW 71.34.030 and 1995 c 312 s 52 are each amended to read
2 as follows:

3 (1) ~~((Any minor thirteen years or older may request and receive~~
4 ~~outpatient treatment without the consent of the minor's parent.~~
5 ~~Parental authorization))~~ Written consent of a parent or legal guardian
6 is required for outpatient or inpatient treatment of ((a)) an
7 unemancipated minor ((under the age of thirteen)) child except as
8 provided in subsection (3) of this section.

9 (2) When in the judgment of the professional person in charge of an
10 evaluation and treatment facility there is reason to believe that ((a))
11 an unemancipated minor child is in need of inpatient treatment because
12 of a mental disorder, and the facility provides the type of evaluation
13 and treatment needed by the minor child, and it is not feasible to
14 treat the minor child in any less restrictive setting or the
15 ~~((minor's))~~ minor child's home, the minor child may be admitted to an
16 evaluation and treatment facility in accordance with the following
17 requirements:

18 (a) ((A)) An unemancipated minor child may be voluntarily admitted
19 by application of the parent. The consent of the minor child is not
20 required for the minor child to be evaluated and admitted as
21 appropriate.

22 (b) ~~((A minor thirteen years or older may, with the concurrence of~~
23 ~~the professional person in charge of an evaluation and treatment~~
24 ~~facility, admit himself or herself without parental consent to the~~
25 ~~evaluation and treatment facility, provided that notice is given by the~~
26 ~~facility to the minor's parent in accordance with the following~~
27 ~~requirements:~~

28 ~~(i) Notice of the minor's admission shall be in the form most~~
29 ~~likely to reach the parent within twenty four hours of the minor's~~
30 ~~voluntary admission and shall advise the parent that the minor has been~~
31 ~~admitted to inpatient treatment; the location and telephone number of~~
32 ~~the facility providing such treatment; and the name of a professional~~
33 ~~person on the staff of the facility providing treatment who is~~
34 ~~designated to discuss the minor's need for inpatient treatment with the~~
35 ~~parent.~~

36 ~~(ii) The minor shall be released to the parent at the parent's~~
37 ~~request for release unless the facility files a petition with the~~
38 ~~superior court of the county in which treatment is being provided~~
39 ~~setting forth the basis for the facility's belief that the minor is in~~

1 need of inpatient treatment and that release would constitute a threat
2 to the minor's health or safety.

3 (iii) The petition shall be signed by the professional person in
4 charge of the facility or that person's designee.

5 (iv) The parent may apply to the court for separate counsel to
6 represent the parent if the parent cannot afford counsel.

7 (v) There shall be a hearing on the petition, which shall be held
8 within three judicial days from the filing of the petition.

9 (vi) The hearing shall be conducted by a judge, court commissioner,
10 or licensed attorney designated by the superior court as a hearing
11 officer for such hearing. The hearing may be held at the treatment
12 facility.

13 (vii) At such hearing, the facility must demonstrate by a
14 preponderance of the evidence presented at the hearing that the minor
15 is in need of inpatient treatment and that release would constitute a
16 threat to the minor's health or safety. The hearing shall not be
17 conducted using the rules of evidence, and the admission or exclusion
18 of evidence sought to be presented shall be within the exercise of
19 sound discretion by the judicial officer conducting the hearing.

20 (e)) Written renewal of voluntary consent must be obtained from
21 the applicant no less than once every twelve months.

22 ((d)) (c) The ((minor's)) minor child's need for continued
23 inpatient treatments shall be reviewed and documented no less than
24 every one hundred eighty days.

25 (3) An unemancipated minor child may not receive outpatient or
26 inpatient treatment without the consent of the minor's parent or legal
27 guardian, except as authorized in this subsection. An unemancipated
28 minor child thirteen years of age or older may request and receive
29 outpatient or inpatient mental health treatment without the consent of
30 the parent or legal guardian only under the following circumstances:

31 (a)(i) If in the judgment of the professional person in charge of
32 an evaluation and treatment facility, there is reason to believe that
33 the minor child is in need of outpatient or inpatient treatment, and if
34 the minor child is in need of inpatient treatment, that the facility
35 provides the type of evaluation and treatment the minor child needs and
36 it is not feasible to treat the minor child in a less restrictive
37 setting.

38 (ii) The minor child signs a declaration stating that the minor
39 child is unable or unwilling to obtain the consent of the minor's

1 parent or legal guardian to the treatment and the reason the minor
2 child is unable or unwilling to obtain the consent of a parent or legal
3 guardian.

4 (iii) The professional person in charge of the evaluation and
5 treatment facility provides notification of the treatment being
6 considered to either the minor's parent or legal guardian or the
7 department of social and health services. The notification must be
8 provided after completion of the first visit for outpatient treatment
9 or within twenty-four hours after the minor child is admitted to the
10 treatment facility for inpatient treatment but in either case before
11 the minor receives treatment. The notification must contain the
12 location and telephone number of the facility that would provide the
13 treatment and the name of the professional person on the staff of the
14 facility who is designated to discuss the minor child's need for
15 treatment with the parent or legal guardian.

16 (iv) If the department of social and health services receives
17 notification of treatment services to be provided to an unemancipated
18 minor child without the consent of the minor child's parent or legal
19 guardian under (a)(iii) of this subsection, the department shall notify
20 the minor's parent or legal guardian of the treatment services to be
21 provided to the minor child and the treatment facility's determination
22 that the minor is in need of treatment, and shall provide services
23 designed to resolve the conflict existing between the minor child and
24 the minor's parent or legal guardian that is resulting in the minor
25 child's inability to seek or obtain the consent of the parent or legal
26 guardian to the treatment.

27 (v)(A) If the parent or legal guardian refuses to give consent to
28 treatment after notification from the treatment facility or the
29 department, the facility may not provide treatment to the minor child
30 and must release the minor child from inpatient treatment upon the
31 request of the parent or legal guardian, unless the facility files a
32 petition with the superior court of the county in which treatment is to
33 be provided setting forth the basis for the facility's belief that the
34 minor child is in need of inpatient or outpatient treatment and that
35 release or failure to provide outpatient treatment would constitute a
36 threat to the minor child's health or safety.

37 (B) The petition must be signed by the professional person in
38 charge of the facility or that person's designee.

1 (C) The parent or legal guardian may apply to the court for
2 separate counsel to represent the parent or legal guardian if the
3 parent or legal guardian cannot afford counsel.

4 (D) A hearing on the petition must be held within three judicial
5 days from the filing of the petition.

6 (E) The hearing must be conducted by a judge, court commissioner,
7 or licensed attorney designated by the superior court as a hearing
8 officer for such hearing. The hearing may be held at the treatment
9 facility.

10 (F) The facility must demonstrate by a preponderance of the
11 evidence presented at the hearing that the minor child is in need of
12 inpatient or outpatient treatment and that release or failure to
13 provide outpatient treatment would constitute a threat to the minor
14 child's health or safety. The hearing shall not be conducted using the
15 rules of evidence, and the admission or exclusion of evidence sought to
16 be presented shall be within the exercise of sound discretion by the
17 judicial officer conducting the hearing.

18 (b)(i) If the minor child alleges that a parent or legal guardian
19 has committed abuse or neglect, as defined in RCW 26.44.020, against
20 the minor child or against another person residing in the home of the
21 minor child and expresses fear or distress at the prospect of the
22 parent or legal guardian being notified, the minor child shall include
23 the allegations in the minor child's signed declaration.

24 (ii) If the minor child alleges abuse or neglect has occurred and
25 expresses fear or distress at the prospect of notification of the minor
26 child's parent or legal guardian, the professional person in charge of
27 the evaluation and treatment facility shall notify local law
28 enforcement of the allegations. If the officer believes there is a
29 possibility that the minor child is experiencing child abuse or
30 neglect, as defined in RCW 26.44.020, the law enforcement officer shall
31 take the minor child to a designated crisis residential center's secure
32 facility or a semi-secure facility if a secure facility is full, not
33 available, or not located within a reasonable distance.

34 (iii) If a crisis residential center is full, not available, or not
35 located within a reasonable distance, the law enforcement officer may
36 request the department of social and health services to accept custody
37 of the minor child. If the department determines that an appropriate
38 placement is currently available, the department shall accept custody
39 and place the minor child in an out-of-home placement. If the

1 department declines to accept custody of the minor child, the officer
2 may release the minor child after attempting to take the minor child to
3 the following, in the order listed: The home of an adult extended
4 family member; a responsible adult; a licensed youth shelter; and shall
5 immediately notify the department of social and health services if no
6 placement option is available and the minor child is released.

7 (iv) If it is determined under (b)(ii) of this subsection that
8 there is a possibility that the minor child is experiencing abuse or
9 neglect, the minor child may receive outpatient or inpatient treatment
10 without the consent of the parent or legal guardian if the professional
11 person in charge of the treatment facility determines that failure to
12 provide treatment would constitute a threat to the minor child's health
13 or safety.

14 (v) The law enforcement agency releasing the minor child shall
15 notify either the minor child's parent or legal guardian of the final
16 placement or disposition of the minor child.

17 (4) A notice of intent to ((leave)) remove a minor child shall
18 result in the following:

19 (a) Any unemancipated minor ((under the age of thirteen)) child
20 must be discharged immediately upon ((written)) request of the parent
21 or legal guardian.

22 (b) ((Any minor thirteen years or older voluntarily admitted may
23 give notice of intent to leave at any time. The notice need not follow
24 any specific form so long as it is written and the intent of the minor
25 can be discerned.

26 ((e)) The staff member receiving the notice shall date it
27 immediately, record its existence in the ((minor's)) minor child's
28 clinical record, and send copies of it to the ((minor's)) minor child's
29 attorney, if any, the county-designated mental health professional, and
30 the parent or legal guardian.

31 ((d) The professional person in charge of the evaluation and
32 treatment facility shall discharge the minor, thirteen years or older,
33 from the facility within twenty-four hours after receipt of the minor's
34 notice of intent to leave, unless the county-designated mental health
35 professional or a parent or legal guardian files a petition or an
36 application for initial detention within the time prescribed by this
37 chapter.

38 ((4)) (5) The ability of a parent or legal guardian to apply to a
39 certified evaluation and treatment program for the involuntary

1 admission of his or her minor child does not create a right to obtain
2 or benefit from any funds or resources of the state. However, the
3 state may provide services for indigent minor((s)) children to the
4 extent that funds are available therefor.

5 (6) A parent or legal guardian is not liable for evaluation or
6 treatment costs provided to an unemancipated minor child without the
7 consent of the parent or legal guardian.

8 **Sec. 7.** RCW 70.24.110 and 1988 c 206 s 912 are each amended to
9 read as follows:

10 ~~((A)) (1) An unemancipated minor ((fourteen years of age or older))~~
11 child who may have come in contact with any sexually transmitted
12 disease or suspected sexually transmitted disease may ~~((give consent to~~
13 ~~the furnishing of))~~ not receive hospital, medical ~~((and)), or~~ surgical
14 care related to the diagnosis or treatment of such disease~~((.~~ Such
15 consent shall not be subject to disaffirmance because of minority. The
16 consent of the parent, parents, or legal guardian of such minor shall
17 not be necessary to authorize hospital, medical and surgical care
18 related to such disease and such)) without the consent of the minor
19 child's parent or legal guardian, except under the following
20 circumstances:

21 (a)(i) If in the judgment of the treatment provider, there is
22 reason to believe that the minor child is in need of treatment for a
23 sexually transmitted disease.

24 (ii) The minor child signs a declaration stating that the minor
25 child is unable or unwilling to obtain the consent of the minor child's
26 parent or legal guardian to the treatment and the reason the minor
27 child is unable or unwilling to obtain the consent of a parent or legal
28 guardian.

29 (iii) The treatment provider provides notification of the treatment
30 being considered to either the minor child's parent or legal guardian
31 or the department of social and health services. The notification must
32 be provided after completion of the first visit and before the minor
33 receives treatment. The notification must contain the location and
34 telephone number of the facility that would provide the treatment and
35 the name of the treatment provider who is designated to discuss the
36 minor child's need for treatment with the parent or legal guardian.

1 (iv) If the department of social and health services receives
2 notification of treatment services to be provided to an unemancipated
3 minor child without the consent of the minor child's parent or legal
4 guardian under (a)(iii) of this subsection, the department shall notify
5 the minor's parent or legal guardian of the treatment services to be
6 provided to the minor child and the treatment provider's determination
7 that the minor child is in need of treatment, and shall provide
8 services designed to resolve the conflict existing between the minor
9 child and the minor child's parent or legal guardian that is resulting
10 in the minor child's inability to seek or obtain the consent of the
11 parent or legal guardian to the treatment.

12 (v)(A) If the parent or legal guardian refuses to give consent to
13 the treatment after notification from the treatment provider or the
14 department of social and health services, the treatment provider may
15 not provide treatment to the minor child, unless the treatment provider
16 files a petition with the superior court of the county in which
17 treatment is to be provided setting forth the basis for the treatment
18 provider's belief that the minor child is in need of treatment and that
19 failure to provide treatment would constitute a threat to the minor
20 child's health or safety.

21 (B) The petition must be signed by the treatment provider or that
22 person's designee.

23 (C) The parent or legal guardian may apply to the court for
24 separate counsel to represent the parent or legal guardian if the
25 parent or legal guardian cannot afford counsel.

26 (D) A hearing must be held on the petition within three judicial
27 days from the filing of the petition.

28 (E) The hearing must be conducted by a judge, court commissioner,
29 or licensed attorney designated by the superior court as a hearing
30 officer for the hearing.

31 (F) The treatment provider must demonstrate by a preponderance of
32 the evidence presented at the hearing that the minor child is in need
33 of treatment and that failure to provide treatment would constitute a
34 threat to the minor child's health or safety. The hearing shall not be
35 conducted using the rules of evidence, and the admission or exclusion
36 of evidence sought to be presented shall be within the exercise of
37 sound discretion by the judicial officer conducting the hearing.

38 (b)(i) If the minor child alleges that a parent or legal guardian
39 has committed abuse or neglect, as defined in RCW 26.44.020, against

1 the minor child or against another person residing in the home of the
2 minor child and expresses fear or distress at the prospect of the
3 parent or legal guardian being notified, the minor child shall include
4 the allegations in the minor child's signed declaration.

5 (ii) If the minor child alleges abuse or neglect has occurred and
6 expresses fear or distress at the prospect of notification of the minor
7 child's parent or legal guardian, the treatment provider shall notify
8 local law enforcement of the allegations. If the officer believes
9 there is a possibility that the minor child is experiencing child abuse
10 or neglect, as defined in RCW 26.44.020, the law enforcement officer
11 shall take the minor child to a designated crisis residential center's
12 secure facility or a semi-secure facility if a secure facility is full,
13 not available, or not located within a reasonable distance.

14 (iii) If a crisis residential center is full, not available, or not
15 located within a reasonable distance, the law enforcement officer may
16 request the department of social and health services to accept custody
17 of the minor child. If the department determines that an appropriate
18 placement is currently available, the department shall accept custody
19 and place the minor child in an out-of-home placement. If the
20 department declines to accept custody of the minor child, the officer
21 may release the minor child after attempting to take the minor child to
22 the following, in the order listed: The home of an adult extended
23 family member; a responsible adult; a licensed youth shelter and shall
24 immediately notify the department of social and health services if no
25 placement option is available and the minor child is released.

26 (iv) If it is determined under (b)(ii) of this subsection that
27 there is a possibility that the minor child is experiencing abuse or
28 neglect, the minor child may receive treatment without the consent of
29 the parent or legal guardian if the treatment provider determines that
30 failure to provide treatment would constitute a threat to the minor
31 child's health or safety.

32 (v) The law enforcement agency releasing the minor child shall
33 notify either the minor child's parent or legal guardian of the final
34 placement or disposition of the minor child.

35 (2) A parent(~~, parents,~~) or legal guardian (~~shall~~) is not
36 (~~be~~) liable for payment for (~~any care rendered pursuant to this~~
37 ~~section~~) the costs of evaluating and treating a minor child for a
38 sexually transmitted disease if the parent or legal guardian did not
39 consent to the treatment.

1 **Sec. 8.** RCW 70.24.105 and 1994 c 72 s 1 are each amended to read
2 as follows:

3 (1) No person may disclose or be compelled to disclose the identity
4 of any person who has investigated, considered, or requested a test or
5 treatment for a sexually transmitted disease, except as authorized by
6 this chapter.

7 (2) No person may disclose or be compelled to disclose the identity
8 of any person upon whom an HIV antibody test is performed, or the
9 results of such a test, nor may the result of a test for any other
10 sexually transmitted disease when it is positive be disclosed. This
11 protection against disclosure of test subject, diagnosis, or treatment
12 also applies to any information relating to diagnosis of or treatment
13 for HIV infection and for any other confirmed sexually transmitted
14 disease. The following persons, however, may receive such information:

15 (a) The subject of the test or the subject's legal representative
16 for health care decisions in accordance with RCW 7.70.065(~~(, with the~~
17 ~~exception of such a representative of a minor child over fourteen years~~
18 ~~of age and otherwise competent))~~);

19 (b) Any person who secures a specific release of test results or
20 information relating to HIV or confirmed diagnosis of or treatment for
21 any other sexually transmitted disease executed by the subject or the
22 subject's legal representative for health care decisions in accordance
23 with RCW 7.70.065(~~(, with the exception of such a representative of a~~
24 ~~minor child over fourteen years of age and otherwise competent))~~);

25 (c) The state public health officer, a local public health officer,
26 or the centers for disease control of the United States public health
27 service in accordance with reporting requirements for a diagnosed case
28 of a sexually transmitted disease;

29 (d) A health facility or health care provider that procures,
30 processes, distributes, or uses: (i) A human body part, tissue, or
31 blood from a deceased person with respect to medical information
32 regarding that person; (ii) semen, including that provided prior to
33 March 23, 1988, for the purpose of artificial insemination; or (iii)
34 blood specimens;

35 (e) Any state or local public health officer conducting an
36 investigation pursuant to RCW 70.24.024, provided that such record was
37 obtained by means of court ordered HIV testing pursuant to RCW
38 70.24.340 or 70.24.024;

1 (f) A person allowed access to the record by a court order granted
2 after application showing good cause therefor. In assessing good
3 cause, the court shall weigh the public interest and the need for
4 disclosure against the injury to the patient, to the physician-patient
5 relationship, and to the treatment services. Upon the granting of the
6 order, the court, in determining the extent to which any disclosure of
7 all or any part of the record of any such test is necessary, shall
8 impose appropriate safeguards against unauthorized disclosure. An
9 order authorizing disclosure shall: (i) Limit disclosure to those
10 parts of the patient's record deemed essential to fulfill the objective
11 for which the order was granted; (ii) limit disclosure to those persons
12 whose need for information is the basis for the order; and (iii)
13 include any other appropriate measures to keep disclosure to a minimum
14 for the protection of the patient, the physician-patient relationship,
15 and the treatment services, including but not limited to the written
16 statement set forth in subsection (5) of this section;

17 (g) Persons who, because of their behavioral interaction with the
18 infected individual, have been placed at risk for acquisition of a
19 sexually transmitted disease, as provided in RCW 70.24.022, if the
20 health officer or authorized representative believes that the exposed
21 person was unaware that a risk of disease exposure existed and that the
22 disclosure of the identity of the infected person is necessary;

23 (h) A law enforcement officer, fire fighter, health care provider,
24 health care facility staff person, or other persons as defined by the
25 board in rule pursuant to RCW 70.24.340(4), who has requested a test of
26 a person whose bodily fluids he or she has been substantially exposed
27 to, pursuant to RCW 70.24.340(4), if a state or local public health
28 officer performs the test;

29 (i) Claims management personnel employed by or associated with an
30 insurer, health care service contractor, health maintenance
31 organization, self-funded health plan, state-administered health care
32 claims payer, or any other payer of health care claims where such
33 disclosure is to be used solely for the prompt and accurate evaluation
34 and payment of medical or related claims. Information released under
35 this subsection shall be confidential and shall not be released or
36 available to persons who are not involved in handling or determining
37 medical claims payment; and

38 (j) A department of social and health services worker, a child
39 placing agency worker, or a guardian ad litem who is responsible for

1 making or reviewing placement or case-planning decisions or
2 recommendations to the court regarding a child, who is less than
3 fourteen years of age, has a sexually transmitted disease, and is in
4 the custody of the department of social and health services or a
5 licensed child placing agency; this information may also be received by
6 a person responsible for providing residential care for such a child
7 when the department of social and health services or a licensed child
8 placing agency determines that it is necessary for the provision of
9 child care services.

10 (3) No person to whom the results of a test for a sexually
11 transmitted disease have been disclosed pursuant to subsection (2) of
12 this section may disclose the test results to another person except as
13 authorized by that subsection.

14 (4) The release of sexually transmitted disease information
15 regarding an offender, except as provided in subsection (2)(e) of this
16 section, shall be governed as follows:

17 (a) The sexually transmitted disease status of a department of
18 corrections offender shall be made available by department of
19 corrections health care providers to a department of corrections
20 superintendent or administrator as necessary for disease prevention or
21 control and for protection of the safety and security of the staff,
22 offenders, and the public. The information may be submitted to
23 transporting officers and receiving facilities, including facilities
24 that are not under the department of correction's jurisdiction.

25 (b) The sexually transmitted disease status of a person detained in
26 a jail shall be made available by the local public health officer to a
27 jail administrator as necessary for disease prevention or control and
28 for protection of the safety and security of the staff, offenders, and
29 the public. The information may be submitted to transporting officers
30 and receiving facilities.

31 (c) Information regarding a department of corrections offender's
32 sexually transmitted disease status is confidential and may be
33 disclosed by a correctional superintendent or administrator or local
34 jail administrator only as necessary for disease prevention or control
35 and for protection of the safety and security of the staff, offenders,
36 and the public. Unauthorized disclosure of this information to any
37 person may result in disciplinary action, in addition to any other
38 penalties as may be prescribed by law.

1 (5) Whenever disclosure is made pursuant to this section, except
2 for subsections (2)(a) and (6) of this section, it shall be accompanied
3 by a statement in writing which includes the following or substantially
4 similar language: "This information has been disclosed to you from
5 records whose confidentiality is protected by state law. State law
6 prohibits you from making any further disclosure of it without the
7 specific written consent of the person to whom it pertains, or as
8 otherwise permitted by state law. A general authorization for the
9 release of medical or other information is NOT sufficient for this
10 purpose." An oral disclosure shall be accompanied or followed by such
11 a notice within ten days.

12 (6) The requirements of this section shall not apply to the
13 customary methods utilized for the exchange of medical information
14 among health care providers in order to provide health care services to
15 the patient, nor shall they apply within health care facilities where
16 there is a need for access to confidential medical information to
17 fulfill professional duties.

18 (7) Upon request of the victim, disclosure of test results under
19 this section to victims of sexual offenses under chapter 9A.44 RCW
20 shall be made if the result is negative or positive. The county
21 prosecuting attorney shall notify the victim of the right to such
22 disclosure. Such disclosure shall be accompanied by appropriate
23 counseling, including information regarding follow-up testing.

24 **Sec. 9.** RCW 13.32A.082 and 1996 c 133 s 14 are each amended to
25 read as follows:

26 (1) Any person who, without legal authorization, provides shelter
27 to a minor and who knows at the time of providing the shelter that the
28 minor is away from the parent's home, or other lawfully prescribed
29 residence, without the permission of the parent, shall promptly report
30 the location of the child to the parent, the law enforcement agency of
31 the jurisdiction in which the person lives, or the department. The
32 report may be made by telephone or any other reasonable means.

33 (2) Unless the context clearly requires otherwise, the definitions
34 in this subsection apply throughout this section.

35 (a) "Shelter" means the person's home or any structure over which
36 the person has any control.

1 (b) "Promptly report" means to report within eight hours after the
2 person has knowledge that the minor is away from home without parental
3 permission.

4 (3) When the department receives a report under subsection (1) of
5 this section, it shall make a good faith attempt to notify the parent
6 that a report has been received and offer services designed to resolve
7 the conflict and accomplish a reunification of the family.

8 (4) A violation of subsection (1) of this section is a misdemeanor.

9 NEW SECTION. **Sec. 10.** A new section is added to chapter 28A.320
10 RCW to read as follows:

11 A student may attend or participate in a public school-sponsored
12 class, program, or activity that concerns suicide or euthanasia, or
13 includes human sexuality issues dealing with sex education, sexually
14 transmitted diseases, contraception, or sexual orientation, only if the
15 school has on file a signed confirmation from the parent that the
16 parent has received notification that the class, program, or activity
17 concerns suicide or euthanasia, or includes human sexuality issues
18 dealing with sex education, sexually transmitted diseases,
19 contraception, or sexual orientation and the parent approves of his or
20 her child's participation in the specific class, program, or activity.
21 A school or school district may comply with the notification
22 requirement in this section by notifying the parent at least once per
23 school year of the planned classes, programs, or activities.

24 **Sec. 11.** RCW 28A.230.070 and 1994 c 245 s 7 are each amended to
25 read as follows:

26 (1) The life-threatening dangers of acquired immunodeficiency
27 syndrome (AIDS) and its prevention shall be taught in the public
28 schools of this state. AIDS prevention education shall be limited to
29 the discussion of the life-threatening dangers of the disease, its
30 spread, and prevention. Students shall receive such education at least
31 once each school year beginning no later than the fifth grade.

32 (2) Each district board of directors shall adopt an AIDS prevention
33 education program which is developed in consultation with teachers,
34 administrators, parents, and other community members including, but not
35 limited to, persons from medical, public health, and mental health
36 organizations and agencies so long as the curricula and materials
37 developed for use in the AIDS education program either (a) are the

1 model curricula and resources under subsection (3) of this section, or
2 (b) are developed by the school district and approved for medical
3 accuracy by the office on AIDS established in RCW 70.24.250. If a
4 district elects to use curricula developed by the school district, the
5 district shall submit to the office on AIDS a copy of its curricula and
6 an affidavit of medical accuracy stating that the material in the
7 district-developed curricula has been compared to the model curricula
8 for medical accuracy and that in the opinion of the district the
9 district-developed materials are medically accurate. Upon submission
10 of the affidavit and curricula, the district may use these materials
11 until the approval procedure to be conducted by the office of AIDS has
12 been completed.

13 (3) Model curricula and other resources available from the
14 superintendent of public instruction may be reviewed by the school
15 district board of directors, in addition to materials designed locally,
16 in developing the district's AIDS education program. The model
17 curricula shall be reviewed for medical accuracy by the office on AIDS
18 established in RCW 70.24.250 within the department of social and health
19 services.

20 (4) Each school district shall, at least one month before teaching
21 AIDS prevention education in any classroom, conduct at least one
22 presentation during weekend and evening hours for the parents and
23 guardians of students concerning the curricula and materials that will
24 be used for such education. The parents and guardians shall be
25 notified by the school district of the presentation and that the
26 curricula and materials are available for inspection. ~~((No))~~ A student
27 may ~~((be required to))~~ participate in AIDS prevention education only if
28 the ~~((student's))~~ school has on file a signed confirmation from the
29 parent or guardian ~~((, having attended one of the district~~
30 ~~presentations, objects in writing to the participation))~~ approving of
31 his or her child's participation in the AIDS prevention education.

32 (5) The office of the superintendent of public instruction with the
33 assistance of the office on AIDS shall update AIDS education curriculum
34 material as newly discovered medical facts make it necessary.

35 (6) The curriculum for AIDS prevention education shall be designed
36 to teach students which behaviors place a person dangerously at risk of
37 infection with the human immunodeficiency virus (HIV) and methods to
38 avoid such risk including, at least:

1 (a) The dangers of drug abuse, especially that involving the use of
2 hypodermic needles; and

3 (b) The dangers of sexual intercourse, with or without condoms.

4 (7) The program of AIDS prevention education shall stress the life-
5 threatening dangers of contracting AIDS and shall stress that
6 abstinence from sexual activity is the only certain means for the
7 prevention of the spread or contraction of the AIDS virus through
8 sexual contact. It shall also teach that condoms and other artificial
9 means of birth control are not a certain means of preventing the spread
10 of the AIDS virus and reliance on condoms puts a person at risk for
11 exposure to the disease.

12 **Sec. 12.** RCW 46.20.292 and 1979 c 61 s 8 are each amended to read
13 as follows:

14 The department may suspend, revoke, restrict, or condition any
15 driver's license upon a showing of its records that the licensee has
16 been found by a juvenile court, chief probation officer, or any other
17 duly authorized officer of a juvenile court to have committed any
18 offense or offenses which under Title 46 RCW constitutes grounds for
19 said action. If the department takes an action to suspend, revoke,
20 restrict, or condition the driver's license of a juvenile who is a
21 minor, the department shall give written notice of the action to a
22 parent or legal guardian of the juvenile.

23 NEW SECTION. **Sec. 13.** A new section is added to chapter 13.40 RCW
24 to read as follows:

25 The state and its political subdivisions shall provide written
26 notice to a parent or legal guardian of a minor child of an arrest,
27 detention, or penalty imposed under color of law upon the minor child
28 by the state or any of its political subdivisions.

29 NEW SECTION. **Sec. 14.** This act may be known and cited as the
30 Restoration of Parents' Rights Act.

31 NEW SECTION. **Sec. 15.** The provisions of this act must be
32 liberally construed to effectuate the policies and purposes of this
33 act. In the event of conflict between this act and any other provision
34 of law, the provisions of this act govern.

1 NEW SECTION. **Sec. 16.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 17.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 immediately.

9 NEW SECTION. **Sec. 18.** If specific funding for the purposes of
10 this act, referencing this act by bill or chapter number, is not
11 provided by June 30, 1997, in the omnibus appropriations act, this act
12 is null and void.

--- END ---