
SECOND SUBSTITUTE HOUSE BILL 1938

State of Washington

55th Legislature

1997 Regular Session

By 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)

Read first time 03/10/97.

1 AN ACT Relating to at-risk youth; amending RCW 4.92.060, 4.92.070,
2 4.92.150, 13.32A.082, 13.32A.197, 28A.225.030, and 71.34.030;
3 reenacting and amending RCW 28A.225.035; creating new sections;
4 prescribing penalties; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that there is a
7 portion of our youth that continues to expose themselves to the dangers
8 associated with living on the streets. Although recent legislative
9 efforts have made great strides in reunifying families through family
10 reconciliation services and court supervision and guidance, for some
11 families these efforts have not provided long-term resolution to their
12 conflicts. The legislature recognizes that repeated, short-term
13 attempts at reconciliation have sometimes proven unsuccessful or
14 counterproductive for families experiencing the greatest conflicts and
15 options for long-term treatment are needed. To help resolve the
16 conflicts these families face, it is the intent of the legislature to
17 encourage long-term treatment centers to situate in this state. It is
18 also the legislature's intent to ensure that appropriate, affordable
19 treatment is provided to youth who have not responded to reconciliation

1 attempts or remain beyond the reach of current services. Nothing in
2 this act, however, shall be construed to require the state to satisfy
3 judgments entered against a state-contracted treatment center.

4 **Sec. 2.** RCW 4.92.060 and 1989 c 403 s 2 are each amended to read
5 as follows:

6 Whenever an action or proceeding for damages shall be instituted
7 against any state officer, including state elected officials, employee,
8 volunteer, ~~((or))~~ foster parent licensed in accordance with chapter
9 74.15 RCW, or private vendor operating a secure facility providing
10 treatment under RCW 13.32A.197, arising from acts or omissions while
11 performing, or in good faith purporting to perform, official duties,
12 or, in the case of a foster parent, arising from the good faith
13 provision of foster care services, or in the case of a vendor operating
14 a secure facility, arising from the good faith performance of treatment
15 services for behavioral difficulties or needs, such officer, employee,
16 volunteer, ~~((or))~~ foster parent, or vendor may request the attorney
17 general to authorize the defense of said action or proceeding at the
18 expense of the state.

19 **Sec. 3.** RCW 4.92.070 and 1989 c 403 s 3 are each amended to read
20 as follows:

21 If the attorney general shall find that said officer, employee,
22 foster parent, vendor of a secure facility providing treatment under
23 RCW 13.32A.197, or volunteer's acts or omissions were, or were
24 purported to be in good faith, within the scope of that person's
25 official duties, or, in the case of a foster parent, that the
26 occurrence arose from the good faith provision of foster care services,
27 said request shall be granted, or in the case of a vendor operating a
28 secure treatment facility, may be granted if the occurrence arose from
29 the good faith performance of treatment for behavioral difficulties and
30 needs, in which event the necessary expenses of the defense of said
31 action or proceeding shall be paid from the appropriations made for the
32 support of the department to which such officer, employee, volunteer,
33 or foster parent is attached. In such cases the attorney general shall
34 appear and defend such officer, employee, volunteer, secure treatment
35 facility vendor, or foster parent, who shall assist and cooperate in
36 the defense of such suit. However, the attorney general may not
37 represent or provide private representation for a foster parent or for

1 a secure treatment facility vendor, in an action or proceeding brought
2 by the department of social and health services against that foster
3 parent or secure treatment facility vendor.

4 **Sec. 4.** RCW 4.92.150 and 1989 c 403 s 4 are each amended to read
5 as follows:

6 After commencement of an action in a court of competent
7 jurisdiction upon a claim against the state, or any of its officers,
8 employees, or volunteers arising out of tortious conduct or pursuant to
9 42 U.S.C. Sec. 1981 et seq., or against a foster parent or secure
10 treatment facility vendor that the attorney general is defending
11 pursuant to RCW 4.92.070, or upon petition by the state, the attorney
12 general, with the prior approval of the risk management office and with
13 the approval of the court, following such testimony as the court may
14 require, may compromise and settle the same and stipulate for judgment
15 against the state, the affected officer, employee, volunteer, or foster
16 parent.

17 NEW SECTION. **Sec. 5.** It is the intent of the legislature to
18 protect runaway children from predatory individuals, such as drug
19 dealers, sexual marauders, and panderers. Since it is in the interests
20 of these individuals to keep children who have left home on the street
21 and unlocated, this act punishes predatory individuals who provide
22 shelter to at-risk youth as a means of preying upon them. The
23 legislature also recognizes that preventing at-risk youth from coming
24 into contact with these individuals is equally important to their
25 protection. Since prevention and reconciliation can only begin once a
26 child is located, this act increases the incentives for individuals who
27 have the most contact with runaway children to report the children's
28 whereabouts.

29 **Sec. 6.** RCW 13.32A.082 and 1996 c 133 s 14 are each amended to
30 read as follows:

31 (1) Any person who, without legal authorization, provides shelter
32 to a minor and who knows at the time of providing the shelter that the
33 minor is away from the parent's home, or other lawfully prescribed
34 residence, without the permission of the parent, shall promptly report
35 the location of the child to the parent, the law enforcement agency of

1 the jurisdiction in which the person lives, or the department. The
2 report may be made by telephone or any other reasonable means.

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

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

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

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

14 (4) A violation of subsection (1) of this section by a licensed
15 child-serving agency providing overnight services shall be addressed as
16 a licensing violation under chapter 74.15 RCW.

17 (5) A violation of subsection (1) of this section by an individual
18 who is not an owner, operator, or employee of a child-serving agency is
19 a misdemeanor.

20 **Sec. 7.** RCW 13.32A.197 and 1996 c 133 s 3 are each amended to read
21 as follows:

22 (1) In a disposition hearing, after a finding that a child is a
23 child in need of services or an at-risk youth, the court may adopt the
24 additional orders authorized under this section if it finds that the
25 child involved in those proceedings is not eligible for inpatient
26 treatment for a mental health or substance abuse condition and requires
27 specialized treatment. The court (~~may~~) shall order that a child be
28 placed in a (~~staff~~) secure facility, other than a crisis residential
29 center, that will provide for the child's participation in a program
30 designed to remedy his or her behavioral difficulties or needs(~~(. The~~
31 ~~court may not enter this order unless)~~ if the court, at the
32 disposition hearing, (~~it~~) finds that the placement is clearly
33 necessary to protect the child and (~~that a less restrictive order~~
34 ~~would be inadequate to protect the child, given the child's age,~~
35 ~~maturity, propensity to run away from home, past exposure to serious~~
36 ~~risk when the child ran away from home, and possible future exposure to~~
37 ~~serious risk should the child run away from home again)~~ any of the
38 following:

1 (a) That the child has been held in contempt under RCW 13.32A.250
2 and the court has reason to believe, based on information provided by
3 the child's parents, family reconciliation service personnel,
4 counselors, crisis residential center administrators, or other
5 responsible adults who have been in contact with the child, that the
6 child will continue to fail to comply with the terms of a court order
7 entered under this chapter or will continue to expose himself or
8 herself to serious risk; or

9 (b) That on two occasions or more the child has been held in
10 contempt under RCW 13.32A.250 for violating a single court order
11 entered under this chapter.

12 (2) The order shall require periodic court review of the placement,
13 with the first review hearing conducted not more than thirty days after
14 the date of the placement. At each review hearing the court shall
15 advise the parents of their rights under RCW 13.32A.160(1), review the
16 progress of the child, and determine whether the orders are still
17 necessary for the protection of the child or a less restrictive
18 placement would be adequate. The court shall modify its orders as it
19 finds necessary to protect the child. Reviews of orders adopted under
20 this section are subject to the review provisions under RCW 13.32A.190
21 and (~~(13.32.198 [13.32A.198])~~) 13.32A.198.

22 (3) Placements in (~~(staff)~~) secure facilities under this section
23 shall be limited to children who meet the statutory definition of a
24 child in need of services or an at-risk youth as defined in RCW
25 13.32A.030.

26 (~~(State funds may only be used to pay for placements under this~~
27 ~~section if, and to the extent that, such funds are appropriated to~~
28 ~~expressly pay for them)~~) (a) The parent, parents, or legal guardian of
29 a child placed under this section are liable for the costs of
30 treatment, care, and maintenance of the child to the extent of
31 available resources, including private insurance coverage, and ability
32 to pay. The state shall pay for costs, if any, not covered by the
33 parent, parents, or legal guardian of the child, but only if specific
34 funding for the purposes of this subsection is appropriated.

35 (b) The secretary shall establish rules to implement this section
36 and to define income, resources, and exemptions to determine the
37 parent's, parents', or legal guardian's ability to pay.

38 (5) For the purposes of this section, "secure facility" means a
39 facility that has locking doors, locking windows, or a secured

1 perimeter, designed and operated to prevent a child from leaving
2 without permission of the facility staff.

3 **Sec. 8.** RCW 28A.225.035 and 1996 c 134 s 4 and 1996 c 133 s 31 are
4 each reenacted and amended to read as follows:

5 (1) A petition for a civil action under RCW 28A.225.030 shall
6 consist of a written notification to the court alleging that:

7 (a) The child has unexcused absences during the current school
8 year;

9 (b) Actions taken by the school district have not been successful
10 in substantially reducing the child's absences from school; and

11 (c) Court intervention and supervision are necessary to assist the
12 school district or parent to reduce the child's absences from school.

13 (2) The petition shall set forth the name, age, school, and
14 residence of the child and the names and residence of the child's
15 parents.

16 (3) The petition shall set forth facts that support the allegations
17 in this section, including prior court orders entered pursuant to this
18 chapter, and shall generally request relief available under this
19 chapter.

20 (4) When a petition is filed under RCW 28A.225.030, the juvenile
21 court shall schedule a hearing at which the court shall consider the
22 petition. However, a hearing shall not be required if other actions by
23 the court would substantially reduce the child's unexcused absences.
24 When a hearing is held, the court shall:

25 (a) Separately notify the child, the parent of the child, and the
26 school district of the hearing;

27 (b) Notify the parent and the child of their rights to present
28 evidence at the hearing; and

29 (c) Notify the parent and the child of the options and rights
30 available under chapter 13.32A RCW.

31 (5) The court may require the attendance of both the child and the
32 parents at any hearing on a petition filed under RCW 28A.225.030.

33 (6) The court may permit the first hearing to be held without
34 requiring that either party be represented by legal counsel, and to be
35 held without a guardian ad litem for the child under RCW 4.08.050. At
36 the request of the school district, the court may permit a school
37 district representative who is not an attorney to represent the school
38 district at any future hearings.

1 (7) The record maker shall not be required to testify in order to
2 introduce attendance records as long as the records are duly certified
3 by a declaration of the respective school principal and custodian
4 thereof.

5 (8) If the allegations in the petition are established by a
6 preponderance of the evidence, the court shall grant the petition and
7 enter an order assuming jurisdiction to intervene for the ((remainder
8 of the school year, if the allegations in the petition are established
9 by a preponderance of the evidence)) period of time determined by the
10 court. In no case may the order expire before the end of the school
11 year in which it is entered. In weighing the evidence, the court may
12 consider prior orders entered under this chapter against the child and
13 the child's in compliance with any prior orders as evidence supporting
14 the allegations of the petition.

15 ((+8)) (9) If the court assumes jurisdiction, the school district
16 shall regularly report to the court any additional unexcused absences
17 by the child.

18 ((+9)) (10) Community truancy boards and the courts shall
19 coordinate, to the extent possible, proceedings and actions pertaining
20 to children who are subject to truancy petitions and at-risk youth
21 petitions in RCW 13.32A.191 or child in need of services petitions in
22 RCW 13.32A.140.

23 **Sec. 9.** RCW 28A.225.030 and 1996 c 134 s 3 are each amended to
24 read as follows:

25 (1) If a child is required to attend school under RCW 28A.225.010
26 and if the actions taken by a school district under RCW 28A.225.020 are
27 not successful in substantially reducing an enrolled student's absences
28 from public school, not later than the seventh unexcused absence by a
29 child within any month during the current school year or not later than
30 the tenth unexcused absence during the current school year, or not
31 later than the third unexcused absence within any month or the fifth
32 unexcused absence during the current school year if the child has been
33 the subject of an order under RCW 28A.225.080, the school district
34 shall file a petition and supporting affidavit for a civil action with
35 the juvenile court alleging a violation of RCW 28A.225.010: (a) By the
36 parent; (b) by the child; or (c) by the parent and the child. Except
37 as provided in this subsection, no additional documents need be filed
38 with the petition.

1 (2) The district shall not later than the fifth unexcused absence
2 in a month:

3 (a) Enter into an agreement with a student and parent that
4 establishes school attendance requirements;

5 (b) Refer a student to a community truancy board as defined in RCW
6 28A.225.025. The community truancy board shall enter into an agreement
7 with the student and parent that establishes school attendance
8 requirements and take other appropriate actions to reduce the child's
9 absences; or

10 (c) File a petition under subsection (1) of this section.

11 (3) The petition may be filed by a school district employee who is
12 not an attorney.

13 (4) If the school district fails to file a petition under this
14 section, the parent of a child with five or more unexcused absences in
15 any month during the current school year or upon the tenth unexcused
16 absence during the current school year may file a petition with the
17 juvenile court alleging a violation of RCW 28A.225.010.

18 **Sec. 10.** RCW 71.34.030 and 1995 c 312 s 52 are each amended to
19 read as follows:

20 (1)(a) Any minor thirteen years or older may request and receive
21 outpatient treatment without the consent of the minor's parent.
22 Parental authorization is required for outpatient treatment of a minor
23 under the age of thirteen.

24 (b) Any provider of outpatient treatment for a minor thirteen years
25 of age or older shall provide notice of the treatment to the minor's
26 parents. The notice shall be made upon the completion of the child's
27 third visit for treatment, and shall contain the name, location, and
28 telephone number of the mental health care provider who is designated
29 to discuss the minor's need for treatment with the parent.

30 (c) A treatment provider may defer notification to a parent of a
31 minor's request for treatment if:

32 (i) The minor alleges physical or sexual abuse by the parent and
33 the treatment provider notifies the department of the alleged abuse.
34 Upon completion of its assessment of the allegation, the department
35 shall notify the treatment provider of its findings. If the department
36 determines the allegation is not valid, the treatment provider shall
37 immediately notify the parent of the minor's treatment. If the

1 department determines the allegation is valid, the treatment provider
2 need not provide notice to the parent; or

3 (ii) The provider believes the parental notification will interfere
4 with the necessary treatment for the minor. If the provider believes
5 the notification will interfere with the necessary treatment, the
6 provider shall notify the department. The department shall review the
7 circumstances and pursue either a child in need of services petition,
8 if the child meets the definition of a child in need of services under
9 RCW 13.32A.030(4)(c), or a dependency petition under chapter 13.34 RCW,
10 if the child meets the definition of a dependent child under RCW
11 13.34.030(4). If the department determines neither petition is
12 appropriate it shall immediately inform the provider, who shall notify
13 the parent of the treatment within twenty-four hours or after the third
14 visit for treatment, whichever is later.

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

23 (a) A minor may be voluntarily admitted by application of the
24 parent. The consent of the minor is not required for the minor to be
25 evaluated and admitted as appropriate.

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

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

1 (ii) The minor shall be released to the parent at the parent's
2 request for release unless the facility files a petition with the
3 superior court of the county in which treatment is being provided
4 setting forth the basis for the facility's belief that the minor is in
5 need of inpatient treatment and that release would constitute a threat
6 to the minor's health or safety.

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

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

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

13 (vi) The hearing shall be conducted by a judge, court commissioner,
14 or licensed attorney designated by the superior court as a hearing
15 officer for such hearing. The hearing may be held at the treatment
16 facility.

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

24 (c) Written renewal of voluntary consent must be obtained from the
25 applicant no less than once every twelve months.

26 (d) The minor's need for continued inpatient treatments shall be
27 reviewed and documented no less than every one hundred eighty days.

28 (3) A notice of intent to leave shall result in the following:

29 (a) Any minor under the age of thirteen must be discharged
30 immediately upon written request of the parent.

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

35 (c) The staff member receiving the notice shall date it
36 immediately, record its existence in the minor's clinical record, and
37 send copies of it to the minor's attorney, if any, the county-
38 designated mental health professional, and the parent.

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

8 (4) The ability of a parent to apply to a certified evaluation and
9 treatment program for the involuntary admission of his or her minor
10 child does not create a right to obtain or benefit from any funds or
11 resources of the state. However, the state may provide services for
12 indigent minors to the extent that funds are available therefor.

13 NEW SECTION. **Sec. 11.** This act may be known and cited as the
14 "Becca Three" bill.

15 NEW SECTION. **Sec. 12.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. **Sec. 13.** This act takes effect August 1, 1997.

20 NEW SECTION. **Sec. 14.** If specific funding for the purposes of
21 this act, referencing this act by bill or chapter number, is not
22 provided by June 30, 1997, in the omnibus appropriations act, this act
23 is null and void.

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