
ENGROSSED SUBSTITUTE HOUSE BILL 2761

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Children & Family Services (originally sponsored by Representatives Carrell, Wolfe, B. Thomas, Cooke, Boldt, Smith, Gombosky, Talcott, D. Schmidt, D. Sommers, McDonald and Backlund)

Read first time 02/06/98. Referred to Committee on .

1 AN ACT Relating to at-risk youth; amending RCW 74.13.032,
2 71.34.010, 71.34.020, 71.34.025, 71.34.030, 70.96A.095, 70.96A.097,
3 7.21.030, 13.32A.250, 13.34.165, 28A.225.090, 13.32A.080, and
4 13.32A.082; reenacting and amending RCW 74.13.031 and 70.96A.020;
5 adding new sections to chapter 74.13 RCW; adding new sections to
6 chapter 71.34 RCW; adding new sections to chapter 70.96A RCW; creating
7 new sections; prescribing penalties; and providing an expiration date.

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

9 **PART I - CRISIS RESIDENTIAL CENTERS AND TREATMENT SERVICES**

10 NEW SECTION. **Sec. 1.** A new section is added to chapter 74.13 RCW
11 to read as follows:

12 Any county or group of counties may make application to the
13 department of social and health services in the manner and form
14 prescribed by the department to administer and provide the services
15 established under RCW 13.32A.197. Any such application must include a
16 plan or plans for providing such services to at-risk youth.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.13 RCW
2 to read as follows:

3 No county may receive any state funds provided by this chapter
4 until its application and plan are received by the department.

5 (1) The distribution of funds to a county or a group of counties
6 shall be based on criteria including but not limited to the county's
7 per capita income, regional or county at-risk populations, rates of
8 poverty, and the presence of existing programs serving at-risk
9 children.

10 (2) The secretary of social and health services shall reimburse a
11 county upon presentation and approval of a valid claim pursuant to this
12 chapter based on actual performance in meeting the terms and conditions
13 of the approved plan and contract. Funds received by participating
14 counties under this chapter shall not be used to replace local funds
15 for existing programs.

16 (3) Funds available for county-operated treatment facilities and
17 services under RCW 13.32A.197 shall not exceed the appropriation for
18 these services specified in the biennial operating budget.

19 **Sec. 3.** RCW 74.13.031 and 1997 c 386 s 32 and 1997 c 272 s 1 are
20 each reenacted and amended to read as follows:

21 The department shall have the duty to provide child welfare
22 services and shall:

23 (1) Develop, administer, supervise, and monitor a coordinated and
24 comprehensive plan that establishes, aids, and strengthens services for
25 the protection and care of homeless, runaway, dependent, or neglected
26 children.

27 (2) Within available resources, recruit an adequate number of
28 prospective adoptive and foster homes, both regular and specialized,
29 i.e. homes for children of ethnic minority, including Indian homes for
30 Indian children, sibling groups, handicapped and emotionally disturbed,
31 teens, pregnant and parenting teens, and annually report to the
32 governor and the legislature concerning the department's success in:
33 (a) Meeting the need for adoptive and foster home placements; (b)
34 reducing the foster parent turnover rate; (c) completing home studies
35 for legally free children; and (d) implementing and operating the
36 passport program required by RCW 74.13.285. The report shall include
37 a section entitled "Foster Home Turn-Over, Causes and Recommendations."

1 (3) Investigate complaints of alleged neglect, abuse, or
2 abandonment of children, and on the basis of the findings of such
3 investigation, offer child welfare services in relation to the problem
4 to such parents, legal custodians, or persons serving in loco parentis,
5 and/or bring the situation to the attention of an appropriate court, or
6 another community agency: PROVIDED, That an investigation is not
7 required of nonaccidental injuries which are clearly not the result of
8 a lack of care or supervision by the child's parents, legal custodians,
9 or persons serving in loco parentis. If the investigation reveals that
10 a crime may have been committed, the department shall notify the
11 appropriate law enforcement agency.

12 (4) Offer, on a voluntary basis, family reconciliation services to
13 families who are in conflict.

14 (5) Monitor out-of-home placements, on a timely and routine basis,
15 to assure the safety, well-being, and quality of care being provided is
16 within the scope of the intent of the legislature as defined in RCW
17 74.13.010 and 74.15.010, and annually submit a report measuring the
18 extent to which the department achieved the specified goals to the
19 governor and the legislature.

20 (6) Have authority to accept custody of children from parents and
21 to accept custody of children from juvenile courts, where authorized to
22 do so under law, to provide child welfare services including placement
23 for adoption, and to provide for the physical care of such children and
24 make payment of maintenance costs if needed. Except where required by
25 Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency
26 which receives children for adoption from the department shall
27 discriminate on the basis of race, creed, or color when considering
28 applications in their placement for adoption.

29 (7) Have authority to provide temporary shelter to children who
30 have run away from home and who are admitted to crisis residential
31 centers.

32 (8) Have authority to purchase care for children; and shall follow
33 in general the policy of using properly approved private agency
34 services for the actual care and supervision of such children insofar
35 as they are available, paying for care of such children as are accepted
36 by the department as eligible for support at reasonable rates
37 established by the department.

38 (9) Establish a children's services advisory committee which shall
39 assist the secretary in the development of a partnership plan for

1 utilizing resources of the public and private sectors, and advise on
2 all matters pertaining to child welfare, licensing of child care
3 agencies, adoption, and services related thereto. At least one member
4 shall represent the adoption community.

5 (10) Have authority to provide continued foster care or group care
6 for individuals from eighteen through twenty years of age to enable
7 them to complete their high school or vocational school program.

8 (11) Have authority within funds appropriated for foster care
9 services to purchase care for Indian children who are in the custody of
10 a federally recognized Indian tribe or tribally licensed child-placing
11 agency pursuant to parental consent, tribal court order, or state
12 juvenile court order; and the purchase of such care shall be subject to
13 the same eligibility standards and rates of support applicable to other
14 children for whom the department purchases care.

15 (12) Provide funding for counties to operate treatment facilities
16 and provide treatment services to children who have been ordered placed
17 in a staff secure facility under RCW 13.32A.197.

18 Notwithstanding any other provision of RCW 13.32A.170 through
19 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
20 services to be provided by the department of social and health services
21 under subsections (4), (6), and (7) of this section, or counties under
22 subsection (12) of this section, subject to the limitations of these
23 subsections, may be provided by any program offering such services
24 funded pursuant to Titles II and III of the federal juvenile justice
25 and delinquency prevention act of 1974.

26 **Sec. 4.** RCW 74.13.032 and 1995 c 312 s 60 are each amended to read
27 as follows:

28 (1) The department shall establish, by contracts with private or
29 public vendors, regional crisis residential centers with semi-secure
30 facilities. These facilities shall be structured group care facilities
31 licensed under rules adopted by the department and shall have an
32 average of at least four adult staff members and in no event less than
33 three adult staff members to every eight children.

34 (2) Within available funds appropriated for this purpose, the
35 department shall establish, by contracts with private or public
36 vendors, regional crisis residential centers with secure facilities.
37 These facilities shall be facilities licensed under rules adopted by

1 the department. These centers may also include semi-secure facilities
2 and to such extent shall be subject to subsection (1) of this section.

3 (3) The department shall, in addition to the facilities established
4 under subsections (1) and (2) of this section, establish additional
5 crisis residential centers pursuant to contract with licensed private
6 group care facilities.

7 (4) The staff at the facilities established under this section
8 shall be trained so that they may effectively counsel juveniles
9 admitted to the centers, provide treatment, supervision, and structure
10 to the juveniles that recognize the need for support and the varying
11 circumstances that cause children to leave their families, and carry
12 out the responsibilities stated in RCW 13.32A.090. The
13 responsibilities stated in RCW 13.32A.090 may, in any of the centers,
14 be carried out by the department.

15 (5) The secure facilities located within crisis residential centers
16 shall be operated to conform with the definition in RCW 13.32A.030.
17 The facilities shall have an average of no ~~((more))~~ less than ~~((three))~~
18 one adult staff member~~((s))~~ to every ~~((eight))~~ ten children. The
19 staffing ratio shall continue to ensure the safety of the children.

20 ~~((A center with secure facilities created under this section
21 may not be located within, or on the same grounds as, other secure
22 structures including jails, juvenile detention facilities operated by
23 the state, or units of local government. However, the secretary may,
24 following consultation with the appropriate county legislative
25 authority, make a written finding that location of a center with secure
26 facilities on the same grounds as another secure structure is the only
27 practical location for a secure facility. Upon the written finding a
28 secure facility may be located on the same grounds as the secure
29 structure. Where))~~ If a secure crisis residential center is located in
30 or adjacent to a secure juvenile detention facility, the center shall
31 be operated in a manner that prevents in-person contact between the
32 residents of the center and the persons held in such facility.

33 NEW SECTION. Sec. 5. A new section is added to chapter 74.13 RCW
34 to read as follows:

35 (1) A county or group of counties operating a treatment facility
36 under sections 1 and 2 of this act shall establish, by contracts with
37 private or public vendors, treatment centers with staff secure

1 facilities. These facilities shall be structured group care facilities
2 licensed under rules adopted by the department.

3 (2) The staff at the facilities established under RCW 13.32A.197
4 shall be trained so that they may effectively counsel, supervise,
5 provide treatment for behavioral difficulties or needs, and provide
6 structure to the juveniles admitted to treatment facilities. The
7 treatment, supervision, and counseling must recognize the need for
8 support and the varying circumstances that cause children to leave
9 their families.

10 (3) Juveniles shall be admitted to the facilities based on a court
11 order for placement at a staff secure facility to receive treatment
12 under RCW 13.32A.197. Juveniles shall not be denied admission based on
13 their county of residence.

14 **PART II - MENTAL HEALTH AND CHEMICAL DEPENDENCY TREATMENT**

15 NEW SECTION. **Sec. 6.** The legislature finds it is often necessary
16 for parents to obtain mental health or chemical dependency treatment
17 for their minor children prior to the time the child's condition
18 presents a likelihood of serious harm or the child becomes gravely
19 disabled. The legislature finds that treatment of such conditions is
20 not the equivalent of incarceration or detention, but is a legitimate
21 act of parental discretion, when supported by decisions of credentialed
22 professionals. The legislature finds that, consistent with *Parham v.*
23 *J.R.*, 442 U.S. 584 (1979), state action is not involved in the
24 determination of a parent and professional person to admit a minor
25 child to treatment and finds this act provides sufficient independent
26 review by the department of social and health services, as a neutral
27 fact-finder, to protect the interests of all parties. The legislature
28 finds it is necessary to provide parents a statutory process, other
29 than the petition process provided in chapters 70.96A and 71.34 RCW, to
30 obtain treatment for their minor children without the consent of the
31 children.

32 The legislature finds that differing standards of admission and
33 review in parent-initiated mental health and chemical dependency
34 treatment for their minor children are necessary and the admission
35 standards and procedures under state involuntary treatment procedures
36 are not adequate to provide safeguards for the safety and well-being of
37 all children. The legislature finds the timeline for admission and

1 reviews under existing law do not provide sufficient opportunities for
2 assessment of the mental health and chemically dependent status of
3 every minor child and that additional time and different standards will
4 facilitate the likelihood of successful treatment of children who are
5 in need of assistance but unwilling to obtain it voluntarily. The
6 legislature finds there are children whose behavior presents a clear
7 need of medical treatment but is not so extreme as to require immediate
8 state intervention under the state involuntary treatment procedures.

9

PART II-A - MENTAL HEALTH

10 **Sec. 7.** RCW 71.34.010 and 1992 c 205 s 302 are each amended to
11 read as follows:

12 It is the purpose of this chapter to ~~((ensure))~~ assure that minors
13 in need of mental health care and treatment receive an appropriate
14 continuum of culturally relevant care and treatment, ~~((from))~~ including
15 prevention and early intervention ~~((to))~~, self-directed care, parent-
16 directed care, and involuntary treatment. To facilitate the continuum
17 of care and treatment to minors in out-of-home placements, all
18 divisions of the department that provide mental health services to
19 minors shall jointly plan and deliver those services.

20 It is also the purpose of this chapter to protect the rights of
21 minors against needless hospitalization and deprivations of liberty and
22 to enable treatment decisions to be made in response to clinical needs
23 in accordance with sound professional judgment. The mental health care
24 and treatment providers shall encourage the use of voluntary services
25 and, whenever clinically appropriate, the providers shall offer less
26 restrictive alternatives to inpatient treatment. Additionally, all
27 mental health care and treatment providers shall ~~((ensure))~~ assure that
28 minors' parents are given an opportunity to participate in the
29 treatment decisions for their minor children. The mental health care
30 and treatment providers shall, to the extent possible, offer services
31 that involve minors' parents or family.

32 It is also the purpose of this chapter to assure the ability of
33 parents to exercise reasonable, compassionate care and control of their
34 minor children when there is a medical necessity for treatment and
35 without the requirement of filing a petition under this chapter.

1 **Sec. 8.** RCW 71.34.020 and 1985 c 354 s 2 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Child psychiatrist" means a person having a license as a
6 physician and surgeon in this state, who has had graduate training in
7 child psychiatry in a program approved by the American Medical
8 Association or the American Osteopathic Association, and who is board
9 eligible or board certified in child psychiatry.

10 (2) "Children's mental health specialist" means:

11 (a) A mental health professional who has completed a minimum of one
12 hundred actual hours, not quarter or semester hours, of specialized
13 training devoted to the study of child development and the treatment of
14 children; and

15 (b) A mental health professional who has the equivalent of one year
16 of full-time experience in the treatment of children under the
17 supervision of a children's mental health specialist.

18 (3) "Commitment" means a determination by a judge or court
19 commissioner, made after a commitment hearing, that the minor is in
20 need of inpatient diagnosis, evaluation, or treatment or that the minor
21 is in need of less restrictive alternative treatment.

22 (4) "County-designated mental health professional" means a mental
23 health professional designated by one or more counties to perform the
24 functions of a county-designated mental health professional described
25 in this chapter.

26 (5) "Department" means the department of social and health
27 services.

28 (6) "Evaluation and treatment facility" means a public or private
29 facility or unit that is certified by the department to provide
30 emergency, inpatient, residential, or outpatient mental health
31 evaluation and treatment services for minors. A physically separate
32 and separately-operated portion of a state hospital may be designated
33 as an evaluation and treatment facility for minors. A facility which
34 is part of or operated by the department or federal agency does not
35 require certification. No correctional institution or facility,
36 juvenile court detention facility, or jail may be an evaluation and
37 treatment facility within the meaning of this chapter.

38 (7) "Evaluation and treatment program" means the total system of
39 services and facilities coordinated and approved by a county or

1 combination of counties for the evaluation and treatment of minors
2 under this chapter.

3 (8) "Gravely disabled minor" means a minor who, as a result of a
4 mental disorder, is in danger of serious physical harm resulting from
5 a failure to provide for his or her essential human needs of health or
6 safety, or manifests severe deterioration in routine functioning
7 evidenced by repeated and escalating loss of cognitive or volitional
8 control over his or her actions and is not receiving such care as is
9 essential for his or her health or safety.

10 (9) "Inpatient treatment" means twenty-four-hour-per-day mental
11 health care provided within a general hospital, psychiatric hospital,
12 or residential treatment facility certified by the department as an
13 evaluation and treatment facility for minors.

14 (10) "Less restrictive alternative" or "less restrictive setting"
15 means outpatient treatment provided to a minor who is not residing in
16 a facility providing inpatient treatment as defined in this chapter.

17 (11) "Likelihood of serious harm" means either: (a) A substantial
18 risk that physical harm will be inflicted by an individual upon his or
19 her own person, as evidenced by threats or attempts to commit suicide
20 or inflict physical harm on oneself; (b) a substantial risk that
21 physical harm will be inflicted by an individual upon another, as
22 evidenced by behavior which has caused such harm or which places
23 another person or persons in reasonable fear of sustaining such harm;
24 or (c) a substantial risk that physical harm will be inflicted by an
25 individual upon the property of others, as evidenced by behavior which
26 has caused substantial loss or damage to the property of others.

27 (12) "Medical necessity" for inpatient care means a requested
28 service which is reasonably calculated to: (a) Diagnose, correct,
29 cure, or alleviate a mental disorder; or (b) prevent the worsening of
30 mental conditions that endanger life or cause suffering and pain, or
31 result in illness or infirmity or threaten to cause or aggravate a
32 handicap, or cause physical deformity or malfunction, and there is no
33 adequate less restrictive alternative available.

34 (13) "Mental disorder" means any organic, mental, or emotional
35 impairment that has substantial adverse effects on an individual's
36 cognitive or volitional functions. The presence of alcohol abuse, drug
37 abuse, juvenile criminal history, antisocial behavior, or mental
38 retardation alone is insufficient to justify a finding of "mental
39 disorder" within the meaning of this section.

1 (~~(13)~~) (14) "Mental health professional" means a psychiatrist,
2 psychologist, psychiatric nurse, or social worker, and such other
3 mental health professionals as may be defined by rules adopted by the
4 secretary under this chapter.

5 (~~(14)~~) (15) "Minor" means any person under the age of eighteen
6 years.

7 (~~(15)~~) (16) "Outpatient treatment" means any of the
8 nonresidential services mandated under chapter 71.24 RCW and provided
9 by licensed services providers as identified by RCW 71.24.025(3).

10 (~~(16)~~) (17) "Parent" means:

11 (a) A biological or adoptive parent who has legal custody of the
12 child, including either parent if custody is shared under a joint
13 custody agreement; or

14 (b) A person or agency judicially appointed as legal guardian or
15 custodian of the child.

16 (~~(17)~~) (18) "Professional person in charge" or "professional
17 person" means a physician or other mental health professional empowered
18 by an evaluation and treatment facility with authority to make
19 admission and discharge decisions on behalf of that facility.

20 (~~(18)~~) (19) "Psychiatric nurse" means a registered nurse who has
21 a bachelor's degree from an accredited college or university, and who
22 has had, in addition, at least two years' experience in the direct
23 treatment of mentally ill or emotionally disturbed persons, such
24 experience gained under the supervision of a mental health
25 professional. "Psychiatric nurse" shall also mean any other registered
26 nurse who has three years of such experience.

27 (~~(19)~~) (20) "Psychiatrist" means a person having a license as a
28 physician in this state who has completed residency training in
29 psychiatry in a program approved by the American Medical Association or
30 the American Osteopathic Association, and is board eligible or board
31 certified in psychiatry.

32 (~~(20)~~) (21) "Psychologist" means a person licensed as a
33 psychologist under chapter 18.83 RCW.

34 (~~(21)~~) (22) "Responsible other" means the minor, the minor's
35 parent or estate, or any other person legally responsible for support
36 of the minor.

37 (~~(22)~~) (23) "Secretary" means the secretary of the department or
38 secretary's designee.

1 (~~(23)~~) (24) "Start of initial detention" means the time of
2 arrival of the minor at the first evaluation and treatment facility
3 offering inpatient treatment if the minor is being involuntarily
4 detained at the time. With regard to voluntary patients, "start of
5 initial detention" means the time at which the minor gives notice of
6 intent to leave under the provisions of this chapter.

7 **Sec. 9.** RCW 71.34.025 and 1995 c 312 s 56 are each amended to read
8 as follows:

9 (1) (~~The admission of any child under RCW 71.34.030 may be~~
10 ~~reviewed by the county designated mental health professional between~~
11 ~~fifteen and thirty days following admission. The county designated~~
12 ~~mental health professional may undertake the review on his or her own~~
13 ~~initiative and may seek reimbursement from the parents, their~~
14 ~~insurance, or medicaid for the expense of the review.~~

15 (~~2~~) The department shall (~~ensure~~) assure that, for any minor
16 admitted to inpatient treatment under section 18 of this act, a review
17 is conducted (~~no later than sixty days~~) by a physician or other
18 mental health professional who is employed by the department, or an
19 agency under contract with the department, and who neither has a
20 financial interest in continued inpatient treatment of the minor nor is
21 affiliated with the facility providing the treatment. The physician or
22 other mental health professional shall conduct the review not less than
23 seven nor more than fourteen days following (~~admission~~) the date the
24 minor was brought to the facility under section 18(1) of this act to
25 determine whether it is (~~medically appropriate~~) a medical necessity
26 to continue the (~~child's~~) minor's treatment on an inpatient basis.
27 (~~The department may, subject to available funds, contract with a~~
28 ~~county for the conduct of the review conducted under this subsection~~
29 ~~and may seek reimbursement from the parents, their insurance, or~~
30 ~~medicaid for the expense of any review conducted by an agency under~~
31 ~~contract.~~

32 If the county designated mental health professional determines that
33 continued inpatient treatment of the child is no longer medically
34 appropriate, the professional shall notify the facility, the child, the
35 child's parents, and the department of the finding within twenty four
36 hours of the determination.

37 (~~3~~) For purposes of eligibility for medical assistance under
38 chapter 74.09 RCW, children in inpatient mental health or chemical

1 dependency treatment shall be considered to be part of their parent's
2 or legal guardian's household, unless the child has been assessed by
3 the department of social and health services or its designee as likely
4 to require such treatment for at least ninety consecutive days, or is
5 in out-of-home care in accordance with chapter 13.34 RCW, or the
6 child's parents are found to not be exercising responsibility for care
7 and control of the child. Payment for such care by the department of
8 social and health services shall be made only in accordance with rules,
9 guidelines, and clinical criteria applicable to inpatient treatment of
10 minors established by the department.))

11 (2) In making a determination under subsection (1) of this section,
12 the department shall consider the opinion of the treatment provider,
13 the safety of the minor, and the likelihood the minor's mental health
14 will deteriorate if released from inpatient treatment. The department
15 shall consult with the parent in advance of making its determination.

16 (3) If, after any review conducted by the department under this
17 section, the department determines it is no longer a medical necessity
18 for a minor to receive inpatient treatment, the department shall
19 immediately notify the parents and the facility. The facility shall
20 release the minor to the parents within twenty-four hours of receiving
21 notice. If the professional person in charge and the parent believe
22 that it is a medical necessity for the minor to remain in inpatient
23 treatment, the minor shall be released to the parent on the second
24 judicial day following the department's determination in order to allow
25 the parent time to file an at-risk youth petition under chapter 13.32A
26 RCW. If the department determines it is a medical necessity for the
27 minor to receive outpatient treatment and the minor declines to obtain
28 such treatment, such refusal shall be grounds for the parent to file an
29 at-risk youth petition.

30 (4) If the evaluation conducted under section 18 of this act is
31 done by the department, the reviews required by subsection (1) of this
32 section shall be done by contract with an independent agency.

33 (5) The department may, subject to available funds, contract with
34 other governmental agencies to conduct the reviews under this section.
35 The department may seek reimbursement from the parents, their
36 insurance, or medicaid for the expense of any review conducted by an
37 agency under contract.

38 (6) In addition to the review required under this section, the
39 department may periodically determine and redetermine the medical

1 necessity of treatment for purposes of payment under the medical
2 assistance program.

3 NEW SECTION. **Sec. 10.** A new section is added to chapter 71.34 RCW
4 to read as follows:

5 For purposes of eligibility for medical assistance under chapter
6 74.09 RCW, minors in inpatient mental health treatment shall be
7 considered to be part of their parent's or legal guardian's household,
8 unless the minor has been assessed by the department or its designee as
9 likely to require such treatment for at least ninety consecutive days,
10 or is in out-of-home care in accordance with chapter 13.34 RCW, or the
11 parents are found to not be exercising responsibility for care and
12 control of the minor. Payment for such care by the department shall be
13 made only in accordance with rules, guidelines, and clinical criteria
14 applicable to inpatient treatment of minors established by the
15 department.

16 **PART II-B - VOLUNTARY MENTAL HEALTH OUTPATIENT TREATMENT**

17 **Sec. 11.** RCW 71.34.030 and 1995 c 312 s 52 are each amended to
18 read as follows:

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

23 ~~((2) When in the judgment of the professional person in charge of~~
24 ~~an evaluation and treatment facility there is reason to believe that a~~
25 ~~minor is in need of inpatient treatment because of a mental disorder,~~
26 ~~and the facility provides the type of evaluation and treatment needed~~
27 ~~by the minor, and it is not feasible to treat the minor in any less~~
28 ~~restrictive setting or the minor's home, the minor may be admitted to~~
29 ~~an evaluation and treatment facility in accordance with the following~~
30 ~~requirements:~~

31 ~~(a) A minor may be voluntarily admitted by application of the~~
32 ~~parent. The consent of the minor is not required for the minor to be~~
33 ~~evaluated and admitted as appropriate.~~

34 ~~(b) A minor thirteen years or older may, with the concurrence of~~
35 ~~the professional person in charge of an evaluation and treatment~~
36 ~~facility, admit himself or herself without parental consent to the~~

1 evaluation and treatment facility, provided that notice is given by the
2 facility to the minor's parent in accordance with the following
3 requirements:

4 (i) Notice of the minor's admission shall be in the form most
5 likely to reach the parent within twenty four hours of the minor's
6 voluntary admission and shall advise the parent that the minor has been
7 admitted to inpatient treatment; the location and telephone number of
8 the facility providing such treatment; and the name of a professional
9 person on the staff of the facility providing treatment who is
10 designated to discuss the minor's need for inpatient treatment with the
11 parent.

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

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

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

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

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

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

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

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

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

1 ~~(a) Any minor under the age of thirteen must be discharged~~
2 ~~immediately upon written request of the parent.~~

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

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

11 ~~(d) The professional person in charge of the evaluation and~~
12 ~~treatment facility shall discharge the minor, thirteen years or older,~~
13 ~~from the facility within twenty-four hours after receipt of the minor's~~
14 ~~notice of intent to leave, unless the county-designated mental health~~
15 ~~professional or a parent or legal guardian files a petition or an~~
16 ~~application for initial detention within the time prescribed by this~~
17 ~~chapter.~~

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

23 NEW SECTION. **Sec. 12.** For the purpose of gathering information
24 related to parental notification of outpatient mental health treatment
25 of minors, the department of health shall conduct a survey of providers
26 of outpatient treatment, as defined in chapter 71.34 RCW. The survey
27 shall gather information from a statistically valid sample of
28 providers. In accordance with confidentiality statutes and the
29 physician-patient privilege, the survey shall secure information from
30 the providers related to:

31 (1) The number of minors receiving outpatient treatment;

32 (2) The number of parents of minors in treatment notified of the
33 minor's treatment;

34 (3) The average number of outpatient visits prior to parental
35 notification;

36 (4) The average number of treatments with parental notification;

37 (5) The average number of treatments without parental notification;

1 (6) The percentage of minors in treatment who are prescribed
2 medication;

3 (7) The medication prescribed;

4 (8) The number of patients terminating treatment due to parental
5 notification; and

6 (9) Any other pertinent information.

7 The department shall submit the survey results to the governor and
8 the appropriate committees of the legislature by December 1, 1998.

9 This section expires June 1, 1999.

10 **PART II-C - VOLUNTARY MENTAL HEALTH INPATIENT TREATMENT**

11 NEW SECTION. **Sec. 13.** A new section is added to chapter 71.34 RCW
12 to read as follows:

13 (1) A minor thirteen years or older may admit himself or herself to
14 an evaluation and treatment facility for inpatient mental treatment,
15 without parental consent. The admission shall occur only if the
16 professional person in charge of the facility concurs with the need for
17 inpatient treatment.

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

25 (3) Written renewal of voluntary consent must be obtained from the
26 applicant no less than once every twelve months. The minor's need for
27 continued inpatient treatments shall be reviewed and documented no less
28 than every one hundred eighty days.

29 NEW SECTION. **Sec. 14.** A new section is added to chapter 71.34 RCW
30 to read as follows:

31 The administrator of the treatment facility shall provide notice to
32 the parents of a minor when the minor is voluntarily admitted to
33 inpatient treatment under section 13 of this act. The notice shall be
34 in the form most likely to reach the parent within twenty-four hours of
35 the minor's voluntary admission and shall advise the parent: (1) That
36 the minor has been admitted to inpatient treatment; (2) of the location

1 and telephone number of the facility providing such treatment; (3) of
2 the name of a professional person on the staff of the facility
3 providing treatment who is designated to discuss the minor's need for
4 inpatient treatment with the parent; and (4) of the medical necessity
5 for admission.

6 NEW SECTION. **Sec. 15.** A new section is added to chapter 71.34 RCW
7 to read as follows:

8 (1) Any minor thirteen years or older who has voluntarily admitted
9 himself or herself to inpatient treatment shall be released to the
10 parent upon the parent's written request for release unless the
11 professional person in charge of the facility exercises his or her
12 option to file a petition for commitment of a minor.

13 (2)(a) The petition shall be filed with the superior court of the
14 county in which treatment is being provided setting forth the basis for
15 the facility's belief that the minor is in need of inpatient treatment
16 and that release would constitute a threat to the minor's health or
17 safety.

18 (b) The petition shall be signed by the minor and the professional
19 person in charge of the facility or that person's designee.

20 (c) The parent may apply to the court for separate counsel to
21 represent the parent if the parent cannot afford counsel.

22 (d) There shall be a hearing on the petition, which shall be held
23 within seventy-two hours from the filing of the petition.

24 (3) The commitment hearing shall be conducted at the superior court
25 or an appropriate place at the treatment facility.

26 (4) The professional person must demonstrate, by a preponderance of
27 the evidence, that the minor is in need of inpatient treatment and that
28 the release would constitute a threat to the minor's health or safety.
29 The rules of evidence shall not apply at the hearing.

30 NEW SECTION. **Sec. 16.** A new section is added to chapter 71.34 RCW
31 to read as follows:

32 (1) Any minor thirteen years or older voluntarily admitted to an
33 evaluation and treatment facility under section 13 of this act may give
34 notice of intent to leave at any time. The notice need not follow any
35 specific form so long as it is written and the intent of the minor can
36 be discerned.

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

5 (3) The professional person shall discharge the minor, thirteen
6 years or older, from the facility within twenty-four hours after
7 receipt of the minor's notice of intent to leave, unless the county-
8 designated mental health professional commences an initial detention
9 proceeding under the provisions of this chapter.

10 NEW SECTION. Sec. 17. A new section is added to chapter 71.34 RCW
11 to read as follows:

12 Any minor admitted to inpatient treatment under section 13 or 18 of
13 this act shall be discharged immediately from inpatient treatment upon
14 written request of the parent.

15 **PART II-D - PARENT-INITIATED MENTAL HEALTH TREATMENT**

16 NEW SECTION. Sec. 18. A new section is added to chapter 71.34 RCW
17 to read as follows:

18 (1) A parent may bring, or authorize the bringing of, his or her
19 minor child to an evaluation and treatment facility and request that
20 the professional person examine the minor to determine whether the
21 minor has a mental disorder and is in need of inpatient treatment.

22 (2) The consent of the minor is not required for admission,
23 evaluation, and treatment if the parent brings the minor to the
24 facility.

25 (3) An appropriately trained professional person may evaluate
26 whether the minor has a mental disorder. The evaluation shall be
27 completed within twenty-four hours of the time the minor was brought to
28 the facility, unless the professional person determines that the
29 condition of the minor necessitates additional time for evaluation. In
30 no event shall a minor be held longer than seventy-two hours for
31 evaluation without being admitted or released. If, in the judgment of
32 the professional person, it is determined it is a medical necessity for
33 the minor to receive inpatient treatment, the minor may be admitted.
34 Prior to admission, the facility shall limit treatment to that which
35 the professional person determines is medically necessary to stabilize

1 the minor's condition. Within twenty-four hours of the admission, the
2 professional person shall notify the department of the admission.

3 (4) No provider is obligated to provide treatment to a minor under
4 the provisions of this section. No provider may admit a minor to
5 treatment under this section unless it is medically necessary.

6 (5) No minor receiving inpatient treatment under this section may
7 be discharged from the facility based solely on his or her request.

8 (6) For the purposes of this section "professional person" does not
9 include a social worker, unless the social worker is certified under
10 RCW 18.19.110 and appropriately trained and qualified by education and
11 experience, as defined by the department, in psychiatric social work.

12 NEW SECTION. Sec. 19. A new section is added to chapter 71.34 RCW
13 to read as follows:

14 (1) A parent may bring, or authorize the bringing of, his or her
15 minor child to a provider of outpatient mental health treatment and
16 request that an appropriately trained professional person examine the
17 minor to determine whether the minor has a mental disorder and is in
18 need of outpatient treatment.

19 (2) The consent of the minor is not required for evaluation if the
20 parent brings the minor to the provider.

21 (3) The professional person may evaluate whether the minor has a
22 mental disorder and is in need of outpatient treatment.

23 NEW SECTION. Sec. 20. A new section is added to chapter 71.34 RCW
24 to read as follows:

25 Following the review conducted under RCW 71.34.025, a minor child
26 may petition the superior court for his or her release from the
27 facility. The petition may be filed not sooner than five days
28 following the review. The court shall release the minor unless it
29 finds, upon a preponderance of the evidence, that it is a medical
30 necessity for the minor to remain at the facility.

31 NEW SECTION. Sec. 21. A new section is added to chapter 71.34 RCW
32 to read as follows:

33 If the minor is not released as a result of the petition filed
34 under section 20 of this act, he or she shall be released not later
35 than thirty days following the later of: (1) The date of the
36 department's determination under RCW 71.34.025(2); or (2) the filing of

1 a petition for judicial review under section 20 of this act, unless a
2 professional person or the county designated mental health professional
3 initiates proceedings under this chapter.

4 NEW SECTION. **Sec. 22.** A new section is added to chapter 71.34 RCW
5 to read as follows:

6 The ability of a parent to bring his or her minor child to a
7 certified evaluation and treatment program for evaluation and treatment
8 does not create a right to obtain or benefit from any funds or
9 resources of the state. The state may provide services for indigent
10 minors to the extent that funds are available.

11 **PART II-E - CHEMICAL DEPENDENCY**

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

14 For the purposes of this chapter the following words and phrases
15 shall have the following meanings unless the context clearly requires
16 otherwise:

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

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

24 (3) "Approved treatment program" means a discrete program of
25 chemical dependency treatment provided by a treatment program certified
26 by the department of social and health services as meeting standards
27 adopted under this chapter.

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

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

35 (6) "Department" means the department of social and health
36 services.

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

6 (8) "Director" means the person administering the chemical
7 dependency program within the department.

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

10 (10) "Drug addiction" means a disease characterized by a dependency
11 on psychoactive chemicals, loss of control over the amount and
12 circumstances of use, symptoms of tolerance, physiological or
13 psychological withdrawal, or both, if use is reduced or discontinued,
14 and impairment of health or disruption of social or economic
15 functioning.

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

18 (12) "Gravely disabled by alcohol or other drugs" means that a
19 person, as a result of the use of alcohol or other drugs: (a) Is in
20 danger of serious physical harm resulting from a failure to provide for
21 his or her essential human needs of health or safety; or (b) manifests
22 severe deterioration in routine functioning evidenced by a repeated and
23 escalating loss of cognition or volitional control over his or her
24 actions and is not receiving care as essential for his or her health or
25 safety.

26 (13) "Incapacitated by alcohol or other psychoactive chemicals"
27 means that a person, as a result of the use of alcohol or other
28 psychoactive chemicals, has his or her judgment so impaired that he or
29 she is incapable of realizing and making a rational decision with
30 respect to his or her need for treatment and presents a likelihood of
31 serious harm to himself or herself, to any other person, or to
32 property.

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

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

1 (16) "Licensed physician" means a person licensed to practice
2 medicine or osteopathic medicine and surgery in the state of
3 Washington.

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

14 (18) "Medical necessity" for inpatient care of a minor means a
15 requested certified inpatient service that is reasonably calculated to:
16 (a) Diagnose, arrest, or alleviate a chemical dependency; or (b)
17 prevent the worsening of chemical dependency conditions that endanger
18 life or cause suffering and pain, or result in illness or infirmity or
19 threaten to cause or aggravate a handicap, or cause physical deformity
20 or malfunction, and there is no adequate less restrictive alternative
21 available.

22 (19) "Minor" means a person less than eighteen years of age.

23 (~~(19)~~) (20) "Parent" means the parent or parents who have the
24 legal right to custody of the child. Parent includes custodian or
25 guardian.

26 (~~(20)~~) (21) "Peace officer" means a law enforcement official of
27 a public agency or governmental unit, and includes persons specifically
28 given peace officer powers by any state law, local ordinance, or
29 judicial order of appointment.

30 (~~(21)~~) (22) "Person" means an individual, including a minor.

31 (~~(22)~~) (23) "Professional person in charge" or "professional
32 person" means a physician or chemical dependency counselor as defined
33 in rule by the department, who is empowered by a certified treatment
34 program with authority to make assessment, admission, continuing care,
35 and discharge decisions on behalf of the certified program.

36 (24) "Secretary" means the secretary of the department of social
37 and health services.

38 (~~(23)~~) (25) "Treatment" means the broad range of emergency,
39 detoxification, residential, and outpatient services and care,

1 including diagnostic evaluation, chemical dependency education and
2 counseling, medical, psychiatric, psychological, and social service
3 care, vocational rehabilitation and career counseling, which may be
4 extended to alcoholics and other drug addicts and their families,
5 persons incapacitated by alcohol or other psychoactive chemicals, and
6 intoxicated persons.

7 ~~((24))~~ (26) "Treatment program" means an organization,
8 institution, or corporation, public or private, engaged in the care,
9 treatment, or rehabilitation of alcoholics or other drug addicts.

10 **PART II-F - VOLUNTARY CHEMICAL DEPENDENCY OUTPATIENT TREATMENT**

11 **Sec. 24.** RCW 70.96A.095 and 1996 c 133 s 34 are each amended to
12 read as follows:

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

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

34 ~~(3) Any provider of outpatient treatment who provides outpatient
35 treatment to a minor thirteen years of age or older shall provide
36 notice of the minor's request for treatment to the minor's parents if:
37 (a) The minor signs a written consent authorizing the disclosure; or~~

1 ~~(b) the treatment program director determines that the minor lacks~~
2 ~~capacity to make a rational choice regarding consenting to disclosure.~~
3 ~~The notice shall be made within seven days of the request for~~
4 ~~treatment, excluding Saturdays, Sundays, and holidays, and shall~~
5 ~~contain the name, location, and telephone number of the facility~~
6 ~~providing treatment, and the name of a professional person on the staff~~
7 ~~of the facility providing treatment who is designated to discuss the~~
8 ~~minor's need for treatment with the parent.))~~

9 NEW SECTION. **Sec. 25.** A new section is added to chapter 70.96A
10 RCW to read as follows:

11 Any provider of outpatient treatment who provides outpatient
12 treatment to a minor thirteen years of age or older shall provide
13 notice of the minor's request for treatment to the minor's parents if:
14 (1) The minor signs a written consent authorizing the disclosure; or
15 (2) the treatment program director determines that the minor lacks
16 capacity to make a rational choice regarding consenting to disclosure.
17 The notice shall be made within seven days of the request for
18 treatment, excluding Saturdays, Sundays, and holidays, and shall
19 contain the name, location, and telephone number of the facility
20 providing treatment, and the name of a professional person on the staff
21 of the facility providing treatment who is designated to discuss the
22 minor's need for treatment with the parent.

23 **PART II-G - VOLUNTARY CHEMICAL DEPENDENCY INPATIENT TREATMENT**

24 NEW SECTION. **Sec. 26.** A new section is added to chapter 70.96A
25 RCW to read as follows:

26 Parental consent is required for inpatient chemical dependency
27 treatment of a minor, unless the child meets the definition of a child
28 in need of services in RCW 13.32A.030(4)(c) as determined by the
29 department: PROVIDED, That parental consent is required for any
30 treatment of a minor under the age of thirteen.

31 This section does not apply to petitions filed under this chapter.

32 NEW SECTION. **Sec. 27.** A new section is added to chapter 70.96A
33 RCW to read as follows:

1 (1) The parent of a minor is not liable for payment of inpatient or
2 outpatient chemical dependency treatment unless the parent has joined
3 in the consent to the treatment.

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

9 **PART II-H - PARENT-INITIATED CHEMICAL DEPENDENCY TREATMENT**

10 NEW SECTION. **Sec. 28.** A new section is added to chapter 70.96A
11 RCW to read as follows:

12 (1) A parent may bring, or authorize the bringing of, his or her
13 minor child to a certified treatment program and request that a
14 chemical dependency assessment be conducted by a professional person to
15 determine whether the minor is chemically dependent and in need of
16 inpatient treatment.

17 (2) The consent of the minor is not required for admission,
18 evaluation, and treatment if the parent brings the minor to the
19 program.

20 (3) An appropriately trained professional person may evaluate
21 whether the minor is chemically dependent. The evaluation shall be
22 completed within twenty-four hours of the time the minor was brought to
23 the program, unless the professional person determines that the
24 condition of the minor necessitates additional time for evaluation. In
25 no event shall a minor be held longer than seventy-two hours for
26 evaluation without being admitted or released. If, in the judgment of
27 the professional person, it is determined it is a medical necessity for
28 the minor to receive inpatient treatment, the minor may be admitted.
29 Prior to admission, the facility shall limit treatment to that which
30 the professional person determines is medically necessary to stabilize
31 the minor's condition. Within twenty-four hours of the admission the
32 professional person shall notify the department of the admission.

33 (4) No provider is obligated to provide treatment to a minor under
34 the provisions of this section. No provider may admit a minor to
35 treatment under this section unless it is medically necessary.

36 (5) No minor receiving inpatient treatment under this section may
37 be discharged from the program based solely on his or her request.

1 (6) Any minor admitted to inpatient treatment under this section
2 shall be discharged immediately from inpatient treatment upon written
3 request of the parent.

4 **Sec. 29.** RCW 70.96A.097 and 1995 c 312 s 48 are each amended to
5 read as follows:

6 (1) ~~((The admission of any child under RCW 70.96A.095 may be
7 reviewed by the county designated chemical dependency specialist
8 between fifteen and thirty days following admission. The county-
9 designated chemical dependency specialist may undertake the review on
10 his or her own initiative and may seek reimbursement from the parents,
11 their insurance, or medicaid for the expense of the review.~~

12 ~~(2))~~ The department shall ensure that, for any minor admitted to
13 inpatient treatment under section 28 of this act, a review is conducted
14 ((no later than sixty days)) by a physician or chemical dependency
15 counselor, as defined in rule by the department, who is employed by the
16 department or an agency under contract with the department and who
17 neither has a financial interest in continued inpatient treatment of
18 the minor nor is affiliated with the program providing the treatment.
19 The physician or chemical dependency counselor shall conduct the review
20 not less than seven nor more than fourteen days following ((admission))
21 the date the minor was brought to the facility under section 28(1) of
22 this act to determine whether it is ((medically appropriate)) a medical
23 necessity to continue the ((child's)) minor's treatment on an inpatient
24 basis. ((The department may, subject to available funds, contract with
25 a county for the conduct of the review conducted under this subsection
26 and may seek reimbursement from the parents, their insurance, or
27 medicaid for the expense of any review conducted by an agency under
28 contract.

29 ~~If the county designated chemical dependency specialist determines
30 that continued inpatient treatment of the child is no longer medically
31 appropriate, the specialist shall notify the facility, the child, the
32 child's parents, and the department of the finding within twenty four
33 hours of the determination.~~

34 ~~(3) For purposes of eligibility for medical assistance under
35 chapter 74.09 RCW, children in inpatient mental health or chemical
36 dependency treatment shall be considered to be part of their parent's
37 or legal guardian's household, unless the child has been assessed by
38 the department of social and health services or its designee as likely~~

1 to require such treatment for at least ninety consecutive days, or is
2 in out-of-home care in accordance with chapter 13.34 RCW, or the
3 child's parents are found to not be exercising responsibility for care
4 and control of the child. Payment for such care by the department of
5 social and health services shall be made only in accordance with rules,
6 guidelines, and clinical criteria applicable to inpatient treatment of
7 minors established by the department.))

8 (2) In making a determination under subsection (1) of this section
9 whether it is a medical necessity to release the minor from inpatient
10 treatment, the department shall consider the opinion of the treatment
11 provider, the safety of the minor, the likelihood the minor's chemical
12 dependency recovery will deteriorate if released from inpatient
13 treatment, and the wishes of the parent.

14 (3) If, after any review conducted by the department under this
15 section, the department determines it is no longer a medical necessity
16 for a minor to receive inpatient treatment, the department shall
17 immediately notify the parents and the professional person in charge.
18 The professional person in charge shall release the minor to the
19 parents within twenty-four hours of receiving notice. If the
20 professional person in charge and the parent believe that it is a
21 medical necessity for the minor to remain in inpatient treatment, the
22 minor shall be released to the parent on the second judicial day
23 following the department's determination in order to allow the parent
24 time to file an at-risk youth petition under chapter 13.32A RCW. If the
25 department determines it is a medical necessity for the minor to
26 receive outpatient treatment and the minor declines to obtain such
27 treatment, such refusal shall be grounds for the parent to file an at-
28 risk youth petition.

29 (4) The department may, subject to available funds, contract with
30 other governmental agencies for the conduct of the reviews conducted
31 under this section and may seek reimbursement from the parents, their
32 insurance, or medicaid for the expense of any review conducted by an
33 agency under contract.

34 (5) In addition to the review required under this section, the
35 department may periodically determine and redetermine the medical
36 necessity of treatment for purposes of payment under the medical
37 assistance program.

1 NEW SECTION. **Sec. 30.** A new section is added to chapter 70.96A
2 RCW to read as follows:

3 (1) A parent may bring, or authorize the bringing of, his or her
4 minor child to a provider of outpatient chemical dependency treatment
5 and request that an appropriately trained professional person examine
6 the minor to determine whether the minor has a chemical dependency and
7 is in need of outpatient treatment.

8 (2) The consent of the minor is not required for evaluation if the
9 parent brings the minor to the provider.

10 (3) The professional person in charge of the program may evaluate
11 whether the minor has a chemical dependency and is in need of
12 outpatient treatment.

13 NEW SECTION. **Sec. 31.** A new section is added to chapter 70.96A
14 RCW to read as follows:

15 Following the review conducted under RCW 70.96A.097, a minor child
16 may petition the superior court for his or her release from the
17 facility. The petition may be filed not sooner than five days
18 following the review. The court shall release the minor unless it
19 finds, upon a preponderance of the evidence, that it is a medical
20 necessity for the minor to remain at the facility.

21 NEW SECTION. **Sec. 32.** A new section is added to chapter 70.96A
22 RCW to read as follows:

23 If the minor is not released as a result of the petition filed
24 under section 31 of this act, he or she shall be released not later
25 than thirty days following the later of: (1) The date of the
26 department's determination under RCW 70.96A.097(2); or (2) the filing
27 of a petition for judicial review under section 31 of this act, unless
28 a professional person or the designated chemical dependency specialist
29 initiates proceedings under this chapter.

30 NEW SECTION. **Sec. 33.** A new section is added to chapter 70.96A
31 RCW to read as follows:

32 For purposes of eligibility for medical assistance under chapter
33 74.09 RCW, minors in inpatient chemical dependency treatment shall be
34 considered to be part of their parent's or legal guardian's household,
35 unless the minor has been assessed by the department or its designee as
36 likely to require such treatment for at least ninety consecutive days,

1 or is in out-of-home care in accordance with chapter 13.34 RCW, or the
2 parents are found to not be exercising responsibility for care and
3 control of the minor. Payment for such care by the department shall be
4 made only in accordance with rules, guidelines, and clinical criteria
5 applicable to inpatient treatment of minors established by the
6 department.

7 NEW SECTION. **Sec. 34.** It is the purpose of sections 28 and 30 of
8 this act to assure the ability of parents to exercise reasonable,
9 compassionate care and control of their minor children when there is a
10 medical necessity for treatment and without the requirement of filing
11 a petition under chapter 70.96A RCW.

12 NEW SECTION. **Sec. 35.** The department of social and health
13 services shall adopt rules defining "appropriately trained professional
14 person" for the purposes of conducting mental health and chemical
15 dependency evaluations under sections 18(3), 19(1), 28(3), and 30(1) of
16 this act.

17 **PART III - MISCELLANEOUS**

18 NEW SECTION. **Sec. 36.** The legislature finds that an essential
19 component of the children in need of services, dependency, and truancy
20 laws is the use of juvenile detention. As chapter 7.21 RCW is
21 currently written, courts may not order detention time without a
22 criminal charge being filed. It is the intent of the legislature to
23 avoid the bringing of criminal charges against youth who need the
24 guidance of the court rather than its punishment. The legislature
25 further finds that ordering a child placed in detention is a remedial
26 action, not a punitive one. Since the legislature finds that the state
27 is required to provide instruction to children in detention, use of the
28 courts' contempt powers is an effective means for furthering the
29 education and protection of these children. Thus, it is the intent of
30 the legislature to authorize a limited sanction of time in juvenile
31 detention independent of chapter 7.21 RCW for failure to comply with
32 court orders in truancy, child in need of services, at-risk youth, and
33 dependency cases for the sole purpose of providing the courts with the
34 tools necessary to enforce orders in these limited types of cases
35 because other statutory contempt remedies are inadequate.

1 **Sec. 37.** RCW 7.21.030 and 1989 c 373 s 3 are each amended to read
2 as follows:

3 (1) The court may initiate a proceeding to impose a remedial
4 sanction on its own motion or on the motion of a person aggrieved by a
5 contempt of court in the proceeding to which the contempt is related.
6 Except as provided in RCW 7.21.050, the court, after notice and
7 hearing, may impose a remedial sanction authorized by this chapter.

8 (2) If the court finds that the person has failed or refused to
9 perform an act that is yet within the person's power to perform, the
10 court may find the person in contempt of court and impose one or more
11 of the following remedial sanctions:

12 (a) Imprisonment if the contempt of court is of a type defined in
13 RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so
14 long as it serves a coercive purpose.

15 (b) A forfeiture not to exceed two thousand dollars for each day
16 the contempt of court continues.

17 (c) An order designed to ensure compliance with a prior order of
18 the court.

19 (d) Any other remedial sanction other than the sanctions specified
20 in (a) through (c) of this subsection if the court expressly finds that
21 those sanctions would be ineffectual to terminate a continuing contempt
22 of court.

23 (e) In cases under chapters 13.32A, 13.34, and 28A.225 RCW,
24 commitment to juvenile detention for a period of time not to exceed
25 seven days. This sanction may be imposed in addition to, or as an
26 alternative to, any other remedial sanction authorized by this chapter.
27 This remedy is specifically determined to be a remedial sanction.

28 (3) The court may, in addition to the remedial sanctions set forth
29 in subsection (2) of this section, order a person found in contempt of
30 court to pay a party for any losses suffered by the party as a result
31 of the contempt and any costs incurred in connection with the contempt
32 proceeding, including reasonable attorney's fees.

33 **Sec. 38.** RCW 13.32A.250 and 1996 c 133 s 28 are each amended to
34 read as follows:

35 (1) In all child in need of services proceedings and at-risk youth
36 proceedings, the court shall verbally notify the parents and the child
37 of the possibility of a finding of contempt for failure to comply with
38 the terms of a court order entered pursuant to this chapter. Except as

1 otherwise provided in this section, the court shall treat the parents
2 and the child equally for the purposes of applying contempt of court
3 processes and penalties under this section.

4 (2) Failure by a party to comply with an order entered under this
5 chapter is a civil contempt of court as provided in (~~chapter 7.21~~)
6 RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of
7 this section.

8 (3) The court may impose remedial sanctions including a fine of up
9 to one hundred dollars and confinement for up to seven days, or both
10 for contempt of court under this section.

11 (4) A child placed in confinement for contempt under this section
12 shall be placed in confinement only in a secure juvenile detention
13 facility operated by or pursuant to a contract with a county.

14 (5) A motion for contempt may be made by a parent, a child,
15 juvenile court personnel, or by any public agency, organization, or
16 person having custody of the child under a court order adopted pursuant
17 to this chapter.

18 (6) Whenever the court finds probable cause to believe, based upon
19 consideration of a motion for contempt and the information set forth in
20 a supporting declaration, that a child has violated a placement order
21 entered under this chapter, the court may issue an order directing law
22 enforcement to pick up and take the child to detention. The order may
23 be entered ex parte without prior notice to the child or other parties.
24 Following the child's admission to detention, a detention review
25 hearing must be held in accordance with RCW 13.32A.065.

26 **Sec. 39.** RCW 13.34.165 and 1996 c 133 s 29 are each amended to
27 read as follows:

28 (1) Failure by a party to comply with an order entered under this
29 chapter is civil contempt of court as provided in (~~chapter 7.21~~) RCW
30 7.21.030(2)(e).

31 (2) The maximum term of imprisonment that may be imposed as a
32 (~~punitive~~) remedial sanction for contempt of court under this section
33 is confinement for up to seven days.

34 (3) A child imprisoned for contempt under this section shall be
35 confined only in a secure juvenile detention facility operated by or
36 pursuant to a contract with a county.

37 (4) A motion for contempt may be made by a parent, juvenile court
38 personnel, or by any public agency, organization, or person having

1 custody of the child under a court order entered pursuant to this
2 chapter.

3 (5) Whenever the court finds probable cause to believe, based upon
4 consideration of a motion for contempt and the information set forth in
5 a supporting declaration, that a child has violated a placement order
6 entered under this chapter, the court may issue an order directing law
7 enforcement to pick up and take the child to detention. The order may
8 be entered ex parte without prior notice to the child or other parties.
9 Following the child's admission to detention, a detention review
10 hearing must be held in accordance with RCW 13.32A.065.

11 **Sec. 40.** RCW 28A.225.090 and 1997 c 68 s 2 are each amended to
12 read as follows:

13 (1) A court may order a child subject to a petition under RCW
14 28A.225.035 to:

15 (a) Attend the child's current school;

16 (b) If there is space available and the program can provide
17 educational services appropriate for the child, order the child to
18 attend another public school, an alternative education program, center,
19 a skill center, dropout prevention program, or another public
20 educational program;

21 (c) Attend a private nonsectarian school or program including an
22 education center. Before ordering a child to attend an approved or
23 certified private nonsectarian school or program, the court shall: (i)
24 Consider the public and private programs available; (ii) find that
25 placement is in the best interest of the child; and (iii) find that the
26 private school or program is willing to accept the child and will not
27 charge any fees in addition to those established by contract with the
28 student's school district. If the court orders the child to enroll in
29 a private school or program, the child's school district shall contract
30 with the school or program to provide educational services for the
31 child. The school district shall not be required to contract for a
32 weekly rate that exceeds the state general apportionment dollars
33 calculated on a weekly basis generated by the child and received by the
34 district. A school district shall not be required to enter into a
35 contract that is longer than the remainder of the school year. A
36 school district shall not be required to enter into or continue a
37 contract if the child is no longer enrolled in the district;

38 (d) Be referred to a community truancy board, if available; or

1 (e) Submit to testing for the use of controlled substances or
2 alcohol based on a determination that such testing is appropriate to
3 the circumstances and behavior of the child and will facilitate the
4 child's compliance with the mandatory attendance law.

5 (2) If the child fails to comply with the court order, the court
6 may order the child to be punished by detention, as provided in RCW
7 7.21.030(2)(e), or may impose alternatives to detention such as
8 community service. Failure by a child to comply with an order issued
9 under this subsection shall not be punishable by detention for a period
10 greater than that permitted pursuant to a civil contempt proceeding
11 against a child under chapter 13.32A RCW.

12 (3) Any parent violating any of the provisions of either RCW
13 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five
14 dollars for each day of unexcused absence from school. It shall be a
15 defense for a parent charged with violating RCW 28A.225.010 to show
16 that he or she exercised reasonable diligence in attempting to cause a
17 child in his or her custody to attend school or that the child's school
18 did not perform its duties as required in RCW 28A.225.020. The court
19 may order the parent to provide community service instead of imposing
20 a fine. Any fine imposed pursuant to this section may be suspended
21 upon the condition that a parent charged with violating RCW 28A.225.010
22 shall participate with the school and the child in a supervised plan
23 for the child's attendance at school or upon condition that the parent
24 attend a conference or conferences scheduled by a school for the
25 purpose of analyzing the causes of a child's absence.

26 NEW SECTION. **Sec. 41.** The legislature finds that predatory
27 individuals, such as drug dealers, sexual marauders, and panderers,
28 provide shelter to at-risk youth as a means of preying upon them. The
29 legislature further finds that at-risk youth are vulnerable to the
30 influence of these individuals. Thus, the legislature finds that it is
31 important to the safety of Washington's youth that they be prevented
32 from coming in contact with these predatory individuals. The
33 legislature further finds that locating runaway children is the first
34 step to preventing individuals from preying on these youth and to
35 achieving family reconciliation. Therefore, the legislature intends to
36 use punitive measures to create a clear disincentive for predatory
37 individuals intending to take advantage of at-risk youth. The
38 legislature further intends that all persons be required to report the

1 location of a runaway minor, but that those individuals who fail to
2 make such a report because they wish to have the minor remain unlocated
3 as a means of preying upon them be punished for their failure to report
4 the child's location.

5 **Sec. 42.** RCW 13.32A.080 and 1994 sp.s. c 7 s 507 are each amended
6 to read as follows:

7 (1)(a) A person commits the crime of unlawful harboring of a minor
8 if the person provides shelter to a minor without the consent of a
9 parent of the minor and after the person knows that the minor is away
10 from the home of the parent, without the parent's permission, and if
11 the person intentionally:

12 (i) Fails to release the minor to a law enforcement officer after
13 being requested to do so by the officer; or

14 (ii) Fails to disclose the location of the minor to a law
15 enforcement officer after being requested to do so by the officer, if
16 the person knows the location of the minor and had either taken the
17 minor to that location or had assisted the minor in reaching that
18 location; or

19 (iii) Obstructs a law enforcement officer from taking the minor
20 into custody; or

21 (iv) Assists the minor in avoiding or attempting to avoid the
22 custody of the law enforcement officer; or

23 (v) Engages the child in a crime; or

24 (iv) Engages in a clear course of conduct that demonstrates an
25 intent to contribute to the delinquency of a minor or the involvement
26 of a minor in a sex offense as defined in RCW 9.94A.030.

27 (b) It is a defense to a prosecution under this section that the
28 defendant had custody of the minor pursuant to a court order.

29 (2) Harboring a minor is punishable as a gross misdemeanor.

30 (3) Any person who provides shelter to a child, absent from home,
31 may notify the department's local community service office of the
32 child's presence.

33 (4) An adult responsible for involving a child in the commission of
34 an offense may be prosecuted under existing criminal statutes
35 including, but not limited to:

36 (a) Distribution of a controlled substance to a minor, as defined
37 in RCW 69.50.406;

38 (b) Promoting prostitution as defined in chapter 9A.88 RCW; and

1 (c) Complicity of the adult in the crime of a minor, under RCW
2 9A.08.020.

3 **Sec. 43.** RCW 13.32A.082 and 1996 c 133 s 14 are each amended to
4 read as follows:

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

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

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

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

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

23 (4) A person who violates subsection (1) of this section with the
24 intent to contribute to the delinquency of a minor or the involvement
25 of a minor in a sex offense as defined in RCW 9.94A.030 is guilty of a
26 misdemeanor.

27 NEW SECTION. **Sec. 44.** Part headings used in this act do not
28 constitute any part of the law.

29 NEW SECTION. **Sec. 45.** This act may be known and cited as "the
30 Becca act of 1998."

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