
SUBSTITUTE SENATE BILL 5082

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Long, Franklin, Oke and Winsley)

Read first time 02/13/97.

1 AN ACT Relating to mental health and chemical dependency treatment
2 for minors; amending RCW 71.34.010, 71.34.020, 71.34.025, 71.34.030,
3 70.96A.095, and 70.96A.097; reenacting and amending RCW 70.96A.020;
4 adding new sections to chapter 71.34 RCW; adding new sections to
5 chapter 70.96A RCW; and creating new sections.

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

7 NEW SECTION. **Sec. 1.** The legislature finds it is often necessary
8 for parents to obtain mental health or chemical dependency treatment
9 for their minor children prior to the time the child's condition
10 presents a likelihood of serious harm or the child becomes gravely
11 disabled. The legislature finds that treatment of such conditions is
12 not the equivalent of incarceration or detention, but is a legitimate
13 act of parental discretion, when supported by decisions of credentialed
14 professionals. The legislature finds that, consistent with *Parham v.*
15 *J.R.*, 442 U.S. 584 (1979), state action is not involved in the
16 determination of a parent and professional person to admit a minor
17 child to treatment and finds this act provides sufficient independent
18 review by the department of social and health services, as a neutral
19 fact-finder, to protect the interests of all parties. The legislature

1 finds it is necessary to provide parents a statutory process, other
2 than the petition process provided in chapters 70.96A and 71.34 RCW, to
3 obtain treatment for their minor children without the consent of the
4 children.

5 The legislature finds that differing standards of admission and
6 review in parent-initiated mental health and chemical dependency
7 treatment for their minor children are necessary and the admission
8 standards and procedures under state involuntary treatment procedures
9 are not adequate to provide safeguards for the safety and well-being of
10 all children. The legislature finds the timeline for admission and
11 reviews under existing law do not provide sufficient opportunities for
12 assessment of the mental health and chemically dependent status of
13 every minor child and that additional time and different standards will
14 facilitate the likelihood of successful treatment of children who are
15 in need of assistance but unwilling to obtain it voluntarily. The
16 legislature finds there are children whose behavior presents a clear
17 need of medical treatment but is not so extreme as to require immediate
18 state intervention under the state involuntary treatment procedures.

19

MENTAL HEALTH

20 **Sec. 2.** RCW 71.34.010 and 1992 c 205 s 302 are each amended to
21 read as follows:

22 It is the purpose of this chapter to ~~((ensure))~~ assure that minors
23 in need of mental health care and treatment receive an appropriate
24 continuum of culturally relevant care and treatment, ~~((from))~~ including
25 prevention and early intervention ~~((to))~~, self-directed care, parent-
26 directed care, and involuntary treatment. To facilitate the continuum
27 of care and treatment to minors in out-of-home placements, all
28 divisions of the department that provide mental health services to
29 minors shall jointly plan and deliver those services.

30 It is also the purpose of this chapter to protect the rights of
31 minors against needless hospitalization and deprivations of liberty and
32 to enable treatment decisions to be made in response to clinical needs
33 in accordance with sound professional judgment. The mental health care
34 and treatment providers shall encourage the use of voluntary services
35 and, whenever clinically appropriate, the providers shall offer less
36 restrictive alternatives to inpatient treatment. Additionally, all
37 mental health care and treatment providers shall ~~((ensure))~~ assure that

1 minors' parents are given an opportunity to participate in the
2 treatment decisions for their minor children. The mental health care
3 and treatment providers shall, to the extent possible, offer services
4 that involve minors' parents or family.

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

9 **Sec. 3.** RCW 71.34.020 and 1985 c 354 s 2 are each amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

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

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

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

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

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

30 (4) "County-designated mental health professional" means a mental
31 health professional designated by one or more counties to perform the
32 functions of a county-designated mental health professional described
33 in this chapter.

34 (5) "Department" means the department of social and health
35 services.

36 (6) "Evaluation and treatment facility" means a public or private
37 facility or unit that is certified by the department to provide
38 emergency, inpatient, residential, or outpatient mental health

1 evaluation and treatment services for minors. A physically separate
2 and separately-operated portion of a state hospital may be designated
3 as an evaluation and treatment facility for minors. A facility which
4 is part of or operated by the department or federal agency does not
5 require certification. No correctional institution or facility,
6 juvenile court detention facility, or jail may be an evaluation and
7 treatment facility within the meaning of this chapter.

8 (7) "Evaluation and treatment program" means the total system of
9 services and facilities coordinated and approved by a county or
10 combination of counties for the evaluation and treatment of minors
11 under this chapter.

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

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

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

26 (11) "Likelihood of serious harm" means either: (a) A substantial
27 risk that physical harm will be inflicted by an individual upon his or
28 her own person, as evidenced by threats or attempts to commit suicide
29 or inflict physical harm on oneself; (b) a substantial risk that
30 physical harm will be inflicted by an individual upon another, as
31 evidenced by behavior which has caused such harm or which places
32 another person or persons in reasonable fear of sustaining such harm;
33 or (c) a substantial risk that physical harm will be inflicted by an
34 individual upon the property of others, as evidenced by behavior which
35 has caused substantial loss or damage to the property of others.

36 (12) "Medical necessity" for inpatient care means a requested
37 service which is reasonably calculated to: (a) Diagnose, correct,
38 cure, or alleviate a mental disorder; or (b) prevent the worsening of
39 mental conditions that endanger life or cause suffering and pain, or

1 result in illness or infirmity or threaten to cause or aggravate a
2 handicap, or cause physical deformity or malfunction, and there is no
3 adequate less restrictive alternative available.

4 (13) "Medically appropriate" means that a minor admitted to
5 inpatient treatment, under section 13 of this act, has not sufficiently
6 improved his or her condition to be released to a less restrictive
7 setting.

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

14 ~~((13))~~ (15) "Mental health professional" means a psychiatrist,
15 psychologist, psychiatric nurse, or social worker, and such other
16 mental health professionals as may be defined by rules adopted by the
17 secretary under this chapter.

18 ~~((14))~~ (16) "Minor" means any person under the age of eighteen
19 years.

20 ~~((15))~~ (17) "Outpatient treatment" means any of the
21 nonresidential services mandated under chapter 71.24 RCW and provided
22 by licensed services providers as identified by RCW 71.24.025(3).

23 ~~((16))~~ (18) "Parent" means:

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

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

29 ~~((17))~~ (19) "Professional person in charge" or "professional
30 person" means a physician or other mental health professional empowered
31 by an evaluation and treatment facility with authority to make
32 admission and discharge decisions on behalf of that facility.

33 ~~((18))~~ (20) "Psychiatric nurse" means a registered nurse who has
34 a bachelor's degree from an accredited college or university, and who
35 has had, in addition, at least two years' experience in the direct
36 treatment of mentally ill or emotionally disturbed persons, such
37 experience gained under the supervision of a mental health
38 professional. "Psychiatric nurse" shall also mean any other registered
39 nurse who has three years of such experience.

1 (~~(19)~~) (21) "Psychiatrist" means a person having a license as a
2 physician in this state who has completed residency training in
3 psychiatry in a program approved by the American Medical Association or
4 the American Osteopathic Association, and is board eligible or board
5 certified in psychiatry.

6 (~~(20)~~) (22) "Psychologist" means a person licensed as a
7 psychologist under chapter 18.83 RCW.

8 (~~(21)~~) (23) "Responsible other" means the minor, the minor's
9 parent or estate, or any other person legally responsible for support
10 of the minor.

11 (~~(22)~~) (24) "Secretary" means the secretary of the department or
12 secretary's designee.

13 (~~(23)~~) (25) "Start of initial detention" means the time of
14 arrival of the minor at the first evaluation and treatment facility
15 offering inpatient treatment if the minor is being involuntarily
16 detained at the time. With regard to voluntary patients, "start of
17 initial detention" means the time at which the minor gives notice of
18 intent to leave under the provisions of this chapter.

19 **Sec. 4.** RCW 71.34.025 and 1995 c 312 s 56 are each amended to read
20 as follows:

21 (1) ~~((The admission of any child under RCW 71.34.030 may be
22 reviewed by the county designated mental health professional between
23 fifteen and thirty days following admission. The county designated
24 mental health professional may undertake the review on his or her own
25 initiative and may seek reimbursement from the parents, their
26 insurance, or medicaid for the expense of the review.~~

27 ~~(2))~~ The department shall ~~((ensure))~~ assure that, for any minor
28 admitted to inpatient treatment under section 13 of this act, a review
29 is conducted by a professional person at the department or at a
30 contracted agency no sooner than seven days and no later than ((sixty))
31 fourteen days following admission to determine whether it is medically
32 appropriate to continue the ((child's)) minor's treatment on an
33 inpatient basis. ((The department may, subject to available funds,
34 contract with a county for the conduct of the review conducted under
35 this subsection and may seek reimbursement from the parents, their
36 insurance, or medicaid for the expense of any review conducted by an
37 agency under contract.

1 If the county-designated mental health professional determines that
2 continued inpatient treatment of the child is no longer medically
3 appropriate, the professional shall notify the facility, the child, the
4 child's parents, and the department of the finding within twenty-four
5 hours of the determination.

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

18 (2) The department shall, at thirty-day intervals following the
19 review conducted under subsection (1) of this section, conduct reviews
20 of the treatment status of each minor admitted to inpatient treatment,
21 under section 13 of this act, to determine whether it is medically
22 appropriate to continue the minor's treatment under inpatient status.
23 The reviews shall be conducted by a professional person at the
24 department or at a contracted agency.

25 (3) In making a determination under subsection (1) or (2) of this
26 section, the department shall consider the opinion of the treatment
27 provider, the safety of the minor, and the likelihood the minor's
28 mental health will deteriorate if released from inpatient treatment.
29 The department shall consult with the parent in advance of making its
30 determination.

31 (4) If the department determines it is no longer medically
32 appropriate for a minor to receive inpatient treatment, the department
33 shall immediately notify the parents and the facility. The facility
34 shall release the minor to the parents within twenty-four hours of
35 receiving notice. If the professional person in charge and the parent
36 believe that it is medically appropriate for the minor to remain in
37 inpatient treatment, the minor shall be released to the parent on the
38 second judicial day following the department's determination in order
39 to allow the parent time to file an at-risk youth petition under

1 chapter 13.32A RCW. If the department determines it is medically
2 appropriate for the minor to receive outpatient treatment and the minor
3 declines to obtain such treatment, such refusal shall be grounds for
4 the parent to file an at-risk youth petition.

5 (5) If the evaluation conducted under section 13 of this act is
6 done by the department, the reviews required by subsections (1) and (2)
7 of this section shall be done by contract with an independent agency.

8 (6) The department may, subject to available funds, contract with
9 other governmental agencies to conduct the reviews under this section.
10 The department may seek reimbursement from the parents, their
11 insurance, or medicaid for the expense of any review conducted by an
12 agency under contract.

13 NEW SECTION. Sec. 5. A new section is added to chapter 71.34 RCW
14 to read as follows:

15 For purposes of eligibility for medical assistance under chapter
16 74.09 RCW, minors in inpatient mental health treatment shall be
17 considered to be part of their parent's or legal guardian's household,
18 unless the minor has been assessed by the department or its designee as
19 likely to require such treatment for at least ninety consecutive days,
20 or is in out-of-home care in accordance with chapter 13.34 RCW, or the
21 parents are found to not be exercising responsibility for care and
22 control of the minor. Payment for such care by the department shall be
23 made only in accordance with rules, guidelines, and clinical criteria
24 applicable to inpatient treatment of minors established by the
25 department.

26 **VOLUNTARY MENTAL HEALTH OUTPATIENT TREATMENT**

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

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

33 ~~((2) When in the judgment of the professional person in charge of~~
34 ~~an evaluation and treatment facility there is reason to believe that a~~
35 ~~minor is in need of inpatient treatment because of a mental disorder,~~
36 ~~and the facility provides the type of evaluation and treatment needed~~

1 by the minor, and it is not feasible to treat the minor in any less
2 restrictive setting or the minor's home, the minor may be admitted to
3 an evaluation and treatment facility in accordance with the following
4 requirements:

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

8 (b) A minor thirteen years or older may, with the concurrence of
9 the professional person in charge of an evaluation and treatment
10 facility, admit himself or herself without parental consent to the
11 evaluation and treatment facility, provided that notice is given by the
12 facility to the minor's parent in accordance with the following
13 requirements:

14 (i) Notice of the minor's admission shall be in the form most
15 likely to reach the parent within twenty-four hours of the minor's
16 voluntary admission and shall advise the parent that the minor has been
17 admitted to inpatient treatment; the location and telephone number of
18 the facility providing such treatment; and the name of a professional
19 person on the staff of the facility providing treatment who is
20 designated to discuss the minor's need for inpatient treatment with the
21 parent.

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

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

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

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

34 (vi) The hearing shall be conducted by a judge, court commissioner,
35 or licensed attorney designated by the superior court as a hearing
36 officer for such hearing. The hearing may be held at the treatment
37 facility.

38 (vii) At such hearing, the facility must demonstrate by a
39 preponderance of the evidence presented at the hearing that the minor

1 is in need of inpatient treatment and that release would constitute a
2 threat to the minor's health or safety. The hearing shall not be
3 conducted using the rules of evidence, and the admission or exclusion
4 of evidence sought to be presented shall be within the exercise of
5 sound discretion by the judicial officer conducting the hearing.

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

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

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

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

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

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

21 (d) The professional person in charge of the evaluation and
22 treatment facility shall discharge the minor, thirteen years or older,
23 from the facility within twenty four hours after receipt of the minor's
24 notice of intent to leave, unless the county designated mental health
25 professional or a parent or legal guardian files a petition or an
26 application for initial detention within the time prescribed by this
27 chapter.

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

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

35 (1) Any provider of outpatient treatment for a minor thirteen years
36 of age or older shall provide notice of the treatment to the minor's
37 parents. The notice shall be made upon the completion of the minor's
38 third visit for treatment, and shall contain the name, location, and

1 telephone number of the mental health care provider who is designated
2 to discuss the minor's need for treatment with the parent.

3 (2) A treatment provider may defer notification to a parent of a
4 minor's request for treatment if: (a) The minor alleges physical or
5 sexual abuse by the parent and the treatment provider notifies the
6 department of the alleged abuse. Upon completion of its assessment of
7 the allegation, the department shall notify the treatment provider of
8 its findings. If the department determines the allegation is not
9 valid, the treatment provider shall immediately notify the parent of
10 the minor's treatment. If the department determines the allegation is
11 valid, the treatment provider need not provide notice to the parent; or
12 (b) the provider believes the parental notification will interfere with
13 the necessary treatment for the minor. If the provider believes the
14 notification will interfere with the necessary treatment, the provider
15 shall notify the department. The department shall review the
16 circumstances and pursue either a child in need of services petition,
17 if the child meets the definition of a child in need of services under
18 RCW 13.32A.030(4)(c), or a dependency petition under chapter 13.34 RCW,
19 if the child meets the definition of a dependent child under RCW
20 13.34.030(4). If the department determines neither petition is
21 appropriate it shall immediately inform the provider, who shall notify
22 the parent of the treatment within twenty-four hours or after the third
23 visit for treatment, whichever is later.

24 **VOLUNTARY MENTAL HEALTH INPATIENT TREATMENT**

25 NEW SECTION. **Sec. 8.** A new section is added to chapter 71.34 RCW
26 to read as follows:

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

32 (2) When, in the judgment of the professional person in charge of
33 an evaluation and treatment facility, there is reason to believe that
34 a minor is in need of inpatient treatment because of a mental disorder,
35 and the facility provides the type of evaluation and treatment needed
36 by the minor, and it is not feasible to treat the minor in any less

1 restrictive setting or the minor's home, the minor may be admitted to
2 an evaluation and treatment facility.

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

7 NEW SECTION. **Sec. 9.** A new section is added to chapter 71.34 RCW
8 to read as follows:

9 The administrator of the treatment facility shall provide notice to
10 the parents of a minor when the minor is voluntarily admitted to
11 inpatient treatment under section 8 of this act. The notice shall be
12 in the form most likely to reach the parent within twenty-four hours of
13 the minor's voluntary admission and shall advise the parent: (1) That
14 the minor has been admitted to inpatient treatment; (2) of the location
15 and telephone number of the facility providing such treatment; (3) of
16 the name of a professional person on the staff of the facility
17 providing treatment who is designated to discuss the minor's need for
18 inpatient treatment with the parent; and (4) of the medical necessity
19 for admission.

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

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

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

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

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

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

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

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

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

9 (1) Any minor thirteen years or older voluntarily admitted to an
10 evaluation and treatment facility under section 8 of this act may give
11 notice of intent to leave at any time. The notice need not follow any
12 specific form so long as it is written and the intent of the minor can
13 be discerned.

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

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

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

25 Any minor under the age of thirteen shall be discharged immediately
26 from inpatient treatment upon written request of the parent.

27 **PARENT-INITIATED MENTAL HEALTH TREATMENT**

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

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

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

4 (3) An appropriately trained professional person may evaluate
5 whether the minor has a mental disorder. The evaluation shall be
6 completed within twenty-four hours of the time the child was brought to
7 the facility, unless the professional person determines that the
8 condition of the child necessitates additional time for evaluation. In
9 no event shall a child be held longer than seventy-two hours for
10 evaluation without being admitted or released. If, in the judgment of
11 the professional person, it is determined it is a medical necessity for
12 the minor to receive inpatient treatment, the minor may be admitted.
13 Within twenty-four hours of the admission, the professional person
14 shall notify the department of the admission.

15 (4) No provider is obligated to provide treatment to a child under
16 the provisions of this section. No provider may admit a child to
17 treatment under this section unless it is medically necessary.

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

20 (6) For the purposes of this section "professional person" does not
21 include a social worker.

22 NEW SECTION. Sec. 14. A new section is added to chapter 71.34 RCW
23 to read as follows:

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

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

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

33 NEW SECTION. Sec. 15. A new section is added to chapter 71.34 RCW
34 to read as follows:

35 The ability of a parent to apply to a certified evaluation and
36 treatment program for the admission of his or her minor does not create
37 a right to obtain or benefit from any funds or resources of the state.

1 The state may provide services for indigent minors to the extent that
2 funds are available.

3

CHEMICAL DEPENDENCY

4 **Sec. 16.** RCW 70.96A.020 and 1996 c 178 s 23 and 1996 c 133 s 33
5 are each reenacted and amended to read as follows:

6 For the purposes of this chapter the following words and phrases
7 shall have the following meanings unless the context clearly requires
8 otherwise:

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

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

16 (3) "Approved treatment program" means a discrete program of
17 chemical dependency treatment provided by a treatment program certified
18 by the department of social and health services as meeting standards
19 adopted under this chapter.

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

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

27 (6) "Department" means the department of social and health
28 services.

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

34 (8) "Director" means the person administering the chemical
35 dependency program within the department.

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

1 (10) "Drug addiction" means a disease characterized by a dependency
2 on psychoactive chemicals, loss of control over the amount and
3 circumstances of use, symptoms of tolerance, physiological or
4 psychological withdrawal, or both, if use is reduced or discontinued,
5 and impairment of health or disruption of social or economic
6 functioning.

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

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

17 (13) "Incapacitated by alcohol or other psychoactive chemicals"
18 means that a person, as a result of the use of alcohol or other
19 psychoactive chemicals, has his or her judgment so impaired that he or
20 she is incapable of realizing and making a rational decision with
21 respect to his or her need for treatment and presents a likelihood of
22 serious harm to himself or herself, to any other person, or to
23 property.

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

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

29 (16) "Licensed physician" means a person licensed to practice
30 medicine or osteopathic medicine and surgery in the state of
31 Washington.

32 (17) "Likelihood of serious harm" means either: (a) A substantial
33 risk that physical harm will be inflicted by an individual upon his or
34 her own person, as evidenced by threats or attempts to commit suicide
35 or inflict physical harm on one's self; (b) a substantial risk that
36 physical harm will be inflicted by an individual upon another, as
37 evidenced by behavior that has caused the harm or that places another
38 person or persons in reasonable fear of sustaining the harm; or (c) a
39 substantial risk that physical harm will be inflicted by an individual

1 upon the property of others, as evidenced by behavior that has caused
2 substantial loss or damage to the property of others.

3 (18) "Medical necessity" for inpatient care of a minor means a
4 requested certified inpatient service that is reasonably calculated to:
5 (a) Diagnose, arrest, or alleviate a chemical dependency; or (b)
6 prevent the worsening of chemical dependency conditions that endanger
7 life or cause suffering and pain, or result in illness or infirmity or
8 threaten to cause or aggravate a handicap, or cause physical deformity
9 or malfunction, and there is no adequate less restrictive alternative
10 available.

11 (19) "Medically appropriate" means a minor admitted by his or her
12 parents to inpatient treatment under section 21 of this act has not
13 sufficiently improved his or her condition to be released to a less
14 restrictive setting.

15 (20) "Minor" means a person less than eighteen years of age.

16 (~~(19)~~) (21) "Parent" means the parent or parents who have the
17 legal right to custody of the child. Parent includes custodian or
18 guardian.

19 (~~(20)~~) (22) "Peace officer" means a law enforcement official of
20 a public agency or governmental unit, and includes persons specifically
21 given peace officer powers by any state law, local ordinance, or
22 judicial order of appointment.

23 (~~(21)~~) (23) "Person" means an individual, including a minor.

24 (~~(22)~~) (24) "Professional person in charge" or "professional
25 person" means a physician or chemical dependency counselor as defined
26 in rule by the department, who is empowered by a certified treatment
27 program with authority to make assessment, admission, continuing care,
28 and discharge decisions on behalf of the certified program.

29 (25) "Secretary" means the secretary of the department of social
30 and health services.

31 (~~(23)~~) (26) "Treatment" means the broad range of emergency,
32 detoxification, residential, and outpatient services and care,
33 including diagnostic evaluation, chemical dependency education and
34 counseling, medical, psychiatric, psychological, and social service
35 care, vocational rehabilitation and career counseling, which may be
36 extended to alcoholics and other drug addicts and their families,
37 persons incapacitated by alcohol or other psychoactive chemicals, and
38 intoxicated persons.

1 (~~((24))~~) (27) "Treatment program" means an organization,
2 institution, or corporation, public or private, engaged in the care,
3 treatment, or rehabilitation of alcoholics or other drug addicts.

4 **VOLUNTARY CHEMICAL DEPENDENCY OUTPATIENT TREATMENT**

5 **Sec. 17.** RCW 70.96A.095 and 1996 c 133 s 34 are each amended to
6 read as follows:

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

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

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

1 of the facility providing treatment who is designated to discuss the
2 minor's need for treatment with the parent.))

3 NEW SECTION. **Sec. 18.** A new section is added to chapter 70.96A
4 RCW to read as follows:

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

17 **VOLUNTARY CHEMICAL DEPENDENCY INPATIENT TREATMENT**

18 NEW SECTION. **Sec. 19.** A new section is added to chapter 70.96A
19 RCW to read as follows:

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

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

26 NEW SECTION. **Sec. 20.** A new section is added to chapter 70.96A
27 RCW to read as follows:

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

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

1 **PARENT-INITIATED CHEMICAL DEPENDENCY TREATMENT**

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

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

9 (2) The consent of the minor is not required for admission,
10 evaluation, and treatment if the parent brings the child to the
11 program.

12 (3) An appropriately trained professional person may evaluate
13 whether the minor is chemically dependent. The evaluation shall be
14 completed within twenty-four hours of the time the child was brought to
15 the facility, unless the professional person determines that the
16 condition of the child necessitates additional time for evaluation. In
17 no event shall a child be held longer than seventy-two hours for
18 evaluation without being admitted or released. If, in the judgment of
19 the professional person, it is determined it is a medical necessity for
20 the minor to receive inpatient treatment, the minor may be admitted.
21 Within twenty-four hours of the admission the professional person shall
22 notify the department of the admission.

23 (4) No provider is obligated to provide treatment to a child under
24 the provisions of this section. No provider may admit a child to
25 treatment under this section unless it is medically necessary.

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

28 **Sec. 22.** RCW 70.96A.097 and 1995 c 312 s 48 are each amended to
29 read as follows:

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

36 (2)) The department shall ensure that, for any minor admitted to
37 inpatient treatment under section 21 of this act, a review is conducted

1 by a professional person at the department or at a contracted agency no
2 sooner than seven days and no later than ((sixty)) fourteen days
3 following admission to determine whether it is medically appropriate to
4 continue the ((child's)) minor's treatment on an inpatient basis.
5 ~~((The department may, subject to available funds, contract with a~~
6 ~~county for the conduct of the review conducted under this subsection~~
7 ~~and may seek reimbursement from the parents, their insurance, or~~
8 ~~medicaid for the expense of any review conducted by an agency under~~
9 ~~contract.~~

10 ~~If the county-designated chemical dependency specialist determines~~
11 ~~that continued inpatient treatment of the child is no longer medically~~
12 ~~appropriate, the specialist shall notify the facility, the child, the~~
13 ~~child's parents, and the department of the finding within twenty-four~~
14 ~~hours of the determination.~~

15 ~~((3) For purposes of eligibility for medical assistance under~~
16 ~~chapter 74.09 RCW, children in inpatient mental health or chemical~~
17 ~~dependency treatment shall be considered to be part of their parent's~~
18 ~~or legal guardian's household, unless the child has been assessed by~~
19 ~~the department of social and health services or its designee as likely~~
20 ~~to require such treatment for at least ninety consecutive days, or is~~
21 ~~in out-of-home care in accordance with chapter 13.34 RCW, or the~~
22 ~~child's parents are found to not be exercising responsibility for care~~
23 ~~and control of the child. Payment for such care by the department of~~
24 ~~social and health services shall be made only in accordance with rules,~~
25 ~~guidelines, and clinical criteria applicable to inpatient treatment of~~
26 ~~minors established by the department.))~~

27 (2) The department shall, at thirty-day intervals following the
28 review conducted under subsection (1) of this section, conduct reviews
29 of the treatment status of each minor admitted to inpatient treatment,
30 under section 21 of this act, to determine whether it is medically
31 appropriate to continue the minor's treatment under inpatient status.
32 The reviews shall be conducted by a professional person at the
33 department or at a contracted agency.

34 (3) In making a determination under subsection (1) or (2) of this
35 section whether it is medically appropriate to release the minor from
36 inpatient treatment, the department shall consider the opinion of the
37 treatment provider, the safety of the minor, the likelihood the minor's
38 chemical dependency recovery will deteriorate if released from
39 inpatient treatment, and the wishes of the parent.

1 (4) If the department determines it is no longer medically
2 appropriate for a minor to receive inpatient treatment, the department
3 shall immediately notify the parents and the facility. The facility
4 shall release the minor to the parents within twenty-four hours of
5 receiving notice. If the professional person in charge and the parent
6 believe that it is medically appropriate for the minor to remain in
7 inpatient treatment, the minor shall be released to the parent on the
8 second judicial day following the department's determination in order
9 to allow the parent time to file an at-risk youth petition under
10 chapter 13.32A RCW. If the department determines it is medically
11 appropriate for the minor to receive outpatient treatment and the minor
12 declines to obtain such treatment, such refusal shall be grounds for
13 the parent to file an at-risk youth petition.

14 (5) The department may, subject to available funds, contract with
15 other governmental agencies for the conduct of the reviews conducted
16 under this section and may seek reimbursement from the parents, their
17 insurance, or medicaid for the expense of any review conducted by an
18 agency under contract.

19 NEW SECTION. Sec. 23. A new section is added to chapter 70.96A
20 RCW to read as follows:

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

26 (2) The consent of the minor is not required for evaluation if the
27 parent brings the child to the provider.

28 (3) The professional person in charge of the facility may evaluate
29 whether the minor has a chemical dependency and is in need of
30 outpatient treatment.

31 NEW SECTION. Sec. 24. A new section is added to chapter 70.96A
32 RCW to read as follows:

33 For purposes of eligibility for medical assistance under chapter
34 74.09 RCW, children in inpatient chemical dependency treatment shall be
35 considered to be part of their parent's or legal guardian's household,
36 unless the child has been assessed by the department or its designee as
37 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 child's parents are found to not be exercising responsibility for care
3 and control of the child. Payment for such care by the department
4 shall be made only in accordance with rules, guidelines, and clinical
5 criteria applicable to inpatient treatment of minors established by the
6 department.

7 NEW SECTION. **Sec. 25.** It is the purpose of sections 21 and 23 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. 26.** Part headings used in this act do not
13 constitute any part of the law.

--- END ---