
SENATE BILL 5082

State of Washington

55th Legislature

1997 Regular Session

By Senators Hargrove, Long, Franklin, Oke and Winsley

Read first time 01/14/97. Referred to Committee on Human Services & Corrections.

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 71.34.040, 70.96A.095, and 70.96A.097; reenacting and amending RCW
4 70.96A.020; adding new sections to chapter 71.34 RCW; adding new
5 sections to 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 reviews by neutral fact-finders to protect the interests of all
19 parties. The legislature finds it is necessary to provide parents a

1 statutory process, other than the petition process provided in chapters
2 70.96A and 71.34 RCW, to obtain treatment for their minor children
3 without the consent of the children.

4 **MENTAL HEALTH**

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

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

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

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

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

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout this chapter.

35 (1) "Child psychiatrist" means a person having a license as a
36 physician and surgeon in this state, who has had graduate training in

1 child psychiatry in a program approved by the American Medical
2 Association or the American Osteopathic Association, and who is board
3 eligible or board certified in child psychiatry.

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

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

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

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

16 (4) "County-designated mental health professional" means a mental
17 health professional designated by one or more counties to perform the
18 functions of a county-designated mental health professional described
19 in this chapter.

20 (5) "Department" means the department of social and health
21 services.

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

32 (7) "Evaluation and treatment program" means the total system of
33 services and facilities coordinated and approved by a county or
34 combination of counties for the evaluation and treatment of minors
35 under this chapter.

36 (8) "Gravely disabled minor" means a minor who, as a result of a
37 mental disorder, is in danger of serious physical harm resulting from
38 a failure to provide for his or her essential human needs of health or
39 safety, or manifests severe deterioration in routine functioning

1 evidenced by repeated and escalating loss of cognitive or volitional
2 control over his or her actions and is not receiving such care as is
3 essential for his or her health or safety.

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

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

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

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

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

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

38 (~~(13)~~) (15) "Mental health professional" means a psychiatrist,
39 psychologist, psychiatric nurse, or social worker, and such other

1 mental health professionals as may be defined by rules adopted by the
2 secretary under this chapter.

3 ~~((14))~~ (16) "Minor" means any person under the age of eighteen
4 years.

5 ~~((15))~~ (17) "Outpatient treatment" means any of the
6 nonresidential services mandated under chapter 71.24 RCW and provided
7 by licensed services providers as identified by RCW 71.24.025(3).

8 ~~((16))~~ (18) "Parent" means:

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

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

14 ~~((17))~~ (19) "Professional person in charge" or "professional
15 person" means a physician or other mental health professional empowered
16 by an evaluation and treatment facility with authority to make
17 admission and discharge decisions on behalf of that facility.

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

25 ~~((19))~~ (21) "Psychiatrist" means a person having a license as a
26 physician in this state who has completed residency training in
27 psychiatry in a program approved by the American Medical Association or
28 the American Osteopathic Association, and is board eligible or board
29 certified in psychiatry.

30 ~~((20))~~ (22) "Psychologist" means a person licensed as a
31 psychologist under chapter 18.83 RCW.

32 ~~((21))~~ (23) "Responsible other" means the minor, the minor's
33 parent or estate, or any other person legally responsible for support
34 of the minor.

35 ~~((22))~~ (24) "Secretary" means the secretary of the department or
36 secretary's designee.

37 ~~((23))~~ (25) "Start of initial detention" means the time of
38 arrival of the minor at the first evaluation and treatment facility
39 offering inpatient treatment if the minor is being involuntarily

1 detained at the time. With regard to voluntary patients, "start of
2 initial detention" means the time at which the minor gives notice of
3 intent to leave under the provisions of this chapter.

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

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

12 ~~(2))~~ The department shall ~~((ensure))~~ assure that, for any minor
13 admitted to inpatient treatment under section 13 of this act, a review
14 is conducted no sooner than seven days and no later than ((sixty))
15 fourteen days following admission to determine whether it is medically
16 appropriate to continue the ((child's)) minor's treatment on an
17 inpatient basis. ((The department may, subject to available funds,
18 contract with a county for the conduct of the review conducted under
19 this subsection and may seek reimbursement from the parents, their
20 insurance, or medicaid for the expense of any review conducted by an
21 agency under contract.

22 If the county designated mental health professional determines that
23 continued inpatient treatment of the child is no longer medically
24 appropriate, the professional shall notify the facility, the child, the
25 child's parents, and the department of the finding within twenty four
26 hours of the determination.

27 (3) ~~For purposes of eligibility for medical assistance under~~
28 ~~chapter 74.09 RCW, children in inpatient mental health or chemical~~
29 ~~dependency treatment shall be considered to be part of their parent's~~
30 ~~or legal guardian's household, unless the child has been assessed by~~
31 ~~the department of social and health services or its designee as likely~~
32 ~~to require such treatment for at least ninety consecutive days, or is~~
33 ~~in out of home care in accordance with chapter 13.34 RCW, or the~~
34 ~~child's parents are found to not be exercising responsibility for care~~
35 ~~and control of the child. Payment for such care by the department of~~
36 ~~social and health services shall be made only in accordance with rules,~~
37 ~~guidelines, and clinical criteria applicable to inpatient treatment of~~
38 ~~minors established by the department.)~~

1 (2) The department shall, at thirty-day intervals following the
2 review conducted under subsection (1) of this section, conduct reviews
3 of the treatment status of each minor admitted to inpatient treatment,
4 under section 13 of this act, to determine whether it is medically
5 appropriate to continue the minor's treatment under inpatient status.

6 (3) In making a determination under subsection (1) or (2) of this
7 section, the department shall consider the opinion of the treatment
8 provider, the safety of the minor, the safety of the public, and the
9 likelihood the minor's mental health will deteriorate if released from
10 inpatient treatment. The department shall consult with the parent in
11 advance of making its determination.

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

25 (5) The department may, subject to available funds, contract with
26 a county to conduct the reviews under this section. The department may
27 seek reimbursement from the parents, their insurance, or medicaid for
28 the expense of any review conducted by an agency under contract.

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

31 For purposes of eligibility for medical assistance under chapter
32 74.09 RCW, minors in inpatient mental health or chemical dependency
33 treatment shall be considered to be part of their parent's or legal
34 guardian's household, unless the minor has been assessed by the
35 department or its designee as likely to require such treatment for at
36 least ninety consecutive days, or is in out-of-home care in accordance
37 with chapter 13.34 RCW, or the parents are found to not be exercising
38 responsibility for care and control of the minor. Payment for such

1 care by the department shall be made only in accordance with rules,
2 guidelines, and clinical criteria applicable to inpatient treatment of
3 minors established by the department.

4 **VOLUNTARY MENTAL HEALTH OUTPATIENT TREATMENT**

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

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

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

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

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

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

36 ~~(ii) The minor shall be released to the parent at the parent's~~
37 ~~request for release unless the facility files a petition with the~~

1 superior court of the county in which treatment is being provided
2 setting forth the basis for the facility's belief that the minor is in
3 need of inpatient treatment and that release would constitute a threat
4 to the minor's health or safety.

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

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

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

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

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

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

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

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

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

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

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

37 (d) The professional person in charge of the evaluation and
38 treatment facility shall discharge the minor, thirteen years or older,
39 from the facility within twenty-four hours after receipt of the minor's

1 notice of intent to leave, unless the county designated mental health
2 professional or a parent or legal guardian files a petition or an
3 application for initial detention within the time prescribed by this
4 chapter.

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

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

12 (1) Any provider of outpatient treatment for a minor thirteen years
13 of age or older shall provide notice of the treatment to the minor's
14 parents. The notice shall be made upon the completion of the minor's
15 second visit for treatment, and shall contain the name, location, and
16 telephone number of the mental health care provider who is designated
17 to discuss the minor's need for treatment with the parent.

18 (2) A treatment provider may defer notification to a parent of a
19 minor's request for treatment if: (a) The minor alleges physical or
20 sexual abuse by the parent and the treatment provider notifies the
21 department of the alleged abuse. Upon completion of its assessment of
22 the allegation, the department shall notify the treatment provider of
23 its findings. If the department determines the allegation is not
24 valid, the treatment provider shall immediately notify the parent of
25 the minor's treatment. If the department determines the allegation is
26 valid, the treatment provider need not provide notice to the parent; or
27 (b) the provider believes the parental notification will interfere with
28 the necessary treatment for the minor. If the provider believes the
29 notification will interfere with the necessary treatment, the provider
30 shall notify the department. The department shall review the
31 circumstances and pursue either a child in need of services petition,
32 if the child meets the definition of a child in need of services under
33 RCW 13.32A.030(4)(c), or a dependency petition under chapter 13.34 RCW,
34 if the child meets the definition of a dependent child under RCW
35 13.34.030(4). If the department determines neither petition is
36 appropriate it shall immediately inform the provider, who shall notify
37 the parent of the treatment within twenty-four hours or after the
38 second visit for treatment, whichever is later.

1 **VOLUNTARY MENTAL HEALTH INPATIENT TREATMENT**

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

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

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

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

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

22 The administrator of the treatment facility shall provide notice to
23 the parents of a minor when the minor is voluntarily admitted to
24 inpatient treatment under section 8 of this act. The notice shall be
25 in the form most likely to reach the parent within twenty-four hours of
26 the minor's voluntary admission and shall advise the parent: (1) That
27 the minor has been admitted to inpatient treatment; (2) of the location
28 and telephone number of the facility providing such treatment; (3) of
29 the name of a professional person on the staff of the facility
30 providing treatment who is designated to discuss the minor's need for
31 inpatient treatment with the parent; and (4) of the medical necessity
32 for admission.

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

35 (1) Any minor thirteen years or older who has voluntarily admitted
36 himself or herself to inpatient treatment shall be released to the

1 parent upon the parent's written request for release unless the
2 professional person in charge of the facility exercises his or her
3 option to file a petition for commitment of a minor.

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

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

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

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

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

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

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

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

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

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

1 withdrawal, or both, if use is reduced or discontinued, and impairment
2 of health or disruption of social or economic functioning.

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

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

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

14 (6) "Department" means the department of social and health
15 services.

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

21 (8) "Director" means the person administering the chemical
22 dependency program within the department.

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

25 (10) "Drug addiction" means a disease characterized by a dependency
26 on psychoactive chemicals, loss of control over the amount and
27 circumstances of use, symptoms of tolerance, physiological or
28 psychological withdrawal, or both, if use is reduced or discontinued,
29 and impairment of health or disruption of social or economic
30 functioning.

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

33 (12) "Gravely disabled by alcohol or other drugs" means that a
34 person, as a result of the use of alcohol or other drugs: (a) Is in
35 danger of serious physical harm resulting from a failure to provide for
36 his or her essential human needs of health or safety; or (b) manifests
37 severe deterioration in routine functioning evidenced by a repeated and
38 escalating loss of cognition or volitional control over his or her

1 actions and is not receiving care as essential for his or her health or
2 safety.

3 (13) "Incapacitated by alcohol or other psychoactive chemicals"
4 means that a person, as a result of the use of alcohol or other
5 psychoactive chemicals, has his or her judgment so impaired that he or
6 she is incapable of realizing and making a rational decision with
7 respect to his or her need for treatment and presents a likelihood of
8 serious harm to himself or herself, to any other person, or to
9 property.

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

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

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

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

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

35 (19) "Medically appropriate" means a minor admitted by his or her
36 parents to inpatient treatment under section 22 of this act has not
37 sufficiently improved his or her condition to be released to a less
38 restrictive setting.

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

1 (~~(19)~~) (21) "Parent" means the parent or parents who have the
2 legal right to custody of the child. Parent includes custodian or
3 guardian.

4 (~~(20)~~) (22) "Peace officer" means a law enforcement official of
5 a public agency or governmental unit, and includes persons specifically
6 given peace officer powers by any state law, local ordinance, or
7 judicial order of appointment.

8 (~~(21)~~) (23) "Person" means an individual, including a minor.

9 (~~(22)~~) (24) "Professional person in charge" or "professional
10 person" means a physician or chemical dependency counselor as defined
11 in rule by the department, who is empowered by a certified treatment
12 program with authority to make assessment, admission, continuing care,
13 and discharge decisions on behalf of the certified program.

14 (25) "Secretary" means the secretary of the department of social
15 and health services.

16 (~~(23)~~) (26) "Treatment" means the broad range of emergency,
17 detoxification, residential, and outpatient services and care,
18 including diagnostic evaluation, chemical dependency education and
19 counseling, medical, psychiatric, psychological, and social service
20 care, vocational rehabilitation and career counseling, which may be
21 extended to alcoholics and other drug addicts and their families,
22 persons incapacitated by alcohol or other psychoactive chemicals, and
23 intoxicated persons.

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

27 **VOLUNTARY CHEMICAL DEPENDENCY OUTPATIENT TREATMENT**

28 **Sec. 18.** RCW 70.96A.095 and 1996 c 133 s 34 are each amended to
29 read as follows:

30 (~~(1)~~) Any person thirteen years of age or older may give consent
31 for himself or herself to the furnishing of outpatient treatment by a
32 chemical dependency treatment program certified by the department.
33 (~~(Consent of the parent of a person less than eighteen years of age for~~
34 ~~inpatient treatment is necessary to authorize the care unless the child~~
35 ~~meets the definition of a child in need of services in RCW~~
36 ~~13.32A.030(4)(c), as determined by the department.)) Parental
37 authorization is required for any treatment of a minor under the age of~~

1 thirteen. ((The parent of a minor is not liable for payment of care
2 for such persons pursuant to this chapter, unless they have joined in
3 the consent to the treatment.

4 (2) The parent of any minor child may apply to a certified
5 treatment program for the admission of his or her minor child for
6 purposes authorized in this chapter. The consent of the minor child
7 shall not be required for the application or admission. The certified
8 treatment program shall accept the application and evaluate the child
9 for admission. The ability of a parent to apply to a certified
10 treatment program for the admission of his or her minor child does not
11 create a right to obtain or benefit from any funds or resources of the
12 state. However, the state may provide services for indigent minors to
13 the extent that funds are available therefor.

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

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

28 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 (1) The minor signs a written consent authorizing the disclosure; or
32 (2) 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 **VOLUNTARY CHEMICAL DEPENDENCY INPATIENT TREATMENT**

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

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

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

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

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

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

22 **PARENT-INITIATED CHEMICAL DEPENDENCY INPATIENT TREATMENT**

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

25 (1) The parent of a minor may bring his or her minor child to a
26 certified treatment program and request a chemical dependency
27 assessment to be conducted by a professional person to determine
28 whether the child is chemically dependent and in need of inpatient
29 treatment.

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

33 (3) The professional person may evaluate whether the minor is
34 chemically dependent. If, in the judgment of the professional person,

1 it is determined it is a medical necessity for the minor to receive
2 inpatient treatment, the minor may be admitted. Within twenty-four
3 hours of the admission the professional person shall notify the
4 department of the admission.

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

7 **Sec. 23.** RCW 70.96A.097 and 1995 c 312 s 48 are each amended to
8 read as follows:

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

15 ~~(2))~~ The department shall ensure that, for any minor admitted to
16 inpatient treatment under section 22 of this act, a review is conducted
17 no sooner than seven days and no later than ((sixty)) fourteen days
18 following admission to determine whether it is medically appropriate to
19 continue the ~~((child's))~~ minor's treatment on an inpatient basis.
20 ~~((The department may, subject to available funds, contract with a
21 county for the conduct of the review conducted under this subsection
22 and may seek reimbursement from the parents, their insurance, or
23 medicaid for the expense of any review conducted by an agency under
24 contract.~~

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

30 ~~(3) For purposes of eligibility for medical assistance under
31 chapter 74.09 RCW, children in inpatient mental health or chemical
32 dependency treatment shall be considered to be part of their parent's
33 or legal guardian's household, unless the child has been assessed by
34 the department of social and health services or its designee as likely
35 to require such treatment for at least ninety consecutive days, or is
36 in out of home care in accordance with chapter 13.34 RCW, or the
37 child's parents are found to not be exercising responsibility for care
38 and control of the child. Payment for such care by the department of~~

1 ~~social and health services shall be made only in accordance with rules,~~
2 ~~guidelines, and clinical criteria applicable to inpatient treatment of~~
3 ~~minors established by the department.)~~)

4 (2) In determining whether it is medically appropriate to release
5 the minor from inpatient treatment, the department shall consider the
6 opinion of the treatment provider, the safety of the minor, the safety
7 of the public, the likelihood the minor's chemical dependency recovery
8 will deteriorate if released from inpatient treatment, and the wishes
9 of the parent.

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

23 (4) The department may, subject to available funds, contract with
24 a county for the conduct of the reviews conducted under this section
25 and may seek reimbursement from the parents, their insurance, or
26 medicaid for the expense of any review conducted by an agency under
27 contract.

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

30 (1) The parent of a minor may bring his or her minor to a provider
31 of outpatient chemical dependency treatment and request the provider to
32 examine the child to determine whether he or she has a chemical
33 dependency and is in need of outpatient treatment.

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

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

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

3 For purposes of eligibility for medical assistance under chapter
4 74.09 RCW, children in inpatient mental health or chemical dependency
5 treatment shall be considered to be part of their parent's or legal
6 guardian's household, unless the child has been assessed by the
7 department or its designee as likely to require such treatment for at
8 least ninety consecutive days, or is in out-of-home care in accordance
9 with chapter 13.34 RCW, or the child's parents are found to not be
10 exercising responsibility for care and control of the child. Payment
11 for such care by the department shall be made only in accordance with
12 rules, guidelines, and clinical criteria applicable to inpatient
13 treatment of minors established by the department.

14 NEW SECTION. **Sec. 26.** It is the purpose of sections 22 and 24 of
15 this act to assure the ability of parents to exercise reasonable,
16 compassionate care and control of their minor children when there is a
17 medical necessity for treatment and without the requirement of filing
18 a petition under chapter 70.96A RCW.

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

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