
SENATE BILL 5166

State of Washington

55th Legislature

1997 Regular Session

By Senators Stevens, Hargrove, Zarelli, Hochstatter and Oke

Read first time 01/17/97. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to minors, requiring parental consent for health
2 care services; amending RCW 70.02.080, 71.34.030, 71.34.040, and
3 71.34.050; adding a new section to chapter 7.70 RCW; and repealing RCW
4 70.24.110 and 70.96A.095.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 7.70 RCW
7 to read as follows:

8 Informed consent for health care for an unemancipated minor must be
9 obtained from the parent or guardian of the minor, except where
10 otherwise provided by law.

11 **Sec. 2.** RCW 70.02.080 and 1993 c 448 s 5 are each amended to read
12 as follows:

13 (1) Upon receipt of a written request from a patient or the parent
14 or guardian of an unemancipated minor patient to examine or copy all or
15 part of the patient's recorded health care information, a health care
16 provider, as promptly as required under the circumstances, but no later
17 than fifteen working days after receiving the request shall:

1 (a) Make the information available for examination during regular
2 business hours and provide a copy, if requested, to the patient;

3 (b) Inform the patient if the information does not exist or cannot
4 be found;

5 (c) If the health care provider does not maintain a record of the
6 information, inform the patient and provide the name and address, if
7 known, of the health care provider who maintains the record;

8 (d) If the information is in use or unusual circumstances have
9 delayed handling the request, inform the patient and specify in writing
10 the reasons for the delay and the earliest date, not later than twenty-
11 one working days after receiving the request, when the information will
12 be available for examination or copying or when the request will be
13 otherwise disposed of; or

14 (e) Deny the request, in whole or in part, under RCW 70.02.090 and
15 inform the patient.

16 (2) Upon request, the health care provider shall provide an
17 explanation of any code or abbreviation used in the health care
18 information. If a record of the particular health care information
19 requested is not maintained by the health care provider in the
20 requested form, the health care provider is not required to create a
21 new record or reformulate an existing record to make the health care
22 information available in the requested form. The health care provider
23 may charge a reasonable fee for providing the health care information
24 and is not required to permit examination or copying until the fee is
25 paid.

26 **Sec. 3.** RCW 71.34.030 and 1995 c 312 s 52 are each amended to read
27 as follows:

28 (1) (~~Any minor thirteen years or older may request and receive~~
29 ~~outpatient treatment without the consent of the minor's parent.~~)
30 Parental written authorization is required for outpatient treatment of
31 a minor (~~under the age of thirteen~~) who has not been emancipated.

32 (2) When in the judgment of the professional person in charge of an
33 evaluation and treatment facility there is reason to believe that a
34 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
37 restrictive setting or the minor's home, (~~the~~) an unemancipated minor

1 may be admitted to an evaluation and treatment facility ((in accordance
2 with the following requirements:

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

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

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

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

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

28 (iv) ~~The parent may apply to the court for separate counsel to~~
29 ~~represent the parent if the parent cannot afford counsel.~~

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

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

36 (vii) ~~At such hearing, the facility must demonstrate by a~~
37 ~~preponderance of the evidence presented at the hearing that the minor~~
38 ~~is in need of inpatient treatment and that release would constitute a~~
39 ~~threat to the minor's health or safety. The hearing shall not be~~

1 conducted using the rules of evidence, and the admission or exclusion
2 of evidence sought to be presented shall be within the exercise of
3 sound discretion by the judicial officer conducting the hearing.

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

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

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

9 (a)) Any unemancipated minor ((under the age of thirteen)) must be
10 discharged immediately upon written request of the parent.

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

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

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

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

31 **Sec. 4.** RCW 71.34.040 and 1985 c 354 s 4 are each amended to read
32 as follows:

33 If a minor, thirteen years or older, is brought to an evaluation
34 and treatment facility or hospital emergency room for immediate mental
35 health services, the professional person in charge of the facility
36 shall evaluate the minor's mental condition, determine whether the
37 minor suffers from a mental disorder, and whether the minor is in need
38 of immediate inpatient treatment. If it is determined that the minor

1 suffers from a mental disorder, inpatient treatment is required, the
2 parent or guardian of the minor is unwilling to consent to voluntary
3 admission, and the professional person believes that the minor meets
4 the criteria for initial detention set forth herein, the facility may
5 detain or arrange for the detention of the minor for up to twelve hours
6 in order to enable a county-designated mental health professional to
7 evaluate the minor and commence initial detention proceedings under the
8 provisions of this chapter.

9 **Sec. 5.** RCW 71.34.050 and 1995 c 312 s 53 are each amended to read
10 as follows:

11 (1) When a county-designated mental health professional receives
12 information that a minor, thirteen years or older, as a result of a
13 mental disorder presents a likelihood of serious harm or is gravely
14 disabled, has investigated the specific facts alleged and of the
15 credibility of the person or persons providing the information, and has
16 determined that voluntary admission for inpatient treatment is not
17 possible, the county-designated mental health professional may take the
18 minor, or cause the minor to be taken, into custody and transported to
19 an evaluation and treatment facility providing inpatient treatment.

20 If the minor is not taken into custody for evaluation and
21 treatment, the parent who has custody of the minor may seek review of
22 that decision made by the county designated mental health professional
23 in court. The parent shall file notice with the court and provide a
24 copy of the county designated mental health professional's report or
25 notes.

26 (2) Within twelve hours of the minor's arrival at the evaluation
27 and treatment facility, the county-designated mental health
28 professional shall serve on the minor and the parent or guardian of the
29 minor a copy of the petition for initial detention, notice of initial
30 detention, and statement of rights. The county-designated mental
31 health professional shall file with the court on the next judicial day
32 following the initial detention the original petition for initial
33 detention, notice of initial detention, and statement of rights along
34 with an affidavit of service. The county-designated mental health
35 professional shall commence service of the petition for initial
36 detention and notice of the initial detention on the minor, the minor's
37 parent or guardian, and the minor's attorney as soon as possible
38 following the initial detention.

1 (3) At the time of initial detention, the county-designated mental
2 health professional shall advise the minor and the parent or guardian
3 of the minor both orally and in writing that if admitted to the
4 evaluation and treatment facility for inpatient treatment, a commitment
5 hearing shall be held within seventy-two hours of the minor's
6 provisional acceptance to determine whether probable cause exists to
7 commit the minor for further mental health treatment.

8 The minor shall be advised that he or she has a right to
9 communicate immediately with an attorney and that he or she has a right
10 to have an attorney appointed to represent him or her before and at the
11 hearing if the minor is indigent.

12 (4) Whenever the county designated mental health professional
13 petitions for detention of a minor under this chapter, an evaluation
14 and treatment facility providing seventy-two hour evaluation and
15 treatment must immediately accept on a provisional basis the petition
16 and the person. Within twenty-four hours of the minor's arrival, the
17 facility must evaluate the minor's condition and either admit or
18 release the minor in accordance with this chapter.

19 (5) If a minor is not approved for admission by the inpatient
20 evaluation and treatment facility, the facility shall make such
21 recommendations and referrals for further care and treatment of the
22 minor as necessary.

23 NEW SECTION. **Sec. 6.** The following acts or parts of acts are each
24 repealed:

- 25 (1) RCW 70.24.110 and 1988 c 206 s 912 & 1969 ex.s. c 164 s 1; and
26 (2) RCW 70.96A.095 and 1996 c 133 s 34, 1995 c 312 s 47, 1991 c 364
27 s 9 & 1989 c 270 s 24.

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