
SUBSTITUTE SENATE BILL 5418

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Patterson, Hargrove, Hochstatter, Stevens, Winsley and Kohl-Welles)

Read first time 02/14/2001. Referred to Committee on .

1 AN ACT Relating to providing chemical dependency treatment service
2 upon request; amending RCW 70.96A.010, 70.96A.020, 70.96A.050,
3 70.96A.120, 70.96A.140, 70.96A.145, 70.96A.235, 70.96A.240, 70.96A.905,
4 70.96A.915, 74.50.050, 74.50.060, and 74.50.080; amending 1991 c 364 s
5 13 (uncodified); amending 1993 c 362 s 2 (uncodified); reenacting and
6 amending RCW 70.96A.430; adding new sections to chapter 70.96A RCW; and
7 decodifying RCW 70.96.150.

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

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

11 Notwithstanding any other provision of this chapter, the department
12 shall provide services as follows:

13 (1) For persons whose income is less than two hundred percent of
14 the federal poverty level and for minors who request chemical
15 dependency treatment, according to the needs indicated by the person's
16 chemical dependency assessment. Determination of appropriate chemical
17 dependency treatment or placement shall consider the person's chemical
18 dependency treatment needs in light of any existing co-occurring
19 disorders;

- 1 (2) Involuntary treatment;
- 2 (3) To meet federal program requirements; and
- 3 (4) Within available funds, to meet the other duties of the
- 4 department as defined in this chapter and in chapter 74.50 RCW.

5 **Sec. 2.** RCW 70.96A.010 and 1989 c 271 s 304 are each amended to
6 read as follows:

7 It is the policy of this state that ~~((alcoholics and intoxicated))~~
8 chemically dependent persons may not be subjected to criminal
9 prosecution solely because of their consumption of ~~((alcoholic~~
10 beverages)) alcohol or other psychoactive chemicals but rather
11 should~~((, within available funds,))~~ be afforded a continuum of
12 treatment, as prescribed in this chapter, in order that they may lead
13 normal lives as productive members of society. ~~((Within available~~
14 funds, treatment should also be provided for drug addicts.))

15 **Sec. 3.** RCW 70.96A.020 and 1998 c 296 s 22 are each amended to
16 read as follows:

17 For the purposes of this chapter the following words and phrases
18 shall have the following meanings unless the context clearly requires
19 otherwise:

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

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

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

31 (4) "Chemical dependency" means:

32 (a) Alcoholism ~~((or));~~ (b) drug addiction ~~((or));~~ or (c) dependence
33 on alcohol and one or more other psychoactive chemicals, as the context
34 requires.

35 (5) "Chemical dependency program" means expenditures and activities
36 of the department designed and conducted to prevent or treat alcoholism

1 and other drug addiction, including reasonable administration and
2 overhead.

3 (6) "Department" means the department of social and health
4 services.

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

10 (8) "Director" means the person administering the chemical
11 dependency program within the department.

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

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

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

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

31 (13) "History of one or more violent acts" refers to the period of
32 time ten years prior to the filing of a petition under this chapter,
33 excluding any time spent, but not any violent acts committed, in a
34 mental health facility, or a long-term alcoholism or drug treatment
35 facility, or in confinement.

36 (14) "Incapacitated by alcohol or other psychoactive chemicals"
37 means that a person, as a result of the use of alcohol or other
38 psychoactive chemicals, (~~has his or her judgment so impaired that he~~
39 ~~or she is incapable of realizing and making a rational decision with~~

1 ~~respect to his or her need for treatment and~~) is gravely disabled or
2 presents a likelihood of serious harm to himself or herself, to any
3 other person, or to property.

4 ~~((14))~~ (15) "Incompetent person" means a person who has been
5 adjudged incompetent by the superior court.

6 ~~((15))~~ (16) "Intoxicated person" means a person whose mental or
7 physical functioning is substantially impaired as a result of the use
8 of alcohol or other psychoactive chemicals.

9 ~~((16))~~ (17) "Licensed physician" means a person licensed to
10 practice medicine or osteopathic medicine and surgery in the state of
11 Washington.

12 ~~((17))~~ (18) "Likelihood of serious harm" means ~~((either))~~:

13 (a) A substantial risk that: (i) Physical harm will be inflicted
14 by an individual upon his or her own person, as evidenced by threats or
15 attempts to commit suicide or inflict physical harm on one's self;
16 ~~((b) a substantial risk that)~~ (ii) physical harm will be inflicted by
17 an individual upon another, as evidenced by behavior that has caused
18 the harm or that places another person or persons in reasonable fear of
19 sustaining the harm; or ~~((c) a substantial risk that)~~ (iii) physical
20 harm will be inflicted by an individual upon the property of others, as
21 evidenced by behavior that has caused substantial loss or damage to the
22 property of others; or

23 (b) The individual has threatened the physical safety of another
24 and has a history of one or more violent acts.

25 ~~((18))~~ (19) "Medical necessity" for inpatient care of a minor
26 means a requested certified inpatient service that is reasonably
27 calculated to: (a) Diagnose, arrest, or alleviate a chemical
28 dependency; or (b) prevent the worsening of chemical dependency
29 conditions that endanger life or cause suffering and pain, or result in
30 illness or infirmity or threaten to cause or aggravate a handicap, or
31 cause physical deformity or malfunction, and there is no adequate less
32 restrictive alternative available.

33 ~~((19))~~ (20) "Minor" means a person less than eighteen years of
34 age.

35 ~~((20))~~ (21) "Parent" means the parent or parents who have the
36 legal right to custody of the child. Parent includes custodian or
37 guardian.

38 ~~((21))~~ (22) "Peace officer" means a law enforcement official of
39 a public agency or governmental unit, and includes persons specifically

1 given peace officer powers by any state law, local ordinance, or
2 judicial order of appointment.

3 ~~((22))~~ (23) "Person" means an individual, including a minor.

4 ~~((23))~~ (24) "Professional person in charge" or "professional
5 person" means a physician or chemical dependency counselor as defined
6 in rule by the department, who is empowered by a certified treatment
7 program with authority to make assessment, admission, continuing care,
8 and discharge decisions on behalf of the certified program.

9 ~~((24))~~ (25) "Secretary" means the secretary of the department of
10 social and health services.

11 ~~((25))~~ (26) "Treatment" means the broad range of emergency,
12 detoxification, residential, and outpatient services and care,
13 including diagnostic evaluation, chemical dependency education and
14 counseling, medical, psychiatric, psychological, and social service
15 care, vocational rehabilitation and career counseling, which may be
16 extended to alcoholics and other drug addicts and their families,
17 persons incapacitated by alcohol or other psychoactive chemicals, and
18 intoxicated persons.

19 ~~((26))~~ (27) "Treatment program" means an organization,
20 institution, or corporation, public or private, engaged in the care,
21 treatment, or rehabilitation of alcoholics or other drug addicts.

22 (28) "Violent act" means behavior that resulted in homicide,
23 attempted suicide, nonfatal injuries, or substantial damage to
24 property.

25 **Sec. 4.** 1991 c 364 s 13 (uncodified) is amended to read as
26 follows:

27 The purpose of sections 7 through 12 ~~((of this act))~~, chapter 364,
28 Laws of 1991 is solely to provide authority for the involuntary
29 commitment of minors addicted by drugs within ~~((available funds and))~~
30 current programs and facilities. Nothing in sections 7 through 12 ~~((of~~
31 ~~this act))~~, chapter 364, Laws of 1991 shall be construed to ~~((require~~
32 ~~the addition of new facilities nor))~~ affect the department's authority
33 for the uses of existing programs and facilities authorized by law.
34 Nothing in sections 7 through 12 ~~((of this act))~~, chapter 364, Laws of
35 1991 shall prevent a parent or guardian from requesting the involuntary
36 commitment of a minor through a county designated chemical dependency
37 specialist on an ability to pay basis.

1 **Sec. 5.** RCW 70.96A.050 and 1989 c 270 s 6 are each amended to read
2 as follows:

3 The department shall:

4 (1) Develop, encourage, and foster statewide, regional, and local
5 plans and programs for the prevention of alcoholism and other drug
6 addiction, treatment of alcoholics and other drug addicts and their
7 families, persons incapacitated by alcohol or other psychoactive
8 chemicals, and intoxicated persons in cooperation with public and
9 private agencies, organizations, and individuals and provide technical
10 assistance and consultation services for these purposes;

11 (2) Coordinate the efforts and enlist the assistance of all public
12 and private agencies, organizations, and individuals interested in
13 prevention of alcoholism and drug addiction, and treatment of
14 alcoholics and other drug addicts and their families, persons
15 incapacitated by alcohol or other psychoactive chemicals, and
16 intoxicated persons;

17 (3) Cooperate with public and private agencies in establishing and
18 conducting programs to provide treatment for alcoholics and other drug
19 addicts and their families, persons incapacitated by alcohol or other
20 psychoactive chemicals, and intoxicated persons who are clients of the
21 correctional system;

22 (4) Cooperate with the superintendent of public instruction, state
23 board of education, schools, police departments, courts, and other
24 public and private agencies, organizations and individuals in
25 establishing programs for the prevention of alcoholism and other drug
26 addiction, treatment of alcoholics or other drug addicts and their
27 families, persons incapacitated by alcohol ((and)) or other
28 psychoactive chemicals, and intoxicated persons, and preparing
29 curriculum materials thereon for use at all levels of school education;

30 (5) Prepare, publish, evaluate, and disseminate educational
31 material dealing with the nature and effects of alcohol and other
32 psychoactive chemicals and the consequences of their use;

33 (6) Develop and implement, as an integral part of treatment
34 programs, an educational program for use in the treatment of alcoholics
35 or other drug addicts, persons incapacitated by alcohol ((and)) or
36 other psychoactive chemicals, and intoxicated persons, which program
37 shall include the dissemination of information concerning the nature
38 and effects of alcohol and other psychoactive chemicals, the

1 consequences of their use, the principles of recovery, and HIV and
2 AIDS;

3 (7) Organize and foster training programs for persons engaged in
4 treatment of alcoholics or other drug addicts, persons incapacitated by
5 alcohol ((and)) or other psychoactive chemicals, and intoxicated
6 persons;

7 (8) Sponsor and encourage research into the causes and nature of
8 alcoholism and other drug addiction, treatment of alcoholics and other
9 drug addicts, persons incapacitated by alcohol ((and)) or other
10 psychoactive chemicals, and intoxicated persons, and serve as a
11 clearing house for information relating to alcoholism or other drug
12 addiction;

13 (9) Specify uniform methods for keeping statistical information by
14 public and private agencies, organizations, and individuals, and
15 collect and make available relevant statistical information, including
16 number of persons treated, frequency of admission and readmission, and
17 frequency and duration of treatment;

18 (10) Advise the governor in the preparation of a comprehensive plan
19 for treatment of alcoholics and other drug addicts, persons
20 incapacitated by alcohol or other psychoactive chemicals, and
21 intoxicated persons for inclusion in the state's comprehensive health
22 plan;

23 (11) Review all state health, welfare, and treatment plans to be
24 submitted for federal funding under federal legislation, and advise the
25 governor on provisions to be included relating to alcoholism and other
26 drug addiction, persons incapacitated by alcohol or other psychoactive
27 chemicals, and intoxicated persons;

28 (12) Assist in the development of, and cooperate with, programs for
29 alcohol and other psychoactive chemical education and treatment for
30 employees of state and local governments and businesses and industries
31 in the state;

32 (13) Use the support and assistance of interested persons in the
33 community to encourage alcoholics and other drug addicts voluntarily to
34 undergo treatment;

35 (14) Cooperate with public and private agencies in establishing and
36 conducting programs designed to deal with the problem of persons
37 operating motor vehicles while intoxicated;

38 (15) Encourage general hospitals and other appropriate health
39 facilities to admit without discrimination alcoholics and other drug

1 addicts, persons incapacitated by alcohol or other psychoactive
2 chemicals, and intoxicated persons and to provide them with adequate
3 and appropriate treatment;

4 (16) Encourage all health and disability insurance programs to
5 include alcoholism and other drug addiction as a covered illness; and

6 (17) Organize and sponsor a statewide program to help court
7 personnel, including judges, better understand the disease of
8 alcoholism and other drug addiction and the uses of chemical dependency
9 treatment programs.

10 **Sec. 6.** RCW 70.96A.120 and 1991 c 290 s 6 are each amended to read
11 as follows:

12 (1) An intoxicated person may come voluntarily to an approved
13 treatment program for treatment. A person who appears to be
14 intoxicated in a public place and to be in need of help, if ((he or
15 she)) the person consents to the proffered help, may be assisted to his
16 or her home, an approved treatment program, or other health facility.

17 (2) (~~Except for a person who may be apprehended for possible~~
18 ~~violation of laws not relating to alcoholism, drug addiction, or~~
19 ~~intoxication and except for a person who may be apprehended for~~
20 ~~possible violation of laws relating to driving or being in physical~~
21 ~~control of a vehicle while under the influence of intoxicating liquor~~
22 ~~or any drug and except for a person who may wish to avail himself or~~
23 ~~herself of the provisions of RCW 46.20.308, a person who appears to be~~
24 ~~incapacitated or gravely disabled by alcohol or other drugs and who is~~
25 ~~in a public place or who has threatened, attempted, or inflicted~~
26 ~~physical harm on himself, herself, or another, shall be taken into~~
27 ~~protective custody by a peace officer or staff designated by the county~~
28 ~~and as soon as practicable, but in no event beyond eight hours brought~~
29 ~~to an approved treatment program for treatment. If no approved~~
30 ~~treatment program is readily available he or she shall be taken to an~~
31 ~~emergency medical service customarily used for incapacitated persons.~~
32 ~~The peace officer or staff designated by the county, in detaining the~~
33 ~~person and in taking him or her to an approved treatment program, is~~
34 ~~taking him or her into protective custody and shall make every~~
35 ~~reasonable effort to protect his or her health and safety. In taking~~
36 ~~the person into protective custody, the detaining peace officer or~~
37 ~~staff designated by the county may take reasonable steps including~~
38 ~~reasonable force if necessary to protect himself or herself or effect~~

1 ~~the custody. A taking into protective custody under this section is~~
2 ~~not an arrest. No entry or other record shall be made to indicate that~~
3 ~~the person has been arrested or charged with a crime.)~~)

4 (a) A peace officer or staff designated by the county shall take
5 into protective custody a person who appears to present a likelihood of
6 serious harm or be gravely disabled by alcohol or other psychoactive
7 chemicals and who:

8 (i) Is in a public place; or

9 (ii) Has threatened, attempted, or inflicted physical harm on
10 himself, herself, or another; or

11 (iii) Is not in a public place, if directed by the designated
12 chemical dependency specialist pursuant to (b) of this subsection.

13 (b) A designated chemical dependency specialist may take into
14 protective custody, or may cause a peace officer or staff designated by
15 the county to take into protective custody, a person who is at imminent
16 risk of harm and appears to present a likelihood of serious harm or be
17 gravely disabled by alcohol or other psychoactive chemicals and who is
18 not in a public place.

19 (c) This subsection does not apply to a person who:

20 (i) May be apprehended for possible violation of laws not relating
21 to chemical dependency or intoxication;

22 (ii) May be apprehended for possible violation of laws relating to
23 driving or being in physical control of a vehicle while under the
24 influence of intoxicating liquor or any psychoactive chemical; or

25 (iii) May wish to avail himself or herself of the provisions of RCW
26 46.20.308.

27 (d) A person taken into protective custody must be taken to an
28 approved treatment program as soon as practicable, but in any event
29 within eight hours. If no approved treatment program is available, the
30 person shall be taken to an emergency medical service customarily used
31 for incapacitated persons.

32 (e) In taking a person into protective custody, the detaining
33 police officer or staff designated by the county shall make every
34 reasonable effort to protect the person's health and safety and may
35 take reasonable steps, including reasonable force, if necessary, to
36 protect himself or herself or to effect the custody.

37 (f) Taking a person into protective custody under this subsection
38 is not an arrest. No entry or other record shall be made to indicate
39 that the person has been arrested or charged with a crime.

1 (3) A person who comes voluntarily or is brought to an approved
2 treatment program shall be examined by a qualified person. ~~((He or
3 she))~~ The person may then be admitted as a patient or referred to
4 another health facility, which provides emergency medical treatment,
5 where it appears that such treatment may be necessary. The referring
6 approved treatment program shall arrange for ~~((his or her))~~ the
7 person's transportation.

8 (4) A person who is found to ~~((be incapacitated))~~ present a
9 likelihood of serious harm or be gravely disabled by alcohol or other
10 ~~((drugs))~~ psychoactive chemicals at the time of ~~((his or her))~~ the
11 person's admission or to have ~~((become incapacitated))~~ presented a
12 likelihood of serious harm or be gravely disabled at any time after his
13 or her admission, may not be detained at the program for more than
14 seventy-two hours after admission as a patient, unless a petition is
15 filed under RCW 70.96A.140~~((, as now or hereafter amended))~~: PROVIDED,
16 That the treatment personnel at an approved treatment program are
17 authorized to use such reasonable physical restraint as may be
18 necessary to retain ~~((an incapacitated))~~ a person who presents a
19 likelihood of serious harm or is gravely disabled ~~((person))~~ for up to
20 seventy-two hours from the time of admission. The seventy-two hour
21 periods specified in this section shall be computed by excluding
22 Saturdays, Sundays, and holidays. A person may consent to remain in
23 the program as long as the physician in charge believes appropriate.

24 (5) A person who: (a) Is not admitted to an approved treatment
25 program, (b) is not referred to another health facility, and (c) has no
26 funds, may be taken to his or her home~~((, if any))~~. If ~~((he or she))~~
27 the person has no home, the approved treatment program shall provide
28 him or her with information and assistance to access available
29 community shelter resources.

30 (6) If a ~~((patient))~~ person is admitted to an approved treatment
31 program, ~~((his or her))~~ the person's family or next of kin shall be
32 notified as promptly as possible by the treatment program. If an adult
33 patient who ~~((is))~~ does not ~~((incapacitated))~~ present a likelihood of
34 serious harm or is not gravely disabled requests that there be no
35 notification, his or her request shall be respected.

36 (7) The peace officer, staff designated by the county, or treatment
37 facility personnel, who act in compliance with this chapter and are
38 performing in the course of their official duty are not criminally or
39 civilly liable therefor.

1 (8) If the person in charge of the approved treatment program
2 determines that appropriate treatment is available, the patient shall
3 be encouraged to agree to further diagnosis and appropriate voluntary
4 treatment.

5 **Sec. 7.** RCW 70.96A.140 and 1995 c 312 s 49 are each amended to
6 read as follows:

7 (1) When a designated chemical dependency specialist receives
8 information alleging that a person (~~(is incapacitated)~~) presents a
9 likelihood of serious harm or is gravely disabled as a result of
10 chemical dependency, the designated chemical dependency specialist,
11 after investigation and evaluation of the specific facts alleged and of
12 the reliability and credibility of the information, may file a petition
13 for commitment of such person with the superior court (~~(or)~~), district
14 court, or in another court permitted by court rule.

15 If a petition for commitment is not filed in the case of a minor,
16 the parent, guardian, or custodian who has custody of the minor may
17 seek review of that decision made by the designated chemical dependency
18 specialist in superior or district court. The parent, guardian, or
19 custodian shall file notice with the court and provide a copy of the
20 designated chemical dependency specialist's report.

21 If the designated chemical dependency specialist finds that the
22 initial needs of such person would be better served by placement within
23 the mental health system, the person shall be referred to either a
24 county designated mental health professional or an evaluation and
25 treatment facility as defined in RCW 71.05.020 or 71.34.020. (~~(If~~
26 ~~placement in a chemical dependency program is available and deemed~~
27 ~~appropriate,)~~) The petition shall allege that: The person is
28 chemically dependent and (~~(is incapacitated)~~) presents a likelihood of
29 serious harm or is gravely disabled by alcohol or drug addiction, or
30 that the person has twice before in the preceding twelve months been
31 admitted for detoxification, sobering services, or chemical dependency
32 treatment pursuant to RCW 70.96A.110 or 70.96A.120, and is in need of
33 a more sustained treatment program, or that the person is chemically
34 dependent and has threatened, attempted, or inflicted physical harm on
35 another and is likely to inflict physical harm on another unless
36 committed. A refusal to undergo treatment, by itself, does not
37 constitute evidence of lack of judgment as to the need for treatment.
38 The petition shall be accompanied by a certificate of a licensed

1 physician who has examined the person within five days before
2 submission of the petition, unless the person whose commitment is
3 sought has refused to submit to a medical examination, in which case
4 the fact of refusal shall be alleged in the petition. The certificate
5 shall set forth the licensed physician's findings in support of the
6 allegations of the petition. A physician employed by the petitioning
7 program or the department is eligible to be the certifying physician.

8 (2) Upon filing the petition, the court shall fix a date for a
9 hearing no less than two and no more than seven days after the date the
10 petition was filed unless the person petitioned against is presently
11 being detained in a program, pursuant to RCW 70.96A.120, 71.05.210, or
12 71.34.050, in which case the hearing shall be held within seventy-two
13 hours of the filing of the petition: PROVIDED, HOWEVER, That the above
14 specified seventy-two hours shall be computed by excluding Saturdays,
15 Sundays, and holidays: PROVIDED FURTHER, That, the court may, upon
16 motion of the person whose commitment is sought, or upon motion of
17 petitioner with written permission of the person whose commitment is
18 sought, or his or her counsel and, upon good cause shown, extend the
19 date for the hearing. A copy of the petition and of the notice of the
20 hearing, including the date fixed by the court, shall be served by the
21 designated chemical dependency specialist on the person whose
22 commitment is sought, his or her next of kin, a parent or his or her
23 legal guardian if he or she is a minor, and any other person the court
24 believes advisable. A copy of the petition and certificate shall be
25 delivered to each person notified.

26 (3) At the hearing the court shall hear all relevant testimony,
27 including, if possible, the testimony, which may be telephonic, of at
28 least one licensed physician who has examined the person whose
29 commitment is sought. Communications otherwise deemed privileged under
30 the laws of this state are deemed to be waived in proceedings under
31 this chapter when a court of competent jurisdiction in its discretion
32 determines that the waiver is necessary to protect either the detained
33 person or the public. The waiver of a privilege under this section is
34 limited to records or testimony relevant to evaluation of the detained
35 person for purposes of a proceeding under this chapter. Upon motion by
36 the detained person, or on its own motion, the court shall examine a
37 record or testimony sought by a petitioner to determine whether it is
38 within the scope of the waiver.

1 The record maker shall not be required to testify in order to
2 introduce medical, nursing, or psychological records of detained
3 persons so long as the requirements of RCW 5.45.020 are met, except
4 that portions of the record that contain opinions as to whether the
5 detained person is chemically dependent shall be deleted from the
6 records unless the person offering the opinions is available for cross-
7 examination. The person shall be present unless the court believes
8 that his or her presence is likely to be injurious to him or her; in
9 this event the court may deem it appropriate to appoint a guardian ad
10 litem to represent him or her throughout the proceeding. If deemed
11 advisable, the court may examine the person out of courtroom. If the
12 person has refused to be examined by a licensed physician, he or she
13 shall be given an opportunity to be examined by a court appointed
14 licensed physician. If he or she refuses and there is sufficient
15 evidence to believe that the allegations of the petition are true, or
16 if the court believes that more medical evidence is necessary, the
17 court may make a temporary order committing him or her to the
18 department for a period of not more than five days for purposes of a
19 diagnostic examination.

20 (4) If after hearing all relevant evidence, including the results
21 of any diagnostic examination, the court finds that grounds for
22 involuntary commitment have been established by clear, cogent, and
23 convincing proof, it shall make an order of commitment to an approved
24 treatment program. (~~It shall not order commitment of a person unless
25 it determines that an approved treatment program is available and able
26 to provide adequate and appropriate treatment for him or her.~~)

27 (5) A person committed under this section shall remain in the
28 program for treatment for a period of sixty days unless sooner
29 discharged. At the end of the sixty-day period, he or she shall be
30 discharged automatically unless the program, before expiration of the
31 period, files a petition for his or her recommitment upon the grounds
32 set forth in subsection (1) of this section for a further period of
33 ninety days unless sooner discharged.

34 If a petition for recommitment is not filed in the case of a minor,
35 the parent, guardian, or custodian who has custody of the minor may
36 seek review of that decision made by the designated chemical dependency
37 specialist in superior or district court. The parent, guardian, or
38 custodian shall file notice with the court and provide a copy of the
39 treatment progress report.

1 If a person has been committed because he or she is chemically
2 dependent and likely to inflict physical harm on another, the program
3 shall apply for recommitment if after examination it is determined that
4 the likelihood still exists.

5 (6) Upon the filing of a petition for recommitment under subsection
6 (5) of this section, the court shall fix a date for hearing no less
7 than two and no more than seven days after the date the petition was
8 filed: PROVIDED, That, the court may, upon motion of the person whose
9 commitment is sought and upon good cause shown, extend the date for the
10 hearing. A copy of the petition and of the notice of hearing,
11 including the date fixed by the court, shall be served by the treatment
12 program on the person whose commitment is sought, his or her next of
13 kin, the original petitioner under subsection (1) of this section if
14 different from the petitioner for recommitment, one of his or her
15 parents or his or her legal guardian if he or she is a minor, and his
16 or her attorney and any other person the court believes advisable. At
17 the hearing the court shall proceed as provided in subsection (3) of
18 this section.

19 (7) The approved treatment program shall provide for adequate and
20 appropriate treatment of a person committed to its custody. A person
21 committed under this section may be transferred from one approved
22 public treatment program to another if transfer is medically advisable.

23 (8) A person committed to the custody of a program for treatment
24 shall be discharged at any time before the end of the period for which
25 he or she has been committed and he or she shall be discharged by order
26 of the court if either of the following conditions are met:

27 (a) In case of a chemically dependent person committed on the
28 grounds of likelihood of infliction of physical harm upon himself,
29 herself, or another, the likelihood no longer exists; or further
30 treatment will not be likely to bring about significant improvement in
31 the person's condition, or treatment is no longer adequate or
32 appropriate.

33 (b) In case of a chemically dependent person committed on the
34 grounds of the need of treatment and incapacity, that the incapacity no
35 longer exists.

36 (9) The court shall inform the person whose commitment or
37 recommitment is sought of his or her right to contest the application,
38 be represented by counsel at every stage of any proceedings relating to
39 his or her commitment and recommitment, and have counsel appointed by

1 the court or provided by the court, if he or she wants the assistance
2 of counsel and is unable to obtain counsel. If the court believes that
3 the person needs the assistance of counsel, the court shall require, by
4 appointment if necessary, counsel for him or her regardless of his or
5 her wishes. The person shall, if he or she is financially able, bear
6 the costs of such legal service; otherwise such legal service shall be
7 at public expense. The person whose commitment or recommitment is
8 sought shall be informed of his or her right to be examined by a
9 licensed physician of his or her choice. If the person is unable to
10 obtain a licensed physician and requests examination by a physician,
11 the court shall employ a licensed physician.

12 (10) A person committed under this chapter may at any time seek to
13 be discharged from commitment by writ of habeas corpus in a court of
14 competent jurisdiction.

15 (11) The venue for proceedings under this section is the county in
16 which person to be committed resides or is present.

17 (12) When in the opinion of the professional person in charge of
18 the program providing involuntary treatment under this chapter, the
19 committed patient can be appropriately served by less restrictive
20 treatment before expiration of the period of commitment, then the less
21 restrictive care may be required as a condition for early release for
22 a period which, when added to the initial treatment period, does not
23 exceed the period of commitment. If the program designated to provide
24 the less restrictive treatment is other than the program providing the
25 initial involuntary treatment, the program so designated must agree in
26 writing to assume such responsibility. A copy of the conditions for
27 early release shall be given to the patient, the designated chemical
28 dependency specialist of original commitment, and the court of original
29 commitment. The program designated to provide less restrictive care
30 may modify the conditions for continued release when the modifications
31 are in the best interests of the patient. If the program providing
32 less restrictive care and the designated chemical dependency specialist
33 determine that a conditionally released patient is failing to adhere to
34 the terms and conditions of his or her release, or that substantial
35 deterioration in the patient's functioning has occurred, then the
36 designated chemical dependency specialist shall notify the court of
37 original commitment and request a hearing to be held no less than two
38 and no more than seven days after the date of the request to determine
39 whether or not the person should be returned to more restrictive care.

1 The designated chemical dependency specialist shall file a petition
2 with the court stating the facts substantiating the need for the
3 hearing along with the treatment recommendations. The patient shall
4 have the same rights with respect to notice, hearing, and counsel as
5 for the original involuntary treatment proceedings. The issues to be
6 determined at the hearing are whether the conditionally released
7 patient did or did not adhere to the terms and conditions of his or her
8 release to less restrictive care or that substantial deterioration of
9 the patient's functioning has occurred and whether the conditions of
10 release should be modified or the person should be returned to a more
11 restrictive program. The hearing may be waived by the patient and his
12 or her counsel and his or her guardian or conservator, if any, but may
13 not be waived unless all such persons agree to the waiver. Upon
14 waiver, the person may be returned for involuntary treatment or
15 continued on conditional release on the same or modified conditions.

16 **Sec. 8.** 1993 c 362 s 2 (uncodified) is amended to read as follows:

17 The purpose of (~~this act~~) chapter 362, Laws of 1993 is solely to
18 provide authority for the involuntary commitment of persons suffering
19 from chemical dependency within (~~available funds and~~) current
20 programs and facilities. Nothing in (~~this act~~) chapter 362, Laws of
21 1993 shall be construed to (~~require the addition of new facilities~~
22 ~~nor~~) affect the department of social and health services' authority
23 for the uses of existing programs and facilities authorized by law.

24 **Sec. 9.** RCW 70.96A.145 and 1993 c 137 s 1 are each amended to read
25 as follows:

26 The prosecuting attorney of the county in which such action is
27 taken (~~may, at the discretion of the prosecuting attorney,~~) shall
28 represent the designated chemical dependency specialist or treatment
29 program in judicial proceedings under RCW 70.96A.140 for the
30 involuntary commitment or recommitment of an individual, including any
31 judicial proceeding where the individual sought to be committed or
32 recommitted challenges the action. Within the discretion of the
33 secretary, the department may reimburse the prosecuting attorney for
34 costs of representation incurred under this section.

35 **Sec. 10.** RCW 70.96A.235 and 1998 c 296 s 25 are each amended to
36 read as follows:

1 Parental consent is required for inpatient chemical dependency
2 treatment of a minor, unless the child meets the definition of a child
3 in need of services in RCW 13.32A.030(~~(+4)(c)~~) (5)(c) as determined by
4 the department: PROVIDED, That parental consent is required for any
5 treatment of a minor under the age of thirteen.

6 If a minor thirteen years of age or older requests inpatient
7 treatment or an evaluation of the appropriateness of inpatient
8 treatment from a certified treatment program and his or her parent
9 refuses to consent, the minor or parent may file a petition under
10 chapter 13.32A RCW.

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

12 **Sec. 11.** RCW 70.96A.240 and 1998 c 296 s 26 are each amended to
13 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~~) shall provide appropriate services for
21 indigent minors (~~to the extent that funds are available therefor~~).

22 **Sec. 12.** RCW 70.96A.430 and 1989 c 271 s 308 are each reenacted
23 and amended to read as follows:

24 The department shall not refuse admission for diagnosis,
25 evaluation, guidance or treatment to any applicant because it is
26 determined that the applicant is financially unable to contribute fully
27 or in part to the cost of any services or facilities available under
28 the program on (~~alcoholism~~) chemical dependency.

29 The department may limit admissions (~~of such applicants or~~),
30 modify its programs (~~in order to ensure that expenditures for services~~
31 ~~or programs do not exceed amounts appropriated by the legislature and~~
32 ~~are allocated by the department for such services or programs. The~~
33 ~~department may~~), or establish admission priorities (~~in the event that~~
34 ~~the number of eligible applicants exceeds the limits set by the~~
35 ~~department~~) to appropriately manage its programs.

1 **Sec. 13.** RCW 70.96A.905 and 1992 c 205 s 306 are each amended to
2 read as follows:

3 The department shall ensure that the provisions of this chapter are
4 applied by the counties in a consistent and uniform manner. The
5 department shall also ensure that(~~(, to the extent possible within~~
6 ~~available funds,)~~) the county-designated chemical dependency
7 specialists are specifically trained in adolescent chemical dependency
8 issues, the chemical dependency commitment laws, and the criteria for
9 commitment.

10 **Sec. 14.** RCW 70.96A.915 and 1989 c 271 s 309 are each amended to
11 read as follows:

12 The department is authorized to allocate appropriated funds in the
13 manner that it determines best meets the purposes of this chapter.
14 (~~(Nothing in this chapter shall be construed to entitle any individual~~
15 ~~to services authorized in this chapter, or to require the department or~~
16 ~~its contractors to reallocate funds in order to ensure that services~~
17 ~~are available to any eligible person upon demand.))~~)

18 **Sec. 15.** RCW 74.50.050 and 1989 1st ex.s. c 18 s 5 are each
19 amended to read as follows:

20 (1) The department shall establish a treatment program to
21 provide(~~(, within available funds,)~~) alcohol and drug treatment
22 services for indigent persons eligible under this chapter. The
23 treatment services may include but are not limited to:

24 (a) Intensive inpatient treatment services;

25 (b) Recovery house treatment;

26 (c) Outpatient treatment and counseling, including assistance in
27 obtaining employment, and including a living allowance while undergoing
28 outpatient treatment. The living allowance may not be used to provide
29 shelter to clients in a dormitory setting that does not require
30 sobriety as a condition of residence. The living allowance shall be
31 administered on the clients' behalf by the outpatient treatment
32 facility or other social service agency designated by the department.
33 The department is authorized to pay the facility a fee for
34 administering this allowance.

35 (2) (~~No individual may receive treatment services under this~~
36 ~~section for more than six months in any two year period: PROVIDED,~~

1 ~~That the department may approve additional treatment and/or living~~
2 ~~allowance as an exception.~~

3 (3)) The department may require an applicant or recipient
4 selecting treatment to complete inpatient and recovery house treatment
5 when, in the judgment of a designated assessment center, such treatment
6 is necessary prior to providing the outpatient program.

7 **Sec. 16.** RCW 74.50.060 and 1989 1st ex.s. c 18 s 3 are each
8 amended to read as follows:

9 (1) The department shall establish a shelter assistance program to
10 provide(~~(, within available funds,)~~) shelter for persons eligible under
11 this chapter. "Shelter," "shelter support," or "shelter assistance"
12 means a facility under contract to the department providing room and
13 board in a supervised living arrangement, normally in a group or
14 dormitory setting, to eligible recipients under this chapter. This may
15 include supervised domiciliary facilities operated under the auspices
16 of public or private agencies. No facility under contract to the
17 department shall allow the consumption of alcoholic beverages on the
18 premises. The department may contract with counties and cities for
19 such shelter services. To the extent possible, the department shall
20 not displace existing emergency shelter beds for use as shelter under
21 this chapter. In areas of the state in which it is not feasible to
22 develop shelters, due to low numbers of people needing shelter
23 services, or in which sufficient numbers of shelter beds are not
24 available, the department may provide shelter through an intensive
25 protective payee program, unless the department grants an exception on
26 an individual basis for less intense supervision.

27 (2) Persons continuously eligible for the general assistance--
28 unemployable program since July 25, 1987, who transfer to the program
29 established by this chapter, have the option to continue their present
30 living situation, but only through a protective payee.

31 **Sec. 17.** RCW 74.50.080 and 1989 1st ex.s. c 18 s 6 are each
32 amended to read as follows:

33 The department by rule may establish procedures for the
34 administration of the services provided by this chapter. Any rules
35 shall be consistent with any conditions or limitations on
36 appropriations provided for these services. (~~If funds provided for~~

1 ~~any service under this chapter have been fully expended, the department~~
2 ~~shall immediately discontinue that service.))~~

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

5 The county alcoholism and other drug addiction program coordinator
6 may designate the county designated mental health professional to
7 perform the detention and commitment duties described in RCW 70.96A.120
8 and 70.96A.140.

9 NEW SECTION. **Sec. 19.** RCW 70.96.150 is decodified.

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