

HOUSE BILL REPORT

HB 1320

As Reported by House Committee On:
Juvenile Justice & Family Law

Title: An act relating to mental health treatment for minors.

Brief Description: Changing provisions relating to provision of mental health treatment for minors.

Sponsors: Representatives Delvin and Dickerson.

Brief History:

Committee Activity:

Juvenile Justice & Family Law: 1/23/03, 1/30/03 [DPS].

Brief Summary of Substitute Bill

- Changes the age of consent for inpatient mental health treatment.
- Changes the age at which a minor may be released from an inpatient mental health facility.
- Adds a liability limitation for mental health treatment providers.

HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Dickerson, Chair; Pettigrew, Vice Chair; Delvin, Ranking Minority Member; Carrell, Eickmeyer, Hinkle and Upthegrove.

Staff: Sonja Hallum (786-7092).

Background:

The traditional common law view of minors and consent to treatment was that a minor could not consent to medical or surgical treatment. A physician was obliged to obtain the consent of the child's parents or responsible person before providing treatment. The only acceptable exception was if there was an emergency and it was either impracticable to obtain parental consent or any delay would unduly endanger the minor's life.

The Legislature has modified this common law approach and the current law allows for mental health treatment of minors without parental consent under certain circumstances and specific conditions.

Inpatient Mental Health Treatment:

(a) Voluntary Treatment: A minor, age 13 or older, may consent to inpatient mental health treatment. Parental consent is not required for inpatient mental health treatment for a minor over the age of 13.

(b) Parent-Initiated: A parent may bring a child in to a mental health facility and have the child evaluated and treated without the consent of the minor even if the minor is over the age of 13. The facility must follow the statutory guidelines for the evaluation and notification of the Department of Social and Health Services (Department). Once notified the Department must conduct an independent evaluation of the minor's need for treatment. The minor also has the option of seeking a court review. The minor may be held under this option for 30 days.

The law provides a liability limitation for those who act under the mental health provisions relating to minors and states that they shall not be civilly or criminally liable for any act performed in good faith and without gross negligence in the course of his or her duties.

Summary of Substitute Bill:

The age of consent for voluntary inpatient mental health treatment is changed from 13 to 16 years of age. The age when a minor who has consented to inpatient mental health treatment may request and be released from the facility is changed from age 13 to 16. The procedure for the parent-initiated alternative for inpatient mental health treatment of a minor is applicable to minors age 16 and older. Under the parent-initiated alternative for inpatient mental health treatment, a "social worker" is only included in the definition of a "professional person" under this chapter if they are a Licensed Independent Clinical Social Worker (LICSW).

Professional persons and evaluation and treatment facilities are added to the existing statute limiting liability. The persons listed in the section may not be civilly or criminally liable for the decision to admit, release, or detain a person for evaluation and treatment if they acted in good faith and without gross negligence.

Substitute Bill Compared to Original Bill:

The substitute bill changes the statute regarding the age when a minor who has consented to inpatient mental health treatment may request and be released from the facility to make

it consistent with changing the age of consent. The substitute refers to a specific category of social worker and authorizes them to act as a professional person under the parent-initiated alternative for inpatient mental health treatment.

The substitute adds professional persons and evaluation and treatment facilities to the existing statute limiting liability instead of creating a separate liability section as in the original bill.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Substitute Bill: The bill takes effect ninety days after adjournment of session in which bill is passed.

Testimony For: (Original bill) A 14-year old should not have the ability to decide whether or not to take their medication. Kids are not mature enough to make treatment decisions, especially if they are having mental health issues. Children should not be making these kinds of life and death decisions. There are no options for your child if they won't consent and don't meet the criteria for an involuntary commitment by the state. The options in the law now don't work. They are unenforceable. Mental health facilities tell parents that a child can only be treated if they consent.

(Concerns, original bill) Minors age 13 and older can still release themselves from an inpatient mental health facility. The liability provision extends to providers and not to facilities. There will be no better control of a 13 to 15 year old. A 13 to 16 year old child's access to treatment without parental consent will be limited.

Testimony Against: (Original bill) Changing the age of consent is a mistake. Changing the age of consent would imbalance the rights of children and parents. Children have rights as well as parents. There needs to be some form of judicial review. States with laws that permit parents to force inpatient treatment are problematic. There are reckless providers taking kids and locking them up. The bill allows for a long period of hospitalization for people who aren't dangerous to others. There are alternatives to inpatient treatment that should be used instead. System reform is the solution, not raising the age. Kids need to be able to access inpatient treatment. Everyone needs to be able to say "no."

Testified: (In support) Maile Willrich and Eileen King, A Common Voice; Chris Clark; Patty King; Jane Doughty, Changes Parent Support Network; and Steven A. Ickes, Carolyn Burkhardt.

(Opposed) Charles Huffine, King County Mental Health Division; Genevia Buckley,

Cassandra Todhunter, Lorrin McGinnis, and Crystal Fuller, Health N' Action; Stephanie Tobin, United Voices; and Kate Monahan, Washington Defenders Association and Washington Association of Criminal Defense Lawyers.

(With concerns) Ken Stark and Karl Brimner, Department of Social and Health Services; and Laurie Lippold, Children's Home Society.