
HOUSE BILL 1070

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58th Legislature

2003 Regular Session

By Representatives Delvin, Dickerson, Carrell, Hinkle, Eickmeyer, Armstrong, Holmquist, Darneille and Kagi

Read first time 01/15/2003. Referred to Committee on Juvenile Justice & Family Law.

1 AN ACT Relating to changing the age of consent for minors receiving
2 chemical dependency and mental health treatment; amending RCW
3 70.96A.095, 70.96A.230, 70.96A.235, 71.34.030, 71.34.040, 71.34.042,
4 71.34.046, 71.34.050, 71.34.052, and 71.34.054; adding a new section to
5 chapter 70.96A RCW; adding new sections to chapter 71.34 RCW; and
6 creating a new section.

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

8 **Sec. 1.** RCW 70.96A.095 and 1998 c 296 s 23 are each amended to
9 read as follows:

10 Any person (~~(thirteen)~~) sixteen years of age or older may give
11 consent for himself or herself to the furnishing of outpatient
12 treatment by a chemical dependency treatment program certified by the
13 department. Parental authorization is required for any treatment of a
14 minor under the age of (~~(thirteen)~~) sixteen.

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

17 (1)(a) A minor may request and receive outpatient treatment by a

1 chemical dependency treatment program certified by the department
2 without parental consent or notification if:

3 (i) Requiring consent or notification of a parent or guardian would
4 cause the minor to reject such treatment;

5 (ii) The provision of such treatment is clinically indicated;

6 (iii) The failure to provide such treatment would be seriously
7 detrimental to the minor's well-being;

8 (iv) The minor has knowingly and voluntarily sought such treatment;
9 and

10 (v) In the opinion of the provider of treatment, the minor is
11 mature enough to participate in the treatment productively.

12 (b) The chemical dependency treatment provider shall document the
13 reason for any determination made to treat a minor under the age of
14 sixteen years without the consent or notification of a parent or
15 guardian and shall include such documentation in the minor's clinical
16 record, along with a written statement signed by the minor stating that
17 he or she:

18 (i) Is voluntarily seeking such treatment;

19 (ii) Has discussed with the provider the possibility of involving
20 his or her parent or guardian in the decision to pursue such treatment;

21 (iii) Has determined it is not in his or her best interest to
22 involve his or her parent or guardian in such decision; and

23 (iv) Has been given adequate opportunity to ask the provider
24 questions about the course of his or her treatment.

25 (2) After the tenth session of outpatient chemical dependency
26 treatment provided to the minor under the age of sixteen years pursuant
27 to this section, the provider of such treatment shall notify the minor
28 that consent, notification, or involvement of a parent or guardian is
29 required to continue treatment, unless such a requirement would be
30 seriously detrimental to the minor's well-being. If the provider
31 determines such a requirement would be seriously detrimental to the
32 minor's well-being, he or she shall document such determination in the
33 minor's clinical record, review such determination every fifth session
34 thereafter, and document each such review. If the provider determines
35 such a requirement would no longer be seriously detrimental to the
36 minor's well-being, he or she shall require the consent, notification,
37 or involvement of a parent or guardian as a condition of continuing
38 treatment.

1 (3) No provider shall notify a parent or guardian of treatment
2 provided pursuant to this section or disclose any information
3 concerning such treatment to a parent or guardian without the consent
4 of the minor.

5 (4) A parent or guardian who is not informed of the provision of
6 outpatient chemical dependency treatment shall not be liable for the
7 costs of the treatment provided.

8 **Sec. 3.** RCW 70.96A.230 and 1998 c 296 s 24 are each amended to
9 read as follows:

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

22 **Sec. 4.** RCW 70.96A.235 and 1998 c 296 s 25 are each amended to
23 read as follows:

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

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

30 **Sec. 5.** RCW 71.34.030 and 1998 c 296 s 12 are each amended to read
31 as follows:

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

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 71.34 RCW
2 to read as follows:

3 (1)(a) A minor may request and receive outpatient treatment by a
4 mental health treatment program certified by the department without
5 parental consent or notification if:

6 (i) Requiring consent or notification of a parent or guardian would
7 cause the minor to reject such treatment;

8 (ii) The provision of such treatment is clinically indicated;

9 (iii) The failure to provide such treatment would be seriously
10 detrimental to the minor's well-being;

11 (iv) The minor has knowingly and voluntarily sought such treatment;
12 and

13 (v) In the opinion of the provider of treatment, the minor is
14 mature enough to participate in the treatment productively.

15 (b) The mental health treatment provider shall document the reason
16 for any determination made to treat a minor under the age of sixteen
17 years without the consent or notification of a parent or guardian and
18 shall include such documentation in the minor's clinical record, along
19 with a written statement signed by the minor stating that he or she:

20 (i) Is voluntarily seeking such treatment;

21 (ii) Has discussed with the provider the possibility of involving
22 his or her parent or guardian in the decision to pursue such treatment;

23 (iii) Has determined it is not in his or her best interest to
24 involve his or her parent or guardian in such decision; and

25 (iv) Has been given adequate opportunity to ask the provider
26 questions about the course of his or her treatment.

27 (2) After the tenth session of outpatient mental health treatment
28 provided to the minor under the age of sixteen years pursuant to this
29 section, the provider of such treatment shall notify the minor that
30 consent, notification, or involvement of a parent or guardian is
31 required to continue treatment, unless such a requirement would be
32 seriously detrimental to the minor's well-being. If the provider
33 determines such a requirement would be seriously detrimental to the
34 minor's well-being, he or she shall document such determination in the
35 minor's clinical record, review such determination every fifth session
36 thereafter, and document each such review. If the provider determines
37 such a requirement would no longer be seriously detrimental to the

1 minor's well-being, he or she shall require the consent, notification,
2 or involvement of a parent or guardian as a condition of continuing
3 treatment.

4 (3) No provider shall notify a parent or guardian of treatment
5 provided pursuant to this section or disclose any information
6 concerning such treatment to a parent or guardian without the consent
7 of the minor.

8 (4) A parent or guardian who is not informed of the provision of
9 outpatient mental health treatment shall not be liable for the costs of
10 the treatment provided.

11 **Sec. 7.** RCW 71.34.040 and 1985 c 354 s 4 are each amended to read
12 as follows:

13 If a minor, (~~thirteen~~) sixteen years or older, is brought to an
14 evaluation and treatment facility or hospital emergency room for
15 immediate mental health services, the professional person in charge of
16 the facility shall evaluate the minor's mental condition, determine
17 whether the minor suffers from a mental disorder, and whether the minor
18 is in need of immediate inpatient treatment. If it is determined that
19 the minor suffers from a mental disorder, inpatient treatment is
20 required, the minor is unwilling to consent to voluntary admission, and
21 the professional person believes that the minor meets the criteria for
22 initial detention set forth herein, the facility may detain or arrange
23 for the detention of the minor for up to twelve hours in order to
24 enable a county-designated mental health professional to evaluate the
25 minor and commence initial detention proceedings under the provisions
26 of this chapter.

27 **Sec. 8.** RCW 71.34.042 and 1998 c 296 s 14 are each amended to read
28 as follows:

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

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

1 and the facility provides the type of evaluation and treatment needed
2 by the minor, and it is not feasible to treat the minor in any less
3 restrictive setting or the minor's home, the minor may be admitted to
4 an evaluation and treatment facility.

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

9 **Sec. 9.** RCW 71.34.046 and 1998 c 296 s 16 are each amended to read
10 as follows:

11 (1) Any minor (~~((thirteen))~~) sixteen years or older voluntarily
12 admitted to an evaluation and treatment facility under RCW 71.34.042
13 may give notice of intent to leave at any time. The notice need not
14 follow any specific form so long as it is written and the intent of the
15 minor can be discerned.

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

20 (3) The professional person shall discharge the minor, (~~((thirteen))~~)
21 sixteen years or older, from the facility upon receipt of the minor's
22 notice of intent to leave.

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

25 (1) When a county-designated mental health professional receives
26 information that a minor, (~~((thirteen))~~) sixteen years or older, as a
27 result of a mental disorder presents a likelihood of serious harm or is
28 gravely disabled, has investigated the specific facts alleged and of
29 the credibility of the person or persons providing the information, and
30 has determined that voluntary admission for inpatient treatment is not
31 possible, the county-designated mental health professional may take the
32 minor, or cause the minor to be taken, into custody and transported to
33 an evaluation and treatment facility providing inpatient treatment.

34 If the minor is not taken into custody for evaluation and
35 treatment, the parent who has custody of the minor may seek review of
36 that decision made by the county designated mental health professional

1 in court. The parent shall file notice with the court and provide a
2 copy of the county designated mental health professional's report or
3 notes.

4 (2) Within twelve hours of the minor's arrival at the evaluation
5 and treatment facility, the county-designated mental health
6 professional shall serve on the minor a copy of the petition for
7 initial detention, notice of initial detention, and statement of
8 rights. The county-designated mental health professional shall file
9 with the court on the next judicial day following the initial detention
10 the original petition for initial detention, notice of initial
11 detention, and statement of rights along with an affidavit of service.
12 The county-designated mental health professional shall commence service
13 of the petition for initial detention and notice of the initial
14 detention on the minor's parent and the minor's attorney as soon as
15 possible following the initial detention.

16 (3) At the time of initial detention, the county-designated mental
17 health professional shall advise the minor both orally and in writing
18 that if admitted to the evaluation and treatment facility for inpatient
19 treatment, a commitment hearing shall be held within seventy-two hours
20 of the minor's provisional acceptance to determine whether probable
21 cause exists to commit the minor for further mental health treatment.

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

26 (4) Whenever the county designated mental health professional
27 petitions for detention of a minor under this chapter, an evaluation
28 and treatment facility providing seventy-two hour evaluation and
29 treatment must immediately accept on a provisional basis the petition
30 and the person. Within twenty-four hours of the minor's arrival, the
31 facility must evaluate the minor's condition and either admit or
32 release the minor in accordance with this chapter.

33 (5) If a minor is not approved for admission by the inpatient
34 evaluation and treatment facility, the facility shall make such
35 recommendations and referrals for further care and treatment of the
36 minor as necessary.

1 **Sec. 11.** RCW 71.34.052 and 1998 c 296 s 17 are each amended to
2 read as follows:

3 (1) If a parent reasonably believes that his or her child is
4 suffering from a mental disorder and is in need of inpatient treatment,
5 he or she may bring, or authorize the bringing of, his or her minor
6 child to an evaluation and treatment facility and request that the
7 professional person examine the minor to determine whether the minor
8 has a mental disorder and is in need of inpatient treatment.

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

12 (3) An appropriately trained professional person may evaluate
13 whether the minor has a mental disorder. The evaluation shall be
14 completed within twenty-four hours of the time the minor was brought to
15 the facility, unless the professional person determines that the
16 condition of the minor necessitates additional time for evaluation. In
17 no event shall a minor be held longer than seventy-two hours for
18 evaluation. If, in the judgment of the professional person, it is
19 determined it is a medical necessity for the minor to receive inpatient
20 treatment, the minor may be held for treatment. (~~The facility shall~~
21 ~~limit treatment to that which the professional person determines is~~
22 ~~medically necessary to stabilize the minor's condition until the~~
23 ~~evaluation has been completed. Within twenty four hours of completion~~
24 ~~of the evaluation, the professional person shall notify the department~~
25 ~~if the child is held for treatment and of the date of admission.~~

26 ~~(4) No provider is obligated to provide treatment to a minor under~~
27 ~~the provisions of this section. No provider may admit a minor to~~
28 ~~treatment under this section unless it is medically necessary.~~

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

31 ~~(6) Prior to the review conducted under RCW 71.34.025, the~~
32 ~~professional person shall notify the minor of his or her right to~~
33 ~~petition superior court for release from the facility.~~

34 ~~(7))~~ (4) For the purposes of this section "professional person"
35 does not include a social worker, unless the social worker is certified
36 under RCW 18.19.110 and appropriately trained and qualified by
37 education and experience, as defined by the department, in psychiatric
38 social work.

1 (5) For the purposes of this section, "medical necessity" means a
2 requested service which is reasonably calculated to diagnose, correct,
3 cure, or alleviate a mental disorder, and there is no adequate less
4 restrictive alternative available.

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

7 (1) If, in the judgment of the professional person, it is
8 determined it is a medical necessity for the minor evaluated pursuant
9 to a parent request under RCW 71.34.052 to receive inpatient treatment,
10 the minor may be held for treatment. The facility shall limit
11 treatment to that which the professional person determines is a medical
12 necessity to stabilize the minor's condition until the evaluation has
13 been completed. Within twenty-four hours of completion of the
14 evaluation, the professional person shall notify the department if the
15 child is held for treatment and of the date of admission.

16 (2) No provider is obligated to provide treatment to a minor under
17 the provisions of this section. No provider may admit a minor to
18 treatment under this section unless it is a medical necessity as
19 defined in RCW 71.34.020.

20 (3) No minor receiving inpatient treatment under this section may
21 be discharged from the facility based solely on his or her request.
22 The minor shall be discharged immediately upon the written request of
23 his or her parents.

24 (4) Prior to the review conducted under RCW 71.34.025, the
25 professional person shall notify the minor of his or her right to
26 petition superior court for release from the facility.

27 (5) For the purposes of this section, "professional person" does
28 not include a social worker, unless the social worker is certified
29 under RCW 18.19.110 and appropriately trained and qualified by
30 education and experience, as defined by the department, in psychiatric
31 social work.

32 **Sec. 13.** RCW 71.34.054 and 1998 c 296 s 18 are each amended to
33 read as follows:

34 (1) If a parent reasonably believes that his or her child is
35 suffering from a mental disorder and is in need of outpatient mental
36 health treatment, he or she may bring, or authorize the bringing of,

1 his or her minor child to a provider of outpatient mental health
2 treatment and request that an appropriately trained professional person
3 examine the minor to determine whether the minor has a mental disorder
4 and is in need of outpatient treatment.

5 (2) The consent of the minor, regardless of age, is not required
6 for evaluation if the parent brings the minor to the provider.

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

9 (4) Any minor admitted to inpatient treatment under RCW 71.34.042
10 or 71.34.052 shall be discharged immediately from inpatient treatment
11 upon written request of the parent.

12 NEW SECTION. **Sec. 14.** This act does not affect any existing right
13 acquired or liability or obligation incurred under the sections amended
14 or repealed in this act or under any rule or order adopted under those
15 sections, nor does it affect any proceeding instituted under those
16 sections.

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