
SENATE BILL 5557

State of Washington

59th Legislature

2005 Regular Session

By Senators Delvin, Stevens, Pflug, Carrell, Mulliken, McCaslin, Deccio, Parlette and Swecker

Read first time 01/27/2005. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to mental health treatment for minors; and amending
2 RCW 71.34.042, 71.34.052, 71.34.054, 71.34.025, 71.34.162, and
3 71.34.270.

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

5 **Sec. 1.** RCW 71.34.042 and 1998 c 296 s 14 are each amended to read
6 as follows:

7 (1) An evaluation and treatment facility may admit for evaluation,
8 diagnosis, or treatment any minor under thirteen years of age for whom
9 application is made by the minor's parent or guardian. The consent of
10 the minor under the age of thirteen is not required.

11 (2) A minor thirteen years or older may admit himself or herself to
12 an evaluation and treatment facility for inpatient mental treatment,
13 without parental consent. The admission shall occur only if the
14 professional person in charge of the facility concurs with the need for
15 inpatient treatment.

16 ((+2)) (3) When, in the judgment of the professional person in
17 charge of an evaluation and treatment facility, there is reason to
18 believe that a minor is in need of inpatient treatment because of a
19 mental disorder, and the facility provides the type of evaluation and

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

4 ~~((3))~~ (4) Written renewal of voluntary consent must be obtained
5 from the applicant no less than once every twelve months. The minor's
6 need for continued inpatient treatments shall be reviewed and
7 documented no less than every one hundred eighty days.

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

10 (1) A parent may bring, or authorize the bringing of, his or her
11 minor child, age thirteen or older, to an evaluation and treatment
12 facility and request that the professional person examine the minor to
13 determine whether the minor has a mental disorder and is in need of
14 inpatient treatment.

15 (2) The consent of the minor is not required for admission,
16 evaluation, and treatment if the parent brings the minor to the
17 facility.

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

32 (4) No provider is obligated to provide treatment to a minor under
33 the provisions of this section. No provider may admit a minor to
34 treatment under this section unless it is medically necessary.

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

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

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

9 **Sec. 3.** RCW 71.34.054 and 1998 c 296 s 18 are each amended to read
10 as follows:

11 (1) A parent may bring, or authorize the bringing of, his or her
12 minor child, age thirteen or older, to a provider of outpatient mental
13 health treatment and request that an appropriately trained professional
14 person examine the minor to determine whether the minor has a mental
15 disorder and is in need of outpatient treatment.

16 (2) The consent of the minor is not required for evaluation if the
17 parent brings the minor to the provider.

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

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

23 **Sec. 4.** RCW 71.34.025 and 1998 c 296 s 9 are each amended to read
24 as follows:

25 (1) The department shall assure that, for any minor admitted to
26 inpatient treatment under RCW 71.34.052, a review is conducted by a
27 physician or other mental health professional who is employed by the
28 department, or an agency under contract with the department, and who
29 neither has a financial interest in continued inpatient treatment of
30 the minor nor is affiliated with the facility providing the treatment.
31 The physician or other mental health professional shall conduct the
32 review not less than (~~seven~~) three nor more than (~~fourteen~~) seven
33 days following the date the minor was brought to the facility under RCW
34 71.34.052 to determine whether it is a medical necessity to continue
35 the minor's treatment on an inpatient basis.

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

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

20 (4) If the evaluation conducted under RCW 71.34.052 is done by the
21 department, the reviews required by subsection (1) of this section
22 shall be done by contract with an independent agency.

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

28 (6) In addition to the review required under this section, the
29 department may periodically determine and redetermine the medical
30 necessity of treatment for purposes of payment with public funds.

31 **Sec. 5.** RCW 71.34.162 and 1998 c 296 s 19 are each amended to read
32 as follows:

33 Following the review conducted under RCW 71.34.025, a minor child
34 may petition the superior court for his or her release from the
35 facility. ~~((The petition may be filed not sooner than five days
36 following the review.))~~ The court shall release the minor unless it

1 finds, upon a preponderance of the evidence, that it is a medical
2 necessity for the minor to remain at the facility.

3 **Sec. 6.** RCW 71.34.270 and 1985 c 354 s 27 are each amended to read
4 as follows:

5 No public or private agency or governmental entity, nor officer of
6 a public or private agency, nor the superintendent, or professional
7 person in charge, his or her professional designee or attending staff
8 of any such agency, nor any public official performing functions
9 necessary to the administration of this chapter, nor peace officer
10 responsible for detaining a person under this chapter, nor any county
11 designated mental health professional, nor professional person, nor
12 evaluation and treatment facility, shall be civilly or criminally
13 liable for performing his or her duties under this chapter with regard
14 to the decision of whether to admit, release, or detain a person for
15 evaluation and treatment: PROVIDED, That such duties were performed in
16 good faith and without gross negligence.

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