
SUBSTITUTE HOUSE BILL 2552

State of Washington

60th Legislature

2008 Regular Session

By House Early Learning & Children's Services (originally sponsored by Representatives Dickerson, Appleton, Roberts, Wood, Kenney, Kagi, and Darneille)

READ FIRST TIME 02/05/08.

1 AN ACT Relating to parental consent to mental health treatment for
2 minors; amending RCW 71.34.020, 71.34.530, and 71.34.500; adding a new
3 section to chapter 71.34 RCW; creating new sections; repealing RCW
4 71.34.600, 71.34.610, 71.34.620, 71.34.630, 71.34.640, 71.34.650, and
5 71.34.660; and providing an effective date.

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

7 **Sec. 1.** RCW 71.34.020 and 2006 c 93 s 2 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Child psychiatrist" means a person having a license as a
12 physician and surgeon in this state, who has had graduate training in
13 child psychiatry in a program approved by the American Medical
14 Association or the American Osteopathic Association, and who is board
15 eligible or board certified in child psychiatry.

16 (2) "Children's mental health specialist" means:

17 (a) A mental health professional who has completed a minimum of one
18 hundred actual hours, not quarter or semester hours, of specialized

1 training devoted to the study of child development and the treatment of
2 children; and

3 (b) A mental health professional who has the equivalent of one year
4 of full-time experience in the treatment of children under the
5 supervision of a children's mental health specialist.

6 (3) "Commitment" means a determination by a judge or court
7 commissioner, made after a commitment hearing, that the minor is in
8 need of inpatient diagnosis, evaluation, or treatment or that the minor
9 is in need of less restrictive alternative treatment.

10 (4) "Designated mental health professional" means a mental health
11 professional designated by one or more counties to perform the
12 functions of a designated mental health professional described in this
13 chapter.

14 (5) "Department" means the department of social and health
15 services.

16 (6) "Evaluation and treatment facility" means a public or private
17 facility or unit that is certified by the department to provide
18 emergency, inpatient, residential, or outpatient mental health
19 evaluation and treatment services for minors. A physically separate
20 and separately-operated portion of a state hospital may be designated
21 as an evaluation and treatment facility for minors. A facility which
22 is part of or operated by the department or federal agency does not
23 require certification. No correctional institution or facility,
24 juvenile court detention facility, or jail may be an evaluation and
25 treatment facility within the meaning of this chapter.

26 (7) "Evaluation and treatment program" means the total system of
27 services and facilities coordinated and approved by a county or
28 combination of counties for the evaluation and treatment of minors
29 under this chapter.

30 (8) "Gravely disabled minor" means a minor who, as a result of a
31 mental disorder, is in danger of serious physical harm resulting from
32 a failure to provide for his or her essential human needs of health or
33 safety, or manifests severe deterioration in routine functioning
34 evidenced by repeated and escalating loss of cognitive or volitional
35 control over his or her actions and is not receiving such care as is
36 essential for his or her health or safety.

37 (9) "Inpatient treatment" means twenty-four-hour-per-day mental
38 health care, including medication and medication supervision, provided

1 within a general hospital, psychiatric hospital, or residential
2 treatment facility certified by the department as an evaluation and
3 treatment facility for minors.

4 (10) "Less restrictive alternative" or "less restrictive setting"
5 means outpatient treatment provided to a minor who is not residing in
6 a facility providing inpatient treatment as defined in this chapter.

7 (11) "Likelihood of serious harm" means either: (a) A substantial
8 risk that physical harm will be inflicted by an individual upon his or
9 her own person, as evidenced by threats or attempts to commit suicide
10 or inflict physical harm on oneself; (b) a substantial risk that
11 physical harm will be inflicted by an individual upon another, as
12 evidenced by behavior which has caused such harm or which places
13 another person or persons in reasonable fear of sustaining such harm;
14 or (c) a substantial risk that physical harm will be inflicted by an
15 individual upon the property of others, as evidenced by behavior which
16 has caused substantial loss or damage to the property of others.

17 (12) "Medical necessity" for inpatient care means a requested
18 service which is reasonably calculated to: (a) Diagnose, correct,
19 cure, or alleviate a mental disorder; or (b) prevent the worsening of
20 mental conditions that endanger life or cause suffering and pain, or
21 result in illness or infirmity or threaten to cause or aggravate a
22 handicap, or cause physical deformity or malfunction, and there is no
23 adequate less restrictive alternative available.

24 (13) "Mental disorder" means any organic, mental, or emotional
25 impairment that has substantial adverse effects on an individual's
26 cognitive or volitional functions. The presence of alcohol abuse, drug
27 abuse, juvenile criminal history, antisocial behavior, or mental
28 retardation alone is insufficient to justify a finding of "mental
29 disorder" within the meaning of this section.

30 (14) "Mental health professional" means a psychiatrist,
31 psychologist, psychiatric nurse, or social worker, and such other
32 mental health professionals as may be defined by rules adopted by the
33 secretary under this chapter.

34 (15) "Minor" means any person under the age of eighteen years.

35 (16) "Outpatient treatment" means ~~((any of the nonresidential
36 services mandated under chapter 71.24 RCW and provided by licensed
37 services providers as identified by RCW 71.24.025))~~ mental health
38 services provided in a nonresidential setting that include, but are not

1 limited to, assessment, diagnosis, psychiatric treatment, medication,
2 medication supervision, counseling, psychotherapy, and assuring
3 transfer of relevant patient information between service providers.

4 (17) "Parent" means:

5 (a) A biological or adoptive parent who has legal custody of the
6 child, including either parent if custody is shared under a joint
7 custody agreement; or

8 (b) A person or agency judicially appointed as legal guardian or
9 custodian of the child.

10 (18) "Professional person in charge" or "professional person" means
11 a physician or other mental health professional empowered by an
12 evaluation and treatment facility with authority to make admission and
13 discharge decisions on behalf of that facility.

14 (19) "Psychiatric nurse" means a registered nurse who has a
15 bachelor's degree from an accredited college or university, and who has
16 had, in addition, at least two years' experience in the direct
17 treatment of mentally ill or emotionally disturbed persons, such
18 experience gained under the supervision of a mental health
19 professional. "Psychiatric nurse" shall also mean any other registered
20 nurse who has three years of such experience.

21 (20) "Psychiatrist" means a person having a license as a physician
22 in this state who has completed residency training in psychiatry in a
23 program approved by the American Medical Association or the American
24 Osteopathic Association, and is board eligible or board certified in
25 psychiatry.

26 (21) "Psychologist" means a person licensed as a psychologist under
27 chapter 18.83 RCW.

28 (22) "Responsible other" means the minor, the minor's parent or
29 estate, or any other person legally responsible for support of the
30 minor.

31 (23) "Secretary" means the secretary of the department or
32 secretary's designee.

33 (24) "Start of initial detention" means the time of arrival of the
34 minor at the first evaluation and treatment facility offering inpatient
35 treatment if the minor is being involuntarily detained at the time.
36 With regard to voluntary patients, "start of initial detention" means
37 the time at which the minor gives notice of intent to leave under the
38 provisions of this chapter.

1 **Sec. 2.** RCW 71.34.530 and 2006 c 93 s 4 are each amended to read
2 as follows:

3 (1) Any minor thirteen years or older may request and receive
4 outpatient treatment without the consent of the minor's parent.
5 Parental authorization, or authorization from a person who may consent
6 on behalf of the minor pursuant to RCW 7.70.065, is required for
7 outpatient treatment of a minor under the age of thirteen.

8 (2)(a) The parent or legal guardian of a minor may consent to
9 voluntary outpatient treatment on behalf of the minor on the
10 recommendation of a psychiatrist, psychologist, or other licensed
11 mental health professional, as defined in RCW 71.34.020, who has
12 significant experience in the treatment of children with mental
13 disorders and has examined the minor. The minor's consent is not
14 necessary.

15 (b) At the beginning of outpatient treatment under (a) of this
16 subsection, the treatment provider or the treatment provider's designee
17 shall provide the minor with an explanation of the nature of the mental
18 health treatment in which the minor may be involved together with a
19 statement of the minor's rights, including the right to object to
20 treatment by filing a petition with the superior court of the county in
21 which the treatment provider is located.

22 (c) Within twenty-four hours of initiating outpatient treatment of
23 the minor under (a) of this subsection, the treatment provider or the
24 treatment provider's designee shall notify the superior court of the
25 county in which the treatment provider's office is located that
26 treatment has been initiated under this section. The county superior
27 court shall provide the treatment provider or his or her designee with
28 the name and telephone number of an attorney who is employed by or
29 under contract with the county to represent individuals subject to
30 involuntary commitment under chapter 71.05 RCW. The treatment provider
31 or his or her designee shall immediately contact that attorney on
32 behalf of the minor. Within three business days of being contacted by
33 the treatment provider or his or her designee, the attorney must meet
34 with the minor to determine whether he or she wants to exercise his or
35 her right to object to the outpatient treatment. If the minor wants to
36 object to the treatment, the attorney must file a petition challenging
37 the treatment with the superior court within two business days of the

1 meeting. The superior court shall waive any filing fee associated with
2 a petition filed under this subsection.

3 (d) Prior to initiating outpatient treatment of a minor under this
4 subsection (2), a psychiatrist or psychologist with significant
5 experience in the treatment of minors with mental disorders must
6 conduct a complete assessment of the minor and the minor's family,
7 which shall become a part of the minor's treatment record and be made
8 available to the court if the minor petitions for withdrawal or
9 modification of treatment under (e) of this subsection. The assessment
10 shall include an assessment of whether the minor has a mental disorder
11 for which outpatient treatment is a medical necessity, the relationship
12 between the minor and his or her parents, and any other factors
13 relevant to the ability to meet the minor's need for treatment.

14 (e) Upon receipt of a petition filed under (c) of this subsection,
15 the court shall schedule a hearing to be held within seventy-two hours
16 following the filing of the petition, unless continued upon the request
17 of the attorney for the minor. The hearing shall be conducted by a
18 judicial officer who shall determine whether or not the outpatient
19 mental health treatment is a medical necessity. For outpatient
20 treatment to continue against the minor's wishes, the court must find
21 all of the following by a preponderance of the evidence:

22 (i) That the minor has a diagnosed mental disorder or is in need of
23 an evaluation to determine whether the minor has a mental disorder;

24 (ii) That it is a medical necessity that the minor receive
25 outpatient mental health treatment; and

26 (iii) That the disorder can be adequately treated by the proposed
27 treatment provider.

28 (f) A minor ordered to undergo treatment due to a determination
29 under (e) of this subsection shall receive outpatient treatment at the
30 treatment setting designated by the court for a period of up to three
31 months. The minor shall be discharged from treatment whenever the
32 minor's treatment provider determines that the minor no longer is in
33 need of outpatient treatment, consent to treatment has been revoked
34 under subsection (4)(a) of this section, or at the end of the time
35 period of the order, whichever occurs first. If the minor's treatment
36 provider determines continued outpatient treatment will be necessary at
37 the end of the time period of the order and the minor does not consent

1 to continued outpatient treatment prior to the end of the time period
2 of the order, the court shall conduct a review hearing in accordance
3 with this subsection to determine whether to:

4 (i) Release the minor; or

5 (ii) Make a subsequent order for outpatient mental health treatment
6 for a period not to exceed three months subject to discharge of the
7 minor whenever the minor's treatment provider determines that the minor
8 no longer is in need of treatment, or if consent has been revoked under
9 subsection (4)(a) of this section.

10 (g) The total period of outpatient treatment ordered under this
11 section may not exceed six months from the date outpatient treatment
12 was initiated.

13 (h) A person who has legal custody or court-ordered residential
14 time with a minor may object to the consent for outpatient treatment of
15 the minor given by a parent who does not have legal custody by filing
16 a petition with the court. However, a parent may not file a petition
17 objecting to the consent for outpatient treatment of the minor under
18 this section if the person consenting to the outpatient treatment has
19 been given sole authority to consent to all medical decisions for the
20 minor under a court order.

21 (i) Nothing in this section shall be construed as restricting or
22 altering a minor's existing rights to consent to voluntary outpatient
23 mental health treatment on his or her own behalf at thirteen years of
24 age or older, or a parent's ability to consent to outpatient mental
25 health treatment on behalf of a minor who is younger than thirteen
26 years of age.

27 (3) A minor may not abrogate consent provided by a parent or legal
28 guardian on the minor's behalf, nor may a parent or legal guardian
29 abrogate consent given by the minor on his or her own behalf.

30 (4)(a) A parent or legal guardian who has provided consent to
31 outpatient treatment under subsection (2) of this section may revoke
32 that consent. The parental revocation shall be effective unless the
33 minor who is thirteen years of age or older has provided consent for
34 continued outpatient treatment.

35 (b) A minor who is thirteen years of age or older who has provided
36 consent to outpatient treatment may revoke that consent. The minor's
37 revocation shall be effective unless the parent or legal guardian to

1 the minor has provided for continued treatment under subsection (2) of
2 this section.

3 (5) For purposes of this section, "parent" does not include the
4 department or other supervision agency when a minor has been placed in
5 out-of-home care under chapter 13.34 RCW.

6 **Sec. 3.** RCW 71.34.500 and 2006 c 93 s 3 are each amended to read
7 as follows:

8 (1)(a) A minor thirteen years or older may admit himself or herself
9 to an evaluation and treatment facility for inpatient mental treatment,
10 without parental consent. The admission shall occur only if the
11 professional person in charge of the facility concurs with the need for
12 inpatient treatment. Parental authorization, or authorization from a
13 person who may consent on behalf of the minor pursuant to RCW 7.70.065,
14 is required for inpatient treatment of a minor under the age of
15 thirteen.

16 ((+2)) (b) 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
20 treatment needed by the minor, and it is not feasible to treat the
21 minor in any less restrictive setting or the minor's home, the minor
22 may be admitted to an evaluation and treatment facility.

23 ((+3)) (c) Written renewal of voluntary consent must be obtained
24 from the applicant no less than once every twelve months. The minor's
25 need for continued inpatient treatments shall be reviewed and
26 documented no less than every one hundred eighty days.

27 (2)(a) The parent or legal guardian of a minor who is thirteen
28 years of age or older may consent to voluntary inpatient treatment on
29 behalf of the minor on the recommendation of a psychiatrist,
30 psychologist, or other licensed mental health professional, as defined
31 in RCW 71.34.020, who has significant experience in the treatment of
32 children with mental disorders and has examined the minor. The minor's
33 consent is not necessary.

34 (b) At the time of admission under (a) of this subsection, the
35 professional person in charge of the facility or the professional
36 person's designee shall provide the minor with an explanation of the
37 nature of the mental health treatment in which the minor may be

1 involved together with a statement of the minor's rights, including the
2 right to object to treatment by filing a petition with the superior
3 court of the county in which the facility is located.

4 (c) Within twenty-four hours of admission of the minor under (a) of
5 this subsection, the professional person in charge of the facility or
6 the professional person's designee shall notify the superior court of
7 the county in which the facility is located that a youth has been
8 admitted for treatment under this section. The county superior court
9 shall provide the professional person or his or her designee with the
10 name and telephone number of an attorney who is employed by or under
11 contract with the county to represent individuals subject to
12 involuntary commitment under chapter 71.05 RCW. The professional
13 person or his or her designee shall immediately contact that attorney
14 on behalf of the minor. Within twenty-four hours of being contacted by
15 the professional person or his or her designee, the attorney must meet
16 with the minor to determine whether he or she wants to exercise his or
17 her right to object to the inpatient treatment. If the minor wants to
18 object to the treatment, the attorney must file a petition challenging
19 the treatment with the superior court within two business days of the
20 meeting. The superior court shall waive any filing fee associated with
21 a petition filed under this subsection.

22 (d) Within forty-eight hours of admission of a minor under this
23 subsection (2), a psychiatrist or psychologist with significant
24 experience in the treatment of minors with mental disorders must
25 conduct a complete assessment of the minor and the minor's family,
26 which shall become a part of the minor's treatment record and be made
27 available to the court if the minor petitions for withdrawal or
28 modification of treatment under (e) of this subsection. The assessment
29 shall include an assessment of whether the minor has a mental disorder
30 for which inpatient treatment is a medical necessity, whether treatment
31 can be appropriately provided in a less restrictive outpatient
32 environment, the relationship between the minor and his or her parents,
33 and any other factors relevant to the ability to meet the minor's need
34 for treatment.

35 (e) Upon receipt of a petition filed under (c) of this subsection,
36 the court shall schedule a hearing to be held within seventy-two hours
37 following the filing of the petition, unless continued upon the request
38 of the attorney for the minor. A request for a continuance by the

1 minor's attorney may not exceed an additional seventy-two hours. The
2 hearing shall be conducted by a judicial officer who shall determine
3 whether or not the inpatient mental health treatment is a medical
4 necessity. For inpatient treatment to continue against the minor's
5 wishes, the court must find all of the following by a preponderance of
6 the evidence:

7 (i) That the minor has a diagnosed mental disorder or is in need of
8 an evaluation to determine whether the minor has a mental disorder;

9 (ii) That it is a medical necessity that the minor receive
10 inpatient mental health treatment; and

11 (iii) That the disorder can be treated in the particular facility
12 where the treatment is taking place.

13 (f) A minor ordered to undergo treatment due to a determination
14 under (e) of this subsection shall remain and receive inpatient
15 treatment at the treatment setting designated by the court for a period
16 of up to thirty days. The minor shall be discharged whenever the
17 attending physician determines that the minor no longer is in need of
18 inpatient treatment, consent to treatment has been revoked under
19 subsection (4)(a) of this section, or at the end of the time period of
20 the order, whichever occurs first. If the attending physician
21 determines continued inpatient treatment will be necessary at the end
22 of the time period of the order and the minor does not consent to
23 continued inpatient treatment prior to the end of the time period of
24 the order, the court shall conduct a review hearing in accordance with
25 this subsection to determine whether to:

26 (i) Release the minor; or

27 (ii) Make a subsequent order for inpatient mental health treatment
28 for a period not to exceed sixty days subject to discharge of the minor
29 whenever the attending physician determines that the minor no longer is
30 in need of treatment, or if consent has been revoked under subsection
31 (4)(a) of this section.

32 (g) The total period of inpatient treatment ordered under this
33 section shall not exceed ninety days from the date of the minor's
34 admission to the facility. The professional person in charge or his or
35 her designee shall ensure that a discharge plan is provided for each
36 minor discharged from the facility. The discharge plan shall address
37 the minor's continued need for treatment, referrals to appropriate

1 services for the minor and his or her parents, and services needed to
2 facilitate the minor's successful transition back into school, family
3 life, and other activities.

4 (h) A person who has legal custody or court-ordered residential
5 time with a minor may object to the consent for inpatient treatment of
6 the minor given by a parent who does not have legal custody by filing
7 a petition with the court. However, a parent may not file a petition
8 objecting to the consent for inpatient treatment of the minor under
9 this section if the person consenting to the inpatient treatment has
10 been given sole authority to consent to all medical decisions for the
11 child under a court order.

12 (i) Nothing in this section shall be construed as restricting or
13 altering a minor's existing rights to consent to voluntary inpatient
14 mental health treatment on his or her own behalf at thirteen years of
15 age or older, or a parent's ability to consent to inpatient mental
16 health treatment on behalf of a minor who is younger than thirteen
17 years of age.

18 (3) A minor may not abrogate consent provided by a parent or legal
19 guardian on the minor's behalf, nor may a parent or legal guardian
20 abrogate consent given by the minor on his or her own behalf.

21 (4)(a) A parent or legal guardian who has provided consent to
22 inpatient treatment under subsection (2) of this section may revoke
23 that consent. The parental revocation shall be effective unless the
24 minor who is thirteen years of age or older has provided consent for
25 continued inpatient treatment.

26 (b) A minor who is thirteen years of age or older who has provided
27 consent to inpatient treatment may revoke that consent. The minor's
28 revocation shall be effective unless the parent or legal guardian to
29 the minor has provided for continued treatment under subsection (2) of
30 this section.

31 (5) For purposes of this section, "parent" does not include the
32 department or other supervision agency when a minor has been placed in
33 out-of-home care under chapter 13.34 RCW.

34 NEW SECTION. Sec. 4. A new section is added to chapter 71.34 RCW
35 to read as follows:

36 Attorneys appointed for persons pursuant to this chapter shall be
37 compensated for their services as follows: (1) The person for whom an

1 attorney is appointed shall, if he or she is financially able pursuant
2 to standards as to financial capability and indigency set by the
3 superior court of the county in which the proceeding is held, bear the
4 costs of such legal services; (2) if such person is indigent pursuant
5 to such standards, the costs of such services shall be borne by the
6 county in which the proceeding is held.

7 NEW SECTION. **Sec. 5.** The administrative office of the courts, in
8 consultation with the department of social and health services and
9 other interested organizations, shall develop standard forms for the
10 statement of the minor's rights and the petition to request withdrawal
11 from or modification of mental health treatment provided to minors
12 under RCW 71.34.530 and 71.34.500. The statement and forms shall be
13 designed to be readily understood and completed by a minor thirteen to
14 seventeen years of age.

15 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2010.

16 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each
17 repealed:

18 (1) RCW 71.34.600 (Parent may request determination whether minor
19 has mental disorder requiring inpatient treatment--Minor consent not
20 required--Duties and obligations of professional person and facility)
21 and 2007 c 375 s 11, 2005 c 371 s 4, & 1998 c 296 s 17;

22 (2) RCW 71.34.610 (Review of admission and inpatient treatment of
23 minors--Determination of medical necessity--Department review--Minor
24 declines necessary treatment--At-risk youth petition--Costs--Public
25 funds) and 1998 c 296 s 9 & 1995 c 312 s 56;

26 (3) RCW 71.34.620 (Minor may petition court for release from
27 facility) and 1998 c 296 s 19;

28 (4) RCW 71.34.630 (Minor not released by petition under RCW
29 71.34.620--Release within thirty days--Professional may initiate
30 proceedings to stop release) and 1998 c 296 s 20;

31 (5) RCW 71.34.640 (Evaluation of treatment of minors) and 1996 c
32 133 s 36 & 1995 c 312 s 58;

33 (6) RCW 71.34.650 (Parent may request determination whether minor
34 has mental disorder requiring outpatient treatment--Consent of minor
35 not required--Discharge of minor) and 1998 c 296 s 18; and

1 (7) RCW 71.34.660 (Limitation on liability for admitting or
2 accepting minor child) and 2005 c 371 s 3.

3 NEW SECTION. **Sec. 8.** The code reviser shall replace the
4 subheading of "Minor-Initiated Treatment" with "Voluntary Treatment" in
5 chapter 71.34 RCW and shall remove the subheading "Parent-Initiated
6 Treatment" in chapter 71.34 RCW.

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