
SENATE BILL 5546

State of Washington

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By Senators Haugen, Kauffman, and Keiser

Read first time 01/26/09. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to access to a minor's mental health treatment
2 information by a parent, guardian, or custodian; and amending RCW
3 13.50.100, 71.34.010, and 71.34.510.

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

5 **Sec. 1.** RCW 13.50.100 and 2003 c 105 s 2 are each amended to read
6 as follows:

7 (1) This section governs records not covered by RCW 13.50.050.

8 (2) Records covered by this section shall be confidential and shall
9 be released only pursuant to this section and RCW 13.50.010.

10 (3) Records retained or produced by any juvenile justice or care
11 agency may be released to other participants in the juvenile justice or
12 care system only when an investigation or case involving the juvenile
13 in question is being pursued by the other participant or when that
14 other participant is assigned the responsibility of supervising the
15 juvenile. Records covered under this section and maintained by the
16 juvenile courts which relate to the official actions of the agency may
17 be entered in the statewide judicial information system. However,
18 truancy records associated with a juvenile who has no other case
19 history, and records of a juvenile's parents who have no other case

1 history, shall be removed from the judicial information system when the
2 juvenile is no longer subject to the compulsory attendance laws in
3 chapter 28A.225 RCW. A county clerk is not liable for unauthorized
4 release of this data by persons or agencies not in his or her employ or
5 otherwise subject to his or her control, nor is the county clerk liable
6 for inaccurate or incomplete information collected from litigants or
7 other persons required to provide identifying data pursuant to this
8 section.

9 (4) Subject to (a) of this subsection, the department of social and
10 health services may release information retained in the course of
11 conducting child protective services investigations to a family or
12 juvenile court hearing a petition for custody under chapter 26.10 RCW.

13 (a) Information that may be released shall be limited to
14 information regarding investigations in which: (i) The juvenile was an
15 alleged victim of abandonment or abuse or neglect; or (ii) the
16 petitioner for custody of the juvenile, or any individual aged sixteen
17 or older residing in the petitioner's household, is the subject of a
18 founded or currently pending child protective services investigation
19 made by the department subsequent to October 1, 1998.

20 (b) Additional information may only be released with the written
21 consent of the subject of the investigation and the juvenile alleged to
22 be the victim of abandonment or abuse and neglect, or the parent,
23 custodian, guardian, or personal representative of the juvenile, or by
24 court order obtained with notice to all interested parties.

25 (5) Any disclosure of records or information by the department of
26 social and health services pursuant to this section shall not be deemed
27 a waiver of any confidentiality or privilege attached to the records or
28 information by operation of any state or federal statute or regulation,
29 and any recipient of such records or information shall maintain it in
30 such a manner as to comply with such state and federal statutes and
31 regulations and to protect against unauthorized disclosure.

32 (6) A contracting agency or service provider of the department of
33 social and health services that provides counseling, psychological,
34 psychiatric, or medical services may release to the office of the
35 family and children's ombudsman information or records relating to
36 services provided to a juvenile who is dependent under chapter 13.34
37 RCW without the consent of the parent or guardian of the juvenile, or

1 of the juvenile if the juvenile is under the age of thirteen years,
2 unless such release is otherwise specifically prohibited by law.

3 (7) A juvenile, his or her parent(~~(s)~~), guardian, or custodian, the
4 juvenile's attorney and the juvenile's parent's, guardian's, or
5 custodian's attorney, shall, upon request, be given access to all
6 records and information collected or retained by a juvenile justice or
7 care agency which pertain to the juvenile except:

8 (a) If it is determined by the agency that release of this
9 information is likely to cause severe psychological or physical harm to
10 the juvenile or his or her parents the agency may withhold the
11 information subject to other order of the court(~~(~~PROVIDED, That~~)~~).
12 If the court determines that limited release of the information is
13 appropriate, the court may specify terms and conditions for the release
14 of the information; or

15 (b) If the information or record has been obtained by a juvenile
16 justice or care agency in connection with the provision of
17 counseling(~~(, psychological, psychiatric,))~~ or medical services to the
18 juvenile, when the services have been sought voluntarily by the
19 juvenile, and the juvenile has a legal right to receive those services
20 without the consent of any person or agency, then the information or
21 record may not be disclosed to the juvenile's parent(~~(s)~~), guardian, or
22 custodian without the informed consent of the juvenile unless otherwise
23 authorized by law, except that a parent, guardian, or custodian must be
24 given access to information or records pertaining to the mental health
25 treatment of the juvenile, unless the information or record is withheld
26 under (a) of this subsection; or

27 (c) That the department of social and health services may delete
28 the name and identifying information regarding persons or organizations
29 who have reported alleged child abuse or neglect.

30 (8) A juvenile or his or her parent denied access to any records
31 following an agency determination under subsection (7) of this section
32 may file a motion in juvenile court requesting access to the records.
33 The court shall grant the motion unless it finds access may not be
34 permitted according to the standards found in subsection (7)(a) and (b)
35 of this section.

36 (9) The person making a motion under subsection (8) of this section
37 shall give reasonable notice of the motion to all parties to the

1 original action and to any agency whose records will be affected by the
2 motion.

3 (10) Subject to the rules of discovery in civil cases, any party to
4 a proceeding seeking a declaration of dependency or a termination of
5 the parent-child relationship and any party's counsel and the guardian
6 ad litem of any party, shall have access to the records of any natural
7 or adoptive child of the parent, subject to the limitations in
8 subsection (7) of this section. A party denied access to records may
9 request judicial review of the denial. If the party prevails, he or
10 she shall be awarded attorneys' fees, costs, and an amount not less
11 than five dollars and not more than one hundred dollars for each day
12 the records were wrongfully denied.

13 (11) No unfounded allegation of child abuse or neglect as defined
14 in RCW 26.44.020(~~(+12+)~~) (1) may be disclosed to a child-placing
15 agency, private adoption agency, or any other licensed provider.

16 **Sec. 2.** RCW 71.34.010 and 1998 c 296 s 7 are each amended to read
17 as follows:

18 It is the purpose of this chapter to assure that minors in need of
19 mental health care and treatment receive an appropriate continuum of
20 culturally relevant care and treatment, including prevention and early
21 intervention, self-directed care, parent-directed care, and involuntary
22 treatment. To facilitate the continuum of care and treatment to minors
23 in out-of-home placements, all divisions of the department that provide
24 mental health services to minors shall jointly plan and deliver those
25 services.

26 It is also the purpose of this chapter to protect the rights of
27 minors against needless hospitalization and deprivations of liberty and
28 to enable treatment decisions to be made in response to clinical needs
29 in accordance with sound professional judgment. The mental health care
30 and treatment providers shall encourage the use of voluntary services
31 and, whenever clinically appropriate, the providers shall offer less
32 restrictive alternatives to inpatient treatment. Additionally, all
33 mental health care and treatment providers shall assure that minors'
34 parents are given an opportunity to participate in the treatment
35 decisions for their minor children, and to receive information about
36 their children's treatment which does not threaten the safety of the

1 children or conflict with other applicable laws. The mental health
2 care and treatment providers shall, to the extent possible, offer
3 services that involve minors' parents or family.

4 It is also the purpose of this chapter to assure the ability of
5 parents to exercise reasonable, compassionate care and control of their
6 minor children when there is a medical necessity for treatment and
7 without the requirement of filing a petition under this chapter.

8 **Sec. 3.** RCW 71.34.510 and 1998 c 296 s 15 are each amended to read
9 as follows:

10 The administrator of the treatment facility shall provide notice to
11 the parents of a minor when the minor is voluntarily admitted to
12 inpatient treatment under RCW 71.34.500. The notice shall be in the
13 form most likely to reach the parent within twenty-four hours of the
14 minor's voluntary admission and shall advise the parent: (1) That the
15 minor has been admitted to inpatient treatment; (2) of the location and
16 telephone number of the facility providing such treatment; (3) of the
17 name of a professional person on the staff of the facility providing
18 treatment who is designated to discuss the minor's need for inpatient
19 treatment with the parent; and (4) of the medical necessity for
20 admission. The treatment facility shall provide information to the
21 parents concerning the treatment of the minor consistent with RCW
22 13.50.100(7)(b).

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