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SENATE BILL 5706

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State of Washington

65th Legislature

2017 Regular Session

By Senators Becker, Rivers, Bailey, Brown, O'Ban, Fortunato, and Warnick

Read first time 02/03/17. Referred to Committee on Human Services, Mental Health & Housing.

1 AN ACT Relating to parent-initiated behavioral health treatment  
2 for children aged thirteen to seventeen years old; amending RCW  
3 71.34.600, 71.34.600, 71.34.650, 71.34.650, 71.34.660, and 71.34.660;  
4 adding a new section to chapter 71.34 RCW; providing an effective  
5 date; and providing an expiration date.

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

7 **Sec. 1.** RCW 71.34.600 and 2007 c 375 s 11 are each amended to  
8 read as follows:

9 (1) A parent may bring, or authorize the bringing of, his or her  
10 minor child to an evaluation and treatment facility or an inpatient  
11 facility licensed under chapter 70.41, 71.12, or 72.23 RCW and  
12 request that the professional person examine the minor to determine  
13 whether the minor has a mental disorder and is in need of inpatient  
14 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  
21 to the facility, unless the professional person determines that the

1 condition of the minor necessitates additional time for evaluation.  
2 In no event shall a minor be held longer than seventy-two hours for  
3 evaluation. If, in the judgment of the professional person, it is  
4 determined it is a medical necessity for the minor to receive  
5 inpatient treatment, the minor may be held for treatment. The  
6 facility shall limit treatment to that which the professional person  
7 determines is medically necessary to stabilize the minor's condition  
8 until the evaluation has been completed. The parent shall be  
9 considered the personal representative of the child except as  
10 provided under section 7 of this act. Within twenty-four hours of  
11 completion of the evaluation, the professional person shall notify  
12 the department if the child is held for treatment and of the date of  
13 admission.

14 (4) No provider is obligated to provide treatment to a minor  
15 under the provisions of this section except that no provider may  
16 refuse to treat a minor under the provisions of this section solely  
17 on the basis that the minor has not consented to the treatment. No  
18 provider may admit a minor to treatment under this section unless it  
19 is medically necessary.

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

22 (6) Prior to the review conducted under RCW 71.34.610, the  
23 professional person shall notify the minor of his or her right to  
24 petition superior court for release from the facility.

25 (7) For the purposes of this section "professional person" means  
26 "professional person" as defined in RCW 71.05.020.

27 **Sec. 2.** RCW 71.34.600 and 2016 sp.s. c 29 s 263 are each amended  
28 to read as follows:

29 (1) A parent may bring, or authorize the bringing of, his or her  
30 minor child to:

31 (a) An evaluation and treatment facility or an inpatient facility  
32 licensed under chapter 70.41, 71.12, or 72.23 RCW and request that  
33 the professional person examine the minor to determine whether the  
34 minor has a mental disorder and is in need of inpatient treatment; or

35 (b) A secure detoxification facility or approved substance use  
36 disorder treatment program and request that a substance use disorder  
37 assessment be conducted by a professional person to determine whether  
38 the minor has a substance use disorder and is in need of inpatient  
39 treatment.

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

4 (3) An appropriately trained professional person may evaluate  
5 whether the minor has a mental disorder or has a substance use  
6 disorder. The evaluation shall be completed within twenty-four hours  
7 of the time the minor was brought to the facility, unless the  
8 professional person determines that the condition of the minor  
9 necessitates additional time for evaluation. In no event shall a  
10 minor be held longer than seventy-two hours for evaluation. If, in  
11 the judgment of the professional person, it is determined it is a  
12 medical necessity for the minor to receive inpatient treatment, the  
13 minor may be held for treatment. The facility shall limit treatment  
14 to that which the professional person determines is medically  
15 necessary to stabilize the minor's condition until the evaluation has  
16 been completed. The parent shall be considered the personal  
17 representative of the child except as provided under section 7 of  
18 this act. Within twenty-four hours of completion of the evaluation,  
19 the professional person shall notify the department if the child is  
20 held for treatment and of the date of admission.

21 (4) No provider is obligated to provide treatment to a minor  
22 under the provisions of this section except that no provider may  
23 refuse to treat a minor under the provisions of this section solely  
24 on the basis that the minor has not consented to the treatment. No  
25 provider may admit a minor to treatment under this section unless it  
26 is medically necessary.

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

29 (6) Prior to the review conducted under RCW 71.34.610, the  
30 professional person shall notify the minor of his or her right to  
31 petition superior court for release from the facility.

32 (7) For the purposes of this section "professional person" means  
33 "professional person" as defined in RCW 71.05.020.

34 **Sec. 3.** RCW 71.34.650 and 1998 c 296 s 18 are each amended to  
35 read as follows:

36 (1) A parent may bring, or authorize the bringing of, his or her  
37 minor child to a provider of outpatient mental health treatment and  
38 request that an appropriately trained professional person examine the  
39 minor to determine whether the minor has a mental disorder and is in

1 need of outpatient treatment. If, in the judgment of the provider, it  
2 is determined that it is a medical necessity for the minor to receive  
3 outpatient treatment, the parent shall be considered the personal  
4 representative for the minor except as provided under section 7 of  
5 this act, and the provider shall collaborate with the parent to  
6 determine a course of treatment for the minor.

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

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

11 (4) Any minor admitted to inpatient treatment under RCW 71.34.500  
12 or 71.34.600 shall be discharged immediately from inpatient treatment  
13 upon written request of the parent.

14 **Sec. 4.** RCW 71.34.650 and 2016 sp.s. c 29 s 265 are each amended  
15 to read as follows:

16 (1) A parent may bring, or authorize the bringing of, his or her  
17 minor child to(~~+~~

18 ~~(a) A))~~ either a provider of outpatient mental health treatment  
19 or a provider of outpatient substance abuse disorder treatment and  
20 request that an appropriately trained professional person examine the  
21 minor to determine whether the minor (~~(has a mental disorder and)~~) is  
22 in need of outpatient treatment(~~(+ or~~

23 ~~(b) A provider of outpatient substance use disorder treatment and~~  
24 ~~request that an appropriately trained professional person examine the~~  
25 ~~minor to determine whether the minor has a substance use disorder and~~  
26 ~~is in need of outpatient treatment)).~~ If, in the judgment of the  
27 provider, it is determined that it is a medical necessity for the  
28 minor to receive outpatient treatment, the parent shall be considered  
29 the personal representative for the minor except as provided under  
30 section 7 of this act, and the provider shall collaborate with the  
31 parent to determine a course of treatment for the minor.

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

34 (3) The professional person may evaluate whether the minor has a  
35 mental disorder or substance use disorder and is in need of  
36 outpatient treatment.

37 (4) Any minor admitted to inpatient treatment under RCW 71.34.500  
38 or 71.34.600 shall be discharged immediately from inpatient treatment  
39 upon written request of the parent.

1       **Sec. 5.** RCW 71.34.660 and 2005 c 371 s 3 are each amended to  
2 read as follows:

3       (1) A minor child shall have no cause of action against an  
4 evaluation and treatment facility, inpatient facility, or provider of  
5 outpatient mental health treatment for admitting or accepting the  
6 minor in good faith for evaluation or treatment under RCW 71.34.600  
7 or 71.34.650 based solely upon the fact that the minor did not  
8 consent to evaluation or treatment if the minor's parent has  
9 consented to the evaluation or treatment.

10       (2) A provider shall not be liable for communications with the  
11 parent of a minor evaluated under RCW 71.34.600 or 71.34.650 related  
12 to the exchange of information or treatment discussions permitted  
13 under section 7 of this act.

14       **Sec. 6.** RCW 71.34.660 and 2016 sp.s. c 29 s 266 are each amended  
15 to read as follows:

16       (1) A minor child shall have no cause of action against an  
17 evaluation and treatment facility, secure detoxification facility,  
18 approved substance use disorder treatment program, inpatient  
19 facility, or provider of outpatient mental health treatment or  
20 outpatient substance use disorder treatment for admitting or  
21 accepting the minor in good faith for evaluation or treatment under  
22 RCW 71.34.600 or 71.34.650 based solely upon the fact that the minor  
23 did not consent to evaluation or treatment if the minor's parent has  
24 consented to the evaluation or treatment.

25       (2) A provider shall not be liable for communications with the  
26 parent of a minor evaluated under RCW 71.34.600 or 71.34.650 related  
27 to the exchange of information or treatment discussions permitted  
28 under section 7 of this act.

29       NEW SECTION. **Sec. 7.** A new section is added to chapter 71.34  
30 RCW to read as follows:

31       During the evaluation of a minor at the request of a parent under  
32 RCW 71.34.600 or 71.34.650 and during the course of medically  
33 necessary treatment commenced pursuant to this evaluation, the parent  
34 shall be considered the personal representative of the minor for the  
35 purpose of transmission of medical information, making treatment  
36 decisions, and reviewing the compliance of the minor with treatment  
37 recommendations. RCW 71.34.500 through 71.34.530 are suspended for  
38 the limited purpose of this evaluation and course of follow-up

1 treatment, unless the parent agrees to a confidential relationship  
2 between the child and the health care provider, or the receipt of new  
3 information or a material change in circumstances causes the provider  
4 to reevaluate the medical necessity for treatment under RCW 71.34.600  
5 or 71.34.650. Nothing in this section requires a health care provider  
6 to enter into a treatment relationship or make disclosures which  
7 would, in the judgment of the provider, place the child at risk of  
8 harm. The obligation to share treatment information with a parent  
9 under this section shall not include a right of access to  
10 psychotherapy notes as defined under the federal health insurance  
11 portability and accountability act.

12 NEW SECTION. **Sec. 8.** Sections 1, 3, and 5 of this act expire  
13 April 1, 2018.

14 NEW SECTION. **Sec. 9.** Sections 2, 4, and 6 of this act take  
15 effect April 1, 2018.

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