

E2SHB 1874 - S COMM AMD
By Committee on Ways & Means

ADOPTED 04/15/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 71.34.010 and 2018 c 201 s 5001 are each amended to
4 read as follows:

5 It is the purpose of this chapter to assure that minors in need
6 of mental health care and treatment receive an appropriate continuum
7 of culturally relevant care and treatment, including prevention and
8 early intervention, self-directed care, parent-directed care, and
9 involuntary treatment. To facilitate the continuum of care and
10 treatment to minors in out-of-home placements, all divisions of the
11 authority and the department that provide mental health services to
12 minors shall jointly plan and deliver those services.

13 It is also the purpose of this chapter to protect the rights of
14 ~~((minors))~~ adolescents to confidentiality and to independently seek
15 services for mental health and substance use disorders. Mental health
16 and chemical dependency professionals shall guard against needless
17 hospitalization and deprivations of liberty ~~((and to)),~~ enable
18 treatment decisions to be made in response to clinical needs in
19 accordance with sound professional judgment ~~((The mental health care~~
20 ~~and treatment providers shall))~~, and encourage the use of voluntary
21 services ~~((and))~~. Mental health and chemical dependency professionals
22 shall, whenever clinically appropriate, ~~((the providers shall))~~ offer
23 less restrictive alternatives to inpatient treatment. Additionally,
24 all mental health care and treatment providers shall assure that
25 minors' parents are given an opportunity to participate in the
26 treatment decisions for their minor children. The mental health care
27 and treatment providers shall, to the extent possible, offer services
28 that involve minors' parents or family.

29 It is also the purpose of this chapter to assure the ability of
30 parents to exercise reasonable, compassionate care and control of
31 their minor children when there is a medical necessity for treatment

1 and without the requirement of filing a petition under this chapter,
2 including the ability to request and receive medically necessary
3 treatment for their adolescent children without the consent of the
4 adolescent.

5 **Sec. 2.** RCW 71.34.020 and 2018 c 201 s 5002 are each amended to
6 read as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Alcoholism" means a disease, characterized by a dependency
10 on alcoholic beverages, loss of control over the amount and
11 circumstances of use, symptoms of tolerance, physiological or
12 psychological withdrawal, or both, if use is reduced or discontinued,
13 and impairment of health or disruption of social or economic
14 functioning.

15 (2) "Approved substance use disorder treatment program" means a
16 program for minors with substance use disorders provided by a
17 treatment program licensed or certified by the department of health
18 as meeting standards adopted under chapter 71.24 RCW.

19 (3) "Authority" means the Washington state health care authority.

20 (4) "Chemical dependency" means:

21 (a) Alcoholism;

22 (b) Drug addiction; or

23 (c) Dependence on alcohol and one or more other psychoactive
24 chemicals, as the context requires.

25 (5) "Chemical dependency professional" means a person certified
26 as a chemical dependency professional by the department of health
27 under chapter 18.205 RCW, or a person certified as a chemical
28 dependency professional trainee under RCW 18.205.095 working under
29 the direct supervision of a certified chemical dependency
30 professional.

31 (6) "Child psychiatrist" means a person having a license as a
32 physician and surgeon in this state, who has had graduate training in
33 child psychiatry in a program approved by the American Medical
34 Association or the American Osteopathic Association, and who is board
35 eligible or board certified in child psychiatry.

36 (7) "Children's mental health specialist" means:

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

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

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

6 (8) "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
9 minor is in need of less restrictive alternative treatment.

10 (9) "Department" means the department of social and health
11 services.

12 (10) "Designated crisis responder" means a person designated by a
13 behavioral health organization to perform the duties specified in
14 this chapter.

15 (11) "Director" means the director of the authority.

16 (12) "Drug addiction" means a disease, characterized by a
17 dependency on psychoactive chemicals, loss of control over the amount
18 and circumstances of use, symptoms of tolerance, physiological or
19 psychological withdrawal, or both, if use is reduced or discontinued,
20 and impairment of health or disruption of social or economic
21 functioning.

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

33 (14) "Evaluation and treatment program" means the total system of
34 services and facilities coordinated and approved by a county or
35 combination of counties for the evaluation and treatment of minors
36 under this chapter.

37 (15) "Gravely disabled minor" means a minor who, as a result of a
38 mental disorder, or as a result of the use of alcohol or other
39 psychoactive chemicals, is in danger of serious physical harm
40 resulting from a failure to provide for his or her essential human

1 needs of health or safety, or manifests severe deterioration in
2 routine functioning evidenced by repeated and escalating loss of
3 cognitive or volitional control over his or her actions and is not
4 receiving such care as is essential for his or her health or safety.

5 (16) "Inpatient treatment" means twenty-four-hour-per-day mental
6 health care provided within a general hospital, psychiatric hospital,
7 residential treatment facility licensed or certified by the
8 department of health as an evaluation and treatment facility for
9 minors, secure detoxification facility for minors, or approved
10 substance use disorder treatment program for minors.

11 (17) "Intoxicated minor" means a minor whose mental or physical
12 functioning is substantially impaired as a result of the use of
13 alcohol or other psychoactive chemicals.

14 (18) "Less restrictive alternative" or "less restrictive setting"
15 means outpatient treatment provided to a minor who is not residing in
16 a facility providing inpatient treatment as defined in this chapter.

17 (19) "Likelihood of serious harm" means either: (a) A substantial
18 risk that physical harm will be inflicted by an individual upon his
19 or her own person, as evidenced by threats or attempts to commit
20 suicide or inflict physical harm on oneself; (b) a substantial risk
21 that physical harm will be inflicted by an individual upon another,
22 as evidenced by behavior which has caused such harm or which places
23 another person or persons in reasonable fear of sustaining such harm;
24 or (c) a substantial risk that physical harm will be inflicted by an
25 individual upon the property of others, as evidenced by behavior
26 which has caused substantial loss or damage to the property of
27 others.

28 (20) "Medical necessity" for inpatient care means a requested
29 service which is reasonably calculated to: (a) Diagnose, correct,
30 cure, or alleviate a mental disorder or substance use disorder; or
31 (b) prevent the progression of a substance use disorder that
32 endangers life or causes suffering and pain, or results in illness or
33 infirmity or threatens to cause or aggravate a handicap, or causes
34 physical deformity or malfunction, and there is no adequate less
35 restrictive alternative available.

36 (21) "Mental disorder" means any organic, mental, or emotional
37 impairment that has substantial adverse effects on an individual's
38 cognitive or volitional functions. The presence of alcohol abuse,
39 drug abuse, juvenile criminal history, antisocial behavior, or

1 intellectual disabilities alone is insufficient to justify a finding
2 of "mental disorder" within the meaning of this section.

3 (22) "Mental health professional" means a psychiatrist,
4 psychiatric advanced registered nurse practitioner, physician
5 assistant working with a supervising psychiatrist, psychologist,
6 psychiatric nurse, (~~(or)~~) social worker, and such other mental health
7 professionals as (~~may be~~) defined by rules adopted by the secretary
8 of the department of health under this chapter.

9 (23) "Minor" means any person under the age of eighteen years.

10 (24) "Outpatient treatment" means any of the nonresidential
11 services mandated under chapter 71.24 RCW and provided by licensed or
12 certified service providers as identified by RCW 71.24.025.

13 (25) "Parent" means (~~(+~~
14 ~~-a-))~~ a biological or adoptive parent who has legal custody of
15 the child, including either parent if custody is shared under a joint
16 custody agreement(~~(+)~~) or (~~(-b-))~~ a person or agency judicially
17 appointed as legal guardian or custodian of the child. For purposes
18 of family-initiated treatment under RCW 71.34.600 through 71.34.670,
19 "parent" also includes a person to whom a parent under this
20 subsection has given a signed authorization to make health care
21 decisions for the adolescent, a stepparent who is involved in caring
22 for the adolescent, a kinship caregiver who is involved in caring for
23 the adolescent, or another relative who is responsible for the health
24 care of the adolescent, who may be required to provide a declaration
25 under penalty of perjury stating that he or she is a relative
26 responsible for the health care of the adolescent pursuant to RCW
27 9A.72.085. If a dispute arises between individuals authorized to act
28 as a parent for the purpose of RCW 71.34.600 through 71.34.670, the
29 disagreement must be resolved according to the priority established
30 under RCW 7.70.065(2) (a).

31 (26) "Private agency" means any person, partnership, corporation,
32 or association that is not a public agency, whether or not financed
33 in whole or in part by public funds, that constitutes an evaluation
34 and treatment facility or private institution, or hospital, or
35 approved substance use disorder treatment program, that is conducted
36 for, or includes a distinct unit, floor, or ward conducted for, the
37 care and treatment of persons with mental illness, substance use
38 disorders, or both mental illness and substance use disorders.

39 (27) "Physician assistant" means a person licensed as a physician
40 assistant under chapter 18.57A or 18.71A RCW.

1 (28) "Professional person in charge" or "professional person"
2 means a physician, other mental health professional, or other person
3 empowered by an evaluation and treatment facility, secure
4 detoxification facility, or approved substance use disorder treatment
5 program with authority to make admission and discharge decisions on
6 behalf of that facility.

7 (29) "Psychiatric nurse" means a registered nurse who has
8 experience in the direct treatment of persons who have a mental
9 illness or who are emotionally disturbed, such experience gained
10 under the supervision of a mental health professional.

11 (30) "Psychiatrist" means a person having a license as a
12 physician in this state who has completed residency training in
13 psychiatry in a program approved by the American Medical Association
14 or the American Osteopathic Association, and is board eligible or
15 board certified in psychiatry.

16 (31) "Psychologist" means a person licensed as a psychologist
17 under chapter 18.83 RCW.

18 (32) "Public agency" means any evaluation and treatment facility
19 or institution, or hospital, or approved substance use disorder
20 treatment program that is conducted for, or includes a distinct unit,
21 floor, or ward conducted for, the care and treatment of persons with
22 mental illness, substance use disorders, or both mental illness and
23 substance use disorders if the agency is operated directly by
24 federal, state, county, or municipal government, or a combination of
25 such governments.

26 (33) "Responsible other" means the minor, the minor's parent or
27 estate, or any other person legally responsible for support of the
28 minor.

29 (34) "Secretary" means the secretary of the department or
30 secretary's designee.

31 (35) "Secure detoxification facility" means a facility operated
32 by either a public or private agency or by the program of an agency
33 that:

34 (a) Provides for intoxicated minors:

35 (i) Evaluation and assessment, provided by certified chemical
36 dependency professionals;

37 (ii) Acute or subacute detoxification services; and

38 (iii) Discharge assistance provided by certified chemical
39 dependency professionals, including facilitating transitions to

1 appropriate voluntary or involuntary inpatient services or to less
2 restrictive alternatives as appropriate for the minor;

3 (b) Includes security measures sufficient to protect the
4 patients, staff, and community; and

5 (c) Is licensed or certified as such by the department of health.

6 (36) "Social worker" means a person with a master's or further
7 advanced degree from a social work educational program accredited and
8 approved as provided in RCW 18.320.010.

9 (37) "Start of initial detention" means the time of arrival of
10 the minor at the first evaluation and treatment facility, secure
11 detoxification facility, or approved substance use disorder treatment
12 program offering inpatient treatment if the minor is being
13 involuntarily detained at the time. With regard to voluntary
14 patients, "start of initial detention" means the time at which the
15 minor gives notice of intent to leave under the provisions of this
16 chapter.

17 (38) "Substance use disorder" means a cluster of cognitive,
18 behavioral, and physiological symptoms indicating that an individual
19 continues using the substance despite significant substance-related
20 problems. The diagnosis of a substance use disorder is based on a
21 pathological pattern of behaviors related to the use of the
22 substances.

23 (39) "Adolescent" means a minor thirteen years of age or older.

24 (40) "Kinship caregiver" has the same meaning as in RCW
25 74.13.031(19)(a).

26 **Sec. 3.** RCW 71.34.500 and 2016 sp.s. c 29 s 261 are each amended
27 to read as follows:

28 (1) (~~(A minor thirteen years or older)~~) An adolescent may admit
29 himself or herself to an evaluation and treatment facility for
30 inpatient mental health treatment or an approved substance use
31 disorder treatment program for inpatient substance use disorder
32 treatment without parental consent. The admission shall occur only if
33 the professional person in charge of the facility concurs with the
34 need for inpatient treatment. Parental authorization, or
35 authorization from a person who may consent on behalf of the minor
36 pursuant to RCW 7.70.065, is required for inpatient treatment of a
37 minor under the age of thirteen.

38 (2) When, in the judgment of the professional person in charge of
39 an evaluation and treatment facility or approved substance use

1 disorder treatment program, there is reason to believe that a minor
2 is in need of inpatient treatment because of a mental disorder or
3 substance use disorder, and the facility provides the type of
4 evaluation and treatment needed by the minor, and it is not feasible
5 to treat the minor in any less restrictive setting or the minor's
6 home, the minor may be admitted to the facility.

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

11 **Sec. 4.** RCW 71.34.510 and 1998 c 296 s 15 are each amended to
12 read as follows:

13 (1) The ((administrator)) professional person in charge of
14 ((the)) an evaluation and treatment facility shall provide notice to
15 the parent((s)) of ((a—minor)) an adolescent when the ((minor))
16 adolescent is voluntarily admitted to inpatient treatment under RCW
17 71.34.500 solely for mental health treatment and not for substance
18 use disorder treatment, unless the professional person has a
19 compelling reason to believe that such disclosure would be
20 detrimental to the adolescent or contact cannot be made, in which
21 case the professional person must document the reasons in the
22 adolescent's medical record.

23 (2) The professional person in charge of an evaluation and
24 treatment facility or an approved substance use disorder treatment
25 program shall provide notice to the parent of an adolescent
26 voluntarily admitted to inpatient treatment under RCW 71.34.500 for
27 substance use disorder treatment only if: (a) The adolescent provides
28 written consent to the disclosure of the fact of admission and such
29 other substance use disorder treatment information in the notice; or
30 (b) permitted by federal law.

31 (3) If the professional person withholds notice to a parent under
32 subsection (1) of this section, or such notice cannot be provided,
33 the professional person in charge of the facility must consult the
34 information that the Washington state patrol makes publicly available
35 under RCW 43.43.510(2) at least once every eight hours for the first
36 seventy-two hours of treatment and once every twenty-four hours
37 thereafter while the adolescent continues to receive inpatient
38 services and until the time that the professional person contacts a
39 parent of the adolescent. If the adolescent is publicly listed as

1 missing, the professional person must immediately notify the
2 department of children, youth, and families of its contact with the
3 youth listed as missing. The notification must include a description
4 of the adolescent's physical and emotional condition.

5 (4) The notice required under subsections (1) and (2) of this
6 section shall be in the form most likely to reach the parent within
7 twenty-four hours of the ((minor's)) adolescent's voluntary admission
8 and shall advise the parent: ((1)) (a) That the ((minor))
9 adolescent has been admitted to inpatient treatment; ((2)) (b)
10 the location and telephone number of the facility providing such
11 treatment; ((3)) (c) of the name of a professional person on the
12 staff of the facility providing treatment who is designated to
13 discuss the ((minor's)) adolescent's need for inpatient treatment
14 with the parent; and ((4)) (d) of the medical necessity for
15 admission. Notification efforts under subsections (1) and (2) of this
16 section shall begin as soon as reasonably practicable, considering
17 the adolescent's immediate medical needs.

18 **Sec. 5.** RCW 71.34.520 and 2016 sp.s. c 29 s 262 are each amended
19 to read as follows:

20 (1) Any ((minor thirteen years or older)) adolescent voluntarily
21 admitted to an evaluation and treatment facility or approved
22 substance use disorder treatment program under RCW 71.34.500 may give
23 notice of intent to leave at any time. The notice need not follow any
24 specific form so long as it is written and the intent of the
25 ((minor)) adolescent can be discerned.

26 (2) The staff member receiving the notice shall date it
27 immediately((7)) and record its existence in the ((minor's))
28 adolescent's clinical record((7-and send)).

29 (a) If the evaluation and treatment facility is providing the
30 adolescent solely with mental health treatment and not substance use
31 disorder treatment, copies of ((it)) the notice must be sent to the
32 ((minor's)) adolescent's attorney, if any, the designated crisis
33 responders, and the parent.

34 (b) If the evaluation and treatment facility or substance use
35 disorder treatment program is providing the adolescent with substance
36 use disorder treatment, copies of the notice must be sent to the
37 adolescent's attorney, if any, the designated crisis responders, and
38 the parent only if: (i) The adolescent provides written consent to
39 the disclosure of the adolescent's notice of intent to leave and such

1 other substance use disorder information; or (ii) permitted by
2 federal law.

3 (3) The professional person shall discharge the (~~minor, thirteen~~
4 ~~years or older,~~) adolescent from the facility by the second judicial
5 day following receipt of the (~~minor's~~) adolescent's notice of
6 intent to leave.

7 **Sec. 6.** RCW 71.34.530 and 2006 c 93 s 4 are each amended to read
8 as follows:

9 Any (~~minor thirteen years or older~~) adolescent may request and
10 receive outpatient treatment without the consent of the (~~minor's~~)
11 adolescent's parent. Parental authorization, or authorization from a
12 person who may consent on behalf of the minor pursuant to RCW
13 7.70.065, is required for outpatient treatment of a minor under the
14 age of thirteen.

15 **Sec. 7.** RCW 71.34.600 and 2018 c 201 s 5013 are each amended to
16 read as follows:

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

19 (a) An evaluation and treatment facility or an inpatient facility
20 licensed under chapter 70.41, 71.12, or 72.23 RCW and request that
21 the professional person examine the (~~minor~~) adolescent to determine
22 whether the (~~minor~~) adolescent has a mental disorder and is in need
23 of inpatient treatment; or

24 (b) A secure detoxification facility or approved substance use
25 disorder treatment program and request that a substance use disorder
26 assessment be conducted by a professional person to determine whether
27 the (~~minor~~) adolescent has a substance use disorder and is in need
28 of inpatient treatment.

29 (2) The consent of the (~~minor~~) adolescent is not required for
30 admission, evaluation, and treatment if (~~the parent brings the minor~~
31 ~~to the facility~~) a parent provides consent.

32 (3) An appropriately trained professional person may evaluate
33 whether the (~~minor~~) adolescent has a mental disorder or has a
34 substance use disorder. The evaluation shall be completed within
35 twenty-four hours of the time the (~~minor~~) adolescent was brought to
36 the facility, unless the professional person determines that the
37 condition of the (~~minor~~) adolescent necessitates additional time
38 for evaluation. In no event shall (~~a minor~~) an adolescent be held

1 longer than seventy-two hours for evaluation. If, in the judgment of
2 the professional person, it is determined it is a medical necessity
3 for the ((~~minor~~)) adolescent to receive inpatient treatment, the
4 ((~~minor~~)) adolescent may be held for treatment. The facility shall
5 limit treatment to that which the professional person determines is
6 medically necessary to stabilize the ((~~minor's~~)) adolescent's
7 condition until the evaluation has been completed. Within twenty-four
8 hours of completion of the evaluation, the professional person shall
9 notify the authority if the ((~~child~~)) adolescent is held solely for
10 mental health and not substance use disorder treatment and of the
11 date of admission. If the adolescent is held for substance use
12 disorder treatment only, the professional person shall provide notice
13 to the authority which redacts all patient identifying information
14 about the adolescent unless: (a) The adolescent provides written
15 consent to the disclosure of the fact of admission and such other
16 substance use disorder treatment information in the notice; or (b)
17 permitted by federal law.

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

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

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

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

33 **Sec. 8.** RCW 71.34.610 and 2018 c 201 s 5014 are each amended to
34 read as follows:

35 (1) The authority shall assure that, for any ((~~minor~~)) adolescent
36 admitted to inpatient treatment under RCW 71.34.600, a review is
37 conducted by a physician or other mental health professional who is
38 employed by the authority, or an agency under contract with the
39 authority, and who neither has a financial interest in continued

1 inpatient treatment of the ((~~minor~~)) adolescent nor is affiliated
2 with the facility providing the treatment. The physician or other
3 mental health professional shall conduct the review not less than
4 seven nor more than fourteen days following the date the ((~~minor~~))
5 adolescent was brought to the facility under RCW 71.34.600 to
6 determine whether it is a medical necessity to continue the
7 ((~~minor's~~)) adolescent's treatment on an inpatient basis.

8 (2) In making a determination under subsection (1) of this
9 section, the authority shall consider the opinion of the treatment
10 provider, the safety of the ((~~minor~~)) adolescent, and the likelihood
11 the ((~~minor's~~)) adolescent's mental health will deteriorate if
12 released from inpatient treatment. The authority shall consult with
13 the parent in advance of making its determination.

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

29 (4) If the evaluation conducted under RCW 71.34.600 is done by
30 the authority, the reviews required by subsection (1) of this section
31 shall be done by contract with an independent agency.

32 (5) The authority may, subject to available funds, contract with
33 other governmental agencies to conduct the reviews under this
34 section. The authority may seek reimbursement from the parents, their
35 insurance, or medicaid for the expense of any review conducted by an
36 agency under contract.

37 (6) In addition to the review required under this section, the
38 authority may periodically determine and redetermine the medical
39 necessity of treatment for purposes of payment with public funds.

1 **Sec. 9.** RCW 71.34.620 and 1998 c 296 s 19 are each amended to
2 read as follows:

3 Following the review conducted under RCW 71.34.610, (~~(a-minor~~
4 ~~child)~~) an adolescent may petition the superior court for his or her
5 release from the facility. The petition may be filed not sooner than
6 five days following the review. The court shall release the (~~(minor)~~)
7 adolescent unless it finds, upon a preponderance of the evidence,
8 that it is a medical necessity for the (~~(minor)~~) adolescent to remain
9 at the facility.

10 **Sec. 10.** RCW 71.34.630 and 2018 c 201 s 5015 are each amended to
11 read as follows:

12 If the (~~(minor)~~) adolescent is not released as a result of the
13 petition filed under RCW 71.34.620, he or she shall be released not
14 later than thirty days following the later of: (1) The date of the
15 authority's determination under RCW 71.34.610(2); or (2) the filing
16 of a petition for judicial review under RCW 71.34.620, unless a
17 professional person or the designated crisis responder initiates
18 proceedings under this chapter.

19 **Sec. 11.** RCW 71.34.640 and 2018 c 201 s 5016 are each amended to
20 read as follows:

21 The authority shall randomly select and review the information on
22 (~~(children)~~) adolescents who are admitted to inpatient treatment on
23 application of the (~~(child's)~~) adolescent's parent regardless of the
24 source of payment, if any, subject to the limitations under RCW
25 71.34.600(3). The review shall determine whether the (~~(children)~~)
26 adolescents reviewed were appropriately admitted into treatment based
27 on an objective evaluation of the (~~(child's)~~) adolescent's condition
28 and the outcome of the (~~(child's)~~) adolescent's treatment.

29 **Sec. 12.** RCW 71.34.650 and 2016 sp.s. c 29 s 265 are each
30 amended to read as follows:

31 (1) A parent may bring, or authorize the bringing of, his or her
32 (~~(minor)~~) adolescent child to:

33 (a) A provider of outpatient mental health treatment and request
34 that an appropriately trained professional person examine the
35 (~~(minor)~~) adolescent to determine whether the (~~(minor)~~) adolescent
36 has a mental disorder and is in need of outpatient treatment; or

1 (b) A provider of outpatient substance use disorder treatment and
2 request that an appropriately trained professional person examine the
3 (~~minor~~) adolescent to determine whether the (~~minor~~) adolescent
4 has a substance use disorder and is in need of outpatient treatment.

5 (2) The consent of the (~~minor~~) adolescent is not required for
6 evaluation if (~~the parent brings the minor to the provider~~) a
7 parent provides consent.

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

11 (4) If a determination is made by a professional person under
12 this section that an adolescent is in need of outpatient mental
13 health or substance use disorder treatment, a parent of an adolescent
14 may request and receive such outpatient treatment for his or her
15 adolescent without the consent of the adolescent for up to twelve
16 outpatient sessions occurring within a three-month period.

17 (5) Following the treatment periods under subsection (4) of this
18 section, an adolescent must provide his or her consent for further
19 treatment with that specific professional person.

20 (6) If a determination is made by a professional person under
21 this section that an adolescent is in need of treatment in a less
22 restrictive setting, including partial hospitalization or intensive
23 outpatient treatment, a parent of an adolescent may request and
24 receive such treatment for his or her adolescent without the consent
25 of the adolescent.

26 (a) A professional person providing solely mental health
27 treatment to an adolescent under this subsection (6) must convene a
28 treatment review at least every thirty days after treatment begins
29 that includes the adolescent, parent, and other treatment team
30 members as appropriate to determine whether continued care under this
31 subsection is medically necessary.

32 (b) A professional person providing solely mental health
33 treatment to an adolescent under this subsection (6) shall provide
34 notification of the adolescent's treatment to an independent reviewer
35 at the authority within twenty-four hours of the adolescent's first
36 receipt of treatment under this subsection. At least every forty-five
37 days after the adolescent's first receipt of treatment under this
38 subsection, the authority shall conduct a review to determine whether
39 the current level of treatment is medically necessary.

1 (c) A professional person providing substance use disorder
2 treatment under this subsection (6) shall convene a treatment review
3 under (a) of this subsection and provide the notification of the
4 adolescent's receipt of treatment to an independent reviewer at the
5 authority as described in (b) of this subsection only if: (i) The
6 adolescent provides written consent to the disclosure of substance
7 use disorder treatment information including the fact of his or her
8 receipt of such treatment; or (ii) permitted by federal law.

9 (7) Any ((minor)) adolescent admitted to inpatient treatment
10 under RCW 71.34.500 or 71.34.600 shall be discharged immediately from
11 inpatient treatment upon written request of the parent.

12 **Sec. 13.** RCW 71.34.660 and 2016 sp.s. c 29 s 266 are each
13 amended to read as follows:

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

24 **Sec. 14.** RCW 71.34.700 and 2016 sp.s. c 29 s 267 are each
25 amended to read as follows:

26 (1) If ((a minor, thirteen years or older,)) an adolescent is
27 brought to an evaluation and treatment facility or hospital emergency
28 room for immediate mental health services, the professional person in
29 charge of the facility shall evaluate the ((minor's)) adolescent's
30 mental condition, determine whether the ((minor)) adolescent suffers
31 from a mental disorder, and whether the ((minor)) adolescent is in
32 need of immediate inpatient treatment.

33 (2) If ((a minor, thirteen years or older,)) an adolescent is
34 brought to a secure detoxification facility with available space, or
35 a hospital emergency room for immediate substance use disorder
36 treatment, the professional person in charge of the facility shall
37 evaluate the ((minor's)) adolescent's condition, determine whether
38 the ((minor)) adolescent suffers from a substance use disorder, and

1 whether the ((~~minor~~)) adolescent is in need of immediate inpatient
2 treatment.

3 (3) If it is determined under subsection (1) or (2) of this
4 section that the ((~~minor~~)) adolescent suffers from a mental disorder
5 or substance use disorder, inpatient treatment is required, the
6 ((~~minor~~)) adolescent is unwilling to consent to voluntary admission,
7 and the professional person believes that the ((~~minor~~)) adolescent
8 meets the criteria for initial detention set forth herein, the
9 facility may detain or arrange for the detention of the ((~~minor~~))
10 adolescent for up to twelve hours in order to enable a designated
11 crisis responder to evaluate the ((~~minor~~)) adolescent and commence
12 initial detention proceedings under the provisions of this chapter.

13 **Sec. 15.** RCW 71.34.700 and 2016 sp.s. c 29 s 268 are each
14 amended to read as follows:

15 (1) If ((~~a minor, thirteen years or older,~~)) an adolescent is
16 brought to an evaluation and treatment facility or hospital emergency
17 room for immediate mental health services, the professional person in
18 charge of the facility shall evaluate the ((~~minor's~~)) adolescent's
19 mental condition, determine whether the ((~~minor~~)) adolescent suffers
20 from a mental disorder, and whether the ((~~minor~~)) adolescent is in
21 need of immediate inpatient treatment.

22 (2) If ((~~a minor, thirteen years or older,~~)) an adolescent is
23 brought to a secure detoxification facility or a hospital emergency
24 room for immediate substance use disorder treatment, the professional
25 person in charge of the facility shall evaluate the ((~~minor's~~))
26 adolescent's condition, determine whether the ((~~minor~~)) adolescent
27 suffers from a substance use disorder, and whether the ((~~minor~~))
28 adolescent is in need of immediate inpatient treatment.

29 (3) If it is determined under subsection (1) or (2) of this
30 section that the ((~~minor~~)) adolescent suffers from a mental disorder
31 or substance use disorder, inpatient treatment is required, the
32 ((~~minor~~)) adolescent is unwilling to consent to voluntary admission,
33 and the professional person believes that the ((~~minor~~)) adolescent
34 meets the criteria for initial detention set forth herein, the
35 facility may detain or arrange for the detention of the ((~~minor~~))
36 adolescent for up to twelve hours in order to enable a designated
37 crisis responder to evaluate the ((~~minor~~)) adolescent and commence
38 initial detention proceedings under the provisions of this chapter.

1 **Sec. 16.** RCW 71.34.710 and 2016 sp.s. c 29 s 269 are each
2 amended to read as follows:

3 (1) (a) (i) When a designated crisis responder receives information
4 that (~~(a minor, thirteen years or older,)~~) an adolescent as a result
5 of a mental disorder presents a likelihood of serious harm or is
6 gravely disabled, has investigated the specific facts alleged and of
7 the credibility of the person or persons providing the information,
8 and has determined that voluntary admission for inpatient treatment
9 is not possible, the designated crisis responder may take the
10 (~~(minor)~~) adolescent, or cause the (~~(minor)~~) adolescent to be taken,
11 into custody and transported to an evaluation and treatment facility
12 providing inpatient treatment.

13 (ii) When a designated crisis responder receives information that
14 (~~(a minor, thirteen years or older,)~~) an adolescent as a result of a
15 substance use disorder presents a likelihood of serious harm or is
16 gravely disabled, has investigated the specific facts alleged and of
17 the credibility of the person or persons providing the information,
18 and has determined that voluntary admission for inpatient treatment
19 is not possible, the designated crisis responder may take the
20 (~~(minor)~~) adolescent, or cause the (~~(minor)~~) adolescent to be taken,
21 into custody and transported to a secure detoxification facility or
22 approved substance use disorder treatment program, if a secure
23 detoxification facility or approved substance use disorder treatment
24 program is available and has adequate space for the (~~(minor)~~)
25 adolescent.

26 (b) If the (~~(minor)~~) adolescent is not taken into custody for
27 evaluation and treatment, the parent who has custody of the (~~(minor)~~)
28 adolescent may seek review of that decision made by the designated
29 crisis responder in court. The parent shall file notice with the
30 court and provide a copy of the designated crisis responder's report
31 or notes.

32 (2) Within twelve hours of the (~~(minor's)~~) adolescent's arrival
33 at the evaluation and treatment facility, secure detoxification
34 facility, or approved substance use disorder treatment program, the
35 designated crisis responder shall serve on the (~~(minor)~~) adolescent a
36 copy of the petition for initial detention, notice of initial
37 detention, and statement of rights. The designated crisis responder
38 shall file with the court on the next judicial day following the
39 initial detention the original petition for initial detention, notice
40 of initial detention, and statement of rights along with an affidavit

1 of service. The designated crisis responder shall commence service of
2 the petition for initial detention and notice of the initial
3 detention on the ((~~minor's~~)) adolescent's parent and the ((~~minor's~~))
4 adolescent's attorney as soon as possible following the initial
5 detention.

6 (3) At the time of initial detention, the designated crisis
7 responder shall advise the ((~~minor~~)) adolescent both orally and in
8 writing that if admitted to the evaluation and treatment facility,
9 secure detoxification facility, or approved substance use disorder
10 treatment program for inpatient treatment, a commitment hearing shall
11 be held within seventy-two hours of the ((~~minor's~~)) adolescent's
12 provisional acceptance to determine whether probable cause exists to
13 commit the ((~~minor~~)) adolescent for further treatment.

14 The ((~~minor~~)) adolescent shall be advised that he or she has a
15 right to communicate immediately with an attorney and that he or she
16 has a right to have an attorney appointed to represent him or her
17 before and at the hearing if the ((~~minor~~)) adolescent is indigent.

18 (4) Subject to subsection (5) of this section, whenever the
19 designated crisis responder petitions for detention of ((~~a minor~~)) an
20 adolescent under this chapter, an evaluation and treatment facility,
21 secure detoxification facility, or approved substance use disorder
22 treatment program providing seventy-two hour evaluation and treatment
23 must immediately accept on a provisional basis the petition and the
24 person. Within twenty-four hours of the ((~~minor's~~)) adolescent's
25 arrival, the facility must evaluate the ((~~minor's~~)) adolescent's
26 condition and either admit or release the ((~~minor~~)) adolescent in
27 accordance with this chapter.

28 (5) A designated crisis responder may not petition for detention
29 of ((~~a minor~~)) an adolescent to a secure detoxification facility or
30 approved substance use disorder treatment program unless there is a
31 secure detoxification facility or approved substance use disorder
32 treatment program available and that has adequate space for the
33 ((~~minor~~)) adolescent.

34 (6) If ((~~a minor~~)) an adolescent is not approved for admission by
35 the inpatient evaluation and treatment facility, secure
36 detoxification facility, or approved substance use disorder treatment
37 program, the facility shall make such recommendations and referrals
38 for further care and treatment of the ((~~minor~~)) adolescent as
39 necessary.

1 **Sec. 17.** RCW 71.34.710 and 2016 sp.s. c 29 s 270 are each
2 amended to read as follows:

3 (1) (a) (i) When a designated crisis responder receives information
4 that (~~(a minor, thirteen years or older,)~~) an adolescent as a result
5 of a mental disorder presents a likelihood of serious harm or is
6 gravely disabled, has investigated the specific facts alleged and of
7 the credibility of the person or persons providing the information,
8 and has determined that voluntary admission for inpatient treatment
9 is not possible, the designated crisis responder may take the
10 (~~(minor)~~) adolescent, or cause the (~~(minor)~~) adolescent to be taken,
11 into custody and transported to an evaluation and treatment facility
12 providing inpatient treatment.

13 (ii) When a designated crisis responder receives information that
14 (~~(a minor, thirteen years or older,)~~) an adolescent as a result of a
15 substance use disorder presents a likelihood of serious harm or is
16 gravely disabled, has investigated the specific facts alleged and of
17 the credibility of the person or persons providing the information,
18 and has determined that voluntary admission for inpatient treatment
19 is not possible, the designated crisis responder may take the
20 (~~(minor)~~) adolescent, or cause the (~~(minor)~~) adolescent to be taken,
21 into custody and transported to a secure detoxification facility or
22 approved substance use disorder treatment program.

23 (b) If the (~~(minor)~~) adolescent is not taken into custody for
24 evaluation and treatment, the parent who has custody of the (~~(minor)~~)
25 adolescent may seek review of that decision made by the designated
26 crisis responder in court. The parent shall file notice with the
27 court and provide a copy of the designated crisis responder's report
28 or notes.

29 (2) Within twelve hours of the (~~(minor's)~~) adolescent's arrival
30 at the evaluation and treatment facility, secure detoxification
31 facility, or approved substance use disorder treatment program, the
32 designated crisis responder shall serve on the (~~(minor)~~) adolescent a
33 copy of the petition for initial detention, notice of initial
34 detention, and statement of rights. The designated crisis responder
35 shall file with the court on the next judicial day following the
36 initial detention the original petition for initial detention, notice
37 of initial detention, and statement of rights along with an affidavit
38 of service. The designated crisis responder shall commence service of
39 the petition for initial detention and notice of the initial
40 detention on the (~~(minor's)~~) adolescent's parent and the (~~(minor's)~~)

1 adolescent's attorney as soon as possible following the initial
2 detention.

3 (3) At the time of initial detention, the designated crisis
4 responder shall advise the (~~minor~~) adolescent both orally and in
5 writing that if admitted to the evaluation and treatment facility,
6 secure detoxification facility, or approved substance use disorder
7 treatment program for inpatient treatment, a commitment hearing shall
8 be held within seventy-two hours of the (~~minor's~~) adolescent's
9 provisional acceptance to determine whether probable cause exists to
10 commit the (~~minor~~) adolescent for further treatment.

11 The (~~minor~~) adolescent shall be advised that he or she has a
12 right to communicate immediately with an attorney and that he or she
13 has a right to have an attorney appointed to represent him or her
14 before and at the hearing if the (~~minor~~) adolescent is indigent.

15 (4) Whenever the designated crisis responder petitions for
16 detention of (~~a minor~~) an adolescent under this chapter, an
17 evaluation and treatment facility, secure detoxification facility, or
18 approved substance use disorder treatment program providing seventy-
19 two hour evaluation and treatment must immediately accept on a
20 provisional basis the petition and the person. Within twenty-four
21 hours of the (~~minor's~~) adolescent's arrival, the facility must
22 evaluate the (~~minor's~~) adolescent's condition and either admit or
23 release the (~~minor~~) adolescent in accordance with this chapter.

24 (5) If (~~a minor~~) an adolescent is not approved for admission by
25 the inpatient evaluation and treatment facility, secure
26 detoxification facility, or approved substance use disorder treatment
27 program, the facility shall make such recommendations and referrals
28 for further care and treatment of the (~~minor~~) adolescent as
29 necessary.

30 NEW SECTION. Sec. 18. A new section is added to chapter 70.02
31 RCW to read as follows:

32 (1)(a) When an adolescent voluntarily consents to his or her own
33 mental health treatment under RCW 71.34.500 or 71.34.530, a mental
34 health professional shall not proactively exercise his or her
35 discretion under RCW 70.02.240 to release information or records
36 related to solely mental health services received by the adolescent
37 to a parent of the adolescent, beyond any notification required under
38 RCW 71.34.510, unless the adolescent states a clear desire to do so
39 which is documented by the mental health professional, except in

1 situations concerning an imminent threat to the health and safety of
2 the adolescent or others, or as otherwise may be required by law.

3 (b) In the event a mental health professional discloses
4 information or releases records, or both, that relate solely to
5 mental health services of an adolescent, to a parent pursuant to RCW
6 70.02.240(3), the mental health professional must provide notice of
7 this disclosure to the adolescent and the adolescent must have a
8 reasonable opportunity to express any concerns about this disclosure
9 to the mental health professional prior to the disclosure of the
10 information or records related solely to mental health services. The
11 mental health professional shall document any objections to
12 disclosure in the adolescent's medical record if the mental health
13 professional subsequently discloses information or records related
14 solely to mental health services over the objection of the
15 adolescent.

16 (2) When an adolescent receives a mental health evaluation or
17 treatment at the direction of a parent under RCW 71.34.600 through
18 71.34.670, the mental health professional is encouraged to exercise
19 his or her discretion under RCW 70.02.240 to proactively release to
20 the parent such information and records related to solely mental
21 health services received by the adolescent, excluding psychotherapy
22 notes, that are necessary to assist the parent in understanding the
23 nature of the evaluation or treatment and in supporting their child.
24 Such information includes:

- 25 (a) Diagnosis;
- 26 (b) Treatment plan and progress in treatment;
- 27 (c) Recommended medications, including risks, benefits, side
28 effects, typical efficacy, dose, and schedule;
- 29 (d) Psychoeducation about the child's mental health;
- 30 (e) Referrals to community resources;
- 31 (f) Coaching on parenting or behavioral management strategies;
- 32 and
- 33 (g) Crisis prevention planning and safety planning.

34 (3) If, after receiving a request from a parent for release of
35 mental health treatment information relating to an adolescent, the
36 mental health professional determines that disclosure of information
37 or records related solely to mental health services pursuant to RCW
38 70.02.240(3) would be detrimental to the adolescent and declines to
39 disclose such information or records, the mental health professional

1 shall document the reasons for the lack of disclosure in the
2 adolescent's medical record.

3 (4) Information or records about an adolescent's substance use
4 disorder evaluation or treatment may be provided to a parent without
5 the written consent of the adolescent only if permitted by federal
6 law. A mental health professional or chemical dependency professional
7 providing substance use disorder evaluation or treatment to an
8 adolescent may seek the written consent of the adolescent to provide
9 substance use disorder treatment information or records to a parent
10 when the mental health professional or chemical dependency
11 professional determines that both seeking the written consent and
12 sharing the substance use disorder treatment information or records
13 of the adolescent would not be detrimental to the adolescent.

14 (5) A mental health professional providing inpatient or
15 outpatient mental health evaluation or treatment is not civilly
16 liable for the decision to disclose information or records related to
17 solely mental health services or not disclose such information or
18 records so long as the decision was reached in good faith and without
19 gross negligence.

20 (6) A chemical dependency professional or mental health
21 professional providing inpatient or outpatient substance use disorder
22 evaluation or treatment is not civilly liable for the decision to
23 disclose information or records related to substance use disorder
24 treatment information with the written consent of the adolescent or
25 to not disclose such information or records to a parent without an
26 adolescent's consent pursuant to this section so long as the decision
27 was reached in good faith and without gross negligence.

28 (7) For purposes of this section, "adolescent" means a minor
29 thirteen years of age or older.

30 **Sec. 19.** RCW 70.02.230 and 2018 c 201 s 8002 are each amended to
31 read as follows:

32 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,
33 74.09.295, 70.02.210, 70.02.240, 70.02.250, (~~and~~) 70.02.260, and
34 section 18 of this act, or pursuant to a valid authorization under
35 RCW 70.02.030, the fact of admission to a provider for mental health
36 services and all information and records compiled, obtained, or
37 maintained in the course of providing mental health services to
38 either voluntary or involuntary recipients of services at public or
39 private agencies must be confidential.

1 (2) Information and records related to mental health services,
2 other than those obtained through treatment under chapter 71.34 RCW,
3 may be disclosed only:

4 (a) In communications between qualified professional persons to
5 meet the requirements of chapter 71.05 RCW, in the provision of
6 services or appropriate referrals, or in the course of guardianship
7 proceedings if provided to a professional person:

8 (i) Employed by the facility;

9 (ii) Who has medical responsibility for the patient's care;

10 (iii) Who is a designated crisis responder;

11 (iv) Who is providing services under chapter 71.24 RCW;

12 (v) Who is employed by a state or local correctional facility
13 where the person is confined or supervised; or

14 (vi) Who is providing evaluation, treatment, or follow-up
15 services under chapter 10.77 RCW;

16 (b) When the communications regard the special needs of a patient
17 and the necessary circumstances giving rise to such needs and the
18 disclosure is made by a facility providing services to the operator
19 of a facility in which the patient resides or will reside;

20 (c) (i) When the person receiving services, or his or her
21 guardian, designates persons to whom information or records may be
22 released, or if the person is a minor, when his or her parents make
23 such a designation;

24 (ii) A public or private agency shall release to a person's next
25 of kin, attorney, personal representative, guardian, or conservator,
26 if any:

27 (A) The information that the person is presently a patient in the
28 facility or that the person is seriously physically ill;

29 (B) A statement evaluating the mental and physical condition of
30 the patient, and a statement of the probable duration of the
31 patient's confinement, if such information is requested by the next
32 of kin, attorney, personal representative, guardian, or conservator;
33 and

34 (iii) Other information requested by the next of kin or attorney
35 as may be necessary to decide whether or not proceedings should be
36 instituted to appoint a guardian or conservator;

37 (d) (i) To the courts as necessary to the administration of
38 chapter 71.05 RCW or to a court ordering an evaluation or treatment
39 under chapter 10.77 RCW solely for the purpose of preventing the

1 entry of any evaluation or treatment order that is inconsistent with
2 any order entered under chapter 71.05 RCW.

3 (ii) To a court or its designee in which a motion under chapter
4 10.77 RCW has been made for involuntary medication of a defendant for
5 the purpose of competency restoration.

6 (iii) Disclosure under this subsection is mandatory for the
7 purpose of the federal health insurance portability and
8 accountability act;

9 (e)(i) When a mental health professional or designated crisis
10 responder is requested by a representative of a law enforcement or
11 corrections agency, including a police officer, sheriff, community
12 corrections officer, a municipal attorney, or prosecuting attorney to
13 undertake an investigation or provide treatment under RCW 71.05.150,
14 10.31.110, or 71.05.153, the mental health professional or designated
15 crisis responder shall, if requested to do so, advise the
16 representative in writing of the results of the investigation
17 including a statement of reasons for the decision to detain or
18 release the person investigated. The written report must be submitted
19 within seventy-two hours of the completion of the investigation or
20 the request from the law enforcement or corrections representative,
21 whichever occurs later.

22 (ii) Disclosure under this subsection is mandatory for the
23 purposes of the federal health insurance portability and
24 accountability act;

25 (f) To the attorney of the detained person;

26 (g) To the prosecuting attorney as necessary to carry out the
27 responsibilities of the office under RCW 71.05.330(2),
28 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
29 access to records regarding the committed person's treatment and
30 prognosis, medication, behavior problems, and other records relevant
31 to the issue of whether treatment less restrictive than inpatient
32 treatment is in the best interest of the committed person or others.
33 Information must be disclosed only after giving notice to the
34 committed person and the person's counsel;

35 (h)(i) To appropriate law enforcement agencies and to a person,
36 when the identity of the person is known to the public or private
37 agency, whose health and safety has been threatened, or who is known
38 to have been repeatedly harassed, by the patient. The person may
39 designate a representative to receive the disclosure. The disclosure
40 must be made by the professional person in charge of the public or

1 private agency or his or her designee and must include the dates of
2 commitment, admission, discharge, or release, authorized or
3 unauthorized absence from the agency's facility, and only any other
4 information that is pertinent to the threat or harassment. The agency
5 or its employees are not civilly liable for the decision to disclose
6 or not, so long as the decision was reached in good faith and without
7 gross negligence.

8 (ii) Disclosure under this subsection is mandatory for the
9 purposes of the federal health insurance portability and
10 accountability act;

11 (i)(i) To appropriate corrections and law enforcement agencies
12 all necessary and relevant information in the event of a crisis or
13 emergent situation that poses a significant and imminent risk to the
14 public. The mental health service agency or its employees are not
15 civilly liable for the decision to disclose or not so long as the
16 decision was reached in good faith and without gross negligence.

17 (ii) Disclosure under this subsection is mandatory for the
18 purposes of the health insurance portability and accountability act;

19 (j) To the persons designated in RCW 71.05.425 for the purposes
20 described in those sections;

21 (k) Upon the death of a person. The person's next of kin,
22 personal representative, guardian, or conservator, if any, must be
23 notified. Next of kin who are of legal age and competent must be
24 notified under this section in the following order: Spouse, parents,
25 children, brothers and sisters, and other relatives according to the
26 degree of relation. Access to all records and information compiled,
27 obtained, or maintained in the course of providing services to a
28 deceased patient are governed by RCW 70.02.140;

29 (l) To mark headstones or otherwise memorialize patients interred
30 at state hospital cemeteries. The department of social and health
31 services shall make available the name, date of birth, and date of
32 death of patients buried in state hospital cemeteries fifty years
33 after the death of a patient;

34 (m) To law enforcement officers and to prosecuting attorneys as
35 are necessary to enforce RCW 9.41.040(2)(a) (~~(iii)~~) (iv). The extent
36 of information that may be released is limited as follows:

37 (i) Only the fact, place, and date of involuntary commitment, an
38 official copy of any order or orders of commitment, and an official
39 copy of any written or oral notice of ineligibility to possess a

1 firearm that was provided to the person pursuant to RCW 9.41.047(1),
2 must be disclosed upon request;

3 (ii) The law enforcement and prosecuting attorneys may only
4 release the information obtained to the person's attorney as required
5 by court rule and to a jury or judge, if a jury is waived, that
6 presides over any trial at which the person is charged with violating
7 RCW 9.41.040(2)(a) (~~(iii)~~) (iv);

8 (iii) Disclosure under this subsection is mandatory for the
9 purposes of the federal health insurance portability and
10 accountability act;

11 (n) When a patient would otherwise be subject to the provisions
12 of this section and disclosure is necessary for the protection of the
13 patient or others due to his or her unauthorized disappearance from
14 the facility, and his or her whereabouts is unknown, notice of the
15 disappearance, along with relevant information, may be made to
16 relatives, the department of corrections when the person is under the
17 supervision of the department, and governmental law enforcement
18 agencies designated by the physician or psychiatric advanced
19 registered nurse practitioner in charge of the patient or the
20 professional person in charge of the facility, or his or her
21 professional designee;

22 (o) Pursuant to lawful order of a court;

23 (p) To qualified staff members of the department, to the
24 authority, to the director of behavioral health organizations, to
25 resource management services responsible for serving a patient, or to
26 service providers designated by resource management services as
27 necessary to determine the progress and adequacy of treatment and to
28 determine whether the person should be transferred to a less
29 restrictive or more appropriate treatment modality or facility;

30 (q) Within the mental health service agency where the patient is
31 receiving treatment, confidential information may be disclosed to
32 persons employed, serving in bona fide training programs, or
33 participating in supervised volunteer programs, at the facility when
34 it is necessary to perform their duties;

35 (r) Within the department and the authority as necessary to
36 coordinate treatment for mental illness, developmental disabilities,
37 alcoholism, or substance use disorder of persons who are under the
38 supervision of the department;

39 (s) Between the department of social and health services, the
40 department of children, youth, and families, and the health care

1 authority as necessary to coordinate treatment for mental illness,
2 developmental disabilities, alcoholism, or drug abuse of persons who
3 are under the supervision of the department of social and health
4 services or the department of children, youth, and families;

5 (t) To a licensed physician or psychiatric advanced registered
6 nurse practitioner who has determined that the life or health of the
7 person is in danger and that treatment without the information and
8 records related to mental health services could be injurious to the
9 patient's health. Disclosure must be limited to the portions of the
10 records necessary to meet the medical emergency;

11 (u) (i) Consistent with the requirements of the federal health
12 insurance portability and accountability act, to:

13 (A) A health care provider who is providing care to a patient, or
14 to whom a patient has been referred for evaluation or treatment; or

15 (B) Any other person who is working in a care coordinator role
16 for a health care facility or health care provider or is under an
17 agreement pursuant to the federal health insurance portability and
18 accountability act with a health care facility or a health care
19 provider and requires the information and records to assure
20 coordinated care and treatment of that patient.

21 (ii) A person authorized to use or disclose information and
22 records related to mental health services under this subsection
23 (2)(u) must take appropriate steps to protect the information and
24 records relating to mental health services.

25 (iii) Psychotherapy notes may not be released without
26 authorization of the patient who is the subject of the request for
27 release of information;

28 (v) To administrative and office support staff designated to
29 obtain medical records for those licensed professionals listed in (u)
30 of this subsection;

31 (w) To a facility that is to receive a person who is
32 involuntarily committed under chapter 71.05 RCW, or upon transfer of
33 the person from one evaluation and treatment facility to another. The
34 release of records under this subsection is limited to the
35 information and records related to mental health services required by
36 law, a record or summary of all somatic treatments, and a discharge
37 summary. The discharge summary may include a statement of the
38 patient's problem, the treatment goals, the type of treatment which
39 has been provided, and recommendation for future treatment, but may
40 not include the patient's complete treatment record;

1 (x) To the person's counsel or guardian ad litem, without
2 modification, at any time in order to prepare for involuntary
3 commitment or recommitment proceedings, reexaminations, appeals, or
4 other actions relating to detention, admission, commitment, or
5 patient's rights under chapter 71.05 RCW;

6 (y) To staff members of the protection and advocacy agency or to
7 staff members of a private, nonprofit corporation for the purpose of
8 protecting and advocating the rights of persons with mental disorders
9 or developmental disabilities. Resource management services may limit
10 the release of information to the name, birthdate, and county of
11 residence of the patient, information regarding whether the patient
12 was voluntarily admitted, or involuntarily committed, the date and
13 place of admission, placement, or commitment, the name and address of
14 a guardian of the patient, and the date and place of the guardian's
15 appointment. Any staff member who wishes to obtain additional
16 information must notify the patient's resource management services in
17 writing of the request and of the resource management services' right
18 to object. The staff member shall send the notice by mail to the
19 guardian's address. If the guardian does not object in writing within
20 fifteen days after the notice is mailed, the staff member may obtain
21 the additional information. If the guardian objects in writing within
22 fifteen days after the notice is mailed, the staff member may not
23 obtain the additional information;

24 (z) To all current treating providers of the patient with
25 prescriptive authority who have written a prescription for the
26 patient within the last twelve months. For purposes of coordinating
27 health care, the department or the authority may release without
28 written authorization of the patient, information acquired for
29 billing and collection purposes as described in RCW 70.02.050(1)(d).
30 The department, or the authority, if applicable, shall notify the
31 patient that billing and collection information has been released to
32 named providers, and provide the substance of the information
33 released and the dates of such release. Neither the department nor
34 the authority may release counseling, inpatient psychiatric
35 hospitalization, or drug and alcohol treatment information without a
36 signed written release from the client;

37 (aa)(i) To the secretary of social and health services and the
38 director of the health care authority for either program evaluation
39 or research, or both so long as the secretary or director, where
40 applicable, adopts rules for the conduct of the evaluation or

1 research, or both. Such rules must include, but need not be limited
2 to, the requirement that all evaluators and researchers sign an oath
3 of confidentiality substantially as follows:

4 "As a condition of conducting evaluation or research concerning
5 persons who have received services from (fill in the facility,
6 agency, or person) I,, agree not to divulge, publish, or
7 otherwise make known to unauthorized persons or the public any
8 information obtained in the course of such evaluation or research
9 regarding persons who have received services such that the person who
10 received such services is identifiable.

11 I recognize that unauthorized release of confidential information
12 may subject me to civil liability under the provisions of state law.

13 /s/"

14 (ii) Nothing in this chapter may be construed to prohibit the
15 compilation and publication of statistical data for use by government
16 or researchers under standards, including standards to assure
17 maintenance of confidentiality, set forth by the secretary, or
18 director, where applicable;

19 (bb) To any person if the conditions in RCW 70.02.205 are met.

20 (3) Whenever federal law or federal regulations restrict the
21 release of information contained in the information and records
22 related to mental health services of any patient who receives
23 treatment for chemical dependency, the department or the authority
24 may restrict the release of the information as necessary to comply
25 with federal law and regulations.

26 (4) Civil liability and immunity for the release of information
27 about a particular person who is committed to the department of
28 social and health services or the authority under RCW 71.05.280(3)
29 and 71.05.320(4)(c) after dismissal of a sex offense as defined in
30 RCW 9.94A.030, is governed by RCW 4.24.550.

31 (5) The fact of admission to a provider of mental health
32 services, as well as all records, files, evidence, findings, or
33 orders made, prepared, collected, or maintained pursuant to chapter
34 71.05 RCW are not admissible as evidence in any legal proceeding
35 outside that chapter without the written authorization of the person
36 who was the subject of the proceeding except as provided in RCW
37 70.02.260, in a subsequent criminal prosecution of a person committed
38 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were
39 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand

1 trial, in a civil commitment proceeding pursuant to chapter 71.09
2 RCW, or, in the case of a minor, a guardianship or dependency
3 proceeding. The records and files maintained in any court proceeding
4 pursuant to chapter 71.05 RCW must be confidential and available
5 subsequent to such proceedings only to the person who was the subject
6 of the proceeding or his or her attorney. In addition, the court may
7 order the subsequent release or use of such records or files only
8 upon good cause shown if the court finds that appropriate safeguards
9 for strict confidentiality are and will be maintained.

10 (6) (a) Except as provided in RCW 4.24.550, any person may bring
11 an action against an individual who has willfully released
12 confidential information or records concerning him or her in
13 violation of the provisions of this section, for the greater of the
14 following amounts:

15 (i) One thousand dollars; or

16 (ii) Three times the amount of actual damages sustained, if any.

17 (b) It is not a prerequisite to recovery under this subsection
18 that the plaintiff suffered or was threatened with special, as
19 contrasted with general, damages.

20 (c) Any person may bring an action to enjoin the release of
21 confidential information or records concerning him or her or his or
22 her ward, in violation of the provisions of this section, and may in
23 the same action seek damages as provided in this subsection.

24 (d) The court may award to the plaintiff, should he or she
25 prevail in any action authorized by this subsection, reasonable
26 attorney fees in addition to those otherwise provided by law.

27 (e) If an action is brought under this subsection, no action may
28 be brought under RCW 70.02.170.

29 **Sec. 20.** RCW 70.02.240 and 2018 c 201 s 8003 are each amended to
30 read as follows:

31 The fact of admission and all information and records related to
32 mental health services obtained through inpatient or outpatient
33 treatment of a minor under chapter 71.34 RCW (~~is~~) must be kept
34 confidential, except as authorized (~~is~~) by this section or under
35 RCW 70.02.050, 70.02.210, 70.02.230, 70.02.250, (~~and~~) 70.02.260,
36 and section 18 of this act. (~~Such~~) Confidential information under
37 this section may be disclosed only:

1 (1) In communications between mental health professionals to meet
2 the requirements of chapter 71.34 RCW, in the provision of services
3 to the minor, or in making appropriate referrals;

4 (2) In the course of guardianship or dependency proceedings;

5 (3) To the minor, the minor's parent, including those acting as a
6 parent as defined in RCW 71.34.020 for purposes of family-initiated
7 treatment, and the minor's attorney, subject to RCW 13.50.100;

8 (4) To the courts as necessary to administer chapter 71.34 RCW;

9 (5) To law enforcement officers or public health officers as
10 necessary to carry out the responsibilities of their office. However,
11 only the fact and date of admission, and the date of discharge, the
12 name and address of the treatment provider, if any, and the last
13 known address must be disclosed upon request;

14 (6) To law enforcement officers, public health officers,
15 relatives, and other governmental law enforcement agencies, if a
16 minor has escaped from custody, disappeared from an evaluation and
17 treatment facility, violated conditions of a less restrictive
18 treatment order, or failed to return from an authorized leave, and
19 then only such information as may be necessary to provide for public
20 safety or to assist in the apprehension of the minor. The officers
21 are obligated to keep the information confidential in accordance with
22 this chapter;

23 (7) To the secretary of social and health services and the
24 director of the health care authority for assistance in data
25 collection and program evaluation or research so long as the
26 secretary or director, where applicable, adopts rules for the conduct
27 of such evaluation and research. The rules must include, but need not
28 be limited to, the requirement that all evaluators and researchers
29 sign an oath of confidentiality substantially as follows:

30 "As a condition of conducting evaluation or research concerning
31 persons who have received services from (fill in the facility,
32 agency, or person) I,, agree not to divulge, publish, or
33 otherwise make known to unauthorized persons or the public any
34 information obtained in the course of such evaluation or research
35 regarding minors who have received services in a manner such that the
36 minor is identifiable.

37 I recognize that unauthorized release of confidential information
38 may subject me to civil liability under state law.

39 /s/";

1 (8) To appropriate law enforcement agencies, upon request, all
2 necessary and relevant information in the event of a crisis or
3 emergent situation that poses a significant and imminent risk to the
4 public. The mental health service agency or its employees are not
5 civilly liable for the decision to disclose or not, so long as the
6 decision was reached in good faith and without gross negligence;

7 (9) To appropriate law enforcement agencies and to a person, when
8 the identity of the person is known to the public or private agency,
9 whose health and safety has been threatened, or who is known to have
10 been repeatedly harassed, by the patient. The person may designate a
11 representative to receive the disclosure. The disclosure must be made
12 by the professional person in charge of the public or private agency
13 or his or her designee and must include the dates of admission,
14 discharge, authorized or unauthorized absence from the agency's
15 facility, and only any other information that is pertinent to the
16 threat or harassment. The agency or its employees are not civilly
17 liable for the decision to disclose or not, so long as the decision
18 was reached in good faith and without gross negligence;

19 (10) To a minor's next of kin, attorney, guardian, or
20 conservator, if any, the information that the minor is presently in
21 the facility or that the minor is seriously physically ill and a
22 statement evaluating the mental and physical condition of the minor
23 as well as a statement of the probable duration of the minor's
24 confinement;

25 (11) Upon the death of a minor, to the minor's next of kin;

26 (12) To a facility in which the minor resides or will reside;

27 (13) To law enforcement officers and to prosecuting attorneys as
28 are necessary to enforce RCW 9.41.040(2)(a) ~~((iii))~~ (iv). The extent
29 of information that may be released is limited as follows:

30 (a) Only the fact, place, and date of involuntary commitment, an
31 official copy of any order or orders of commitment, and an official
32 copy of any written or oral notice of ineligibility to possess a
33 firearm that was provided to the person pursuant to RCW 9.41.047(1),
34 must be disclosed upon request;

35 (b) The law enforcement and prosecuting attorneys may only
36 release the information obtained to the person's attorney as required
37 by court rule and to a jury or judge, if a jury is waived, that
38 presides over any trial at which the person is charged with violating
39 RCW 9.41.040(2)(a) ~~((iii))~~ (iv);

1 (c) Disclosure under this subsection is mandatory for the
2 purposes of the federal health insurance portability and
3 accountability act;

4 (14) This section may not be construed to prohibit the
5 compilation and publication of statistical data for use by government
6 or researchers under standards, including standards to assure
7 maintenance of confidentiality, set forth by the director of the
8 health care authority or the secretary of the department of social
9 and health services, where applicable. The fact of admission and all
10 information obtained pursuant to chapter 71.34 RCW are not admissible
11 as evidence in any legal proceeding outside chapter 71.34 RCW, except
12 guardianship or dependency, without the written consent of the minor
13 or the minor's parent;

14 (15) For the purpose of a correctional facility participating in
15 the postinstitutional medical assistance system supporting the
16 expedited medical determinations and medical suspensions as provided
17 in RCW 74.09.555 and 74.09.295;

18 (16) Pursuant to a lawful order of a court.

19 **Sec. 21.** RCW 74.13.280 and 2018 c 284 s 45 are each amended to
20 read as follows:

21 (1) Except as provided in RCW 70.02.220, whenever a child is
22 placed in out-of-home care by the department or with an agency, the
23 department or agency shall share information known to the department
24 or agency about the child and the child's family with the care
25 provider and shall consult with the care provider regarding the
26 child's case plan. If the child is dependent pursuant to a proceeding
27 under chapter 13.34 RCW, the department or agency shall keep the care
28 provider informed regarding the dates and location of dependency
29 review and permanency planning hearings pertaining to the child.

30 (2) Information about the child and the child's family shall
31 include information known to the department or agency as to whether
32 the child is a sexually reactive child, has exhibited high-risk
33 behaviors, or is physically assaultive or physically aggressive, as
34 defined in this section.

35 (3) Information about the child shall also include information
36 known to the department or agency that the child:

37 (a) Has received a medical diagnosis of fetal alcohol syndrome or
38 fetal alcohol effect;

1 (b) Has been diagnosed by a qualified mental health professional
2 as having a mental health disorder;

3 (c) Has witnessed a death or substantial physical violence in the
4 past or recent past; or

5 (d) Was a victim of sexual or severe physical abuse in the recent
6 past.

7 (4) Any person who receives information about a child or a
8 child's family pursuant to this section shall keep the information
9 confidential and shall not further disclose or disseminate the
10 information except as authorized by law. Care providers shall agree
11 in writing to keep the information that they receive confidential and
12 shall affirm that the information will not be further disclosed or
13 disseminated, except as authorized by law.

14 (5) Nothing in this section shall be construed to limit the
15 authority of the department or an agency to disclose client
16 information or to maintain client confidentiality as provided by law.

17 (6) ((As used in)) The department may share the following mental
18 health treatment records with a care provider, even if the child does
19 not consent to releasing those records, if the department has
20 initiated treatment pursuant to RCW 71.34.600 through 71.34.670:

21 (a) Diagnosis;

22 (b) Treatment plan and progress in treatment;

23 (c) Recommended medications, including risks, benefits, side
24 effects, typical efficacy, dose, and schedule;

25 (d) Psychoeducation about the child's mental health;

26 (e) Referrals to community resources;

27 (f) Coaching on parenting or behavioral management strategies;

28 and

29 (g) Crisis prevention planning and safety planning.

30 (7) The department may not share substance use disorder treatment
31 records with a care provider without the written consent of the child
32 except as permitted by federal law.

33 (8) For the purposes of this section:

34 (a) "Sexually reactive child" means a child who exhibits sexual
35 behavior problems including, but not limited to, sexual behaviors
36 that are developmentally inappropriate for their age or are harmful
37 to the child or others.

38 (b) "High-risk behavior" means an observed or reported and
39 documented history of one or more of the following:

40 (i) Suicide attempts or suicidal behavior or ideation;

- 1 (ii) Self-mutilation or similar self-destructive behavior;
- 2 (iii) Fire-setting or a developmentally inappropriate fascination
- 3 with fire;
- 4 (iv) Animal torture;
- 5 (v) Property destruction; or
- 6 (vi) Substance or alcohol abuse.

7 (c) "Physically assaultive or physically aggressive" means a
8 child who exhibits one or more of the following behaviors that are
9 developmentally inappropriate and harmful to the child or to others:

- 10 (i) Observed assaultive behavior;
- 11 (ii) Reported and documented history of the child willfully
- 12 assaulting or inflicting bodily harm; or
- 13 (iii) Attempting to assault or inflict bodily harm on other
- 14 children or adults under circumstances where the child has the
- 15 apparent ability or capability to carry out the attempted assaults
- 16 including threats to use a weapon.

17 (d) "Care provider" means a person with whom a child is placed in
18 out-of-home care, or a designated official for a group care facility
19 licensed by the department.

20 NEW SECTION. Sec. 22. A new section is added to chapter 71.34
21 RCW to read as follows:

22 A mental health agency, psychiatric hospital, or evaluation and
23 treatment facility may release mental health information about an
24 adolescent to a parent of the adolescent without the consent of the
25 adolescent by following the limitations and restrictions of RCW
26 70.02.240 and section 18 of this act.

27 NEW SECTION. Sec. 23. A new section is added to chapter 71.34
28 RCW to read as follows:

29 Subject to the availability of amounts appropriated for this
30 specific purpose, the authority must provide an online training for
31 behavioral health providers regarding state law and best practices
32 when providing behavioral health services to children, youth, and
33 families. The training must be free for providers and must include
34 information related to family-initiated treatment, adolescent-
35 initiated treatment, other treatment services provided under this
36 chapter, and standards for sharing of information about behavioral
37 health services received by an adolescent under RCW 70.02.240 and
38 section 18 of this act.

1 NEW SECTION. **Sec. 24.** A new section is added to chapter 71.34
2 RCW to read as follows:

3 (1) Subject to the availability of amounts appropriated for this
4 specific purpose, the authority must conduct an annual survey of a
5 sample group of parents, youth, and behavioral health providers to
6 measure the impacts of implementing policies resulting from this act
7 during the first three years of implementation. The first survey must
8 be complete by July 1, 2020, followed by subsequent annual surveys
9 completed by July 1, 2021, and by July 1, 2022. The authority must
10 report on the results of the surveys annually to the governor and the
11 legislature beginning November 1, 2020. The final report is due
12 November 1, 2022, and must include any recommendations for statutory
13 changes identified as needed based on survey results.

14 (2) This section expires December 31, 2022.

15 NEW SECTION. **Sec. 25.** This act may be known and cited as the
16 adolescent behavioral health care access act.

17 NEW SECTION. **Sec. 26.** Sections 14 and 16 of this act expire
18 July 1, 2026.

19 NEW SECTION. **Sec. 27.** Sections 15 and 17 of this act take
20 effect July 1, 2026.

21 NEW SECTION. **Sec. 28.** If specific funding for the purposes of
22 this act, referencing this act by bill or chapter number, is not
23 provided by June 30, 2019, in the omnibus appropriations act, this
24 act is null and void.

25 NEW SECTION. **Sec. 29.** LEGISLATIVE DIRECTIVE. (1) Chapter 71.34
26 RCW must be codified under the chapter heading "behavioral health
27 services for minors."

28 (2) RCW 71.34.500 through 71.34.530 must be codified under the
29 subchapter heading "adolescent-initiated treatment."

30 (3) RCW 71.34.600 through 71.34.670 must be codified under the
31 subchapter heading "family-initiated treatment."

ADOPTED 04/15/2019

1 On page 1, line 3 of the title, after "group;" strike the
2 remainder of the title and insert "amending RCW 71.34.010, 71.34.020,
3 71.34.500, 71.34.510, 71.34.520, 71.34.530, 71.34.600, 71.34.610,
4 71.34.620, 71.34.630, 71.34.640, 71.34.650, 71.34.660, 71.34.700,
5 71.34.700, 71.34.710, 71.34.710, 70.02.230, 70.02.240, and 74.13.280;
6 adding a new section to chapter 70.02 RCW; adding new sections to
7 chapter 71.34 RCW; creating new sections; providing an effective
8 date; and providing expiration dates."

EFFECT: The check made to the Washington State Patrol missing persons database when an adolescent consents to inpatient mental health treatment without notice being provided to a parent must be made once every eight hours for the first 72 hours and once every 24 hours thereafter. Technical amendments are made to clarify the definition of "parent" for the purposes of family-initiated treatment and to clarify language related to the privacy of a minor's mental health information.

--- END ---