CITIZENS COMMISSION ON HUMAN RIGHTS

May 11, 2026

SENATE FINANCE COMMITTEE

HB 36 - FOSTER CHILDREN PSYCHIATRIC TREATMENT

Dear Senator:

HB 36 version C, has added treatment foster care and also includes the reduction of the age of consent to 16. The reduction of the age of consent opens the door to further expansion and use of treatment foster care beyond current estimated levels and does not seem to have had further discussion. All while we have over 6 million youth today nationally already on psychiatric drugs.

The hearing on May 6th basically stated that the protections and safeguards that youth need for this updated and expanded Treatment Foster Care system would be left to the rule-making process.

Immediately following the HB 36 hearing was one for HB 52, a bill concerning minors and psychiatric hospitals that we strongly support. HB 52 addresses past abuses in state psychiatric treatment facilities under current regulations.

There is a parallel that can be drawn by the failure that led to HB 52 and the adoption of Treatment Foster Care in HB 36 that highlights the need to examine safeguards and accountability in the new framework that is intended to serve a greater number of youth. Ultimately, it is a matter for the legislature to determine whether to proceed now or defer until subsequent regulations demonstrate their effectiveness or lack thereof.

By the legislature providing this language it transforms HB 36 from a placement-only bill into a clinically safe, youth-protective bill that simplifies the rule-making progress by giving clear-cut directions from the legislature.

Many of these points also align with the recent announcements by the Health Secretary.

> "Too many patients begin treatment without a clear understanding of the risks, and how long they will stay on these drugs, or how to come off them," he said to an audience at an event hosted by the Make America Healthy Again Institute, a nonprofit, on Monday. "We are going to fix it." – Robert F. Kennedy Jr., *Health & Human Services Secretary*

Further scrutiny of placing youth in psychiatric treatment is also promoted by the World Health Organization:

> "…the World Health Organization (WHO) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), among other international stakeholders, are actively advocating for a human rights approach to mental health. The international human rights framework, particularly the Convention on the Rights of Persons with Disabilities (CRPD), calls for a significant shift from biomedical approaches towards a support paradigm that promotes personhood, autonomy, and community inclusion. - Convention on the Rights of Persons with Disabilities | OHCHR

We believe HB 36 should include language to prevent abuse, protect youth from misdiagnosis, over-medication, and coercive treatment, and the age of consent should not be lowered as a component of HB 36.

We are available for questions and can provide additional information upon request.

Sincerely,

Steven Pearce
Director

Attachment #1 – Suggested Amendments
Attachment #2 – Additional Information

"There are no objective tests in psychiatry-no X-ray, laboratory, or exam finding that says definitively that someone does or does not have a mental disorder."

Allen Frances, Psychiatrist
DSM-IV Task Force Chairman

SERVING ALASKA / MONTANA / WASHINGTON
POB 19633 * Seattle, WA 98109 * 206.755.5230 * cchrseattle@outlook.com

Attachment #1 - Amendments

These points add missing safeguards:

- Non-drug-first (psychotropic medication only after non-pharmacological interventions have been attempted and documented, except in emergencies, with provider documentation of rationale and alternatives considered)
- Diagnostic guardrails (trauma-informed screening required, age-appropriate and evidence-based diagnosis, corroboration by family or tribal representatives, independent clinical review within 30 days)
- Medication oversight (informed consent, notification of parent/guardian/tribe, independent review for complex medication regimens, quarterly reviews)
- Youth rights (participation in treatment planning, right to refuse non-emergency medication, access to cultural/tribal/community supports, least restrictive setting, ability to report concerns without retaliation)
- Family/tribal involvement (timely notice, opportunity to provide input, access to records unless court finds it unsafe)
- Independent clinical review (regular review by a clinician not employed by the provider, at least every 90 days, to ensure appropriateness of diagnosis, treatment, and placement)

Draft Amendment Language

1. **Add diagnostic guardrails**

Sec. 47.10.___. Diagnostic standards for behavioral health placement.
(a) A child may not be placed in a psychiatric hospital, psychiatric residential treatment facility, or treatment foster home unless a diagnosis is made by

(1) a licensed psychiatrist;
(2) a licensed psychologist; or
(3) a licensed clinical social worker or licensed professional counselor with training and experience in child and adolescent mental health.

(b) A diagnosis may not be based solely on

(1) behavior related to trauma, grief, or attachment disruption;
(2) behavior arising from placement instability;
(3) normal developmental or adolescent behavior; or
(4) cultural, tribal, or linguistic differences.

(c) A diagnosis must include a trauma-informed assessment and documentation of the child's history, cultural background, and family circumstances.

2. **Add medication-safety protections**

(Sec. 47.10.___. Psychotropic medication safeguards.
(a) A child in state custody may not be administered a psychotropic medication unless

(1) the medication is clinically indicated for the diagnosed condition;
(2) non-pharmacological interventions have been considered; and
(3) the prescribing clinician documents the medical necessity.

(b) A child may not be prescribed

(1) more than one antipsychotic medication at the same time unless a child psychiatrist approves the combination;
(2) an antipsychotic medication for off-label use without review by a child psychiatrist; or
(3) a psychotropic medication for chemical restraint.

(c) The department shall obtain informed consent from the child's parent, legal guardian, or tribe before initiating or changing a psychotropic medication unless

(1) the parent or guardian cannot be located after reasonable efforts; or
(2) delay would pose a serious risk to the child's health.

(d) The department shall notify the child's tribe within 24 hours of any new psychotropic medication or change in dosage.

3. **Add youth-rights protections**

Sec. 47.10.___. Rights of children in psychiatric treatment settings.
A child placed in a psychiatric hospital, psychiatric residential treatment facility, or treatment foster home has the right to

(1) maintain regular contact with parents, family members, and the child's tribe;
(2) receive trauma-informed care;
(3) be free from coercion, retaliation, and unnecessary restraint;
(4) refuse non-emergency psychotropic medication;
(5) have an advocate or representative present during treatment planning; and
(6) receive services in the least restrictive environment.

4. **Add family and tribal involvement requirements**

Sec. 47.10.___. Family and tribal involvement in treatment planning.

(a) The department shall notify the child's parent, legal guardian, and tribe within 24 hours of
(1) a behavioral health diagnosis;
(2) a change in placement;
(3) initiation or change of psychotropic medication; or
(4) a treatment-planning meeting.

(b) The department shall ensure that parents and tribes are invited to participate in all treatment-planning meetings unless prohibited by court order.

5. **Add independent clinical review** (there should be some level of review)

Sec. 47.10.___. Independent clinical review.

(a) Within 72 hours of placement in a psychiatric hospital, psychiatric residential treatment facility, or treatment foster home, the department shall obtain an independent clinical review of

(1) the diagnosis;
(2) the necessity of placement; and
(3) the appropriateness of any psychotropic medication.

(b) The independent reviewer must be a licensed clinician who is not employed by the department or the treating facility.

(c) The department shall obtain a follow-up independent review every 30 days for the duration of the placement.

6. **Add least-restrictive-environment requirement**

Sec. 47.10.___. Least restrictive placement.
Before placing a child in a psychiatric hospital, psychiatric residential treatment facility, or treatment foster home, the department shall document:

(1) that less restrictive, community-based services were considered and found insufficient;
(2) the clinical justification for the placement; and
(3) how the placement supports the child’s cultural, familial, and tribal connections.

7. **Add treatment foster care clinical standards**

Sec. 47.32.___. Treatment foster care clinical standards.
A treatment foster home must:

(1) provide trauma-informed care;
(2) meet training standards established by the department;
(3) follow psychotropic medication safeguards under AS 47.10.*;*
(4) ensure access to clinical oversight; and
(5) protect the rights of the child under AS 47.10..

End

Attachment #2 – Additional Material

RFK Jr. wants to wean some Americans off antidepressants

RFK Jr. wants to wean some Americans off antidepressants

Story by Betsy McKay, Liz Essley Whyte

Health Secretary Robert F. Kennedy Jr. is announcing steps that he said are aimed at helping wean some Americans off psychiatric medications, including antidepressants.

"Too many patients begin treatment without a clear understanding of the risks, and how long they will stay on these drugs, or how to come off them," he said to an audience at an event hosted by the Make America Healthy Again Institute, a nonprofit, on Monday. "We are going to fix it."

Excerpt only – see article link above

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World Health Organization (WHO)

In response, the World Health Organization (WHO) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), among other international stakeholders, are actively advocating for a human rights approach to mental health. The international human rights framework, particularly the Convention on the Rights of Persons with Disabilities (CRPD), calls for a significant shift from biomedical approaches towards a support paradigm that promotes personhood, autonomy, and community inclusion. - Convention on the Rights of Persons with Disabilities | OHCHR

https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities

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Address Medical Causes:

We can do more for youth and adults to provide help that does not compromise the medical do no harm mandate while offering a path for individuals to work through their emotional crises. One such doctor who gives her own options is Kelly Brogan.

> "Were you told that your only hope is to manage your symptoms by taking lifelong medications? What if you could eliminate this diagnosis by simply fixing nutrient deficiencies or correcting physiologic imbalances? As such, proper blood tests can highlight these vulnerabilities and guide healing protocols." "This is why it's all the more important to explore reversible causes of what we are calling depression." – Kelly Brogan, M.D. - *Five Lab Tests Your Doctor Isn't Ordering*

Attachment #2 – Additional Material – Continued

<u>Differential Diagnosis - Dr Mary Ann Block:</u>

> “All patients should have what is called a “differential diagnosis.” The doctor obtains a thorough history and conducts a complete physical exam, rules out all the possible problems that might cause a set of symptoms and explains any possible side effects of the recommended treatments.” -Dr. Mary Ann Block, author of *Just Because You Are*

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***Dr. Sydney Walker III,* psychiatrist - A Dose of Sanity**

The other main failing of emphasizing psychiatric behavior supports is the lack of effort to rule out non-medical causes of behavior. Our current system fails to discover non-psychiatric causes of behavior distress. (See attachments 2 & 3)

> “… There are psychiatrists who are trained in the art of differential diagnosis, who listen to their patients, and who are interested in **treating the real causes of brain dysfunction rather than masking them with dangerous medications** or prescribing ineffective therapies. No matter how many DSM labels and nondiagnosis you get, I encourage you to keep looking.” - *Dr. Sydney Walker III,* psychiatrist - A Dose of Sanity

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<u>Alternative Mental Health:</u>

Thousands of people around the world have recovered from mental health disorders and now enjoy the simple pleasures of a drug-free life. Most were told this was impossible. Yet we hear from these individuals regularly.

Many others have been able to significantly reduce their dependency on psychiatric medication. Commonly, these people find that underlying their “mental” disorders are medical problems, allergies, toxic conditions, nutritional imbalances, poor diets, lack of exercise, or other treatable physical conditions.

https://www.alternativementalhealth.com/

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