

# HOUSE BILL REPORT

## 2SSB 5438

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### As Reported by House Committee On:

Health Care & Wellness

Appropriations

**Title:** An act relating to facilitating supportive relationships with family and significant individuals within the behavioral health system.

**Brief Description:** Facilitating supportive relationships with family and significant individuals within the behavioral health system.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Warnick, Boehnke, Braun, Dhingra, Van De Wege and Wilson, J.).

### Brief History:

#### Committee Activity:

Health Care & Wellness: 3/22/23, 3/28/23 [DPA];

Appropriations: 4/1/23, 4/4/23 [DPA(HCW)].

#### Brief Summary of Second Substitute Bill

##### (As Amended By Committee)

- Directs the Health Care Authority and the Department of Social and Health Services to consider several principles related to family involvement in their administration of the community behavioral health system and the state hospitals.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass as amended. Signed by 16 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Barnard, Bronoske, Davis, Harris, Macri, Maycumber, Mosbrucker, Orwall, Simmons, Stonier, Thai and Tharinger.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report:** Without recommendation. Signed by 1 member: Representative Graham.

**Staff:** Christopher Blake (786-7392).

**Background:**

The Health Care Authority (Authority) is recognized as the state behavioral health authority which includes recognition as both the single state authority for substance use disorders and the state mental health authority. The Authority administers the state's community behavioral health program through contracts with managed care organizations and behavioral health administrative services organizations (BHASOs). Medicaid services are primarily delivered through the managed care organizations under a comprehensive risk-based contract to provide prepaid health care services to enrollees under the Authority's managed care programs. The BHASOs are regional entities contracted with the Authority to administer crisis and Involuntary Treatment Act services. The BHASOs provide some services contained in the Medicaid State Plan on a limited basis, and within available resources, for low-income individuals who are not eligible for Medicaid enrollment.

The Department of Social and Health Services operates three state hospitals for psychiatric treatment: Western State Hospital in Lakewood, the Child Study and Treatment Center in Lakewood, and Eastern State Hospital in Medical Lake. The Child Study and Treatment Center treats minors aged 5 to 17 who are committed or referred for up to six months of inpatient treatment through the Children's Long-Term Inpatient Program by managed care organizations or BHASOs, or by the courts. The other two state hospitals treat adult involuntary patients who are either civilly committed for treatment through the Involuntary Treatment Act or forensically committed for treatment related to criminal insanity or competency to stand trial through the criminal courts.

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**Summary of Amended Bill:**

In their respective roles related to the oversight of the community behavioral health system and the administration of the state hospitals, the Health Care Authority (Authority) and the Department of Social and Health Services (Department) must conduct their activities in a manner that is aware of, nurtures, and protects significant relationships in the life of the client or hospital patient. The relationships may involve family, friends, and others who play a significant role in the client's or hospital patient's life.

The Authority and the Department must consider the following principles when administering programs and contracts and making policy related to the community behavioral health system and the state hospitals:

- Clients and patients should have a caring, compassionate family member involved in and advocating for their best treatment based on their role in the person's life and

- personal knowledge of their welfare.
- Families should be included in their children's or relative's behavioral health care when it is in the best interests of the client or patient, and parents should be encouraged to be actively engaged and, when appropriate, have decision making rights.
  - Policies and practices must not cause unnecessary trauma to a family and family members should be able to participate in care decisions with medical experts without fear of negative consequences.
  - Family rights and responsibilities should be maintained through inclusion in decision making related to a patient's residence, supervision, schooling, education, and health care.
  - Strong family-like relationships may arise through non-blood relationships.
  - It should be recognized that development continues past the age of 18.
  - Patients and families need assistance building, reestablishing, and strengthening healthy relationships and every effort should be made to assess and provide for the service needs of family members either separately or in conjunction with the patient.
  - Medication use by children should be closely monitored and frequently evaluated and parents should have expert support to understand the risks and benefits of prescribed psychotropic medications.

In addition, the Authority must consider that: (1) the legal system should only be employed as a last resort; (2) medication management should not be handled through at-risk youth petitions; and (3) parental rights should not be severed without evidence of abuse or neglect, unless it is in the best interests of the child.

The Authority must conduct a review of its policies related to behavioral health and the Department must conduct a review of its policies related to allowing and facilitating family engagement with state hospital patients. Both reviews must be conducted in consultation with stakeholders, family members, and peers. The reviews must identify and eliminate policies that undermine the integrity and health of the family or that discourage family engagement. The review may not consider policies related to specified statutes regarding informed consent for health care decisions, the release of records related to adolescent behavioral health services, consent to care for a sexually transmitted disease by minors age 14 and older, adolescents requesting outpatient behavioral health treatment, parental rights to bring an adolescent to an evaluation and treatment facility or secure withdrawal management and stabilization facility, and standards for provider reviews of adolescents admitted to inpatient treatment. The reviews must be completed by June 30, 2024, and the agencies may notify the Governor and the appropriate committees of the Legislature of the completion of the review and its outcomes.

The bill does not create a private right of action.

#### **Amended Bill Compared to Second Substitute Bill:**

The amended bill removes the authority provided in the bill for families to be included in the disclosure of health information when there is a record of significant involvement and the patient or client does not object or when the patient or client lacks capacity due to psychosis or another reason and, based on professional judgment, family involvement is in the best interest of the patient or client.

The amended bill excludes from the Health Care Authority's and Department of Social and Health Services' policy reviews any consideration of identified statutes related to: (1) informed consent for health care decisions; (2) the release of records related to adolescent behavioral health services; (3) minors age 14 and older consenting to care for a sexually transmitted disease; (4) adolescents requesting outpatient behavioral health treatment without the consent of their parents; (5) parental rights to bring an adolescent to an evaluation and treatment facility or secure withdrawal management and stabilization facility; and (6) standards for provider reviews of adolescents admitted to inpatient treatment.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill simply requires the Department of Social and Health Services to review their policies and include stakeholders. Parents need help to be heard before the agencies that are responsible for the care of their children. This is a step in the right direction to involve parents and caregivers in the care of these children. Problems are not being solved because it is only coming from a provider perspective and parents need to be bringing information to providers. It is important that the families are brought along on the journey because substance use disorders and mental health disorders are a family disease. Parents need to be empowered in the decision making process and notes need to be made available to the parent. Working with the family keeps the family and the individual strong and uses the community resources and their natural supports. This bill can help families achieve generational wellness.

(Opposed) This bill attempts to favor subjective determinations made by unidentified third parties of undefined qualifications through reasonably doubtful arguments against undefined standards which are not to be permitted without regard for the informed judgment and consent of parents. Parents have the ultimate responsibility for the health and well-being of their children, not the state, except when the parents exhibit contraindications defined explicitly by law. Only when incapacity or incompetence is evident should the

determinations of a third party regarding treatment options be weighted above the consent of parents.

(Other) While there is strong support for the original bill, the substitute bill is an insult to the intent of the bill. The innate human nature of a parent to protect and provide for their child is not a political issue. There are many vague phrases in the bill that leave it wide open to interpretation. The existing laws are dangerous to children and destructive to families and other bills can work together with this bill to circumvent parents.

**Persons Testifying:** (In support) Senator Judy Warnick, prime sponsor; Penny Quist; Peggy Dolane; and Selina Sweet.

(Opposed) Andy Cilley.

(Other) Julie Barrett, Conservative Ladies of Washington.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended by Committee on Health Care & Wellness. Signed by 29 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg, Chandler, Connors, Couture, Davis, Dye, Fitzgibbon, Hansen, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Steele and Tharinger.

**Staff:** Lily Smith (786-7175).

### **Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Health Care & Wellness:**

No new changes were recommended.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

### **Staff Summary of Public Testimony:**

(In support) None.

(Opposed) None.

**Persons Testifying:** None.

**Persons Signed In To Testify But Not Testifying:** None.