

SENATE BILL REPORT

SB 5438

As Reported by Senate Committee On:
Human Services, February 14, 2023
Ways & Means, February 23, 2023

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: Senators Warnick, Boehnke, Braun, Dhingra, Van De Wege and Wilson, J..

Brief History:

Committee Activity: Human Services: 2/06/23, 2/14/23 [DPS-WM].
Ways & Means: 2/21/23, 2/23/23 [DP2S, DNP].

Brief Summary of Second Substitute Bill

- Requires the Health Care Authority (HCA) and Department of Social and Health Services (DSHS) to administer their oversight functions in a manner that is aware of, nurtures, and protects significant relationships in the lives of behavioral health system clients.
- Requires HCA and DSHS to review their policies in consultation with stakeholders, family members, and peers to eliminate policies that undermine the health of a family or discourage family engagement.

SENATE COMMITTEE ON HUMAN SERVICES

Majority Report: That Substitute Senate Bill No. 5438 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Wilson, C., Chair; Kauffman, Vice Chair; Boehnke, Ranking Member; Frame, Nguyen, Warnick and Wilson, J..

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.

Staff: Kelsey-anne Fung (786-7479)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5438 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Nguyen, Pedersen, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

Minority Report: Do not pass.

Signed by Senator Rivers, Assistant Ranking Member, Capital.

Staff: Monica Fontaine (786-7341)

Background: The Health Care Authority (HCA) is the state behavioral health authority and manages the community behavioral health system for clients enrolled in the Medicaid program, called Apple Health in Washington. Through contracts, HCA manages a statewide behavioral health crisis system which investigates emergencies related to behavioral health, stabilizes clients, and arranges any necessary follow-up care. Through contract, HCA manages a range of behavioral health programs for children, including wraparound programs, short-term inpatient and outpatient treatment, and long-term facility-based inpatient treatment for periods of six months or more.

The Department of Social and Health Services (DSHS) operates three state hospitals for psychiatric treatment: Western State Hospital, Eastern State Hospital, and the Child Study and Treatment Center. These hospitals treat patients from around the state, primarily those who are committed by a court for long-term mental health treatment for 90 days or more. The Child Study and Treatment Center, which treats patients aged 5 through 17, has a family therapy program which uses evidence-based treatment principles to assist family members in the process of building, re-establishing, or strengthening healthy relationships.

Summary of Bill (Second Substitute): HCA must conduct oversight of the community behavioral health system in a manner that is aware of, nurtures, and protects significant relationships in the life of behavioral health system clients.

DSHS must administer state hospitals in a manner that is aware of, nurtures, and protects significant relationships in the life of state hospital patients.

HCA and DSHS must consider certain principles when administering programs and making policy, including:

- having a caring, compassionate family member involved in or advocating for the patient or client's best treatment in collaboration with medical professionals;
- encouraging parents to be actively engaged in their children's behavioral health care and included when it is in the best interest of the client or patient;
- avoiding unnecessary trauma to families and avoiding situations involving severance of parental rights unless it is in the best interest of the client or patient;
- including families and parents in decision-making, when appropriate, and treating the whole family to build, reestablish, and strengthen healthy relationships;
- recognizing that strong family-like relationships may also arise through nonblood relationships and personal development continues past age 18;
- the need to closely monitor and frequently evaluate medication use for children with expert support provided to parents; and
- employing the legal system only as a last resort.

By June 30, 2024, HCA and DSHS must conduct a review of their policies related to allowing and facilitating family engagement. They must consult with stakeholders, family members, and peers, and identify and eliminate policies that undermine integrity and health of the family, or discourage family engagement. HCA and DSHS may notify the Governor and Legislature by letter of the completion and outcomes of the reviews.

This act may be known as the Family Care Act.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):

- Specifies that the Act does not create a private right of action.

EFFECT OF CHANGES MADE BY HUMAN SERVICES COMMITTEE (First Substitute):

- Modifies principles involving parents and family members in a client or patient's behavioral health care decisions to when it is appropriate, when it is in the best interest of the client or patient, and in consultation with medical experts.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Human Services): *The committee recommended a different version of the bill than what was heard.* PRO: This bill is about

the right to be heard and creating systems of care where parents, guardians, and compassionate family members are involved and actively participating in the care of their children. Children experiencing behavioral health emergencies are extremely vulnerable and the family therapy program provides supports to families in treating and supporting their children. The current state system does not include the right of every patient, including a child, to have caring and compassionate family members or caregivers involved in their care. Studies show that people recover better when those who love them are involved in care planning and that 90% of individuals want families involved. The state should encourage this evidence-based practice.

OTHER: The bill does not go far enough to reinforce the state's position on parental rights. It is more important than ever to get language that bolsters the parent's role in the mental and physical health care of their children. Parents have the natural right to be involved in the care of their children because parents are the primary caregivers and are most familiar with their children's unique needs.

Persons Testifying (Human Services): PRO: Senator Judy Warnick, Prime Sponsor; Peggy Dolane, Healthy Minds Healthy Futures; Penny Quist, Healthy Minds Healthy Futures/Self (Parent Advocate); Jerri Clark; Karen Kelly; Jean Ross.

OTHER: Eric Pratt.

Persons Signed In To Testify But Not Testifying (Human Services): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: Parents whose children are in a behavioral crisis feel like they are losing control. A child in treatment or crisis is a family in treatment or crisis. The parents need to be a part of their children's mental health treatment. Parents are first responders in the home and need to be trained on how to respond to a crisis.

OTHER: Parental rights are not a political issue. This bill is not strong enough to give parents rights in the mental health system. There is vague phrasing in this bill that could be misinterpreted and doesn't strengthen parental rights.

Persons Testifying (Ways & Means): PRO: Senator Judy Warnick, Prime Sponsor; Sarah Chesemore.

OTHER: Julie Barrett, Conservative Ladies of Washington.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.