
SECOND SUBSTITUTE SENATE BILL 5438

State of Washington

68th Legislature

2023 Regular Session

By Senate Ways & Means (originally sponsored by Senators Warnick, Boehnke, Braun, Dhingra, Van De Wege, and J. Wilson)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to facilitating supportive relationships with
2 family and significant individuals within the behavioral health
3 system; adding a new section to chapter 71.24 RCW; adding a new
4 section to chapter 72.23 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 71.24
7 RCW to read as follows:

8 (1) The authority shall conduct its oversight of the community
9 behavioral health system in a manner that is aware of, nurtures, and
10 protects significant relationships in the life of behavioral health
11 system clients. These relationships may involve family, friends, and
12 others who play a significant role.

13 (2) The authority shall consider the following principles when
14 administering programs and contracts and making policy:

15 (a) Every client should have a caring, compassionate family
16 member involved in and advocating for their best treatment, in
17 collaboration with medical professionals, based on their lifelong
18 role in the person's life and their personal knowledge of their past
19 and present welfare;

20 (b) Families who desire to be engaged in their children's
21 behavioral health care should be included when it is in the best

1 interest of the client. Parents should be encouraged to be actively
2 engaged in their children's behavioral health care including decision
3 making and have decision-making rights, when appropriate. Family
4 inclusion with disclosure of health information is possible under
5 this section and RCW 70.02.205 whenever there is a record of
6 significant involvement and the client does not object, and when the
7 client lacks capacity due to psychosis or another reason and, based
8 on professional judgment, family involvement is in the best interest
9 of the client;

10 (c) State policy and agency practices must be structured so as
11 not to cause unnecessary trauma to a family. Family members should be
12 able to participate in care decisions with medical experts without
13 fear of loss of safety or residence. Parental rights and
14 responsibilities should never be severed without evidence of abuse or
15 neglect as a means for children to access an appropriate level of
16 services, unless it is in the best interest of the client. It is
17 incumbent on the state in such a situation to find ways to provide
18 adequate services while maintaining support for well-bonded families;

19 (d) Whenever it is in the best interest of the client, family
20 rights and responsibilities of parents should be maintained by
21 inclusion in appropriate decision making relating to a child's
22 residence, supervision, schooling, education, and health care while a
23 minor or dependent child is placed in behavioral health out-of-home
24 care pursuant to authority programs or contracts;

25 (e) Within existing legal constraints, the authority should
26 recognize that strong family-like relationships which should be
27 nurtured also arise through nonblood relationships. Consideration of
28 developmental issues should recognize that development continues past
29 the age of 18;

30 (f) The authority must consider that most effective treatment for
31 a child is frequently whole family treatment. Families need
32 assistance building, reestablishing, and strengthening healthy
33 relationships to maximize recovery and resilience. Every effort
34 should be made to assess and provide for the service needs of family
35 members, either separately or in conjunction with their children or
36 dependents;

37 (g) Medication use by children should be closely monitored and
38 frequently evaluated, with expert support given to parents to help
39 understand the risks and anticipated benefits of prescribed
40 psychotropic medications; and

1 (h) The legal system should be employed only as a last resort.
2 Medication management should not be handled through at-risk youth
3 petitions. Advocacy should be employed to minimize court intrusion,
4 such as by releasing restraining orders in behavioral health
5 situations.

6 (3) The authority shall conduct a review of its policies related
7 to behavioral health by June 30, 2024, in consultation with
8 stakeholders, family members, and peers and identify and eliminate
9 policies that undermine integrity and health of the family or
10 discourage family engagement with service providers. The authority
11 may notify the governor and appropriate committees of the legislature
12 by letter of the completion and outcomes of this review.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 72.23
14 RCW to read as follows:

15 (1) The department shall administer state hospitals in a manner
16 that is aware of, nurtures, and protects significant relationships in
17 the life of state hospital patients. These relationships may involve
18 family, friends, and others who play a significant role.

19 (2) The department shall consider the following principles when
20 administering programs and making policy:

21 (a) Every patient should have a caring, compassionate family
22 member involved in and advocating for their best treatment, in
23 collaboration with medical professionals, based on their lifelong
24 role in the person's life and their personal knowledge of their past
25 and present welfare;

26 (b) Families who desire to be engaged in their relative's
27 behavioral health care should be included when it is in the best
28 interest of the patient. Parents should be encouraged to be actively
29 engaged in their children's behavioral health care and have decision-
30 making rights, when appropriate. Family inclusion with disclosure of
31 health information is possible under this section and RCW 70.02.205
32 whenever there is a record of significant involvement and the patient
33 does not object, and when the patient lacks capacity due to psychosis
34 or another reason and, based on professional judgment, family
35 involvement is in the best interest of the patient;

36 (c) State hospital policy and practices must be structured so as
37 not to cause unnecessary trauma to a family. Family members should be
38 able to participate in care decisions with medical experts without
39 fear of reprisal. It is incumbent on the state to find ways to

1 provide adequate services while maintaining support for well-bonded
2 families;

3 (d) Within existing legal constraints, the department should
4 recognize that strong family-like relationships which should be
5 nurtured also arise through nonblood relationships. Consideration of
6 developmental issues should recognize that development continues past
7 the age of 18;

8 (e) Whenever it is in the best interest of the patient, family
9 rights and responsibilities of parents should be maintained by
10 inclusion in appropriate decision making relating to a patient's
11 residence, supervision, schooling, education, and health care;

12 (f) The department must consider the treatment needs of family
13 members and the centrality of family in resilience in recovery for
14 patients. Patients and families need assistance building,
15 reestablishing, and strengthening healthy relationships. Every effort
16 should be made to assess and provide for the needs of family members,
17 either separately or in conjunction with the state hospital patient;
18 and

19 (g) Medication use by children should be closely monitored and
20 frequently evaluated, with expert support given to parents to help
21 understand the risks and anticipated benefits of prescribed
22 psychotropic medications.

23 (3) The department shall conduct a review of its policies related
24 to allowing and facilitating family engagement with state hospital
25 patients by June 30, 2024, in consultation with stakeholders, family
26 members, and peers, and identify and eliminate policies that
27 undermine integrity and health of the family or discourage family
28 engagement. The department may notify the governor and appropriate
29 committees of the legislature by letter of the completion and
30 outcomes of this review.

31 NEW SECTION. **Sec. 3.** This act may be known and cited as the
32 family care act.

33 NEW SECTION. **Sec. 4.** This act does not create a private right
34 of action.

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