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**SENATE BILL 5438**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

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

Read first time 01/18/23. Referred to Committee on Human Services.

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 a new section.

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 has the right to have a caring, compassionate  
16 family member involved in and advocating for their best treatment,  
17 based on their lifelong role in the person's life and their personal  
18 knowledge of their past and present welfare;

19 (b) Families who desire to be engaged in their children's  
20 behavioral health care should be included wherever possible. Parents  
21 should be encouraged to be actively engaged in their children's

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

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

16 (d) Whenever possible, family rights and responsibilities of  
17 parents should be maintained by inclusion in decision making relating  
18 to a child's residence, supervision, schooling, education, and health  
19 care while a minor or dependent child is placed in behavioral health  
20 out-of-home care pursuant to authority programs or contracts;

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

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

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

37 (h) The legal system should be employed only as a last resort.  
38 Medication management should not be handled through at-risk youth  
39 petitions. Advocacy should be employed to minimize court intrusion,

1 such as by releasing restraining orders in behavioral health  
2 situations.

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

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

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

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

18 (a) Every patient has the right to have a caring, compassionate  
19 family member involved in and advocating for their best treatment,  
20 based on their lifelong role in the person's life and their personal  
21 knowledge of their past and present welfare;

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

32 (c) State hospital policy and practices must be structured so as  
33 not to cause unnecessary trauma to a family. Family members should be  
34 able to participate in care decisions without fear of reprisal. It is  
35 incumbent on the state to find ways to provide adequate services  
36 while maintaining support for well-bonded families;

37 (d) Within existing legal constraints, the department should  
38 recognize that strong family-like relationships which should be  
39 nurtured also arise through nonblood relationships. Consideration of

1 developmental issues should recognize that development continues past  
2 the age of 18;

3 (e) Whenever possible, family rights and responsibilities of  
4 parents should be maintained by inclusion in decision making relating  
5 to a patient's residence, supervision, schooling, education, and  
6 health care;

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

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

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

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

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