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**SECOND SUBSTITUTE SENATE BILL 5438**

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**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)

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

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

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

(1) The authority shall conduct its 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. These relationships may involve family, friends, and others who play a significant role.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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