

# SENATE BILL REPORT

## SSB 5187

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As Amended by House, April 9, 2011

**Title:** An act relating to the accountability of mental health professionals employed by an evaluation and treatment facility for communicating with a parent or guardian about the option of parent- initiated mental health treatment.

**Brief Description:** Concerning the accountability of mental health professionals employed by an evaluation and treatment facility for communicating with a parent or guardian about the option of parent-initiated mental health treatment.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Becker, Keiser, Hargrove, Stevens and Carrell).

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/28/11, 2/17/11 [DPS, w/oRec].

Passed Senate: 3/02/11, 48-0.

Passed House: 4/09/11, 95-0.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 5187 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Carrell, Harper and McAuliffe.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Baxter.

**Staff:** Kevin Black (786-7747)

**Background:** A parent in Washington may consent to mental health treatment on behalf of a minor child provided that a professional person determines that there is a medical necessity for treatment. An evaluation and treatment facility (E&T) is not obligated to provide treatment to the minor but may not refuse solely on the basis of the lack of consent of the minor. A minor who does not consent to treatment may petition a superior court for review as to whether such treatment is based upon medical necessity.

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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 a part of the legislation nor does it constitute a statement of legislative intent.*

In 2003 and 2005, the Legislature passed bills obligating an E&T to promptly provide notice of all available treatment options to a parent or guardian of a minor who seeks treatment for that minor, including the option for parent-initiated treatment.

**Summary of Substitute Bill:** Any mental health professional employed or contracted by an E&T who has contact as a part of his or her professional duties with a parent or guardian of a minor who is seeking treatment for that minor must inform the parent or guardian of all statutorily available treatment options. Notice of treatment options must be documented by the facility and accompanied by a signed receipt from the parent or guardian. The requirement to provide notice is extended to a facility operating as an E&T pursuant to a single-bed certification and a hospital emergency room. Failure to comply with notice provisions is presumed to be unprofessional conduct.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Original Bill:** PRO: Providers should be held accountable by sanctions on their license for providing this information. Parents should be informed of their rights. They need all their options laid on the table to make good choices. Our son committed suicide after leaving a mental health treatment facility and we were not informed of our right to consent to treatment on his behalf. When a child is mentally ill, the child is not capable of making rational decisions. Parents should have the right to take care of their children. It's good that a child can seek mental health treatment on his or her own, but if a child refuses, we need to empower parents to help get the child the help he or she needs.

**Persons Testifying:** PRO: Senator Becker, prime sponsor; Donna Obermeyer, Willie Binion, Deb Binion, parents.

**House Amendment(s):**

- The requirement to inform a parent seeking treatment for a minor about all statutory treatment options, including the option for parent-initiated treatment, is extended to hospital emergency rooms, inpatient facilities licensed under 72.23 RCW, and inpatient facilities operating inpatient psychiatric beds for minors that are licensed under 70.41 or 71.12 RCW.
- The duty placed on an individual mental health professional is removed.
- An E&T which fails to provide the required notice is subject to a civil penalty of \$1,000 for each occurrence, unless the facility is licensed under 70.41 or 71.12 RCW, in which case the Department of Health (DOH) may enforce this provision through its authority to deny, suspend, revoke, or modify the facility's license.
- These facilities must adopt policies and protocols respecting such notifications by December 1, 2011.

- The Department of Social and Health Services and DOH must provide a detailed report to the Legislature regarding the facilities' compliance by December 1, 2012.