

SENATE BILL REPORT

SB 5709

As of February 13, 2017

Title: An act relating to providing notification to parents when a minor accesses behavioral health services.

Brief Description: Providing notification to parents when a minor accesses behavioral health services.

Sponsors: Senator Miloscia.

Brief History:

Committee Activity: Human Services, Mental Health & Housing: 2/13/17.

Brief Summary of Bill

- Requires a provider of outpatient behavioral health treatment that treats a minor aged 13-17 to notify the parents of the minor of the minor's request for behavioral health treatment.
- Provides that the age of consent for behavioral health treatment is subject to parental notification laws.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Staff: Kevin Black (786-7747)

Background: Minors may access behavioral health treatment in Washington through three portals: minor-initiated treatment, parent-initiated treatment, or involuntary commitment. Minor-initiated treatment is voluntary treatment requested by the minor. Washington State has enacted age of consent laws which lower the general age of majority, which is 18 years of age, for the purpose of establishing a lower age for making health care decisions related to behavioral health treatment. Pursuant to these laws, a minor may consent to inpatient or outpatient behavioral health treatment without parental consent at the age of 13. Starting April 1, 2018, pursuant to laws passed in 2016, a minor may consent to inpatient substance use disorder treatment at the age of 13. Consent of a parent is required for the behavioral health treatment of a minor under the age of 13.

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.

State law requires notice to be provided to the parents of a minor when a minor requests behavioral health treatment in the following situations:

- when a minor is voluntarily admitted into inpatient mental health treatment, by the administrator of the treatment facility;
- when a minor obtains voluntary outpatient substance use disorder treatment, by the treatment provider if the minor signs a written consent authorizing the disclosure or the director of the program determines that the minor lacks the capacity to make a rational choice regarding consent to disclosure, and, in the discretion of the provider, the provider determines that notice is in the best interest of the minor in achieving recovery;
- until April 1, 2018, when school district personnel contact a chemical dependency inpatient treatment program for the purpose of referring a student to the program, by school district personnel, within 48 hours of the contact; and
- after April 1, 2018, when a minor is voluntarily admitted into inpatient substance use disorder treatment, by the administrator of the treatment facility.

The Behavioral Health Administration of the Department of Social and Health Services recently published a report entitled, "Behavioral and Primary Health Regulatory Alignment Task Force: Parental Notice of a Minor's Substance Use Disorder Treatment," dated September 22, 2016. This report examines current parental notification laws related to chemical dependency treatment pursuant to direction from the 2016 Legislature. The report concludes that federal privacy laws do not allow notification of parents when a minor requests chemical dependency treatment once the minor has reached the age of consent applicable to the treatment, unless the minor consents to the notification. The report finds "The Legislature could provide a means to provide notice to parents when a minor requests chemical dependency treatment which is consistent with federal privacy laws by changing the age of consent."

Behavioral health treatment is an umbrella term which includes treatment for a mental health or substance use disorder.

Summary of Bill: A provider of outpatient behavioral health treatment that provides outpatient treatment to a minor 13 years of age or older must notify the minor's parents of the minor's request for treatment. This notice must include the name, location, and telephone number of the facility providing treatment and the name of a professional person on the staff who is designated to discuss the minor's request for treatment with the parents.

The age of consent at which a minor may consent on the minor's own behalf to inpatient or outpatient behavioral health treatment is made subject to parental notification laws.

Appropriation: None.

Fiscal Note: Not requested.

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: PRO: We have a growing opioid epidemic. Mental health issues have greatly expanded, affecting our youth. These important issues must be solved in conjunction with the family. It is virtually impossible to address these problems without building relationships and ties with the family to help the child advance and improve. The purpose of this bill is to develop these ties by notifying parents. Treatment in isolation from family will not bring about great success.

CON: This bill requires parents to be informed when kids independently reach out for help. Kids will lose the ability to access treatment privately. It is not always in the best interest of the child to have the parents involved. Some parents are abusive. It is already in provider discretion to determine if notification is in the child's best interest for recovery. Adolescence is a tumultuous time for teens and families. There are already barriers for youth accessing mental health care. Adding this requirement when we do not know what is happening in the family will not be an efficient way to get more young people the care they need. SAMHSA has found that 45 percent of kids say they will not ask for care unless their confidentiality is assured. I support the goals of this bill, but please consider another approach. Therapists can foster family communication by building an alliance over time, as long as they do not start out with heavy dictating on how this must occur. There is no one-size-fits-all approach.

OTHER: This is a complex issue with countervailing considerations. We want kids to be able to get help if they need it. They should be able to get treatment, period, whether parents know about it or not. I can envision situations where this bill would be helpful, and situations where it would not be helpful, and create new problems. Please take time to review this carefully during the interim and find an effective solution to the various issues presented.

Persons Testifying: PRO: Senator Miloscia, Prime Sponsor.

CON: Peggy Dolane, citizen; Melanie Smith, WA State Society for Clinical Social Workers; Seth Dawson, National Alliance on Mental Illness, NAMI Washington.

OTHER: Seth Dawson, WA Assn. for Children & Families.

Persons Signed In To Testify But Not Testifying: No one.