

# HOUSE BILL REPORT

## HB 1275

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**As Reported by House Committee On:**  
Human Services

**Title:** An act relating to consideration of respondents' recent and past acts in involuntary commitment proceedings.

**Brief Description:** Concerning the consideration of respondents' recent and past acts in involuntary commitment proceedings.

**Sponsors:** Representatives Dickerson, O'Brien, Cody, Hurst, Green and Dammeier.

**Brief History:**

**Committee Activity:**

Human Services: 1/28/09, 2/5/09 [DPS].

**Brief Summary of Substitute Bill**

- Allows a designated mental health professional to access other available treatment records in addition to history of commitments, violent acts, and determinations of competency when conducting an initial 72-hour evaluation.
- Requires the Department of Corrections, upon receipt of notice of a petition for involuntary commitment of an offender in its custody or under its supervision and designated as a high risk or high needs offender, to provide to the designated mental health provider a history of the respondent's compliance with any conditions of sentencing or community supervision (or community custody).

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**HOUSE COMMITTEE ON HUMAN SERVICES**

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Dickerson, Chair; Orwall, Vice Chair; Dammeier, Ranking Minority Member; Green, Klippert, Morrell, O'Brien and Walsh.

**Staff:** Linda Merelle (786-7092)

**Background:**

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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.*

The Involuntary Treatment Act (ITA) sets forth the procedures, rights, and requirements for an involuntary civil commitment. Persons can be initially detained for up to 72 hours for evaluation and treatment, and upon a petition to the court and subsequent order, the person may be held for a further 14 days. Upon a further petition and order by a court, a person may be held for a period of 90 days. If a person has been determined to be incompetent and criminal charges have been dismissed, and the person has committed acts constituting a felony as a result of a mental disorder and presents a substantial likelihood of repeating similar acts, the person may be further committed for a period of up to 180 days. No order of commitment under the ITA may exceed 180 days.

The ITA sets forth the kinds of information that may be considered by a court in determining whether a petition for an evaluation and treatment for 72 hours, for a commitment of 14 days, or a commitment of 90 days should be granted.

For a 72-hour evaluation and treatment, the designated mental health professional who is conducting the evaluation shall include all reasonably available information regarding: (1) prior recommendations for evaluation of the need for civil commitments when made pursuant to criminal allegations; (2) a history of one or more violent acts; (3) prior determinations of incompetency or insanity; and (4) prior commitments under the ITA.

For a petition for a 14-day commitment following a 72-hour evaluation and treatment, the court is required to give great weight to: (1) a recent history of one or more violent acts; or (2) a recent history of one or more commitments under the ITA or its equivalent provisions under the laws of another state. The existence of prior violent acts may not be the sole basis of determining whether a person presents a likelihood of serious harm. The statute defines "recent" as a period of time not exceeding three years prior to the current hearing.

If a petition for involuntary civil commitment is filed for a person who is in the custody of the Department of Corrections (DOC), the petition shall notify the DOC, and the DOC shall provide documentation of its risk assessment or other concerns to the petitioner and to the court if the respondent has been classified as a high risk or high needs offender.

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### **Summary of Substitute Bill:**

The designated mental health professional will be permitted to use treatment records other than just history of commitments, violent acts, and prior determinations of competency when conducting a 72-hour evaluation. When a petition is filed for a probable cause hearing for a further 14-day commitment, the court may consider, in addition to the recent history of violent acts and/or commitments, recent history of an act that based upon past behavior of the respondent may be associated with the likelihood of serious harm.

If a petition for involuntary commitment is sought for a respondent who is in the custody of a state correctional facility or is under the supervision of the DOC in the community, upon notification by the petitioner, the DOC shall provide records of the offender's compliance with any conditions of his or her sentence or community supervision related to participating

in mental health treatment. This information would be supplied only if the DOC has classified the offender as a high risk or high needs offender.

**Substitute Bill Compared to Original Bill:**

The substitute bill removes any reference to "trier of fact" and returns the provisions as they were originally written, with reference to the court making determinations and findings, as opposed to a trier of fact. The language which describes the evidence that a court may consider in making a determination upon a petition for a 14-day or 90-day commitment is refined to more specifically describe behavior which may lead to serious harm.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect on January 1, 2010.

**Staff Summary of Public Testimony:**

(In support) This bill tries to balance individual rights and the rights of the public. It tries to look at past behavior, which when displayed, has led to violent acts. Past behavior is indicative of future behavior. Family members cannot get assistance under the ITA when they see behavior that may be leading to violent behavior.

(With concerns) Beds are at a crisis stage. Between 1,500 and 2,000 persons were involuntarily committed to hospital gurneys or beds waiting for beds in facilities to become available. Although the public safety goals are supported, the bill expands the criteria for considering involuntary treatment which will likely increase the need for involuntary beds. The system is strained.

Opposed (None).

**Persons Testifying:** (In support) Representative Dickerson, prime sponsor; Eleanor Owen, National Alliance on Mental Illness - Greater Seattle; James Adams, National Alliance on Mental Illness - Washington; Darcy Jaffe, ARNP, University of Washington; Ethan Rogers, King County Prosecutor's Office; Ian Harrol, Washington Association of Designated Mental Health Professionals; and Brian Enslow, Washington Association of Counties.

(With concerns) David Lord, Disability Rights Washington.

**Persons Signed In To Testify But Not Testifying:** None.