

HOUSE BILL REPORT

HB 2882

As Reported by House Committee On:
Human Services

Title: An act relating to detaining persons with mental disorders.

Brief Description: Detaining persons with mental disorders.

Sponsors: Representatives Klippert, Green, Dammeier, Dickerson, Kelley, Wallace and McCune.

Brief History:

Committee Activity:

Human Services: 1/25/10, 1/28/10 [DPS].

Brief Summary of Substitute Bill

- Changes the standard for 72-hour emergent detention under the Involuntary Treatment Act and the Integrated Crisis Response and Involuntary Treatment Pilot Program from "imminent likelihood" of serious harm or danger to "substantial likelihood" of serious harm or danger; detentions under the new standard may be authorized without a court order.
- Requires the Department of Social and Health Services to track and review the outcomes of the 72-hour, 14-day, and 90-day detentions as a result of the change in the standard of emergent detention, and annually report to the Legislature.
- Requires that the provision of the act expire June 30, 2014.

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; Darneille, Green, Herrera, O'Brien and Walsh.

Staff: Linda Merelle (786-7092).

Background:

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.

Involuntary Treatment Act.

The Involuntary Treatment Act (ITA) sets forth the procedures, rights, and requirements for a civil commitment. Under emergency circumstances, persons may be detained without a court order. Under non-emergent conditions, a court order is required for an involuntary civil commitment. A person may also apply voluntarily to any public or private agency or practitioner for treatment of a mental disorder. Any person voluntarily admitted must be released immediately upon his or her request unless the professional staff believes that the person presents a likelihood of serious harm or that he or she is gravely disabled. In which case, the professional staff may detain the person for sufficient time to notify the designated mental health provider.

Integrated Crisis Response and Involuntary Treatment Pilot Program.

The Integrated Crisis Response and Involuntary Treatment Pilot Program (ICR) authorizes involuntary detention and treatment of an individual who is gravely disabled or a danger to self or others due to a chemical dependency or a combination of a chemical dependency and mental illness (co-occurring disorder).

Emergent Detention.

A person may be detained for up to 72 hours without a court order under emergency circumstances when a designated mental health professional receives information that a person, as a result of a mental disorder, presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled. "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.

Non-Emergent Detention.

After investigating information received that a person is either gravely disabled or that there is a substantial likelihood that the person will cause serious harm to self or others, a designated mental health professional may assess the credibility of the information received, and attempt to interview the person about whom the information has been provided to see whether the person will voluntarily seek appropriate treatment. If the designated mental health professional is satisfied that the information is credible and the person will not voluntarily seek treatment, he or she may file a petition with the court for an initial detention of 72 hours for evaluation and treatment.

Upon petition and order by a court, a person may be held for an additional period of 14 days and a subsequent 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 Washington Supreme Court has held that the standard of "likelihood of substantial harm" evidenced by a recent overt act under the ITA provides a constitutional basis for

detention under non-emergency circumstances. For temporary detentions without prior process or court order when there is an emergency, there must be a showing of "imminent danger" to justify such detention.

Summary of Substitute Bill:

The standard for temporary 72-hour detention under emergency conditions is changed from "imminent likelihood" of serious harm to "substantial likelihood" of serious harm for the ITA and for the ICR.

The new standard would also apply to persons who have sought treatment voluntarily but who wish to leave a facility where the professional staff believes that the person is either gravely disabled or likely will cause serious harm.

Under the new standard, the designated mental health provider (under the ITA) and the designated crisis responder (under the ICR) are authorized to detain a person for an initial 72-hour evaluation under a "substantial likelihood" of harm standard. A peace officer may immediately take such person into custody and deliver him or her to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, or for the ICR program, a secure detoxification facility or other certified chemical dependency treatment provider. When taken into custody by a peace officer, the person may be held for up to 12 hours.

Before authorizing the detention of a person, orally or in writing, the designated mental health provider or designated crisis responder will be required to investigate and evaluate the specific facts alleged and their reliability and the reliability and credibility of the person providing the information. He or she is not required to interview the person prior to detention, file an affidavit with the court, or obtain a court order for the initial 72-hour detention.

The Research and Data Division of the Department of Social and Health Services (DSHS) will track and review the outcomes of the 72-hour, 14-day, and 90-day commitments under the ITA and the ICR as a result of the change in the standard of emergent detention.

The DSHS will annually report to the Legislature regarding the outcomes beginning October 1, 2011, and a final report will be due on October 1, 2013.

The act expires on June 30, 2014.

Substitute Bill Compared to Original Bill:

The Research and Data Division of the DSHS will track and review the outcomes of commitments under the ITA and the ICR as a result of the change in the standard of commitment. The DSHS will report annually to the Legislature regarding the outcomes. The first report is due on October 1, 2011, and a final report is due on October 1, 2013.

The act expires on June 30, 2014.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 28, 2010.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Changing the standard for detention will increase public safety. The bill reduces the burden of proof to detain someone so that their condition can be stabilized. This bill is one step forward toward allowing earlier intervention to offset the cost of looking at cases sooner rather than later.

(Opposed) None.

Persons Testifying: Representative Klippert, prime sponsor; and Seth Dawson, National Alliance on Mental Illness.

Persons Signed In To Testify But Not Testifying: None.