

FINAL BILL REPORT

2SHB 3076

C 280 L 10
Synopsis as Enacted

Brief Description: Concerning the involuntary treatment act.

Sponsors: House Committee on Ways & Means (originally sponsored by Representatives Dickerson and Kenney; by request of Governor Gregoire).

House Committee on Human Services
House Committee on Ways & Means
Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means

Background:

The Involuntary Treatment Act (ITA) sets forth the procedures, rights, and requirements for an involuntary civil commitment. When a designated mental health professional receives information alleging that a person, as a result of a mental disorder: (1) presents a likelihood of serious harm; or (2) is gravely disabled, the designated mental health professional may file a petition for an initial detention.

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. The Court did not define "recent," but under the facts of the case in which it made its decision, the acts referred to had occurred within five to six days prior to the filing of the petition for initial detention.

Likelihood of Serious Harm and Gravely Disabled.

By law, "likelihood of serious harm" means that there is a substantial risk that:

- physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;
- physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or
- physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

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that the person has threatened the physical safety of another and has a history of one or more violent acts.

A person is "gravely disabled" if the person, as a result of a mental disorder:

- is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or
- manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

Authority for Involuntary Commitment.

Under non-emergency circumstances, the court may authorize persons to be initially detained for up to 72 hours for evaluation and treatment. Upon a petition to the court and subsequent order, the person may be involuntarily 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 circumstances warrant, the Court may order a less restrictive alternative. 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.

Information Considered by the Court.

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 must 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, or a subsequent 90-day commitment, 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 for 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.

Summary:

Risk Assessment Tool.

The Washington State Institute for Public Policy, in collaboration with the Department of Social and Health Services and other applicable entities, is required to search for a validated mental health assessment tool or combination of tools for the assessment of individuals for detention, commitment, or revocation under the ITA. This provision expires on June 30, 2011.

Determinations for Civil Commitment.

A Designated Mental Health Professional (DMHP) conducting an evaluation for a 72-hour commitment under the ITA must consider all reasonably available information from credible witnesses and records regarding:

- prior recommendations for evaluation for civil commitments as ordered by a superior court judge;
- historical behavior of the person, including a history of one or more violent acts;
- prior determinations of incompetency or insanity;
- prior commitments under the ITA.

A credible witness may include family members, landlords, neighbors, or others with significant contact and history of involvement with the person being evaluated. If the DMHP relies upon information from a credible witness in reaching the decision to detain an individual under the Involuntary Treatment Act, the DMHP must provide to the prosecutor contact information for that witness. Either the DMHP or the prosecutor must provide notice of the date, time, and location of any probable cause hearing for the person detained.

The DMHP and the court, when making a determination regarding detention under the ITA, may consider symptoms and behavior, which standing alone would not support detention. These symptoms and behaviors may support a finding of a likelihood of serious harm to the person or others or that the person is gravely disabled. The symptoms that may be considered are those which:

- are closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration, or one or more violent acts;
- represent a marked and concerning change in the baseline behavior of the person; and
- without treatment, the continued deterioration of the respondent is probable.

Notice Upon Discharge.

When a person who has been detained under the ITA is discharged from an evaluation and treatment facility or state hospital, the facility or hospital must provide notice of the discharge to the office of the DMHP responsible for the initial commitment and the professional office for the DMHP in the county where the person is expected to reside. The facility or hospital must also provide the offices of the DMHP with a copy of any less restrictive order or conditional release order issued upon discharge.

The notice and documents must be provided no later than one business day following the discharge. No notice is required if the person is discharged for the purpose of transfer to another facility for continued detention and treatment.

The Department of Social and Health Services must maintain and make available an updated list of contact information for offices of DMHPs around the state.

Financial Obligations for Defendants.

A judge, before imposing any legal financial obligations upon a defendant who suffers from a mental health condition, must first determine that the defendant has the means to pay such sums. This requirement does not apply to the victim penalty assessment or any restitution ordered by the court.

Votes on Final Passage:

House	98	0	
Senate	46	0	(Senate amended)
House			(House refuses to concur)
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 10, 2010
January 1, 2012 (Sections 2 and 3)