
Judiciary Committee

HB 1963

Title: An act relating to standards for detention of persons with mental disorders or chemical dependency.

Brief Description: Standards for detention of persons with mental disorders or chemical dependency.

Sponsors: Representatives Klippert, Goodman, Hayes and Roberts.

Brief Summary of Bill

- Changes the standard by which a person with a mental disorder may be taken into emergency custody from "imminent likelihood" of serious harm or "imminent danger" because of grave disability, to "substantial likelihood" of serious harm or "substantial likelihood" of danger because of grave disability.

Hearing Date: 1/24/14

Staff: Omeara Harrington (786-7136).

Background:

Standards for Initial Detention Under the Involuntary Treatment Act.

The Involuntary Treatment Act (ITA) sets forth the procedures, rights, and requirements for involuntary civil commitment. The standard for commitment under the ITA requires that do to a mental disorder, the person poses a likelihood of serious harm or is gravely disabled.

- "Likelihood of serious harm" means that the person: (1) poses a substantial risk of physical harm to self, others, or the property of others, as evidenced by certain behavior; or (2) has threatened the physical safety of another and has a history of one or more violent acts.
- "Grave disability" means that: (1) the person is in danger of serious physical harm due to a failure to provide for his or her own essential human needs; or (2) the person manifests a severe deterioration in routine functioning, evidenced by repeated and escalating loss of

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.

cognitive or volitional control over his or her actions, and is not receiving the care essential for health or safety.

Under non-emergent conditions, a court order is required for an involuntary civil commitment. Under emergency circumstances, persons may be detained without a court order if the likelihood of serious harm or danger due to grave disability is "imminent." Imminent is defined as the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.

Procedures for Non-Emergent Detention.

When a designated mental health professional (DMHP) receives information alleging that a person presents a likelihood of serious harm or is gravely disabled due to a mental disorder, the DMHP may petition the court for an initial detention order authorizing up to 72 hours for evaluation and treatment. Prior to seeking detention, the DMHP is instructed to first assess the credibility of the information received and attempt to interview the person about whom the information has been provided. The DMHP cannot file a petition for involuntary treatment unless the DMHP is satisfied that the allegations are true and the person will not voluntarily seek appropriate treatment.

A court order to detain a person for a 72 hour period may be issued upon the DMHP's request when the court is satisfied that there is probable cause to support the petition and that the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

Procedures for Emergent Detention.

A person may be detained by a DMHP for up to 72 hours without a court order under emergency circumstances when the DMHP 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. Additionally, a law enforcement officer may take a person meeting the emergency detention standard into custody and immediately deliver him or her to a triage facility, crisis stabilization unit, evaluation and treatment facility, or emergency department of a local hospital. When taken into custody by law enforcement, the person may be held for up to 12 hours. A mental health professional must examine the person within 3 hours of arrival, and a DMHP must determine within 12 hours whether the individual meets detention criteria.

Professional medical staff may also initiate a temporary emergency detention. A person voluntarily admitted to any public or private facility for treatment, or a person brought to the emergency room for treatment who refuses voluntary admission, may be denied discharge if the professional staff believes that emergency detention criteria are met. In that circumstance, the professional staff may detain the person for sufficient time to notify a DMHP, who may then authorize further detention.

Integrated Crisis Response and Involuntary Treatment Pilot Program.

The Integrated Crisis Response and Involuntary Treatment Pilot Program (ICR) was created by 2005 legislation, and directed the establishment of two pilot sites. Although the pilots are no longer active, a statutory chapter still exists outlining the policies and procedures for the ICR. The ICR statutes authorize 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). The ICR chapter also contains statutes outlining procedures and standards that parallel those contained in the ITA with respect

to emergency detentions of persons presenting an imminent likelihood of serious harm or an imminent danger of grave disability.

Summary of Bill:

The ITA standard for temporary detention under emergency conditions is changed from "imminent likelihood" of serious harm or danger due to grave disability to "substantial likelihood" of serious harm or danger due to grave disability. Under the new standard, the designated mental health provider is authorized to detain a person without a court order for an initial 72-hour evaluation under a "substantial likelihood" standard. Additionally, law enforcement officers and professional hospital staff are authorized to initiate short-term detention for purposes of notifying a DMHP under the "substantial likelihood" standard.

The parallel provisions in the ICR are also amended to change the standard for emergency detention under that chapter from "imminent" likelihood of serious harm or danger due to grave disability to "substantial likelihood" of serious harm or danger due to grave disability.

Other procedures surrounding initial detentions in the ITA and the ICR are unchanged.

Appropriation: None.

Fiscal Note: Requested on January 18, 2014.

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