
Judiciary Committee

ESSB 5480

Title: An act relating to mental health involuntary commitment laws.

Brief Description: Concerning mental health involuntary commitment laws.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Keiser, Kohl-Welles, Darneille, Nelson, McAuliffe and Kline).

Brief Summary of Engrossed Substitute Bill

- Accelerates implementation of provisions of 2010 legislation that expanded the factors that may be considered for detaining and committing persons under the Involuntary Treatment Act, from July 1, 2015, to July 1, 2014.
- Addresses the responsibilities of designated mental health professionals when evaluating persons for potential detention under the Involuntary Treatment Act.
- States that the fact that a mental disorder is caused by an underlying medical condition is not a reason to withhold involuntary detention, and the fact that a person has been involuntarily detained does not allow medical treatment against the person's will except under specified circumstances.

Hearing Date: 3/21/13

Staff: Edie Adams (786-7180).

Background:

Standards for Detention Under the Involuntary Treatment Act.

Under the Involuntary Treatment Act (ITA), designated mental health professionals (DMHPs) are responsible for investigating and determining whether to detain an individual who may be in need of involuntary mental health treatment. A DMHP may be a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker.

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.

In emergency cases, the DMHP may detain a person without a court order for up to 72 hours if the person, as a result of a mental disorder, presents an imminent likelihood of serious harm or is in imminent danger due to being gravely disabled. In non-emergency cases, the DMHP may petition a court for an initial detention if the person, as a result of a mental disorder, presents a likelihood of serious harm or is gravely disabled. An initial detention may last for up to 72 hours, but individuals may be committed by a court for additional periods of up to 14, 90, or 180 days if necessary for further treatment.

2010 Legislation on ITA Standards.

Legislation enacted in 2010 (Second Substitute Senate Bill 3076) expanded the factors that DMHPs and courts may consider when making determinations for detention and commitment under the ITA. Under these expanded factors, DMHPs and courts may consider available historical behavior and symptoms and behavior that standing alone would not justify commitment, but that show a marked deterioration in the person's condition and are closely associated with symptoms and behavior that led to past incidents of involuntary hospitalization or violent acts.

These changes were originally to take effect on January 1, 2012. In 2011 a Washington State Institute for Public Policy (WSIPP) study of the impacts of the expanded criteria estimated that there will be a need for additional evaluation and treatment and inpatient psychiatric beds to accommodate an expected increase in the number of detentions and commitments resulting from these changes.

Legislation enacted in 2011 (Substitute House Bill 2131) delayed the effective date of these provisions until July 1, 2015.

Standards for Medical Treatment Without Consent.

Several provisions of the ITA address standards under which a person who is involuntarily committed may be provided medical treatment without the person's consent. Emergency life-saving treatment may be provided without the consent of the individual except as provided in an advance directive. Persons involuntarily committed generally have the right to refuse to consent to the administration of antipsychotic medication except under specific standards and procedural requirements, or as authorized by court order or in emergency situations. Persons involuntarily committed also have the right not to consent to the performance of electroconvulsant therapy or surgery, except emergency life-saving surgery, unless authorized by court order.

Summary of Bill:

The July 1, 2015, effective date for implementation of the expanded factors that designated mental health professionals and the courts may consider in determining whether to detain or commit a person for involuntary treatment is moved up to July 1, 2014. The Department of Social and Health Services must consult with stakeholders and legislative staff to ensure that moneys appropriated for implementation of the act are used in a way that increases involuntary commitment capacity consistent with the findings published by the WSIPP in its two-part report "Inpatient Psychiatric Capacity in Washington State: Assessing Future Needs and Impacts."

The responsibilities of a DMHP when conducting an evaluation of a person for potential detention under the ITA are revised. A designated mental health professional who conducts an

evaluation for an emergency detention under the ITA must also evaluate the person for detention under the non-emergency standard of likelihood of serious harm or grave disability.

A designated mental health professional must take serious consideration of observations and opinions by examining physicians when deciding whether a person should be detained under emergency or non-emergency standards under the ITA. An examining physician who disagrees with a DMHP's determination not to initiate detention of a person may submit a declaration describing the physician's reasons why detention is appropriate and stating whether the physician would be willing to testify to the physician's observations in court. The DMHP must provide a written response to a declaration from an examining physician stating with particularity the reasons why the DMHP determined not to detain the person.

The fact that a mental disorder is caused by an underlying medical condition is not a reason to withhold detention under the ITA. The fact that a person has been voluntarily detained does not give the right to provide medical treatment against the person's will, except as allowed by court order or administrative process for administration of antipsychotic medication, as allowed by court order for electroconvulsant therapy or surgery, or for emergency life-saving surgery.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 20, 2013.

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