

SENATE BILL REPORT

SSB 5562

As Passed Senate, March 17, 1997

Title: An act relating to the involuntary commitment of mentally ill persons.

Brief Description: Revising provisions relating to the involuntary commitment of mentally ill persons.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Prentice, Wojahn and Deccio).

Brief History:

Committee Activity: Human Services & Corrections: 2/12/97, 3/5/97 [DPS-WM].

Ways & Means: 3/10/97 [DPS (HSC)].

Passed Senate, 3/17/97, 45-3.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5562 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Long, Chair; Franklin, Haugen, Schow and Stevens.

Staff: Kyle Thiessen (786-7754)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5562 as recommended by Committee on Human Services & Corrections be substituted therefor, and the substitute bill do pass.

Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Long, Loveland, McDonald, Rossi, Schow, Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Staff: Tim Yowell (786-7435)

Background: Under current law, a person may be taken into custody for an involuntary 72-hour evaluation and treatment period for a mental disorder. The person may be detained if he or she presents a likelihood of serious harm to self or others, or to the property of others, or if he or she is gravely disabled. There must be a probable cause hearing within the 72 hours.

The detention can be extended for an additional 14 days of involuntary intensive treatment or 90 days of less restrictive treatment.

Upon expiration of the 14-day period, and after a full court hearing, the person may be committed for up to 90 days, or up to 180 days if criminal charges were involved.

Upon expiration of the 90 or 180-day period, a new hearing can be held for commitment of up to 180 days.

At each of these stages, further commitment can occur only if there is probable cause to believe that the person presents a likelihood of serious harm to himself or herself or others, or to the property of others, or the person is gravely disabled. The standard for "likelihood of serious harm" has been interpreted to require evidence of recent, overt acts.

When a person has been in involuntary treatment and then conditionally released or placed on a less restrictive commitment, the person can be recommitted if the person violates the terms and conditions of the release or there is a substantial deterioration in the person's functioning.

Speaking about mentally ill persons who are repeatedly hospitalized for serious mental disorders, the Washington Supreme Court in *In Re LaBelle* 107 Wn. 2d 196 (1986), stated:

"By permitting intervention before a mentally ill person's condition reaches crisis proportions, RCW 71.05.020(1)(b) enables the state to provide the kind of continuous care and treatment that could break the cycle and restore the individual to satisfactory functioning. Such intervention is consonant with one of the express legislative purposes of the involuntary treatment act, which is to "provide continuity of care for persons with serious mental disorders". RCW 71.05.010(4)."

The court in *LaBelle* also provided careful guidelines for the kind of evidence that can be used to show that a person is gravely disabled:

"...[W]hen the state is proceeding under the gravely disabled standard of RCW 71.05.020(1)(b), it is particularly important that the evidence provide a factual basis for concluding that an individual "manifests severe [mental] deterioration in routine functioning.— Such evidence must include recent proof of significant loss of cognitive or volitional control. In addition, the evidence must reveal a factual basis for concluding that the individual is not receiving or would not receive, if released, such care as is essential for his or her health or safety."

The Washington Appellate Court in *In Re Meistrell* 47 Wn. App. 100 (1987) held that "recent past mental history is relevant in determining present and immediate future mental behavior."

Summary of Bill: When considering a continued commitment under a less restrictive alternative commitment after an initial 90-day commitment, evidence of repeated hospitalizations or law enforcement interventions related to the person's mental illness should be given "great weight."

Persons who are on a less restrictive alternative commitment or conditionally released from involuntary treatment can be rehospitalized for a new commitment hearing when there is evidence of "substantial decompensation," or "likelihood of serious harm." These are essentially identical to the possible reasons for the original commitment.

The Joint Legislative Audit and Review Committee is directed to perform an evaluation of the effect of this bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For (Human Services & Corrections): This should allow for a more timely response when a person is decompensating and should reduce intensive commitment time and costs. A few people who cycle in and out of the mental health system account for much of the cost. In some cases a person isn't recommitted until they have committed an overt act, such as a crime or attempted suicide, and this bill will allow for intervention before that happens. There is a high recidivism rate for offenders with mental illness, and better intervention will reduce new crimes.

Testimony Against (Human Services & Corrections): There will be longer indefinite commitments and could increase the state's liability. Current law would work better with better training. There are concerns about the constitutionality of relaxed commitment standards.

Testified (Human Services & Corrections): Helen Schwedenberg, Coalition for Service Improvement (pro); Dr. Andrew Borland, Washington Community Mental Health Psychiatrists (pro); Preston Hess, Snohomish County CDMHD (pro); Eleanor Owen, Washington Advocates for the Mentally Ill (pro); Al Drinkwine, WAMI (pro); Jerrie A. Drinkwine, WAMI (pro); Leslie Morse (pro); Susan Reichert (pro); Mary Chisman, SKAMI (pro); Robert Chisman (pro); Richard Warner, Citizens Commission on Human Rights (con); Keith Eggen (pro); Dan Bilson, NWAMI (pro); Sherry Storms, professional ombuds and consumer advocate (con); Ted Wilson, DOC; Kathy Peterson, DSHS Mental Health Division; Susan Richest, WAMI (pro); Randy Ray, Nate Miles, Eli Lilly & Co.; Rick Reis; David Wirtheimer, King County Mental Health Division.

Testimony For (Ways & Means): This bill will result in cost savings by preventing people from deteriorating to the point where they are more expensive to treat.

Testimony Against (Ways & Means): The bill does not define what decompensation is, nor what is to be used as evidence of that. This introduces an extreme amount of muddiness into the law.

Testified (Ways & Means): Eleanor Owen, Washington Advocates for the Mentally Ill (pro); Richard Warner, Citizen's Commission on Human Rights.