

# SENATE BILL REPORT

## SB 6234

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As of January 19, 2012

**Title:** An act relating to the involuntary medication of persons committed as criminally insane.

**Brief Description:** Concerning the involuntary medication of persons committed as criminally insane.

**Sponsors:** Senators Honeyford and Stevens.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/19/12.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Kevin Black (786-7747)

**Background:** A person may be civilly committed for mental health treatment under the Involuntary Treatment Act if a court or designated mental health professional determines that, as a result of a mental disorder, the person presents a likelihood of serious harm or is gravely disabled. Likelihood of serious harm means that there is a substantial risk that the person will inflict physical harm on himself or herself, others, or the property of others. Gravely disabled means that the person is in danger of serious physical harm based on a failure to provide for essential needs of human safety, or manifests severe deterioration and is not receiving such care as is essential for health and safety.

A person may be committed to a state hospital as criminally insane if the person is found not guilty by reason of insanity and the court or jury determines that the person is a substantial danger to other persons unless kept under further control by the court, or that the person presents a substantial likelihood of committing criminal acts jeopardizing public safety or security.

Antipsychotic medication may be administered without consent to a person who has been committed for less than 180 days under the Involuntary Treatment Act if it is determined that failure to medicate may result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment and there is no less intrusive course of treatment than medication in the best interests of the person. Before administering antipsychotic medication, the facility must attempt to obtain the informed consent of the person and obtain an additional concurring medical opinion by a psychiatrist, psychiatric

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advanced registered nurse practitioner, or physician in consultation with a mental health professional with prescriptive authority.

Antipsychotic medication may be administered without consent to a person who has been committed for 180 days under the Involuntary Treatment Act pursuant to court order if the petitioner proves by clear, cogent, and convincing evidence that a compelling state interest justifies overriding the patient's lack of consent, the proposed treatment is necessary and effective, and medically acceptable alternative forms of treatment are not available, have not been successful, or are not likely to be effective. Such a person is entitled to counsel and the protections of the rules of evidence. Antipsychotic medication may be administered without consent in an emergency, provided that a court petition is filed on the next judicial day. The court order for involuntary medication is effective until the expiration of the person's current 180-day order of commitment.

No specific provision in the code addresses procedures for the involuntary medication of a person committed to a state hospital as criminally insane.

**Summary of Bill:** A state hospital may administer antipsychotic medication without consent to a person committed as criminally insane by following the same procedures that apply to the involuntary medication of a person who has been involuntarily committed for 180 days under the Involuntary Treatment Act. The maximum period during which the court may authorize medication is 180 days or the time remaining in the person's order of commitment, whichever is shorter. The petition for involuntary medication may be filed in either the superior court which ordered the commitment of the person or the superior court of the county in which the individual is receiving treatment, provided that a copy of any order that is entered is forwarded to the superior court of the county that ordered the commitment, which shall retain exclusive jurisdiction over all hearings concerning the release of the patient.

The state has a compelling interest in providing antipsychotic medication to a patient who has been committed as criminally insane when refusal of antipsychotic medication would result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment and there is no less intrusive course of treatment than medication in the best interest of the patient.

**Appropriation:** None.

**Fiscal Note:** Requested on January 16, 2012.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: One of the obstacles under current law is the requirement to go back to the committing county in order to get a court order. This idea was brought forward by the family member of a person committed to a state hospital as not guilty by reason of insanity who becomes very dangerous when not on medications. This also creates a danger to the staff of the state hospital.

**Persons Testifying:** PRO: Sen. Honeyford, prime sponsor.