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## Judiciary Committee

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### HB 1513

**Title:** An act relating to outpatient commitment.

**Brief Description:** Concerning outpatient commitment.

**Sponsors:** Representatives Green, Cody, Jenkins, Moeller, Ryu, Roberts, Morrell, Ormsby, Fey, Pollet and Bergquist.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Creates a process through which a person may be court ordered to comply with outpatient mental health treatment.</li></ul>
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**Hearing Date:** 2/19/13

**Staff:** Omeara Harrington (786-7136).

**Background:**

The Involuntary Treatment Act (ITA) sets forth the procedures, rights, and requirements for involuntary civil commitment.

A person who, as a result of a mental disorder, is gravely disabled or presents a likelihood of serious harm may be held in a mental health treatment facility for evaluation for up to 72 hours. Within that initial 72-hour evaluation period, the professional staff of the treatment facility may petition the court for a 14-day involuntary treatment commitment of the person. After a hearing and finding by a preponderance of the evidence that the person, as the result of a mental disorder, is gravely disabled or presents a likelihood of serious harm, the court may order the person to be involuntarily committed to a mental health facility for up to 14 days. If treatment in a less restrictive alternative (LRA) than detention is in the best interest of the person or others, the court must order an appropriate less restrictive course of treatment for up to 90 days.

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*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.*

When a term of commitment is complete, the person must be released unless a new petition is filed. At any time during the treatment period, the professional in charge of the treatment facility may petition the court for an additional 90-day commitment, and subsequently for an additional 180-day commitment. No term of commitment under the ITA may exceed 180 days. Additional terms of commitment may be ordered on grounds that the person, by clear, cogent, and convincing evidence:

- threatened or inflicted physical harm upon himself, herself, or another person or has inflicted substantial damage upon the property of another, and, as a result of a mental disorder or developmental disability presents a likelihood of serious harm;
- is in custody as a result of criminal allegations of a felony offense, has been determined to be incompetent, and, as a result of a mental disorder, presents a substantial likelihood of repeating similar acts; or
- continues to be gravely disabled.

Additional grounds exist under which a petition may be filed to continue a court order for treatment under a LRA. The grounds do not require the petitioner to show that the person is likely to commit serious harm to himself, herself or others, or that the person is gravely disabled. The additional grounds for a new petition for continued treatment under the LRA are that:

- the person has been involuntarily committed for mental health treatment during the 36 months preceding the current involuntary commitment period;
- the person is unlikely to voluntarily participate in outpatient treatment without an order for LRA treatment, in view of the person's treatment history or current behavior; and
- outpatient treatment that would be provided under a LRA order is necessary to prevent a relapse or deterioration that is likely to result in serious harm or the person becoming gravely disabled within a reasonably short period of time.

The Department of Social and Health Services (DSHS), as the state's designated mental health authority, contracts with Regional Support Networks (RSNs) to oversee the delivery of mental health services for adults and children who suffer from mental illness. Regional Support Networks contract with local providers to provide an array of mental health services.

### **Summary of Bill:**

A new process is created in the ITA through which a person may be court ordered to comply with outpatient mental health treatment. A person may be ordered to obtain involuntary outpatient treatment if the court finds by clear and convincing evidence that the person:

- has had more than two involuntary inpatient or outpatient commitments within the last 24 months;
- is suffering from a mental disorder;
- is capable of surviving safely in the community with supervision;
- in view of treatment history or current behavior, is unlikely to voluntarily participate in outpatient treatment without an order for outpatient commitment; and
- is in need of the treatment that would be provided under an outpatient commitment order to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or becoming gravely disabled within a reasonably short time.

Outpatient treatment may include: medication; individual or group therapy; day or partial day programming activities; services and training, including educational and vocational activities; supervision of living arrangements; and other services prescribed to either alleviate the person's disorder or disability, to maintain semi-independent functioning, or to prevent further deterioration that may reasonably be predicted to result in the need for hospitalization.

Any person may file a petition with the court alleging that another person meets the criteria for involuntary outpatient treatment. Alternatively, the court may order outpatient commitment as an option for treatment of someone subject to a petition for inpatient treatment under the ITA.

Upon receipt of the petition, the court must hold a hearing as soon as possible, but no more than six days after filing. All reasonable efforts must be made to notify the person who is the subject of the petition of the hearing, and the person has a waivable right to be present at the hearing. The subject of the petition and necessary witnesses must be notified as soon as possible, but in all cases at least two days before the hearing. The person is entitled to assistance of an attorney, and, if indigent, a public defender.

The subject of the petition may not be ordered to outpatient commitment unless at least one psychiatrist, or a licensed physician and a mental health professional, state the full condition of the person, facts supporting the allegation that the commitment criteria are met, and the recommended course of treatment. If the subject of the petition refuses to consent to an examination, and the court finds sufficient evidence to believe that the allegations in the petition are true, the court can order up to 72 hours of commitment to a psychiatric facility for the purpose of an examination. The subject of the petition may also secure one or more psychiatric examinations and present the findings as evidence at the hearing.

If, at the hearing, the court finds the criteria are not met, it must dismiss the petition. If the criteria are met by clear and convincing evidence, the court is required to order commitment and treatment for not more than 12 months.

The order must designate the psychiatrist or agency responsible for management and supervision of treatment, or it may designate the RSN, which will, in turn, designate an agency or psychiatrist. The agency or psychiatrist must agree to the designation. RSNs must assure resources are available to cover costs related to court ordered outpatient commitment.

Orders expire automatically unless a new order is obtained. To continue outpatient commitment, a person, including the treating psychiatrist, may file before the expiration of the commitment term. The petition process matches the process for an initial petition. Early termination is also possible, as long as more than 60 days have elapsed since the most recent hearing. The treating psychiatrist may initiate the termination process by notifying the court that the psychiatrist believes that commitment should be terminated. If no objection to early termination is filed within five days, the court must enter an order of termination. If there is an objection, or if someone other than the treating psychiatrist initiates the termination, the process is the same as the process for an initial petition.

**Appropriation:** None.

**Fiscal Note:** Requested on February 13, 2013.

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