

FINAL BILL REPORT

E2SHB 1450

C 250 L 15
Synopsis as Enacted

Brief Description: Concerning involuntary outpatient mental health treatment.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Jinkins, Rodne, Walkinshaw, Harris, Cody, Goodman, Senn, Walsh, Riccelli, Robinson, Orwall, Moeller, Gregerson, Van De Wege, Ormsby, Clibborn, McBride, Tharinger, Kagi and Stanford).

House Committee on Judiciary

House Committee on Appropriations

Senate Committee on Human Services, Mental Health & Housing

Senate Committee on Ways & Means

Background:

Standards and Procedures for Involuntary Mental Health Treatment.

Under the Involuntary Treatment Act (ITA) a person may be committed by a court for involuntary mental health treatment if he or she, due to a mental disorder, poses a likelihood of serious harm or is gravely disabled. "Likelihood of serious harm" means that a person poses a substantial risk of physical harm to self, others, or the property of others, as evidenced by certain behavior, or that a person has threatened the physical safety of another and has a history of one or more violent acts. "Grave disability" means that a person is in danger of serious physical harm due to a failure to provide for his or her own essential human needs, or that a person manifests a severe deterioration in routine functioning, evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions, and is not receiving the care essential for health or safety.

The commitment cycle begins with an initial evaluation period of up to 72 hours. Within the initial 72-hour evaluation period, the professional staff of the treatment facility providing the evaluation may petition the court to have the person committed for further mental health treatment. Following a hearing, if the person is found to pose a likelihood of serious harm or be gravely disabled, the court may order the person to be involuntarily committed for up to 14 days of additional treatment. Upon subsequent petitions and hearings, a court may order up to an additional 90 days of commitment, followed by successive terms of up to 180 days of commitment.

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.

Less Restrictive Alternative Treatment.

When entering an order for up to 14, 90, or 180 days of treatment, if the court finds that the person poses a likelihood of serious harm or is gravely disabled, but that 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 rather than inpatient treatment. The Department of Social and Health Services (DSHS) contracts with regional support networks (RSNs) to administer community-based mental health services. Less restrictive alternative treatment is for up to 90 days if ordered instead of a 14- or 90-day inpatient order, and is for up to 180 days if ordered instead of a 180-day inpatient order. At the 180-day order stage, additional grounds exist under which a person may be committed for LRA treatment. These additional grounds do not require the petitioner to show that the person meets either the likelihood of serious harm or grave disability standard and only apply when the petition is for continued LRA treatment for someone currently committed under an LRA. The additional grounds for a petition for continued treatment under the LRA are that:

- the person has been involuntarily committed to detention for mental health treatment during the 36 months preceding the initial detention in the current commitment cycle, excluding any time spent in a mental health facility or in confinement as a result of a criminal conviction;
- 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 an LRA order is necessary to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time.

An LRA order may be modified or revoked if the person is failing to adhere to the terms and conditions of his or her release, is substantially deteriorating or decompensating, or poses a likelihood of serious harm.

Summary:

Commitment Based on a Finding of "In Need of Assisted Outpatient Mental Health Treatment."

In addition to likelihood of serious harm and grave disability, a person may be committed for involuntary mental health treatment under the ITA if that person is "in need of assisted outpatient mental health treatment" (in need of AOT). Commitment for a 72-hour evaluation, if based solely on the person being in need of AOT, may only be for an outpatient evaluation. Similarly, commitment for further treatment, if based solely on the person being in need of AOT, may only be for an LRA order, and may not be for inpatient treatment.

A person is in need of AOT if the person, as a result of a mental disorder:

- has been involuntarily committed to detention for involuntary mental health treatment at least twice during the preceding 36 months, or, if currently committed, the person has been involuntarily committed to detention at least once during the 36 months preceding the initial detention in the current commitment cycle;
- is unlikely to voluntarily participate in outpatient treatment without an LRA order, in view of treatment history or current behavior;

- is unlikely to survive safely in the community without supervision;
- is likely to benefit from LRA treatment; and
- requires outpatient treatment that would be provided under an LRA order to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time.

The 36-month calculation excludes any time spent in a mental health facility or in confinement as a result of a criminal conviction.

An LRA order based on a person being in need of AOT must terminate early when, in the opinion of the professional person in charge of the LRA treatment provider: (1) the person is prepared to accept voluntary treatment; or (2) the outpatient treatment ordered is no longer necessary to prevent relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time.

Less Restrictive Alternative Treatment.

Less restrictive alternative treatment services and other requirements surrounding LRA orders are specified.

Less Restrictive Alternative Treatment Services.

Less restrictive alternative treatment is a program of individualized treatment in a less restrictive setting that is administered by a provider licensed or certified to provide or coordinate the full scope of LRA services and who has agreed to assume responsibility. Less restrictive alternative treatment must include, at a minimum:

- assignment of a care coordinator;
- an intake evaluation with the LRA provider;
- a psychiatric evaluation;
- medication management;
- a schedule of regular contacts with the provider of LRA treatment services for the duration of the order;
- a transition plan addressing access to continued services at the expiration of the order; and
- an individual crisis plan.

Less restrictive alternative treatment may also include: psychotherapy, nursing, substance abuse counseling, residential treatment, and support for housing, benefits, education, and employment.

A petition for an LRA commitment must set forth a proposed plan for LRA services. In entering an LRA order, the court must identify the services the person committed to the LRA will receive. The court may order additional evaluation of the person if necessary to identify appropriate services.

Regional support network contracts must require the RSN to provide specified services to persons ordered by the court to LRA treatment who: (1) are enrolled in Medicaid and meet RSN access to care standards; or (2) are not enrolled in Medicaid and do not have other

insurance to pay for services, if the RSN has adequate available resources to provide the services. Additionally, contracts must establish caseload guidelines for care coordinators and guidelines for response times during and immediately following periods of hospitalization or incarceration.

Duration of LRA Orders.

When entering an LRA order for a person eligible for up to 180 days of involuntary mental health treatment, a court may enter an order for up to one year of treatment, rather than for up to 180 days, if the person's previous commitment term was for inpatient treatment in a state hospital. Subsequent orders are for up to 180 days.

Enforcement of LRA Orders and Early Release.

Facilities and agencies overseeing treatment and designated mental health professionals (DMHPs) are authorized to take responsive actions to enforce compliance with an LRA or conditional release order. Responsive actions may include, but are not limited to:

- counseling, advising, or admonishing the person as to their rights and responsibilities under the order and offering compliance incentives;
- increasing the intensity of services through more frequent provider contacts, referral for assessment for assertive community services, or by other means;
- requesting a court hearing for review and modification of the order;
- causing the person to be transported by a peace officer, DMHP, or other means to the facility providing services or to another facility for up to 12 hours to determine whether modification, revocation, or commitment proceedings are appropriate. Detention is intended to occur only after a pattern of noncompliance or failure of reasonable attempts at engagement and is only permitted upon a clinical determination that temporary detention is appropriate; and
- initiating revocation proceedings.

In deciding whether to initiate modification or revocation of an LRA, a DMHP or overseeing facility or agency must consider relevant information from credible witnesses, including family and others with significant contact and history of involvement with the person. Additionally, the court must consider the person's symptoms and behavior in light of all available evidence concerning the person's historical behavior. If inpatient treatment is sought for a person committed to an LRA based on a finding of in need of AOT, the inpatient treatment must be initiated under a new petition for involuntary treatment.

Votes on Final Passage:

House	90	8	
Senate	48	1	(Senate amended)
House	86	9	(House concurred)

Effective: July 24, 2015
April 1, 2016 (Sections 2, 15, and 19)