

# HOUSE BILL REPORT

## HB 1907

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**As Reported by House Committee On:**  
Civil Rights & Judiciary  
Appropriations

**Title:** An act relating to the substance use disorder treatment system.

**Brief Description:** Concerning the substance use disorder treatment system.

**Sponsors:** Representatives Davis, Appleton, Doglio, Ryu, Goodman and Jinkins.

**Brief History:**

**Committee Activity:**

Civil Rights & Judiciary: 2/19/19, 2/22/19 [DPS];

Appropriations: 2/26/19, 2/28/19 [DP2S(w/o sub CRJ)].

**Brief Summary of Second Substitute Bill**

- Encourages a pathway for dual licensure as both an evaluation and treatment facility and a secure withdrawal management and stabilization facility.
- Requires the Health Care Authority to produce an update to the designated crisis responder statewide protocols to address issues related to behavioral health integration and the applicability of commitment criteria to individuals with substance use disorders by December 1, 2019.

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### HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Jinkins, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Hansen, Kilduff, Kirby, Klippert, Orwall, Shea, Valdez, Walen and Ybarra.

**Staff:** Ingrid Lewis (786-7289).

**Background:**

Effective April 1, 2018, the Involuntary Treatment Act (ITA) and the provisions pertaining to involuntary mental health treatment were expanded to include commitments for substance

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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.*

use disorders. Under the ITA, a person may be ordered to undergo involuntary behavioral health treatment if the person, as a result of a mental health or a substance use disorder, poses a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient behavioral health treatment. Designated crisis responders (DCR) are mental health professionals appointed to conduct evaluations for individuals with mental disorders and substance use disorders under the ITA. The Health Care Authority is required to develop statewide protocols to be utilized by professional persons and designated crisis responders in administration of the ITA and update these proposals every three years. The current DCR protocols are not due for update until 2020.

Under the ITA, a person may be ordered to undergo involuntary behavioral health treatment if the person, as a result of a mental health or a substance use disorder, poses a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient behavioral health treatment.

"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.

A person who poses a likelihood of serious harm or is gravely disabled may be committed for up to 72 hours for an initial evaluation at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment facility. Upon subsequent petitions and hearings for further treatment, an adult posing a likelihood of serious harm or grave disability may be court ordered to consecutive terms of treatment lasting up to 14 days, up to 90 days, and successive terms of up to 180 days.

The Department of Health is responsible for certifying and licensing behavioral health service providers, including evaluation and treatment facilities, secure detoxification facilities, and approved substance use disorder treatment facilities, and establishing minimum standards for service provision.

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### **Summary of Substitute Bill:**

References to "secure detoxification facility" are changed to "secure withdrawal management and stabilization facility" in the adult and minor involuntary treatment acts.

The definition of "likelihood of serious harm" is modified to include a reasonable certainty that a person will suffer severe physical or mental harm as manifested by recent behavior demonstrating an inability to avoid risk or to protect the person adequately from impairment or injury.

The Department of Health is required to develop a process by which a provider of behavioral health services can become dually licensed as both an evaluation and treatment facility and a secure withdrawal management and stabilization facility.

### **Substitute Bill Compared to Original Bill:**

The substitute bill removes provisions related to the reimbursement rate for substance use disorder treatment and ambulance services, and removes the provision related to technical assistance and mental health training to secure withdrawal management and stabilization facilities.

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**Appropriation:** None.

**Fiscal Note:** Requested on February 12, 2019.

**Effective Date of Substitute Bill:** This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 4, 6, 8, 11, 14, 30, 32, 34, 37, 39, and 41, relating to expiring the language stating that commitments to secure detoxification facilities and approved substance use disorder treatment programs are subject to facility availability and available space, which take effect July 1, 2026.

**Staff Summary of Public Testimony:**

(In support) Ricky's Law was passed in 2016 and integrated the mental health and substance use disorder treatment involuntary treatment systems in April 2018. There are 45 secure detoxification beds for adults located in Chehalis and Spokane. Since the law has been in effect, only 30 percent of the beds are being used for individuals detained under Ricky's Law. There have been several implementation obstacles. There should be an ability to dually certify secure detoxification facilities and evaluation and treatment facilities so that an individual can receive the appropriate care if they have co-occurring conditions. Many individuals may need to detox, but a mental illness is the underlying issue. Substance use disorder facilities are not funded to provide those services and cannot staff mental health professionals on an ongoing basis. Current law defines risk of harm to self and grave disability primarily in the context of mental illness, and this does not capture an individual who survives a nearly fatal overdose or an individual who has a life threatening medical condition due to substance use. Transport to a security detoxification facility from an emergency department occurs via ambulance. The most populous county in Washington has not been implementing the law because the county is unable to find an ambulance company who will contract for the rate.

Individuals suffering from a substance use disorder cannot make rational decisions because the disease chemically changes the logical thought process.

(Opposed) None.

**Persons Testifying:** Representative Davis, prime sponsor; Debra Mayer; Len McComb, Washington State Hospital Association; and Tony Prentice, American Behavioral Health Systems.

**Persons Signed In To Testify But Not Testifying:** None.

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**HOUSE COMMITTEE ON APPROPRIATIONS**

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Civil Rights & Judiciary. Signed by 30 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Cody, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Jinkins, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Senn, Springer, Stanford, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

**Minority Report:** Do not pass. Signed by 1 member: Representative Chandler.

**Staff:** Andy Toulon (786-7178).

**Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Civil Rights & Judiciary:**

The Appropriations Committee recommended removing language that modified the definition of "likelihood of serious harm" under the Involuntary Treatment Act. Within existing resources, the Health Care Authority (Authority) shall develop an addendum to designated crisis responder statewide protocols in consultation with representatives of designated crisis responders, the Department of Social and Health Services, local government, law enforcement, county and city prosecutors, public defenders, and groups concerned with mental illness and substance use disorders. The addendum must update the current protocols to address implementation of the integration of mental health and substance use disorder treatment systems, to include the applicability of commitment criteria and general processes for referrals and investigations of individuals with substance use disorders. The Authority shall adopt and submit the addendum to the Governor and the Legislature by December 1, 2019.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 25, 2019.

**Effective Date of Second Substitute Bill:** This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42, relating to expiring the language stating that commitments to secure detoxification facilities and approved substance use disorder treatment programs are subject to facility availability and available space, which take effect July 1, 2026.

**Staff Summary of Public Testimony:**

(In support) None.

(Opposed) None.

**Persons Testifying:** None.

**Persons Signed In To Testify But Not Testifying:** None.