

SENATE BILL REPORT

SB 5672

AS REPORTED BY COMMITTEE ON HEALTH & LONG-TERM CARE,
MARCH 5, 1991

Brief Description: Changing provisions relating to antipsychotic medication.

SPONSORS: Senators Niemi, McDonald, West, L. Smith and Sutherland; by request of Office of Financial Management and Dept. of Social & Health Services.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5672 be substituted therefor, and the substitute bill do pass.

Signed by Senators West, Chairman; L. Smith, Vice Chairman; Amondson, Johnson, L. Kreidler, Niemi, and Wojahn.

Staff: Laura Farris (786-7784)

Hearing Dates: February 26, 1991; March 5, 1991

BACKGROUND:

In Harper v. State, the Washington State Supreme Court ruled that mental health providers must obtain a court order before they can administer antipsychotic medications to a prison inmate against the inmate's will. The Legislature responded in 1989 by requiring a judicial hearing for all mental health patients before antipsychotic drugs can be administered against their will. Concerns have been raised as to the cost and cumbersomeness of this judicial hearing requirement.

In 1990 the U.S. Supreme Court overturned the Washington State Supreme Court's Harper decision. The U.S. Supreme Court ruled that a full dress judicial hearing is not required before antipsychotic medications can be administered to a prisoner who refuses them.

SUMMARY:

If a person is found to be gravely disabled or dangerous as a result of a mental disorder, he or she has the right to refuse antipsychotic medication unless it is determined that the 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 in the best interest of that person.

The Department of Social and Health Services is required to adopt several rules: the facility must attempt to get the patient's informed consent before administering antipsychotic

drugs against a patient's will; there must be an additional concurring medical opinion approving medication for short term treatment; the decision to medicate for continued treatment must be reviewed periodically by the medical director or his/her designee; the physician's attempt to obtain informed consent and the reasons why antipsychotic medication is being administered must be included in the patient's medical record; standards for emergency treatment and review within 24 hours must be set which is consistent with existing statutory law.

Liability is removed for the person administering antipsychotic drugs, regardless of the presence of an emergency. The term "shock treatment" is replaced by the term "electroconvulsant therapy."

EFFECT OF PROPOSED SUBSTITUTE:

"Short-term treatment" is defined as that up to 30 days, and "continued treatment" as that beyond 30 days but no more than 90 days.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

Short-term treatment should not be delayed by the need to get a court order to override lack of consent. If there was no judicial hearing requirement, the financial and administrative burden on mental health providers would be lessened. This would allow the community mental health programs to retain patients rather than sending them on to the state hospital for short-term treatment.

TESTIMONY AGAINST:

The right to refuse treatment is a fundamental civil right.

TESTIFIED: PRO: Jack P. Bilsborough, Lucile Stanfield, Alliance for Mentally Ill; Joanne Asaba, King County RSN; Daniel Dowd, NW Evaluation & Treatment Center; Peter Davidson, Ira Klein, Western State Hospital; Steve Duncun, WA State Psychiatric Assn.; Susan Caverly, WA State Nurses Assn.; Ben Kuhner, M.D., Kitsap Mental Health Center; CON: Kathleen Rhoads, Nancy Cox, Jesse White, Capital Clubhouse; Jerry Sheehan, ACLU