

HOUSE BILL REPORT

ESHB 1349

As Passed Legislature

Title: An act relating to additional grounds for renewal of orders for less restrictive treatment.

Brief Description: Renewing orders for less restrictive treatment.

Sponsors: House Committee on Human Services (originally sponsored by Representatives Green, Moeller, Dickerson, Cody and Kenney).

Brief History:

Committee Activity:

Human Services: 1/28/09, 2/5/09 [DPS].

Floor Activity:

Passed House: 3/9/09, 97-0.

Senate Amended.

Passed Senate: 4/13/09, 47-0.

House Refuses to Concur.

House Concurred.

Passed House: 4/20/09, 89-0.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Creates additional grounds to petition to extend involuntary treatment of a person who is already the subject of a court order for less restrictive treatment.

HOUSE COMMITTEE ON HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Dickerson, Chair; Orwall, Vice Chair; Dammeier, Ranking Minority Member; Green, Klippert, Morrell, O'Brien and Walsh.

Staff: Linda Merelle (786-7092)

Background:

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.

The Involuntary Treatment Act (ITA) sets forth the procedures, rights, and requirements for an involuntary civil commitment. Persons can be initially detained for up to 72 hours for evaluation and treatment. Upon a petition to the court and subsequent order, the person may be held for an additional 14 days. Upon a further petition and order by a court, a person may be held for a period of 90 days. If a person has been determined to be incompetent and criminal charges have been dismissed, and the person has committed acts constituting a felony as a result of a mental disorder and presents a substantial likelihood of repeating similar acts, the person may be further committed for a period of up to 180 days. No order of commitment under the ITA may exceed 180 days.

After a hearing pursuant to a petition for a 90-day commitment, the court may find that a less restrictive alternative (LRA) is more appropriate than a commitment to a state facility. When the 90-day term of the less restrictive alternative is complete, the person shall be released from involuntary treatment unless a designated mental health professional files a new petition for involuntary treatment on the grounds that:

- the respondent has threatened, attempted, or inflicted physical harm upon another person or has inflicted substantial damage upon the property of another; and as a result of a mental disorder or developmental disability, the person presents a likelihood of serious harm; or
- the respondent was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm to another person and continues to present a likelihood of serious harm as a result of a mental disorder or developmental disability; or
- the respondent is in custody as a result of criminal allegations of a felony offense, and the respondent has been determined to be incompetent and as a result of a mental disorder presents a substantial likelihood of repeating similar acts; or
- the respondent continues to be gravely disabled.

Under each option, the petitioner must demonstrate that the respondent presents a likelihood of serious harm. Pursuant to the grounds set forth for continued commitment, the court may order the person returned for an additional period of treatment not to exceed 180 days.

Summary of Engrossed Substitute Bill:

The bill creates additional grounds for a petition to continue a court order for less restrictive treatment. The additional grounds for a new petition for continued treatment under the LRA are:

- the person has a history of lack of compliance with treatment for mental illness which precipitated the current period of commitment and at least one other involuntary commitment 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 less restrictive treatment, in view of the person's treatment history or current behavior; and

- outpatient treatment that would be provided under a less restrictive treatment 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 grounds to extend treatment pursuant to an order for less restrictive treatment are less than those required for the initial order for less restrictive treatment. The petitioner does not need to show that the respondent is likely to commit serious harm to himself, herself or others, or that the respondent is gravely disabled.

An extension of a less restrictive treatment order is not permitted where the determination of a likelihood of serious harm is based solely on harm to the property of others.

A new section is created for the treatment of a person with a developmental disability who is civilly committed.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill could prevent inpatient commitments by keeping persons in a less restrictive alternative when it is appropriate. It allows an expected continuation of a deterioration to be a reason for keeping a person in a less restrictive alternative (LRA) rather than a factor. Extending participation in a LRA takes into consideration the seriousness of the person's illness and difficulty in establishing a stable sense of themselves. It allows an individual enough time to gain an insight to his or her illness. It is more cost effective to keep giving them help rather than allowing them to have a break down.

(With concerns) The questions arises whether the decision-makers will see their jobs as carrying out the intent of the involuntary treatment act or will they be susceptible to other influences. This bill can help with safety net and bed availability shortages.

Persons Testifying: (In support) Representative Green, prime sponsor; Ethan Rogers, King County Prosecutor's Office; James Adams, National Alliance on Mental Illness - Washington; and Eleanor Owen, National Alliance on Mental Illness - Greater Seattle.

(With concerns) Ian Harrol, Washington Association of Designated Mental Health Professionals.

Persons Signed In To Testify But Not Testifying: None.