

# SENATE BILL REPORT

## ESHB 1349

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As Reported by Senate Committee On:  
Human Services & Corrections, March 26, 2009

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

**Committee Activity:** Human Services & Corrections: 3/24/09, 3/26/09 [DPA].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** Do pass as amended.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

**Staff:** Kevin Black (786-7747)

**Background:** A person who is committed for involuntary mental health treatment under the Involuntary Treatment Act must be ordered to receive treatment in the least restrictive setting available which will meet the person's needs. An order of commitment requiring a person to participate in outpatient treatment is known as a less restrictive alternative (LRA). An LRA order may have a duration of 90 or 180 days. An LRA order typically requires the person to reside in a specific location, attend treatment appointments, follow treatment recommendations, take prescribed medications, refrain from alcohol or unprescribed drugs, and refrain from acts which threaten or do harm to self, others, or property. An LRA order may be entered at any commitment hearing. An LRA order is typically sought when a person who has been involuntarily committed is discharged from an inpatient facility.

An LRA order may be revoked by a court, and the person may be placed in inpatient treatment, if the court finds that either (1) the person did not abide by the terms of the order; (2) substantial deterioration in the person's functioning has occurred; (3) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (4) there is a likelihood of serious harm. The court

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must also make a finding as to whether the terms of the LRA should be modified, or the person should be detained at an inpatient facility.

An LRA order ends upon expiration of the 90 or 180 day period. The LRA can only be renewed if a designated mental health professional (DMHP) files a new petition alleging that the person either continues to present a likelihood of serious harm, continues to be gravely disabled, or for a person found incompetent to stand trial for a felony, continues to present a substantial likelihood of repeating similar acts, and the court finds in favor of the new commitment.

**Summary of Bill (Recommended Amendments):** The Legislature finds that LRA orders may enhance the the long-term stability and success of a person with a mental illness in the community and that LRA orders enhance public safety.

When a person is committed to an LRA following a period of involuntary inpatient treatment, additional grounds are established for renewal of an LRA order. In addition to the grounds under current law, a DMHP may petition for renewal of an LRA order if the following conditions are met:

- the person was committed to a prior period of involuntary inpatient treatment within the 36 months preceding the current commitment period, excluding any time spent in a mental health facility or in confinement as a result of a criminal conviction;
- in view of treatment history or current behavior, the person is unlikely to participate in outpatient treatment without an LRA order; and
- treatment is necessary in 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 period of time.

A renewal of LRA commitment under this lower standard is not permitted if 36 months have expired since the last discharge of the person from involuntary inpatient treatment.

**EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Amendments):** Clarifies language; deterioration, decompensation, or a lack of compliance with treatment need not be separately proven when there is proof of prior commitment, and the person who is the subject of the petition is not likely to continue outpatient treatment that is necessary in order to prevent relapse, decompensation, or deterioration.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Engrossed Substitute House Bill:** PRO: An LRA is like mental health probation. This bill strikes a good balance between public safety, civil rights, and respectful and dignified treatment for the mentally ill. Right now, it takes a

pretty serious act to get an LRA extended. This bill would expand the methods for extending the LRA. We put a three-year limit on these renewals in response to feedback on the original bill. Not having an LRA can lead to harm or death to patients, and did lead to death in a recent case in King County.

**Persons Testifying:** PRO: Representative Green, prime sponsor; Ethan Rogers, King County Prosecutors' Office.