

HOUSE BILL REPORT

ESHB 1448

As Passed House:
March 9, 2015

Title: An act relating to procedures for responding to reports of threatened or attempted suicide.

Brief Description: Providing procedures for responding to reports of threatened or attempted suicide.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Riccelli, Holy, Parker, Ormsby, Caldier, Hayes, Jinkins, Walkinshaw, Gregerson, Appleton, Ryu, McBride and Shea).

Brief History:

Committee Activity:

Judiciary: 1/28/15, 2/5/15 [DPS];
Appropriations: 2/24/15, 2/27/15 [DPS(JUDI)].

Floor Activity:

Passed House: 3/9/15, 93-5.

Brief Summary of Engrossed Substitute Bill

- Creates a process allowing a law enforcement officer to prompt a mental health assessment of a person who has threatened or attempted suicide, through notation in an incident report or by other means.
- Requires the Washington Association of Sheriffs and Police Chiefs to assist local jurisdictions in developing a system for officers to document the need for a mental health evaluation in an incident report by January 1, 2016, and in developing alternative notification protocols.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Member; Shea, Assistant Ranking Member; Goodman, Halder, Hansen, Kirby, Muri, Orwall, Stokesbary and Walkinshaw.

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

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.

Staff: Omeara Harrington (786-7136).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Judiciary be substituted therefor and the substitute bill do pass. Signed by 23 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Parker, Assistant Ranking Minority Member; Buys, Carlyle, Cody, Dunshee, Haler, Hansen, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, MacEwen, Pettigrew, Sawyer, Senn, Springer, Stokesbary, Sullivan, Tharinger and Walkinshaw.

Minority Report: Do not pass. Signed by 9 members: Representatives Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Condotta, Dent, G. Hunt, Magendanz, Schmick, Taylor and Van Werven.

Minority Report: Without recommendation. Signed by 1 member: Representative Fagan.

Staff: Andy Toulon (786-7178).

Background:

Standards for Involuntary Mental Health Treatment.

A person may be committed for involuntary mental health treatment under the Involuntary Treatment Act (ITA) if the person, due to a mental disorder, poses a likelihood of serious harm or is gravely disabled and will not voluntarily accept appropriate treatment. Among other circumstances, a person poses a likelihood of serious harm if there is a substantial risk that the person will inflict physical harm upon himself or herself as evidenced by threats or attempts to commit suicide.

Emergent Detention by Law Enforcement.

The ITA grants law enforcement officers the power to temporarily detain persons under emergent conditions. A law enforcement officer with reasonable cause to believe a person is suffering from a mental disorder and poses an imminent likelihood of serious harm or is in imminent danger due to grave disability may take the person into custody and immediately deliver the person to an emergency room or other facility listed in statute. "Imminence" for the purposes of the ITA means that the danger of harm is likely to occur at any moment, or is near at hand, rather than being distant or remote.

A facility may hold a person taken into custody by law enforcement for up to 12 hours. A mental health professional must examine the person within three hours of arrival, and a designated mental health professional (DMHP) must determine within 12 hours whether the individual meets detention criteria. A mental health professional is a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, social worker, or other mental health professional as defined in agency rules. "Designated mental health professionals" are mental health professionals who are responsible for investigating whether or not a person should be detained for an evaluation for involuntary mental health treatment under the ITA.

Initial Detention under the Involuntary Treatment Act.

When a DMHP receives information alleging that a person presents a likelihood of serious harm or is gravely disabled due to a mental disorder, the DMHP must assess the credibility of the information received and attempt to interview the person. If satisfied the allegations are true and that the person will not voluntarily accept treatment, the DMHP may petition the court for an initial detention order authorizing up to 72 hours for evaluation and treatment. A court order to detain a person for a 72-hour period may be issued upon the DMHP's request when the court is satisfied that there is probable cause to support the petition. A person may be detained by a DMHP for up to 72 hours without a court order under emergency circumstances when the likelihood of serious harm or danger due to grave disability is imminent.

Summary of Engrossed Substitute Bill:

"Sheena and Chris Henderson's Law" is enacted.

If an officer responds to a situation in which a person has threatened or attempted suicide, and the officer does not take the person into custody, the officer may note in an incident report that the person is in need of a mental health evaluation. An incident report noting the need for a mental health evaluation must be forwarded to a local-DMHP agency as soon as possible, but no later than 48 hours of its entry, excluding weekends and holidays. Additionally, a law enforcement officer may contact a DMHP agency by other means to notify the agency that a person who has threatened or attempted suicide may need a mental health evaluation.

As soon as possible, but no later than 12 hours from receiving the incident report or other notice, a mental health professional assigned by the DMHP agency must attempt to contact the person who is the subject of the report to determine whether further mental health intervention is necessary. Further intervention may include, if needed, a DMHP assessment for initial detention under the ITA. The DMHP agency is required to maintain documentation of the attempt to contact the person.

By January 1, 2016, law enforcement agencies must have a system in place for officers to document the need for mental health evaluation in an incident report. The Washington Association of Sheriffs and Police Chiefs (WASPC) must assist local jurisdictions in fulfilling this requirement, and in identifying alternative systems and protocols for notifying DMHP agencies when a person who has threatened or attempted suicide is in need of a mental health evaluation.

Peace officers and their employing agencies are not liable for providing or not providing notification to a DMHP agency, as long as the action or inaction is taken in good faith and without gross negligence.

Legislative findings are made that law enforcement officers respond to incidents of threatened self-harm, and, when the person does not meet the criteria for commitment, officers are encouraged to facilitate a mental health evaluation in order to protect the individual and the community. The Legislature also acknowledges that some law enforcement officers receive mental health training, but that officers are not mental health professionals, and intends that health incidents are addressed by mental health professionals.

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 (Judiciary):

(In support) This is a somber piece of legislation that hopefully addresses holes in law enforcement response. Like cancer, mental health issues can impact anyone at any time. The mental health system is broken. Line officers are often the first to respond to suicide calls, and this is another tool for law enforcement. Under current law, an officer can only take a person in if they meet the commitment criteria. This allows an officer to have a course of action when they encounter someone who does not meet those criteria, but the officer has a feeling needs to be evaluated. Mental health emergencies should be addressed by mental health professionals. There may be some difficulties with the 12-hour limit, but the WASPC has until January 2016 to work through those challenges.

This bill is named after a woman who was murdered by her estranged husband. Her husband was sick and did not receive the help he needed. An amendment is proposed to rename the law in honor of both of them. Had a law like this existed, this tragedy may not have happened. In this case, the husband was suicidal, and was detained at the hospital for only three hours and discharged with no follow up. He continued to deteriorate, became abusive, and began to make threats against his wife. He was evaluated, but was determined to be not detainable, and was released. The next day he murdered his wife. It was apparent from the police reports that law enforcement had second thoughts and had planned to make a referral. The referral process can take weeks and there is no requirement for a DMHP to follow up. This bill gives officers peace of mind so that when a person does not meet the strict criteria for detention, they can still connect the person with resources.

Changes to this bill will make it stronger. Rather than two 12-hour time frames, law enforcement should be required to call mental health services directly. There should be language defining what constitutes a serious threat. When law enforcement chooses not to detain a person, the officer should provide the family with an informational brochure with the number of the DMHP agency, and other rights and resources. The mental health professionals identified should be broader than DMHPs. In some cases other mental health professionals could be used to alleviate workload and triage issues. All mental health professionals are trained in suicide management. All patrol officers should receive crisis intervention training.

(Opposed) Every life matters, but there are concerns with this bill. Under current practice, if law enforcement thinks a person poses a danger they try to get the person to voluntarily accept treatment. If the person refuses, and meets commitment criteria, they are referred to the involuntary treatment system. If there is a serious risk, law enforcement does not leave the scene. This bill only applies when a law enforcement officer does not think a person poses a risk to self. It misses the mark to take the lowest risk cases and refer them to the

involuntary system. It would be a better approach to try to address the gaps in the system that allowed this to happen.

Staff Summary of Public Testimony (Appropriations):

(In support) In July there was a tragic murder-suicide as a result of the mental health system being broken. This bill provides a permissive tool for law enforcement to make sure more people facing mental health emergencies get the treatment they need.

Sheena was shot by her husband Chris, who had been seen by the mental health system for a total of three hours and then released. In another incident, police reports indicate that the officers felt there was something they should do about the husband, but there was nothing they could do because he did not meet the criteria for commitment. This bill provides officers with a tool to have a mental health professional follow up in these cases which will avoid further accidents and tragedies.

(Opposed) None.

Persons Testifying (Judiciary): (In support) Representative Riccelli, prime sponsor; Gary Kennison; Kristen Otoupalik; Allison Wintrip; Jamie Daniels, Washington Council of Police and Sheriffs; and Gregory Robinson, Washington Community Mental Health Council.

(Opposed) James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Testifying (Appropriations): Representative Riccelli, prime sponsor; and Gary Kennison.

Persons Signed In To Testify But Not Testifying (Judiciary): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.