
Judiciary Committee

E2SSB 5269

Title: An act relating to court review of detention decisions under the involuntary treatment act.

Brief Description: Concerning court review of detention decisions under the involuntary treatment act.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators O'Ban, Darneille, Rolfes, Dinsel, Miloscia, Pearson, Bailey, Padden, Becker, Frockt, Habib and Pedersen).

Brief Summary of Engrossed Second Substitute Bill

- Establishes a process allowing an immediate family member, guardian, or conservator to petition the court for review of a designated mental health professional's decision not to seek a person's detention under the Involuntary Treatment Act.
- Requires the Department of Social and Health Services, regional support networks, and agencies employing designated mental health professionals to provide notice of the petition process.

Hearing Date: 3/18/15

Staff: Omeara Harrington (786-7136).

Background:

The Involuntary Treatment Act (ITA) sets forth the procedures, rights, and requirements for involuntary civil commitment. The standard for commitment under the ITA is that, due to a mental disorder, a person poses a likelihood of serious harm or is gravely disabled. "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. "Grave disability" means that a person is in danger of serious physical harm due to a failure to provide for his or her

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own essential human needs, or that a person manifests a severe deterioration in routine functioning, evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions, and is not receiving essential care.

Designated mental health professionals (DMHPs) are responsible for investigating whether or not a person should be detained for an evaluation for involuntary mental health treatment. The initial detention period under the ITA is for up to 72 hours, excluding weekends and holidays. Under emergency circumstances, when the likelihood of serious harm or danger due to grave disability is imminent, a person may be detained without a court order. Under non-emergent conditions, a court order is required for an initial detention. 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 and that the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

Prior to pursuing initial detention, the DMHP must assess the credibility of the information received and attempt to interview the person about whom the information has been provided. The DMHP must also consider all reasonably available information from credible witnesses and records regarding any history of one or more violent acts, prior commitments under the ITA, prior determinations of incompetency or insanity, and prior recommendations for evaluation for incompetency or insanity in criminal proceedings. Credible witnesses include anyone with significant contact and history of involvement with the person. The DMHP cannot seek initial detention for involuntary treatment unless satisfied that the allegations are true and the person will not voluntarily seek appropriate treatment.

Summary of Bill:

Joel's Law is enacted.

An immediate family member, guardian, or conservator of a person may petition the superior court for review of a DMHP's decision to not detain the person for evaluation and treatment under the ITA, or to not take action within 48 hours of a request for investigation. Immediate family members include: spouses, domestic partners, children, stepchildren, parents, stepparents, grandparents, and siblings.

A petition must be submitted on a form developed by the courts, and must be accompanied by a sworn declaration of the petitioner, and other witnesses if desired, describing why the person should be detained for evaluation and treatment. The petition must state the relationship between the petitioner and the person and the date on which the investigation was requested. A declaration containing the professional opinion of a mental health professional familiar with the person may be submitted in support of the detention.

The court must review the petition for sufficient evidence, and, if sufficient evidence is found, the court must order the DMHP to provide the court and the petitioner with a detailed statement within one business day that describes the investigation and the decision not to file for initial detention. At any time prior to the court reaching a decision, any person may submit a declaration to the court in support of or in opposition to the detention. The court must dismiss the petition at any time if it finds that the person has been detained or has volunteered for treatment.

The court must render a final decision within five days of the petition being filed and transmit its final decision to the petitioner. The court may enter an order for initial detention if it finds, upon review of all provided information, that there is probable cause to support a petition for initial detention and that the person has refused or failed to accept appropriate evaluation and treatment voluntarily. The court must provide the order to the DMHP agency, which must execute the order without delay. The order expires within 180 days.

The Department of Social and Health Services and each regional support network or agency employing DMHPs is required publish information describing the petition process in an easily accessible format. Upon receiving a request for an investigation, a DMHP or DMHP agency must inquire whether the request is from someone with standing to bring a petition for review of a detention decision. If the person is not detained within 48 hours, the DMHP or DMHP agency is required to inform the requesting party of the petition process.

The act is null and void if not funded in the omnibus appropriations act.

Appropriation: None.

Fiscal Note: Requested on March 6, 2015.

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