
Civil Rights & Judiciary Committee

HB 2469

Brief Description: Concerning involuntary treatment.

Sponsors: Representatives Davis, Griffey, Ryu, Bronoske, Santos, Chopp and Barkis.

Brief Summary of Bill

- Revises provisions of the Involuntary Treatment Act to: require courts to consult the Judicial Information System before entering relief, expand eligible petitioners under Joel's Law, address determinations regarding whether a person will seek voluntary treatment, and address required notices of loss of firearm rights.
- Requires the Health Care Authority (HCA) to contract with organizations to: convene focus groups to make recommendations on improving experiences and outcomes for civil commitment patients, and develop a proposal for a statewide network of secure, trauma-informed transport for civil commitment patients.
- Requires the HCA to contract with an association representing designated crisis responders to develop a training program for licensed social workers who practice in an emergency department with responsibilities related to involuntary civil commitments.

Hearing Date: 1/26/24

Staff: Edie Adams (786-7180).

Background:

Involuntary Treatment Act.

The Involuntary Treatment Act (ITA) sets forth the procedures, rights, and requirements for

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involuntary behavioral health treatment for adults. A person may be committed by a court for involuntary behavioral health treatment if the person, due to a mental health or substance use disorder, poses a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient treatment, and the person will not consent to voluntary treatment. The provisions governing involuntary treatment of minors over the age of 13 are parallel with the adult ITA in many respects.

Designated crisis responders (DCRs) are responsible for investigating and determining whether a person may be in need of involuntary treatment. The DCR must investigate and evaluate the specific facts alleged and the reliability and credibility of information supporting detention. The DCR must personally interview the person to determine whether the person will voluntarily receive appropriate evaluation and treatment.

If the DCR finds a basis for commitment and that the person will not consent to voluntary treatment, the DCR may detain or petition a court to order detention for the person for up to 120 hours, excluding weekends and holidays, to an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment facility. After the initial 120-hour detention, the facility providing treatment may petition the court to have the person committed for further behavioral health treatment for 14 days. Upon subsequent petitions and hearings, a court may order up to an additional 90 days of commitment at a state hospital, followed by successive terms of up to 180 days of commitment. When entering an order for involuntary treatment at any stage, the court must order an appropriate less restrictive alternative (LRA) course of treatment rather than inpatient treatment if the court finds that LRA treatment is in the best interest of the person.

A petition based on a person being in need of assisted outpatient treatment (AOT) may be brought by the following persons: the director of a hospital where the person is hospitalized or the director's designee; the director of a behavioral health service provider that is providing behavioral health care or residential services to the person, or the director's designee; the person's treating mental health professional or substance use disorder professional, or one who has evaluated the person; a DCR; a release planner from a corrections facility; or an emergency room physician.

Factors Considered by the Court.

A court deciding whether or not to order commitment must consider the person's symptoms and behavior in light of all available evidence concerning the person's historical behavior. Courts are instructed to consider certain symptoms and behavior, which standing alone would not justify commitment, but that may support a finding of likelihood of serious harm or grave disability, such as symptoms and behavior that are closely associated with a past incident of involuntary hospitalization, severe deterioration, or one or more violent acts. When making a determination of whether there is a likelihood of serious harm, the court must give great weight to any evidence regarding whether the person has a recent history of one or more violent acts or a recent history of one or more civil commitments that were based on a likelihood of serious harm.

Before entering an order in a civil commitment proceeding, the court is authorized to consult the Judicial Information System or any related databases to determine the respondent's criminal history or pendency of other proceedings relating to the respondent.

Court Review of Initial Detention Decisions.

When a DCR decides not to detain a person for evaluation and treatment, or does not take action to have a person detained within 48 hours of a request for investigation, an immediate family member or guardian or conservator of the person, or a federally recognized Indian tribe if the person is a member of the tribe, may petition the superior court for initial detention of the person. The petition must include a description of the petitioner's relationship with the person and a sworn declaration that describes why the person should be detained for evaluation and treatment. If the court finds that the petition presents sufficient evidence, the court must order the DCR to provide a detailed description of the investigation and decision not to file for initial detention, along with a copy of all information material to the DCR's decision. Any person may submit a sworn declaration in support of or in opposition to the petition.

Within five days of a petition being filed, the court must render a final decision. An order for initial detention may be entered if the court finds probable cause to support a petition for initial detention and that the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

Upon receiving a request for an investigation for an initial detention of a person, a DCR or DCR agency must inquire whether the request is from an immediate family member, guardian, or conservator, or a federally recognized Indian tribe if the person is a member of the tribe. If the DCR decides not to detain the person, or if the person is not detained within 48 hours, the DCR or DCR agency must inform the immediate family member, guardian, or conservator of the process for petitioning the court for detention.

Notice of Loss of Firearms Rights.

A person who is committed for involuntary mental health treatment for 14 days or longer loses the right to possess a firearm under state and federal law. When a petition is for 14 days of inpatient treatment, 90 days of LRA treatment, or 18 months of LRA treatment based on a petition for AOT, the court at the time of the probable cause hearing and before a commitment order is entered must inform the person both orally and in writing that the failure to make a good faith effort to seek voluntary treatment will result in the loss of his or her firearm rights if the person is subsequently committed for involuntary treatment. If the court enters a commitment order, the court must notify the person orally and in writing that the person is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm.

Summary of Bill:

DCR Investigations.

When a DCR conducts an investigation and evaluation of a person for potential initial detention,

if the person has a past history of not following through with voluntary evaluation and treatment plans or prematurely discontinuing voluntary treatment, there is a presumption that the patient will not in good faith voluntarily seek appropriate treatment. If a DCR determines not to detain a person on the basis that the person will voluntarily seek appropriate treatment, the DCR must document the reasons for determining that the person will in good faith seek voluntary treatment.

Court Consultation of the Judicial Information System.

A court must consult the Judicial Information System or alternative databases to determine the respondent's criminal history and prior civil commitments before issuing an order or making a determination regarding whether a person is gravely disabled, presents a likelihood of serious harm, or is in need of assisted outpatient treatment.

Court Review of Initial Detention Decisions.

Persons authorized to file a petition for initial detention when a DCR has determined not to detain a person are expanded to include any family or household member, a representative of a human services provider that has provided services to the person, and any person authorized to petition for assisted outpatient treatment. "Family or household member" includes: persons related by blood, marriage, domestic partnership, or adoption; persons who currently reside together or formerly resided together; and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren. "Human services provider" means an organization that provides behavioral health services, case management, housing and homelessness services, food or economic assistance, or other similar programs.

Notice of Loss of Firearm Rights.

In a proceeding for 14 days of inpatient treatment, 90 days of LRA treatment, or 18 months of LRA treatment based on an AOT petition, the respondent may waive the right to receive at the probable cause hearing oral and written notice that an order of commitment will result in the loss of firearm rights, if the respondent has waived the respondent's presence at or before the probable cause hearing.

Health Care Authority Responsibilities.

The HCA is directed to contract with a peer-led organization to convene focus groups of people with lived experience of being civilly committed to make recommendations about how to make the process less traumatic and improve experiences and outcomes for patients. The focus groups should include individuals who have been civilly committed on the basis of a mental disorder and on the basis of a substance use disorder. The HCA must issue a report to the Governor and the relevant committees of the Legislature on the recommendations by December 1, 2024.

The HCA must contract with an organization to develop a proposal for a statewide network of secure, trauma-informed transport for civilly committed patients that is provided by a nonambulance service and available in each Behavioral Health Administrative Services Organization. The contracted organization must consult with people with lived experiences of

receiving transport in connection with a civil commitment. The HCA must issue a report to the Governor and the relevant committees of the Legislature on the recommendations by December 1, 2024.

The HCA must contract with an association that represents DCRs in Washington to develop and begin delivering by July 1, 2025, a training program for licensed social workers who practice in an emergency department with responsibilities related to involuntary civil commitments. The training must include instruction emphasizing standards and procedures relating to the civil commitment of persons with substance use disorders. Each hospital shall ensure that, by July 1, 2026, or within three months of hire, all social workers employed in the emergency department with responsibilities relating to involuntary civil commitments complete the training every three years.

Appropriation: None.

Fiscal Note: Requested on January 24, 2024.

Effective Date: The bill contains multiple effective dates. Please see the bill.