

SENATE BILL REPORT

SB 5229

As Reported by Senate Committee On:
Law & Justice, January 30, 2025

Title: An act relating to facilitating civil commitment for treatment for a person requiring revival by opioid overdose reversal medication.

Brief Description: Facilitating civil commitment for treatment for a person requiring revival by opioid overdose reversal medication.

Sponsors: Senator Wagoner.

Brief History:

Committee Activity: Law & Justice: 1/27/25, 1/30/25 [DPS-WM].

Brief Summary of First Substitute Bill

- Increases options for proving a person is gravely disabled by a behavioral health disorder for the purposes of involuntary commitment by allowing proof that within the past two weeks the person has required revival by opioid overdose reversal medication to prevent a fatality or probable fatality and is not receiving such care as is essential for health or safety.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5229 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Holy, Ranking Member; Fortunato, Lovick, Salomon, Torres and Wagoner.

Staff: Kevin Black (786-7747)

Background: A designated crisis responder (DCR) may detain a person for involuntary

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

commitment based on a behavioral health disorder if, following an investigation, the DCR determines that, due to a behavioral health disorder, the person presents a likelihood of serious harm or is gravely disabled.

A person presents a likelihood of serious harm if, due to a behavioral health disorder, there is a substantial risk the person will inflict physical harm on themselves or others, or on the property of others, as evidenced by behavior which has caused such harm or places others in reasonable fear of harm. It may also mean that the person has threatened the physical safety of another and has a history of one or more violent acts.

A person is gravely disabled if, due to a mental disorder:

- they are in danger of serious physical harm resulting from a failure to provide for their essential human needs of health or safety; or
- they manifest severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over their actions and are not receiving such care as is essential for their health or safety.

A DCR may initiate 120 hours of detention, excluding weekends and holidays, in an evaluation and treatment facility or secure withdrawal management and stabilization facility, after which the person must be released unless a petition is filed asking a court to authorize a longer period of detention for treatment, beginning with 14 days and, if subsequent petitions are filed, increasing to 90 days and then successive periods of 180 days. At such court hearings, the person has the right to counsel and a panoply of constitutional rights to challenge their commitment.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (First Substitute): The options for proving that a person is gravely disabled due to a behavioral health disorder for the purposes of involuntary commitment are expanded to allow proof that the person has, within two weeks prior to their initial detention, required revival by opioid overdose reversal medication to prevent a fatality or near fatality and is not receiving such care as is essential for health or safety.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Adds that the person is not receiving such care as is essential for health and safety.

Appropriation: None.

Fiscal Note: Requested on January 23, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: This bill is about saving lives. People are unable to make good decisions for themselves. If first responders don't show up in time, there is high likelihood they will die. They also take away resources from other people. This bill provides help to those who need it. People suffering this badly from substance use disorder are gravely disabled. Last year Yakima County had 146 deaths by overdose. Even more were revived by Narcan. Fentanyl dramatically increases the risk of death. More beds will be needed. There is also a negative impact on first responders.

CON: Having experienced forced treatment multiple times, it left me feeling hopeless, isolated, and powerless, and did nothing to address the structural reasons that contributed to my use, such as intimate partner violence and lack of a support systems including appropriate medical care. Nonpunitive peer support that prioritizes dignity and autonomy is what works, medications for opioid use disorder is what works. Involuntary treatment perpetuates cycles of harm. Risk of overdose increases 33 percent after involuntary treatment. This deters people from seeking help. This change may have unintended consequences, circumventing assessment of present risk, deterioration, and functioning due to a behavioral health disorder. People who overdose may be able to function in society. We should focus on treatment, harm reduction, and rehabilitation. Involuntary detention should remain a measure of last resort, when a person is truly unable to care for themselves.

Persons Testifying: PRO: Senator Keith Wagoner, Prime Sponsor; James McMahan, Washington Association of Sheriffs & Police Chiefs; LaDon Linde, Yakima County; Anne Anderson, Washington State Narcotics Investigators Association.

CON: Cece Wettemann; Tim Lewis, Thurston-Mason Behavioral Health Administrative Services Organization (DCR Supervisor).

Persons Signed In To Testify But Not Testifying: No one.