

# SENATE BILL REPORT

## SB 5620

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As Reported By Senate Committee On:  
Human Services & Corrections, February 23, 1999

**Title:** An act relating to chemical dependency treatment services.

**Brief Description:** Revising provisions relating to chemical dependency treatment services.

**Sponsors:** Senators Long, Hargrove, Deccio, Prentice, Franklin and Patterson.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/11/99, 2/23/99 [DPS-WM].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 5620 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hargrove, Chair; Costa, Vice Chair; Franklin, Kohl-Welles, Long, Patterson and Zarelli.

**Staff:** Fara Daun (786-7459)

**Background:** As early as 1987, the Legislature recognized the need for cross-referral between the involuntary treatment processes of the chemical dependency and mental health statutes. However, this cooperative model has not been realized. Structural differences in the commitment processes, differences between the eligibility criteria under the two statutes, and a lack of funding for involuntary chemical dependency treatment have created a situation in which some persons would be unable to be committed under either statute, even though they presented a likelihood of serious harm to the public. Revisions to the mental health statutes in recent sessions have led to additional inconsistencies in the involuntary treatment criteria.

The situation is further complicated by the internally inconsistent use of terminology, ambiguous and inconsistent provisions, and hard-to-understand requirements within the chemical dependency chapter.

**Summary of Substitute Bill:** In order to harmonize the chemical dependency and mental health civil commitment statutes, language related to available funds is stricken. The bill retains current language that permits the department to adopt rules and procedures that consider available resources and facilities, and to establish admission priorities and waiting lists. There are also a number of process changes.

- Designated chemical dependency specialists are not required to determine that an appropriate placement is available before filing a petition for involuntary treatment.

- Likewise, the court is not precluded from ordering a commitment if an appropriate placement is not available at the time of the hearing.
- The prosecutor is required to represent the individual or agency petitioning the court for involuntary commitment.
- The "likelihood of serious harm" definition and related provisions have been amended to include the "violent act" and "history of violent act" provisions added to the mental health code in recent sessions. These changes include requiring courts to give "great weight" to evidence of a recent history of violent acts. The legislation also amends current statutory sections based on a likelihood of serious harm to make them internally consistent.

In addition to the current authority to take a person into protective custody, a designated chemical dependency specialist may take a person who is not in a public place into protective custody if the person is at imminent risk of harm and appears to be gravely disabled or incapacitated. This authority includes the authority to cause a peace officer or designated county staff remove the person.

A designated chemical dependency specialist may file a petition for commitment based on grave disability as well as incapacity. All provisions based on incapacity are amended to include grave disability.

The secretary must adopt rules and develop working agreements to facilitate the Division of Alcohol and Substance Abuse (DASA) in its assistance of chemically dependent persons who require additional services to engage those services.

The early release provision that requires a program to release a person who is unlikely to improve or for whom the placement is inappropriate is amended with regard to persons who were committed because they posed a likelihood of serious harm. Where the person is released and not transferred to another facility, the program must notify the designated chemical dependency specialist and relevant court and prosecutor. Where the person unlikely to improve or in an inappropriate placement still presents a likelihood of serious harm, but the county designated mental health professional declines to evaluate or petition for involuntary treatment under the mental health statutes, the person can be released. In this case, the designated chemical dependency specialist or prosecutor must file a new petition under the appropriate statute.

DASA must develop statewide protocols for professional persons and designated chemical dependency specialists in the administration of the provisions of the chemical dependency program and the ADATSA (Alcohol and Drug Addiction Treatment and Support Act) program. The protocols must be submitted to the Legislature and Governor and updated every three years.

The legislation makes a number of clarifying and technical changes that include:

- Recodifying section 70.96A.140 as nine separate sections;

- Unifying terminology throughout the act to create internal consistency that conforms to the defined terms;
- Defining "chemically dependent person" as a person with a chemical dependency (a defined term);
- Rewording and restructuring subsections for clarity. Some sections with clarifying amendments also have policy amendments described above.

New language in the existing legislative findings clarifies that the Legislature does not intend the existence of a "discrete" chemical dependency program to impede or prevent collaboration or coordinated delivery of services to persons who also have mental disorders.

**Substitute Bill Compared to Original Bill:** The substitute amends the early release provisions.

**Appropriation:** None.

**Fiscal Note:** Requested on January 29, 1999.

**Effective Date:** The bill takes effect on January 1, 2001.

**Testimony For:** None of the changes made in the mental health statute to protect the public from persons posing a likelihood of serious harm matter if the person's danger stems from substance abuse. The chemical dependency ITA process does not work, partly because it has never been funded by the Legislature. There are only 65 beds for involuntary chemical dependency treatment in the state. There is a three-week waiting list for these beds. The remedies in the bill are good policy. Treatment works and saves the state money in other services. A longitudinal study of the Pioneer Center North shows that, compared to the year before treatment, the year after discharge shows significant decreases in the use of detox facilities, crisis mental health services, inpatient psychiatric services, and Medicaid-paid medical services.

The Seattle Prosecutor's Office strongly supports the bill because it would allow them to address chronic public inebriates who now cycle through the jails and courts, sometimes as much as 200 times and are currently unable to get treatment. This population represents a substantial ongoing expense for the city.

The biggest problem is that no system of chemical dependency involuntary treatment exists in this state. There are no placements in eastern Washington. This will save money in the long run. Pierce County is able to process uncontested petitions but cannot do others because they do not have the funds. There are outpatient services in some counties for those who are willing, and case management improves results. Women of childbearing age make up about 40 percent of the population needing treatment.

Legislative support of collaboration with mental health services in the bill is imperative and the clarifications will reduce artificial barriers and the statute complexity which will encourage others to use the available tools.

**Testimony Against:** This is not in the Governor's budget. Funding is an issue. Issues in current law that are not changed by the bill need to be addressed. The great weight provision in the court's assessment of the likelihood of serious harm should be removed. The prerequisite of an available placement should be restored. Due process rights are not spelled out.

**Testified:** Senator Jeanine Long, sponsor; Ken Stark, Director, Division of Alcohol and Substance Abuse; Richard Warner, Citizen's Commission on Human Rights (questions); Mark Sidran, Seattle City Attorney (pro); Barry Antos, Pioneer Human Services (pro); Jean Wessman, Washington Association of Counties; Penni Newman, Pierce County Human Services (pro); Rick Weaver, Washington Community Mental Health Council (pro--written testimony); Robert Boruchowitz, The Defender Association (pro/concerns--written testimony).