

HOUSE BILL REPORT

HB 2025

As Reported by House Committee On:

Criminal Justice & Corrections

Title: An act relating to mental illness.

Brief Description: Revising provisions for detaining persons with mental illness.

Sponsors: Representatives Haigh, Hatfield, Darneille, Lovick, O'Brien, Romero and Blake.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 3/4/03, 3/5/03 [DPS].

Brief Summary of Substitute Bill

- Prohibits certain persons physically resisting under diminished capacity conditions from being charged with an assault offense.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Kagi and Lovick.

Minority Report: Do not pass. Signed by 3 members: Representatives Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; and Pearson.

Staff: Yvonne Walker (786-7841).

Background:

A person may be involuntarily committed by a mental health professional designated by the county (MHPDC), who receives independently verified information alleging that the person: (1) presents a likelihood of serious harm to others or him or herself; or (2) is gravely disabled.

A police officer may also directly detain a person for up to 12 hours based on the same criteria, but the person must be seen by a mental health professional within three hours,

and by the MHPDC within 12 hours, or be released. The MHPDC may petition the superior court to detain the person for 72 hours more in order to evaluate and treat the person.

"Likelihood of serious harm" means that the person presents a substantial risk of physical harm upon one's own self, upon another, or upon the property of another or where an individual, who has a history of violent acts, makes threats to the physical safety of another. "Gravely disabled" means that the person, because of a mental disorder, cannot provide for his/her own needs or manifests severe deterioration in routine functioning.

Summary of Substitute Bill:

A person detained and taken into custody by a county designated mental health professional or peace officer cannot be charged with an assault charge if he or she is physically resisting under diminished capacity conditions and at least one of the following conditions is present:

- Proper and adequate crisis intervention training for detaining a person with mental illness was not provided to the detaining person;
- No permanent bodily harm was done to the detaining person;
- The detainee was psychotic at the time he or she was taken into custody;
- The detainee was acting in a defensive manner; or
- The detainee was not armed.

This act is known as the Shawn Bryan Act.

Substitute Bill Compared to Original Bill:

The provisions that: 1) required the Criminal Justice Training Commission to offer a training session on developing approaches to dealing with individuals with mental illness; and 2) encouraged the formation of mental health police partnerships, are eliminated.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: As we move to more community-based services for the mentally ill the criminal justice system is going to have to respond more to persons that are mentally ill. The problem is that we cannot continue locking the mentally ill up as if they are common criminals. These types of people are in a different situation and law enforcement officers

need to learn how to deal with this type of population.

There was an incident where a young man was psychotic who had been in and out of hospitals a number of times. Last year, while at his home in a diminished capacity state, his worried parents called the local mental health crisis line for help with their suicidal son. A mental health professional went to his home and called the police as backup to transport him to the hospital. Several squad cars surrounded the young man's home. After a scuffle, the police used a stun gun on the young man and dragged him off in a squad car in front of watching neighbors. He ended up spending several weeks in a mental health facility and was later released. Several months later, after he had started to adjust to new medication, the young man was arrested for resisting arrest for the previous incident and he was charged with third degree assault. He ended up spending a month in jail awaiting evaluation at which time he suffered terribly in an overcrowded sleeping area on a drafty floor of the jail with 30 other inmates. This is a story of a person, who happened to be mentally ill, who got caught up in the criminal justice system and there was not much that could be done.

This is why this bill is so important. Police need to know how to deal with mentally ill persons and how to de-escalate potentially volatile situations. The state is cutting mental health costs, but on the other hand it is building bigger jails and prisons. We are just moving one population from one facility to another. The system is broken when it comes to dealing with the mentally ill population.

There is an organization called Partners In Crisis that is currently addressing the impact of the mentally ill on the criminal justice system.

(With concerns) The first section of the bill is not very clear, in particular the provision that requires officers to learn how to assess an individual's medication information and relevant history. (The substitute bill addresses this section of the bill.)

Testimony Against: None.

Testified: (In support) Representative Haigh, prime sponsor; Carol Genengels and Brad Bosard, National Alliance for the Mentally Ill; and Rita-Rae Youngs.

(With concerns) Steven Pearce, Citizens Commission on Human Rights.