

# SENATE BILL REPORT

## ESB 6018

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As Passed Senate, March 13, 2007

**Title:** An act relating to detention of persons with a mental disorder or a chemical dependency.

**Brief Description:** Changing provisions concerning detention of persons with a mental disorder or chemical dependency.

**Sponsors:** Senator Brandland.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/20/07, 2/23/07 [DP].  
Passed Senate: 3/13/07, 44-0.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** Do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Marr and McAuliffe.

**Staff:** Indu Thomas (786-7459)

**Background:** In 2005, the Legislature passed E2SSB 5763, the Omnibus Treatment of Mental and Substance Abuse Disorders Act of 2005. One aspect of this legislation was the creation of a pilot program in the Pierce County Regional Support Network and the North Sound Regional Support Network. The pilot program combines the initial detention process of adults with chemical dependency and mental disorders through the use of a designated crisis responder (DCR) with authority to initiate civil commitment proceedings. The pilot also includes secure detoxification facilities for detention.

Case law interpreting the mental health detention statute requires that an individual must be at "imminent risk" of grave disability or pose an "imminent" likelihood of substantial harm before a designated mental health professional (DMHP) can detain the individual. Once the individual is detained they must be seen by a mental health professional within three hours and a petition for detention must be filed within 12 hours of the detention. If the individual does not present an imminent risk the DMHP must obtain a summons from a judicial officer, including a finding that there is probable cause to detain the individual. The DMHP must then serve the summons on the individual. The individual then has 24 hours to report to a facility for evaluation and treatment.

**Summary of Engrossed Bill:** The non-emergent detention process is modified. The use of a summons and a 24-hour reporting period is eliminated. Instead, DCRs are authorized to

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contact judicial officers to obtain an "order to detain." Judicial officers may consider sworn telephonic testimony or written affidavits in determining whether there is probable cause to detain the individual for a 72-hour period of evaluation and treatment. DCRs may notify law enforcement that an order to detain has been entered and request that the individual be escorted to an evaluation and treatment facility, a secure detoxification facility, or a certified chemical dependency provider.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Original Bill:** PRO: Mental Health Professionals are struggling with the issue of imminence. They have requested the ability to consider the risk of decompensation or relapse in determining whether an individual is at imminent risk. This does allow designated crisis responders to detain more people more easily. This is to address the concerns of service providers regarding the inability to serve individuals that do not pose an immediate risk of harm to themselves or others.

When an individual is mentally ill and self-medicating with alcohol or illicit substances, there is little that family members can do to help them. Family members cannot protect their loved ones. The laws should protect our most challenged and vulnerable citizens. The laws should protect taxpayers from having to pay for emergency rooms and jails. If a child or an Alzheimers patient was taken by kidnappers and the kidnappers persuaded them to stay with them, there are laws that would return them to safety. It is shameful that the laws do not protect individuals who are kidnapped by the voices inside of them and return them to safety. National Alliance on Mental Illness (NAMI) Washington currently represents 27 affiliates throughout the state of Washington. NAMI fully supports passage of SB 6018 and uniform implementation of the intent of this bill can benefit individuals with severe mental illness and their family members. It is shameful to send individuals with mental illness to jail in the name of protecting their civil rights. The bill could be improved by changing the phrase "rather than distant or remote" to "in the foreseeable future" in the definition of the word "imminence." This change would give professionals greater discretion in detaining individuals with mental disorders. This bill better conforms to the legislative intent of the 1963 Construction of Community Mental Health Centers Act.

**Persons Testifying:** PRO: Senator Brandland, prime sponsor; Judith Lightfoot, Family Advocate; Eleanor Owen, NAMI Washington.