
Human Services Committee

HB 3076

Brief Description: Concerning the involuntary treatment act.

Sponsors: Representatives Dickerson and Kenney; by request of Governor Gregoire.

Brief Summary of Bill

- Modifies the definition of "likelihood of serious harm" in the Involuntary Treatment Act to include as an additional basis for commitment a recent overt act that creates, in an objective person familiar with the history of violent acts or the history of the mental condition of the person engaging in the act, a reasonable apprehension of harm to the physical safety of another person or the community.
- Requires the Washington State Institute for Public Policy, in collaboration with the Department of Social and Health Services and others, to search for a validated mental health assessment tool or combination of tools for the assessment of persons for detention, commitment, or revocation under the Involuntary Treatment Act.

Hearing Date: 1/25/10

Staff: Linda Merelle (786-7092).

Background:

The Involuntary Treatment Act (ITA) sets forth the procedures, rights, and requirements for an involuntary civil commitment. When a designated mental health professional receives information alleging that a person, as a result of a mental disorder (1) presents a likelihood of serious harm or (2) is gravely disabled, the designated mental health professional may file a petition for an initial detention.

The Washington Supreme Court has held that the standard of "likelihood of substantial harm" evidenced by a recent overt act under the ITA provides a constitutional basis for detention under non-emergency circumstances. The court did not define "recent," but under the facts of the case

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in which it made its decision, the acts referred to had occurred within five to six days prior to the filing of the petition for initial detention.

Likelihood of Serious Harm and Gravely Disabled.

Under current law, "likelihood of serious harm" means that there is a substantial risk that:

- physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;
- physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or
- physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or 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 the person, as a result of a mental disorder:

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

Authority for Involuntary Commitment.

Under non-emergency circumstances, the court may authorize persons to be initially detained for up to 72-hours for evaluation and treatment. Upon a petition to the court and subsequent order, the person may be involuntarily held for a further 14 days. Upon a further petition and order by a court, a person may be held for a period of 90 days. If a person has been determined to be incompetent and criminal charges have been dismissed, and the person has committed acts constituting a felony as a result of a mental disorder and presents a substantial likelihood of repeating similar acts, the person may be further committed for a period of up to 180 days. No order of commitment under the ITA may exceed 180 days.

Information Considered by the Court.

The ITA sets forth the kinds of information that may be considered by a court in determining whether a petition for an evaluation and treatment for 72 hours, for a commitment of 14 days or a commitment of 90 days should be granted.

For a 72-hour evaluation and treatment, the designated mental health professional who is conducting the evaluation shall include all reasonably available information regarding: (1) prior recommendations for evaluation of the need for civil commitments when made pursuant criminal allegations; (2) a history of one or more violent acts; (3) prior determinations of incompetency or insanity; and (4) prior commitments under the ITA.

For a petition for a 14-day commitment following a 72-hour evaluation and treatment, or a subsequent 90-day commitment, the court is required to give great weight to: (1) a recent history of one or more violent acts; or (2) a recent history or one or more commitments under the ITA or

its equivalent provisions under the laws of another state. The existence of prior violent acts may not be the sole basis of determining whether a person presents a likelihood of serious harm.

The statute defines "recent" as a period of time not exceeding three years prior to the current hearing.

Summary of Bill:

Change in Definition of "Likelihood of Serious Harm".

The definition of "likelihood of serious harm" is modified to include an additional prong, as follows:

- "likelihood of serious harm" means a substantial risk that "the person has committed a recent overt act that creates a reasonable apprehension of harm to the physical safety of another person or the community in the mind of an objective person who knows the history of any violent acts or the history of the mental condition of the person engaging in the act;" and
- a "recent overt act" is defined as "any act, threat, behavior, or combination thereof."

The modified definition of "likelihood of serious harm" affects determinations regarding all petitions for involuntary petitions. "Recent" is not defined as it relates to a "recent overt act."

Risk Assessment Tool.

The Washington State Institute for Public Policy, in collaboration with the Department of Social and Health Services and other applicable entities, is required to search for a validated mental health assessment tool or combination of tools for the assessment of individuals for detention, commitment, or revocation under the ITA. This provision of the act expires on June 30, 2011.

Appropriation: None.

Fiscal Note: Requested on January 22, 2010.

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