

# SENATE BILL REPORT

## 2SHB 2882

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As of February 22, 2010

**Title:** An act relating to detaining persons with mental disorders.

**Brief Description:** Detaining persons with mental disorders.

**Sponsors:** House Committee on Ways & Means (originally sponsored by Representatives Klippert, Green, Dammeier, Dickerson, Kelley, Wallace and McCune).

**Brief History:** Passed House: 2/16/10, 98-0.

**Committee Activity:** Human Services & Corrections: 2/25/10.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Kevin Black (786-7747)

**Background:** A designated mental health professional (DMHP) may initiate a civil commitment under the Involuntary Treatment Act if the DMHP finds that a person presents a likelihood of serious harm or that a person is gravely disabled. Likelihood of serious harm means that there is a substantial risk that a person will inflict physical harm on himself, herself, or others, or on the property of others. Gravely disabled means that, as a result of a mental disorder, a person is in danger of serious physical harm due to the person's failure to provide for the person's essential needs of health or safety, or that a person manifests severe deterioration in routine functioning and is not receiving such care as is essential for the person's health or safety.

An emergency detention is a detention under circumstances in which the likelihood of serious harm or the danger related to being gravely disabled is imminent. A nonemergency detention is a detention under circumstances in which the likelihood of serious harm or danger related to being gravely disabled is not imminent. In 1982 the Washington Supreme Court found that due process permits detention for 72 hours of involuntary mental health treatment without judicial review in an emergency situation, but that due process does not permit 72 hours of detention in a nonemergency situation without judicial review of the issue of probable dangerousness by an impartial magistrate. A DMHP may obtain judicial review of a petition for nonemergency detention by submitting an affidavit or sworn telephonic testimony to a magistrate in a manner similar to the process used by a sheriff or police officer in order to obtain a search warrant or arrest warrant.

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

Integrated Crisis Response is a means of detention integrating detention procedures for mental health and chemical dependency which is not currently in use in Washington due to the closure of the secure detox pilots in Pierce County and the North Sound Regional Support Network.

**Summary of Bill:** Emergency detention procedures under the Involuntary Treatment Act and Integrated Crisis Response statutes are modified to remove the concept of imminence and permit a DMHP to utilize emergency detention procedures which bypass judicial review when the DMHP finds that there is a substantial likelihood that a person presents a likelihood of serious harm or is gravely disabled.

A DMHP may consider information provided by families, landlords, neighbors, or others with significant experience and knowledge of a person who is subject to commitment if the information is readily and reasonably available.

The Department of Social and Health Services must analyze outcomes and costs related to this legislation and submit reports to the Legislature in 2011, 2012, and 2013. This act expires on June 30, 2014. There is a null and void clause.

**Appropriation:** None.

**Fiscal Note:** Available.

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

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