

# SENATE BILL REPORT

## 2SHB 2882

---

---

As Reported by Senate Committee On:  
Human Services & Corrections, February 25, 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 [DPA].

---

### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** Do pass as amended.

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

**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

---

*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.*

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.

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 (Recommended Amendments):** Whenever a person who is involuntarily committed for mental health treatment is discharged from an evaluation and treatment facility or a state hospital, the evaluation and treatment facility or state hospital must provide notice of the discharge, and a copy of any LRO or conditional release order, to the DMHP's office in the county where the commitment was initiated, and the DMHP's office in the county where the individual is expected to reside. The evaluation and treatment facility or state hospital need not send a copy of the LRO or conditional release order if it has entered into a memorandum of understanding obligating another entity to provide these documents. The notice and documents must be provided within one business day. The Department of Social and Health Services (DSHS) must maintain and make available an updated list of contact information for DMHP offices around the state.

**EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Amendments):** The substance of the bill is removed and replaced with new provisions.

**Appropriation:** None.

**Fiscal Note:** Available.

**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 Second Substitute House Bill:** PRO: The changes in this bill are similar to changes made in Virginia after the Virginia Tech shootings, and could save a lot of lives. The courts may take a different view of constitutional issues given new factual circumstances. The time may be right for change. Early intervention may save costs by producing shorter hospital stays and fewer commitments to the state hospital. Courts and DMHPs should be required to consider input from families and others with knowledge of a person with mental illness. Intervention prevents harm associated with involvement in the criminal justice system.

CON: This bill would eliminate judicial oversight in nonemergency detentions. This is unconstitutional. A judge must review the facts before detention is permissible.

OTHER: We support getting people into treatment more quickly and considering input from family members and others in treatment decisions. We are concerned about the fiscal impact if adequate funding is not provided for additional civil commitment beds.

**Persons Testifying:** PRO: Representative Klippert, prime sponsor; Christos Dagadakis, Washington State Psychiatric Association; Chief John Turner, Snohomish Police; Seth Dawson, Eleanor Owen, National Alliance for Mental Illness.

CON: Mike DeFelice, The Defender Association.

OTHER: Gregory Robinson, Washington Community Mental Health Council.