

SENATE BILL REPORT

SB 6791

As Reported by Senate Committee On:
Human Services & Corrections, February 4, 2010

Title: An act relating to evaluations of persons under the involuntary treatment act.

Brief Description: Concerning the involuntary treatment act.

Sponsors: Senators Hargrove and McAuliffe; by request of Governor Gregoire.

Brief History:

Committee Activity: Human Services & Corrections: 2/04/10 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6791 be substituted therefor, and the substitute bill do pass.

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

Staff: Kevin Black (786-7747)

Background: The Involuntary Treatment Act allows a person to be detained for involuntary mental health treatment at a locked mental health facility if the person meets criteria for civil commitment. A commitment under the Involuntary Treatment Act must be initiated by a designated mental health professional (DMHP). In order to initiate a civil commitment a DMHP must find, following an investigation, that a person who is not willing to voluntarily seek mental health treatment presents, as a result of a mental disorder, a likelihood of serious harm or that the person is gravely disabled. A person presents a likelihood of serious harm when the person's behavior indicates a substantial risk that the person will inflict physical harm on himself or herself, another person, or the property of others. A person is gravely disabled when, as a result of a mental disorder, the person is in danger of serious physical harm resulting from a failure to provide for the person's essential human needs of health or safety, or manifests severe deterioration in routine functioning and is not receiving such care as is essential for the person's health or safety.

Once a DMHP initiates a civil commitment, the superior court in the county where the person is detained must hold a probable cause hearing within 72 hours to determine whether there is a basis to continue the involuntary mental health treatment.

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.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): In determining whether a person is gravely disabled or presents a likelihood of serious harm, the court or evaluating DMHP must consider the symptoms and behavior of the person in light of all available evidence or information concerning the person's historical behavior, as disclosed by the clinical record or credible witnesses with knowledge of the person.

Symptoms or behavior which standing alone would not justify civil commitment may support an inference of grave disability or likelihood of serious harm when: (1) such symptoms or behavior are substantially similar to those which preceded and led to a previous involuntary hospitalization, incident of severe deterioration, or one or more violent acts; and (2) unless treated, the person will continue with reasonable medical probability to physically or mentally deteriorate so that the person will become gravely disabled or present a likelihood of serious harm.

The Washington Institute for Public Policy must search for validated mental health tools for a DMHP to use when assessing persons for civil commitment.

Appropriation: None.

Fiscal Note: Requested on February 3, 2010.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: For many years, NAMI has encouraged early intervention and treatment for persons with deteriorating mental conditions. Input should be heeded from family members, who frequently cannot get authorities to intervene at the cost of great human grief. The cost of failing to intervene early may exceed the cost of the intervention. The right to treatment should come before the civil right to freedom. The Governor is concerned about inconsistency between regions in assessment criteria and ensuring that a history of violence is given appropriate consideration by the courts. The civil commitment standard should be lowered to prevent use of the criminal justice system as the preferred means of providing treatment. This is not humane and creates huge costs later. More bed space is needed.

OTHER: This bill has promising language, but there is not enough bed capacity in the community.

CON: Making changes will raise costs for mental health expert testimony, lengthen hearings, and provoke challenges in the appellate courts. Don't increase detentions when bed space is already full. The grave disability standard already addresses these concerns. The phrase must consider is in conflict with the rules of evidence. More local resources are needed for involuntary commitment. One out of four persons committed in King County is forced to sit for days in an emergency room waiting for a mental health bed.

Persons Testifying: PRO: Seth Dawson, Gordon Bopp, NAMI Washington; Eleanor Owen, NAMI Greater Seattle, Kari Burrell, Office of the Governor. Todd Gruenhagen, Cindy Arends, public defenders.

OTHER: Gregory Robinson, Washington Community Mental Health Council.

CON: Mike DeFelice, The Defender Association; Amnon Shoenfeld, King County Regional Support Network.