
**Public Safety & Emergency Preparedness
Committee**

ESSB 6010

Brief Description: Addressing safety issues at state hospitals.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Carrell, Roach, Becker, Conway, Schoesler, Regala, Delvin, Stevens and Shin).

Brief Summary of Engrossed Substitute Bill

- Expands the crime of Custodial Assault to include the assault of an employee or volunteer of a state hospital.
- Authorizes state hospitals to administer antipsychotic medication without consent to an individual who is committed as criminally insane.

Hearing Date: 2/21/12

Staff: Yvonne Walker (786-7841).

Background:

Custodial Assault.

A person is guilty of Custodial Assault if that person is not guilty of Assault in the first or second degree offense and: (1) the person assaults any full- or part-time staff member or volunteer, educational personnel, personal service provider, or vendor or agent, at any adult or juvenile correctional institution, or any community correction officer or an employee of a community corrections office; and (2) the assault occurs while the employee or volunteer is performing his or her official duties.

Custodial Assault is a seriousness III, class C felony offense.

Criminally Insane and Antipsychotic Medication.

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.

The Involuntary Treatment Act provides requirements and procedures for the detention and civil commitment of persons with mental disorders.

When a law enforcement officer has reasonable cause to believe a person is suffering from a mental disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled, the officer may take the person into custody and deliver the person to a crisis stabilization unit, evaluation and treatment facility, or emergency department of a local hospital for short-term detention for assessment and evaluation of the need for further detention.

A person may be civilly committed for mental health treatment under the Involuntary Treatment Act if a court or designated mental health professional determines that, as a result of a mental disorder, the person presents a likelihood of serious harm or is gravely disabled. Likelihood of serious harm means that there is a substantial risk that the person will inflict physical harm on himself or herself, others, or the property of others. Gravely disabled means that the person as a result of a mental disorder is in danger of serious physical harm based on a failure to provide for essential needs of human safety, or manifests severe deterioration in routine functioning and is not receiving such care as is essential for health and safety.

A person who is either "criminally insane" or "incompetent" may be involuntarily committed for a period of time. A "criminally insane" person is a person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing criminal acts, jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions. A person is "incompetent" to stand trial if he or she lacks the capacity to understand the nature of the proceedings or assist in his or her own defense.

Decisions Relating to the Use of Antipsychotic Medications.

Individuals suffering from mental illness who are found to be gravely disabled or present a likelihood of serious harm have the right to refuse antipsychotic medication. This right can be overridden if it is determined that the failure to medicate may result in a likelihood of serious harm or substantial deterioration of the patient or it will substantially prolong the length of involuntary commitment and there is no less intrusive course of treatment than medication that is in the best interests of the person.

There are no specific provisions in statute that address procedures for the involuntary medication of a person committed to a state hospital as criminally insane.

Summary of Bill:

Custodial Assault.

The crime of Custodial Assault is expanded to include the assault of a full- or part-time member or volunteer, any educational personnel, any personal service provider, or any vendor or agent at any state hospital, while performing his or her official duties at the time of the assault.

Criminally Insane and Antipsychotic Medication.

Local jails cannot refuse to book a patient of a state hospital solely based on the patient's status as a state hospital patient, but may consider other relevant factors that apply to the individual circumstances in each case.

A state hospital may generally administer antipsychotic medication without consent to an individual who is committed as criminally insane by following the same procedures applicable to a civilly committed patient under the Involuntary Treatment Act. However, the maximum period during which the court may authorize the administration of medication without consent under a single involuntary medication petition must be the time remaining on the individual's current order of commitment or 180 days, whichever is shorter. A petition for involuntary medication may be filed in either the superior court of the county that ordered the commitment or the county in which the individual is receiving treatment, provided that a copy of any order that is entered is provided to the superior court of the county that ordered the commitment following the hearing. The superior court of the county of commitment must retain exclusive jurisdiction over all hearings concerning the release of the patient.

The state has a compelling interest in providing antipsychotic medication to a patient who has been committed as criminally insane when refusal of antipsychotic medication would result in a likelihood of serious harm, substantial deterioration, or substantially prolong the length of involuntary commitment and there is no less intrusive course of treatment than medication in the best interest of the patient.

Appropriation: None.

Fiscal Note: Requested on February 17, 2010.

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