

SENATE BILL REPORT

SB 5987

As Reported by Senate Committee On:
Ways & Means, December 13, 2011

Title: An act relating to delaying implementation of provisions regarding evaluations of persons under the involuntary treatment act.

Brief Description: Delaying implementation of certain provisions related to evaluations of persons under the involuntary treatment act.

Sponsors: Senator Hargrove; by request of Department of Social and Health Services.

Brief History:

Committee Activity: Ways & Means: 12/12/11, 12/13/11 [DPS, DNP, w/oRec].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5987 be substituted therefor, and the substitute bill do pass.

Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli, Ranking Minority Member; Brown, Conway, Fraser, Harper, Hatfield, Hewitt, Honeyford, Kastama, Keiser, Kohl-Welles, Padden, Pridemore, Regala, Schoesler and Tom.

Minority Report: Do not pass.

Signed by Senator Pflug.

Minority Report: That it be referred without recommendation.

Signed by Senator Baumgartner.

Staff: Tim Yowell (786-7435)

Background: Under the state's Involuntary Treatment Act (ITA), a person may be detained and ordered to undergo treatment at an inpatient psychiatric facility when, because of a mental disorder, the person is gravely disabled or presents a likelihood of serious harm to themselves or others. Designated mental health professionals (DMHPs) are responsible for investigating and determining whether to initially detain people who are thought to require involuntary treatment, and for recommending to the court and prosecutor whether the person should continue to be detained for longer-term treatment. The initial detention may last up to three days, and the court may order continued detention and treatment for periods of 14, 90, and 180 days.

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.

Chapter 280, Laws of 2010 (Second Substitute House Bill 3076) expanded in two ways the factors that DMHPs and the courts may consider when determining whether to commit a person to involuntary treatment. First, the 2010 law provides that a DMHP must consider all reasonably available evidence from credible witnesses when determining whether to detain a person. Credible witnesses are defined as family, landlords, neighbors, and others with significant contact and history of involvement with the person. Second, the 2010 law additionally provides that, in determining whether to detain and commit, DMHPs and the courts may consider symptoms and behaviors that standing alone would not justify commitment, but that show a marked deterioration in the person's condition and are closely associated with symptoms and behavior that led to past involuntary psychiatric hospitalizations or violent acts. The 2010 law set January 1, 2012, as the effective date for both of these changes.

The 2010 Supplemental Operating Budget provided funding for the Washington State Institute for Public Policy (WSIPP) to study and report on (1) the extent to which the number of persons involuntarily committed for 3, 14, and 90 days is likely to change as a result of the expanded commitment criteria; (2) the extent to which community treatment capacity is available to meet that need; (3) strategies for cost-effectively increasing community involuntary treatment capacity; and (4) the extent to which increases in involuntary commitments are likely to be offset by reduced utilization of correctional facilities, publicly-funded medical care, and state psychiatric hospitalizations. The WSIPP study estimated that the expanded criteria could result in an increase in the number of involuntary commitments of up to 40 percent. The study also estimated that between 48 and 193 additional beds would be needed in community and state psychiatric treatment facilities in order to accommodate that need.

Summary of Bill (Recommended Substitute): The effective date of the 2010 statutory changes allowing DMHPs and the courts to consider behaviors and symptoms that standing alone would not constitute grounds for involuntary treatment is delayed. The provisions regarding past behaviors and symptoms are effective July 1, 2015, rather than January 1, 2012.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Substitute): The delayed effective date does not apply to the 2010 statutory provisions that require DMHPs to consider information from family members and other credible witnesses. Those provisions are effective January 1, 2012.

Appropriation: None.

Fiscal Note: Available on companion HB2131.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill: PRO: Counties supported the original legislation in 2010, and continue to support its concept and purpose now, but urge

that implementation be delayed because there isn't sufficient treatment capacity to meet current involuntary treatment needs, let alone increased demand. Already, between 25-50 percent of all persons involuntarily committed in King County are "boarded" in facilities that are not certified to accept such patients. This legislation needs to be passed in the special session before the January 1, 2012, effective date of the original legislation. DSHS supports the purpose of the 2010 legislation, but lacks the resources to implement it.

CON: NAMI urges that the provisions of the 2010 law be allowed to go into effect as planned. Changes are needed now, not three years from now. The state should not seek to save money by denying treatment to people who are a danger to themselves or others. If people are stabilized early in their illness, it will save money, not cost more. If portions of the legislation must be delayed, NAMI urges that the portion that requires DMHPs to consider information from family members and other credible witnesses be allowed to go into effect now because that should have no fiscal impact. NAMI further urges that the legislation be fully implemented in some pilot sites so that we can get real world experience about what the changes would actually cost.

Persons Testifying: PRO: Rashi Gupta, Washington Association of Counties; Lisa Thatcher, Washington State Hospital Association; Ron Jemelka, DSHS Division of Behavioral Health Resources.

CON: Seth Dawson, National Alliance for the Mentally Ill (NAMI) Washington; Farrell Adrian, NAMI; Jim Bloss, NAMI.