

HOUSE BILL REPORT

2SHB 2627

As Passed House:
February 17, 2014

Title: An act relating to the arrest of individuals who suffer from chemical dependency.

Brief Description: Concerning the arrest of individuals who suffer from chemical dependency.

Sponsors: House Committee on Appropriations Subcommittee on Health & Human Services
(originally sponsored by Representatives Roberts, Hayes, Moscoso, Robinson and Freeman).

Brief History:

Committee Activity:

Early Learning & Human Services: 2/3/14, 2/5/14 [DPS];

Appropriations Subcommittee on Health & Human Services: 2/6/14 [DP2S(w/o sub ELHS)].

Floor Activity:

Passed House: 2/17/14, 97-0.

Brief Summary of Second Substitute Bill

- Allows a police officer to take an individual who is believed to have committed a non-felony offense that is not driving under the influence and suffering from chemical dependency to certain chemical dependency treatment locations.
- Allows youth taken by law enforcement to a mental health treatment facility to be examined by chemical dependency professionals.
- Allows youth to access up to 30 hours of counseling after a diversion assessment identifies a chemical dependency need.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Kagi, Chair; Freeman, Vice Chair; Walsh, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Fagan, Goodman, MacEwen, Ortiz-Self, Roberts, Sawyer, Senn, Young and Zeiger.

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.

Staff: Luke Wickham (786-7146).

HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON HEALTH & HUMAN SERVICES

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Early Learning & Human Services. Signed by 10 members: Representatives Morrell, Chair; Harris, Ranking Minority Member; Cody, Green, G. Hunt, Kagi, Ormsby, Ross, Schmick and Tharinger.

Staff: Andy Toulon (786-7178).

Background:

The Division of Behavioral Health and Recovery (DBHR) of the Department of Social and Health Services (DSHS) provides state-funded chemical dependency treatment services for individuals who are low-income and assessed as alcohol or other drug dependent.

Involuntary Commitment.

When a designated chemical dependency specialist receives information alleging that a person presents a likelihood of serious harm or is gravely disabled as a result of chemical dependency, the specialist may file a commitment petition with a court. If a court determines the grounds for involuntary commitment have been established by clear, cogent, and convincing proof, it shall make an order of commitment to an approved treatment program for 60 days. An individual is discharged from involuntary treatment after 60 days unless the program files a petition for recommitment, which may result in a further 90-day commitment period. There are two involuntary commitment centers in Washington located in Spokane and Sedro-Wooley.

Law Enforcement Authority and Juveniles Suffering from a Mental Disorder.

When a police officer has reasonable cause to believe a juvenile has committed a non-felony offense, and the juvenile suffers from a mental disorder, the officer is authorized to take the individual to an evaluation and treatment facility or other locations that the prosecutor, law enforcement, and mental health provider have agreed to. The officer may exercise this authority instead of taking a juvenile to detention.

Diversions.

A diversion agreement is a contract between a juvenile accused of an offense and a diversion unit where a juvenile agrees to certain conditions instead of prosecution. Diversion agreements may include: community restitution, financial restitution, counseling and educational or informational sessions at a community agency, a fine, requirements to remain in certain locations at specific times, and refraining from contact with victims or witnesses.

In cases without a victim or where a juvenile has no prior criminal history and is alleged to have committed an offense involving no threat or actual harm and not involving more than \$50 of property damage or loss, a diversion unit may counsel and release a juvenile.

If a juvenile record consists entirely of one diversion agreement or counsel and release entered after 2008, the individual is 18 years old, two years have passed since completion, there is no pending criminal proceeding against the individual, and there is no restitution owing, the juvenile record is to be destroyed.

Summary of Second Substitute Bill:

A police officer is to take an individual to designated places designed to treat chemical dependency when the individual:

- committed a non-felony crime that is not a serious offense;
- has not committed driving or being in physical control of a vehicle while under the influence of intoxicating liquor; and
- is known by history or consultation with staff designated by the county to suffer from a chemical dependency.

The options that a police officer has for an individual described above include:

- taking that individual to an approved chemical dependency treatment provider, where the individual must be examined within three hours;
- taking that individual to an emergency medical service used for incapacitated persons if no treatment program is readily available, where the individual must be examined within three hours;
- referring the individual to a chemical dependency professional for involuntary detention and proceedings; or
- releasing the individual upon agreement to voluntary participation in outpatient treatment.

The treatment options listed above are not required to be available, but if the treatment options are available, an officer may use those options based on his or her discretion.

If the individual is released to the community from treatment, the treatment provider must inform the arresting officer of the release if the officer requested notification. In determining whether to refer an individual to treatment, the officer must be guided by standards agreed upon with the prosecutor. These standards must include the length, seriousness, and recency of the individual's known criminal history, the mental health and substance abuse history of the individual, and circumstances of the offense. Any agreement to participate in treatment must not require a stipulation to any of the alleged facts. If an individual violates a treatment agreement, the chemical dependency provider shall inform law enforcement. The police officer, staff designated by the county, or treatment personnel are immune from liability for any good faith conduct.

If a law enforcement officer takes a juvenile who suffers from a mental disorder to an alternative treatment facility instead of detention, that juvenile may be examined by a chemical dependency professional if the youth is suffering from chemical dependency and a chemical dependency professional is available. The name "mental health diversions" is changed to "behavioral health diversions."

If a diversion assessment identifies a chemical dependency need, a youth may access up to 30 hours of counseling.

Appropriation: None.

Fiscal Note: Requested on February 7, 2014.

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

Staff Summary of Public Testimony (Early Learning & Human Services):

(In support) Last session, the Legislature passed a bill allowing law enforcement to take youth who are suffering from a mental disorder to a treatment facility. This bill extends that philosophy to apply to individuals suffering from chemical dependency. This bill gives officers discretion. This bill fits into the actions the Legislature is taking to provide individuals who are facing a drug or alcohol addiction with treatment options rather than detention.

Counties in the state are dealing with individuals that have chemical dependency issues. Individuals who commit many minor crimes who have chemical dependency issues should be treated for their chemical dependency needs, which will lead to state savings on detention time. This bill is permissive and does not require local government to do anything. Local governments will only take advantage of this option if they have the means to do so. It is more appropriate to help divert individuals with mental illness and chemical dependency issues away from the criminal justice system.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations Subcommittee on Health & Human Services):

(In support) Currently, the only choice in these situations is for an officer to take the individual to detention, jail, or an emergency room. Those choices are expensive and do not necessarily help the individual deal with their problems. This is of particular concern with regard to juveniles who get sent to detention and then have a record.

We need to provide flexibility and tools for local governments so they can respond in a more flexible and appropriate manner. The intent is for this to be strictly optional for local government and law enforcement. There is an amendment that will clarify that chemical dependency services only need to be provided if a chemical dependency professional is available.

There is a crisis state wide and nationally regarding people in jails, not just with mental illnesses, but also in relation to drugs. This bill will help in reducing recidivism and improving health.

(Opposed) None.

Persons Testifying (Early Learning & Human Services): Representative Roberts, prime sponsor; Brian Sullivan, Snohomish County Councilmember; Ken Stark, Snohomish County Human Services; and Seth Dawson, National Alliance on Mental Illness.

Persons Testifying (Appropriations Subcommittee on Health & Human Services): Representative Roberts, prime sponsor; and Ken Stark, Snohomish County Human Services.

Persons Signed In To Testify But Not Testifying (Early Learning & Human Services): None.

Persons Signed In To Testify But Not Testifying (Appropriations Subcommittee on Health & Human Services): None.