
Judiciary Committee

HB 2725

Title: Court review of detention decisions under the involuntary treatment act.

Brief Description: Concerning court review of involuntary treatment decisions.

Sponsors: Representatives Cody, Morrell, Jinkins, Harris, Rodne, Bergquist, Robinson and Walsh.

Brief Summary of Bill

- Establishes a process allowing an immediate family member to petition the court for review of a designated mental health professional's decision not to seek an initial detention order under the Involuntary Treatment Act.

Hearing Date: 2/3/14

Staff: Omeara Harrington (786-7136).

Background:

The Involuntary Treatment Act (ITA) sets forth the procedures, rights, and requirements for involuntary civil commitment. The standard for commitment under the ITA requires that due, to a mental disorder, the person poses a likelihood of serious harm or is gravely disabled. "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on a person's cognitive or volitional functions. "Likelihood of serious harm" means that the person poses a substantial risk of physical harm to self, others, or the property of others, as evidenced by certain behavior, or that the person has threatened the physical safety of another and has a history of one or more violent acts. "Grave disability" means that the person is in danger of serious physical harm due to a failure to provide for his or her own essential human needs, or that the person manifests a severe deterioration in routine functioning, evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions, and is not receiving the care essential for health or safety.

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.

Designated mental health professionals (DMHPs) are responsible for investigating and determining whether to detain an individual who may be in need of involuntary mental health treatment. Under emergency circumstances, a person may be detained without a court order if the likelihood of serious harm or danger due to grave disability is imminent. Under non-emergent conditions, a court order is required for an involuntary civil commitment.

When a DMHP receives information alleging that a person presents a likelihood of serious harm or is gravely disabled due to a mental disorder, the DMHP may petition the court for an initial detention order authorizing up to 72 hours of commitment for evaluation and treatment. Prior to seeking detention, the DMHP is instructed to first assess the credibility of the information received and attempt to interview the person about whom the information has been provided. The DMHP must consider all reasonably available information from credible witnesses and records regarding any history of one or more violent acts, prior commitments under the ITA, prior determinations of incompetency or insanity, and prior recommendations for evaluation for incompetency or insanity in criminal proceedings. Credible witnesses include anyone with significant contact and history of involvement with the person. The DMHP cannot file a petition for involuntary treatment unless satisfied that the allegations are true and the person will not voluntarily seek appropriate treatment.

A court order to detain a person for a 72 hour period may be issued upon the DMHP's request when the court is satisfied that there is probable cause to support the petition and that the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

Summary of Bill:

If a DMHP decides not to file a petition for initial detention, an immediate family member of the person may petition the superior court for review of the DMHP's decision. The immediate family member must serve notice of the petition on the DMHP. Within 24 hours of receiving notice of the petition, the DMHP is required to provide the court with a written explanation of the basis for the decision not to file an initial detention petition and a copy of the information collected during the DMHP's investigation.

If upon review of the DMHP's decision the court finds that there is probable cause to support a petition for initial detention, taking into consideration any information provided by the immediate family member, the court may enter an order for initial detention.

Immediate family members include spouses, domestic partners, children, stepchildren, parents, stepparents, grandparents, and siblings.

Appropriation: None.

Fiscal Note: Requested on January 30, 2014.

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