
Judiciary Committee

SSB 5456

Title: An act relating to detentions under the involuntary treatment act.

Brief Description: Concerning detentions under the involuntary treatment act.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Schlicher, Becker, Keiser, Bailey, Frockt, Cleveland, Hargrove, Darneille and McAuliffe).

Brief Summary of Substitute Bill

- Addresses the responsibilities of designated mental health professionals when evaluating persons for potential detention under the Involuntary Treatment Act.
- States that the fact that a mental disorder is caused by an underlying medical condition is not a reason to withhold involuntary detention.
- States that the fact that a person has been involuntarily detained does not give the right to provide medical treatment against the person's will except under specified circumstances.

Hearing Date: 3/21/13

Staff: Edie Adams (786-7180).

Background:

Under the Involuntary Treatment Act (ITA), 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. A DMHP may be a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker.

In emergency cases, the DMHP may detain a person without a court order for up to 72 hours if the person, as a result of a mental disorder, presents an imminent likelihood of serious harm or is in imminent danger due to being gravely disabled. In non-emergency cases, the DMHP may

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.

petition a court for an initial detention if the person, as a result of a mental disorder, presents a likelihood of serious harm or is gravely disabled.

"Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions. "Likelihood of serious harm" means a substantial risk that a person will inflict physical harm on himself or herself, others, or the property of others. "Gravely disabled" means a danger of serious physical harm resulting from a failure to provide for essential health or safety needs, or a severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control combined with an absence of care essential for health or safety.

When conducting an evaluation for potential detention, the DMHP must investigate and evaluate any specific facts alleged and the reliability and credibility of any person providing information to initiate detention. The DMHP is specifically required to 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.

Several provisions of the ITA address standards under which a person who is involuntarily committed may be provided medical treatment without the person's consent. Emergency life-saving treatment may be provided without the consent of the individual except as provided in an advance directive. An individual may refuse to consent to the administration of psychiatric medications 24 hours before any hearing or trial, but may not refuse other medications previously prescribed by an authorized health care provider. Persons involuntarily committed generally have the right to refuse to consent to the administration of antipsychotic medication except under specific standards and procedural requirements, or as authorized by court order or in emergency situations. Persons involuntarily committed also have the right not to consent to the performance of electroconvulsant therapy or surgery, except emergency life-saving surgery, unless authorized by court order.

Summary of Bill:

A designated mental health professional who conducts an evaluation for an emergency detention under the ITA must also evaluate the person for detention under the non-emergency standard of likelihood of serious harm or grave disability.

A designated mental health professional must take serious consideration of observations and opinions by examining physicians when deciding whether a person should be detained under emergency or non-emergency standards under the ITA.

An examining physician who disagrees with a DMHP's determination not to initiate detention of a person may submit a declaration describing the physician's reasons why detention is appropriate and stating whether the physician would be willing to testify to the physician's observations in court. A DMHP must provide a written response to a declaration from an examining physician stating with particularity the reasons why the DMHP determined not to detain the person.

The fact that a mental disorder is caused by an underlying medical condition is not a reason to withhold detention under the ITA. The fact that a person has been voluntarily detained does not give the right to provide medical treatment against the person's will, except as allowed by court order or administrative process for administration of antipsychotic medication, or as allowed by court order for electroconvulsant therapy or surgery, or for emergency life-saving surgery.

Appropriation: None.

Fiscal Note: Not requested.

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