HOUSE BILL REPORT
ESSB 5480

As Reported by House Committee On:
Judiciary

Title: An act relating to mental health involuntary commitment laws.

Brief Description: Concerning mental health involuntary commitment laws.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Keiser, Kohl-Welles, Darneille, Nelson, McAuliffe and Kline).

Brief History:
Committee Activity:
Judiciary: 3/21/13, 3/27/13 [DPA].

Brief Summary of Engrossed Substitute Bill
(As Amended by Committee)

- Accelerates implementation of provisions of 2010 legislation that expanded the factors that may be considered for detaining and committing persons under the Involuntary Treatment Act, from July 1, 2015, to July 1, 2014.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 13 members: Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman, Hope, Jinkins, Kirby, Klippert, Nealey, Orwall, Roberts and Shea.

Staff: Edie Adams (786-7180).

Background:

Under the Involuntary Treatment Act (ITA), a person can be detained and ordered to undergo treatment at an inpatient psychiatric facility when the person, as a result of a mental disorder, presents a likelihood of serious harm or is gravely disabled. Designated mental health professionals (DMHPs) are responsible for investigating and determining whether to detain an individual who may be in need of involuntary treatment. An initial detention may last for

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up to 72 hours, but individuals may be committed by a court for additional periods of 14, 90, or 180 days if necessary for further treatment.

Legislation enacted in 2010 (Second Substitute House Bill 3076) expanded the factors that DMHPs and courts may consider when making determinations for detention and commitment under the ITA. Under these expanded factors, DMHPs and courts may consider available historical behavior, and current symptoms and behavior 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 incidents of involuntary hospitalization or violent acts.

These changes were originally to take effect on January 1, 2012. In 2011 a Washington State Institute for Public Policy (WSIPP) study of the impacts of the expanded criteria estimated that there will be a need for additional evaluation and treatment and inpatient psychiatric beds to accommodate an expected increase in the number of detentions and commitments resulting from these changes.

Legislation enacted in 2011 (Substitute House Bill 2131) delayed, until July 1, 2015, the effective date of the provisions that expanded the factors that DMHPs and courts may consider when making detention and commitment decisions.

Summary of Amended Bill:

The July 1, 2015, effective date for implementation of the expanded factors that designated mental health professionals and the courts may consider in determining whether to detain or commit a person for involuntary treatment is moved up to July 1, 2014.

Amended Bill Compared to Engrossed Substitute Bill:

The Engrossed Substitute Bill contained provisions that did the following:

- required the Department of Social and Health Services to consent with stakeholders regarding how to use moneys appropriated for the act;
- provided that a DMHP conducting an evaluation for an emergency detention must also evaluate the person for detention under the nonemergency standard of likelihood of serious harm or grave disability;
- required a DMHP to take serious consideration of observations and opinions by examining physicians when deciding whether a person should be detained; allowed a physician to submit a declaration describing the physicians reasons why detention is appropriate; and required the DMHP to provide a written response to a physician's declaration stating with particularity the reasons why the DMHP determined not to detain the person; and
- stated that the fact that a mental disorder is caused by an underlying medical condition is not a reason to withhold involuntary detention, and the fact that a person has been involuntarily detained does not allow medical treatment against the person's will except under specified circumstances.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 27, 2013.

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

Staff Summary of Public Testimony:

(In support) The policy behind the 2010 legislation was well thought out, but we deferred implementation because of the budget crisis. It is important that we develop community alternatives to address the needs in our mental health system, and this bill is a part of that effort. Many of the recent mass shootings have involved people with mental health issues, and none of them had been involuntarily committed. Implementing these new commitment standards will make it easier to intervene and provide mental health treatment to people before a tragic event occurs. The bill also includes requirements that DMHPs consider physician observations and opinions when determining whether to detain someone.

(With concerns) The bill contains good policy, but it cannot be implemented without additional funding. There is already a significant deficit in the availability of mental health services. Hospitals and jails are over-crowded with people who are not receiving needed treatment. The fiscal note provides numbers that are on the low end of the cost estimate for implementing this bill provided by the WSIPP. This amount will be inadequate to fund the added impact of this bill, let alone the deficit in available mental health services that we currently face. This current deficit needs to be addressed if you want the bill to do more than provide false expectations. The fiscal note outlines a range of intensive community programs that could provide a more cost-effective way of implementing the changes, but it will still require significant resources. Please do not pass the bill without providing the funding for implementation.

(Opposed) We should not be adding scarce public money into a mental health system that is currently broken. Our mental health system is not providing people with recovery; it is making them dependent, and trapping them in a failed system. We need to hold the mental health system accountable for its failures and not continue this waste of taxpayer dollars. We need alternatives that will actually help provide people with recovery so that they are able to live productive lives.

Persons Testifying: (In support) Senator Keiser, prime sponsor.

(With concerns) Jean Robertson, King County Regional Support Network; Greg Robinson, Washington Community Mental Health Council; Len McComb, Washington State Hospital Association; and Jane Beyer, Department of Social and Health Services.

(Opposed) Ruth Martin, Citizens Commission on Human Rights.

Persons Signed In To Testify But Not Testifying: None.