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## Judiciary Committee

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### HB 1258

**Title:** An act relating to court review of detention decisions under the involuntary treatment act.

**Brief Description:** Concerning court review of detention decisions under the involuntary treatment act.

**Sponsors:** Representatives Walkinshaw, Rodne, Jinkins, Haler, Cody, Harris, Goodman, Muri, Fagan, Hansen, Buys, Orwall, Kilduff, Springer, Senn, Walsh, Pettigrew, Robinson, Bergquist, Stanford, Fitzgibbon, Pollet, Stokesbary, Sells, Peterson, McBride, Pike, Farrell, Ortiz-Self, Zeiger, Van De Wege, Tharinger, Hunter, Sullivan, Lytton, Riccelli, Carlyle, Clibborn, Magendanz and Gregerson.

#### Brief Summary of Bill

- Establishes a process allowing an immediate family member, guardian, or conservator to petition the court for review of a designated mental health professional's decision not to seek a person's detention under the Involuntary Treatment Act.
- Requires notification of the petition process by the Department of Social and Health Services, regional support networks, and agencies employing designated mental health professionals.

**Hearing Date:** 1/20/15

**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, a 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 a

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person poses a substantial risk of physical harm to self, others, or the property of others, as evidenced by certain behavior, or that a person has threatened the physical safety of another and has a history of one or more violent acts. "Grave disability" means that a person is in danger of serious physical harm due to a failure to provide for his or her own essential human needs, or that a 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.

Designated mental health professionals (DMHPs) are responsible for investigating whether or not a person should be detained for an evaluation for involuntary mental health treatment. The initial detention period under the ITA is for up to 72 hours, excluding weekends and holidays. 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. 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.

Prior to pursuing initial 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 seek initial detention for involuntary treatment unless satisfied that the allegations are true and the person will not voluntarily seek appropriate treatment.

### **Summary of Bill:**

If a DMHP decides not to file a petition for initial detention, or if 48 hours have elapsed since a DMHP has received notice of a person and the DMHP has not taken action to detain the person, an immediate family member, guardian, or conservator of the person may petition the superior court for review of the DMHP's decision. The petitioner must serve notice of the petition on the DMHP. Within 24 hours of receiving notice of the petition, the DMHP is required to either: (1) notify the court that the person has been detained or has voluntarily accepted appropriate treatment, in which case the court must dismiss the petition; or (2) provide the court with a written explanation of the basis for the decision not to seek 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 petitioner, the court may enter an order for initial detention.

The Department of Social and Health Services and each regional support network or agency employing DMHPs must publish information describing the petition process in an easily accessible format. Upon receiving a complaint about a person not being detained, a DMHP or DMHP agency must inform the complainant about the petition process.

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

**Appropriation:** None.

**Fiscal Note:** Requested on January 16, 2015.

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