
Judiciary Committee

HB 1287

Title: An act relating to less restrictive alternative orders under the involuntary treatment act.

Brief Description: Concerning less restrictive alternative orders under the involuntary treatment act.

Sponsors: Representatives Orwall and Jinkins.

Brief Summary of Bill

- Provides that a court may commit a person for involuntary mental health treatment on a less restrictive order for up to one year, rather than up to 180 days, if the person's previous commitment term was commitment to a state hospital.
- Requires courts to consider certain information when deciding whether to revoke or modify less restrictive commitment orders.

Hearing Date: 1/28/15

Staff: Omeara Harrington (786-7136).

Background:

Standards and Considerations for Commitment.

A person may be committed for involuntary mental health treatment under the Involuntary Treatment Act (ITA) if he or she, due to a mental disorder, poses a likelihood of serious harm or is gravely disabled. "Likelihood of serious harm" generally means that a person poses a substantial risk of physical harm to self, others, or the property of others, as evidenced by certain behavior. "Grave disability" generally 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 and is not receiving essential care.

A designated mental health professional (DMHP) or professional person conducting an evaluation for initial or continued involuntary mental health treatment must consider all

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reasonably available information from credible witnesses and records regarding the person's historical behavior, prior ITA commitments, and prior evaluations and commitments under the forensic mental health system. Credible witnesses include family members, landlords, neighbors, and others with significant contact and history of involvement with the person.

A court deciding whether or not to order commitment must also consider the person's symptoms and behavior in light of all available evidence concerning the person's historical behavior. Additionally, courts and DMHPs are instructed to consider certain symptoms and behavior which standing alone would not justify commitment, but that may support a finding of likelihood of serious harm or grave disability. These symptoms and behavior include those that:

- are closely associated with a past incident of involuntary hospitalization, severe deterioration, or one or more violent acts;
- represent a marked and concerning change in the baseline behavior of the person; and
- indicate that, without treatment, the person's continued deterioration is probable.

Commitment Timelines.

Commitment under the ITA begins with an evaluation period of up to 72 hours initiated by a DMHP. Upon subsequent petitions and hearings, a court may order a person's commitment for an initial term of up to 14 days, followed by a term of up to 90 days, and finally a term of up to 180 days. Successive 180 day commitment orders are permissible on the same grounds and pursuant to the same procedures as the original 180 day commitment. Inpatient commitment on an order allowing up to 90 or up to 180 days of treatment takes place at a state hospital.

Less Restrictive Alternative Orders.

In entering an order for involuntary mental health treatment, if the court determines that the person meets the commitment criteria, but that treatment in a less restrictive alternative (LRA) to detention is in the best interest of the person or others, the court must order an appropriate less restrictive course of treatment rather than inpatient treatment. Less restrictive alternative orders are for up to 90 days when entered as an alternative to a 14 day or 90 day inpatient order, and are for up to 180 days when entered as an alternative to a 180 day inpatient order.

A LRA order may be modified or revoked under any of the following circumstances:

- the person is failing to adhere to the terms and conditions of his or her release;
- substantial deterioration in the person's functioning has occurred;
- there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or
- the person poses a likelihood of serious harm.

If the DMHP, the facility providing treatment, or the DSHS determines that any of the conditions justifying modification or revocation have occurred, the person may be detained to an evaluation and treatment facility pending a hearing. If upon a hearing the court finds that any of these conditions has occurred, the court may modify the terms of the LRA or return the person to an inpatient facility.

Summary of Bill:

When entering a LRA order for a person eligible for up to 180 days of involuntary mental health treatment, a court may enter an order for up to one year of treatment, rather than order for up to

180 days, if the person's previous commitment term was for inpatient treatment in a state hospital. Subsequent orders are for up to 180 days.

In deciding whether to modify or revoke a less restrictive order, the court must consider the person's symptoms and behavior in light of all available evidence concerning the person's historical behavior. Evidence of the person's historical behavior may include information provided by credible witnesses. If the basis for the revocation petition is that the person has failed to comply with the terms of his or her order, the court must give great weight to information regarding symptoms or behavior that:

- are closely associated with symptoms or behavior that preceded and led to a past incident of involuntary hospitalization, severe deterioration, or one or more violent acts;
- represent a marked and concerning change in the baseline behavior of the person; and
- indicate that without modified terms or return of the person to the facility, continued deterioration is probable.

Appropriation: None.

Fiscal Note: Requested on January 22, 2015.

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