

# HOUSE BILL REPORT

## 2SHB 1448

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### As Amended by the Senate

**Title:** An act relating to procedures for responding to reports of threatened or attempted suicide.

**Brief Description:** Providing procedures for responding to reports of threatened or attempted suicide.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representatives Riccelli, Holy, Parker, Ormsby, Caldier, Hayes, Jinkins, Walkinshaw, Gregerson, Appleton, Ryu, McBride and Shea).

#### **Brief History:**

##### **Committee Activity:**

Judiciary: 1/28/15, 2/5/15 [DPS], 1/26/16 [DP2S];

Appropriations: 2/24/15, 2/27/15 [DPS(JUDI)], 2/3/16, 2/8/16 [DP2S(JUDI)].

##### **Floor Activity:**

Passed House: 3/9/15, 93-5.

##### **Floor Activity:**

Passed House: 2/16/16, 95-2.

Senate Amended.

Passed Senate: 3/2/16, 48-0.

#### **Brief Summary of Second Substitute Bill**

- Creates a process requiring law enforcement officers to provide notification of, and for mental health professionals to contact, persons who have been the subject of multiple reports of attempted or threatened suicide in a period of 12 months.
- Requires local jurisdictions to develop a system for officers to document the need for a mental health evaluation in an incident report by January 1, 2017.

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#### **HOUSE COMMITTEE ON JUDICIARY**

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 12 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Kuderer, Muri, Orwall and Stokesbary.

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*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.*

**Minority Report:** Do not pass. Signed by 1 member: Representative Klippert.

**Staff:** Omeara Harrington (786-7136).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill by Committee on Judiciary be substituted therefor and the second substitute bill do pass. Signed by 32 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Cody, Condotta, Dent, Fitzgibbon, Haler, Hansen, Harris, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, MacEwen, Magendanz, Manweller, Pettigrew, Robinson, Sawyer, Schmick, Senn, Springer, Stokesbary, Sullivan, Tharinger, Van Werven and Walkinshaw.

**Minority Report:** Do not pass. Signed by 1 member: Representative Taylor.

**Staff:** Andy Toulon (786-7178).

### **Background:**

#### Standards for Involuntary Mental Health Treatment.

A person may be committed for involuntary mental health treatment under the Involuntary Treatment Act (ITA) if the person, due to a mental disorder, poses a likelihood of serious harm or is gravely disabled and will not voluntarily accept appropriate treatment. Among other circumstances, a person poses a likelihood of serious harm if there is a substantial risk that the person will inflict physical harm upon himself or herself as evidenced by threats or attempts to commit suicide.

#### Emergent Detention by Law Enforcement.

The ITA grants law enforcement officers the power to temporarily detain persons under emergent conditions. A law enforcement officer with reasonable cause to believe a person is suffering from a mental disorder and poses an imminent likelihood of serious harm or is in imminent danger due to grave disability may take the person into custody and immediately deliver the person to an emergency room or other facility listed in statute. "Imminence" for the purposes of the ITA means that the danger of harm is likely to occur at any moment, or is near at hand, rather than being distant or remote.

A facility may hold a person taken into custody by law enforcement for up to 12 hours from the time of medical clearance. A mental health professional must examine the person within three hours, and a designated mental health professional (DMHP) must determine within 12 hours whether the individual meets detention criteria. A mental health professional is a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, social worker, or other mental health professional as defined in agency rules.

"Designated mental health professionals" are mental health professionals who are responsible for investigating whether or not a person should be detained for an evaluation for involuntary mental health treatment under the ITA.

#### Initial Detention under the Involuntary Treatment Act.

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 must assess the credibility of the information received and attempt to interview the person. If satisfied the allegations are true and that the person will not voluntarily accept treatment, the DMHP may petition the court for an initial detention order authorizing up to 72 hours for evaluation and treatment, or may detain the person without a court order under emergency circumstances when the likelihood of serious harm or danger due to grave disability is imminent.

### **Summary of Second Substitute Bill:**

If an officer responds to a situation in which: (1) a person has reportedly threatened or attempted suicide; (2) the officer knows, based on available information, that the person has been the subject of a previous report of threatened or attempted suicide within the last year; and (3) the officer does not take the person into custody; the officer must notify a DMHP agency that the person may be in need of a mental health evaluation. The officer may provide notification through notation in an incident report or through other means. Required notice must be provided as soon as possible, but no later than 72 hours of entry of the incident report, excluding weekends and holidays.

As soon as possible, but no later than 24 hours from receiving the incident report or other notice, excluding weekends and holidays, a mental health professional contacted by the DMHP agency must attempt to contact the person who is the subject of the report to determine whether further mental health intervention is necessary. Further intervention may include, if needed, a DMHP assessment for initial detention under the ITA. The DMHP agency is required to maintain documentation of the attempt to contact the person.

By January 1, 2017, law enforcement agencies must have a system in place for officers to document in an incident report the need for a mental health evaluation of a person who has threatened or attempted suicide.

Peace officers and their employing agencies are not liable for providing or not providing notification to a DMHP agency, as long as the action or inaction is taken in good faith and without gross negligence.

### **EFFECT OF SENATE AMENDMENT(S):**

The provisions requiring an officer to refer a person who is the subject of a report of threatened or attempted suicide to a DMHP agency in certain circumstances are removed.

The requirement that law enforcement agencies adopt a system to document the need for a mental health evaluation in an incident report is removed. Instead, agencies must, generally, establish criteria and procedures for an officer to refer a person to a mental health agency after receiving a suicide threat or attempt report. The July 1, 2017, date by which such procedures must be in place is unchanged from the underlying bill.

When funded, the Washington Association of Sheriffs and Police Chiefs, in consultation with the Criminal Justice Training Commission (CJTC), must develop and adopt a model policy for use by law enforcement agencies relating to a law enforcement officer's referral of a

person to a mental health agency after receiving a report of threatened or attempted suicide. The model policy must compliment the CJTC's crisis intervention training curriculum.

A mental health professional must attempt to contact any person referred by law enforcement within twenty four hours of receiving the referral. Language in the underlying bill limiting this requirement to cases of referral following a report of threatened or attempted suicide is removed.

The provisions stating legislative intent and limiting officer and law enforcement agency liability associated with making, or not making, a referral, are substantially unchanged.

A null and void clause is added.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony (Judiciary):**

See House Bill Report in the 2015 Legislative Session.

**Staff Summary of Public Testimony (Appropriations):**

(In support) The mental health system is broken. This bill offers a tool for law enforcement to make sure that more people facing mental health emergencies get the treatment they need from mental health professionals. There is no liability for law enforcement, but there is still a requirement for them to take a few extra steps that might prevent tragedies from occurring. Changes were made in the current version of the bill to increase the timeline for a mental health professional to follow up and for law enforcement to report these cases.

In reviewing what went wrong in a tragic murder-suicide case, it became obvious that the mental health system is broken. If this bill had been in place, in addition to the Sheena Henderson Act which passed last year, it would have helped prevent an avoidable tragedy.

Currently there is no statewide protocol or timeline for officers on how to respond in cases where a person may not meet criteria for involuntary commitment but still requires services. This bills sets up a timeline to process a referral to a qualified professional. The goal is to connect people to resources and prevent avoidable tragedies. Extensive work has been done on the bill with all of the stakeholders. The fiscal cost of \$600,000 a year does not compare to the costs that occur with these types of cases, such as the costs of first responders, cleanup, counseling, and policy changes at local hospitals. Just the cost of a few weeks of psychological counseling for one child in a case like this can cost in the tens of thousands of dollars.

(Opposed) Changes are needed in the mental health system such as looking at the standards for involuntary commitment and increases in the number of mental health professionals to make sure people can get the help they need. However, the mechanisms and mandatory reporting provisions of this bill assume that there is a person who reviews every incident report from every police officer from every contact made in the state within a 72-hour period. There is not adequate staffing to review every single report in order to trigger the reporting required by the bill. Agencies are and should be encouraged to make these reports. However, the bill's current reporting provisions should not be mandated because of logistical realities.

**Persons Testifying** (Judiciary): See House Bill Report in the 2015 Legislative Session.

**Persons Testifying** (Appropriations): (In support) Representative Riccelli, prime sponsor; Kristen Otoupalik; and Gary Kennison.

(Opposed) James McMahan, Washington Association of Sheriffs and Police Chiefs.

**Persons Signed In To Testify But Not Testifying** (Judiciary): None.

**Persons Signed In To Testify But Not Testifying** (Appropriations): None.