

HOUSE BILL REPORT

HB 1536

As Reported by House Committee On: Judiciary

Title: An act relating to the timing of emergency detentions and assessments under the involuntary treatment act.

Brief Description: Addressing the timing of emergency detentions and assessments under the involuntary treatment act.

Sponsors: Representatives Klippert, Cody, Goodman, Muri, Stokesbary, Haler, Hayes, Tharinger and Wylie.

Brief History:

Committee Activity:

Judiciary: 2/3/15, 2/12/15 [DPS].

Brief Summary of Substitute Bill

- Provides that, when a person is delivered to a hospital or other facility by law enforcement under the Involuntary Treatment Act, the timelines for examination by a mental health professional and for a designated mental health professional to determine whether to seek initial detention, do not include time prior to medical clearance.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Stokesbary and Walkinshaw.

Staff: Omeara Harrington (786-7136).

Background:

Under the Involuntary Treatment Act (ITA), a law enforcement officer may take a person into custody and immediately deliver him or her to a triage facility, crisis stabilization unit,

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evaluation and treatment facility, or emergency department of a local hospital if the officer has reasonable cause to believe that the person is suffering from a mental disorder and poses an imminent likelihood of serious harm or is in imminent danger due to grave disability. For purposes of the ITA, "imminent" means the harm is likely to occur at any moment or near at hand, rather than being distant or remote.

When a person is delivered to a facility by law enforcement, the facility may hold the person for up to 12 hours. A mental health professional must examine the person within three hours of arrival at the facility, and a designated mental health professional (DMHP) must determine within 12 hours of the person's arrival whether the person meets the criteria for a 72-hour initial detention.

Prior to pursuing initial detention, the DMHP must assess the credibility of the information received and attempt to interview the person, and must consider all reasonably available information from credible witnesses and records regarding the person's history of violent acts, prior commitments, and other specified information. If the DMHP is satisfied that the person, due to a mental disorder, presents a likelihood of serious harm or is gravely disabled and will not accept appropriate treatment voluntarily, the DMHP may take action to have the person detained for an ITA evaluation. Under emergency circumstances, when the likelihood of serious harm or danger due to grave disability is imminent, the DMHP may have the person detained without a court order. Under non-emergent conditions, a court order is required for an initial detention, which the court may issue upon a finding of probable cause.

Summary of Substitute Bill:

A person taken into custody by law enforcement and delivered to an emergency department of a local hospital or other facility must be examined by a mental health professional within three hours of arrival, not including time prior to medical clearance. The person may be held for a period of 12 hours from arrival, not including time prior to medical clearance, to allow a DMHP to determine whether the person should be detained under the ITA. "Medical clearance" is defined as the determination by a physician or other health care provider that the person is medically stable and ready for referral to a DMHP.

Substitute Bill Compared to Original Bill:

The three-hour timeline for an examination by a mental health professional is three hours from the time of arrival, not including time prior to medical clearance (rather than three hours from arrival). The 12-hour timeline in which a facility may hold a person pending an initial detention determination by a designated mental health professional is 12 hours from arrival, not including time prior to medical clearance (rather than 12 hours from the time of medical clearance). "Medical clearance" is defined as the determination by a physician or other health care provider that the person is medically stable and ready for referral to a DMHP.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute 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) This bill meets a concern the local hospital community has raised, and has bipartisan support. When law enforcement encounters a person who is a danger to self or others, takes the person into lawful custody, and transfers the person to the hospital, the person may need to be medically cleared. Even if the person is not stable, the clock starts ticking. The timelines are there for a reason, but is hard for DMHPs to meet those timelines. In some cases the person may have an insulin imbalance that needs to be addressed, or be under the influence of alcohol or drugs. There should be a chance to address those medical issues before the 12-hour clock starts.

(Opposed) There are problems with this bill. It is time to stop looking at the back end of the system, and instead provide funding further upstream to prevent the crush of people at the crisis point. Liberty is curtailed until the person is evaluated. The DMHP does not always decide to detain the person. It is unclear what medical clearance means, and it is undefined. Medical stabilization has a clearer meaning. This bill should have a null and void clause.

Persons Testifying: (In support) Representative Klippert, prime sponsor; and Jim Vollendruff, King County Department of Community and Human Services.

(Opposed) Bob Cooper, Washington Association of Criminal Defense Lawyers and Washington Defenders Association.

Persons Signed In To Testify But Not Testifying: None.