

HOUSE BILL REPORT

SHB 1536

As Passed House:
March 9, 2015

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: House Committee on Judiciary (originally sponsored by Representatives Klippert, Cody, Goodman, Muri, Stokesbary, Haler, Hayes, Tharinger and Wylie).

Brief History:

Committee Activity:

Judiciary: 2/3/15, 2/12/15 [DPS];
Appropriations: 2/25/15, 2/26/15 [DPS(JUDI)].

Floor Activity:

Passed House: 3/9/15, 97-1.

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).

HOUSE COMMITTEE ON APPROPRIATIONS

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.

Majority Report: The substitute bill by Committee on Judiciary be substituted therefor and the substitute bill do pass. Signed by 31 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Carlyle, Cody, Condotta, Dent, Dunshee, Fagan, Haler, Hansen, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, MacEwen, Magendanz, Pettigrew, Sawyer, Schmick, Senn, Springer, Stokesbary, Sullivan, Tharinger, Van Werven and Walkinshaw.

Minority Report: Do not pass. Signed by 2 members: Representatives G. Hunt and Taylor.

Staff: Andy Toulon (786-7178).

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, 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.

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):

(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 it 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.

Staff Summary of Public Testimony (Appropriations):

(In support) This bill says if a law enforcement officer brings someone to the hospital because they are a danger to themselves or others and need to be evaluated, the hospital is given time to medically evaluate that person. If someone has a diabetic emergency or opioid overdose, there needs to be time to medically evaluate them. After that, the clock will start for the initial three-hour mental health evaluation and the 12-hour timeline to determine if they meet criteria for involuntary detention.

Last year there were a number of motions being brought regarding the three-hour rule and potential violations. Some of those were legitimate motions where timelines were missed so the petition to commit was dismissed. Others resulted from the fact that medical professionals were first treating the person as a medical patient. In these cases, the designated mental health professional (DMHP) cannot see the patient and should not be getting in the way of the medical professionals from treating the person. By having this language in the bill, it will give prosecutors the ability in court to back out the time when the person was being medically treated which would result in a fair representation of whether or not someone was detained too long.

(Opposed) Extending these timelines will cause delays of people getting released from an emergency room and tie up costly beds. There are times when a DMHP evaluates a person and releases them. When deadlines are not met, people who should not be held are being held even longer.

Sometimes it does not get mentioned in a hospital chart what time someone is medically cleared. Amendment of the medical clearance language would help to reduce litigation in the courts which are overwhelmed and underfunded.

Persons Testifying (Judiciary): (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 Testifying (Appropriations): (In support) Representative Klippert, prime sponsor; Ian Goodhew, University of Washington Medicine; and Abby Moore, King County.

(Opposed) Mike De Felice, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

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

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