
Judiciary Committee

HB 1713

Title: An act relating to integrating the treatment systems for mental health and chemical dependency.

Brief Description: Integrating the treatment systems for mental health and chemical dependency.

Sponsors: Representatives Cody, Harris, Jinkins, Moeller, Tharinger, Appleton, Ortiz-Self and Pollet.

Brief Summary of Bill

- Makes certain short-term changes to the involuntary chemical dependency treatment provisions that parallel corresponding involuntary mental health treatment provisions.
- Integrates the involuntary treatment provisions and systems for chemical dependency and mental health, and integrates other provisions pertaining to minor-initiated and parent-initiated chemical dependency and mental health treatment for minors, effective April 1, 2016.
- Directs a Washington State Institute for Public Policy study to evaluate the effect of the integration of the involuntary treatment systems for chemical dependency and mental health.

Hearing Date: 2/3/15

Staff: Omeara Harrington (786-7136).

Background:

Involuntary Mental Health Treatment.

Under the involuntary mental health systems for both minors and adults, a person may be committed for involuntary mental health treatment if he or she poses a likelihood of serious harm

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or is gravely disabled. The likelihood of serious harm or grave disability must be due to a mental disorder.

Adult System.

The Involuntary Treatment Act (ITA) sets forth the procedures, rights, and requirements for involuntary mental health treatment of adults. Under the ITA, designated mental health professionals (DMHPs) are responsible for investigating whether or not a person should be detained to an evaluation and treatment facility for an initial 72-hour evaluation. Under emergency circumstances, when the likelihood of serious harm or danger due to grave disability is imminent, a person may be detained without a court order. Additionally, law enforcement may take a person in imminent danger into emergency custody and deliver the person to an emergency department of a hospital or certain other facilities to be held for a DMHP evaluation. Under non-emergent conditions, a court order supported by probable cause is required for an initial detention.

The professional staff of the treatment facility providing the 72-hour evaluation may petition the court to have the person committed for further mental health treatment. A petition must be signed by certain combinations of two examining professionals, including physicians, mental health professionals, and psychiatric advanced registered nurse practitioners. Following a hearing, if the person is found by a preponderance of the evidence to pose a likelihood of serious harm or be gravely disabled, the court may order the person to be involuntarily committed for up to 14 days of additional treatment at an evaluation and treatment facility.

Upon subsequent petitions and hearings, if commitment criteria are met by clear, cogent, and convincing evidence, a court may order up to an additional 90 days of commitment, followed by up to 180 days of commitment. Inpatient commitment on an order allowing up to 90 or up to 180 days of treatment takes place at a state hospital. Successive 180-day orders are permissible on the same grounds and pursuant to the same procedures as the original 180-day commitment.

When entering an order for up to 14, 90, or 180 days of treatment, if the court finds that the person poses a likelihood of serious harm or is gravely disabled, but that treatment in a less restrictive alternative (LRA) than 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 treatment is for up to 90 days if ordered instead of a 14- or 90-day inpatient order, and is for up to 180 days if ordered instead of a 180-day order.

Involuntary Mental Health Treatment of Minors.

The provisions governing involuntary mental health treatment of minors over the age of 13 are in parallel with the ITA in most respects. A DMHP, upon a determination that commitment standards are met, may seek a minor's initial 72-hour detention. Upon subsequent petitions and court orders, a minor may be committed for an initial term of up to 14 days of treatment, followed by successive orders of up to 180 days of treatment. Initial and 14-day treatment takes place at an evaluation and treatment facility that provides treatment services for minors. Subsequent treatment is in the custody of the Department of Social and Health Services, or at a private facility if the minor's parents have assumed responsibility for payment. The court must order LRA treatment rather than inpatient treatment if in the best interest of the minor.

Other Common Features of the Involuntary Mental Health Treatment Systems for Adults and Minors.

Jurisdiction over involuntary mental health treatment proceedings is with the superior court. County prosecutors represent petitioners, unless the petitioner is a state facility, in which case the Attorney General provides representation.

If, after examination and evaluation, examining professionals determine that the initial needs of a person would be better served by placement in a chemical dependency treatment facility, then the person shall be referred to an approved treatment program for chemical dependency treatment.

A person committed for 14, 90, or 180 days is prohibited from possessing firearms unless the right is later restored by a court.

Involuntary Chemical Dependency Treatment.

An adult or minor may be committed for involuntary chemical dependency treatment upon petition of a Designated Chemical Dependency Specialist (DCDS), a hearing, and a finding by clear, cogent and convincing evidence that the person, due to chemical dependency poses a likelihood of serious harm or is gravely disabled. The petition of the DCDS must be accompanied by a certificate of a licensed physician who has examined the person within the previous five days, or documentation that the person refused an examination. A petition may only be filed, and the court may only order involuntary treatment, if placement in a chemical dependency program is available and deemed appropriate. If the DCDS finds that the initial needs of a person would be better served by placement within the mental health system, the person must be referred to a DMHP or evaluation and treatment facility.

In some cases, a person is detained prior to the DCDS filing for involuntary treatment. A person who is found to be incapacitated or gravely disabled by alcohol or other drugs at the time of or following admission to an approved treatment program may be detained for no longer than 72 hours, unless a petition is filed for involuntary commitment. Additionally, law enforcement may take a person into protective custody and bring the person to an approved treatment program or to an emergency medical service.

Persons committed as chemically dependent are committed for a term of 60 days, unless sooner discharged, and upon a subsequent petition and hearing, for a term of 90 days, unless sooner discharged. A treating facility may conditionally release a committed person in appropriate circumstances. If a person is committed as chemically dependent and likely to inflict physical harm upon another person, the program is required to petition for recommitment if the likelihood still exists.

Jurisdiction over involuntary chemical dependency treatment proceedings is with the superior court, district court, or other court identified in court rule. The county prosecutor may, but is not obligated to, represent petitioners in involuntary chemical dependency treatment proceedings.

Minor-Initiated and Parent-Initiated Treatment.

Mental Health System.

In the mental health system, a minor age 13 or older may, without parental consent, admit himself or herself to an evaluation and treatment facility for inpatient treatment or request and receive outpatient treatment. The administrator of a facility to which a minor has been admitted for inpatient treatment must notify the minor's parents of the admission. The minor may only be admitted if the professional person in charge of the facility believes the minor is in need of inpatient treatment. A minor voluntarily admitted to inpatient treatment may give notice of intent to leave at any time. Parental consent is needed for inpatient or outpatient treatment of a minor under 13 years old.

A parent may bring his or her minor child to an evaluation and treatment facility and request an evaluation for inpatient treatment, or to an outpatient provider and request an examination for the need for outpatient treatment. The consent of the minor is not required, and, if admitted for medically necessary inpatient treatment, the minor may not be discharged based solely on his or her request. The minor may petition the court for release from the facility.

Chemical Dependency System.

The provisions for minor-initiated and parent-initiated chemical dependency treatment of minors are similar to those pertaining to mental health treatment. However, parental consent is required for inpatient chemical dependency treatment of a minor.

Integrated Crisis Response and Involuntary Treatment Pilot Program.

The Integrated Crisis Response and Involuntary Treatment Pilot Program (ICR), created by 2005 legislation, established an integrated crisis response system at two pilot sites. The ICR authorized involuntary detention and treatment of adults meeting either the likelihood of serious harm or grave disability standard due to a chemical dependency or a mental disorder. Detentions were performed by a "designated crisis responder" (DCR) with the authority and training to detain in either the chemical dependency or mental health system.

The ICR chapter paralleled the procedures and standards in the ITA with respect to emergency and non-emergency detentions. Additionally, the ICR created a 14-day inpatient commitment order and 90-day LRA order for chemical dependency treatment. Initial detentions and 14-day commitments for chemically dependent persons were to a "secure detoxification facility or other certified chemical dependency provider." Secure detoxification facility was defined as a publicly or privately operated facility, or program of an agency, providing acute and subacute detoxification services for intoxicated persons and that includes security measures sufficient to protect the patients, staff, and community.

In line with the ITA, prosecutors were required to represent petitioners for commitments based on chemical dependency under the ICR.

Summary of Bill:

Short-Term Changes to the Chemical Dependency Involuntary Treatment System.

Changes are made to the chemical dependency involuntary treatment system, which remain in effect until April 1, 2016.

A 14-day chemical dependency commitment order replaces the current 60-day order, and will issue upon the court's finding that commitment criteria are met by a preponderance of the evidence. The ability of the petitioner to file, and of the court to order commitment, remains subject to available space in an approved treatment program.

Upon a hearing for a 14-day or 90-day order, if the court finds that the criteria for commitment are met, but that placement in a less restrictive setting than inpatient treatment is in the best interest of the person or others, the court must enter an order for up to 90 days of LRA treatment and cannot order inpatient treatment. If the program designated to provide less restrictive treatment is different than the program providing initial involuntary treatment, the designated program must agree in writing to assume the responsibility.

The list of qualified examining professionals that may sign a petition for 14-day or 90-day treatment match those in the ITA, including licensed physicians, psychiatric advanced registered nurse practitioners, and mental health professionals. An authorized combination of two professionals must sign the petition.

Prosecutors must represent petitioners in chemical dependency commitment proceedings.

Integrated Treatment System for Chemical Dependency and Mental Health.

The involuntary mental health and involuntary chemical dependency treatment systems for minors and adults are integrated, and the minor-initiated and parent-initiated mental health and chemical dependency treatment provisions are integrated, effective April 1, 2016.

Involuntary Treatment.

The ITA and the provisions pertaining to involuntary mental health treatment for minors are amended to include commitments for chemical dependency. Statutes governing involuntary chemical dependency commitment are repealed. Chemical dependency commitment follows the same procedures, rights, requirements, and timelines as mental health commitment.

Designated mental health professionals (DMHPs) and Designated Chemical Dependency Specialist (DCDSs) are replaced by designated crisis responders (DCRs). The Department of Social and Health Services (DSHS), by rule, must combine the functions of a DMHP and DCDS by establishing a DCR who is authorized to conduct investigations, detain persons for up to 72 hours to the proper facility, and carry out other functions. To qualify as a DCR, a person must have received chemical dependency training as determined by the DSHS and be a:

- psychiatrist, psychologist, psychiatric nurse, or social worker;
- person with a master's or further advanced degree in counseling or social science with at least two years of experience in direct treatment of persons with mental illness or emotional disturbance;
- person who meets certain waiver criteria as identified in statute, or as approved by DSHS; or
- person who has been granted an exception of the minimum requirements of a mental health professional by the DSHS, consistent with agency rules.

Initial detentions and 14-day commitments based on chemical dependency take place at secure detoxification facilities. For longer commitments, involuntary chemical dependency treatment

takes place at an approved treatment program. Involuntary commitment for chemical dependency is not dependent upon available space at a secure detoxification facility or approved treatment program. If, after examination and evaluation, examining professionals determine that the initial needs of the a person committed to an evaluation and treatment facility would be better served by placement in a secure detoxification facility, or that the initial needs of a person committed to a secure detoxification facility would be better served in an evaluation and treatment facility, then the person must be referred to the more appropriate placement.

The superior court has jurisdiction over involuntary treatment proceedings for mental health and chemical dependency. Prosecutors represent all petitioners, including petitioners for involuntary chemical dependency treatment, unless the petitioner is a state facility, in which case the Attorney General represents the petitioner.

The firearm prohibition extends to persons committed for chemical dependency treatment under the provisions for 14, 90, or 180-day commitment.

The Washington State Institute for Public Policy must evaluate the effect of the integration of the involuntary treatment systems for chemical dependency and mental health. The evaluation must include an assessment of whether the integrated system has increased efficiency of evaluation and treatment of persons involuntarily detained for chemical dependency, is cost-effective, results in better outcomes for involuntarily detained persons, and increases the effectiveness of the crisis response system statewide. Preliminary reports to the Legislature by December 1, 2018, and June 30, 2019, and a final report must be submitted by June 30, 2021.

Minor-Initiated and Parent-Initiated Treatment of Minors.

Provisions regarding minor-initiated mental health treatment and parent-initiated mental treatment of minors are amended to include minor-initiated and parent-initiated chemical dependency treatment of minors. Current statutes governing minor-initiated and parent-initiated chemical dependency treatment of minors are repealed.

Appropriation: None.

Fiscal Note: Requested on January 30, 2015.

Effective Date: Sections 101 to 103, regarding short-term changes to the involuntary treatment system for chemical dependency, are effective 90 days after adjournment of the session in which the bill is passed. Sections 202 through 431, regarding the integrated treatment systems for chemical dependency and mental health, repealed sections, and sections amended to correct cross-references in accordance with the rest of the bill, are effective April 1, 2016.