SENATE BILL REPORT
ESHB 1713

As Reported by Senate Committee On:
Human Services, Mental Health & Housing, March 31, 2015
Ways & Means, April 7, 2015

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: House Committee on Judiciary (originally sponsored by Representatives Cody, Harris, Jinkins, Moeller, Tharinger, Appleton, Ortiz-Self and Pollet).

Brief History: Passed House: 3/09/15, 63-35.
Committee Activity: Human Services, Mental Health & Housing: 3/23/15, 3/31/15 [DPA-WM, w/oRec].
Ways & Means: 4/07/15 [DPA, w/oRec].

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Hargrove.

Minority Report: That it be referred without recommendation.
Signed by Senator Padden.

Staff: Kevin Black (786-7747)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.
Signed by Senators Hill, Chair; Braun, Vice Chair; Dammeier, Vice Chair; Honeyford, Vice Chair, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Ranking Minority Member, Operating; Bailey, Becker, Billig, Brown, Conway, Fraser, Hasegawa, Hatfield, Hewitt, Kohl-Welles, O'Ban, Parlette, Rolfes, Schoesler and Warnick.

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: That it be referred without recommendation.
Signed by Senator Padden.

Staff: Kevin Black (786-7747)

Background: An involuntary commitment system exists for persons who are incapacitated, present a likelihood of serious harm, or are gravely disabled by substance use disorders. While this system is superficially similar to the mental health commitment system under the Involuntary Treatment Act (ITA), access to this system is sharply limited and may be entirely unavailable in some regions of the state. The state purchases 144 involuntary treatment beds for persons with substance use disorders from a single vendor with involuntary commitment facilities located in Skagit and Spokane counties. Due to the scarcity of beds, patients who enter this system stipulate that they meet involuntary commitment criteria and may spend weeks on a waiting list waiting to receive this service.

Chemical dependency involuntary commitment statutes provide that a peace officer or other person designated by the county may take a person who appears to be incapacitated or gravely disabled by alcohol or other drugs and is in a public place, or who has threatened, attempted, or inflicted physical harm on themself or another, into protective custody. The person must be brought to a treatment program certified by the Department of Social and Health Services (DSHS) within eight hours, or taken to an emergency medical service customarily used for incapacitated persons. Upon arrival the person must be examined by a qualified person, and may be admitted for treatment or referred to another health program. The person may be detained for up to 72 hours, after which the person must be released unless the facility or a designated chemical dependency specialist (DCDS) files an involuntary treatment petition.

A DCDS or treatment program may file a court petition for involuntary chemical dependency treatment in superior court, district court, or another court permitted by court rule. A DCDS must conduct an investigation and evaluate the specific facts and the reliability and credibility of information supporting detention. The petition must allege that (1) as a result of chemical dependency the person presents a likelihood of serious harm or is gravely disabled; (2) the person has been admitted for detoxification sobering services, or chemical dependency treatment twice within the preceding 12 months and is in need of a more sustained treatment program; or (3) the person is chemically dependent and has threatened, attempted, or inflicted physical harm on another and is likely to inflict physical harm on another unless committed. The petition must be accompanied by a certificate from a licensed physician who has examined the person within five days before submission of the petition, unless the person has refused to submit to a medical examination. A court hearing must be scheduled within seven days, or 72 hours excluding weekends and holidays if the person is currently detained. If the court is convinced by clear, cogent, and convincing evidence that grounds for involuntary commitment have been established, the court may commit the person to an approved treatment program for up to 60 days if a program is available and able to provide adequate and appropriate treatment. The facility may file a petition to extend the commitment for up to 90 additional days. The county prosecuting attorney may, at the discretion of the prosecuting attorney, choose to represent the petitioning DCDS or treatment program.

Special commitment rules exist for minors that are analogous to the ITA system. A minor may apply for substance use disorder treatment on their own behalf at 13 years of age. A parent may bring a minor child to a certified treatment program and request an assessment without the consent of the minor. If an assessment reveals a medical necessity for treatment, the minor may be held for treatment without consent at the direction of the parent, subject to court review if the minor petitions for release.

Under the ITA, any person who is court committed for 14, 90, or 180 days of involuntary mental health treatment is prohibited from possession of a firearm under state and federal law. No similar provision exists for persons committed for involuntary chemical dependency treatment.

A physician assistant or osteopathic physician assistant is a person licensed to practice medicine to a limited extent under the supervision of a licensed physician or licensed osteopathic physician.

Substance use disorder is a diagnostic term used by the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) published in 2013 by the American Psychiatric Association. This diagnostic term combines the characteristics of both substance abuse and substance dependence used in the previous edition (DSM-IV), and reflects current professional usage.

In August 2014, the Washington Supreme Court reviewed statutes and regulations relating to ITA detention, and determined in the *In re D.W.* decision that the current statutes and regulations under the ITA do not permit a person to be detained outside a regularly certified evaluation and treatment facility (E&T) based on a lack of room at a certified E&T facility. E&T certification limits admissions to certified capacity, so commitments under the ITA were effectively limited to circumstances in which space is available. Since then, DSHS amended its single bed certification regulation to allow for detention for mental health treatment at a facility which is willing and able to provide timely and appropriate mental health treatment. Apart from this circumstance, detentions under the ITA are disallowed when no certified treatment bed is available.

Between 2006 and 2009, the Legislature established Integrated Crisis Response pilot programs in Pierce and North Sound Regional Support Networks. These pilots combined the investigation and commitment functions of a designated mental health professional (DMHP) and DCDS into a classification called designated crisis responder (DCR). A DCR could commit a person for short-term involuntary treatment to an E&T for treatment of a mental disorder or to a secure detoxification facility for treatment of a substance use disorder. Funding was discontinued for the pilots at the start of the recession. An evaluation of the long-term outcomes of the Integrated Crisis Response pilots was published in 2011 by the Washington Institute for Public Policy (WSIPP) and found that the program achieved cost savings resulting primarily from fewer admissions to state and community psychiatric hospitals.

Summary of Bill (Recommended Amendments): WSIPP must evaluate involuntary treatment systems for chemical dependency, including how other states have implemented involuntary chemical dependency treatment, and update its previous analyses of the

Integrated Crisis Response pilots using its most recent cost-benefit methodology. WSIPP must report to the Legislature by December 31, 2015.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Amendments): WSIPP must evaluate involuntary treatment systems for chemical dependency and update its previous analyses of the Integrated Crisis Response pilots and report to the Legislature by December 31, 2015. The previous contents of the bill are removed.

EFFECT OF CHANGES MADE BY HUMAN SERVICES, MENTAL HEALTH & HOUSING COMMITTEE (Recommended Amendments): Language is removed extending the firearm prohibition resulting from ITA commitment to encompass commitments for involuntary substance abuse treatment based on use of a controlled substance, and requiring this limitation to be strictly construed. Technical amendments correct the effective date of certain sections providing cross references.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute House Bill (Human Services, Mental Health & Housing): PRO: The delayed effective date is due to the costs and difficulty of ramping up capacity in the involuntary chemical dependency system. Providers have recordkeeping responsibilities which make it complicated to manage dual treatment responsibilities in the current system. There is no intention to create any controversy surrounding gun rights. My friend nearly died due to substance use disorder, after a long series of hospitalizations. There is no parity between the crisis systems for mental health and substance abuse. Nothing can be done for persons with a substance use disorder. They go to psychiatric hospitals, prisons, and the morgue. Sometimes you need someone to say no for you when you can't say no for yourself. Recovery happens if there is a chance for it to happen. I committed my son for involuntary mental health treatment because there was no option for involuntary chemical dependency treatment. The judge dismissed the case and I felt so hopeless. In Pierce County there are 64 beds for mental health and none available for chemical dependency. There is a four to five week waiting list for the involuntary chemical dependency treatment beds in Skagit County; families are being told to just hold on. The Integrated Crisis Response Pilots had documented positive outcomes. We need to integrate these two systems and save lives. Our son died of an overdose. Others have died after being sent home because there was no option for involuntary chemical dependency treatment. Sending someone to an out-of-state program can cost $20,000. This bill must be funded for it to work. Aligning the mental health and chemical dependency systems will make sure that people have access to appropriate treatment to meet their individual needs. The secure detox option is important, and can be a bridge to longer residential treatment. There are 900 drug overdose deaths in Washington every year and 1000 suicides; some of which are chemical dependency related. This policy aligns with Senate Bill 6312. People

with chemical dependency disorders are being treated inappropriately in the mental health system. King County has a provider ready to go ahead with secure detox if it is funded. There is a high correlation between mental illness and substance abuse. This law would lessen the number of people who receive commitments for mental illness. Substance abuse treatment is much more economical than mental health treatment. The studies provide data proving this policy works.

CON: We oppose the unintended consequence from merging these two systems of the loss of firearms rights. Please adopt an amendment to resolve this issue. We are not otherwise opposed to the intent and purpose of this bill.

OTHER: Please remove the section of the bill that would take away prosecutor discretion whether or not to represent designated chemical dependency specialists in involuntary chemical dependency treatment hearings. It makes no sense to move this policy forward unless the secure detoxification facilities are funded.

Persons Testifying (Human Services, Mental Health & Housing): PRO: Representative Cody, prime sponsor; Lauren Davis, Rosario Sanchez, King County Alcoholism and Substance Abuse Administrative Board; Glen Kelley, Designated Chemical Dependency Specialist, Pierce County; Barry Antos, behavioral health professional; John Gahagan, Science and Management of Addictions Foundation; Gregory Robinson, WA Community Mental Health Council; Nick Federici, Pioneer Human Services; Jim Vollendroff, King County Mental Health, Chemical Abuse and Dependency Services Division; Seth Dawson, National Alliance on Mental Illness; Brian Enslow, WA State Assn. of Counties; Eleanor Owen, Ricky Garcia, citizens.

CON: Brian Judy, National Rifle Assn. WA State Liaison; Adina Hicks, Protect Our Gun Rights WA; William Burris, Gun Owners Action League.

OTHER: Tom McBride, WA Assn. of Prosecuting Attorneys; Jane Beyer, DSHS.

Persons Signed in to Testify But Not Testifying: No one.

Staff Summary of Public Testimony on Bill as Amended by Human Services, Mental Health & Housing (Ways & Means): PRO: This is part of the solution to the crisis for psychiatric beds. This bill will help reduce the demand for those. Substance use treatment is less expensive than mental health treatment. It accounts for about 20 percent of the cost. A study from the University of Washington shows this type of treatment reduces the cost of other types of treatment. Because I couldn't be involuntarily committed, I nearly died and it cost hundreds of thousands of dollars for multiple emergency room, ambulance, and other types of treatment. Professionals said I was one of the less-expensive patients. Life-threatening addiction affects teenagers and disproportionately affects veterans. Often we look to other states to see what they have done in this area. Fortunately, we have results in Washington to look to: the integrated crisis response results from 2006 to 2009. Under that model, individuals could be committed for mental health or chemical dependency issues. That study outlined that the savings from inpatient hospitalization would offset the cost of secured detox. In the late 1990s, when there was a fully functioning involuntary chemical dependency treatment system, there were net savings to Medicaid of $7.1 million over three

years for chemical dependency clients and $10.9 million for clients with both a substance abuse disorder and mental illness. There would be a net savings in both money and lives if this bill were to pass.

OTHER: We are here asking for an amendment to Section 104. This section was amended to say prosecutors "shall" represent the designated chemical dependency professional (DCDP). The previous language said prosecutors "may" represent the DCDP. Since this bill would increase the number of times the prosecutors would be required to provide representation under this process from 900 to 5400, it may be appropriate to strike this section or to include court cost for the prosecuting attorneys. This is a pretty big court cost to not be included for the prosecuting attorney.

Persons Testifying (Ways & Means): PRO: Seth Dawson, National Alliance on Mental Illness WA; Ricky Garcia, Lauren Davis, King County Alcoholism and Substance Abuse Administrative Board.

OTHER: Tom McBride, WA Assn. of Prosecuting Attorneys.

Persons Signed in to Testify But Not Testifying: No one.