

SENATE BILL REPORT

SB 5687

As of February 6, 2015

Title: An act relating to standards for detention of persons with mental disorders or chemical dependency.

Brief Description: Concerning standards for detention of persons with mental disorders or chemical dependency.

Sponsors: Senators Hargrove, Miloscia, Dammeier, Parlette, Braun, Honeyford, Darneille, Warnick and McAuliffe.

Brief History:

Committee Activity: Human Services, Mental Health & Housing: 2/03/15.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Staff: Kevin Black (786-7747)

Background: A designated mental health professional (DMHP) may initiate detention under the Involuntary Treatment Act (ITA) if, following investigation, the DMHP finds that the person suffers from a mental disorder and as a result presents a likelihood of serious harm or is gravely disabled, and has refused or failed to accept appropriate voluntary treatment. Likelihood of serious harm means a substantial risk that the person will inflict physical harm on himself or herself, inflict harm on another, or inflict harm on the property of another. Gravely disabled means a condition where a person is either in danger of serious physical harm resulting from a failure to provide for essential needs of health or safety, or in which a person manifests severe deterioration in routine functioning and is not receiving such care as is essential for health or safety.

Both emergency and nonemergency procedures are available for detention. To follow the nonemergency detention procedure, the DMHP must prepare a petition for initial detention for ex parte review by a superior court judge, supported by the DMHP's declaration or sworn telephonic testimony, in a procedure similar to the procedure followed to authorize a search warrant. The emergency detention procedure is available when the DMHP discovers information indicating an imminent likelihood of serious harm or that a person is in imminent danger due to grave disability. In this case, the DMHP may initiate detention without prior judicial authorization.

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.

The Washington Supreme Court case of *In re Harris*, 98 Wn.2d 276 (1982), reviewed initial detention procedures under the ITA and determined that a judicial finding of "probable dangerousness" is constitutionally required before a DMHP may initiate detention in a nonemergency situation. 98 Wn.2d at 287-89.

Integrated crisis response is an alternative to the ITA which was utilized as a pilot project by two counties between April 2005 and June 2009, when state funding for the pilots was discontinued.

Summary of Bill: The requirement of imminence is removed from emergency detention statutes under the ITA, Juvenile ITA, and integrated crisis response chapters of the Revised Code of Washington, by striking the word "imminent" from the phrases "imminent likelihood of serious harm" and "imminent danger because of being gravely disabled" and replacing it with the word "substantial."

Appropriation: None.

Fiscal Note: Requested on January 30, 2015.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: My son could not get help until he hit the bottom; good laws could have given him a life which he did not have. Just change the word imminent to substantial and you will save lives. We shouldn't ask people to make decisions when they don't know they are sick. The day before my son committed suicide, he was at his mental health counselor, and he seemed okay. He wasn't in imminent danger, but he was in substantial danger. We need to intervene earlier.

CON: This bill is unnecessary and costly. Nonemergency detentions utilize the substantial likelihood standard. Of detentions in King County, 10 to 15 percent use the nonemergency standard, so it is used widely. Continuing to lower the ITA standard and place people into a system which is already overloaded will not help. It would take hundreds of millions of dollars to increase commitments to the magnitude suggested. Please invest those dollars upstream where it will make the most difference. This change will place individuals in danger by causing trauma which makes mental illness worse.

Persons Testifying: PRO: Carolyn Hale, Jacquie Witherrite, Jacquie Stanton, Seth Dawson, Sandi Ando, Charles Huffine, Bob Winslow, National Alliance on Mental Illness WA; Ann Christian, WA Community Mental Health Council.

CON: Shankar Narayan, American Civil Liberties Union of Washington; Mike De Felice, WA Defender Assn., WA Assn. of Criminal Defense Lawyers; Helen Nilon, Behavioral Health & Wellness; Cindy Olejar, MindFreedom Seattle.