

# HOUSE BILL REPORT

## HB 1069

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**As Passed House:**  
February 1, 2017

**Title:** An act relating to procedures for enforcing outpatient civil commitment orders.

**Brief Description:** Concerning procedures for enforcing outpatient civil commitment orders.

**Sponsors:** Representatives Jenkins, Appleton, Kirby, Fey and Cody.

**Brief History:**

**Committee Activity:**

Judiciary: 1/12/17, 1/19/17 [DP].

**Floor Activity:**

Passed House: 2/1/17, 97-0.

**Brief Summary of Bill**

- Allows petitions for enforcement of less restrictive alternative (LRA) treatment orders under the Involuntary Treatment Act to be filed with the court in the county where the person who is subject to the LRA order is located, and modifies and reorganizes provisions governing enforcement proceedings.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass. Signed by 13 members: Representatives Jenkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Muri, Assistant Ranking Minority Member; Frame, Goodman, Graves, Haler, Hansen, Kirby, Klippert, Orwall and Shea.

**Staff:** Edie Adams (786-7180).

**Background:**

Under the Involuntary Treatment Act a person may be committed by a court for involuntary mental health treatment if he or she, due to a mental disorder, poses a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient treatment.

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*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.*

When entering an order for involuntary mental health treatment on the basis that the person poses a likelihood of serious harm or is gravely disabled, the court must order an appropriate less restrictive course of treatment, rather than inpatient treatment, if the court finds that treatment in a less restrictive alternative (LRA) than detention is in the best interest of the person or others. If a person is found to be in need of assisted outpatient treatment, and does not pose a likelihood of serious harm and is not gravely disabled, the person may be ordered only to LRA treatment, and may not be ordered to inpatient treatment. The Department of Social and Health Services (Department) contracts with regional support networks to administer community-based mental health services to persons on LRA orders.

Legislation enacted in 2015 (Engrossed Second Substitute House Bill 1450) provided increased statutory direction regarding treatment services that must be provided under an LRA order and amended the process for issuance and modification or revocation of LRA orders. Facilities and agencies overseeing treatment are authorized to take responsive actions to enforce compliance with an LRA or conditional release order, including requesting a court hearing, with the assistance of the county prosecutor, for review and modification of the order. Designated mental health professionals and the Department may institute proceedings for modification or revocation of an LRA order and may detain the person pending a hearing. An LRA order may be modified or revoked if the person fails to adhere to the terms and conditions of his or her release, is substantially deteriorating or decompensating, or poses a likelihood of serious harm

A petition for modification or revocation of an LRA order or conditional release must be filed with the court that originally ordered commitment, and venue for the proceeding is in the court where the petition is filed. Prior to enactment of the 2015 legislation, a petition for modification or revocation of an LRA order could be filed with the court that originally ordered commitment or with the court in the county in which the person is detained.

**Summary of Bill:**

A petition for modification or revocation of a less restrictive alternative order, and order of apprehension and detention, if applicable, must be filed either with the court that originally ordered commitment or the court in the county in which the person is located.

A provision allowing facilities and agencies overseeing treatment to request a court hearing for review and modification of an order is eliminated, and requirements governing modification or revocation petitions are reorganized into one provision governing enforcement proceedings.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 2 and 3, which because of prior delayed effective dates, take effect April 1, 2018, and July 1, 2026, respectively.

**Staff Summary of Public Testimony:**

(In support) This is a clean-up bill for the assisted outpatient treatment legislation enacted in 2015. The changes will align procedures for petitions to modify or revoke less restrictive alternative orders with historical practices used for these enforcement proceedings.

(Opposed) The current law provides a better hearing process and greater protection of an individual's due process rights. The court that ordered the commitment is best able to handle the proceeding and interpret the original order. The original jurisdiction is typically where the individual lives and where witnesses and treatment providers are located, so filing in a different jurisdiction will result in increased costs and delays. The question of whether a revocation should be ordered is one that should be put before the judge who originally ordered the commitment.

**Persons Testifying:** (In support) Representative Jenkins, prime sponsor; and Seth Dawson, National Alliance on Mental Illness Washington.

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

**Persons Signed In To Testify But Not Testifying:** None.