

HOUSE BILL REPORT

HB 1162

As Reported by House Committee On:
Judiciary

Title: An act relating to requirements for providing notice regarding court review of initial detention decisions under the involuntary treatment act.

Brief Description: Concerning requirements for providing notice regarding court review of initial detention decisions under the involuntary treatment act.

Sponsors: Representatives Kilduff, Muri, Rodne, Jinkins, Orwall and McDonald.

Brief History:

Committee Activity:

Judiciary: 1/18/17, 1/26/17 [DP].

Brief Summary of Bill

- Revises the requirements for a designated mental health professional (DMHP) or DMHP agency to inform an immediate family member, guardian, or conservator about the process to petition for court review of an initial detention decision under the Involuntary Treatment Act.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 13 members: Representatives Jinkins, 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 (ITA), a person may be detained and ordered to undergo involuntary mental health treatment if the person, as a result of a mental disorder, poses a likelihood of serious harm or is gravely disabled. Designated mental health professionals (DMHPs) are responsible for investigating and determining whether to detain an individual who may be in need of involuntary treatment.

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.

Prior to pursuing initial detention, the DMHP must assess the credibility of the information received and attempt to interview the person about whom the information has been provided. The DMHP must consider all reasonably available information from credible witnesses and records regarding any history of one or more violent acts, prior commitments under the ITA, prior determinations of incompetency or insanity, and prior recommendations for evaluation for incompetency or insanity in criminal proceedings. The DMHP cannot seek initial detention for involuntary treatment unless satisfied that the allegations are true, and the person will not voluntarily seek appropriate treatment.

When a DMHP decides not to detain a person for evaluation and treatment, or does not take action to have a person detained within 48 hours of a request for investigation, the person's immediate family member, guardian, or conservator may petition the superior court for the person's initial detention. The petition must include a sworn declaration of the petitioner, and other witnesses if desired, that describes why the person should be detained for evaluation and treatment. If the court finds that the petition presents sufficient evidence, the court must order the DMHP to provide a detailed description of the investigation and decision not to file for initial detention, along with a copy of all information material to the DMHP's decision. An order for initial detention may be entered if the court finds probable cause to support a petition for initial detention and that the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

Upon receiving a request for an investigation for an initial detention of a person, a DMHP or DMHP agency must inquire whether the request is from an immediate family member, guardian, or conservator. If the DMHP decides not to detain the person, or if the person is not detained within 48 hours, the DMHP or DMHP agency must inform the immediate family member, guardian, or conservator of the process for petitioning the court for detention.

Effective April 1, 2018, DMHPs are replaced with designated crisis responders as a result of legislation enacted in 2016 to integrate the mental health and chemical dependency involuntary treatment systems.

Summary of Bill:

A designated mental health professional (DMHP) or DMHP agency must provide an immediate family member, guardian, or conservator with written information about the process to petition for court review when the DMHP fails to detain, or fails to take action to detain, a person after a request for investigation. The DMHP must document the date on which the written information is provided to the immediate family member, guardian, or conservator. Beginning April 1, 2018, designated crisis responders are responsible for providing this written notification to an immediate family member, guardian, or conservator.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 2, which because of a prior delayed effective date, takes effect April 1, 2018.

Staff Summary of Public Testimony:

(In support) Joel's Law provides important rights to families. The Department of Social and Health Services has information on its website about the process for a family member to petition the court, and designated mental health professionals are required to inform family members about the process. However, there is not much skin on the bones regarding what "inform" means, and many families are not receiving this information. The bill requires written information and documentation of the date the information is provided. Enhancing the required notice makes sense given the important rights involved. We want families to take advantage of this process so that they are able to protect their loved ones. Families that deal with someone in crisis experience the stress and fear of knowing a loved one is in danger. Knowing about Joel's Law can help them. Most families are not familiar with Joel's Law, and there are people in the system who prefer to keep them in the dark. This bill is important to make sure that family members receive written information of their rights.

(Opposed) None.

Persons Testifying: Representative Kilduff, prime sponsor; and Mikaela Painter.

Persons Signed In To Testify But Not Testifying: None.