

SENATE BILL REPORT

SB 5103

As of January 30, 2017

Title: An act relating to petitions for review of involuntary commitment decisions filed by an immediate family member, guardian, or conservator.

Brief Description: Concerning petitions for review of involuntary commitment decisions filed by an immediate family member, guardian, or conservator.

Sponsors: Senator O'Ban.

Brief History:

Committee Activity: Human Services, Mental Health & Housing: 1/17/17.

Brief Summary of Bill

- Establishes a time limit of ten days to file a Joel's Law petition without requesting a new designated mental health professional (DMHP) evaluation.
- Changes the means of detention after the court grants a petition by requiring a peace officer to detain the person to a facility designated by the designated mental health professional.
- Requires DMHP agencies to give information about the date on which a DMHP investigation was requested.
- Requires the Administrative Office of the Courts (AOC) to develop a user's guide for Joel's Law and a model detention order.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Staff: Kevin Black (786-7747)

Background: Under the Involuntary Treatment Act (ITA), an evaluation of a person for detention for civil commitment may be requested by calling a crisis line. Only a DMHP may perform a mental health civil commitment evaluation. The DMHP evaluates the person in order to determine whether, as the result of a mental disorder, the person presents a likelihood of serious harm or is gravely disabled. If the DMHP so finds, the DMHP may detain the person for up to 72 hours if the DMHP can find a bed in a licensed evaluation and treatment

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facility or a bed in a facility capable of providing timely and appropriate mental health treatment that will accept the person on a single-bed certification. The facility providing 72-hour treatment may file subsequent petitions for civil commitment for longer periods of time.

On April 1, 2018, the ITA will be expanded to encompass evaluations for civil commitment based on both mental health and substance use disorders. At this time, DMHPs will be renamed designated crisis responders.

In 2015, the Legislature enacted Engrossed Second Substitute Senate Bill 5269, known as Joel's Law. Under Joel's Law, an immediate family member, guardian, or conservator of a person may petition superior court to review a decision by a DMHP to not detain a person for civil commitment. A petition may also be filed if the DMHP has taken no action 48 hours after a request for investigation. Forms for filing a Joel's Law petition were created by the AOC. These forms prompt the petitioner to provide information required by statute, including the date on which an investigation was requested from the DMHP.

The court must review a petition under Joel's Law within one judicial day to determine whether the petition raises sufficient evidence to support the allegation. If the court so finds, it must request the DMHP's investigation file and make a final determination on the petition within five judicial days after the petition was filed. If the court overrules the DMHP by issuing an order for initial detention, the court must provide the order of detention to the DMHP agency, which must execute the order without delay. An order for detention under Joel's Law expires after 180 days.

On November 14, 2016, the Senate Human Services, Mental Health & Housing Committee held a work session on Joel's Law, reviewing statistics and hearing testimony about the implementation of the law.

Summary of Bill: A Joel's Law petition must be filed within ten calendar days after a DMHP evaluation. If more than ten days have elapsed, the petitioner must request a new DMHP evaluation. If a court issues an order of detention under Joel's Law, it must issue a written order of apprehension of the person by a peace officer, instructing the officer to deliver the person to a facility or emergency room designated by the DMHP. The DMHP must collaborate and coordinate with law enforcement regarding apprehension of the person, including sharing information relating to risk and information which would assist in locating the person. A person may not be detained to jail under Joel's Law.

A DMHP or DMHP agency must disclose the date of a DMHP investigation to a family member, guardian, or conservator of a person to assist in the preparation of a Joel's Law petition.

An order for detention under Joel's Law should contain the advisement of rights which the person would receive if the person were detained by a DMHP. By December 15, 2017, AOC must, in collaboration with stakeholders, develop a user's guide to assist pro se litigants in the preparation and filing of a Joel's Law petition and develop a model order of detention which contains an advisement of rights for the detained person.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The time limitations are a good idea. We like the idea of a guide for pro se petitioners, which will make this process available to those who cannot afford an attorney. We are concerned about a judge directing law enforcement to apprehend a committed person, because most police in this state have not received crisis intervention training. There have been too many instances of tragic consequences following police interactions with persons with mental illness.

CON: We are concerned with the time limit, and the information which the DMHP must provide to law enforcement. We ask for the time limit to be 72 hours, which will ensure that the information a judge receives will be timely and relevant. While we support providing information about location and whether a person has weapon, the term risk is too broad. HIPAA-protected information must not be provided to the police.

Persons Testifying: PRO: Seth Dawson, National Alliance on Mental Illness, NAMI WA.

CON: Mike De Felice, WA Defender Assn. and WA Assn. of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: No one.