# SENATE BILL REPORT
# SB 5434

As Reported by Senate Committee On:
Human Services, Mental Health & Housing, February 14, 2017

**Title**: An act relating to the addition of services for long-term placement of mental health patients in community hospitals that voluntarily contract and are certified by the department of social and health services.

**Brief Description**: Concerning the addition of services for long-term placement of mental health patients in community hospitals that voluntarily contract and are certified by the department of social and health services.

**Sponsors**: Senators Rivers and Cleveland.

**Brief History:**
**Committee Activity**: Human Services, Mental Health & Housing: 1/31/17, 2/14/17 [DPS-WM].

**Brief Summary of Substitute Bill**

- Requires the Department of Social and Health Services to contract with Behavioral Health Organizations to provide a portion of their allocated long-term treatment capacity in the community, instead of in the state hospitals.

## SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

**Majority Report**: That Substitute Senate Bill No. 5434 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Carlyle, Hunt, Padden and Walsh.

**Staff**: Kevin Black (786-7747)

**Background**: The Involuntary Treatment Act (ITA) allows for the civil commitment of a person for involuntary inpatient mental health treatment if the person is found:

- to have a mental disorder;

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- as a result of the mental disorder to present a likelihood of serious harm or to be gravely disabled;
- to be unwilling to accept voluntary treatment; and
- there is no less restrictive alternative that will adequately meet the person's needs of health and safety.

Patients who qualify for treatment under the ITA may be detained for 72 hours by a designated mental health professional and subsequently court-committed for 14 days, 90 days, or 180 days. Patients who are detained for 72 hours or committed for 14 days are considered to be short-term patients. These patients receive treatment in evaluation and treatment facilities (E&Ts). An E&T is a community facility certified to provide short-term involuntary treatment. Patients who are committed for 90 days or 180 days are considered to be long-term patients. These patients receive treatment at state hospitals. Three state hospitals are operated by the Department of Social and Health Services (DSHS): Western State Hospital, Eastern State Hospital, and the Child Study and Treatment Center. If there are no E&T or state hospital treatment beds available to serve the immediate needs of a patient, a facility which is willing and able to provide timely and appropriate mental health treatment may be temporarily certified to provide either short-term or long-term treatment through the means of a single-bed certification granted by DSHS.

Community mental health services for patients who meet access-to-care standards are provided in nine regions of the state. Eight regions are served by Behavioral Health Organizations (BHOs), and one region, consisting of Clark and Skamania counties, is served by Fully-Integrated Managed Care Organizations (FIMCOs). The BHOs and FIMCOs each receive an allocation of state hospital beds which are provided free of charge to serve the long-term treatment needs of the region. DSHS is required to charge the BHOs and FIMCOs for the use of any state hospital beds that exceed their bed allocations. As an incentive to control utilization of state hospital beds, DSHS is required to return one half of the money it collects to BHOs or FIMCOs which are under their state hospital bed allocations.

A provision of law enacted in 2006 allows DSHS to enter into a performance-based contract with a BHO to provide some or all of the BHO's allocation for long-term treatment in the community instead of in a state hospital. This provision has never been utilized.

**Summary of Bill (First Substitute)**: DSHS must enter into performance-based contracts with BHOs to provide some or all of the involuntary long-term inpatient treatment capacity allocated to the BHO in the community, rather than the state hospital. These contracts must allocate a number of patients days of care in the community to the BHO. The requirements for BHO procurement are increased to include ability to contract for a minimum number of patient days for involuntary long-term care in the community.

DSHS must work with willing community hospitals to assess their capacity to become licensed to provide involuntary long-term mental health placements. DSHS must enter into contracts and payment arrangements with these facilities. No community hospital is required to be certified to provide involuntary long-term mental health care. These provisions do not require a hospital or E&T to contract with DSHS in order to continue to treat adults who are waiting for placement at a state hospital or facility which voluntarily contracts to provide 90 and 180-day services.

**EFFECT OF CHANGES MADE BY HUMAN SERVICES, MENTAL HEALTH & HOUSING COMMITTEE (First Substitute)**:

- Clarifies that a hospital or E&T is not required to contract with DSHS in order to treat adults waiting for placement at a state hospital.

**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 on Original Bill**: *The committee recommended a different version of the bill than what was heard.* PRO: We need to alleviate the burden on state hospitals and make sure patients get appropriate care. We brought this idea forward as one solution to the problems surrounding long-term involuntary commitments. Our hospitals are interested in serving this population on a voluntary basis. State hospital admission wait lists are at all-time highs, which causes problems for community hospitals. Their beds fill up with patients who cannot transfer to state hospitals, which causes other patients to back up, creating more boarding and single-bed certifications. In some severe cases, people are turned away from treatment. Patients will benefit from being closer to home and community treatment networks. Please amend the bill to protect hospitals who are treating patients on the state hospital wait list. The point is to add new beds and new services. Willingness to participate will depend on payment rate, capital requirements, and the certificate of need process. Gradually shifting the role of state hospitals by creating smaller regional treatment settings would bring many positives for patients. Please include freestanding evaluation and treatment settings as settings that can also provide this level of care. Alternative settings may provide shorter lengths of stay than the state hospitals. Please be aware this care is not funded within the current BHO rate structure. New funding would need to follow with the shifting of responsibilities to maintain the current level of community services. This change will help to reduce the pressure on the state hospitals. Family member participation increases the success rate of treatment. Local care supports family participation.

**Persons Testifying**: PRO: Senator Ann Rivers, Prime Sponsor; Chelene Whiteaker, WA State Hospital Assn.; Seth Dawson, National Alliance on Mental Illness, NAMI Washington; Ann Christian, WA Council for Behavioral Health.

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