

HOUSE BILL REPORT

2SHB 1907

As Amended by the Senate

Title: An act relating to the substance use disorder treatment system.

Brief Description: Concerning the substance use disorder treatment system.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Davis, Appleton, Doglio, Ryu, Goodman and Jinkins).

Brief History:

Committee Activity:

Civil Rights & Judiciary: 2/19/19, 2/22/19 [DPS];

Appropriations: 2/26/19, 2/28/19 [DP2S(w/o sub CRJ)].

Floor Activity:

Passed House: 3/8/19, 98-0.

Senate Amended.

Passed Senate: 4/17/19, 48-0.

Brief Summary of Second Substitute Bill

- Encourages a pathway for dual licensure as both an evaluation and treatment facility and a secure withdrawal management and stabilization facility.
- Requires the Health Care Authority to produce an update to the designated crisis responder statewide protocols to address issues related to behavioral health integration and the applicability of commitment criteria to individuals with substance use disorders by December 1, 2019.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Jinkins, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Hansen, Kilduff, Kirby, Klippert, Orwall, Shea, Valdez, Walen and Ybarra.

Staff: Ingrid Lewis (786-7289).

HOUSE COMMITTEE ON APPROPRIATIONS

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.

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Civil Rights & Judiciary. Signed by 30 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Cody, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Jinkins, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Senn, Springer, Stanford, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

Minority Report: Do not pass. Signed by 1 member: Representative Chandler.

Staff: Andy Toulon (786-7178).

Background:

Effective April 1, 2018, the Involuntary Treatment Act (ITA) and the provisions pertaining to involuntary mental health treatment were expanded to include commitments for substance use disorders. Under the ITA, a person may be ordered to undergo involuntary behavioral health treatment if the person, as a result of a mental health or a substance use disorder, poses a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient behavioral health treatment. Designated crisis responders (DCR) are mental health professionals appointed to conduct evaluations for individuals with mental disorders and substance use disorders under the ITA. The Health Care Authority is required to develop statewide protocols to be utilized by professional persons and designated crisis responders in administration of the ITA and update these proposals every three years. The current DCR protocols are not due for update until 2020.

Under the ITA, a person may be ordered to undergo involuntary behavioral health treatment if the person, as a result of a mental health or a substance use disorder, poses a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient behavioral health treatment.

A person who poses a likelihood of serious harm or is gravely disabled may be committed for up to 72 hours for an initial evaluation at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment facility. Upon subsequent petitions and hearings for further treatment, an adult posing a likelihood of serious harm or grave disability may be court ordered to consecutive terms of treatment lasting up to 14 days, up to 90 days, and successive terms of up to 180 days.

The Department of Health is responsible for certifying and licensing behavioral health service providers, including evaluation and treatment facilities, secure detoxification facilities, and approved substance use disorder treatment facilities, and establishing minimum standards for service provision.

Summary of Second Substitute Bill:

References to "secure detoxification facility" are changed to "secure withdrawal management and stabilization facility" in the adult and minor involuntary treatment acts.

The Department of Health is required to develop a process by which a provider of behavioral health services can become dually licensed as both an evaluation and treatment facility and a secure withdrawal management and stabilization facility.

The Health Care Authority (Authority) is required to develop an addendum to the designated crisis responder statewide protocols in consultation with specified stake holders concerned with mental illness and substance use disorders. The update must address implementation of the integration of mental health and substance use disorder treatment systems, to include the applicability of commitment criteria and general processes for referrals and investigations of individuals with substance use disorders. The Authority shall adopt and submit the addendum to the Governor and the Legislature by December 1, 2019.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment expands the definition of a secure withdrawal management and stabilization (SWMS) facility to include the provision of voluntary substance use disorder (SUD) treatment and adds that SWMS facilities must provide treatment and clinical stabilization services. Language is added to the minor Involuntary Treatment Act to allow a petition for 14 or 180 days of involuntary SUD treatment of a minor to be signed by a chemical dependency professional instead of a mental health professional and an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner. The amendment also adds the provisions of the Substitute House Bill 1529 Senate Behavioral Health Subcommittee striking amendment which does the following:

1. limits the amount of time that an agency-affiliated counselor (AAC) working as a peer counselor in a behavioral health agency must spend in a substance abuse monitoring program to the amount of time necessary for the person to achieve one year in recovery;
2. prohibits the Department of Health (DOH) and certain employers from automatically denying employment to an applicant for a position as an AAC practicing as a peer counselor if the applicant has been convicted of certain disqualifying offenses, at least one year has passed since the conviction, the conviction was committed as a result of the applicant's substance use or untreated mental illness, and the applicant has been in recovery for at least one year;
3. directs the Health Care Authority to certify SUD peer counselors and include reimbursement for SUD peer services to the Medicaid state plan;
4. directs DOH to conduct sunrise reviews to evaluate the transfer of the current peer support counselor certification from HCA to DOH and the need for the creation of an advanced peer support specialist credential; and
5. removes the 60-day provisional time period for an applicant who applies for registration as an AAC and allows the applicant to work while their application is pending with DOH, as long as required documentation is provided within reasonable time limits set by DOH.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 5, 7, 9, 12, 15, 31, 33, 35, 38, 40, and 42, relating to expiring the language stating that commitments to secure detoxification facilities and approved substance use disorder treatment programs are subject to facility availability and available space, which take effect July 1, 2026.

Staff Summary of Public Testimony (Civil Rights & Judiciary):

(In support) Ricky's Law was passed in 2016 and integrated the mental health and substance use disorder treatment involuntary treatment systems in April 2018. There are 45 secure detoxification beds for adults located in Chehalis and Spokane. Since the law has been in effect, only 30 percent of the beds are being used for individuals detained under Ricky's Law. There have been several implementation obstacles. There should be an ability to dually certify secure detoxification facilities and evaluation and treatment facilities so that an individual can receive the appropriate care if they have co-occurring conditions. Many individuals may need to detox, but a mental illness is the underlying issue. Substance use disorder facilities are not funded to provide those services and cannot staff mental health professionals on an ongoing basis. Current law defines risk of harm to self and grave disability primarily in the context of mental illness, and this does not capture an individual who survives a nearly fatal overdose or an individual who has a life threatening medical condition due to substance use. Transport to a security detoxification facility from an emergency department occurs via ambulance. The most populous county in Washington has not been implementing the law because the county is unable to find an ambulance company who will contract for the rate.

Individuals suffering from a substance use disorder cannot make rational decisions because the disease chemically changes the logical thought process.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) None.

(Opposed) None.

Persons Testifying (Civil Rights & Judiciary): Representative Davis, prime sponsor; Debra Mayer; Len McComb, Washington State Hospital Association; and Tony Prentice, American Behavioral Health Systems.

Persons Testifying (Appropriations): None.

Persons Signed In To Testify But Not Testifying (Civil Rights & Judiciary): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.