

FINAL BILL REPORT

SSB 5181

C 247 L 19
Synopsis as Enacted

Brief Description: Concerning certain procedures upon initial detention under the involuntary treatment act.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Kuderer, Saldaña, Pedersen, Wilson, C., Dhingra, Billig, Takko, McCoy, Hunt, Cleveland, Wellman, Darneille, Carlyle, Das and Liias).

Senate Committee on Law & Justice
Senate Committee on Ways & Means
House Committee on Civil Rights & Judiciary
House Committee on Appropriations

Background: The Involuntary Treatment Act. If a designated crisis responder (DCR) finds a person has a mental disorder or substance use disorder, and because of the disorder, the person presents a likelihood of serious harm or is gravely disabled, the Involuntary Treatment Act (ITA) authorizes civil commitment. Two other ITA requirements are that the person will not voluntarily cooperate with treatment, and no less restrictive alternative is available that will meet health and safety needs.

Likelihood of serious harm means a substantial risk that a person will harm:

- themselves, evidenced by suicide threats or attempts, or by inflicting physical harm on themselves;
- another person, evidenced by causing harm or placing another person in reasonable fear of sustaining harm; or
- another person's property, evidenced by causing substantial loss or damage to another person's property.

Initially, a person may be detained for investigation for civil commitment by a DCR for up to 12 hours. If the DCR finds a basis for commitment, they may detain the person for up to 72 hours in an evaluation and treatment facility (E&T). If an E&T cannot be located, they may detain the person in a facility which is willing and able to provide timely and appropriate mental health treatment under a single bed certification. If neither an E&T bed nor a single bed certification can be located within the twelve-hour initial detention period, the DCR may not detain the person. During the 72-hour detention period, the facility providing detention may file a court petition to authorize an additional 14 days of involuntary treatment. At this point, the law provides the person with a court hearing, legal counsel, the right to present

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evidence, and the right to confront witnesses. If detention continues past this stage, further court petitions may be filed for 90 or 180 days of involuntary treatment.

Loss of Firearm Rights Upon Judicial Commitment. A person who is judicially committed for involuntary treatment loses their right to possess a firearm under state and federal law. Judicial commitments happen at the 14-day, 90-day, and 180-day stages of the ITA. Judicial commitment also occurs when a person who is a criminal defendant is placed in a facility for treatment related to criminal insanity or restoration of competency to stand trial. Under the ITA, the person is notified that they may not possess firearms. Within three judicial days notice is also sent to the Department of Licensing (DOL), Washington State Patrol (WSP), and National Instant Criminal Background Check System database operated by the FBI.

State law authorizes a person prohibited from possessing a firearm to petition the superior court for restoration of their firearm rights. For a person whose prohibition comes from involuntary commitment, the person must petition the superior court that ordered the involuntary commitment and establish by a preponderance of evidence that:

- the person is no longer required to participate in court-ordered inpatient or outpatient treatment;
- the person has successfully managed the condition related to the commitment;
- the person no longer presents a substantial danger to oneself, or the public; and
- the symptoms related to the commitment are not reasonably likely to recur.

Washington State currently has no procedure that is effective to restore a person's prohibition to possess a firearm under federal law.

Summary: A person detained under the ITA for 72 hours on the grounds that the person presents a likelihood of serious harm, but not detained for an additional 14 days, may not possess a firearm for six months after the date of detention. The DCR must inform the person of this six-month prohibition orally and in writing before discharge. The person must surrender any concealed pistol license and any firearms they possess or control to the sheriff or chief of police where the person lives.

The person's right to possess a firearm is restored automatically at the end of the six-month period, and any surrendered firearms must be returned. The person may petition the superior court to restore their right to possess a firearm before the end of the six-month period by following restoration procedures under law. The facility detaining the person must forward a copy of the person's identifying document to DOL and WSP, which must forward it to the National Instant Criminal Background Check System operated by the FBI.

If funding is not provided in the operating budget, the contents of the bill are null and void.

Votes on Final Passage:

Senate	26	19	
House	55	40	(House amended)
Senate	26	21	(Senate concurred)

Effective: July 28, 2019