

SENATE BILL REPORT

SB 5071

As of January 14, 2021

Title: An act relating to creating transition teams to assist specified persons under civil commitment.

Brief Description: Creating transition teams to assist specified persons under civil commitment.

Sponsors: Senators Dhingra, Darneille, Das, Hunt, Kuderer, Wilson, C. and Nguyen.

Brief History:

Committee Activity: Health & Long Term Care: 1/13/21 [w/oRec-BH].
Behavioral Health Subcommittee to Health & Long Term Care: 1/15/21.

Brief Summary of Bill

- Requires the appointment of a transition team to assist certain civil commitment patients being released to the community following the dismissal of criminal charges, consisting of a care coordinator, a representative of the Department of Social and Health Services, and a specially-trained community corrections officer.
- Includes persons acquitted by reason of insanity in minimum requirements established in law for other persons ordered to receive court-ordered outpatient behavioral health treatment.
- Modifies requirements for court-ordered outpatient behavioral health treatment by allowing for inclusion of a substance use disorder evaluation and permitting certain disclosures by the care coordinator to facilitate involuntary treatment processes.

SENATE COMMITTEE ON BEHAVIORAL HEALTH SUBCOMMITTEE TO HEALTH & LONG TERM CARE

Staff: Kevin Black (786-7747)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: Involuntary Commitment for Behavioral Health Treatment. Involuntary commitment occurs when a court orders a person to undergo a period of involuntary behavioral health treatment. Involuntary treatment may occur in an inpatient setting, or it may consist of a period of outpatient treatment, which is known as less restrictive alternative (LRA) treatment. Washington law refers to orders requiring LRA treatment as LRA treatment orders, conditional release orders, or assisted outpatient behavioral health treatment orders.

Reasons for Involuntary Commitment. A person may receive an involuntary commitment order through a civil court case or a criminal court case. An involuntary commitment order arises through a civil court case when a designated crisis responder (DCR) determines, following investigation, that a person who is refusing voluntary behavioral health treatment presents a likelihood of serious harm or is gravely disabled due to a behavioral health disorder. The DCR may detain the person up to 120 hours in a community treatment facility. The treatment facility may subsequently petition for a court order requiring continuing involuntary treatment for defined periods if certain legal criteria are met.

An involuntary commitment order may arise through a criminal court case in one of two ways:

- a person may be acquitted of a criminal charge as not guilty by reason of insanity, and then subsequently found by a court or jury to present a substantial danger to other persons unless kept under further control by the court or other persons or institutions, or be found to present a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions; or
- a person may be found incompetent to stand trial and referred for civil commitment after the statutory time period allotted for competency restoration treatment has expired without a finding of restoration, with special grounds for civil commitment being available on the basis of proof that the person has committed acts constituting a felony, and as a result of a behavioral health disorder presents a substantial likelihood of repeating similar criminal acts. If the court makes a special finding that the person committed acts constituting a felony that is classified as violent under state law, the person will qualify for additional terms of supervision including oversight by an board known as the Public Safety Review Panel, which is charged with issuing an advisory opinion to the courts concerning release recommendations by the Department of Social and Health Services (DSHS).

DSHS oversees inpatient treatment for adults who receive involuntary commitment through criminal court cases at one of two state hospitals: Western State Hospital and Eastern State Hospital.

Minimum Components of Less Restrictive Alternative Treatment. In 2016, the Legislature established mandatory minimum components for a course of LRA treatment. These include:

- assignment of a care coordinator;
- a psychiatric evaluation;
- a schedule of regular contacts with the treatment provider;
- a transition plan;
- an individual crisis plan; and
- notification to the care coordinator when the client does not substantially comply with treatment requirements.

Other optional LRA treatment requirements were specified. These requirements were not applied to persons who are conditionally released after being acquitted as not guilty by reason of insanity.

Summary of Bill: Minimum requirements for an order of conditional release for a person who has been civilly committed following a finding of not guilty by reason of insanity are increased by:

- requiring the appointment of a transition team to assist the person, consisting of a care coordinator, a representative of DSHS, and a specially-trained community corrections officer;
- requiring the court to specify the name of a behavioral health agency responsible for supervising the person's outpatient treatment; and
- requiring the course of outpatient treatment to include minimum components similar to those applicable to persons ordered to receive LRA treatment.

Minimum requirements for an LRA treatment order for a person who has been civilly committed following dismissal of a violent felony charge based on incompetency to stand trial are increased to include appointment of a transition team to assist the person, consisting of a care coordinator, a representative of DSHS, and a specially-trained community corrections officer.

A transition team for a person on an involuntary outpatient behavioral health treatment order must problem solve and consult about day-to-day activities and logistics for the person to facilitate their success on the order and protect the safety of the person and the community. The team must meet on a monthly basis and communicate as needed if issues arise that require immediate attention.

Court-ordered involuntary outpatient behavioral health treatment may include a substance use disorder evaluation instead of, or in addition to, a psychiatric evaluation. The care coordinator may share information with parties as needed to implement the involuntary treatment order.

Appropriation: None.

Fiscal Note: Requested on January 11, 2021.

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

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