FINAL BILL REPORT
SSB 5073

C 264 L 21
Synopsis as Enacted

Brief Description: Concerning involuntary commitment.

Sponsors: Senate Committee on Behavioral Health Subcommittee to Health & Long Term Care (originally sponsored by Senators Dhingra, Das, Kuderer, Salomon, Warnick and Wilson, C.).

Senate Committee on Health & Long Term Care
Senate Committee on Behavioral Health Subcommittee to Health & Long Term Care
House Committee on Civil Rights & Judiciary
House Committee on Appropriations

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. The term conditional release order may apply to a person committed under civil treatment statutes applicable to persons found to present a likelihood of serious harm or to be gravely disabled due to a behavioral health disorder, or to persons committed under forensic treatment statutes following acquittal of criminal charges based on a finding of not guilty by reason of insanity.

Minimum Components of Less Restrictive Alternative Treatment. In 2016, the Legislature established mandatory minimum components for a course of LRA treatment under civil treatment statutes. 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

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- notification to the care coordinator when the client does not substantially comply with treatment requirements.

Other optional LRA treatment requirements were specified. Subsequent to this enactment, involuntary commitment laws were expanded to encompass commitments based on an underlying substance use disorder in addition to commitments based on an underlying mental health disorder.

Civil Commitment Evaluations by Video. Involuntary commitment under civil treatment statutes must be initiated by a designated crisis responder (DCR) following an investigation. In 2020, laws were amended to allow DCRs to investigate adults for involuntary commitment using a video interview, provided that a health professional is present with the adult during the interview. The same authority was not extended to civil commitment investigations of adolescents.

Mental Health Advance Directives. A mental health advance directive is a legal document declaring a person's preferences in the event that the person becomes incapacitated due to a mental health disorder. In this circumstance a person's mental health advance directive may appoint another person to make decisions on their behalf. Washington State's mental health advance directive law was enacted in 2003.

Types of Civil Involuntary Commitment Facilities. Washington law establishes two types of licensed involuntary treatment facilities for civil patients: evaluation and treatment facilities (E&Ts) which specialize in treating patients with mental health disorders, and secure withdrawal management and stabilization facilities (SWMS), which specialize in treating patients with substance use disorders. A facility may be licensed as a co-occurring disorder treatment facility specializing in treatment of all kinds of behavioral health disorders. If following a person's judicial commitment to an E&T or SWMS it appears that the person would be better served by treatment at the other kind of facility, the facility may refer the patient for placement at the more appropriate facility.

Summary: A DCR may conduct an involuntary commitment interview for an adolescent by video, provided that a health professional who can adequately assist the adolescent is present at the time of the interview. This provision is subject to an emergency clause and effective immediately.

Minimum requirements for a program of LRA treatment are modified by allowing a substance abuse evaluation to be provided instead of, or in addition to, a mental health evaluation and by requiring consultation about the formation of a mental health advance directive. A care coordinator may disclose information related to LRA treatment to implement involuntary commitment proceedings.

A DCR must attempt to ascertain whether a person under investigation for civil commitment has executed a mental health advance directive. A transfer of a patient

detained for involuntary treatment between an E&T or SWMS facility may take place at any time following the patient's initial examination and evaluation.

An Indian tribe shall no longer have exclusive jurisdiction for involuntary commitment of an American Indian/Alaska Native (AI/AN) to an E&T within the boundaries of the tribe. A DCR must provide notification to the tribe and the Indian health care provider when the DCR investigates an individual known to be an AI/AN who receives medical or behavioral services from a tribe. A federally recognized Indian tribe may file a Joel's Law petition based on behalf of a tribal member. HCA must establish written guidelines for conducting culturally appropriate involuntary commitment evaluations of an AI/AN by June 30, 2022.

A court may conduct periodic review of the progress of a person on an LRA or conditional release order, modify the terms of the order, and take certain actions. The length of the conditional release period is clarified. The definition of less restrictive alternative for an adolescent is altered to explicitly include residential treatment outside an inpatient hospital setting. Terminology is changed from written orders of apprehension to warrants; and from drug abuse, substance abuse, and alcoholism to substance use disorder. Technical language updates and changes are made.

Votes on Final Passage:

Senate	47	2	
House	87	10	(House amended)
Senate	46	2	(Senate concurred)

Effective: July 25, 2021
July 1, 2026 (Sections 2, 4, 7, 9, 11, 15, 32, and 34)
July 1, 2022 (Section 21 and 26)
Contingent (Sections 22, 23, 27, and 28)
May 12, 2021 (Sections 25 and 31)