Washington State Health Care Authority

REPORT TO THE LEGISLATURE

Involuntary treatment act work group

Second Engrossed Second Substitute Senate Bill 5720; Section 103(2)(a); Chapter 302; Laws of 2020

January 1, 2021

Involuntary treatment act work group

Washington State Health Care Authority

Division of Behavioral Health and Recovery
Health Care Authority
P.O. Box 42730
Olympia, WA 98504-2730
Phone: (360) 725-9419
hca.wa.gov

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Executive summary

Second Engrossed Second Substitute Senate Bill 5720 was passed in March 2020 and signed into law by Governor Jay Inslee on April 2, 2020. The overall intent of the bill is to update, streamline, and modify RCW 71.05 and RCW 71.34. These two chapters respectively address involuntary treatment for adults and youth aged 13-17.

Section 103 of the bill requires that HCA convene an Involuntary Treatment Act Work Group, which will produce two reports to the Office of the Governor and the Washington State Legislature. This report is the first of those two reports. Section 103 describes the initial scope and function of the work group as follows:

> (2) The work group shall:
>
> > (a) Commencing July 1, 2020, meet at least three times to: (i) Identify and evaluate systems and procedures that may be required to implement one hundred twenty hour initial detention; (ii) develop recommendations to implement one hundred twenty hour initial detention statewide; and (iii) disseminate the recommendations to stakeholders and report them to the governor and appropriate committees of the legislature by January 1, 2021.

The Involuntary Treatment Act Work Group met three times and developed a set of recommendations for successfully implementing the change from 72 hour to 120 hour initial detentions on January 1, 2021.

Aside from the mechanics of operationalizing, implementing, and assessing the impact of the change to 120 hour detentions, the chief recommendations of the work group are that the Involuntary Treatment Act Work Group seize the task as an opportunity to improve quality of care for involuntary treatment.

The work group membership strongly voiced that the transition to 120 hour initial detentions should be viewed by providers as affording them the time to improve quality of care. It gives involuntary treatment providers additional to time to:

- Engage individuals, better coordinate care and assess treatment needs with family members;
- Develop more meaningful individually targeted care plans; and
- If indicated, develop relevant tailored discharge plans for individuals who are discharged back into their communities prior to the probable cause hearing.

The work group membership emphasized that they are not criticizing the quality of care provided by involuntary treatment providers. The change from 72 hour to 120 hour detentions is a means of improving and enhancing the current quality of care.

Work group activities

The Involuntary Treatment Act Work Group met three times between August and September 2020. Due to the COVID-19 public health emergency, all meetings were virtual. The Health Care Authority used the Zoom platform and staffed the meeting with multiple facilitators to offset the discomfort of the virtual setting and to encourage full participation from the appointed work group members (see Work group membership on page 7).

The first work group meeting was convened on August 24, 2020. The meeting included introductions, a brief power point scoping the work group's tasks, and an overview of the Involuntary Treatment Act (ITA) processes from the initial investigation and detention through the probable cause hearing. The goal of this meeting was to identify and evaluate systems and procedures that may be required to implement 120 hour initial detentions. As the work group reviewed and discussed an ITA process map, it was determined that HCA needs to make very little actual work system change prior to the implementation of 120 hour detentions. With one minor exception, the length of detention is not identified in HCA WAC, nor is it called out in contracts with Managed Care Organizations (MCOs) and Behavioral Health Administrative Service Organizations (BHASOs). At this juncture the work group began examining possible procedural and systemic changes that would be needed to verify that the transition is successful and gauge the systemic impact. These suggestions were added to the ITA Process Map.

The second work group meeting was held on September 14, 2020. This meeting included a review of the first meeting's outcomes and used the ITA Process Map that was edited during the first meeting as a departure point. The work group focused on developing recommendations to implement 120 hour initial detention statewide based on the responses to the ITA Process Map documented in the first meeting.

The third meeting was held on September 23, 2020. The goal of this meeting was to review suggested recommendations and prioritize the recommendations as formal statements to be included in this report. HCA committed to drafting the initial report and sending it out for the review and comments of appointed work group members. The appointed work group members also nominated and voted on three co-chairs for the second phase of the work group beginning January 2021. The three co-chairs are:

- Clay See: Long Term Inpatient Provider
- Anne Mizuta: Prosecutor for ITA Court
- Minette Smith: Behavioral Health Peer

Work group recommendations

System level recommendations necessary for implementation of 120 hour detentions

The Involuntary Treatment Act Work Group recommends that:

- HCA contact the Administrative Office of the Courts to coordinate and report out to Designated Crisis Responder (DCR) offices the requisite changes in the proceeding rules and related paperwork that will be required for implementation of 120 hour detentions. Involuntary treatment facilities utilize the 120 hours to collect thorough client histories and engage with the person's natural supports as an adjunct to treatment planning, individualized service delivery, and appropriate discharge planning. HCA update the DCR Protocols to reflect changes in practice and timelines for the successful implementation of 120 hour detentions.

Recommendations to HCA

Recommendations for tracking and analyzing impact of transition to 120 hour detentions

The Involuntary Treatment Act Work Group makes the following recommendations to HCA:

HCA will gather, analyze, and report data to measure the impact of transitioning to 120 hour detentions. HCA will track and compare the following metrics and establish a baseline for each metric for the state fiscal year prior to the transition:

- Monthly count of ITA investigations
- Monthly count of ITA investigations resulting in initial detention
- Monthly count of 14 day commitments for both substance use disorder (SUD) facilities and Evaluation and Treatment Centers
- Monthly count of single bed certifications
- Monthly count of no available bed reports
- Monthly count of individuals released on 90/180 day less restrictive orders
- Monthly count of individuals released on less restrictive orders resulting from the 14 day petition prior to hearing, after the 14 day hearing, or at any time during the ITA process
- Monthly count of 14 day hearings and hearing outcomes
- Monthly count of individuals who are evaluated for involuntary treatment after completing a 14 day commitment (30-, 60-, and 90-day intervals post commitment)
- Monthly count and comparison of individuals evaluated for involuntary treatment after 72 and 120 hour detentions (individuals who are not subsequently committed)
- Window for re-investigation rates (30-, 60-, and 90-days)

- Monthly count of individuals who are detained after having 72 hour detention and 120 hour detentions (detained, but not committed, for 14 days)
- Monthly count of individuals who have multiple detentions between 6 and 12 months
- Count of individuals who have multiple commitments after 72 and 120 hour detentions within 6 and 12 month periods

HCA will explore methods for tracking the following:

- Analysis of involuntary treatment bed capacity and level of need for additional involuntary treatment beds prior to implementation of 120 hour detentions and after the implementation of 120 hour detentions
- Analysis of length of stay for individuals detained and committed prior to implementation of 120 hour detentions and after implementation. (Note: HCA currently does not receive length of stay data on all individuals who are detained and committed for involuntary treatment)
- Analysis and tracking of individuals converting to voluntary status when detained or committed prior to the implementation of 120 hour detentions and after implementation (Note: Conversion to voluntary status is not currently in HCA's ITA data set)

Recommendations for assessing 120 hour detention implementation efficacy

HCA will analyze the above metrics to determine if 120 hour detentions:

- Decrease the number of probable cause hearings
- Increase or decrease the capacity needs for involuntary treatment beds

Recommendations for HCA system improvement and analysis

The Involuntary Treatment Act Work Group recommends that HCA expand its data gathering and data analysis capacity to:

- Track race and ethnicity data to determine if equitable care is being provided and to explore whether or not racial bias is being used when addressing mental health crisis, making referrals for ITA investigations, and determining outcomes of ITA evaluations and outcomes of commitment hearings.
- Track ITA hearing continuances and analyze impact of 120 hour detentions on the incidence of continuances.
- Gather and analyze data that address the following:
    - Rates of criminalization (arrests or jail bookings) after different lengths of involuntary detentions and commitments (30-, 60-, 90-days)
    - Rate of homelessness at certain points after discharge from involuntary treatment
    - Suicide rates at certain intervals following discharge from involuntary treatment

Elements for system change to be discussed by second phase of the work group

The Involuntary Treatment Act Work Group made a series of "parking lot" items to be reviewed, discussed, and considered when the work group reconvenes in January 2021. These items are as follows:

- Involuntary treatment facilities reporting, on a per individual basis, when they are providing active treatment before the 14 day period, and which individuals do not receive active treatment prior to the commitment order. This includes the capacity for facilities to report on an individual client basis, whether or not they medicate involuntarily prior to the 14 day hearing.
- Involuntary treatment facilities are responsible for engaging with family members to get the history of the patient along with mental health advance directives. This information should be reported in a measurable way. Facilities should develop policies to:
    - Describe how they can coordinate care.
    - Interpret and respond to mental health advance directives.
    - Clarify how they implement confidentiality laws and policies.
    - Clarify how to best get records for involuntary patients.
- DCRs and involuntary treatment facility staff should be trained and practice motivational interviewing.
- How the increase to 120 hour detentions will provide for additional treatment time, and how the involuntary treatment facilities will use that time as an opportunity for engagement and buy-in.
- Trauma Informed Care (TIC) and Trauma Informed Approach (TIA) training be more wide spread.
- Mental Health Advanced Directives be honored. Consider them in the initial detention period (which is often lacking), utilize information from patients' families, and recommend facilities be responsible to engage with patients' families.

Work group membership

Office of the Governor appointed members

- HCA: David Reed
- Department of Health: Julie Tomaro
- Department of Social and Health Services: Jenise Gogan
- Prosecuting Attorney: Anne Mizuta
- Behavioral health peer: Minette Smith
- Office of the Attorney General: Robert Antanaitis
- DCRs: Courtney Hesla
- BHASOs: Jeffrey Hite Jeffrey
- MCOs: Sasha Waring
- Advocate: Brad Forbes
- Advocate: Jerri Clark
- Family member or individuals with behavioral health experience: Diane Weiner
- Short term inpatient provider: Terri Card
- Long term inpatient provider: John (Clay) See

Other participants and observers

Legislators and legislative staff

- Senate Staff: Kevin Black
- Senate Staff: Ashley Jackson

HCA observers and facilitators

- Facilitator HCA: Gary Hanson
- Facilitator HCA: Megan Oczkewicz
- Facilitator HCA: Blake Ellison
- Facilitator and Subject Matter Expert HCA: Allison Wedin
- Observer: Keri Waterland
- Observer: Brad Pederson

Observers

- Office of the Attorney General: Kelly Richburg
- Washington State Hospital Association: Jaclyn Greenberg
- Washington Council: Joan Miller
- American Behavioral Health Systems: Tony Prentice
- American Behavioral Health Systems Lobbyist: David Foster
- King County Crisis and Commitment Services: Lauren Richards