

# HOUSE BILL REPORT

## SHB 2131

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**As Passed House:**  
December 13, 2011

**Title:** An act relating to delaying implementation of provisions regarding evaluations of persons under the involuntary treatment act.

**Brief Description:** Delaying implementation of certain provisions related to evaluations of persons under the involuntary treatment act.

**Sponsors:** House Committee on Ways & Means (originally sponsored by Representatives Dickerson and Hunter; by request of Department of Social and Health Services).

**Brief History:**

**Committee Activity:**

Ways & Means: 12/2/11, 12/13/11 [DPS].

**Second Special Session**

**Floor Activity:**

Passed House: 12/13/11, 94-0.

**Brief Summary of Substitute Bill**

- Delays the effective date of some provisions of 2010 legislation that expanded the factors that may be considered for detaining and committing persons under the Involuntary Treatment Act, from January 2012 to July 2015.

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### HOUSE COMMITTEE ON WAYS & MEANS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 26 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle, Chandler, Cody, Dickerson, Haigh, Haler, Hudgins, Hunt, Kagi, Kenney, Ormsby, Parker, Pettigrew, Ross, Schmick, Seaquist, Springer, Sullivan and Wilcox.

**Staff:** Andy Toulon (786-7178).

**Background:**

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*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.*

Under the state's Involuntary Treatment Act (ITA), a person can be detained and ordered to undergo treatment at an inpatient psychiatric facility when the person, as a result of a mental disorder, presents a likelihood of serious harm or is gravely disabled. Designated Mental Health Professionals (DMHPs) are responsible for investigating and determining whether to detain an individual thought to require involuntary treatment. An initial detention may last up to three days. Under certain criteria, individuals can be committed by a court for additional periods of 14, 90, or 180 days for further treatment.

Chapter 280, Laws of 2010 (Second Substitute House Bill 3076), expanded factors that DMHPs and courts may consider when making determinations for detention and commitment under the ITA. Under these new provisions, a DMHP must consider all reasonably available evidence from credible witnesses with significant contact and history of involvement with the person regarding the historical behavior of the person, prior commitments or recommendations for evaluation, and prior determinations of incompetency or insanity. Credible witnesses are defined as family, landlords, neighbors, and others with significant contact and history of involvement with the person. The 2010 law additionally provides that, in determining whether to detain or commit, DMHPs and the courts may consider symptoms and behavior that standing alone would not justify commitment, but that show a marked deterioration in the person's condition and are closely associated with symptoms and behavior that led to past incidents of involuntary hospitalization or violent acts. The 2010 law set January 1, 2012, as the effective date for these changes.

The 2010 Supplemental Operating Budget provided funding for the Washington State Institute for Public Policy (WSIPP) to complete an assessment of: (1) the extent to which the number of persons involuntarily committed for three, 14, and 90 days is likely to increase as a result of the revised commitment standards; (2) the availability of community treatment capacity to accommodate that increase; (3) strategies for cost-effectively leveraging state, local, and private resources to increase community involuntary treatment capacity; and (4) the extent to which increases in involuntary commitments are likely to be offset by reduced utilization of correctional facilities, publicly-funded medical care, and state psychiatric hospitalizations. The WSIPP study estimates that the expanded criteria could result in a significant increase in the number of involuntary commitments. The study also estimated that between 48 and 193 additional beds would be needed in community and state psychiatric treatment facilities in order to accommodate the need.

#### **Summary of Substitute Bill:**

The January 1, 2012, effective date for Designated Mental Health Professionals (DMHPs) and the courts to consider additional information and factors in determining whether to detain or commit a person for involuntary treatment is delayed to July 1, 2015. However, the requirement that DMHPs consider information from credible witnesses regarding prior commitments or recommendations for evaluation, and prior determinations of incompetency or insanity when making detention decisions will take effect January 1, 2012.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately, except for section 2, relating to requiring Designated Mental Health Professionals to consider information from credible witnesses when making Involuntary Treatment Act detention decisions, which takes effect January 1, 2012.

**Staff Summary of Public Testimony:**

(In support) The act, which is being delayed by this bill, emerged from a task force studying a brutal slaying committed by a severely mentally ill man in King County. It was intended to improve public safety by allowing Designated Mental Health Professionals (DMHPs) to consider a much broader range of information in making decisions on whether to commit an individual for treatment. Because of the high cost of the changes which are to be implemented in January and the current budget situation, the provisions should be delayed.

Without resources, the new provisions cannot be implemented without negatively impacting other services. There is already a well-documented shortage of involuntary treatment beds just to serve individuals committed under the current criteria. When it comes to 2015, we should not delay any further because lives are at stake. This will require additional funding to meet the increased demand for beds.

(With concerns) It is very difficult to get people help under current involuntary treatment laws which put people and property in danger. This bill may save some dollars in the short term; however, the lack of earlier intervention puts individuals with mental illnesses into the forensic mental health system where they can end up being hospitalized at high cost for decades. Studies have shown that the need for this type of programming is here. These costs do get pushed forward and we pay for them anyway.

(Opposed) If a delay is made to new commitment criteria for budget reasons, provisions that require information from family members to be considered should remain implemented in January as these do not contribute to the fiscal note. That said, the other changes which are being delayed under this bill are also very important and show the need for additional revenue. Funding to implement these provisions in January should be a priority on the list of items to buy with a revenue package.

There are frequent reports that DMHPs only interview the person in crisis, not the family members, and therefore DMHPs do not get the factual information needed to make a good decision. Many studies have shown that repeatedly allowing psychosis to go untreated results in permanent damage to an individual's brain.

A committee has updated the protocols to reflect the revised criteria that are to take effect in January. The families of people with mental illnesses have already waited two years. These provisions should remain enacted on January 1. This is a public safety issue and it is critical for law enforcement that there be resources to intervene earlier in mental health crisis situations.

**Persons Testifying:** (In support) Representative Dickerson, prime sponsor; Mary Anne Lindeblad, Department of Social and Health Services; Rashi Gupta, Washington Association of Counties; and Lisa Thatcher, Washington Hospital Association.

(With concerns) Lawrence Thompson, American Federation of State, County, and Municipal Employees 128 and Washington Federation of State Employees 793; and Matt Zuvich, Washington Federation of State Employees.

(Opposed) Seth Dawson, Farrell Adrian, and Jim Bloss, National Alliance of Mental Illness; and John Turner, Chief of Police, City of Snohomish.

**Persons Signed In To Testify But Not Testifying:** None.