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Senate Bill 915 (as introduced 6-12-24)

Sponsor: Senator Kevin Hertel

Committee: Health Policy

Date Completed: 10-8-24

CONTENT

The bill would amend Chapter 4 (Civil Admission and Discharge Procedures: Mental Illness) of the Mental Health Code to do the following:

- **Require a patient to be referred to a community mental health services program if a psychiatrist certified that the patient required assisted outpatient treatment.**
- **Modify the type of health professional that could testify to a patient's need for assisted outpatient treatment.**
- **Modify the duration of second and third consecutive court orders for involuntary mental health treatment.**
- **Allow a court, without a hearing, to convene a conference with an individual who was out of compliance with a court order for assisted outpatient treatment and the individual's supervising agency to review compliance with the order.**
- **Allow a peace officer to take an individual into protective custody for examination for mental health intervention if the officer had reasonable cause to believe the individual required treatment, instead of if the officer observed conduct that caused the officer to believe such.**

Referring Patients to Assisted Outpatient Treatment

Section 423 of the Code requires a hospital to admit an individual who is presented to the hospital if a petition or clinical certificate had been executed, pending the receipt of a psychiatrist stating that the individual requires treatment. Section 430 requires the psychiatrist to examine the individual within 24 hours of hospitalization, excluding legal holidays. If a psychiatrist certifies a patient's need for treatment, the patient's hospitalization may continue pending hearings.

Under the bill, if the psychiatrist certified that the patient was a person requiring treatment in the form of assisted outpatient treatment, a referral would have to be made to the community mental health services program serving the community where the patient resided, and hearings could be convened under Sections 451 to 465, which govern court hearings in Chapter 4 of the Code.¹

Petitions Requesting Assisted Outpatient Treatment

Currently, Section 461 of the Code prohibits an individual from being found to need treatment unless at least one physician or licensed psychologist who has personally examined that

¹ "Assisted outpatient treatment" means the categories of outpatient services ordered by a court. Outpatient services are generally understood to be any medical services that do not require an overnight visit at a hospital. The court can order any number of categories of outpatient services, such as medication, supervision of living arrangements, or individual or group therapy.

individual testifies in person or by written deposition at the hearing. Under the bill, this requirement would apply specifically to a petition that asserts a patient requires treatment.

For a petition that does not seek hospitalization but only assisted outpatient treatment, the Code specifies that an individual may not be found to require treatment unless a psychiatrist who has personally examined that individual testifies. A psychiatrist's testimony is not necessary if a psychiatrist signs the petition. If a psychiatrist signs the petition, at least one physician or licensed psychologist who has personally examined that individual must testify. The bill would delete this language, and instead for a petition that did not seek hospitalization but only assisted outpatient treatment, an individual could be found to require treatment if a physician, psychologist, a psychiatrist nurse practitioner, or physician assistant working under the supervision of a psychiatrist had personally examined the individual and testified that the individual required treatment.

Duration of Court Orders for Treatment

Section 472a requires that once a petition has been filed and it has been found that an individual requires treatment, the court must issue an initial order of involuntary mental health treatment. The hospital director, agency, or mental health professional supervising the patient's mental health treatment may continue to file for petitions for continuing orders of involuntary mental health treatment if they believe the individual requires treatment and that the individual will refuse treatment otherwise.

Currently, the second order of involuntary mental health treatment must not exceed 90 days and the third order of involuntary mental health treatment must not exceed one year. Instead, under the bill, the second order for involuntary mental health treatment would have to be limited in duration as follows:

- A second order of hospitalization could not exceed 90 days.
- A second order of assisted outpatient treatment could not exceed one year.
- A second order of combined hospitalization and assisted outpatient treatment could not exceed one year, and the hospitalization portion of the second order could not exceed 90 days.

Under the bill, the third order for involuntary mental health treatment would have to be limited in duration as follows:

- A continuing order of hospitalization could not exceed one year.
- A continuing order of assisted outpatient treatment could not exceed one year.
- A continuing order of combined hospitalization and assisted outpatient treatment could not exceed one year, and the hospitalization portion of a continuing order for combined hospitalization and assisted outpatient treatment could not exceed 90 days.

Allow Courts to Convene Conference if Non-Compliant with Court Order

If an individual subject to an order of assisted outpatient treatment or combined hospitalization and assisted outpatient treatment did not comply with the order, the bill would allow the court, without a hearing and based upon the record and other available information, to convene a status conference with the supervising agency and the individual to review the individual's compliance with the order.

FISCAL IMPACT

The bill would have an indeterminate, likely minor, negative fiscal impact on the Department of Health and Human Services and local units of government. Under the bill a peace officer would be allowed to take an individual into protective custody if they had "reasonable cause" to believe the individual is a person requiring treatment, whereas current law requires the peace officer to observe an individual acting in a manner that causes the peace officer to believe the individual is a person requiring treatment. This could increase the number of individuals transported to a preadmission screening unit and, ultimately, ordered to receive assisted outpatient treatment through the individual's local Community Mental Health Service Provider (CMHSP).

Because the bill would allow, but not require, CMHSPs to recommend and probate courts to order the use of assisted outpatient treatment as an alternative to hospitalization, it would be left to the individual CMHSP to determine its level of investment in assisted outpatient treatment. Under current law, the Code requires the State to pay 90% of the annual net cost of a CMHSP, subject to appropriation by the Legislature (MCL 330.1308); however, counties can provide funding to their local CMHSP through the use of millages or county general fund. Therefore, a CMHSP choice to provide assisted outpatient treatment could result in increased costs for local units of government depending on if the investment were financed by reprioritizing current funding or levying additional local resources. Costs to the State would increase if the increase in assisted outpatient treatment were accompanied by an increase in the appropriation level by the Legislature. To the extent that this bill would result in an increase in CMHSPs choosing to provide assisted outpatient treatment, it could present an increased cost to the State and would present an increased cost to local units of government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.