

# Lawmakers say mental health improved, critics disagree

By MARTHA BELLISLE  
Associated Press  
May 5, 2015

SEATTLE — Lawmakers say the Legislature made significant improvements during the 2015 session to provide services for Washington's mentally ill, but critics say some of the bills passed in an effort to fix a system sharply criticized by the courts could make matters worse and lead to more litigation.

"I'm in my fifth year at the Legislature and this is the first time we invested money into the mental health system," said Rep. Laurie Jenkins, D-Tacoma. "Right now we've slated around \$100 million. That's probably the biggest investment in mental health we've ever made."

Just before the regular session started, the Washington Supreme Court ruled that the state's practice called "psychiatric boarding" is unlawful. When no beds were available at the state's psychiatric hospitals, mentally ill people acting in a dangerous manner were instead strapped to gurneys in emergency rooms without receiving treatment. The court said if a person is held under the Involuntary Treatment Act, they must be treated.

And then on April 2, a federal judge ruled in a class-action lawsuit that forcing people to wait in jails for weeks or months for competency evaluations and treatment violates their constitutional rights. U.S. District Judge Marsha Pechman issued a permanent injunction against the state Department of Social and Health Services requiring it to provide competency services within seven days of a judge's order.

Mike De Felice, supervisor of the Involuntary Commitment Court's public defense team, said one bill that creates a new involuntary outpatient commitment system has set standards that are unconstitutional.

"We were in favor of the idea, but we're opposed to the way it was written," he said Friday. "This could have been the signature mental health bill of the session, but instead it fell far short."

The 2015 legislative session ended April 24 and lawmakers are back in a special session to settle budget differences. While they argue over how to fund the state's education and transportation systems, they've agreed on funding for mental health programs. During the special session, they also will discuss several bills that aim to satisfy the recent court rulings.

Sen. Steve O'Ban, a Pierce County Republican, was one of several lawmakers who sponsored measures related to competency services and said the Legislature made significant changes.

"It's pretty clear to me that there is bipartisan recognition that this has been an underfunded area," he said. "It was a very productive session on the two basics of our mental health system - the involuntary treatment act and our forensic system."

Lawmakers passed and the governor signed one O'Ban-sponsored bill that requires competency evaluations and treatment within 14 days of a judge's order. However, Pechman's injunction established a seven-day limit.

O'Ban said they're still working on another bill that would allow competency evaluations to be conducted in jails to speed up the process.

"Jails are the logical place, but we may need additional staff," he said, adding this would only be for the evaluations.

Mark Cooke, with the American Civil Liberties Union, said they won't support any plan that includes restoration services in jails. He's concerned because the bill in question, Senate Bill 5177, includes a jail option.

Cooke said they're also opposed to Senate Bill 5649, which lets the social services agency control the rulemaking for places that provide single-bed certifications for people held under the Involuntary Treatment Act. Cooke said the bill undermines the Supreme Court ruling.

"It essentially allows DSHS - the very agency that violated individuals' constitutional rights for years - to determine what an adequate threshold is for certifying a bed," he said.

The bill was sent to the governor on April 23, but hasn't been signed.

Another bill awaiting the governor's signature is House Bill 1450. It would allow people committed under the Involuntary Treatment Act to receive outpatient treatment.

Jenkins said the plan would allow earlier intervention and keep people from being sent to the hospital.

But De Flice with the civil commitment court said the bill is flawed in two areas.

The criteria to force someone into the outpatient treatment is unconstitutional, he said. Rather than looking at the person's current mental state, it focuses on past behavior, he said.

"I don't believe this is a constitutionally adequate basis for involuntary treatment, even in an outpatient setting," he said.

Another problem area in the bill, he said, was the standard used to prove someone qualifies for involuntary treatment.

He said lawmakers were told about these concerns, but they passed the bill anyway.

"I think it will lead to litigation," he said.

Follow Martha Bellisle at <https://twitter.com/marthabellisle>

Read more here: [http://www.thenewstribune.com/2015/05/05/3776677\\_lawmakers-mental-health-system.html?rh=1#storylink=cpy](http://www.thenewstribune.com/2015/05/05/3776677_lawmakers-mental-health-system.html?rh=1#storylink=cpy)