



April 19, 2023

Honorable Chairman Terry Roy  
House Criminal Justice and Public Safety Committee  
Legislate Office Building Room 204  
North Main St., Concord, NH 03301

RE: NAMI NH Opposition to SB 58

Dear Chairman Roy and Committee Members:

Thank you for the opportunity to testify today. My name is Holly Stevens, and I am the Director of Public Policy at NAMI New Hampshire, the National Alliance on Mental Illness. NAMI NH is a non-profit, grassroots organization whose mission is to improve the lives of all people impacted by mental illness and suicide through support, education and advocacy. On behalf of NAMI NH, I am here today to speak in opposition to SB 58, relative to arrests without a warrant while in the care of a medical professional on the premises of a residential care or health care facility.

By way of background, for the past two years, NAMI NH has been involved with a stakeholder group discussing the issue that is the subject of SB 58 and was the subject of study for the Committee to Study Workplace Safety in Health Care Settings. At that time, the stakeholders agreed to statutory language regarding the use of warrantless arrests in healthcare settings that could be added to the current warrantless arrest statute. The Committee's final report contains the language all stakeholders agreed to, which is also the language of SB 58 as introduced:

“...or while in the care of a medical professional on the premises of a residential care or health care facility, as defined in RSA 151:2, through actual or threatened violence, interfere in the provision of medically necessary health care services.”

Despite all stakeholders being in agreement on this language, Senate Judiciary introduced an amendment that no stakeholders were able to provide input on as it was brought on the floor of the Senate. This amendment makes changes to the detainment statute, allowing for hospital personnel to detain a person who is suspected of committing a misdemeanor assault.

Under current law, the police cannot arrest a person for a misdemeanor offense unless it is committed in front of the officer, or if certain conditions are met (concealment of evidence of the offense or belief the person will cause further personal injury or property damage). SB 58, as amended, would eliminate this due process protection for individuals in hospitals. As previously mentioned, SB 58 seeks to amend the detainment statute and allow hospital personnel to detain a person who they believe has committed a misdemeanor assault offense while waiting for the police to show up, and then allows police to arrest the person even if there is no indication that there will be concealment of evidence or that the person will cause further personal injury or property damage. Due to the emergency room boarding crisis, where people in psychiatric crisis are waiting for an

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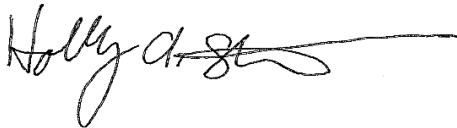
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inpatient bed for days to weeks, many times being held against their will, SB 58 will disproportionately affect individuals experiencing a mental health crisis.

Recently, NAMI NH has heard from six families whose loved ones have been arrested while on an IEA in an emergency room. Their stories are heartbreaking and speak of long waits in the ER (ranging from a few days to two weeks) while receiving little to no treatment. Due to this, several of these families describe situations where their loved ones, many of whom are experiencing symptoms of psychosis, have become agitated, resulting in the hospital engaging in a physical restraint which ends with the patient assaulting a hospital staff or destroying hospital property. These loved ones were then brought to the local county jail where they remained while still waiting for a hospital bed. If SB 58 as amended by the Senate passes, more and more individuals and families will have to endure this same result. People experiencing a psychiatric crisis need treatment, not jail cell confinement.

It is important to note, an officer can arrest a person for any felony level offense whether observed by the officer or not. Therefore, we are not talking about offenses rising to that level, only misdemeanors. It is paramount that people psychiatrically boarding in emergency rooms continue to have the due process protections afforded to them under law. If SB 58 passes, people in a mental health crisis would be brought to county jails for misdemeanor offenses even if they are completely calm when the police arrive, exacerbating the crisis they are experiencing. For these reasons, NAMI NH opposes SB 58. I am happy to answer any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Holly A. Stevens", with a long horizontal flourish extending to the right.

Holly A. Stevens, Esq.

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