



May 10, 2023

Honorable Chairman Robert Lynn
House Judiciary Committee
Legislate Office Building Room 206
North Main St., Concord, NH 03301

RE: NAMI NH Opposition to amendment 2023-1482h to SB 128

Dear Chairman Lynn 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 amendment 2023-1482h to SB 128, relative to payment for legal services for persons involuntarily admitted for mental health services.

SB 128, as amended by the Senate, ensures that the most vulnerable mental health patients receive appropriate legal representation for probable cause hearings when held under the involuntary commitment statute. Individuals who are found to be a danger to themselves or others due to their mental condition are eligible for involuntary emergency admission (IEA) to a psychiatric facility. Since this is an involuntary commitment, the person is not seeking the service, and in fact, does not want the service. Many times, they may not be aware of the circumstances surrounding their illness. To be held against their will and then be hit with legal fees once stable and released from the hospital, regardless of their ability to pay, does not seem appropriate.

During a probable cause hearing, most individuals on IEAs do not have the capacity to fill out a financial affidavit. Additionally, since the hearings are typically remote, with the IEA'd individual sitting in an ER, the courts have no ability to have a financial affidavit filled out under oath. Lastly, obtaining this information after the fact would prove difficult for the court. NH is currently experiencing an emergency room boarding crisis. Individuals held on IEAs are generally not placed in a designated receiving facility (DRF) from the emergency room for several days after the initial probable cause hearing. While in the emergency room, these folks receive little to no treatment, and the treatment they do receive is generally focused on keeping them as calm as possible, rather than treating the underlying condition. Therefore, at the time of the second required hearing on day 10, there is generally very little change in their condition.

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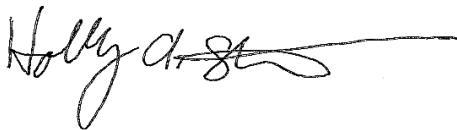
The court currently pays \$100 for the initial three-day probable cause hearing and \$65 for the second probate commitment hearing. These fees are minimal, and it would cost the Office of Cost Containment far more to track an individual through their commitment and eventual discharge to collect these fees than they would recoup. To save the state money, it would make sense to have a policy where none of these fees would be collected after the fact.

In addition to the information being difficult to obtain, fairness is a factor in these situations. The only thing people on an IEA are guilty of is having a medical condition with active symptoms. Mental illness is the only medical condition where a person's liberty can be placed in jeopardy. The state has an obligation to ensure that all Granite Staters' liberty interests are protected, thereby providing legal counsel when a person does not have representation. On principal alone, people on an IEA with state appointed counsel should not be on the hook for paying for those services after the fact.

Another issue to consider is that waiving counsel in these cases is near impossible. Individuals on an IEA are appointed counsel whether they want it or not. To then require payment for services that were never requested or wanted seems unjust.

Amendment 2023-1482h to SB 128 would prove problematic for several reasons. The bill as it came over from the Senate ensures that people who are on an IEA are provided the legal representation they need and deserve to protect their civil liberties during a medical crisis without having to worry about a bill after the fact. Therefore, NAMI NH urges the committee to reject amendment 2023-1482h and recommend ought to pass on SB 128 as amended by the Senate.

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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