



January 29, 2025

Honorable Chairman Robert Lynn
House Judiciary Committee
Legislate Office Building Room 206-208
33 North State St., Concord, NH 03301

RE: NAMI NH Support for HB 480

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 favor of HB 480 and the amendment brought forward by the sponsor, relative to restoration of competency to stand trial for criminal defendants.

New Hampshire currently lacks any formal restoration process or system to provide treatment for individuals who are found not competent to stand trial. For these individuals, the mental health court system isn't even an option because those programs require consent, which a person who is deemed incompetent cannot give. They also require an understanding of the criminal and judicial processes, which a person who is deemed incompetent does not have. Nationwide, about 81% of individuals found not competent to stand trial have their competency restored and are able to return to court. In stark contrast to these national numbers, in New Hampshire, fewer than half of the individuals ordered into a competency restoration period are able to return to court and complete their criminal case. Specifically, in 2019, only 44% of individuals were found to have their competency restored.

Competency restoration is important for several reasons. When a person is not restored within the one-year time frame allowed under New Hampshire law, the charges are dropped. Oftentimes, there is an alleged victim also involved in the case who never gets closure. Additionally, the defendant in the case is denied their right to their day in court should they want it. Lastly, people accused of lower-level offenses often spend more time in jail or a mental health institution than they would if they were found guilty of the alleged crime, spending up to a year in jail simply waiting to be restored without any services being provided.

In NAMI NH's experience in working with the families and loved ones of a person who has been found not competent to stand trial, these gaps in our system are lost opportunities. As mentioned previously, if competency has not been restored within a year, the charges are dropped, whether or not the individual has sought or received treatment. NAMI NH has heard that many times these individuals go on to experience homelessness, have further interaction with the justice system, or have any number of other negative life outcomes while their underlying condition remains untreated. Having a more formal system in place would allow for additional treatment opportunities that do not exist today.

Reflecting on 40 Years: Continuing Our Journey to Hope, Help, and Health

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Last year the legislature passed HB 1020, establishing a Committee to Study Competency Restoration. The committee met several times throughout the fall and took testimony from a broad array of stakeholders, including the testimony of Attorney Michael Grandy from the Attorney General's Office. Attorney Grandy reported on the work of the competency subcommittee of the Governor's Advisory Commission on Mental Illness and the Corrections System. He reported that the subcommittee met for over a year and although all the members could not agree on all the details of a forensic liaison program, the subcommittee did recommend one should go forward to assist defendants when competency is raised as an issue in their case. The legislative Committee to Study Competency Restoration submitted an interim report on November 1, 2024. Among other things, this interim report recommended a forensic liaison pilot program, which is the subject of the proposed amendment to HB 480.

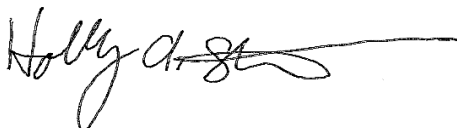
After the interim report, stakeholders from DHHS, the judiciary, the counties, mental health centers, forensic examiners, and those representing folks with lived experience met to discuss this pilot program. The stakeholders agreed that the language regarding the pilot program should be broad to give DHHS discretion to design the pilot program in the best way possible after gathering more information from the counties, the community mental health centers, and others.

The forensic liaisons under the pilot program would act like intensive case managers linking individuals with the services they need to restore competency and to assist in reducing any barriers to access those services. When the legislative Committee to Study Competency Restoration was meeting, they heard from Dr. Shannon Bader, a forensic psychologist who previously worked in the New Hampshire's Office of Forensic Examiners. She provided testimony that in her experience many individuals who raise competency have psychotic symptoms, who, once treated with anti-psychotic medications, later have their competency restored. This bill would assist in facilitating services for individuals when competency is raised so that they get the needed mental health treatment they need to restore competency. The liaison would further assist with ensuring the person is present at the initial competency evaluation. The Office of Forensic Examiners has reported that much of the time those initial appointments are missed, resulting in wasted resources with the appointment needing to be rescheduled, financially burdening the state and not getting the defendant any closer to accessing the treatment they need.

Another recommendation of the legislative Committee to Study Competency Restoration worthy of brief mention is the subject of SB 48. SB 48 would deem violation level and low-level non-violent misdemeanor offenses ineligible for restoration and would allow the court to use its discretion in dismissing charges by taking into consideration the defendant, any alleged victims, and the public.

Though there is much more work to be done to establish a formal competency restoration system in New Hampshire, creating the position of a Forensic Liaison is a crucial first step that will aid defendants' navigation of the process. Therefore, NAMI NH urges the committee to vote ought to pass on HB 480.

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.