



February 4, 2025

Honorable Chairman Bill Gannon
Senate Judiciary Committee
State House Room 100
107 North Main Street, Concord, NH 03301

RE: NAMI NH Support for SB 48

Dear Chairman Gannon 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 48, relative to competency to stand trial for certain offenses.

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. Additionally, 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.

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. The legislative Committee to Study Restoration of Competency submitted an interim report on November 1, 2024. Among other things, this interim report recommended “[o]ffenses at the level of violation and of a low-level misdemeanor may be deemed ineligible for restoration. The court, however, should use its discretion in weighing such dismissal against the need for accountability and unintended consequences such as lack of court supervision for someone who may be dangerous to others.”

As is evidenced by the number of individuals ordered for competency evaluations, the need for these evaluations has increased substantially over the last 5 years, with some state jurisdictions reporting 70 to 100 percent increases. Accordingly, New Hampshire experienced a 75 percent increase in the number of competency orders since 2015. In 2019, there was an average of 66 court orders for trial competency evaluations each month. With increases in the numbers of competency evaluations, our state has started

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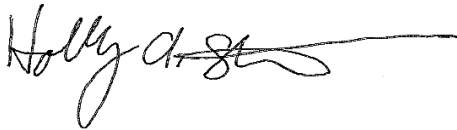
*NAMI New Hampshire • 85 North State Street • Concord, NH 03301
InfoLine: 800-242-6264 • Tel. 603-225-5359 • Fax 603-228-8848 • info@naminh.org / www.NAMINH.org*

to see delays in defendants having timely evaluations. As other states have done, New Hampshire could help alleviate the backlog by dismissing certain misdemeanor and violation offenses when a defendant is found not competent to stand trial. Although they would use the service for the initial evaluation, once the charges are dismissed, the defendant would no longer need to be reevaluated to determine if competency has been restored thus freeing up some of the Office of Forensic Examiners' resources.

This crucial policy carefully balances the freedoms of individuals presumed innocent until proven guilty and the safety of the public while addressing a lack of resources to carry out evaluations. The bill allows the court to exercise its discretion to dismiss in cases that lack any violence or threat of violence, while also specifically prohibiting dismissal of cases relating to stalking, endangering the welfare of a child, harassment, or the violation of privacy. While these charges likely already would not qualify for dismissal due to the level of the offense, specifically calling them out in the legislation ensures that they remain exempted from dismissal should the statutes be altered in the future. The bill further provides, in instances where the charges are dismissed, that any party can raise the issue of the defendant's dangerousness. The goal of this legislation is not to undermine the justice process or decrease safety, but to ensure that individuals with a mental illness aren't languishing in jails or hospitals for minor crimes that they have yet to be found guilty of, and to better utilize state resources.

SB 48 would protect the rights and safety of all individuals involved in competency proceedings, while also addressing the backlog in the Office of Forensic Examiners. Therefore, NAMI NH urges the committee to vote ought to pass on SB 48.

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.