Bill as Introduced

2010 SESSION

10-2030
01/04

HOUSE BILL ***1599-FN***

AN ACT establishing an emergency mental health and developmental disabilities database within the division of state police.

SPONSORS: Rep. D. Petterson, Rock 10; Rep. Millham, Belk 5; Rep. Pilliod, Belk 5; Sen. Barnes, Jr., Dist 17

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill establishes an emergency mental health and developmental disabilities database within the division of state police. The commissioner of the department of safety and the commissioner of the department of health and human services are granted rulemaking authority for the purposes of the bill.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

10-2030
01/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT establishing an emergency mental health and developmental disabilities database within the division of state police.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Purpose and Intent. The purpose of this act is to better protect persons with certain mental illnesses and developmental disabilities by providing law enforcement officers on a restricted basis with immediate access to information that will assist them in recognizing and assisting such individuals in times of crisis in obtaining services.

2 New Paragraph; Department of Safety; Duties of Commissioner. Amend RSA 21-P:4 by inserting after paragraph XIV the following new paragraph:

XV. Have authority to establish a mental health and developmental disabilities database within the state police communications section data system in order to provide law enforcement agencies with information to help them assist persons with certain qualifying illnesses or conditions in obtaining medical, mental health, and social services.

3 New Section; Division of State Police; Emergency Mental Health and Developmental Disabilities Database. Amend RSA 106-B by inserting after section 14-b the following new section:

106-B:14-c Emergency Mental Health and Developmental Disabilities Database.

I. In this section:

(a) "Dementia" means the progressive deterioration of intellectual functioning or other cognitive skills including, but not limited to, aphasia, apraxia, memory, agnosia and executive functioning that leads to a significant impairment in social or occupational function and that represents a significant decline from a previous level of functioning.

(b) "Qualifying illness" means dementia, a developmental disability, an Axis I diagnosis as described in the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, or a physical or behavioral disorder that causes disorientation or otherwise may impede an individual's ability to interact effectively with a law enforcement officer.

II. The division, with the approval of the commissioner of safety, shall create and maintain an emergency mental health and developmental disabilities database on its computer system to provide law enforcement agencies with information to help them assist persons with a qualifying mental illness or developmental disability condition in obtaining emergency medical, mental health, or social services.

III. The department of health and human services shall update the database with information from the community mental health and developmental disabilities programs and

from the New Hampshire hospital. The database shall not be accessible to any person who is not employed by the department of health and human services for purposes of adding or deleting information or a state, county or local law enforcement agency for law-enforcement purposes. The information contained in the database shall not be a public record for purposes of RSA 91-A or be available by subpoena or for employment, insurance, or any purpose not specified in this paragraph.

IV. Within 10 days of receiving a completed enrollment form as described in this section, a community mental health and disabilities program shall verify that the individual has a qualifying illness, dementia, or other qualifying condition, and that the individual or a person authorized to make medical decisions for the individual through a guardianship, power of attorney, or similar means or the parent of an individual under the age of 18 years, has given express written consent for the entry of the information into the emergency medical mental health and developmental disabilities database.

(a) The express written consent shall be witnessed by at least 2 adults, one of whom shall not be related by blood or marriage to the individual, the owner, operator, or employee of a health care facility in which the person is a patient or resident, or the individual's primary care physician or mental health service provider or a relative of such physician or provider who witnessed the signing of the instrument by the individual or the other person authorized to make medical decisions for the individual.

(b) The state police shall destroy the enrollment form and remove the individual's information from the database upon receipt of a completed and witnessed revocation of consent signed by the individual or a person authorized to make medical decisions for the individual, a court order or document demonstrating that the authorized person no longer has the authority to make medical decisions for the individual, the person whose enrollment was provided by a parent has now attained the age of 18 years or is emancipated by marriage, or after 3 years from entry of the information into the database.

(c) Prior to removal of the information from the emergency mental health and developmental disabilities database, the commissioner of health and human services, or designee, shall provide notice of the impending removal to the individual and the authorized person if the submission was by an authorized person.

(d) The department of health and human services shall, in collaboration with the division of state police, develop an enrollment form that allows for the collection of information to be entered into the mental health and developmental disabilities database and that clearly indicates that consent by the individual or a person authorized to make medical decisions for the individual is voluntary, revocable, and not a precondition for receiving medical care or mental health treatment or for discharge from a facility or program.

(e) The department of health and human services, in collaboration with the division of state police, shall develop a revocation of consent form that provides for the revocation of consent to include an individual's information in the database.

V. The emergency mental health and developmental disabilities database shall contain the following information only:

(a) The individual's name, nickname if any, date of birth, last known address and physical description including any scars, marks, or other identifying data.

(b) A description of the individual's illness or condition including related symptoms and medication that may assist law enforcement agencies in carrying out the purposes of this section.

(c) The date when the information was entered into the database and the dates of any subsequent updates.

(d) Contact information for at least 2 persons which shall be either the individual's primary care physician, case manager in the community mental health and developmental disabilities program, a probation officer, a family member, or another person willing to serve as an emergency contact person for the individual.

VI. The commissioner of the department of safety, in consultation with the commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to:

(a) Form and content of forms required under this section.

(b) Further information deemed appropriate for inclusion in the database.

(c) Procedures for updating the information in the database.

(d) Other matters deemed necessary to properly administer this section.

4 Effective Date. This act shall take effect 60 days after its passage.

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HB 1599-FN - FISCAL NOTE

AN ACT establishing an emergency mental health and developmental disabilities database within the division of state police.

FISCAL IMPACT:

The Departments of Safety and Health and Human Services state this bill will increase state expenditures by an indeterminable amount in FY 2011 and each fiscal year thereafter. There is no fiscal impact on state, county and local revenue or county and local expenditures.

METHODOLOGY:

The Department of Safety (DOS) states this bill establishes an emergency mental health and developmental disabilities database within the Division of State Police. The Department states the establishment and maintenance of the database established in the bill will increase state expenditures by an indeterminable amount. The Department will incur costs for the purchase of a server, forms development and distribution, and training required for the mental health and law enforcement communities. Although this bill does not establish positions or contain an appropriation, the Department also estimates they would need to hire a Secretary (Labor Grade 11), and estimates the fiscal impact on state expenditures as follows –

	FY 2011	FY 2012	FY 2013	FY 2014
Salary	$25,584	$26,539	$27,514	$28,645
Benefits	19,707	21,250	22,923	24,769
	$45,291	$47,789	$50,437	$53,414

The Department of Health and Human Services (DHHS) states the cost of developing and the enrollment and revocation forms, and the cost of drafting and adopting administrative rules, can be absorbed by existing personnel within DHHS. However, the ongoing process of updating the information requires the hiring of a part-time staff person to coordinate with the ten mental health centers, ten area agencies, NH Hospital and DOS. DHHS further states that approximately 20,000 persons meeting the definition of "qualifying illness" are served by the mental health system and area agencies. DHHS cannot determine how many individuals would sign enrollment forms. Also, the cost would increase to contracted providers in order to compensate them for presenting the forms to the individuals, explaining the purpose, obtaining

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12/11/09

consent, verifying that the illness is qualifying and providing updated information on a continuing basis. Although this bill does not establish positions or contain an appropriation, the Department estimates the cost to hire a part-time Data Control Clerk II (Labor Grade 10) is as follows –

	FY 2011	FY 2012	FY 2013	FY 2014
Salary	$6,568	$6,568	$6,568	$6,568
Benefits	502	502	502	502
Telephone	384	384	384	384
Supplies	400	400	400	400
Computer	900	0	0	0
Software	400	0	0	0
	$9,154	$7,854	$7,854	$7,854

Amendments

"NOT ADOPTED"

Rep. D. Petterson, Rock. 10
December 31, 2009
2010-0053h
01/04

Amendment to HB 1599-FN

Amend the title of the bill by replacing it with the following:

AN ACT establishing an emergency medical health and developmental disabilities database within the division of state police.

Amend the bill by replacing sections 2 and 3 with the following:

2 New Paragraph; Department of Safety; Duties of Commissioner. Amend RSA 21-P:4 by inserting after paragraph XIV the following new paragraph:

XV. Have authority to establish a medical health and developmental disabilities database within the state police communications section data system in order to provide law enforcement agencies with information to help them assist persons with certain qualifying illnesses or conditions in obtaining medical, mental health, and social services.

3 New Section; Division of State Police; Emergency Medical Health and Developmental Disabilities Database. Amend RSA 106-B by inserting after section 14-b the following new section:

106-B:14-c Emergency Medical Health and Developmental Disabilities Database.

I. In this section:

(a) "Dementia" means the progressive deterioration of intellectual functioning or other cognitive skills including, but not limited to, aphasia, apraxia, memory, agnosia and executive functioning that leads to a significant impairment in social or occupational function and that represents a significant decline from a previous level of functioning.

(b) "Qualifying illness" means dementia, a developmental disability, an Axis I diagnosis as described in the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, or a physical or behavioral disorder that causes disorientation or otherwise may impede an individual's ability to interact effectively with a law enforcement officer.

II. The division, with the approval of the commissioner of safety, shall create and maintain an emergency medical health and developmental disabilities database on its computer system to provide law enforcement agencies with information to help them assist persons with a qualifying mental illness or developmental disability condition in obtaining emergency medical, mental health, or social services.

III. The department of health and human services shall update the database with

information from the community mental health and developmental disabilities programs and from the New Hampshire hospital. The database shall not be accessible to any person who is not employed by the department of health and human services for purposes of adding or deleting information or a state, county or local law enforcement agency for law-enforcement purposes. The information contained in the database shall not be a public record for purposes of RSA 91-A or be available by subpoena or for employment, insurance, or any purpose not specified in this paragraph.

IV. Within 10 days of receiving a completed enrollment form as described in this section, a community mental health and disabilities program shall verify that the individual has a qualifying illness, dementia, or other qualifying condition, and that the individual or a person authorized to make medical decisions for the individual through a guardianship, power of attorney, or similar means or the parent of an individual under the age of 18 years, has given express written consent for the entry of the information into the emergency medical health and developmental disabilities database.

(a) The express written consent shall be witnessed by at least 2 adults, one of whom shall not be related by blood or marriage to the individual, the owner, operator, or employee of a health care facility in which the person is a patient or resident, or the individual's primary care physician or mental health service provider or a relative of such physician or provider who witnessed the signing of the instrument by the individual or the other person authorized to make medical decisions for the individual.

(b) The state police shall destroy the enrollment form and remove the individual's information from the database upon receipt of a completed and witnessed revocation of consent signed by the individual or a person authorized to make medical decisions for the individual, a court order or document demonstrating that the authorized person no longer has the authority to make medical decisions for the individual, the person whose enrollment was provided by a parent has now attained the age of 18 years or is emancipated by marriage, or after 3 years from entry of the information into the database.

(c) Prior to removal of the information from the emergency medical health and developmental disabilities database, the commissioner of health and human services, or designee, shall provide notice of the impending removal to the individual and the authorized person if the submission was by an authorized person.

(d) The department of health and human services shall, in collaboration with the division of state police, develop an enrollment form that allows for the collection of information to be entered into the medical health and developmental disabilities database and that clearly indicates that consent by the individual or a person authorized to make medical decisions for the individual is voluntary, revocable, and not a precondition for receiving medical care or mental health treatment or for discharge from a facility or program.

(e) The department of health and human services, in collaboration with the division of state police, shall develop a revocation of consent form that provides for the revocation of consent to include an individual's information in the database.

V. The emergency medical health and developmental disabilities database shall contain the following information only:

(a) The individual's name, nickname if any, date of birth, last known address and physical description including any scars, marks, or other identifying data.

(b) A description of the individual's illness or condition including related symptoms and medication that may assist law enforcement agencies in carrying out the purposes of this section.

(c) The date when the information was entered into the database and the dates of any subsequent updates.

(d) Contact information for at least 2 persons which shall be either the individual's primary care physician, case manager in the community mental health and developmental disabilities program, a probation officer, a family member, or another person willing to serve as an emergency contact person for the individual.

VI. The commissioner of the department of safety, in consultation with the commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to:

(a) Form and content of forms required under this section.

(b) Further information deemed appropriate for inclusion in the database.

(c) Procedures for updating the information in the database.

(d) Other matters deemed necessary to properly administer this section.

2010-0053h

AMENDED ANALYSIS

This bill establishes an emergency medical health and developmental disabilities database within the division of state police. The commissioner of the department of safety and the commissioner of the department of health and human services are granted rulemaking authority for the purposes of the bill.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1599 Date 1/7/2010

Committee HHS

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Elizabeth Sargent, NHA Chiefs of Police esargent@sheehan.com				✓	
Teresa Rosenberger	23 N Main St	226-1000	Brain Injury Asso		X

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1599-FN Date 1/7/2010

Committee NH S

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Rep Sherman Packard	House Republican Office	271-3665			X
Kate Saylor	PO Box 1205, Concord	225-4925	NH Psychological Association		X

Hearing Minutes

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING ON HB 1599-FN

BILL TITLE: establishing an emergency mental health and developmental disabilities database within the division of state police.

DATE: January 7, 2010

LOB ROOM: 205 **Time Public Hearing Called to Order:** 1:03 PM

Time Adjourned: 2:55 PM

(please circle if present)

Committee Members: Reps. Rosenwald, Donovan, French, Schulze, Tilton, Butcher, Bridgham, E. Merrick, T. Russell, DiPentima, Miller, Batula, C. McMahon, Pilliod, Emerson, Case, Millham, Wells, Cebrowski and Kotowski.

Bill Sponsors: Reps. D. Petterson, Rock 10; Millham, Belk 5; Pilliod, Belk 5; Sen. Barnes, Jr. Dist 17

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

***Representative D. Petterson, prime sponsor – supports.** See written testimony. He related the tale of a young woman who was with two small children who were killed by a car crash. This bill was based on an Oregon bill. The bill establishes an emergency mental health and developmental disabilities database within the division of state police. An amendment changes mental health to medical health. The police saw the woman driving erratically and she was stopped but let go. She later walked into traffic with the two children. If the police had a list of persons with medical health and developmental disabilities they could have identified her. This will be an educational program. The program started in January. A whole new position will have to be created. Cost as related by Oregon personnel puts the cost at $400 per person. He does not believe this will be a costly program. There is an effort ongoing to train police personnel.

***Ken Lambert, Brentwood, NH – supports.** See written testimony. This incident happened in MA. She didn't have the children in the car when the state troopers spoke with her. If there was something like HB 1599 in MA it would have helped prevent the incident. "Keep Sound Minds" a charity formed by parents. Support Mental Health Education foundation/charity has given out $15,000.

Senator Barnes, co-sponsor – supports. Look at the information from Oregon. Asks to pass the bill to the Senate. Can't answer about the money situation.

***Earl Sweeney, Department of Safety – supports.** See written testimony. The department assisted in drafting this bill. There is the potential of 20 thousand persons who could be put on the list. Affected persons can act quite rational. Only law enforcement would have access to the

information. Entries onto the list will be confidential and managed by DHHS. There will not be a public record. Information can be deleted. We believe this will be a great help to law enforcement.

***Kenneth R. Nielsen, Esq., DHHS – opposes.** See written testimony.

***Honorable Jim MacKay, New Hampshire Mental Health Council & Suicide Prevention Council – opposes.** See written testimony. Training is the issue and has gone from 4 to 16 hours now for police. Most people in treatment are better. He is absolutely in support of training of police corrections officers. If money is available that is the way to go. Recruit training is mandatory for recruits. It is unthinkable to consider throwing out information to a new data base.

Michael Skibbie, Disabilities Rights Center – opposes. This type of legislation will not make a difference. Benefits would be minimal and only in a few cases. Prolonging detention will not be permitted. The cost is stigmatization. People with mental illness are more likely to be harmed not do harm. There is usually adherence to a fault. Use the advice of the mental health commission. Better training of police officers is the best way to go. The commission recommended ongoing training but I can't spare my offices for this additional training.

Michael Cohen, NAMI NH – opposes. Need to treat people as individuals. Persons with mental illness at times resist treatment. Treatment does work and they recover. There are 47,000 adults with mental illness who get treatment. Over 100,000 get treatment. One out of 4 people who get mental illness get treatment. There could be 250,000 on the data base. People can recover from mental illness. Some can get violent but not more than the rest of the population. There is a need to educate more senior officers. Electronic Education can be made available. Retraining can be done in less than two days.

***David Benson, Nashua, NH – opposes.** See written testimony.

Ed Kirby. He has a son with mental illness. This bill stigmatizes people with mental illness. This is not a good bill. The solution is training. Susan Mead trained all the officers in Nashua. Training at the local area and a liaison with the Mental Health Center. He will submit written testimony.

***Kate Saylor, New Hampshire Psychological Association – opposes.** She left written testimony.

Respectfully submitted,

Rep. Joan Schulze

Representative Joan, Schulze, Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING ON HB 1599-FN

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DATE: January 7, 2010

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(please circle if present)

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Bill Sponsors: Reps. D. Petterson, Rock 10; Millham, Belk 5; Pilliod, Belk 5; Sen. Barnes, Jr. Dist 17

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

(1) Rep. D Petterson - prime sponsor + supporter
Related tale of a young woman who with 2 small children were killed by a car crash. This bill was based on an Oregon bill The bill establishes an emergency mental health + developmental disabilities database within the division of state police. An amendment changes mental health to medical health.

The police saw the woman driving erratically + was stopped but let go. She later walked into the traffic with the 2 children. If the police had a list of persons with medical health + developmental disabilities they could have identified her.

This will be an educational program. The program started in January. A whole new position will have to be created. Cost as related by Oregon personnel puts the cost at $400 ~~by~~ per person. Do not believe this will be a costly program. There is an effort on going to train

police personnel.

(2) Ken Lambert. This incidence happened in Mass. She didn't have the children in the car when the state troopers spoke with her. If there was something like HB1599 in Mass. it would have helped prevent the incident. "Keep Sound Minds" a charity formed by parents. Support Mental Health Education Foundation/charity has given out $15,000

(5) Sen Barnes Supports the bill. Look at information from Oregon Asks to pass the bill to the Senate Can't answer about the money situation.

(4) Earl Sweeney. Safety Dept assisted in drafting the bill. Supports the bill Potential of 20 thousand persons who could be put on list. Affected persons can act quite rational. Only law enforcement would have access to the information Entries onto list will be confidential & managed by DHHS There will not be a public record. Information can be deleted. He believe this will be a great help to law enforcement.

(3) Ken Nielsen appears the bill

(6) Honorable Jim MacKay Pres. Mental Health Council Suicide Prevention Council appears this bill will provide written testimony Training is the issue went from 4 to 16 hours now for police. Most people in treatment are better. Absolutely in support of training of police & correction officers If $ are available that is the way to go. Recruit training is mandatory for recruits It is unthinkable to consider throwing out info. to a new data base

(7) Michael Skibbie Disabilities Rights Center absolutely appears this legislation. This type of legislation will not make a difference. Benefits would be minimal & only in a few cases. Failure detention will not be permitted Can't stigmatization People with mental illness are more likely to be harmed not do harm. There is usually ~~adherance~~ adherance to a fault.

Mike Skibbie The advice of mental health commission Better training of police officers is the best way to go. The commission recommended on going training but I can't spare my officers for ~~on~~ this additional training

(8) Michael Cohen - oppose the bill NAMI NH
Need to treat people as individuals
Persons w mental illness at times resist treatment. Treatment does work. They recover.
47,000 adults w M.I. who get treatment
and 100,000 get treatment
1 out of 4 people get mental illness get treatment
250,000 people could be on data base
People can recover from mental illness Some can get violent but not more than the rest of the population
There is a need to educate more Senior officers
Electronic Education can be available
Retraining can be done in less than 2 days.

(9) David Benson

(10) Ed Kirby has a son with mental illness
This bill stigmatizes people with mental illness
This bill is not good. The solution is training

Susan Mead trained all officers in Nashua. Training at the local area and a liason with the Mental Health Ctr. He will submit written testimony

Testimony

(1) File
Rep Patterson

HB 1599

Two years ago this month a mentally ill woman, carrying her niece and nephew, walked onto Highway 495. All three were killed. She had been approached by state policemen who noted her erratic behavior but found no legal reason to detain her. The children's parents, Ken and Danielle Lambert of Brentwood, later established an organization, Keep Sound Minds, which aims to help people get the medical treatment they need. Earlier this year, they asked me to introduce legislation, modeled on a bill in the Oregon state legislature (which has since been made into law), to create a database that could provide law enforcement personnel with a tool to recognize and assist persons having certain medical (including mental) illnesses or developmental disabilities.

I obtained the text of the Oregon bill and took it to assistant commissioner Earl Sweeney of the Department of Public Safety. After our discussion, he offered to change its wording to make it appropriate for New Hampshire. Once he had done this, I sent the text to a colleague in the House who is known for his strong stance in support of individuals' privacy. I then incorporated his suggestions and submitted the draft bill the Office of Legislative Services. Later three other legislators, two representatives and a senator, agreed to co-sponsor the bill.

I have since asked Legislative Services to prepare an amendment to the bill. This simply replaces the word "mental" with "medical" in the description of the act and where applicable in sections 1 and 2 down to and including sub-section II. I did this because the scope of conditions that should be in the database includes, for example, dementia, whose nature is medical rather than mental.

Last week I talked with the Oregon state representative who sponsored the medical health database bill. In its final form, the bill was strongly supported by medical and police authorities and was passed by a unanimous vote in the House and a 25-5 bipartisan vote in the Senate. The representative emphasized that enrollment in the database is entirely voluntary, and that its use provides protection for individuals, some peace of mind for their families, and in some instances protection for police officers. Those factors all apply to HB 1599.

With the approval of the commissioner of public safety, the Division of State Police will create and maintain the database on its computer system. The Department of Health and Human Services will update the database with information provided by community mental health and developmental disabilities programs and from the New Hampshire hospital. Such information will become available for input only when voluntarily provided by individuals with qualifying medical conditions, or by persons authorized to make decisions on their behalf. The database will not be accessible by unauthorized persons, and enrollment information will be removed and enrollment forms destroyed when no longer deemed applicable.

(2) File

Ken Lambert- Testimony for support of NH HB1599 1/7/10

Hello, my name is Ken Lambert, from Brentwood New Hampshire. I'd like to thank this Committee for hearing this testimony. I'd also like to thank Representative Petterson for working on this important Bill, as well as the other 3 co-sponsors.

The need and desire for this Bill came from a sudden tragedy that befell my wife Danielle and I, about 2 years ago. This was widely publicized at that time, and you'll remember that my 5 year old daughter Kaleigh, her 4 year old brother Shane, and my sister-in-law Marci all died one night as a result of misunderstood and misdiagnosed serious mental illness- as well as lack of adequate training and measures within the Massachusetts law enforcement community.

Most people, as well as most of you in this room, were jarred by this news, and many asked questions. How could this happen? Why did the Aunt do this? Why didn't the police officers stop her in a dangerous traffic incident just a few hours earlier? Some just shrugged as if to say- "What a terrible thing.... Oh well. I hope that never happens again."

As legislators, and concerned citizens, you owe it to your communities to offer a better response than "I hope it never happens again". Rest assured, if nothing is improved or implemented, a similar tragedy WILL happen again. It may not happen very frequently, but something related where someone loses their life or is severely injured- will occur. House Bill 1599 is one likely solution and improvement to this complicated situation.

As the tears and shock started to subside, my wife and I took stock of every missed opportunity and everything that fell thru the cracks that allowed us to lose 3 very important people in our lives. We soon formed a nonprofit charity, called Keep Sound Minds, in order to put our thoughts and goals in action. In general, our goals are to improve society's handling and education of mental health and dealings with those suffering from mental illness. In a more specific way, we wanted to focus on protocols that should have been in place within law enforcement that would have prevented these deaths.

Losing Kaleigh, Shane, and Marci was certainly not entirely due to the lapses in law enforcement- however, we know for a fact that if HB1599 was the ongoing policy (in Massachusetts) back in January of 2008, that Marci and our only children would still be here.

I want to ask each of you to consider this Bill as both a legislator and also as a mother or father. My assumption is that very few people in this room have any idea as to the torment of the past 2 years for our family. Most of you spent the holidays enjoying your children and families. Danielle and I spent the time wishing for years gone by- and wishing that we had known then what we have learned now.

I'm sure that detractors of this legislation will discuss potential privacy issues and/or the ongoing stigma that is often associated with mental illness. I understand those concerns, and I respect their opinions. However, we already allow the police a significant amount of personal knowledge and information that others in the general public do not have access to. This would just be a small addition to that overall access. Also, on the stigma aspect- Danielle and I are very keen on this problem, and we do not feel that this Bill presents a major hurdle for those suffering from mental illness. For the record, this year and last year our organization has given out over $15,000 in scholarships to students who have produced public service announcements denouncing the stigma that many have regarding mental health.

We strongly support passage of this Bill, and we know that it will improve and also save the lives of numerous New Hampshire residents in the years to come. Please do the right thing. Thank you for your time.

(H) HB 1599
Earl Sweeney

New Hampshire Department of Safety
Legislative Position Paper
Date: November 18, 2009

Bill Title: ESTABLISHING AN EMERGENCY MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES DATABASE WITHIN THE DIVISION OF STATE POLICE

Testimony before:

LSR#: 10-2030 **BILL#: HB 1599** **AMENDMENTS:**

SAFETY'S POSITON

- ☒ **SUPPORT**
- ☐ **OPPOSE as written**
- ☐ **NO POSITION**
- ☐ **SUGGEST AMENDMENT**
- ☐ **REQUEST INFORMATION**

Currently, the law as it is, does the following:

As proposed, the Bill is intended to do the following:

Establish an emergency mental health and developmental disabilities database within the division of state police.

This bill was not a request of the Department of Safety or the Division of State Police. However, the sponsor did contact us and we assisted in the drafting of the bill, and support the concept.

Many times the first person outside perhaps the family to come in contact with a person in crisis is a police officer. Often the officer cannot know what precipitated this crisis or how best to interact with the person. The individual may be physically ill, may be suffering from dementia or Alzheimer's disease, may have a mental illness and has not been taking their medication, may be developmentally disabled and functioning at a child-like rather than an adult level, or may be suffering from a traumatic brain injury. We all recall the terrible case of the young couple in Massachusetts where the sister-in-law, who had been coping with a mental illness that was thought to be under control

with medication asked to take their children for an outing, and unbeknownst to the parents, was off her medication. She was stopped by the Massachusetts State Police because of bizarre driving behavior, but gave them an excuse they accepted and they let her continue along her way. A little while later she abandoned her vehicle on a busy interstate highway, took the children by the hand and led them and her out into the fast lane of traffic and stood there until a car ran into them and took their lives. Had the State Police been able to access a database when they checked on her license that would have told her that she had been a mental patient, they might have looked at her more carefully and sought some medical assistance before letting her go on her way.

This bill does the following:

- Allows the Department of Safety to establish at State Police Communications a database that would provide law enforcement with information that would identify persons with mental illnesses or developmental disabilities and get them to the proper social services if they have a physical or behavioral disorder that causes disorientation or may impede their ability to interact effectively with a responding police officer. The database will contain contact information for at least 2 persons who are a primary care physician, case manager, probation officer, family member or friend who is willing to serve as an emergency contact person for this individual.

- The database will not be controlled by the Department of Safety. The entries into the database and deletions from it will be the responsibility of the Department of Health and Human Services from their agencies that haves this information. The database will be highly confidential and accessible only to DHHS for purposes of managing the data and by a law enforcement agency for law enforcement purposes. Information in the database will not be a public record or obtainable for someone checking for employment, insurance or other purposes.

- The only time a person's name and information will go into the database is if they or parent if they are a minor, or their legal guardian or person authorized to make decisions for them signs a request, witnessed by 2 other people, to put the information into the database. Participation in the program cannot be a pre-condition to someone receiving assistance for those conditions. The person or their legal representative can request at any time to have the information deleted from the database and it will be done. If DHHS determines that the person no longer needs to be in the database they must contact the person or the person's legal representative before removing it.

We cannot speak for DHS or for the Office of Information Technology as to whether they

have the resources to set up and manage this database; we can only say that we believe it would be a great asset to law enforcement and could be a lifesaver for persons in crisis.

Fiscal Impact:

© File
HB 1599
Ken Nielsen HHS

TESTIMONY on HB 1599

DHHS supports the concept of increasing law enforcement awareness in assisting persons with mental illness or a developmental disability. However the Dept. is concerned that simply creating an emergency database may not be the best way to use resources to accomplish this goal.

There are approximately 20,000 individuals that would meet the definition of a "qualifying illness" under this bill.

It is unknown how many qualifying individuals or their guardians will agree to voluntarily participate in this database, which will limit its effectiveness.

Creating and continuously updating this database will require a tremendous amount of effort on the part of community mental health centers and area agency staff already under stress with limited resources.

Agency staff will have 10 days to obtain express written consent from the individual or his/her guardian, family or POA and witnessed by 2 qualifying adults. This will take a lot of time, effort, resources and money for program staff to explain the purpose of the database and its impact on traditional notions of confidentiality, to verity that the individual has a qualifying illness, gather the necessary information for the database, obtain the consents and ensure that proper witnesses sign the consent form.

For many individuals this consent form would need to be frequently updated as medications can change, diagnoses and symptoms can evolve, and contact information can change as case managers have a high turnover. Thus there is a strong likelihood that information that makes it's way into the database may in fact become outdated quickly again limiting its usefulness.

Most, if not all, programs have developed good working relationships with their local police forces already. There is a strong commitment by law enforcement for community policing already in place. Local police are usually already aware of many 'qualifying individuals' within their jurisdictions from past contacts.

DHHS feels that increasing training and awareness for both law enforcement personnel and mental health centers and area agencies to improve strategies for identifying and deescalating problem behaviors and in promoting greater collaboration between these groups would be a better use of resources and would result in better access to services in times of crisis.

Kenneth R. Nielsen, Esq.
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NAMI New Hampshire

New Hampshire's Voice on Mental Illness

File
HB 1599

January 7, 2010

To: Chair, Representative Rosenwald
House, Health, Human Services and Elderly Affairs Committee

Re: HB 1599-FN
NAMI NH Testimony presented by Michael J. Cohen, Executive Director

Dear Committee Members,

My name is Michael Cohen. I am the Executive Director of the National Alliance on Mental Illness NH. We represent families and consumers working to improve the quality of life of all persons affected by mental illness and severe emotional disorders. A primary focus of our mission is to educate the public about mental illness to improve their understanding and to quell stigma and discrimination associated with mental illness.

NAMI NH strongly opposes this bill. It is costly, stigmatizing and we believe it will not improve the safety of individuals with mental illness, their families, law enforcement officers and/or the communities we live in.

Under the guise of "protecting" persons with mental illness this bill reaches too far into the personal and private lives of people with mental illness, denies them their privacy and makes false assumptions that persons with mental illness are dangerous either to themselves or others. People with mental illness are no more dangerous than the general population. In fact, data shows that more crime is perpetrated against persons with mental illness than is perpetrated by persons with a mental illness. The bill lumps together persons with all types of intellectual, cognitive disabilities and mental illnesses into the same pool and treats them all the same and as if they all are going to do harm. They are all individuals; they are all different and should be treated so.

In NH's public mental health service system, the community mental health centers serve approximately 47,000 adult individuals treated for serious mental illness; estimates are that there are over 100,000 adults with mental illnesses treated through the private insurance market. In addition, if we assume that the US Surgeon General's data is accurate, than one in four persons will have a diagnosable mental illness in any one year so debilitating that it will impair normal functioning, could lead to hospitalization and onto the database list.

If this bill is enacted what it could mean is that in NH we could have over a ¼ of a million people who can potentially be added to the data base. Where do we draw the line? Who is immune from being watched by "big brother"? This is not the NH way.

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E-Mail: info@naminh.org ★ www.naminh.org
AFFILIATES ★ Berlin ★ Claremont ★ Concord ★ Derry ★ Dover ★ Franklin ★ Greater Salem ★ Keene
Laconia ★ Lebanon ★ Littleton ★ Manchester ★ Nashua ★ North Country ★ Peterborough ★ Portsmouth

- Over -

This bill emphasizes the wrong action. If any new funds are appropriated they should not go to support this bill. NAMI NH proposes that the funds be used to support alternatives to this bill:

1) Support the recommendations in the 2008 Mental Health Commission Report, Vol. III which focuses on the NH criminal justice and mental health systems and in particular, recommends the expansion of intercept and diversion programs for individuals with mental illness and/or co-occurring disorders. One such recommendation is to increase the regularity and frequency of police training (for new recruits and experienced officers) to address mental health crises, reduce escalation and improve safety and efficiency of law enforcement officers.

2) Funds should be used to improve access to community mental health services that assure that there are no wait lists for services, that there are effective discharge planning processes from one sector of the system to the other and that the service array is of high quality based on the best practices. Bottom line; fund the CMHC system that is designed to treat persons with mental illness. We know from research that comprehensive treatment for mental illness works as long as a person can get it. Put the funds where they can be best used.

3) Strengthen the NH parity legislation which would expand access to mental health services and improve early diagnosis and treatment, thus avoiding potentially dangerous situations.

4) Use the funds to support more public education about mental illness and address the stigma and discrimination associated with these treatable illnesses.

Finally, do not treat our loved ones any differently than you want your loved one treated, regardless of their illness - diabetes, cancer, coronary disease. Mental illnesses and disabilities are no-fault disorders. Do not assume the worst in people - work to improve the system of care that they need to live a life in their community. Do not discriminate against persons with mental illness.

In closing, NAMI NH recommends that the committee vote NO on this bill.

Thank you. I will gladly answer any of your questions.

(9) File
HB1599

David Benson
14Twilight Drive
Nashua, NH 03062

January 7, 2010

Representative Frank Case
Health, Human Services & Elder Affairs Committee

Dear Representative:

Thank you for allowing me to speak at your committee hearing on January 7 regarding HB1599. This is one of the moments that make me appreciate our form of government, especially as seen in New Hampshire.

Evidently, a lot of work went in to the crafting of this bill. It covers a lot of issues, and is apparently going to be acted on soon, with a hearing today and an executive session set for Jan 12. I'd like to offer a few brief points for your consideration.

The purpose of this bill is to "better protect persons with certain mental illnesses and developmental disabilities". This certainly is a noble gesture.

The Purpose and Intent section further specifies that it will provide "law enforcement officers on a restricted basis with immediate access to information that will assist them in recognizing and assisting such individuals in times of crisis in obtaining services". My concern here is that decisions about how to help these individuals will be made in the field by officers whom are not necessarily qualified to deal with these individuals.

It could be presumed from the title and in the analysis of this bill that this program would be restricted to State Police officers. Later in the bill this restricted access is broadly expanded from the original stated intent.

- See Paragraph I (b) "Qualifying Illness"

  This paragraph calls out a whole menu of definitions from the Diagnostic and Statistical Manual of Mental Disorders. Are the submitters to this database as defined in Par. III and the field officers as defined in Par III qualified to interpret these definitions?

- See 106-B:14-c, Paragraph III

  "The department of health and human services shall update the database with information from the community mental health and developmental disabilities programs and from the New Hampshire hospital."

  The level of expertise of the provider of information is not specified here. Will this allow a hospital administrator or clerk to submit new data?

  "The database shall not be accessible to any person who is not employed by the department of health and human services for purposes of adding or deleting information or a state, county or local law enforcement agency for law-enforcement purposes."

  This phrase expands access to county and local agencies.

- See Paragraph IV

  - (b)..." The state police shall destroy the enrollment form and remove the individual's information from the database" ... "**or after *3 years from entry of the information into the database.***" [emphasis added by me]

    Although it appears that the information will be purged every 3 years, it also appears that the clock gets reset whenever new information is added by facilities as per Paragraph III. This is a chilling prospect.

- See Paragraph VI. "The commissioner of the department of safety, in consultation with the commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to:"
  - (c) Procedures for updating the information in the database.
  - (d) Other matters deemed necessary to properly administer this section.

    This Paragraph gives two individual commissioners broad powers to create and to modify rules as "deemed necessary".

I think that this bill is vulnerable to legal attacks based on the fact that this targets an estimated 20,000 people currently in 21 facilities throughout the state (see Methodology on page 5 of bill). Specific questions that might arise could include:

- Why is this "protection" as defined in the Purpose and Intent section restricted to such a narrowly defined group of individuals? Specifically, why not include diabetics, epileptics, brain-injured people, Parkinson's patients, MS, MD, etc in this blanket of "protection"?

- Could not the database "assist [law enforcement officers] in recognizing and assisting such individuals in times of crisis in obtaining services"?
- What can we conclude by the fact that these assets and protective laws are so narrowly defined?
- And finally: Based on the questions just asked, would this bill stand the test of the equal protection language of the U.S. Constitution?

Thank you for your support.

Sincerely,

Dave Benson
Dave_Benson@Comcast.net
603-770-7912

File
HB 1599

1/7/2010

Testimony before the Health, Human Services and Elderly Affairs Committee on the hearing for HB1599 by Ed Kirby

Good afternoon,

My name is Ed Kirby and I live in Nashua. I testify as a private citizen and as the father of a son with mental health issues.

My heart goes out to Ken Lambert for his loss. I know that I have come close and know othesr who have suffered the same loss.

When I first heard of the bill, I was thinking favorably because I am in favor on any action that will help people with mental health issues, but as I studied it further, I realized that it will not work. It would only help those individuals who are chronically, seriously ill and they can be helped by other measures better than what this bill will do.

A member of the Committee asked earlier about stigma. Taking individuals and segregating them into a group and then labeling them is stigma. We don't take people with heart conditions and create a data base because they might have an attack and cause an incident, so don't do it with people who have a mental illness. People with a mental illness are ordinary people just like you or I. They are no different; they have good and bad days. My son could walk into the room today and you would see him as just like everybody else. You would not know he has a mental health issue. He has a medical issue and at times, because of some event, he will have crises but with care and treatment things subside.

I know that what is proposed in this bill won't work. About 10 years ago my son was in a very manic state and was running all over the place. He was living with my wife and I and we hadn't seen him in a few days so we called the police. They suggested we submit a missing persons report and we did. A couple of days later I received a call from the Nashua police saying that the Mass State police had located him on Cape Cod. I asked the Nashua police to patch me through to the State police at Cape Cod. Their desk sergeant was in contact with the officer on the road who had stopped my son for speeding. I asked them to hold him till I drove down and picked him up but they said that they could not hold him. He was missing and he was now found so that ends their involvement. Thorough the desk sergeant, I had my son call me on his cell phone and I talked directly to the police on the road, explained my son's manic state and again asked him to hold my son. He said he had only been speeding and could not hold him. He was released with a ticket and 20 minutes later was driving about 100mph on a 2 lane road being chased by 3 police cars. Because of his illness, he only dealt with getting to the motel where he was to meet his friend. He was arrested and spent

the night in jail. Notifying the police that an individual has a mental illness is not the solution. Proper training of the police is the solution.

If we are going to spend any funds, then it should be on police training as that is the answer to providing proper service. Last year there was a House Bill 0644 that required training of the police at the Academy as well as training all those police now working in the police departments through out the state. It did not pass, essentially because of money and resources. In Nashua we have a police chief who has been most cooperative and is convinced of the value of training his personnel. He has allowed Susan Mead of the GNMHC to provide mental health training to all his officers. I believe the training should be done on the local level so the police develop a relationship with the local mental health center and then have a resource they can call on when needed. Nashua also has one of the 4 or 5 mental health courts in the state. This is under the auspices of the GNMHC and the District Court. All of these together results in a person being available to the police when ever they have a mental illness issue.

Thank you, I will gladly answer any questions.

Ed Kirby
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File
HB 1599

NEW HAMPSHIRE PSYCHOLOGICAL ASSOCIATION

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January 7, 2010

The Honorable Cindy Rosenwald
Chair, Health, Human Services and Elderly Affairs
New Hampshire House of Representatives
Legislative Office Building
Room 205
Concord, NH 03301

Dear Madame Chairman and Members of the Committee:

On behalf of the New Hampshire Psychological Association (NHPA) and the psychologists of New Hampshire, would like to share some concerns about HB-1599. We applaud the intent of HB-1599 and the interest legislators are taking towards the special care needed in interacting with individuals suffering from mental illness. We see this as a worthy dialogue. However, we have several concerns about the potential implications of HB-1599.

- When a law enforcement professional uses the database to identify an individual as having special needs, will they be properly trained to address these needs?
- Since the database is voluntary, many individuals because of the nature of their illness will elect not to participate out of suspicion. These individuals may be more likely to have dealings with law enforcement and therefore are the most in need of specialized interactions.
- Even with reassurances of privacy protection, there are always concerns of database misuse or compromised information, which could potentially lead to detrimental consequences for the individual.

Thank you for your consideration. We hope that you will keep in mind our concerns as you make your decision on HB-1599. Please feel free to contact me if I can be of further assistance in this matter or answer any questions.

Respectfully submitted,

Kathryn E. Saylor, Psy.D.
Executive Director
New Hampshire Psychological Association

FULFILLING THE PROMISE:

VOLUME III

Mental Health and the Criminal Justice System

A Message from Rep. James R. MacKay, Ph.D, Chairman

The Commission to Develop a Comprehensive State Mental Health Plan

This is the third volume of work produced by the Commission to Develop a Comprehensive State Mental Health Plan (HB 691, Chapter 175:15, Laws of 2005). This report is a part of the Commission's duty to provide a comprehensive plan for the delivery of mental health services for all citizens of New Hampshire including those who are least able to advocate for themselves. This report should be read in the context of the 2008 Commission document FULFILLING THE PROMISE: *Transforming New Hampshire's Mental Health System* which is available at the office of the Mental Health Council, an organization being developed to work to implement the recommendations in the commission's report. The phone number is (603) 415-8959.

As the impact on communities of deinstitutionalization of the old New Hampshire State Hospital and Laconia State School was in progress during the 1990's, there was an increase in the number of individuals in the New Hampshire criminal justice system, on a local, county and state level, who have severe mental illness, addiction and, in some instances, both. These are known as co-occurring or dual diagnosis illnesses.

Historically, the criminal justice system focused on public safety, security and punishment as their primary responsibilities; treatment and rehabilitation is minimally available at best.

Leaders in the NH criminal justice system know that the present system is inadequate. This report is designed to provide a blueprint to begin the extensive changes needed to divert the mentally ill from incarceration, to provide services in their communities and to provide treatment programs for the mentally ill who do require secure incarceration.

These reports would not be possible without the help of over 100 dedicated volunteers who have worked over the last three years to provide the plans needed to transform mental health services in New Hampshire. We are significantly indebted to the New Hampshire Endowment for Health for their financial support, wisdom and encouragement of our work.

Sincerely,

Rep. James R. MacKay, Ph.D.
Chairman

October 17, 2008

Commission to Develop a Comprehensive State Mental Health Plan
Membership of Criminal Justice/Mental Health Committee

Representative Cindy Rosenwald, *Co-chair*, Nashua

Representative Christine Hamm, *Co-chair*, Hopkinton

Representative Jim MacKay, *Commission Chairman*, Concord

Michael Skibbie, *Co-chair*, Diversion from Prosecution and Incarceration Subcommittee
Policy Specialist, Disabilities Rights Center, Concord

Susan Mead, *Co-chair*, Diversion from Prosecution and Incarceration Subcommittee
Community Council of Nashua

Representative Gene Charron, Co-chair, Reducing Recidivism Subcommittee, Chester

Helen Hanks, *Co-chair*, Reducing Recidivism Subcommittee
Department of Corrections, Concord

Alan Linder, *Co-chair*, Delivery of Appropriate and Consistent Treatment to
Incarcerated Persons Subcommittee
Attorney, New Hampshire Legal Aid

Richard Hesse *Co-chair*, Delivery of Appropriate and Consistent Treatment to
Incarcerated Persons Subcommittee
Professor Emeritus, Franklin Pierce Law Center, Hopkinton

Members

Representative Barbara French Henniker
Ron White, Superintendent, Merrimack County House of Corrections, Boscawen
Representative Joan Schulze, Nashua
Representative Peter Batula, Merrimack
Al Wright, Superintendent, Rockingham County Department of Corrections
Kathy Fortin, Public Policy Director, Bi-State Primary Care Association, Concord
Susan Stearns, Director of Development, Community Council of Nashua
Richard Doucette, Merrimack County House of Correction, Boscawen
Don Tompkins, Merrimack County House of Correction, Boscawen
Palmer Jones, Executive Director, New Hampshire Medical Society, Concord
Representative Carolyn Brown, Conway
Catrina Watson, New Hampshire Medical Society, Concord
Joseph Harding, Director, Bureau of Drug and Alcohol Services, Department of Health & Human Services
Robert MacLeod, Director of Medical and Forensic Services, NH Department of Corrections
Barbara Keshen, Attorney, New Hampshire Civil Liberties Union, Concord
Nancy Gallagher, Merrimack County House of Correction, Boscawen
Nancy Rollins, Associate Commissioner, Department of Health & Human Services, Concord
Trish Lee, Merrimack County Department of Corrections, Boscawen
Barnes Peterson, Cheshire County Department of Corrections
Chief Justice John Broderick, New Hampshire Supreme Court, Concord
Claire Ebel, Attorney, New Hampshire Civil Liberties Union, Concord
Bob Mack, Welfare Officer, City of Nashua
The Honorable Deborah Hogancamp, Chesterfield
Betsy Miller, New Hampshire Association of Counties, Concord
Louis Josephson, Executive Director, Riverbend Mental Health Center, Concord
Kate Saylor, Executive Director, New Hampshire Psychological Association, Concord
Helen Watkins, Rockingham County Department of Corrections

Linda Fox Phillips, Project Coordinator of Commission, Conway

FULFILLING THE PROMISE:

VOLUME III

Mental Health and the Criminal Justice System

Executive Summary

The Commission to Develop a Comprehensive State Mental Health Plan began its work in September 2005, establishing five work teams to determine the status of the mental health care delivery system in New Hampshire and to develop recommendations for transforming the system to better serve the State's residents. The findings and recommendations of the five original work teams were published in the first two volumes of the Commission's report, Fulfilling the Promise: Transforming New Hampshire's Mental Health System, in January 2008. Volume III should be read in the context of and supplement to the previous volumes.

As the five work teams progressed, the Commission members came to realize that a significant aspect in the delivery of mental health services in New Hampshire was not being addressed by any of the teams: the intersection of individuals with mental illness or co-occurring mental illness and substance use disorders with the criminal justice system. With approximately 40% of the state's incarcerated population living with a mental illness (for female inmates the rates are even higher at 71%) and 75% having a history of substance abuse, it was evident that a sixth work team was needed to address this issue.

The Criminal Justice Mental Health Work Team (CJMH Team) was established in January 2007, comprised of leaders from New Hampshire's corrections institutions, attorneys who represent defendants living with mental illness, members of the New Hampshire General Court, State agency personnel who oversee publicly funded mental health and substance abuse services, as well as mental health clinicians. Upon commencement of their work, the Team members quickly came to consensus on these fundamental principles:

- both mental illness and substance use disorders can lead to behaviors that cause some individuals to come into contact with the criminal justice system; and
- there are a few of such individuals for whom trial and incarceration are the most appropriate treatment response.

To accomplish their work, the CJMH Team developed a set of fifteen recommendations that address three key areas of concern:

1. New Hampshire has few programs to intercept and divert individuals with mental illness, addictions or co-occurring disorders from prosecution and/or incarceration into community-based treatment.

Recommendation: Broaden training for New Hampshire police officers and mental health professionals to improve their ability to work effectively and collaboratively with persons with mental illness whose behavior results in encounters with the criminal justice system.

Recommendation: Ensure that emergency services providers at the state's ten community mental health centers are trained in how the criminal justice system functions.

Recommendation: Develop District Court procedures to appoint counsel on the same day of their first court appearance if there is any indication of mental illness.

Recommendation: District Courts shall schedule mental health screening for criminal defendants suspected of having a mental illness on the day of their first court appearance and promptly inform their counsel of screening results.

Recommendation: Develop procedures to improve the coordination between county jails and local District Courts to maximize opportunities for pre-trial release for persons with mental illness and to expedite competency hearings.

Recommendation: Conduct statewide outcome studies of existing Mental Health Courts to determine efficacy as alternatives to traditional criminal courts.

Recommendation: Develop County Councils with representatives from the criminal justice and mental health systems to coordinate services and plan for the release of incarcerated individuals with mental illness.

2. **Treatment for incarcerated individuals with mental illness or co-occurring mental and substance use disorders is inconsistent, varying between corrections institutions across the State.**

Recommendation: Develop State standards for the provision and evaluation of mental health services in the County Houses of Correction and state prisons.

Recommendation: Ensure that treatment continues when a person with a mental illness is held in a County House of Correction.

Recommendation: Provide for the special psychiatric needs of certain convicted individuals with an appropriate continuum of treatment teams serving both county and state prisoners.

3. **Lack of pre-release planning and coordination with community-based treatment services leads to high recidivism rates for individuals with mental illness or co-occurring disorders after release.**

Recommendation: Change New Hampshire Medicaid rules so that benefits are suspended, not terminated, for individuals incarcerated for short periods of time.

Recommendation: State and County correctional facilities shall each enter into Memoranda of Understanding (MOU) with the New Hampshire Department of Health and Human Services and the federal Social Security Administration to ensure that eligible prisoners have pre-reviewed applications for Medicaid and Supplemental Security Income (SSI) or Social Security Disability Income (SSDI) benefits completed prior to release.

Recommendation: Complete individualized care plans for incarcerated person with mental illness and substance use disorders upon entry into the corrections system.

Recommendation: Develop Community Teams in each region to address the needs of individuals with mental illness or co-occurring disorders to prepare for their release from incarceration.

Recommendation: Identify policies, procedures and resources for probation and parole officers to utilize in promoting and sustaining the successful re-entry of offenders into the community.

The recommendations and action steps described in this report should serve as a blueprint for change to improve outcomes for individuals with mental illness or substance use disorders who become involved with the criminal justice system, while ensuring public safety. The development of policies, procedures and programs that intervene at every level of the system will help reduce incarceration rates for such individuals, as well as improve access to appropriate treatment, and reduce recidivism.

Mental Health and the Criminal Justice System

The Commission to Develop a Comprehensive State Mental Health Plan began its work in September 2005. Over 100 volunteers participated in the five work teams established by the Commission to determine the current status of the mental health care system in New Hampshire and to develop recommendations for transforming the system to better serve the state's residents. The findings and recommendations of the original five work teams were published in the first two volumes of the Commission's report, Fulfilling the Promise: Transforming New Hampshire's Mental Health System, in January 2008.

As the work of the five original teams progressed, it became evident that there was a significant factor regarding the delivery of mental health services in New Hampshire which none of the existing teams was addressing, i.e. the intersection of persons with mental illness and/or co-occurring mental and substance use disorders with the criminal justice system.

In January 2007, a sixth work team was established to examine this critical issue, the Criminal Justice Mental Health Work Team (CJMH Team). The team includes leaders from New Hampshire's corrections institutions, attorneys who represent defendants living with mental illness, members of the New Hampshire General Court, state agency personnel who oversee publicly funded mental health and substance abuse services, and mental health clinicians. During 18 months of research, the team heard testimony from:

- Chief Justice John Broderick, New Hampshire Supreme Court
- Judge James Leary and Susan Mead, M.A., Community Connections Mental Health Court Project, Nashua
- Paul Sheehan, formerly of Hamden County Corrections, Springfield, Massachusetts
- Hillsboro County Attorney Marguerite Wageling, Re-entry Project, under development in Manchester
- Erik Riera, Administrator, Bureau of Behavioral Health, DHHS
- Director Don Vittum and his staff, New Hampshire Police Standards and Training Council
- Jim Cabanel, Coordinator, Assertive Community Treatment Team, Mental Health Center of Greater Manchester
- Director Bill Finneman and Dr. Erik Vance, New Hampshire Division for Juvenile Justice Services, DHHS

The committee also reviewed programs being developed in other states and heard a presentation by Dr. David Fisher from the University of Massachusetts Medical School, Department of Psychiatry, who described recent research on the relative efficacy of criminal justice/mental health programs in use around the nation.

There is a need to provide better assessment and treatment for individuals with mental illness or co-occurring mental and substance use disorders during incarceration.

The work groups conducted a number of interviews while developing their recommendations for the report. Among those they met with were:

- City of Concord and Town of Merrimack police department officers
- Merrimack County Academy program staff members
- the Rockingham Superior Court Mental Health Council

Work team members understand that mental illness and substance use disorders can lead to illegal behaviors that cause individuals to come into contact with the criminal justice system. For some individuals who experience mental illness and substance use disorders and engage in criminal activities, trial and incarceration is an appropriate treatment response. However, for a majority of defendants whose mental illness and substance use is a contributing factor to their unlawful actions, there is a need to develop programs that better assess such individuals to divert them into community-based treatment, preventing incarceration whenever possible and

appropriate. There is also a need to provide better assessment and treatment for individuals with mental illness or co-occurring mental and substance use disorders during incarceration, and to provide support prior to and during community re-entry. All of these goals require collaboration across agencies and disciplines.

The criminal justice system of New Hampshire has a number of different components which, although interdependent, often operate independently. Larger towns and cities maintain their own police departments while many smaller towns, especially in New Hampshire's North Country, do not have their own departments. All police officers receive initial training through the New Hampshire Police Standards and Training Council but continuing education and training is supervised by individual departments. Each county has a sheriff who supervises a department of officers while the Division of State Police is part of the New Hampshire Department of Safety. Similarly, counties supervise their own houses of corrections while the state-run Department of Corrections operates prisons for both men and women. This pattern of independently-run organizations, based on the state's well-established custom of local control of publicly-funded organizations, presents a challenge, as such a practice makes ensuring consistency in the quality of services throughout the criminal justice field difficult to achieve.

The New Hampshire Department of Corrections estimates that between 30% and 40% of adults currently incarcerated in state prisons have a mental illness.

The CJMH Work Team organized itself into subcommittees to address specific points where the criminal justice system can intercept individuals with mental illness and co-occurring disorders. The three subcommittees looked at:

- diversion from prosecution and incarceration,
- delivery of appropriate, consistent treatment to incarcerated persons,
- reduction of the recidivism rate of individuals released from New Hampshire jails and prisons.

While none of the groups looked extensively at the juvenile justice system, some of their recommendations might be adapted for use with juveniles as well as adults.

The Need

The need to improve how New Hampshire's criminal justice system handles individuals with mental illness or co-occurring mental and substance use disorders is clear. A series of recent surveys have established there are a large number of individuals with mental illness and substance use disorders incarcerated in the state. The New Hampshire Department of Corrections estimates that between 30% and 40% of adults currently incarcerated in state prisons have a mental illness. A 2007 study conducted by the County Superintendents' Association of 22,000 persons who spent time in the 10 county houses of correction that year, 75% had a history of substance abuse, and approximately 46% were individuals living with a mental illness. In the state's women's prison, incidence rates are even higher. An estimated 71% of women incarcerated are living with a mental illness. Perhaps even more alarming are reports from the New Hampshire Division of Juvenile Justice. Newly-appointed Medical Director, Dr. Eric Vance, stated that 68-80% of youth supervised by the juvenile justice system have a mental illness. Dr. Vance also estimates that 60-70% of the boys and 70-90% of the girls have been physically and/or sexually abused, and are dealing with symptoms of Post Traumatic Stress Disorder.

Over the years, the state has developed parallel, separate systems to protect public safety and to provide human services to New Hampshire residents. Broadly speaking, the publicly-funded human services continuum of care has been charged with providing services to those with low incomes or who live with challenges that impact their ability to function fully and independently. From its founding as a colony in 1623, New Hampshire has a long tradition of looking after its most vulnerable citizens. Modern research into the nature and cause of

disabilities has resulted in the development of separate departments and agencies that deliver specialized services. At the same time, it has produced a service delivery system that can be difficult for individuals and families to navigate.

The state's criminal justice system, which defines criminals as outside the law and therefore in need of control and punishment, has developed on a separate path from the human service department. Professionals working in this field see their primary duty as protecting the public from criminals. Their role has been to identify those who break the laws, bring them to trial and impose appropriate sanctions. Historically, there has been systemic skepticism about the possibility of rehabilitating criminals and many have argued that punishment is the primary responsibility of the system. In New Hampshire as well as in many parts of the nation, there has been a fundamental difference between the working cultures of the criminal justice and the mental health and substance abuse systems of care. More recently, these two systems have entered a period of transition, with communication between staff improving, and the realization of better service coordination becoming more probable.

Effective collaboration between those working in mental health, alcohol and drug treatment and the criminal justice systems is a fundamental component of any effort to meet the needs of individuals with mental illness and substance use disorders who come in contact with the criminal justice system. The failure to work together squanders financial resources, exacts a large social cost, jeopardizes public safety and, too often, results in tragic consequences. Money can be saved by diverting individuals with mental illness and substance use disorders who encounter the criminal justice system into more effective community-based treatment programs. Reducing recidivism rates of incarcerated individuals with mental illness and substance use disorders also saves money.

Each of the three subcommittees developed recommendations for this report.

Addressing the Need

The first volume of the Commission to Develop a Comprehensive State Mental Health Plan described four principles which provided a framework for the report:

1. Good mental health is fundamental to overall health.
2. Mental health services are person and family centered, science based and high quality.
3. All mental health, medical and substance abuse treatment services are integrated and use technology safely and effectively.
4. All persons will receive individualized mental health and alcohol and drug treatment to promote recovery and build resilience to enable them to live, work and participate in their community.

Historically, there has been systemic skepticism about the possibility of rehabilitating criminals and many have argued that punishment is the primary responsibility of the system.

These basic principles provide a framework for the recommendations developed by this CJMH Work Team. The members of the team fully recognize that public safety is the highest priority of the criminal justice system. At the same time, they are aware that some aberrant behaviors need not be criminalized and can be resolved when the affected individual receives appropriate mental health and alcohol and drug treatment services.

Several themes emerged as the subcommittees of the CJMH Work Team proceeded with their research:

- there is a need for better collaboration among all community service providers;
- there is a need for more effective cross-training of the professionals who work for the criminal justice system and those who work for mental health and substance abuse service agencies;
- there is a need for improved consistency in the quality of services provided by state, county and local agencies.

The following chapters present the recommendations from CJMH Work Team's research into the interface between the state's criminal justice and mental health systems. In April 2007, the State Task Force on Alcohol and Drug Abuse examined the need for enhanced services for those with substance abuse issues. The recommendations contained within their report, Overcoming the Impact of Alcohol and Other Drugs: A Plan for New Hampshire, should be read to complement those contained in this report. Implementation of these recommendations through the accompanying action steps will begin the process of improving both New Hampshire's quality of services and the lives of the individuals receiving those services. All of this is designed to be achieved while preserving and improving public safety.

Individual police officers exercise significant discretion in determining whether people experiencing the symptoms of mental illness will be arrested and charged, referred to community-based treatment services, or hospitalized involuntarily.

Subcommittee on the Diversion from Prosecution and Incarceration

Pre-booking Diversion

The manner in which police officers respond to persons with mental illness can have a tremendous impact on how incidents involving minor criminal violations are resolved. Police behavior during such encounters plays a critical role. Their conduct can resolve the situation peacefully and productively, or can escalate and intensify the behaviors of the person with a mental illness. Individual police officers exercise significant discretion in determining whether people experiencing the symptoms of mental illness will be arrested and charged, referred to community-based treatment services, or hospitalized involuntarily.

To enable police officers to exercise that discretion appropriately and deal with persons with mental illness effectively, they must understand the role of mental illness in particular situations, be familiar with treatment resources in the community and how best to access them, and have the skills necessary to safely and effectively handle interactions with both the individuals experiencing a mental illness as well as with their families and loved ones.

To assure the effectiveness of pre-booking diversion the community mental health centers should designate specific staff to develop a complementary understanding of the criminal justice system. They need to have a working knowledge of the roles and responsibilities of police officers and police prosecutors as well as of the county attorney, and the district and superior courts. Staff should be trained to understand the need to ensure public safety and to hold each individual accountable for their behavior.

RECOMMENDATION 1:

Broaden the training of New Hampshire police officers and mental health professionals to improve their ability to work effectively with persons with mental illness whose behavior results in encounters with the criminal justice system.

Action Step: *Selected community mental health center staff and other mental health providers will receive training on the workings of the criminal justice system. The training will include instruction in the role of law enforcement and corrections agencies, the court system, and a review of the typical steps in the prosecution of a criminal case.*

Action Step: *The curriculum of the New Hampshire Police Standards and Training Council for training new recruits shall include 12-15 hours of mental health training. It shall include training on the following topics:*

- the types and characteristics of mental illnesses and co-occurring disorders;
- effective techniques of interaction with individuals experiencing the symptoms of mental illness, as well as with their family and friends;
- relevant legal issues, including the basis and procedures for involuntary admissions for treatment;

- the system of community-based services available to individuals with a mental illness.

Action Step: *All police officers shall be required to receive 20 hours of ongoing training on mental health issues over each three-year cycle.*

In recognition of the fact that police recruits need to learn and master a great amount of information during their initial training at the academy, it is important to reinforce their first introduction to mental illness and the community-based system of mental health care with ongoing training. Learning theory indicates that the retention of new information is improved when real life applications are used. A majority of police officers in the field will experience interactions with individuals with a mental illness in the course of their work. The ongoing training will provide them with an opportunity to learn new strategies to manage individuals in crisis in real-life situations as they encounter them.

Action Step: *The federal Department of Justice criminal justice funds administered by the Attorney General's office shall be used to support mental health training for police in communities in need of financial assistance.*

The skills which police officers learn to better manage encounters with individuals experiencing the symptoms of mental illness are relevant to encounters with anyone under severe stress. Such encounters could include veterans returning from war zones and individuals involved in domestic violence crises. Enhanced intervention skills improve the overall public safety of our communities. The use of federal funds enables small communities with more limited funding to initiate trainings which will provide long-term benefits to the public safety of their residents.

Action Step: *Police departments with more than 30 full-time officers shall develop a cohort of specially-trained officers to respond to incidents involving persons with mental illness. Departments with fewer than 30 full-time officers are encouraged to develop such specially-trained officers.*

National studies of police departments which have developed specialized crisis intervention teams have demonstrated the efficacy of such teams. SAMSHA now recognizes that these teams are effective in reducing the unnecessary criminalization of symptomatic behaviors by individuals with mental illness. These specialized trainings include the training of dispatchers so they are able to recognize calls which may involve mental health services. Maintaining crisis teams trained to respond to individuals experiencing symptoms of mental illness will enable these officers to more effectively deal with tense situations and will result in more appropriate dispositions of these cases.

RECOMMENDATION 2:

Ensure that the community mental health center staff who provide emergency services are adequately trained in how the criminal justice system works.

Communication among professionals is improved when the parties understand the parameter's of each person's job. It can eliminate unnecessary misunderstandings. In a crisis it will prove helpful for the mental health professional to understand what a police officer's role can be and what rules they must observe in performing their duties.

The skills which police officers learn to better manage encounters with individuals experiencing the symptoms of mental illness are relevant to encounters with anyone under severe stress.

The community mental health centers (CMHCs) are working to enhance their ability to respond to community requests for crisis consultations. Efforts include the development of a video-conferencing capacity to conduct expedited mental health screenings. The work the CMHCs are doing to enhance their system's capacity to respond to situations involving individuals with mental illness and the criminal justice system must be recognized, as well as the fact that currently many of these endeavors are

unfunded. One necessary change is to expand the list of covered services for both public and private insurers to include payment for video-conferencing mental health evaluations. This will enable CMHCs to respond to the needs of the criminal justice system in a more timely manner. Whenever possible, the staff of the CMHCs should prioritize their crisis screening requests to respond first to requests from their local police departments.

Post-Booking Diversion

When persons living with a mental illness are arrested and charged with a crime, there are numerous opportunities to intervene to minimize pre-trial incarceration, to maintain and strengthen connections with community treatment resources, and to develop dispositions of charges to enhance public safety as well as the mental health of those charged.

Recent surveys have revealed that 46% of the persons incarcerated in the houses of correction have a diagnosed mental illness; an estimated 74% have a substance use disorder.

RECOMMENDATION 3:

The district courts shall develop procedures to appoint counsel and notify them by phone on the same day of a person's first court appearance, when there is indication of mental illness.

When an accused individual is identified as living with a mental illness, telephone notification shall be made to that individual's attorney that day. The New Hampshire Public Defender will adopt procedures to expedite assigning attorneys to cases involving mental health issues so that the individual is offered appropriate, timely services.

RECOMMENDATION 4:

The district courts shall schedule a screening by a mental health professional for criminal defendants suspected of having a mental illness on the day of their first court appearance, and their counsel will be informed promptly of the results of that screening.

RECOMMENDATION 5:

Procedures should be developed to improve coordination between the county jails and the local district courts to maximize opportunities for pre-trial release for persons with mental illness and to expedite competency hearings.

Recent surveys have revealed that 46% of the persons incarcerated in the houses of correction have a diagnosed mental illness; an estimated 74% have a substance use disorder. When individuals exhibit symptoms of mental illness, their condition needs to be evaluated by a mental health professional within 24 hours of their arrival at the facility. If they are found to be in need of treatment available through a community mental health center or similar facility, and if the alleged crime or behavior does not make release inappropriate, the district court should adopt a procedure to allow bail review to be initiated by the county department of corrections

Delayed competency proceedings lead to unnecessary and inappropriate incarceration of persons with mental illness. When the house of corrections identifies a significant mental health issue, the district court needs to have a procedure for initiating a competency evaluation. When an individual being held in the house of corrections is awaiting a competency hearing, the district court should hold a bail hearing on a monthly basis to determine whether the individual needs to continue to be held in jail. If a competency evaluation is not conducted within 30 days of a request made by a participating attorney, the court should grant an evaluation to be conducted by a private mental health professional.

The State of New Hampshire does not employ enough qualified psychiatrists to perform competency evaluations. This shortage

contributes to individuals being held for unacceptable lengths of time while waiting for competency evaluations. There are a number of procedural changes which should be made to prevent unnecessarily prolonged incarcerations. While public safety continues to be the primary goal of the courts, research indicates that individuals with mental illness are no more likely to be violent than those who do not have a mental illness. Unless their illness reaches the standards of severity established by the Involuntary Hospitalization Laws, symptoms of mental illness do not justify keeping individuals incarcerated.

RECOMMENDTION 6:

Conduct outcome studies of mental health courts statewide to determine whether these courts are offering an effective alternative to traditional criminal courts.

Mental health courts are growing in popularity as an alternative method of dealing with individuals who engage in criminal behavior as a result of symptoms of mental illness. There are active courts operating in Nashua, Rochester and Keene. Two more are being planned for Portsmouth and Concord. A staff member at the Keene court reports that the first two years of operation have resulted in over 100 individuals participating actively in their treatment with no recurrence of criminal behaviors. However, the currently active courts have not collected consistent data by which to compare outcomes and evaluate project efficacy.

Standards need to be developed in collaboration with the mental health courts now operating in the state. The data collection based on these standards can be used to evaluate the effectiveness of this model. With a balanced approach to studying the use of mental health and drug courts, the concerns of some mental health advocates will be addressed and either future mental health courts will be established based on demonstrated efficacy or evaluation results will lead to the development of more effective interventions.

RECOMMENDATION 7:

Develop county councils with representatives from each component of the criminal justice and the mental health systems to coordinate services and to plan for the release of incarcerated persons living with a mental illness.

Improved communication will increase the ability of both systems to enhance public safety. When those working in each sector are better able to appreciate the challenges and goals of the other, both sides will be better able to respond to the undesirable, and possibly illegal, behaviors of persons with mental illness. This improved understanding will enable more appropriate skills training for staff, resulting in better coordination of the services necessary for more effective release plans for individuals with mental illness.

Mental health courts are growing in popularity as an alternative method of dealing with individuals who engage in criminal behavior as a result of symptoms of mental illness.

Subcommittee on the Delivery of Appropriate, Consistent Treatment to Incarcerated Persons

This subcommittee of the CJMH Work Team made significant attempts to collect data on the status of mental health treatment currently provided in the houses of correction, the Department of Corrections and the Department of Juvenile Justice. A survey instrument was designed and distributed to pertinent state and county institutions. Results showed there is no uniformity, even in defining such services, so that efforts to analyze the information proved difficult. The survey clearly demonstrated the need for a uniform methodology in data collection, storage and sharing. Management of these facilities would be improved by uniform, consistent collection and retrieval of data. Efficient transfer and/or subsequent incarceration of prisoners from one facility to another requires improved access to health care data.

RECOMMENDATION 8:

Develop state standards for mental health services to be provided in the houses of correction and the state prisons. These standards will be used to evaluate the quality of services provided in those facilities.

New Hampshire has not yet developed standards describing what mental health and substance use disorder treatment services will be provided in the state prison system or in the county houses of corrections. There is no consistency in the type or quality of services provided. Nationally, there are several sets of standards for providing such services. In some cases, the standards are actually a statement of principles without specific guidelines. New Hampshire must determine the standards and describe the services it will provide incarcerated persons. The state must also collect uniform data to determine compliance with those standards. It may be appropriate to seek legislation to initiate implementation of the standards once they are written.

Developing state standards for mental health care in prisons and jails would provide a consistent framework for the delivery of such care, and could result in lower recidivism rates.

As the number of adults incarcerated in the country has grown to 1% of the adult population, so has interest in addressing this issue. The cost of housing prisoners has risen sharply and will continue to do so as the prison population ages and medical needs escalate. Developing state standards for mental health care in prisons and jails would provide a consistent framework for the delivery of such care, and could result in lower recidivism rates.

Action Step: *Differences in size, resources, and population in the correctional facilities throughout the state make a single set of standards for all facilities problematic. Nevertheless, there is a need for defined criteria and a mechanism for accountability regarding compliance to such standards. As a step toward addressing this issue, the state should provide support ranging from financial assistance for staff training to assisting the Department of Corrections in obtaining accreditation through a nationally recognized association such as the National Commission on Correctional Healthcare.*

Action Step: *Expert consultation services should be provided to guide the search for appropriate standards for those county correctional facilities unable to afford the process of accreditation by a national association. Any alternative system of standards must have a mechanism for ensuring compliance.*

Action Step: *A collaborative committee of corrections personnel and state officials representing medical and forensic services should be established to develop a uniform format for gathering and reporting health information on a regular basis to the Commissioner of Corrections, the relevant county superintendents and the legislature. This reporting could supplement reporting now required by RSA 30-B:4 and 12. Reports should include the total number and percentage of the population diagnosed as mentally ill and/or having substance use disorder or HCV+, as well as breakdowns of the population by age and gender.*

Action Step: *The legislature shall create a statutory oversight committee to receive and monitor data on the quality and consistency of prison health services in an effort to facilitate policy development and appropriations in support of cost-effective services.*

Action Step: *Determine the array of mental health services needed, the training required, and the qualifications necessary to provide those services. Determine how state and county providers might share training resources, possibly through the establishment of a shared training institute.*

Staff capacity at the correctional facilities is essential to providing efficient and effective mental health treatment. This includes determining the types of services needed and the related staff qualifications necessary to provide those services. Key personnel in the state and county houses of correction should meet

regularly to identify and share problems and solutions, as well as to provide periodic in-service trainings. This will complement the meetings now occurring among the nursing staff of the county houses of corrections.

RECOMMENDATION 9:

Ensure that, unless there are extraordinary security concerns, a community practitioner will continue to provide treatment when an individual with a mental illness is held in a county house of correction.

Some individuals who live with a mental illness will, on occasion, engage in criminal behaviors. When such behavior results in incarceration in a county house of correction, it is important to maintain continuity of treatment. This treatment may include therapy as well as psychotropic medications. As with many medications, psychotropic medications should not be changed or stopped abruptly. For most persons, stopping these medications will result in an exacerbation of symptoms and may result in an acute episode of the illness.

Action Step: *Enact legislation which would require houses of correction to make reasonable attempts to consult with the prescribing practitioner and to conduct a medication evaluation before discontinuing the individual's prescribed medications.*

Talk therapies have been shown to be of significant value to maintaining relative emotional stability for an individual living with a mental illness. When an individual is able to maintain this therapeutic relationship, such support will result in a more successful community re-entry process. Absent sufficient security concerns to restrict or suspend access to particular prisoners, procedures utilized by the county houses of correction should support this work.

Action Step: *The county houses of corrections will adopt procedures to enable local community mental health center staff, a substance abuse provider or a private practitioner to continue providing therapy to individuals incarcerated in their facility.*

RECOMMENDATION 10:

Provide for the special psychiatric needs of county and state prisoners with an appropriate continuum of treatment units.

Several study committees have found that the state is not adequately addressing the treatment needs of several populations admitted to the Secure Psychiatric Unit. The needs of these populations merit further study.

Action Step: *Determine how to delineate the populations in need of special services.*

The recommendation has been made that the Secure Psychiatric Unit now located at the state prison should be moved to a different location, initially identified as the grounds of New Hampshire Hospital. This has yet to happen, and the needs which gave rise to this recommendation remain unaddressed. The county houses of correction have relied on the availability of bed days at the Secure Psychiatric Unit to deal with individuals who cannot be managed appropriately at the county level. This problem will likely worsen as the capacity of the community mental health centers is reduced due to recent budget cuts. Accurate data collection at the county level is needed to document the extent of this problem. Plans for the development of a new Secure Psychiatric Unit should be expedited, with an appropriate allocation of resources.

Some individuals who live with a mental illness will, on occasion, engage in criminal behaviors. When such behavior results in incarceration in a county house of correction, it is important to maintain continuity of treatment.

Subcommittee on Reducing Recidivism

During the 18-month period from January 2007 through June 2008, the recidivism rate of offenders released from New Hampshire prisons was 52%. While these individuals had completed their sentences or were deemed ready to return to their communities, they were nevertheless unable to successfully negotiate living within the terms of their release. There are a number of factors contributing to this failure, and the result is that the state's prison system has a rapidly-growing population which requires significant increases in funding. To produce a significant decrease in the rising recidivism rate, substantive changes are needed in the methods currently used to prepare individuals to return to their communities.

RECOMMENDATION 11:

Change the New Hampshire Medicaid rules so that benefits are suspended rather than terminated, for individuals incarcerated for short periods of time.

Current New Hampshire rules require the termination of Medicaid benefits for individuals who are incarcerated, but federal standards allow for suspension of benefits when an individual is jailed for a relatively short period of time. A rule change would enable such individuals to retain their coverage so they could receive their psychotropic medications readily upon release. For persons recovering from mental illness, such medications are essential to symptom management. Once a person's Medicaid benefits are terminated, the reapplication process can take as long as a year. This coverage gap contributes to the possibility that individuals will re-offend and return to jail, due to untreated symptoms of their illness.

To produce a significant decrease in the rising recidivism rate, substantive changes are needed in the methods currently used to prepare individuals to return to their communities.

Action Step: *The New Hampshire Department of Health and Human Services shall amend its current rules to require suspension rather than termination of Medicaid benefits in cases permitted by federal law.*

RECOMMENDATION 12:

State and county correctional facilities shall enter into a Memorandum of Understanding (MOU) with both the New Hampshire Department of Health and Human Services and the federal Social Security Administration to ensure that eligible prisoners have a completed, pre-reviewed application for Medicaid and federal Supplemental Security Income (SSI) or Social Security Disability Income (SSDI) benefits prior to release.

Currently, individuals who live with a major mental illness and are eligible for Medicaid coverage are released from correctional facilities with only a very limited supply of psychotropic medications. The re-application process can take up to a year. When released prisoners are unable to obtain medications, they frequently become symptomatic and may engage in behaviors which result in re-arrest. This recurring cycle needs to be stopped.

The Department of Corrections and the Department of Health and Human Services are executing a Memorandum of Understanding (MOU) to enable a prisoner to submit an application for Medicaid as part of the pre-release planning process. DHHS will review and process the application promptly; when possible, prior to the inmate's release. A prison staff member will work with the inmate to gather necessary documentation to complete and submit the application, thereby enhancing the inmate's ability to obtain necessary medication upon release.

Action Step: *Each county house of correction shall enter into a Memorandum of Understanding (MOU) with the Department of Health and Human Services to submit and pre-review a Medicaid application prior to the release of a disabled prisoner.*

Similarly, the federal Social Security Act allows Social Security Administration offices to enter

into MOUs with state, county or local correctional facilities to enable a prisoner to submit an application for federal Supplemental Security Income (SSI) or Social Security Disability Income (SSDI) benefits as part of the pre-release planning process. The Social Security Administration will provide technical assistance to correctional facility staff so that they may work with the inmate to gather documentation to complete and submit an application prior to the inmate's release. This would substantially improve the inmate's prospects for available income upon release from incarceration.

The New Hampshire Department of Corrections recently entered into such a Memorandum of Understanding (MOU) with the Social Security Administration.

Action Step: *Each county correctional facility shall enter into a Memorandum of Understanding (MOU) with the Social Security Administration for the advance filing and processing of an application for federal Supplemental Security Income (SSI) or federal Social Security Disability Insurance (SSDI) benefits prior to the release date of a disabled prisoner.*

Action Step: *The Department of Corrections shall, where appropriate, enter into Memoranda of Understanding (MOUs) with other state agencies to promote the successful integration of prisoners discharged into the community. The county facilities shall also enter into such Memoranda of Understanding (MOUs) with the above state agencies, to the extent permitted by law.*

Another possible option for enabling individuals with mental illness to maintain treatment in county jails is for houses of correction to develop a contractual relationship with the local Federally Qualified Health Center to provide medical care at the jail. This option, currently used in the pilot program, "Project Recovering Lives" in Manchester and Nashua, would allow qualified individuals to receive medications through the federal 340B program which provides medications at significant discount. In addition to medication, prisoners released through this program receive a variety of social services, including substance abuse treatment, and assistance in locating stable housing and learning how to manage their mental illness. It is anticipated this program will not only reduce the recidivism rate of those involved but also result in a cost-effective method of addressing their treatment needs.

RECOMMENDATION 13:

Complete comprehensive individualized care plans for incarcerated persons with mental illness and substance use disorders upon entry into the system.

National research is being conducted to better understand the causes behind the high rates of recidivism that have resulted in 1% of the adult population of the United States being incarcerated. Dr. Bill Fisher from the University of Massachusetts Medical School reports that the neighborhood in which a person lives after release is a significant contributing factor. It should come as no surprise that when an individual reenters a high-crime neighborhood, he is more likely to re-offend and return to prison.

Those with no job skills, no health care, no financial acumen, minimal family connections and unstable housing have little chance of re-entering their community successfully.

Another important factor for individuals recovering from mental illness is their mastery of daily living skills. Those with no job skills, no health care, no financial acumen, minimal family connections and unstable housing have little chance of re-entering their community successfully.

The New Hampshire Department of Corrections has developed a protocol, called HOPE, for planning re-entry. The plan develops individualized care plans upon initial entry into the correctional system, and includes staff training, community transition plans, and developing community-based teams to ensure consistency in service delivery. The intent is to provide opportunities for individuals to develop

skills necessary to live successfully and productively upon release. The committee encourages the county houses of corrections to adopt the same protocol for use in the release planning process.

RECOMMENDATION 14:

Develop regional teams of community partners to review and address the needs of individuals with mental illness or co-occurring disorders as they prepare for release from incarceration.

Regional teams will work with staff from the houses of corrections and the state prisons to address the needs of individuals preparing to return to the community. It is important to acknowledge that individuals who return to the community without a job, housing or a supportive family are much more likely to return to jail or prison within a short period of time. However, it has been shown that given supports and appropriate supervision, such individuals can learn to live productive lives. The choice facing New Hampshire and many other states is whether to expand facilities and operate more prison beds, or to invest in supportive services and evidence-based practices to enable individuals to resume living in their communities.

The choice facing New Hampshire and many other states is whether to expand facilities and operate more prison beds, or to invest in supportive services and evidence-based practices to enable individuals to resume living in their communities.

RECOMMENDATION 15:

Identify policies, procedures and resources as a guideline to help probation and parole officers promote and sustain offenders' successful re-entry into the community.

As described in the initial section of this report, historically, the criminal justice system has placed primary emphasis on maintaining public safety and punishing misconduct and criminal behaviors. The fact that one percent of the adult population in the United States is now incarcerated demonstrates that this emphasis is failing to serve the public interest. There is need for a cultural shift—a recognition of the efficacy of working with offenders while in prison and on probation or parole. In order for offenders to learn new social skills, small infractions should be expected and should be used as learning opportunities rather than evidence of complete failure. The proposed mission revision emphasizes an effort to prevent behavior leading to technical violations or new offenses as opposed to simply enforcing violations. This process requires a different approach to supervision that includes retraining and ongoing modeling by department leadership. Ultimately, this change will serve both public safety and public interest.

Action Step: *Identify and promote community providers such as community health and mental health centers to work with probation and parole district offices to improve communication and integration. The Department of Corrections is developing a process to disseminate information about existing programs that would benefit newly-released offenders to probation and parole district offices throughout the state.*

Action Step: *The Department of Corrections must develop and maintain a social services system to support case management working with the probationer's and parolee's community integration efforts. This system will provide support to the probation and parole officers by serving as a link between offender and supervisory staff. Such linkage is an important factor in both urban and rural regions of the state.*

Action Step: *The Department of Corrections will place increased emphasis on the continuing education of probation and parole personnel, especially in the areas of motivational interviewing and the basic elements of cognitive behavioral therapy (CBT). Such training will include information on substance use and co-occurring disorders in an effort to anticipate relapse as a step towards recovery rather than a deliberate infraction of parole.*

Action Step: *The Department of Correction's pre-parole plan will be more specific. The Department has reorganized its case management system to facilitate gathering information about an offender's incarceration so that appropriate recommendations can be made to the parole board. Probation and parole officers will work in collaboration with Lakes Region Re-Entry Facility's case managers to finalize parole plan recommendations.*

Implementing Change

This report is intended to serve as a blueprint for change to reduce the number of persons with a mental illness incarcerated in the New Hampshire criminal justice system. Such changes will require cultural shifts in the attitudes of professional staff currently working with persons with mental illness and a change in emphasis for several training programs. The recommendations in this Commission to Develop a Comprehensive Mental Health Plan report are intended to complement those published in earlier volumes describing the need for early identification of persons experiencing a mental illness, integrated treatment services, adoption of science-based clinical services, ongoing evaluation of quality of services, and public education.

While this report has been under development, the New Hampshire Mental Health Council has been formed to continue work on implementing the recommendations of the full report. The Council includes individuals who have served on the earlier commission as well as new members with a strong interest in pursuing the recommendations in this report. The Council will provide leadership in the effort to improve New Hampshire systems of care. Collaboration between the mental health and criminal justice systems will play a critical role in implementing the recommendations in this report and thereby reversing the alarming trends in incarceration rates for person with mental illness.

There is need for a cultural shift—a recognition of the efficacy of working with offenders while in prison and on probation or parole. In order for offenders to learn new social skills, small infractions should be expected and should be used as learning opportunities rather than evidence of complete failure.

The Commission to Develop a Comprehensive State Mental Health Plan

For additional copies of this report, please call the NH Mental Health Council at (603) 415-8959

Voting Sheets

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 1599-FN

BILL TITLE: **establishing an emergency mental health and developmental disabilities database within the division of state police.**

DATE: January 12, 2010

LOB ROOM: 205

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. T. Donovan

Seconded by Rep. P. Batula

Vote: 16-1 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 16-1

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Joan H. Schulze, Clerk

Rep. Joan H. Schulze

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

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Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report Consent

Respectfully submitted,

Rep. Joan H. Schulze, Clerk

OFFICE OF THE HOUSE CLERK 2009 SESSION

HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

Bill #: HB 1699-FN Title: establishing an emergency mental health and develop mental disabilities database within the division of state police

PH Date: 1/7/2010 Exec Session Date: 1/12/10

Motion: OTP Amendment #:

MEMBER	YEAS	NAYS
Rosenwald, Cindy, Chairman	16	
Donovan, Thomas E, V Chairman	1	
French, Barbara C	2	
Schulze, Joan H, Clerk	3	
Tilton, Joy K	4	
Butcher, Suzanne S	5	
Bridgham, Robert G	6	
Merrick, Evalyn S	—	
Russell, Trinka T	—	
DiPentima, Rich T	7	
Miller, Kate W	8	
Batula, Peter L	9	
McMahon, Charles E	10	
Pilliod, James P	11	
Emerson, Susan	12	
Case, Frank G	13	
Millham, Alida I	+	1
Wells, Roger G	—	
Cebrowski, John W	14	
Kotowski, Frank R	15	
	16	1

TOTAL VOTE:

Printed: 1/12/2009

Committee Report

CONSENT CALENDAR

January 27, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS to which was referred HB1599-FN,

AN ACT establishing an emergency mental health and developmental disabilities database within the division of state police. Having considered the same, report the same with the following Resolution: RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. Thomas E Donovan

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS**
Bill Number:	**HB1599-FN**
Title:	**establishing an emergency mental health and developmental disabilities database within the division of state police.**
Date:	**January 12, 2010**
Consent Calendar:	**YES**
Recommendation:	**INEXPEDIENT TO LEGISLATE**

STATEMENT OF INTENT

While recognizing the tremendous family tragedy that resulted in this bill, the committee felt strongly that there were numerous concerns with the bill itself. The committee believes training law enforcement to deal with individuals having certain medical, developmental, or mental health conditions would serve a much better purpose than being able to access a database when having to deal with a specific emergency situation. Testimony was also presented that in many areas of the state there is a good working relationship between the local police departments and the regional community mental health centers. Advocates for individuals with mental illness and disabilities also opposed this bill because of the unintended consequences of stigmatizing and possibly criminalizing mental illness and developmental disabilities.

Vote 16-1.

Rep. Thomas E Donovan
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

HB1599-FN, establishing an emergency mental health and developmental disabilities database within the division of state police. **INEXPEDIENT TO LEGISLATE.**

Rep. Thomas E Donovan for HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS. While recognizing the tremendous family tragedy that resulted in this bill, the committee felt strongly that there were numerous concerns with the bill itself. The committee believes training law enforcement to deal with individuals having certain medical, developmental, or mental health conditions would serve a much better purpose than being able to access a database when having to deal with a specific emergency situation. Testimony was also presented that in many areas of the state there is a good working relationship between the local police departments and the regional community mental health centers. Advocates for individuals with mental illness and disabilities also opposed this bill because of the unintended consequences of stigmatizing and possibly criminalizing mental illness and developmental disabilities. **Vote 16-1.**

Original: House Clerk
Cc: Committee Bill File

HB 1599 Tom Donovan ITL 16-1 CC

While recognizing the tremendous family tragedy that resulted in this bill, the committee felt strongly that there were numerous concerns with the bill itself. The committee believes training law enforcement to deal with individuals having certain medical, developmental, or mental health conditions would serve a much better purpose than being able to access a database when having to deal with a specific emergency situation. Testimony was also presented that in many areas of the state there is a good working relationship between the local police departments and the regional community mental health centers. Advocates for individuals with mental illness and disabilities also opposed this bill because of the unintended consequences of stigmatizing and possibly criminalizing mental illness and developmental disabilities.

HB 1599, establishing an emergency mental health and developmental disabilities database within the division of state police ITL

Rep. Thomas E Donovan Jr. for Health, Human Services, and Elderly Affairs:

While recognizing the tremendous family tragedy that resulted in this bill, the committee felt strongly that there were numerous concerns with the bill itself. The committee believes training law enforcement to deal with individuals having certain medical, developmental, or mental health conditions would serve a much better purpose than being able to access a database when having to deal with a specific emergency situation. Testimony was also presented that in many areas of the state there is a good working relationship between the local Police Departments and the regional community mental health centers.

Advocates for individuals with mental illness and disabilities also opposed this bill because of the unintended consequences of stigmatizing and possibly criminalizing mental illness and developmental disabilities.

CR

Rep. Donovan

COMMITTEE REPORT

COMMITTEE: HNS+E

BILL NUMBER: HB 1599

TITLE: establishing an emergency mental health & developmental disabilities database within the division of state police

DATE: 1-12-10 **CONSENT CALENDAR:** YES ☑ NO ☐

☐ **OUGHT TO PASS**

☐ **OUGHT TO PASS W/ AMENDMENT**

☒ **INEXPEDIENT TO LEGISLATE**

☐ **INTERIM STUDY** (Available only 2nd year of biennium)

Amendment No. _____

STATEMENT OF INTENT:

COMMITTEE VOTE: 16-1

RESPECTFULLY SUBMITTED,

Rep. Karen E Donovan
For the Committee

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rev. 02/01/07 - Yellow