

Bill as Introduced

HB 431 - AS INTRODUCED

2011 SESSION

11-0832
01/04

HOUSE BILL **431**
AN ACT relative to psychiatric evaluations.
SPONSORS: Rep. Bouchard, Merr 11
COMMITTEE: Judiciary

ANALYSIS

This bill allows the court to determine if the psychiatric evaluation shall be available to the receiving facility in a nonemergency involuntary admission.

This bill is a request of the department of health and human services.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to psychiatric evaluations.

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

1 1 Mental Health Services System; Conduct of Hearing; Report. Amend RSA 135-C:43 to read as
2 follows:

3 135-C:43 Conduct of Hearing.

4 I. For hearings held under this chapter, the person sought to be admitted shall have the
5 right to legal counsel, to present evidence on his or her own behalf, to have a closed hearing and a
6 closed file unless he or she requests otherwise, and to cross-examine witnesses. He or she shall also
7 have the right to summon as a witness the psychiatrist who filed the report pursuant to RSA 135-
8 C:40 and to cross-examine him or her. A transcript, which may consist only of any audio recording of
9 the proceedings, and at the court's discretion, shall be made of the entire proceeding. The transcript
10 may serve as the basis for an appeal and the costs of the transcript shall be apportioned, within the
11 judge's discretion, between the state and the person sought to be admitted. The transcript or
12 recording shall be retained by the court for 2 years or until official notice is received of discharge, if
13 the person is admitted on an involuntary basis and subsequently discharged.

14 II. *If the court determines that involuntary admission to a receiving facility is*
15 *necessary, the court, at the nonemergency involuntary admission hearing, shall determine*
16 *if the psychiatric evaluation performed by the psychiatrist designated by the court shall be*
17 *available to the designated receiving facility, as defined in RSA 135-C:26, or the secure*
18 *psychiatric unit. Before the court determines whether to provide the psychiatric*
19 *evaluation to the designated receiving facility or to the secure psychiatric unit, the court*
20 *shall provide the person sought to be admitted with an opportunity to object. The court*
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25 C:45, I to read as follows:

26 I. In hearings held under this chapter, after hearing all the evidence, the court may order
27 the respondent to be released, notwithstanding expert testimony, or it may order the person to
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29 may include treatment at a community mental health program approved by the commissioner. If the
30 examining psychiatrist recommends involuntary admission to a receiving facility as the most

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9 3 Effective Date. This act shall take effect upon its passage.

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CHAPTER 110
HB 431 - FINAL VERSION

15Mar2011... 0478h

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8 treatment other than involuntary admission to a receiving facility would not be in the best interests
9 of the person and the community.

10 110:3 Effective Date. This act shall take effect upon its passage.

11 Approved: May 31, 2011

12 Effective Date: May 31, 2011

Committee Minutes

AMENDED
SENATE CALENDAR NOTICE
JUDICIARY

Printed: 04/14/2011 at 3:46 pm

Senator Matthew Houde Chairman
Senator Sharon Carson V Chairman
Senator Fenton Groen
Senator Jim Luther

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: April 14, 2011

HEARINGS

Thursday

4/21/2011

JUDICIARY

SH 100

1:00 PM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

Comments: THE PURPOSE OF THIS NOTICE IS TO ADD HB 329-FN TO THE 21ST AND REMOVE IT FROM THE 20TH THE LOCATION IS ALSO CHANGED FROM LOB 101 TO SH 100.

1:00 PM	HB431 ✓	relative to psychiatric evaluations.
1:15 PM	HB52	relative to grounds for modification of parental rights and responsibilities.
1:30 PM	HB313	requiring parental consent for court referral of a minor to a juvenile diversion program.
1:45 PM	HB329-FN	requiring parental notification before abortions may be performed on unemancipated minors.

Sponsors:

HB431

Rep. Candace Bouchard

HB52

Rep. Carolyn Gargasz

Rep. Jane Johnson

Sen. Nancy Stiles

HB313

Rep. Tony Soltani

HB329-FN

Rep. Kathleen Souza

Rep. Lawrence Kappler

Rep. David Bates

Rep. John Cebrowski

Rep. Warren Groen

Rep. Joseph Krasucki

Rep. James Parison

Rep. Keith Murphy

Sen. John Barnes, Jr.

Sen. Raymond White

Sen. Fenton Groen

Rep. Carl Seidel

Susan Duncan 271-8631

Sen. Matthew Houde

Chairman

Judiciary Committee

Hearing Report

TO: Members of the Senate

FROM: Susan Duncan, Senior Legislative Aide

RE: Hearing report on HB 431 – relative to psychiatric evaluations.

HEARING DATE: April 21, 2011

MEMBERS OF THE COMMITTEE PRESENT: Senators Houde, Carson, Luther and Groen

MEMBERS OF THE COMMITTEE ABSENT: No one

Sponsor(s): Representative Bouchard

What the bill does: This bill allows the court to determine if the psychiatric evaluation shall be available to the receiving facility in a nonemergency involuntary admission and was requested by the Department of Health and Human Services.

Who supports the bill: Representative Bouchard; Dr. Alexander de Nesnera, DHHS and NH Psychiatric Society; Representative Dan LeBrun; Representative Lucy Weber

Who opposes the bill: No one

Summary of testimony received:

- **Senator Houde** opened the hearing at 1:04 p.m.
- **Representative Bouchard** introduced the legislation and explained that she submitted it on behalf of DHHS in order to allow the treatment facility to have results of tests in non-emergency involuntary admissions. She explained that in these cases the hearing and file is closed and that this is the result of legislation enacted two sessions ago. She said that there is no fiscal impact to the legislation and that the courts are in support of this bill.
- **Dr. de Nesnera** testified in support and explained the current situation with individuals who are sent for evaluations to determine whether an involuntary admission is warranted or not. He said that if the Probate Court Judge feels that the individual is a danger to him or herself or others, or in the case of a psychiatric illness, the

individual is sent to NH Hospital, but without the evaluation because the court file is closed.

- He explained that IF the Judge feels that it is proper, it is very important to allow NH Hospital to see that evaluation that was done. He noted that the individual does have the opportunity to object to disclosing the information and the Judge gets to make the decision. The court is not compelled to release the evaluation, but is allowed to do so, if appropriate.
- He said that when the sheriff brings someone to the Hospital right now, they arrive with one sheet of paper – but no idea whatsoever as to why the individual has been committed. He said that having this initial evaluation would give them important information as to the reasons why the person is being committed and enable the Hospital staff to more promptly begin appropriate treatment.
- Under the current system, in order for the Hospital to receive the pre-admission evaluation, they must request a hearing. The Hospital then waits 2, 3 or 4 weeks for the hearing so that the Judge can rule whether or not to release the evaluation.
- **Senator Luther** asked if there is a piece missing – that this seems it would enable them to do their job better. **Dr. de Nesnera** responded that he had worked closely with the courts two years ago with the legislative change to close the hearings and this was an unintended consequence. Being able to receive that initial evaluation would enable the Hospital personnel to improve the evaluation and begin treatment more quickly. **Senator Luther** agreed that this seems to truly be an unintended consequence.
- **Senator Houde** clarified that the Hospital would still make their independent evaluation, they would merely begin with the initial evaluation that was made for the courts. **Dr. de Nesnera** agreed and said that it is vitally important for them to know the history of the patient's condition and then work toward a complete clinical evaluation.

Funding: Not applicable

Action: Senator Groen moved "Ought to Pass." Senator Carson seconded the motion. The Committee voted 4 to 0 in support. Senator Luther will report the bill out of Committee.

sfd

[file: HB 0431 report]
Date: April 25, 2011

Speakers

Testimony



NEW
HAMPSHIRE
Hospital

36 CLINTON STREET, CONCORD, NEW HAMPSHIRE 03301-2359
(603) 271-5300 FAX (603) 271-5395

April 21, 2011

To: Senate Judiciary Committee
From: Alexander de Nesnera, M.D.
Associate Medical Director, New Hampshire Hospital
Legislative Liaison and Past President, New Hampshire Psychiatric Society
Re: House Bill 431: An Act relative to psychiatric evaluations

Dear Chairman Houde and Members of the Committee:

My name is Alexander de Nesnera. I am a psychiatrist, the Associate Medical Director at New Hampshire Hospital, and have been a member of the medical staff at New Hampshire Hospital (NHH) for 20 years, running an acute inpatient unit for 18 years. I am here on behalf of the Department of Health and Human Services as well as the New Hampshire Psychiatric Society, a district branch of the American Psychiatric Association. The New Hampshire Psychiatric Society has over 160 active physician members in New Hampshire.

The Department of Health and Human Services and the New Hampshire Psychiatric Society strongly support House Bill 431. This bill allows physicians treating a person committed on a non-emergency involuntary admission by a probate court to obtain a copy of the probate court-ordered psychiatric evaluation when the patient is brought to New Hampshire Hospital or the Secure Psychiatric Unit (SPU) for treatment.

New Hampshire Hospital or SPU physicians are unable to obtain this very important evaluation as the court staff is unable to release this document absent a court order, since New Hampshire Hospital or the SPU has not been involved in the probate commitment proceeding. Currently, a motion needs to be filed to obtain this assessment, and it may be weeks before physicians are able to obtain this assessment, which contains essential information about the individual's diagnosis and treatment.

Promptly obtaining this evaluation allows physicians at NHH and the SPU the ability to initiate treatment in a timely manner for patients suffering mental illness symptoms. This legislation allows a person's mental illness to be treated efficiently and promptly, leading to rapid stabilization and safe return to the community.

The Department of Health and Human Services and New Hampshire Psychiatric Society strongly urge that you approve passage of this important legislation. It will help our patients.

Thank you for allowing me to share these ideas with you today.

Alexander de Nesnera, M.D.
Associate Medical Director
New Hampshire Hospital
Associate Professor of Psychiatry
Dartmouth Medical School

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: April 21, 2011

THE COMMITTEE ON Judiciary

to which was referred House Bill 431

AN ACT relative to psychiatric evaluations.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS

BY A VOTE OF: 4 - 0

AMENDMENT # s

Senator Jim Luther
For the Committee

Susan Duncan 271-8631

New Hampshire General Court - Bill Status System

Docket of HB431

Docket Abbreviations

Bill Title: relative to psychiatric evaluations.*Official Docket of HB431:*

Date	Body	Description
1/21/2011	H	Introduced 1/6/2011 and referred to Judiciary; HJ 11 , PG. 186
2/16/2011	H	Public Hearing: 2/24/2011 1:00 PM LOB 208 ==Executive Session to Follow==
2/28/2011	H	Committee Report: Ought to Pass with Amendment #0478h for Mar 15 (Vote 13-0; CC); HC 22 , PG.534
2/28/2011	H	Proposed Committee Amendment #2011-0478h; HC 23 , PG.621
3/15/2011	H	Amendment #0478h Adopted, VV; HJ 26 , PG.719-720
3/15/2011	H	Ought to Pass with Amendment #0478h: MA VV; HJ 26 , PG.719-720
3/23/2011	S	Introduced and Referred to Judiciary; SJ 11 , Pg.192
4/13/2011	S	Hearing: 4/21/11, Room 100, State House, 1:00 p.m.; SC20
4/25/2011	S	Committee Report: Ought to Pass, 5/4/11; SC22
5/4/2011	S	Ought to Pass, MA, VV; OT3rdg; SJ 15 , Pg.307
5/4/2011	S	Passed by Third Reading Resolution; SJ 15 , Pg.312
5/18/2011	S	Enrolled
5/18/2011	H	Enrolled; HJ 44 , PG.1564
6/1/2011	H	Signed By Governor 05/31/2011; Effective 05/31/2011; Chapter 0110

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

 ORIGINAL REFERRAL

 RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT

CALENDAR NOTICE

HEARING REPORT

PREPARED TESTIMONY AND OTHER SUBMISSIONS HANDED IN AT THE PUBLIC HEARING

SIGN-UP SHEET(S) (2)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # - AMENDMENT #
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ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED AS AMENDED BY THE HOUSE
 FINAL VERSION AS AMENDED BY THE SENATE

 OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

DATE DELIVERED TO SENATE CLERK

9/21/11

By:

Susan J. Decker

COMMITTEE AIDE