## LEGISLATIVE COMMITTEE MINUTES

## **SB156**

# Bill as Introduced

### SB 156 - AS INTRODUCED

## 2021 SESSION

21-0879 08/11

SENATE BILL

156

AN ACT

relative to management of the secure psychiatric unit facility at New Hampshire

hospital.

SPONSORS:

Sen. French, Dist 7; Sen. Giuda, Dist 2; Sen. Gray, Dist 6; Sen. Carson, Dist 14;

Sen. D'Allesandro, Dist 20; Sen. Birdsell, Dist 19; Sen. Sherman, Dist 24

COMMITTEE:

Health and Human Services

## ANALYSIS

This bill declares that the management of the new secure psychiatric unit facility shall be the responsibility of the department of health and human services. Under this bill, the department shall not enter into a contract for the construction or operation of the facility with a private for profit prison construction or management company.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15 16

17

18

19 20

21

relative to management of the secure psychiatric unit facility at New Hampshire hospital.

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

1 Appropriation; Secure Psychiatric Unit Facility. Amend 2019, 346:357 to read as follows:

346:357 Appropriation; Secure Psychiatric Unit Facility. The sum of \$8,750,000 for the biennium ending June 30, 2021 is hereby appropriated to the department of health and human services and shall be expended for the purpose of constructing a new 25-bed secure psychiatric unit facility on the New Hampshire Hospital grounds. The sum appropriated shall be nonlapsing, provided that any unexpended amount following construction shall lapse to the general fund. The facility shall be built to house such persons that do not require continued joint commission accreditation. The department of administrative services shall prioritize this project in its workload. The department of administrative services and the department of health and human shall provide reports each quarter to the fiscal committee of the general court and the senate finance and house, finance committees concerning the progress of the project. Appropriate persons housed in the secure psychiatric unit of the state prison shall be safely transferred to this facility no later than 2 weeks after it is operational. [This facility shall be operated and managed by the department of health and human services. The state shall not enter into a contract with a private or for profit prison company for the construction or operation of the secure psychiatrie facility unit.] Management of the secure psychiatric unit facility shall be the responsibility of the department of health and human services. The department may contract with private psychiatric services providers but shall not enter into a contract for the construction or operation of the facility with a private, for profit prison construction or management company. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

2 Effective Date. This act shall take effect upon its passage.

# Committee Minutes

## SENATE CALENDAR NOTICE Health and Human Services

Sen Jeb Bradley, Chair Sen James Gray, Vice Chair Sen Kevin Avard, Member Sen Tom Sherman, Member Sen Rebecca Whitley, Member

Date: February 17, 2021

## HEARINGS

	Wednesday	03/03/20	)21
	(Day)	(Date	)
Health and Human Services		REMOTE 000	. 8:30 a.m.
(Name of Committee) 8:30 a.m. SB 156		(Place)	(Time)
		relative to management of the secure psychiat Hampshire hospital.	tric unit facility at New
8:45 a.m.	SB 159-FN	establishing the department of children's serv justice.	ices and juvenile

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

- 1. Link to Zoom Webinar: <a href="https://www.zoom.us/j/91895285038">https://www.zoom.us/j/91895285038</a>
- 2. To listen via telephone: Dial(for higher quality, dial a number based on your current location):
- $1\text{-}301\text{-}715\text{-}8592, \text{ or } 1\text{-}312\text{-}626\text{-}6799 \text{ or } 1\text{-}929\text{-}205\text{-}6099, \text{ or } 1\text{-}253\text{-}215\text{-}8782, \text{ or } 1\text{-}346\text{-}248\text{-}7799, \text{ or } 1\text{-}669\text{-}900\text{-}6833}$
- 3. Or iPhone one-tap: 16465588656,,91895285038# or 13017158592,,91895285038#
- 4. Webinar ID: 918 9528 5038
- 5. To view/listen to this hearing on YouTube, use this link:

https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA

6. To sign in to speak, register your position on a bill and/or submit testimony, use this link: http://gencourt.state.nh.us/remotecommittee/senate.aspx

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: <a href="mailto:remotesenate@leg.state.nh.us">remotesenate@leg.state.nh.us</a> or call (603-271-6931).

## EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 156

Sen. French

Sen. Giuda Sen. Birdsell Sen. Gray Sen. Sherman Sen. Carson

Sen. D'Allesandro SB 159-FN

Sen. Carson

Kirsten Koch 271-3266

Jeb Bradley Chairman

## Senate Health and Human Services Committee

Kirsten Koch 271-3266

5B 156, relative to management of the secure psychiatric unit facility at New Hampshire hospital.

**Hearing Date:** 

March 3, 2021

Time Opened:

8:34 a.m.

Time Closed:

9:26 a.m.

Members of the Committee Present: Senators Bradley, Gray, Avard, Sherman and Whitley

Members of the Committee Absent: None

Bill Analysis: This bill declares that the management of the new secure psychiatric unit facility shall be the responsibility of the department of health and human services. Under this bill, the department shall not enter into a contract for the construction or operation of the facility with a private for profit prison construction or management company.

Sponsors:

Sen. French

Sen. Giuda

Sen. Gray

Sen. Carson

Sen. D'Allesandro

Sen. Birdsell

Sen. Sherman

Who supports the bill: There are 76 names signed in support of this bill. To view the sign in sheet, please contact Legislative Aide for the Senate Health and Human Services Committee, Kirsten Koch, at kirsten.koch@leg.state.nh.us

Who opposes the bill: None.

Who is neutral on the bill: Wanda Duryea, Advocates for Ethical Mental Health Treatment; Frank Harris, NH State Police.

## Summary of testimony presented in support:

## Joshua Elliot, Senate Deputy Chief of Staff - in place of Senator French, District 7

- NOTE: Joshua Elliot testified in place of the sponsor of this bill, Senator French, who was unable to virtually attend the hearing.
- An act relative to management of the secure psychiatric unit facility at New Hampshire hospital.
- This bill declares that the management of the new secure psychiatric unit facility shall be the responsibility of the department of health and human services. Under this bill, the department shall not enter into a contract for the construction or operation of the facility with a private for-profit prison construction or management company.

## Kenneth Norton, NAMI NH

- Mr. Norton said he generally supports this bill but had comments on it.
- Mr. Norton shared an anecdote about a relative being incarcerated for mental illness.
- Mr. Norton said, we should promote help, not handcuffs.
- Mr. Norton outlined his concerns with the bill:
  - o (1) Mr. Norton expressed concern about language the language in the bill. He said, the secure psychiatric unit at the Department of corrections will not close. The unit referenced in this bill will be an addition to that facility. We need another language to differentiate the two unit. This unit referenced in this bill should be referred to as a "forensic hospital."
  - (2) Mr. Norton's second concern about the bill was relative to language that the unit "does not require accreditation." Mr. Norton said, some of these folks need a hospital-level of care. Mr. Norton asked, does the Joint Commission accredit forensic hospitals? Mr. Norton said, NAMI nationally is opposed to for profit prisons, but there are some private entities that specialize in forensic hospitals and reduced restraints and confinement. This comes with the change from being on security to focus on treatment.
  - (3) Mr. Norton said, I suggest at some point we request a plan from the DHHS on what training is needed to operate this facility as they take over from the Department of Corrections.

## Paula Mattis, Director of Forensic and Medical Services, NH Department of Corrections (DOC)

- Ms. Mattis testified in support of SB 156.
- Ms. Mattis said she shared the same value of removing the language/requirement of "civilly committed."
- Ms. Mattis referred the committee members to her submission of written testimony for further details.
- Ms. Mattis shared anecdote about her work experience in mental health.
- Ms. Mattis said she would not allow Ms. Duryea's statements to happen in the facility.
- Ms. Mattis said, the civilly committed need to be taken out of prison to get treatment.
- Ms. Mattis said, this is not about whether there is adequate care. None of this has been brought to my attention (referring to Ms. Duryea's statements). I receive grievances from very ill people that do not make sense. Perceptions are altered when in the acute stage of mental illness; these individuals often refuse physical body care. Ms. Mattis then shared an anecdote about an individual in her facility that frequently writes grievances to her because he believes Mexicans are invading his cell.
- Ms. Mattis said, we are aware prisons and jail have become the mental health treatment centers. This is not the same as a treatment facility though. Please tell me how the care can be approved. I need to know.
- Ms. Mattis said, we have certified, qualified staff. It is painful to hear advocates maligning my staff.
- Senator Whitley asked, could you answer that question about thoughts on capacity? This bill says there is a need for 25 beds, and HB 2 says there is a need for 60 beds.

- o Ms. Mattis said, I am involved in some but not all planning committees. I suspect the number is from finances. These buildings are very, very expensive to construct. The number of civilly committed individuals fluctuates, there are not patterns. Today, with the folks at the unit, 25 beds would cover that.
- Senator Whitley asked, so what is the census today?
  - o Mr. Mattis said, today there are 35 civilly committed. I can email you the other numbers later today.
- Senator Sherman said, I was impressed by the work you do in that setting. But I agree with everybody else that forensic patients in the prison system is not optimal. Of that 35 and additional, am I correct that in understanding if we build a forensic hospital that many of those individuals would transfer over?
  - o Mr. Mattis said, not all of them would go. The basis is people who are convicted of crimes are in the same facility as those civilly committed. Most would stay if there was a new unit.
- Senator Sherman said, is the number you are going to get for Senator Whitley would be the ones that are civilly committed and would go to the new hospital? How many individuals are on the wait list?
  - o Ms. Mattis said, there are two individuals on the wait list—one individual is criminally committed, and one individual is civilly committed. Many people need infirmary beds.
- Senator Sherman said, so of those two on the wait list, only one can go?
  - o Ms. Mattis said, yes.
- Senator Sherman said, what makes a hospital is its quality assurance. Would you
  recommend the facility needs to meet accreditation or joint commissioner standards?
  - o Ms. Mattis said, I am not sure. I recognize the value of accreditation. These accreditation surveys cost money. That may be the holdup already. We would look forward to being accredited by the National Commission of Correctional Health Care (NCCHC). We are moving forward for that accreditation. The American Correctional Association (ACA) also offers, but we are seeking the NCCHC accreditation.

## Andrew Hosmer, Wellpath

- Mr. Hosmer testified in support of SB 156.
- Mr. Hosmer said, the primary focus is improved care in a therapeutic environment.
- Mr. Hosmer said he has been working with Senator French on this bill.
- Wellpath is provider for local care in challenging environment. Wellpath is not a private prison manager. Wellpath transformed care in the Bridgewater State Hospital when outcomes were previously not good in MA.
- Mr. Hosmer said, looking at the RSA, we thought an improvement would be to enforce that patients in the unit are the responsibility of DHHS not DOC.
- Mr. Hosmer said, this bill allows the commissioner to decide on who would be the best provider, public or private, to provide these services through a transparent selection and bid process.
- Mr. Hosmer said this bill brings an instrumental step in improving care.

- Senator Whitley said, can you answer the question of whether other forensic hospitals have accreditation?
  - o Mr. Hosmer said, it is up to the hospital if they want to apply for accreditation. Wellpath embraces this.
- Senator Whitley asked, do you know any other accreditation bodies?
  - o Mr. Hosmer said, I believe it is the Joint Commission. I will follow up with more of an answer.
- Senator Sherman said, one of the benefits of accreditation is you can bill for services. Having listened to Wanda's testimony, I hear a disconnect with you. You say Wellpath is not a private prisoner company. Is that true?
  - o Mr. Hosmer said, Wellpath has never been a private prison company. They offer forensic services in some prisons, but it is a different operation.
- Senator Sherman asked, in word-smithing the difference between "operation" and "management," what is the difference as used in this bill? Are they interchangeable?
  - o Mr. Hosmer said, I do not think there is a difference.
- Senator Whitley said, I am curious about whether there has been an analysis about what
  capacity we need in NH? This bill contemplates a 25-bed facility. This may be a question
  for DHHS.
  - o Mr. Hosmer said, that is outside of our view. We were not involved in the state's needs for capacity.

## Summary of testimony presented in opposition: None.

## **Neutral Information Presented:**

## Wanda Duryea, Advocates for Ethical Mental Health Treatment

- Ms. Duryea testified as neutral on SB 156.
- Ms. Duryea shared anecdote about poor conditions for individuals correctly in the unit and her job as an advocate for individuals with mental illness.
- Ms. Duryea said, it is unconstitutional to imprison people.
- Ms. Duryea said, corrections care organizations have re-branded as for-profit 'mental care' institutions.
- Ms. Duryea said, NH has incarcerated mentally ill patients.
- Ms. Duryea said, patients have suffered because the legislature has not appropriated the money for building a state facility.
- Senator Avard asked, could you explain the concept of for-profit contractors?
  - o Ms. Duryea said, there are contractors that are not prison contractors. They just make forensic units for profit. Some have been sued before.
- Senator Avard, are these for-profit organizations accredited?
  - o Ms. Duryea did not know the answer to the question.
- Senator Avard asked, how would you want this bill to read?
  - o Ms. Duryea said, we cannot contract with "for profit contractors." Take "prison" out.
- Senator Avard, who do you want to find to do this?

- o Ms. Duryea said, maybe Dartmouth Hitchcock, or the state of NH if they choose to do a good job. It should be a medical agency.
- Senator Sherman said, I appreciate your advocacy for patients. I remember original language that was in there. The wording was in there to make sure what you are describing to was not going to happen. But I see the new language opens the door for the management to be contracted out to anyone. On the other hand, there are for-profit hospitals with great psychiatric units. I am wondering if the key to this would be wording that would require the new unit be an accredited unit. That accreditation would be in done by the Joint commission. What if we went back to the original language?
  - o Ms. Duryea said, it would be a really good thing to have the accreditation.
- Senator Sherman said, I think that would be a good compromise and to ensure quality for these patients.

## Helen Hanks, NH Department of Corrections (DOC)

- Ms. Hanks said she will have to look for the numbers for bed space. She said, we examined the numbers before COVID.
- Senator Whitley said, the number 25, is that consistent with the work you are discussing?
  - o Ms. Hanks said, I hesitate to confirm that. It sounds low. We will get the final proposal to the committee.
- Senator Bradley said, during the last budget debate, two years ago, we introduced an appropriation for \$26 million for a new facility larger than 25 beds in HB 4 in 2019.
  - o Ms. Hanks said, I think you are right, and we were looking to address a larger capacity.
- Senator Bradley asked, is there anybody on from DHHS can answer Senator Whitley's questions?

The committee members requested that Mr. John Williams of the DHHS be brought in to testify for the hearing. Mr. Williams said he will request for Heather Moquin to virtually attend the hearing as soon as possible to answer the committee members' questions.

Senator Sherman said, should we recess this hearing and come back and have the DHHS comment as part of the record?

The committee members agreed to recess the hearing on SB 156 at 9:26am. The committee members held the hearing on SB 159 in the meantime. At 10:41 am, after the hearing on SB 159, Senator Bradley re-opened the recessed hearing on SB 156 for Heather Moquin to testify to answer the senators' questions.

## Heather Moquin, DHHS (along with John Williams, DHHS)

- Senator Whitely said, I would like the DHHS's opinion on:
  - o (1) the number of 25 beds,
  - o (2) the idea of looking for another provider outside of the Department, and
  - o (3) the language of "management" vs. "operation" of the facility?
  - o (4) And lastly, does the DHHS concur with the model in the bill?
- Ms. Moquin said, the DHHS agrees with the idea of having forensic patients at the right level of care, at the right location, and with the right level of security.

- o The DHHS, if able to build this forensic hospital, there would be patients that are not guilty via insanity or patients not yet adjudicated yet.
- o The department's vision is for the right level of care, depending on the individual, there would be different levels of security and programming.
- o The idea would be that DHHS has more oversight of the entire program.
- Senator Whitley, I am look for a more granular response about capacity. The levels of care
  need to be flexible but getting the care they need. What is the estimate for what we need
  right now: for civilly committed, criminally committed, etc.?
  - o Ms. Moquin said, my opinion is that 25 beds would be far too little to do a program like this justice. At the NH hospital we have a 24 bed for forensic unit for those who are ruled guilty by insanity or incompetent to stand trial. That is 24 people at our hospital that, if they were in another program, would open up a unit. This bill would open a forensic unit. Then there is the population that is at the state prison right now utilizing the services. There are 50-60 patients that any given time that move through that programming—so that is a population as well. We must identify what would be the scope of the forensic hospital. Right now, at the state prison they work with patients that utilize those services, with acute need, that have been adjudicated. We must also consider inmates in the county correctional system that have an acute psychiatric need. At any given time at NH Hospital we have 5-7 correctional inmates referred here as well. The number is certainly over 25, it is more like 60 or more beds needed in that forensic hospital.
- Senator Whitley said, I am trying to distinguish between those that are already serving their sentence and those that are civilly committed. I think we are getting conflicted evidence about that. I would love to see those number split historically. Is that an analysis that has been conducted or could be in the future?
  - o Ms. Mattis said, I believe that has been conducted but I am unsure how recent that data is. We can certainly update that and get that to you.
- Senator Sherman said, to be clear, did the department request this bill?
  - o Ms. Mattis said she did not have an answer.
  - o Mr. Williams said, this bill was not requested by the department. This bill is based on a bill that was tabled last session because of the pandemic. Given the scope of the legislation, prohibiting for-profit construction is the purpose of this bill. There is currently language in HB 2 around standing up a forensic hospital.
- Senator Sherman asked, the current statute already prohibits for-profit and private prisoners from participating in the process?
  - o Mr. Williams said, yes. It is my understanding that is already the provision of law.
- Senator Sherman asked, is this necessary?
  - Mr. Williams said, the financial officer and myself have testified last year that this bill would not be necessary.
- Senator Sherman asked, there is nothing in statute that says the State cannot contract with a psychiatric provider or group to provide psychiatric services, is there?
  - o Ms. Moquin said, I do not believe there is anything that prohibits that.
- Senator Bradley said, I was the prime sponsor of SB 291 in 2019. It passed with an amendment out of Senate HHS, went to Finance, was laid on the table. The text of the bill was for a 60-bed unit. There was a lot of opposition to that proposal in the House. The

compromise that came through the budget, is reflected in SB 156, was 25 beds for \$8.75 million. So that is where we are that, whether it should be larger or smaller, that is the background of the debate from two years ago.

- Senator Sherman said, you mentioned that is in SB 156, but that is already in statute. So, SB 156 is not necessary?
- Senator Bradley, the purpose of the bill is to limit the type of providers that can build the 25-bed psychiatric unit.
- Senator Sherman said, this bill, SB 156, would expand the type of provider that is in statute by the actual wording?
  - o Mr. Williams said, my understanding from the fiscal analysis on the bill, is that it is not necessary. We can get back to you.
- Senator Bradley, look at line 14 of the bill. That is what is being crossed out. Then on line 15, it says it again. Senator Sherman is correct in my opinion—this bill does expand the potential providers that could manage the providers.
  - o Mr. Williams said he concurred with Senator Bradley and Senator Sherman.

KNK
Date Hearing Report completed: March 8, 2021

## Speakers

Name	Title	Representing	Position	Testifing
Norton Kenneth	A Lobbyist	NAMI NH The National Alliance On Mental Illness	Support	Yes
Duryea Wanda	A Member of the Public	Advocates for Ethical Mental Health Treatment	Neutral	Yes
French Senator Harold	An Elected Official	Senate District 7	Support	Yes
Mattis Paula	State Agency Staff	NH Department of Corrections	Support	Yes
Hosmer Andrew	A Lobbyist	Wellpath	Support	Yes
Newton Jay	A Member of the Public	Myself	Support	No
perez maria	An Elected Official	Myself	Support	No
Gray Senator James	An Elected Official	Senate District 6	Support	No
Birdsell Senate Regina	An Elected Official	Senate District 19	Support	No
Reed Barbara	A Member of the Public	Myself	Support	No
Arnold Neil	A Member of the Public	Myself	Support	No
van der Biji Dana	A Member of the Public	Myself	Support	No
Brennan Nancy	A Member of the Public	Myself	Support	No
Harris Frank	State Agency Staff	NH State Police	Neutral	No
Smith MD Jennifer	A Member of the Public	Myself	Support	No
Kusch Dan	A Member of the Public	Myself	Support	No
Groetzinger Tonda	A Member of the Public	Myself	Support	No
Nelson Elizabeth	A Member of the Public	Myself	Support	No
Larson Ruth	A Member of the Public	Myself	Support	No
st.martin tom	A Member of the Public	Myself ( from NH )	Support	No
Torpey Jeanne	A Member of the Public	Myself	Support	No
Stevens Representative Deb	An Elected Official	My 10K constituents	Support	No
Hayes Randy	A Member of the Public	Myself	Support	No
Clark Martha	A Member of the Public	Myself	Support	No
Perencevich Ruth	A Member of the Public	Myself	Support	No
Spencer Louise	A Member of the Public	Myself	Support	No
Spencer Rob	A Member of the Public	Myself	Support	No
Falk Cheri	A Member of the Public	Myself	Support	No
Damon Claudia	A Member of the Public	Myself	Support	No
Smith Sara	A Member of the Public	Myself	Support	No
Corell Elizabeth	A Member of the Public	Myself	Support	No
Dunlap Bernice	A Member of the Public	Myself	Support	No
Greenwood Nancy	A Member of the Public	Myself	Support	No
Stinson Benjamin	A Member of the Public	Myself	Support	No
Briggs Ronald	A Member of the Public	Myself	Support	No
House Don	A Member of the Public	Myself	Support	No
Graham Nancy	A Member of the Public	Myself	Support	No
Straiton Marie	A Member of the Public	Myself	Support	No
Carter Lilian	A Member of the Public	Myself	Support	No
Brookmeyer Janet	A Member of the Public	Myself	Support	No
Lucas Janet	A Member of the Public	Myself	Support	No
Blanchard Sandra	A Member of the Public	Myself	Support	No
Leach Kyle	A Member of the Public	Myself	Support	No
Mattlage Linda	A Member of the Public	Myself	Support	No
Berk Bruce	A Member of the Public	Myself	Support	No
Jones Andrew	A Member of the Public	Myself	Support	No
Bruce Susan	A Member of the Public	Myself	Support	No
Jakubowski Deborah	A Member of the Public	Myself	Support	No
Hinebauch Mel	A Member of the Public	Myself	Support	No
Keeler Margaret	A Member of the Public	Myself	Support	No
Hampton Doris	A Member of the Public	Myself	Support	No
Hackmann Kent	A Member of the Public	Myself	Support	No
jakubowski dennis	A Member of the Public	Myself	Support	No
Nardino Marie	A Member of the Public	Myself	Support	No No
Jachim Nancy	A Member of the Public	Myself	Support	No
Gibbs Elizabeth	A Member of the Public	Myself	Support	No No
Truax Beth	A Member of the Public	Myself	Support	No No
Campion Polly	A Member of the Public	Myself	Support	No

Spielman Kathy	A Member of the Public	Myself
Spielman James	A Member of the Public	Myself
Sherman Senator Tom	An Elected Official	SD24
Hatch Sally	A Member of the Public	Myself
Cunningham Shela	A Member of the Public	Myself
Rettew Annie	A Member of the Public	Myself
Hope Lucinda	A Member of the Public	Myself
Irwin Virginia	A Member of the Public	Myself
DeMark Richard	A Member of the Public	Myself
Sullivan Melissa	A Member of the Public	Myself
Richman Susan	A Member of the Public	Myself
Lamphier Regan	A Member of the Public	Myself
Waterman Raymond	A Member of the Public	Myself
Waterman Patricia	A Member of the Public	Myself
Istel Claudia	A Member of the Public	Myself
ellermann maureen	A Member of the Public	Myself
St Germain Diane	A Member of the Public	Myself
Petruccelli Maxine	A Member of the Public	Myself
Petruccelli Charles	A Member of the Public	Myself
Clark Denise	A Member of the Public	Myself

Support

Support Support

Support

Support

Support

Support

Support

Support

Support

Support

Support

Support

Support

Support

Support

Support

Support

Support

Support

No

No No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

## Testimony

## Kirsten Koch

From:

Wanda Duryea <nh\_cherokee@yahoo.com>

Sent:

Tuesday, March 2, 2021 7:14 PM

To:

Kirsten Koch

Subject:

SB 156 written testimony

Attachments:

SB 156 2020.docx

SB 156

My name is Wanda Duryea, I've been advocating for removing the civilly committed non-convicted men and WOMEN from the State Prison for Men Secure Psychiatric Unit (SPU) for about 5 years now. I've spoken before some of you and have had many conversations with legislators regarding the civil rights violations and maltreatment of individuals in SPU. We have brought patient's family before the legislature who have alleged that their family members have been raped, tasered, locked in solitary, pepper-sprayed, have pulled all 10 fingernails out while on suicide watch, had their toenails grow so long that they cut into the soles of their feet, been denied feminine products and toilet paper.

During that advocacy I have never spoken to anyone who believes that it IS Constitutional to lock someone who is mentally ill in a prison! Every American has the right to Life, Liberty, and the pursuit of happiness; when someone is convicted they loose that right to Liberty, the loss of liberty is the punishment. We should not be punishing someone who is sick. I have been told that the prison is cold and has cold showers even in the winter, and a patient was told last year if he refused to shower he would be moved to the F ward which is 23/7 solitary lock down.

I speak with patients on a daily basis that are in the SPU, they tell me of harassment and neglect by the guards and medical staff, 1 patient was denied a breathing tube for his CPAP machine until I called legislators to ensure that he had this life saving equipment, he later told me that a guard laughed and said if you get COVID you will die. I have filed lawsuits for patients that were denied transfers for months and even

years after they were approved to be transferred to New Hampshire Hospital (NHH).

Now I see a Bill that proposes to remove the provision of not hiring for profit contractors. Many formerly Corrections Care organizations have rebranded and become for profit institutional care organizations. One of those organizations lobbyist has been attending all the hearings for the last 3 years. I have compiled articles about Wellpath that was formerly Correct Care Solutions and was sued more than 1300 times for patient deaths and civil rights violations. New Hampshire has unconstitutionally incarcerated mentally ill people for over 35 years now. In 2015 51 patients were transferred from NHH to SPU.

These patients have suffered for years because the legislature refused to appropriate money to build a forensic hospital. Who are these persons who do not need joint commission accreditation? We as a state are finally appropriating the final half of the money to build the hospital please remove the language that would allow (for profit contractors) in the management of the hospital.

Wellpath, the largest for-profit provider of medical care to governments across the country,

Wellpath was created in 2018 when HIG merged two other of its companies, Correct Care Solutions (CCS) and Correctional Medical Group Companies. It is an incredibly lucrative business. In 2018, a business publication in CCS's hometown of Nashville, Tenn., reported that, prior to the merger, CCS generated about \$1.5 billion in revenue annually. But the name CCS, especially, also carried a lot of baggage; prior to becoming Wellpath, it was sued at least 1.305 times in federal court.



Wellpath's long history of providing fatally poor care in immigration detention centers where ICE has locked up thousands of immigrants and substandard medical care to a network of for-profit prison, has been the subject of more than 70 wrongful death lawsuits and 1,395 federal lawsuits in over 120 locations in 32 states.

Wellpath's cited troubles include a 2018 problem at the Florida-based Treasure Coast Forensic Treatment Center, operated by Wellpath, which <u>LOST ITS</u>
<u>LICENSE AND WAS FINED</u> by the state of Florida for being understaffed, dangerous, and violent.

Father says health care provider's negligence led to his son's death at Maine State Prison (bangordailynews.com)
Memphis family sues county, WellPath, LLC after in custody death - FOX13 News Memphis (fox13memphis.com)
Wellpath, Shelby County Criminal Justice Center's for-profit medical provider, sued (commercialappeal.com)
Harrison Campaign: Wellpath Continuously Cited For Mental Health Violations and Neglect (insidernj.com)
Treasure Coast Forensic Treatment Center patient killed, staff maimed (tcpalm.com)

<u>Sen. Avard Compares Secure Psychiatric Unit At State Prison To 'Horror Movie' - InDepthNH.orgInDepthNH.org</u>

<u>Patients' Families Allowed To Speak Only After Vote Involving Secure Psychiatric Unit - InDepthNH.orgInDepthNH.org</u>

<u>Man Treated In Prison Despite No Conviction Asks Judge For Transfer To State Psychiatric Hospital | New Hampshire Public Radio (nhpr.org)</u>

Despite Recommendations, N.H. One Of Few States With Psychiatric Unit On Prison Grounds | New Hampshire Public Radio (nhpr.org)

A state of contradictions, especially if you are mentally ill - NH Business Review (nhbr.com)

Prisons are housing mental health patients who've committed no crimes (abajournal.com)

New Hampshire Sends Civilly Committed Psychiatric Patients to Prison | The Marshall Project

Push underway to build new secure psychiatric facility (wmur.com)

Challenge to N.H. Prison Psychiatric Unit Continues | New Hampshire Public Radio

FEDERAL Rules Security Issues in Psychiatric Treatment Facilities (Hospitals), P-01760 (wisconsin.gov) -

State Rep: No Treatment Standards Reviews for Decades at Secure Psychiatric Unit -

InDepthNH.orgInDepthNH.org

## STATE OF NEW HAMPSHIRE DEPARTMENT OF CORRECTIONS



## DIVISION OF MEDICAL AND FORENSIC SERVICES

Helen E. Hanks Commissioner

Paula L. Mattis Director, Medical and Forensic Services

P.O. BOX 1806 CONCORD, NH 03302-1806 603-271-5563 FAX: 603-222-2333 TDD Access: 1-800-735-2964 www.nh.gov/nhdoc

To: The Honorable Members of the Senate Health and Human Services Committee

From: Paula Mattis, Director Medical and Forensic Services,

New Hampshire Department of Corrections

Date: March 02, 2021

Re: SB 156—AN ACT relative to management of the secure psychiatric unit facility at

New Hampshire hospital.

The New Hampshire Department of Corrections (NHDOC) is in support of SB 156, which will be heard March 03, 2021. This proposed legislation declares the management of the new secure psychiatric unit facility shall be the responsibility of the New Hampshire Department of Health and Human Services.

The population of this new facility will be comprised of individuals who are civilly committed for mental health treatment. We support the construction of the new facility to manage the treatment of that population.

We respectfully remind the Committee that inpatient, psychiatric services are still a need for those who are incarcerated in our facilities. Since the current title of "Secure Psychiatric Unit" will be the designation of the new facility, the NHDOC will engage in a process to develop a new name for the NHDOC facility.

We have also attached to this written testimony a document titled <u>Secure</u>

<u>Psychiatric Unit the Time Is Now.</u> This is a one-page document developed by the NHDOC. It summarizes information utilized to form our recommendation for a secure inpatient unit to treat those who are civilly committed.

If you have questions, please feel free to call me at 603-271-5563 or to e-mail me at Paula.L.Mattis@doc.nh.gov. Thank you for your consideration.



## Secure Psychiatric Unit



## The Time is Now

Goal: The decision to move civilly committed individuals to the SPU in the 1980s as a temporary solution to address the lack of a secure forensic facility (for civilly committed patients) adequate to maintain safety while providing treatment for those with demonstrative dangerous behavior. Unfortunately, even with persistent issues and concerns expressed by policy makers, state officials, and advocates through proposed legislation, legal concerns, public outcry, and controversial media coverage, civilly committed individuals still remain in the SPU. The goal of the NH Department of Corrections is to help facilitate the creation of a new forensic solution for those with civil commitments.

## Q: What legislation, studies, or media has been considered?

## Legislative Studies & Media:

- Chapter 177 LXII, Laws of 2005
- Chapter 96. Laws of 2010
- Cushing Outlines Bill to Build New Secure Psychiatric Unit
- ♦ NH One of Few States With Psychiatric Unit on Prison Grounds
- Prisons are Housing Mental Health Patients Who've Committed No Crimes
- New Hampshire's Crumbling Mental Health System
- Editorial: State Needs a Forensic Hospital
- Sentenced to Prison Without A Crime:
- Sent to a Hospital, But Locked in Prison

## SECURE PSYCHIATRIC UNIT DEPARTMENT OF CORRECTIONS

## Legislation:

- ◆ SB 150FN 1993
- ♦ HB1602-FN 2010
- ♦ HB 1541-FN 2016
- ♦ <u>HB 1565 2018</u>
- ♦ HB726-FN 2019

## Q: What is the right setting?

A: Every Legislative study and plan to date recommends a separate forensic unit managed by the Department of Health and Human Services.

## Q: Who has been part of these plans?

As DHHS Representatives, Mental Health Advocates, DOC Representatives, Legislatures, Community Mental Health Providers and others.

A 2017 policy report done by the Nelson A. Rockefeller Center at Dartmouth College presented four alternatives to a state committee created to study involuntary commitment: add security to New Hampshire Hospital; build a new, secure hospital for patients who are a danger to themselves or others; use assisted outpatient treatment; or transfer committed patients out of state. The report echoes recommendations made in 2004, 2006 and 2010, but little has changed.

**Inul The Marshall Project** 

## Solution:

The answer remains the same: A new secure psychiatric facility should be established in close proximity to New Hampshire Hospital for the treatment and care of persons civilly committed under RSA135-C, persons found not

Ity by reason of insanity under RSA 651, persons committed for evaluation for competency to stand trial under RSA 135, and sexually violent predators committed under RSA 135-E. This facility could also be made available on a limited basis for the transfer of pre-sentenced county inmates pursuant to RSA 623:1.— From 2010 Final Report on HB1602

## Kirsten Koch

From: Mattis, Paula <Paula.L.Mattis@doc.nh.gov>
Sent: Wednesday, March 10, 2021 12:37 PM

To: Jeb Bradley; James Gray; Tom Sherman; Becky Whitley; Kevin Avard; Kirsten Koch

Cc: Moquin, Heather

Subject: SB 156 relative to management of the secure psychiatric unit facility

### Dear Honorable Committee Members:

Senator Whitley requested some information from Heather Moquin, CEO of New Hampshire Hospital, on the population at the Secure Psychiatric Unit. Below you will find for State Fiscal Years 19 and 20 the number of people admitted per status. A key is provided immediately below that to provide clarification on what the various statutes represent.

Please let me know if you need additional information on the Secure Psychiatric Unit or have any other questions.

Best regards, Paula Mattis

FY2020	622:45 NHH	623:1 DOC/HOC	651:9 NGRI	135-C CC	135-E SVP	171-B
	A : iD	A - { _ D, _	A'	, A D	AD	A. 7 D
1st	1 0	7 2 4	1 2	1 1	2. 0	0 5 0
2nd	1 1 1	5 5	1 2	2 2	0 0	- 0 0
3rd	0 1	2 2.6	0 1 0	- 3	0 222	0 - 0
4th	1 2 2	- 4 • 5	2 2 2	1 1	1 1	0 0
Total	3 4 4	18 20	4 5 6	7 6	3 . 3	0 0

FY2019	622 NH	:45	623 DOC/	P	651 NG	:9 RI	135 C	-C	13 S\		171 DI	* =
	A	D -	A	D	A	Ď	Α,	*D	Α	D	Α	Ď
1st	- 2	2	8	11	1	1	1 .	<sub>*</sub> 2	0	- 0	0	1
2nd	<b>1</b> 21	0	7 7	8	1.	- O I	3 .	1	0	0	0	1
3rd	1	1	7	7	2	O a	1	4	0	0	0	0
4th	2 -	2	10	10	1	1	71 ·	2	0	0 '	0	.0
Total	6	5	32	36 ″	5	2	6	9	0	- 0	. 0	2

RSA	Description
135-C	Civilly committed due to dangerousness, needing long term mental health care
135-E	Civilly committed, sexually violent predator
171- B	Has an intellectual disability, not competent, and dangerous
622- 45	Emergency Transfer to SPU from NHH
623-1	County or state prisoner in need of acute psychiatric service
651-9	Not guilty by reason of insanity (NGRI)

Director, Medical and Forensic Services New Hampshire Department of Corrections 105 Pleasant Street Concord, NH 03301 603-271-5563

This e-mail message, including attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message or call 603-271-3707 or my assistant 603-271-5563. Thank you for your cooperation and assistance in maintaining confidentiality and professionalism. This e-mail (including attachments) is protected by the Electronic Communications Privacy Act, 18 U.S.C. 2510 et seq. and is CONFIDENTIAL.

## Voting Sheets

## Senate Health and Human Services Committee

## EXECUTIVE SESSION RECORD

2021-2022 Session

· ·	212101		Bill#5	B 156	
Hearing Da	_				
Executive S	Session Date: <u>S///</u>	<del></del>			
Motion:	Perefer to committee	e	Vot	te: 5-0	
	Committee Member Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley	Present  \times \times \times \times \times	Made by	Second	Yes No
Motion:	Consent Carendar		Voi	te: 5-0	
	Committee Member Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley	Present  K K K K K K K K K K	Made by	Second	Yes No
Motion:			Vot	te:	
Motion:	Committee Member Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley	Present	Made by	Second	Yes No
Motion:	Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman	Present		Second	Yes No
Motion:	Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley  Committee Member Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley	Present  Present  Present	Made by	Second	Yes No
	Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley  Committee Member Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley	Present	Made by  Wot  Made by	Second  Second  Second	Yes No

## Senate Health and Human Services Committee

## EXECUTIVE SESSION RECORD

2021-2022 Session

Hearing D	Pate: 3/3/21		Bill # 5	B 156	]
Executive	Session Date: 9/23/21				
Motion:	ITL		V <sub>0</sub>	te: <u>5-C</u>	<u> </u>
	Committee Member	Present	Made by	Second	Yes No
	Sen. Bradley, Chair	N N			
	Sen. Gray, Vice Chair	<u> </u>			
	Sen. Avard				
	Sen. Sherman	<u> </u>		<u> </u>	
	Sen. Whitley	<u> </u>		AND THE RESERVE AND ADDRESS OF THE PARTY OF	
Motion:	Consent		Vo	te: <u>5</u> -0	
	Committee Member	Present	Made by	Second	Yes No
	Sen. Bradley, Chair	X			
*	Sen. Gray, Vice Chair	X	X		$\square$
( )	Sen. Avard	N N		×	lacksquare
	Sen. Sherman	<u> </u>			
	Sen. Whitley				X
Motion:	Committee Member	Dwagant	Made by		Vos. No.
Motion:	Committee Member	Present	Made by	Second	Yes No
Motion:	Sen Bradley, Chair		Made by		Yes No
Motion:	Sen. Bradley, Chair Sen. Gray, Vice Chair		Made by	Second	
Motion:	Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard		Made by	Second	
Motion:	Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman		Made by	Second	
Motion:	Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard		Made by	Second	
Motion:	Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman		Made by	Second	
	Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman		Made by	Second  Output  The second of	
	Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley  Committee Member		Made by  Vo	Second  Output  The second of	
	Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley  Committee Member	Present	Made by  Vo	Second  Output  The second of	Yes No
	Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley  Committee Member Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard	Present	Made by  Vo	Second  Output  The second of	Yes No
	Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley  Committee Member Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman	Present	Made by  Vo	Second  te:  Second	Yes No
	Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley  Committee Member Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard	Present	Made by  Vo	Second  Output  The second of	Yes No
	Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley  Committee Member Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley	Present	Made by  Vo	Second  te:	Yes No
Motion:	Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley  Committee Member Sen. Bradley, Chair Sen. Gray, Vice Chair Sen. Avard Sen. Sherman Sen. Whitley	Present	Made by  Vo	Second  te:	Yes No

# Committee Report

## STATE OF NEW HAMPSHIRE

## SENATE

## REPORT OF THE COMMITTEE FOR THE CONSENT CALENDAR

Thursday, March 11, 2021

THE COMMITTEE ON Health and Human Services

to which was referred SB 156

AN ACT

relative to management of the secure psychiatric unit facility at New Hampshire hospital.

Having considered the same, the committee recommends that the Bill

BE RE-REFERRED TO COMMITTEE

BY A VOTE OF: 5-0

Senator Tom Sherman For the Committee

This bill would further clarify the management of the new secure psychiatric unit facility. Under this bill, the department shall not enter into a contract for the construction or operation of the facility with a private for-profit prison construction or management company. The committee members determined that more work is needed both on the original purpose of the bill and the issue of accreditation of the facility, which will require more time and effort as well as result in the need for a fiscal note. Therefore, the committee voted to rerefer the bill back to the committee in order to address these concerns adequately.

Kirsten Koch 271-3266

## FOR THE CONSENT CALENDAR

## **HEALTH AND HUMAN SERVICES**

SB 156, relative to management of the secure psychiatric unit facility at New Hampshire hospital. Re-refer to Committee, Vote 5-0.

Senator Tom Sherman for the committee.

This bill would further clarify the management of the new secure psychiatric unit facility. Under this bill, the department shall not enter into a contract for the construction or operation of the facility with a private for-profit prison construction or management company. The committee members determined that more work is needed both on the original purpose of the bill and the issue of accreditation of the facility, which will require more time and effort as well as result in the need for a fiscal note. Therefore, the committee voted to rerefer the bill back to the committee in order to address these concerns adequately.

## STATE OF NEW HAMPSHIRE

## SENATE

## REPORT OF THE COMMITTEE FOR THE CONSENT CALENDAR

Friday, September 24, 2021

THE COMMITTEE ON Health and Human Services

to which was referred SB 156

AN ACT

relative to management of the secure psychiatric unit facility at New Hampshire hospital.

Having considered the same, the committee recommends that the Bill

IS INEXPEDIENT TO LEGISLATE

BY A VOTE OF: 5-0

Senator James Gray For the Committee

This bill is relative to the management of the secure psychiatric unit facility at New Hampshire hospital. The committee has determined that this bill is not necessary. New Hampshire hospital will be able to operate their facility and plan for the construction of a new facility without the need for this bill.

Kirsten Koch 271-4151

## FOR THE CONSENT CALENDAR

## **HEALTH AND HUMAN SERVICES**

 ${\bf SB~156}$ , relative to management of the secure psychiatric unit facility at New Hampshire hospital. Inexpedient to Legislate, Vote 5-0.

Senator James Gray for the committee.

This bill is relative to the management of the secure psychiatric unit facility at New Hampshire hospital. The committee has determined that this bill is not necessary. New Hampshire hospital will be able to operate their facility and plan for the construction of a new facility without the need for this bill.

## General Court of New Hampshire - Bill Status System

## **Docket of SB156**

Docket Abbreviations

Bill Title: relative to management of the secure psychiatric unit facility at New Hampshire hospital.

## Official Docket of \$B156.:

Date	Body	Description
2/9/2021	S	<pre>Introduced 02/04/2021 and Referred to Health and Human Services; SJ 4</pre>
2/17/2021	S	Remote <b>Hearing:</b> 03/03/2021, 08:30 am; Links to join the hearing can be found in the Senate Calendar; <b>SC 12</b>
3/11/2021	S	Committee Report: Rereferred to Committee, 03/18/2021; Vote 5-0; CC; SC 15
3/18/2021	S	Rereferred to Committee, RC 23Y-1N, MA; 03/18/2021; SJ 8
12/16/2021	S	Committee Report: Inexpedient to Legislate; Vote 5-0; CC; 01/05/2022; SC 49
1/5/2022	S	Inexpedient to Legislate, MA, VV === BILL KILLED ===; 01/05/2022; SJ 1

ouse	NH Senate

## Other Referrals

Senate Inventory Checklist for Archives

Bill Nur	nber: 08 150 Senate Committee: 4715
	clude all documents in the order listed below and indicate the documents which have been with an "X" beside
X 1	Final docket found on Bill Status
Bill Hea	ring Documents: {Legislative Aides}
<u>X</u> :	Bill version as it came to the committee
	All Calendar Notices
<u>×</u> 1	Hearing Sign-up sheet(s)
<u>×</u> 1	Prepared testimony, presentations, & other submissions handed in at the public hearing
<u>X</u> 1	learing Report
F	Revised/Amended Fiscal Notes provided by the Senate Clerk's Office
Commit	tee Action Documents: {Legislative Aides}
	idments considered in committee (including those not adopted): $\bigcap \bigcirc \bigcap \mathcal{C}$
	amendment # amendment #
	amendment# amendment#
X E	Executive Session Sheet
$\mathbf{X}$	Committee Report
Floor A	ction Documents: {Clerk's Office}
All floor	amendments considered by the body during session (only if they are offered to the senate):
_	amendment # amendment #
_	amendment # amendment #
Post Flo	oor Action: (if applicable) {Clerk's Office}
	Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
F	Enrolled Bill Amendment(s)
0	Governor's Veto Message
All avai	lable versions of the bill: {Clerk's Office}
_	as amended by the senate as amended by the house
_	final version
Comple	ted Committee Report File Delivered to the Senate Clerk's Office By:
Kir	sten Kerh 11/4/221
Commit	tee Aide Date
	•

Senate Clerk's Office \_\_\_\_\_