

To: Senate Committee on Health and Welfare

Re: Mental Health Advocacy Day, January 31, 2024

S.189

From: Disability Rights Vermont

Lindsey Owen, Executive Director

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Thank you for the invitation to speak with this Committee today, as it relates to Mental Health Advocacy Day as well as S.189. My name is Lindsey Owen and I am the Executive Director at Disability Rights Vermont. I have been a practicing attorney in Vermont for the last ten years, and I have been with Disability Rights for the last eleven years.

Disability Rights Vermont is the Protection and Advocacy agency for the State of Vermont. As many of you probably know, the Protection and Advocacy system was established after horrifying and dehumanizing treatment of people with disabilities was exposed at Willowbrook, a school in New York, which was supposed to be providing care to these individuals. As a result of the widespread abuse occurring at this facility, congress enacted a series of legislation mandating that every state have a P&A agency to monitor, investigate and address abuse, neglect and serious rights violations experienced by people with disabilities. In Vermont, that is DRVT. DRVT is also designated by the Governor as the Mental Health Care Ombudsman. As the Mental Health Care Ombudsman, DRVT receives, reviews, and monitors the Critical incident Reports and Certificates of Need (reports of emergency involuntary procedures) involving individuals receiving mental health services. DRVT receives these reports from the Department of Mental Health.

S. 189 is a bill proposing to require the Department of Mental Health to develop and distribute mental health response protocols to municipalities. It further requires the Department to enter into memorandums of understanding with State

entities. DRVT fully supports the concept and goal of ensuring more uniform and consistent approaches in responding to incidents that might involve a person's mental health needs. However, DRVT has significant concerns about the development of these protocols and Memorandums of Understanding being devised at the sole discretion of the Department of Mental Health. This concern stems from more recent events. For example, there is a Designation Memorandum regarding the activities and responsibilities of the Department of Mental Health and Disability Rights Vermont that outlines the need for the Department to provide DRVT the critical incident reports (CIRs) and certificates of need (CONs) I mentioned before. For the entire time I have been with Disability Rights Vermont we have received the unredacted CIRs promptly as they are reported to DMH by the various Designated Agencies . However, for the last 9 months, DMH unilaterally stopped abiding by this arrangement with respect to the Critical Incident Reports, despite the Memorandum specifically stating that the agreements contained in the designation cannot be changed unless by agreement or legislative action. DRVT has been trying to no avail to get DMH to abide by the current terms.

Additionally, as it relates to our review of the Critical Incident Reports for federal fiscal year 2023, we received 73 reports involving the death of someone receiving mental health services from DMH. That is a person every five days. In most of these reports there is no identified follow up. Unfortunately, now that the reports are redacted it makes it much more difficult to determine whether more follow up would have been warranted because there is so much that we cannot see and thus do not know. DRVT is working on its Annual Report related to our Mental Health Ombudsman work and would gladly share that with this committee.

DRVT understands that you should be receiving a report from the Vermont Care Partners later this week related to Developmental Services Crisis Supports Survey for 2023. In this report, the data reflects incidents that nearly half of individuals receiving developmental services also have a co-occurring mental health diagnosis. And the number of individuals experiencing a crisis or at risk of experiencing a crisis nearly doubled from 2022 to 2023, jumping from 357 to 610.

The theme of this year's Mental Health Advocacy Day is "Welcoming and Caring Communities- Belonging For All". Again, DRVT applauds this legislature for taking

initiatives, like S.189, to try to be inclusive and more uniform across communities and our responses to some of our most vulnerable citizens. But, DRVT also asks this Committee and others to continue to strive to include people with disabilities and other stakeholders in these conversations and policy development and to hold our Agency of Human Services, and its Departments, accountable, accessible and transparent. Let's strive to make sure that "Belonging for All" isn't just a theme for a day, but an honest goal for every day. Thank you again for the opportunity to speak with you. Disability Rights Vermont is always available to come speak to anyone about our work and the experiences of the people we serve.