



formerly Vermont Protection & Advocacy
(800) 834-7890 (Toll Free)
(802) 229-1355 (Voice)
(802) 229-2603 (TTY)
(802) 229-1359 (Fax)

141 Main Street, Suite # 7, Montpelier, VT 05602

To: Senate Judiciary Committee
From: A.J. Ruben
Re: **H.728 – Bail Reform**
Date: April 10, 2018

Dear Senate Judiciary Committee,

Thank you for considering the following information related to H. 728 and people with mental health conditions involved in the Criminal Justice System. DRVT reviewed with grave concern testimony submitted to this Committee from John Wallace, attorney for Rutland's Regional Medical Center asserting that the proposed bail reform would somehow negatively impact emergency departments around Vermont and that the solution to this alleged problem would be to allow Courts to Order people with mental health needs into Corrections despite not being under sentence or held for lack of bail. DRVT wishes to clarify for the Committee facts as we experience them while visiting emergency departments, as well as correctional facilities, around Vermont.

Primarily DRVT notes that, contrary to RRMC's assertion, only people identified as requiring an inpatient assessment for competency are Ordered to a hospital. See 13 V.S.A. §4815(g). Thus, when RRMC complains that in 2017 some criminal defendants who were not held in jail due to lack of bail were instead held in emergency departments due to lack of inpatient bed capacity, what RRMC fails to identify is that those individuals have been identified by medical providers as requiring inpatient evaluation due to the severity of their mental health condition. Id. DRVT certainly hopes the hospitals do not intend to advocate for a system that purposefully places people needing hospital-level care into a correctional facility, a facility that does not have that level of care available.

RRMC also asserts there is an error in the understanding among parties to criminal proceedings that a person can ONLY be sent to jail if they are under a sentence or are unable to make bail.

DRVT is the protection and advocacy system for the State of Vermont.

On the web: www.disabilityrightsvt.org

This is actually the law and RRMC's effort to create a system by which people with inpatient mental health treatment needs are incarcerated simply due to their need for a mental health evaluation is anathema to our laws and our concept of morality. Instead of advocating to put people in need of inpatient mental health treatment in jail, DRVT suggests hospitals and the State should be working on making sure there is enough capacity throughout our mental health system to prevent unnecessary stays in emergency departments.

DRVT's experience demonstrates that more often than not Judges are imposing small amounts of bail, still unattainable by our clients, and ordering inpatient psychiatric exams, but due to lack of inpatient bed capacity, our clients are being held in jail, without adequate mental health care. See Vermont Human Rights Commission Finding of Probable Cause In Re W.M. P.A. 16-0018 (finding the State discriminated against W.M. by allowing her to be placed in jail for 8 days due to lack of inpatient bed capacity, when she needed inpatient psychiatric treatment.)

In conclusion, DRVT supports bail reform that will prevent the unnecessary incarceration of individuals, like W.M., who have mental health conditions and are identified by the Court as requiring inpatient psychiatric treatment and evaluation. DRVT asserts that concern about emergency department overcrowding and lack of inpatient bed capacity are issues that, while deserving of this body's attention, are separate issues from bail reform.

Thank you for your consideration of this information and we are available at your convenience to discuss these issues further.