



Danna E. Mauch, PhD
President and CEO

Ambassador (ret.) Barry B. White
Chairperson of MAMH Board of Directors

7 October 2019

Hon. James B. Eldridge, Senate Chair
Joint Committee on the Judiciary
24 Beacon St.
Room 511-C
Boston, MA 02133

Hon. Claire D. Cronin, House Chair
Joint Committee on the Judiciary
24 Beacon St.
Room 136
Boston, MA 02133

Re: H.1571 – An Act clarifying the definition of serious mental illness on criminal justice reform.

Dear Chairpersons Eldridge and Cronin and members of the Committee:

Since 1913, the Massachusetts Association for Mental Health (MAMH) has worked to improve understanding of mental health conditions and combat disparities in health services access. We envision a day when all individuals and families across the Commonwealth, including persons in prisons and jails, have the resources and opportunities they need to promote resilience and protect overall health. MAMH was a strong supporter of the important criminal justice reforms enacted by the General Court in Chapter 69 of the Acts of 2018 (the “CJRA”).

House 1517 is a retreat from reform and, accordingly, should be rejected by your Committee. Some of the most important provisions of the CJRA were those which addressed the use of restrictive housing – more commonly known as solitary confinement or isolation. MAMH has a particular interest in these provisions because clinical research and sad experience have proven the seriously negative effects of restrictive housing on persons with mental illness. As prominent prison psychiatrist Dr. Jeffrey Metzner and attorney Jamie Fellner have described, the “stress, lack of meaningful social contact, and unstructured days can exacerbate symptoms of [mental] illness or provoke recurrence.” They also note that “suicides occur disproportionately more often in segregation units than elsewhere in prison.” And that frequently, prisoners with mental illness “decompensate in isolation, requiring crisis care or psychiatric hospitalization.” They conclude that “[m]any [prisoners with mental illness] simply will not get better as long as they are isolated.” Jeffrey L. Metzner and Jamie Fellner, *Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics*, 38 J. Am. Acad. of Psychiatry and L. 104 (2010).



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Dr. Metzner's descriptions of the effects of solitary have been widely accepted by other clinicians, by many prison administrators, and by courts.

In response to the overwhelming evidence of the harms of restrictive housing for persons with mental illness, many jurisdictions (some in response to litigation) have made significant changes to their restrictive housing practices. The provisions in the CJRA do not go as far as some other states, but they are important steps in the right direction.

House 1571 is a big step backwards. The bill would shrink the CJRA definition of Serious Mental Illness by removing anxiety disorders, trauma and stressor-related disorders, and some types of bipolar disorders. People with such disorders are well within the group of prisoner and detainees who are at serious risk of the kind of reactions to isolation that Dr. Metzner described. In our experience people with these disabilities often have a very difficult time adapting to isolation and their conditions deteriorate accordingly.

Further, the bill needlessly modifies (and, again, substantially narrows) the definition by adding to most of the diagnoses an additional requirement that it "lead[s] the individual to experience significant functional impairment involving acts of self-harm or other behaviors that have a seriously adverse effect on life or on mental or physical health." The intention of these limitations appears to be to provide the protections of the CJRA only those prisoners whose mental illnesses manifests in serious behavioral difficulties. This ignores that most people with serious mental illness do not engage in self-harm or the other undefined "behaviors" which this limitation envisions. These provisions would exclude many people with serious mental illness from the protections of the current law and will expose them to the harm that Dr. Metzner described.

Moreover, we cannot imagine any reasonable justification for deleting the critical provision of the current law that calls for removal from restrictive housing based on a clinical determination of deterioration or risk of deterioration. That provision appears in G.L. c. 127 § 1 after (vii) in the definition of "Serious Mental Illness." This provision is essential, is consistent with every respected recommendation for reform of solitary confinement and should be retained.

It is too soon to make major modification of the CJRA. We urge you to act unfavorably on this bill.

Sincerely,

Danna Mauch, Ph.D.
President and CEO