

Good Morning My name is Jesse Jahner and I am the Sheriff in Cass County North Dakota. As the Sheriff my staff and I oversee the Cass County Jail which has a current capacity of 348. As I read the addition to Senate Bill no 2084 if I am interpreting it correctly, I am opposed to the change. I oversee Over the course of the past year, the Cass County Sheriff's Office has collaborated on multiple occasions with various community partners to discuss and attempt to resolve gaps in the mental health services that are available in Cass County. That collaboration has included local hospitals, legislative members, service providers, representatives from state agencies, and local law enforcement. We have discussed alternative options for obtaining care where a need is identified, and we have considered modifications to processes used by various stakeholders and providers to work towards improved access and improved outcomes.

Significant gaps still remain, for those patients who have needs that are not or cannot be effectively treated in the community, but are not so severe as to warrant the acute intervention that would qualify for commitment to the state hospital. We are experiencing year over year increases in the number of people who end up in jail for serious offenses that threaten public safety and limited access to psychiatric care. Of even larger concern is the number of people with such acute and immediate needs that hospitalization is deemed necessary by all parties, including the local human service center.

The number of referrals that we make in Cass County for the required pre-screening assessment has risen each year over the past few biennium, as have the number of persons who have been admitted into the state hospital. We feel that we have a strong sense of what the commitment criteria is, and only refer those people that qualified mental health practitioners have assessed as appropriate for referral. While it is frustrating in those cases where the local human service center assessment does not concur with the opinions of Psychiatrists or clinicians who make those referrals, even more frustrating are the increasing instances where the process has determined that a person meets criteria for admission to the state hospital, but there is no room and the admission is denied or delayed beyond what is established in state law.

Today, as I offer this testimony, an inmate sits in the Cass County jail who was determined to meet commitment criteria on Dec 17th but has not yet been admitted due to capacity. This has been a recurring theme on several occasions throughout 2020. ND Century Code requires us to move such persons out of the jail within 24 hours of a commitment order being issued, but we have experienced delayed entry, which is effectively denial of access. This delay from pre-screen to transfer has occurred in cases ranging from a few days, to 13 days, and in one case 31 days total before admittance occurred.

The pre-screening process should be a determination of the condition of the patient, and not an assessment of the conditions at the hospital. If people are being denied access after a determination has been made that they do need hospitalization, then at least some of the decisions that a person does not need hospitalization must be at least partially impacted by capacity considerations as well.

There are instances in Cass County where pre-screens were approved, commitment paperwork submitted, and then a delay led to expiration of the commitment paperwork and the need to repeat the process.

There are instances in Cass County where pre-screens have been completed, but days or even a week passes before commitment paperwork is completed and submitted, which we are told is due to capacity.

There is no doubt that COVID has complicated the situation for everyone at every level in this continuum of care. But the numbers show that we are also dealing with an increase in cases of significant and even severe need of care, while at the same time capacity is not being addressed.

One of the striking observations we have made this year is the increased number of people landing in jail who are already open and active patients of the local human service center, who are subsequently determined to need acute care. These are not cases where it is appropriate or safe to release back on the street through the bond process. Multiple cases of residential arson, barricading with weapons, attempting to run over people and law enforcement with vehicles, aggravated assault and possession of explosives, and one person who was digging up the grave of a family member due to delusions.

The small changes proposed in Senate Bill 2084 absolve the state hospital of accepting care of patients beyond their capacity, but the existing and worsening problem is capacity itself. We have the same problem with a jail, in that we can't hold more than our certified capacity, and yes, sometimes we need to make adjustments to who is held and work with our local courts based on severity of offense. But we also explore options to expand, to meet observed and anticipated needs. We arrange for transport and secure additional help from other facilities. We don't just tell our local police "we're full, try someplace else."

There must ultimately be an option to take someone who has been deemed committable, where they can get adequate access to proper care and treatment. Jails are not equipped to manage or provide this acute care. I have always felt the 24-hour limit to move someone to hospitalization was codified into law in recognition that a jail setting is not appropriate care or placement and should be minimized as a short term contingency only. The changes in SB 2084 the way I interpret it, if enacted, would result in an increase in the types of delays that I mentioned earlier, and ongoing delay and denial of care to those who have the most severe need, and no clear direction for ultimately connecting these patients with treatment.

I am also left with several questions as to what happens next. If this change is enacted, what happens after a delay or denial due to capacity? Is there a waitlist? Would it be triaged? Would there be any limits at all as to how long care could be denied after a determination has been made that a person is need of hospitalization services? How would this impact judicial determinations and orders for treatment, and which would take priority – judicial orders or local human service center pre-screen assessments?

There is no doubt that this proposed change would relieve some pressure on the state hospital as it exists today, but it has detrimental impact on the jails left with no options, on the patients forced to delay access to treatment, and it is occurring when the need for additional capacity is greater than ever before. In Closing I just like to add that I am frustrated to learn of this bill when it affects so many at the municipal and county level when the sponsors have not reached out to those affected before sponsoring

the bill. We should all be working together when the overall end goal is to get help to those who need it and in doing so provide public safety to our citizens. It seems in this situation that there was no collaboration or consideration to those who may be affected.