

IMPROVING CRIMINAL JUSTICE RESPONSES FOR PERSONS WITH MENTAL ILLNESS

HB 1183 OVERSIGHT COUNCIL MEETING

Tuesday, July 18, 2017, 1:00 pm

State Capitol, Room 414

Pierre, SD

Attendance: Greg Sattizahn, Hon. Carmen Means, Cindy Heiberger, Mike Miller, Senator Alan Solano, Rep. Dan Ahlers, Senator Reynold Nesiba, Rep. Leslie Heinemann, Dr. Thomas Stanage, Chris White, Terry Dosch, Amy Iversen-Pollreisz, Sheriff Mike Milstead, AJ Franken

Call to Order, Welcome, and Introductions:

- Greg Sattizahn called the meeting to order at 1:00 p.m. The meeting was broadcast live.
- Introductions of the Council were made individually.
- Chief Justice Gilbertson thanked the Council members for their involvement and gave a brief history of the conception of HB 1183 and the need for the mental health oversight council. In 2016 a task force was convened by Chief Justice Gilbertson and Governor Daugaard to study the issues involving persons with mental illness having contact with the criminal justice system. They met for eight months and their recommendations were translated into HB 1183 for consideration by the 2017 Legislature. The bill passed in early March and many of the provisions went into effect July 1, 2017.

Election of Chair and Vice-Chair: A motion was made by Commissioner Heiberger to nominate Greg Sattizahn as Chair, and Mike Miller and Deputy Secretary Amy Iversen-Pollreisz as vice-chairs. Senator Solano seconded the motion. The motion passed unanimously by voice vote.

Background and Review of HB 1183:

Mr. Sattizahn reviewed the history of the initial Mental Health Task Force and the need for changes in our criminal justice system regarding persons with mental illness. The three main goals of the Task Force were to improve public safety and the treatment of people with mental illness, to more effectively identify mental illness in the criminal justice system, and to better allocate limited resources. The Task Force came up with four key findings:

- Options to divert individuals from the criminal justice system are not available in all areas of the state.
- The criminal justice system lacks adequate procedures to identify mental illness early.
- People with indicators of mental illness are more likely to be jailed pretrial and to stay longer in jail.
- Court orders regarding evaluations tripled in a 3-year period, driving up costs.

Mr. Sattizahn explained how a person progresses through the justice system and the options the courts had to respond to people who have a mental illness. He showed data on the state's psychiatrist shortage, the prevalence of mental illness among jail inmates nationally, and survey data showing that 60 percent of South Dakota jails have no access to a staff or contracted psychiatrist. Representative Heinemann inquired requests a competency exam. Mr. Sattizahn replied it could be the court, the state's attorney, or the defense attorney to request an exam for a defendant who they believe cannot assist in her or his own defense.

Mr. Sattizahn displayed a slideshow of charts to show the progression of contact an individual may have with law enforcement and the judicial system. There were also charts to show what happened prior to July 1, 2017 when an individual is found to be competent or not competent to stand trial.

He then explained the provisions in HB 1183 that change criminal justice responses to people with mental illness:

- State's attorneys are required to be trained so they are more likely to divert individuals from the court system into treatment through deferred prosecution.
- Courts can now require mental health assessment and treatment as a condition of bond.
- Courts can establish multi-disciplinary teams to help plan for and manage cases involving people with mental illness.
- Completion of competency exams will be expedited as a result of:
 - A transfer of funds from the Human Services Center to a fund within the SD Association of County Commissioners to assist the counties with the cost of court-ordered competency evaluations;
 - Setting a 21-day timeframe for completing evaluations; and

- Expanding types of professionals who can perform the examinations.
- Improved access to treatment through training of defense attorneys, sheriffs, police officers, jail staff, judges, and court service officers; and the establishment of a work group to improve communications between the jails and the providers.

Mr. Sattizahn also discussed a one-time grant program to develop or expand crisis response services. There is a total of \$100,000 available to municipalities, counties or groups of counties and the RFP has been issued. Mr. Sattizahn explained that the availability of crisis intervention team (CIT) training will be expanded through a statewide CIT coordinator. Senator Nesiba asked if EMTs or Fire and Rescue should be included in the training. Dr. Stanage shared that CIT training is usually open to first responders now. Deputy Secretary Iversen-Pollreisz reported that the Department of Social Services (DSS) has utilized grant money to expand Mental Health First Aid training across the state, which targets first responders.

Mr. Sattizahn described how the South Dakota Sheriff's Association will be implementing a mental health screening questionnaire as part of the intake process for the Jail Screening Pilot. The recommendations from that tool will be given to the court to help in determining if mental health assessment and treatment should be part of a defendant's bond conditions.

The competency evaluation process was next discussed. The goal will be for the evaluation to be completed within 21 days of a court order. Representative Ahlers inquired about how the 21 days was chosen. Mr. Sattizahn mentioned that they looked at other states' deadlines and the 21-day deadline was a realistic compromise based on discussions with providers and examiners. Sheriff Milstead shared that this will be a huge improvement to the wait times in Minnehaha County.

Historically, psychiatrists and psychologists were the only professionals who could perform competency evaluations. HB 1183 expanded that list to include certified social workers, certified nurse practitioners, and licensed professional counselors, all who have taken training. The lack of professionals doing the assessments is one reason for the delay in getting through the criminal justice system. Representative Nesiba asked what the standard charge is for an evaluation to be performed. Mr. Sattizahn and Deputy Secretary Iversen-Pollreisz answered that it varies by the level of provider. Rep. Nesiba then asked if the counties are responsible for paying for the evaluations. Deputy Secretary Iversen-Pollreisz responded that the counties are required to pay for the cost of evaluations. Commissioner Heiberger added that there are also transportation costs and officer travel time costs associated with the exams.

Role of Oversight Council:

Mr. Sattizahn then presented the duties and responsibilities that the Council will need to address:

- 1) Study:
 - To improve the recruitment and retention of mental health professionals.
 - To expand access to mental health services for criminal justice populations.

- 2) Review:
 - Task force recommendations, and their implementation.
 - Data and reporting required by HB 1183.
 - Compliance with required training.
 - Recommendations of CIT review team.
 - Distributed crisis response grants.
 - DCI's development of mental illness training.
 - Payments to counties for competency examinations and reports.

- 3) Establish:
 - A work group to improve information sharing and coordination between jails and mental health providers.
 - A statewide CIT review team.
 - A work group to create a process for mental health assessment following a jail screening.

- 4) Evaluate:
 - The need for forensic assertive community treatment teams.
 - The need for telehealth options for jails, consultants for law enforcement, persons on probation and persons in jail.

5) Actions:

- Make recommendations regarding pilot programs for the telehealth options.
- Prepare and submit annual reports of performance and outcome measures.
- Calculate costs averted by HB 1183.
- Monitor the competency evaluation funding program.
- Track progress and make recommendations to improve the jail screenings.

Mr. Sattizahn introduced Barbara Pierce, a consultant from the Crime and Justice Institute. Ms. Pierce is a technical assistance provider who will assist the Council with its work. Sadie Stevens was also introduced as the new public policy analyst for UJS, who will also help with the process.

Work Group Process:

Mr. Sattizahn suggested dividing the Council into subgroups to work on all the different areas that need to be covered. Sheriff Milstead agreed this would be a good idea and inquired if the cities could also be involved. Mr. Sattizahn stated that key persons outside of the Council will be asked to join these subgroups, and that he would like this oversight council to meet quarterly to discuss the subgroups efforts and actions. He asked the council members to volunteer for the subgroups they would like to work on, and stated that he will send out a brief description and ask for volunteers.

Implementation Update:

- Jail Screening: Staci Ackerman, Executive Director of the Sheriff's Association, spoke next about the jail screening tool. The legislation requires the Sheriff's Association to pilot a screening tool with four jails. The Sheriff's Association has had six counties agree to participate in the pilot: Pennington, Minnehaha, Faulk, Hughes, Codington, and Charles Mix. Ms. Ackerman reported the goal is to start using the screening tool for six months starting in January 2018 and collect feedback from the six counties participating during and at the end of the six months.
- Court-Ordered Competency Evaluation Fund (CEF): Bob Wilcox, executive director of the Association of County Commissioners, and attorney Eric Erickson, are working on the rules for the CEF. They began with rules already in place and are crafting a new set of rules to apply for the program administration, the claims process and for the equitable distribution of funds to the counties. A discussion followed with questions about the cost of the evaluations. Mr. Erickson stated they are looking at a \$1,500 limit per case. Data on the funding that is distributed to counties and the number of competency evaluations completed with funds from the program will be tracked and reported to the Oversight Council.
- Bond Implementation: Mr. Sattizahn reported that a new form has been provided for the court to order mental health assessment and treatment as a condition of bond. Data on the use of these as bond conditions will be tracked by UJS.
- Training Requirements: Deputy Secretary Iversen-Pollreisz reported that DSS and the Division of Criminal Investigation are working together on the training requirements from HB 1183. A web application will be developed to make training, accessible and allow agencies to track those individuals who have completed the required training.

Performance Measures: Barbara Pierce, from the Crime and Justice Institute, discussed the need to collect and report the performance measures data to inform the group, monitor and understand problems, help with decision-making and track outcomes of HB 1183. She stated there is a general lack of national and statewide South Dakota data on contact between persons with mental illness and law enforcement, jails, and people with mental illness in the court system. A jail survey was conducted in SD last year to inform the Task Force, and data from Pennington and Minnehaha Counties was analyzed to help the task force in its study. HB 1183 requires tracking of data that SD has never had before on this population. The collection of this data will help identify ways to improve criminal justice responses for those with mental illness. Senator Solano stated his appreciation for collecting this data as it will be important to future funding.

Next Meeting: Mr. Sattizahn asked for any questions or further discussion. He asked the group to send him emails about the subgroup committees they would like to participate on. A scheduler will be sent out to schedule the next meeting in October 2017.

A motion was made and seconded to adjourn the meeting. The meeting adjourned at 3:30 pm.