

March 18, 2025

Dear Members of the Senate Health and Human Services Committee,

The Office of Ombudsman for Mental Health and Developmental Disabilities (OMHDD) has a statutory mission to promote the highest attainable standards of treatment, competence, efficiency, and justice for persons receiving services for mental illness, developmental disabilities, substance use disorder, or emotional disturbance. We advocate for clients' rights, health, and well-being; monitor service delivery systems; and provide recommendations for systemic improvements. As part of those recommendations for systemic improvements, we would like to express our significant concerns with SF 2628.

In the 2023 legislation establishing the Task Force on Priority Admissions to State-Operated Treatment Programs OMHDD was included as one of the task force members. As the state Civil Commitment Training and Resource Center (CCTRC) and the ombudsman's office with jurisdiction over services for people with mental health, developmental disabilities, and substance use disorders, OMHDD was grateful to be included in this important work. The task force had a difficult charge – to review, evaluate, and provide recommendations on the state's Priority Admissions Law, as established in 253B.10, often referred to as the 48 Hour Rule. This law required transfer to a state operated treatment program within 48 hours of being deemed incompetent to stand trial and civilly committed.

In the years since its enactment, the Priority Admissions law/48 Hour Rule has resulted in serious problems limiting access to state operated service capacity for anyone *not* coming from a jail. We have seen it contribute to the further criminalization of mental illness by a service system that actively tells families that, practically speaking, the only way to access the level of care their loved one needs is through law enforcement and jails. We worked diligently with the members of the 2023 Task Force to develop a number of recommendations, including not starting the 48-hour timeframe until a medically appropriate bed became available.

The 2024 legislature extended the work of this group by creating the Review Panel on Priority Admissions to State-Operated Treatment Programs with a directive to further review and evaluate the priority admissions timeline. The goal was to minimize legal liability and litigation costs, to maximize capacity in our state operated treatment programs, and address concerns relating to clients experiencing lengthy stays in jails while awaiting treatment to a state-operated treatment programs better suited to meet their individual needs. OMHDD participated in these meetings that regularly

included challenging conversations on how best to meet the needs of those in jails while balancing the needs of those in other settings and in acute need of the level of care provided in state operated treatment programs. As the final report indicates, “[t]he current result is that too many people with mental illnesses in jails, hospitals, and the community wait, sometimes for weeks or months, for admission to intensive state-operated services or to appropriate treatment services in less restrictive community settings.” Importantly, while more capacity may be needed within DCT, the solution is not to solely build more institutional settings, settings we may not be able to staff amidst current workforce constraints. We must also invest in community capacity to prevent people from needing that level of care in the first place and to transition them back to the community when they no longer meet medical necessity for that level of care.

Despite the difficult discussions on how to best allocate existing and future resources to meet the needs of people in jails, a place all on the review panel agree is ill-equipped to meet their needs, the Review Panel *did achieve* unanimous consensus in our final meeting and voted to approve the report and its recommendations. It is disheartening to see the introduction of SF 2628 that deviates from the consensus language that all members of the Review Panel worked hard for and agreed on before the report’s submission on February 1, 2025. SF 2628 does not reflect the agreement reached and recommendations outlined in the final report.

OMHDD does not support SF 2628 at this time. Rather, we would ask that you allow time for other elements of the Priority Admission Review Panel consensus recommendations to be heard and considered. These recommendations reflect many months of work by a diverse group of stakeholders committed to seeking collaborative solutions to a very difficult issue.

Thank you for the committee’s commitment to the important issues surrounding the Priority Admission Law and the pressing need to address both that it is simply not working and creating additional challenges within in the service system. OMHDD hopes to continue to be a partner in navigating the complex issues of priority admission for people in jails, the need for additional systemic and community capacity to provide the right level of care at the right time for individuals, and how to best serve people most in need of care.

Best,

A handwritten signature in blue ink, appearing to read "Lisa Harrison-Hadler".

Lisa Harrison-Hadler
Ombudsman

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