

CHAPTER 222
HB 1442 – FINAL VERSION

6Mar2014... 0451h

2014 SESSION

14-2110
01/10

HOUSE BILL ***1442***

AN ACT relative to mental health courts.

SPONSORS: Rep. Harding, Graf 13; Rep. Shurtleff, Merr 11; Rep. Pantelakos, Rock 25;
Rep. Tasker, Rock 2; Rep. J. MacKay, Merr 14; Rep. L. Ober, Hills 37;
Sen. Carson, Dist 14; Sen. Soucy, Dist 18; Sen. Lasky, Dist 13; Sen. Reagan,
Dist 17; Sen. Fuller Clark, Dist 21

COMMITTEE: Judiciary

ANALYSIS

This bill permits any circuit court and superior court to establish mental health courts.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to mental health courts.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 222:1 New Chapter; Mental Health Courts. Amend RSA by inserting after chapter 490-G the
2 following new chapter:

CHAPTER 490-H

MENTAL HEALTH COURTS

5 490-H:1 Purpose; Policy and Goals.

6 I. The general court recognizes the critical need in this state for the criminal justice system
7 to identify effective sentencing options when an offender has committed a crime that is a result of or
8 related to mental illness. All offenders must be held accountable for their actions. However, a
9 growing body of research demonstrates that traditional sentencing options may not be effective if an
10 offender has a mental illness. Requiring that accountability and rehabilitative treatment, in
11 addition to or in place of, conventional and expensive incarceration, will promote public safety,
12 promote the welfare of the individuals involved, reduce the burden upon the public treasury, and
13 benefit the common welfare of this state. The goals of this chapter shall include:

- 14 (a) Enhancing community safety and quality of life for citizens;
15 (b) Reducing recidivism;
16 (c) Increasing the accountability of offenders;
17 (d) Restoring offenders to productive, law-abiding, and taxpaying citizens;
18 (e) Promoting effective interaction and use of resources among criminal justice and
19 community agencies, including, but not limited to, effective treatment of mental illnesses;
20 (f) Reducing the costs of incarceration; and
21 (g) Improving the efficiency of the criminal justice system by promoting evidence-based
22 sentencing for offenders with mental illness.

23 II. While working in a mental health court reshapes the traditional roles of judges and
24 lawyers, ethical duties do not significantly differ from those in traditional courtrooms. Mental health
25 court judges and lawyers must adhere to the standards set forth in the Model Code of Judicial
26 Conduct, the Model Rules of Professional Conduct, and the American Bar Association Standards of
27 Criminal Justice. The proper exercise of the role of judge or lawyer in the mental health court need
28 not conflict with the professional's ethical obligations and can enable judges and attorneys to fulfill
29 the highest aspirations of their professional ethics while embarking on an innovative way to break

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1 the cycle of crime. Mental health court judges and attorneys must remain continually cognizant of
2 the due process rights guaranteed to all citizens and the state’s substantial interest in maintaining
3 effective and efficient judicial and penal systems.

4 490-H:2 Implementation of Mental Health Courts.

5 I. Any superior or circuit court may establish one or more mental health courts under which
6 the courts monitor offenders with mental illnesses for compliance with individual services to change
7 behavior which would otherwise result in criminal conduct. In this chapter “mental health court”
8 means a judicial intervention process that incorporates the following elements:

9 (a) Planning and administration guided by a broad-based group of stakeholders
10 representing the community, criminal justice, mental health, substance abuse treatment, and
11 related systems;

12 (b) A target population is established that takes into account eligibility criteria that
13 addresses public safety and considers a community’s treatment capacity, in addition to the
14 availability of alternatives to pretrial detention for defendants with mental illnesses. The eligibility
15 criteria shall also take into account the relationship between mental illness and a defendant’s
16 offenses, while allowing the individual circumstances of each case to be considered;

17 (c) Participants are identified, referred, and accepted into mental health court and
18 linked to community based service providers as quickly as possible;

19 (d) The terms of participation are clear, promote public safety, facilitate the defendant’s
20 engagement in treatment, are individualized to correspond to the level of risk that the defendant
21 presents to the community, and provide for positive legal outcomes for those individuals who
22 successfully complete the program;

23 (e) Informed choice occurs, meaning that defendants fully understand the program
24 requirements before agreeing to participate in a mental health court. Defendants are provided legal
25 counsel to inform them regarding this decision and subsequent decisions about program
26 involvement. Procedures exist in the mental health court to address, in a timely fashion, concerns
27 about a defendant’s competency whenever they arise;

28 (f) The mental health courts connect participants to available comprehensive and
29 individualized treatment supports and services in the community. They strive to use and increase
30 the availability of treatment and services that are evidence-based;

31 (g) Health and legal information is shared in a way that protects potential participants’
32 confidentiality rights and their constitutional rights as defendants. Information gathered as part of
33 the participants’ court-ordered treatment program or services are safeguarded in the event that
34 participations are returned to traditional court processing;

35 (h) Criminal justice staff, mental health staff and services, and treatment providers
36 receive special, ongoing training and help mental health court participants achieve treatment and

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1 criminal justice goals by regularly reviewing and revising the court process;

2 (i) Criminal justice and mental health staff collaboratively monitor participants'
3 adherence to court conditions, offer individualized graduated incentives and sanctions, and modify
4 treatment as necessary to promote public safety and participants' recovery; and

5 (j) Data is collected and analyzed to demonstrate the impact of the mental health court,
6 its performance is assessed periodically and procedures are modified accordingly, court processes are
7 institutionalized, and support for the court in the community is cultivated and expanded.

8 II. Upon successful completion of a program recommended by the mental health court, an
9 offender's case may be disposed of by the judge in the manner prescribed by the agreement and by
10 the applicable policies and procedures adopted by the mental health court. This may include, but is
11 not limited to, withholding criminal charges or dismissal of charges.

12 III. A person sentenced by a mental health court may, at least 6 months after successful
13 completion of all programs and conditions imposed by the mental health court, petition for
14 annulment of the charges, arrest, conviction, and sentence that relate to such person's entry into the
15 mental health court.

16 IV. The mental health court may convene a local committee made up of community members
17 who can provide support for the mental health court.

18 222:2 Effective Date. This act shall take effect upon its passage.

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20 Approved: July 14, 2014

21 Effective Date: July 14, 2014