TESTIMONY OF

MARTHA B. KNISLEY, DIRECTOR
D.C. DEPARTMENT OF
MENTAL HEALTH

ON THE

"MENTAL HEALTH COMMITMENT AMENDMENT ACT OF 2002"
BILL NO. 14-605

BEFORE THE
COMMITTEE ON HUMAN SERVICES
COUNCILMEMBER SANDY ALLEN, CHAIR

WEDNESDAY, JUNE 26, 2002
10 A.M.
JOHN A. WILSON BUILDING
COUNCIL CHAMBER, ROOM 412

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- **Good morning, Chairperson Allen and members of the Committee on Human Services. My name is Martha B. Knisley. I am the Director of the D.C. Department of Mental Health. With me today is Laurie Davis, the Department's General Counsel.**

- **Before beginning my testimony, on behalf of all the employees of the Department of Mental Health, I want to express our appreciation for your steadfast support of Mayor Williams' efforts to make District government whole by ending the Department's receivership.**

- **You and the members of the Committee on Human Services were true partners in achieving this goal. We look forward to continuing that partnership as we create a model community-based system of mental health care.**

- **I also want to thank you for the opportunity to testify on the proposed amendments to the Ervin Act. The effect of these amendments is sweeping. With enactment of these amendments, we will reinvigorate the rights of people with mental illness in the District and expand how they receive treatment. At the core of these amendments is the commitment to ensuring that persons with mental illness are treated in the most integrated setting that can be accommodated, consistent with the consumers' needs and society's best interests, including public safety. This is one of the mandates for the Department that was included in the law establishing the Department.**

- **The Ervin Act is the District's civil commitment law. It has not been updated since being enacted by Congress in 1964. It does**

not reflect the gains in civil rights for people with mental illness that have been enjoyed nationwide.

- **The Transitional Receiver recognized the urgency of updating the 38-year-old Ervin Act. In the plan for the District's new mental health system, he wrote that the Ervin Act must be amended, ". . . to increase community access points for consumers as required by federal law and to make it feasible for community hospitals to provide acute care psychiatric hospitalizations."**

- **Additionally, amending the Ervin Act was one of the performance measures the Department was required to meet to terminate and vacate the receivership. Today's hearing is another milestone toward bringing our mental health system into the 21st century.**

- **The Ervin Act details the process for involuntary commitment. It also has provisions regarding voluntary treatment, the civil rights of persons with mental illness, maintenance of records, etc.**

- **The involuntary commitment process has three stages. The first involves the emergency involuntary detention of a person believed to be mentally ill and, as a result of mental illness, likely to injure self or others. The second involves the filing of a petition for longer-term commitment and a hearing before the Commission on Mental Health, which is an arm of the D.C. Superior Court. The third includes a trial, if requested, to contest a recommendation of long-term commitment made by the Commission on Mental Health and post-commitment proceedings, such as periodic administrative review of commitment and outpatient revocation proceedings.**

- **The Ervin Act always has required commitment to the least restrictive alternative available. As a result, the District has permitted outpatient commitment as well as inpatient commitment for decades. However, the requirement that treatment be provided in the least restrictive setting was mentioned only in the section of the law dealing with final commitment orders. The proposed amendments would insert**

that requirement throughout the law, as is now required by federal law.

- **The proposed amendments would make some changes to the first stage emergency detention process. When a person is taken to a hospital as an emergency psychiatric patient and there is a request for the person's admission as an involuntary patient, current law permits only a psychiatrist or psychologist on duty at a hospital to admit the person after an examination. The amendments would:**

  (1) Allow admission to the Department of Mental Health (in addition to retaining the possibility of admission to a hospital).
  (2) Allow admission as an involuntary emergency patient to a crisis facility that is less restrictive than a hospital.
  (3) Allow a certified physician, i.e., board-certified in emergency medicine or certified by the Department of Mental Health following training, to admit individuals to the Department, hospital or crisis facility as emergency involuntary patients.
  (4) Limit the time a person could be held as an emergency involuntary patient to 28 days, which may be extended by the court or by the Commission on Mental Health after it conducts a hearing. These amendments would facilitate the use of private or community hospitals by persons with mental illness who are in need of acute psychiatric care.

- **We proposed amendments to improve the system for emergency involuntary commitments to allow a person to be committed to the Department of Mental Health, instead of to a hospital, and the Department would contract with District hospitals to provide care while we handle the paperwork and tracking individuals through their legal proceedings. The intent is to relieve community hospitals of the administrative burden, while expanding the mental health system's ability to provide proper care.**

- **The proposed amendments would not change the second stage hearing process, other than to expand the scope of the hearing before the Commission on Mental Health to address the question**

of continued emergency detention. Our goal here is to clarify that persons who are subject to civil commitment should be treated in the least restrictive setting pending resolution of the commitment case, in those cases where outpatient commitment is appropriate.

- **The amendments addressing stage two of the involuntary commitment process define the timeline for the associated processes and leave intact the processes themselves. For instance, we propose that at this stage, which is when a decision about continuing a person's commitment is addressed, the Superior Court's Commission on Mental Health would conduct a hearing within 28 days of a person's admission to the hospital. Of course, the amendments allow rescheduling or continuances by the Commission and the court to build in flexibility and accommodate their workloads.**

- **The proposed amendments also would make some changes to the last phase of the commitment process. Most significantly, the maximum length of a final commitment order would be one year, rather than the indefinite period now in the law. Currently, three-fifths, or 60 percent, of the people committed under the Ervin Act have been committed for more than eight years, with a majority of that group committed for 12 to 40 years.**

- **This one-year commitment could be renewed an unlimited number of times. At least 42 states have amended their commitment laws to provide for commitment terms of one year or less, with recommitment options.**

- **Most of those states provide for commitment periods of six months or less. Of those states that permit commitment for a year or more, most require some sort of judicial review at regular interviews.**

- **The proposed recommitment process in the District would start with the filing of a recommitment petition in Superior Court within 60 days of the end of the commitment term. Then there would be a hearing before the Commission on Mental Health that would issue an order of recommitment or dismiss the petition. An order**

of recommitment could be appealed to the Superior Court, just as any other order issued by a Magistrate Judge could be appealed.

- **In addition to the recommitment process, the amendments would modify the periodic administrative review of commitments and codify the procedures for revoking outpatient commitment.**

- **Other amendments include modification of provisions regarding record keeping, civil rights and treatment-related issues to render them consistent with other laws. In addition, an attempt has been made to modify the language throughout the Ervin Act to eliminate the use of the word "patient" or phrase "mentally ill person" and substitute more neutral terms.**

- **In addition to changes in the involuntary commitment process, the amendments make important changes in the voluntary admission process for a person with mental illness. The amendments make clear that a person may seek voluntary outpatient services, and requires the Department or a private mental health provider to ensure continuity of care if and when a voluntary patient seeks to end the treatment with the Department or another provider.**

- **As you are aware, in the past, the District's mental health system has not incorporated contemporary techniques for providing services to people with mental illness. The system we are building today, and the action we are taking to alter the involuntary commitment process, will prove beneficial to both individuals with mental illness and society as a whole.**

- **To date ten agencies have been certified as Core Service Agencies. Among other things this means they are required to serve persons more quickly and more comprehensively than in the past; they also must meet new continuity of care requirements.**

- **These new requirements are critical to our success at not only meeting the legal requirements of these new provisions but also meeting the overarching mandate to serve persons in the most**

integrated setting possible. With these amendments, we can take the next step to meeting this fundamental obligation.

- **I have concluded my testimony and would be happy to answer any questions you may have.**