

# Senate Judiciary Committee

*Pete Mulvey 271-4063*

**SB 48-FN**, relative to competency to stand trial for certain offenses.

**Hearing Date:** February 4, 2025

**Time Opened:** 1:15 p.m.

**Time Closed:** 1:32 p.m.

**Members of the Committee Present:** Senators Gannon, Altschiller and Reardon

**Members of the Committee Absent :** Senators Abbas and Carson

**Bill Analysis:** This bill allows for the dismissal of certain class B misdemeanor and violation-level offenses when a defendant is found not competent, without attempting restoration.

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**Sponsors:**

Sen. Long

Rep. M. Pearson

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**Who supports the bill:** 16 individuals signed in support of SB 48-FN. Contact Pete Mulvey ([peter.mulvey@gc.nh.gov](mailto:peter.mulvey@gc.nh.gov)) for further details.

**Who opposes the bill:** One individual signed in opposition to SB 48-FN. Contact Pete Mulvey ([peter.mulvey@gc.nh.gov](mailto:peter.mulvey@gc.nh.gov)) for further details.

**Who is neutral on the bill:** N/A

**Summary of testimony:**

**Senator Patrick Long**

**Senate District 20**

- SB 48 followed the recommendations issued by the Committee to Study Restoration of Competency (HB 1020, 2024).
- The State of New Hampshire lacked any formal competency restoration process providing treatment for those found incompetent for trial.
- A motion to dismiss charges with prejudice may be raised by any party to a proceeding in the event an individual is found incompetent to stand trial for non-violent violations, or class b misdemeanors.
- SB 48 ensured that those suffering from mental illness did not languish in jail for minor crimes.
- Sen. Altschiller asked how courts would exercise the discretion specified in line 10 of the bill.
  - Sen. Long stated that the provision provided discretion to dismiss a case so long as violence or public danger were not factors, and suggested follow up with NAMI NH.

- Sen. Altschiller asked if a preliminary hearing would be required prior to the motion being raised.
  - Sen. Long confirmed

**Holly Stevens, esq.**

**Policy Director, NAMI NH**

- Ms. Stevens spoke in support of SB 48.
- Discretion would be enabled following a preliminary hearing as competency would need to be raised and evaluated.
- Discretion was preferable to a self-executing statutory dismissal as some individuals who reoffend require special consideration.
- N.H lacks any formal restoration process and accordingly has a significantly lower rate of restoration. Ms. Stevens noted that other states restored 60-80% of those considered incompetent.
- Ms. Stevens reported that a local individual deemed incompetent was detained for over a year awaiting trial at Valley Street Jail in Manchester.
- SB 48 allows for violation level offenses and lower-level misdemeanors to be considered ineligible for restoration at the discretion of the court.
- The need for competency evaluations has increased substantially in the last five years, with some jurisdictions recording 70-100% increases.
- There was an average of 66 court ordered evaluations a month in 2019.
- Charges related to stalking, endangerment toward the welfare of a child, harassment, or violations of privacy shall not be eligible for dismissal.
- Despite the aforementioned being more severe than a violation or class B misdemeanor, they were included in the language of the bill to accommodate any future changes to law.
- Sen. Reardon asked if individuals would receive follow up or treatment following dismissal.
  - Ms. Stevens indicated that they would not. Outpatient treatment was not included in the bill. However, another piece of legislation provided forensic liaisons to facilitate treatment.

**Steven Endres**

**Solicitor, Merrimack County Attorney's Office**

- Mr. Endres opposed SB 48.
- Mr. Endres had never seen an individual charged with a standalone violation or class B misdemeanor have their competency raised.
  - Mr. Endres clarified that he had heard of similar situations, however.
- Detention in jail was uncommon for violations and class b misdemeanors.
- SB 48 would not provide recourse for those in mental health institutions considering such placements were adjudicated in probate court.
- Mr. Endres suggested the lack of a restoration program in its entirety was the underlying issue.
- SB 48 gave up on the pursuit of justice in lieu of establishing a suitable restoration process.
- Alleviating procedural backlog via dismissal was short-sighted and concerned Mr. Endres.
- Mr. Endres found prejudiced dismissal questionable. In the event competency was restored, prejudiced dismissal would preclude revisiting the case.