COUNCIL OF THE DISTRICT OF COLUMBIA
The John A. Wilson Building
1350 Pennsylvania Avenue, nw
Washington, D.C. 20004

Christina Henderson
Councilmember, At-Large
Chairperson, Committee on Health

Committee Member
Hospital and Health Equity
Judiciary and Public Safety
Transportation and the Environment

Statement of Introduction
Enhancing Mental Health Crisis Support and Hospitalization Amendment Act of 2024
February 5, 2024

Today, alongside Councilmembers Brianne K. Nadeau, Anita Bonds, and Zachary Parker, I am introducing the Enhancing Mental Health Crisis Support and Hospitalization Amendment Act of 2024. This legislation aims to strengthen the District's mental health processes regarding involuntary and voluntary commitment procedures. This bill will empower healthcare workers, residents, and the courts with comprehensive information, resources, and transparent processes and policies.

Involuntary hospitalization, also known as involuntary commitment or civil commitment, is the legal process that mandates an individual to enter a hospital or psychiatric facility without their consent, temporarily, for mental health evaluation and treatment. According to the Office of the Attorney General for the District of Columbia, the following Emergency Petitions, also referred to as FD-12 Petitions, were filed in calendar years 2022 and 2023:

- 2022: 2,493
- 2023: 2,930

Involuntary hospitalization is typically pursued when there is concern that an individual poses a significant risk to themselves or others due to a severe mental health condition. Involuntary hospitalization provides a legal mechanism for emergency response, facilitating the rapid assessment and admission of individuals in need of immediate mental health care. Involuntary hospitalization policies include legal safeguards to protect the rights of the individuals, and contribute to the overall well-being of the community by addressing mental health concerns that, if left unattended, may lead to emergencies or potential harm.

This legislation aims to:

1. **Broaden the Pool of Authorized Professionals:** The bill proposes broadening the pool of qualified healthcare professionals authorized to initiate involuntary commitment processes, incorporating Psychiatric-Mental Health Nurse Practitioners who are recognized for their expertise in mental health assessments.

2. **Extend the Detention Time for Emergency Observation:** The bill proposes extending the time limits for continued detention for emergency observation and diagnosis from 7 to 15 days. This adjustment provides healthcare professionals with a more extended period to conduct thorough observations and diagnostics. It ensures a comprehensive understanding of an individual's mental health condition and allows additional time for

treatment. The goal is to ideally avoid involuntary commitment and instead connect individuals to inpatient and outpatient mental health resources and supports.

3. **Modify Probable Cause Hearings:** The bill proposes several modifications to the probable cause hearing process. The timeframe for individuals to request a probable cause hearing would extend from 7 to 15 days, aligning with the extended time for continued emergency observation and diagnosis. Additionally, the bill would extend the timeline for holding the hearing to within 72 hours but not less than 24 hours. Moreover, the legislation would clarify that hearsay evidence is permitted at probable cause hearings to ensure a fairer process for individuals challenging involuntary hospitalization.

4. **Prioritize Virtual Hearings:** The bill would require the court to prioritize virtual or remote hearings to reduce potential risks to individuals, providing a safer alternative while minimizing disruptions to therapeutic treatment. The bill also proposes provisions for granting continuances if the physical transportation of individuals to court poses significant risks to their safety and well-being or that of court personnel and the public. The bill also permits extended time limits for court proceedings to allow for weather or holiday-related delays.

5. **Informed Consent and Voluntary Inpatient Status:** Currently, the law requires that an individual be discharged from inpatient hospitalization within 14 days of the Commission on Mental Health's recommendation for outpatient commitment. The proposed legislation clarifies that individuals have the right to voluntarily agree to remain in inpatient status until an appropriate discharge plan is implemented.

6. **Permit Admissions to Referring Hospital:** The legislation proposes adopting the Stark Law, a federal regulation aimed at preventing conflicts of interest in healthcare that might compromise physicians' medical judgment. Currently, doctors are prohibited from involuntarily admitting individuals to the hospital where they work and hospitals are required to call the Department of Behavioral Health or another provider to assess the individual, rather than allowing the doctor and the hospital to admit the person. The proposed modification allows doctors to make involuntary admissions, provided their financial arrangements comply with the Stark Law.

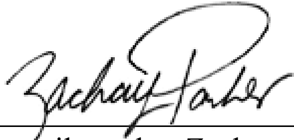
7. **Allow Warrants to be Issued for Non-Compliance:** The bill would clarify that courts can allow warrants to be issued and executed due to a person's failure to appear for court hearings or comply with treatment. This empowers the legal system with additional mechanisms to ensure individuals attend scheduled hearings and adhere to necessary treatments, including those who may abscond from a facility.

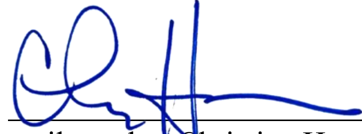
8. **Enhance the Competency Determination Process:** The bill clarifies that if the court finds a defendant incompetent in a criminal matter, the court must order the release of the defendant or, when appropriate, enter an order for treatment for up to 30 days but not less than 15 days. Currently, the law permits up to 30 days, but courts often shorten the period

to 7 days. This modification would provide sufficient time for a comprehensive examination and facilitate an improved transition to civil commitment if needed.

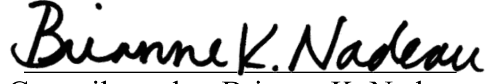
9. **Require DBH to Develop Online Training Modules:** The bill would promote education and transparency by requiring the Department of Behavioral Health to develop online training modules for both healthcare professionals and laypersons.

I look forward to collaborating with colleagues and stakeholders to advance this legislation, fostering transparency, fairness, improved access to mental health resources, respect for individual rights, and overall well-being for those in severe mental health crises.


Councilmember Zachary Parker


Councilmember Christina Henderson

Councilmember Anita Bonds.


Councilmember Brianne K. Nadeau

A BILL

____

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

____

To amend Chapter 5 of Title 21 of the District of Columbia Official Code to the Decedents, Estates and Fiduciary Relations Act to ensure that healthcare workers and residents possess the requisite information and resources to secure mental health support for individuals at risk of self-harm or harm to others, broaden the pool of individuals authorized to initiate the process for involuntary commitment, extend the time limit for continued detention during emergency evaluation and observation, revise the probable cause hearing process to address potential premature conversions to voluntary commitment, and enhance the discharge process; amend the Incompetent Defendants Criminal Commitment Act of 2004 to extend the time limits for court hearings and the evaluation period for those determined incompetent and unlikely to attain competence in criminal matters; and amend the Department of Behavioral Health Establishment Act of 2013 to develop online training materials covering the District's mental health laws.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Enhancing Mental Health Crisis Support and Hospitalization Amendment Act of 2024".

Sec. 2. Chapter 5 of Title 21 of the District of Columbia Official Code is amended as follows:

(a) Section 21-501 is amended as follows:

41 (1) Designate the existing paragraph (9A) as paragraph (9B).

42 (2) A new paragraph (9A) is added to read as follows:

43 "(9A) "Qualified nurse practitioner" means a person who is licensed under the
44 laws of the District of Columbia to practice as a Certified Nurse Practitioner pursuant to §3-
45 1206.04, who has completed a master's or doctoral degree in psychiatric nursing and is
46 nationally board-certified as a Psychiatric-Mental Health Nurse Practitioner.

47 (b) Section 21-521 is amended by striking the phrase "qualified psychologist" and
48 inserting the phrase "qualified psychologist, or a qualified nurse practitioner" in its place.

49 (c) Section 21-523 is amended as follows:

50 (1) Designate the existing text as subsection (a).

51 (2) Subsection (a) is amended by striking the number "7" and inserting the
52 number "15" in its place.

53 (3) A new subsection (b) is added to read as follows:

54 "(b) Nothing in this chapter shall limit the hospital or the Department's ability to treat a
55 person with mental illness who has given their informed consent or when the person has been
56 deemed incapacitated and substituted consent has been given pursuant to § 21-2210, prior to
57 commitment.".

58 (d) Section 21-525 is amended to read as follows:

59 "§ 21-525. Hearing by court.

60 "(a) Within 15 days of an order for continued hospitalization under § 21-524, the court
61 shall grant, upon written request of the patient, a probable cause hearing to determine whether
62 the person has symptoms of a mental illness and, because of the mental illness, is likely to injury
63 themselves or others unless detained. The hearing shall be held within 72 hours after receipt of

64 the request and in no event earlier than 24 hours after the hospital or facility where the person is
65 detained receives written notification of the request except that any request received on a Friday
66 shall be heard no earlier than the following Tuesday. The court shall prioritize virtual or remote
67 hearings for individuals to reduce the risk to the safety and well-being of the individual and
68 minimize disruptions therapeutic environments. The court shall consider reasonable alternatives
69 to in-person attendance, such as virtual attendance, and may establish minimum standards for
70 virtual or remote hearings.

71 "(b) The court's finding of probable cause may be based upon hearsay evidence. Relevant
72 evidence and testimony presented by telephone or video-teleconference technology shall be
73 admitted upon request of any party.".

74 (e) Section 21-526 is amended as follows:

75 (1) Subsection (a) is amended to read as follows:

76 "(a) If the maximum period of time prescribed by section 21-512, 21-523, 21-524, 21-525
77 or 21-548, during which an action or determination may or shall be taken, expires on a Saturday,
78 Sunday, or legal holiday, or on a day on which the court is closed or operating under a delayed
79 opening, the period may be extended to no later than noon of the next succeeding day which is
80 not a Saturday, Sunday, or legal holiday, or the next succeeding day in which the court is not
81 closed or operating under a delayed opening.".

82 (2) Subsection (e) is amended by striking the phrase "chapter." and inserting the
83 phrase "chapter. Nothing in this section shall prohibit a person from voluntarily agreeing to
84 remain in an inpatient status until an appropriate discharge plan is implemented.".

85 (3) New subsections (f) and (g) are added to read as follows:

86 “(f) If it is determined by the court that transporting an individual to the court for a
87 hearing poses a significant risk to the safety and wellbeing of the individual, court personnel, or
88 the public, the court may, upon written request, grant a continuance of the hearing. The court
89 shall consider reasonable alternatives to in-person attendance, such as virtual attendance, when
90 granting a continuance under this section. Any continuance granted under this section shall be
91 for a reasonable duration and shall take into consideration the nature of the case and the specific
92 circumstances that warrant the continuance, which may include the following considerations:
93 “(1) Severe weather conditions that pose a safety risk;
94 “(2) Threats to the security of the individuals during transport;
95 “(3) Medical conditions of the individual that make transportation unsafe; and
96 “(4) Public health emergencies that would make an in-person hearing unsafe.
97 “(g) If the person discharged from inpatient status in accordance with subsection (e) of
98 this section fails to appear for any hearing scheduled by the court, the court shall, upon request,
99 issue a warrant for the apprehension and appearance of the person.”.
100 (f) Section 21-582 (a)(2) is amended to read as follows:
101 “(2) Has a professional arrangement with a hospital that is inconsistent with
102 section 1877 of Title XVIII of the Social Security Act, approved December 19, 1989 (103 Stat.
103 2236; 42 U.S.C. § 1395nn), and its implementing regulations.”.
104 (g) Section 21-585 is amended by striking the period and inserting the phrase “. Nothing
105 in this section prohibits the issuance and execution of a warrant as a result of a person’s failure to
106 appear for court or examination.” in its place.
107 (h) Section 21-592 amended to read as follows:
108 “§21–592. Return to hospital of an escaped mentally ill person.

109 “When a person has been ordered committed pursuant to section 21-545 or 21-545.01,
110 and the person fails to comply with their mental health treatment by absconding from the facility
111 or failing to appear for treatment at the Department or facility, the court shall, upon request of
112 the Department or facility, issue a warrant for the apprehension and appearance of the person.”.

113 Sec. 3. Section 106 of the Incompetent Defendants Criminal Commitment Act of 2004,
114 effective May 24, 2005 (D.C. Law 15-358; D.C. Official Code § 24-531.06), is amended as
115 follows:

116 (a) Paragraph (4) is amended by striking the phrase “for up to 30 days” and inserting the
117 phrase “for up to 30 days, but no less than 15 days,” in its place.

118 Sec. 4. Section 106 of the Incompetent Defendants Criminal Commitment Act of 2004,
119 effective May 24, 2005 (D.C. Law 15-358; D.C. Official Code § 24-531.07), is amended as
120 follows:

121 (a) Subsection (c)(2) is amended to read as follows:

122 “(c)(2) Within 15 days of the remand order, a person so detained may request a
123 probable cause hearing on the person’s continued detention before the Family Court
124 of the Superior Court of the District of Columbia pursuant to § 21-525, in which case
125 a hearing shall be held within 72 hours after the receipt of the request.”.

126 Sec. 5. The Department of Behavioral Health Establishment Act of 2013, effective
127 December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 7-1141.01 *et seq.*), is amended by
128 adding a new section 5117a to read as follows:

129 “Sec. 5117a. Development of online training materials.

130 “(a)(1) The Department shall develop a detailed online training module for healthcare
131 professionals of varying disciplines and levels of expertise on the District’s voluntary and

132 involuntary commitment laws and procedures. In developing the training module, the
133 Department shall collaborate with relevant stakeholders, including healthcare professionals, legal
134 experts, and community-based organizations. The training module shall include information on:
135 "(A) Distinctions between voluntary and involuntary commitment;
136 "(B) Legal rights of individuals receiving mental health services;
137 "(C) Step-by-step procedures for initiating involuntary commitment;
138 "(D) Criteria for determining when involuntary commitment is warranted;
139 "(E) Protocols for involving law enforcement in a mental health crisis; and
140 "(F) Cultural competency and sensitivity in mental health interactions,
141 including topics related to religion, race or ethnicity, language access, and understanding and
142 respecting diverse cultural backgrounds during mental health assessments.
143 "(2) The Department shall coordinate with healthcare institutions to integrate the
144 training module into continuing education or other training programs for relevant healthcare
145 workers.
146 "(b)(1) The Department shall develop an online resource providing information for
147 laypersons on voluntary and involuntary mental health treatment. The online resource shall
148 include information on:
149 "(A) Distinctions between voluntary and involuntary commitment;
150 "(B) Alternatives to voluntary or involuntary commitment;
151 "(C) Legal rights of individuals receiving mental health services;
152 "(D) Step-by-step procedures for initiating involuntary commitment;
153 "(E) Criteria for determining when involuntary commitment is warranted;
154 "(F) Protocols for involving law enforcement in a mental health crisis;

155 “(G) Information on crisis helplines and mental health resources that
156 families that access in case of emergencies; and
157 “(H) Information on how family and friends can contribute to the ongoing
158 care and recovery of their loved one.
159 “(2) The online resource shall be available on the Department’s official website,
160 and shall be designed to provide clear and comprehensive information for individuals seeking
161 mental health treatment for themselves or others.
162 “(3) The Department shall collaborate with mental health professionals, legal
163 experts, community-based organizations, and individuals with lived experience in the
164 development of the online resource.
165 “(4) The Department shall engage in semiannual public awareness campaigns to
166 promote the availability of the online resource through various channels, including engaging
167 media outlets and online platforms, utilizing social media, partnering with educational
168 institutions and healthcare organizations, educating emergency services personnel, collaborating
169 with government agencies, and actively involving community groups, such as religious
170 organizations, cultural associations, and neighborhood associations.
171 Sec. 6. Fiscal impact statement.
172 The Council adopts the fiscal impact statement in the committee report as the fiscal
173 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
174 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).
175 Sec. 7. Effective date.
176 This act shall take effect after approval by the Mayor (or in the event of veto by the
177 Mayor, action by the Council to override the veto), a 30-day period of congressional review as

178 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

179 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of

180 Columbia Register.

181