



**Testimony on LB 592
Before the Judiciary Committee
Nebraska Legislature
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Good afternoon Senator Seiler and members of the Judiciary Committee. For the record my name is Brad B-R-A-D Meurrens M-E-U-R-R-E-N-S and I am the Public Policy Specialist with Disability Rights Nebraska, the designated Protection and Advocacy organization for Nebraskans with Disabilities. I am here today in support of LB 592.

The American criminal justice system is housing a significant number of people with mental illness, either diagnosed or not, such that some authors have deemed U.S. prisons as “the new asylum”¹. Research indicates that people with mental illness continue to be overrepresented within the criminal justice system, inmates typically have significant and multiple health problems², and the incidence of co-occurring disorders (simultaneous substance abuse and mental illness) is common³. The increasing numbers of people with mental illness in the criminal justice system places additional strains on the corrections system which historically has had limited tools and resources to treat or manage this particular population.

As the following table shows, the GAINS Center for Behavioral Health and Justice Transformation reports in 2013 that an estimated 16% of adults with serious mental

¹ See “The New Asylums”, *Frontline*, May 10, 2005, available at <http://www.pbs.org/wgbh/pages/frontline/shows/asylums/>.

² Council of State Government 2013 “Health, Mental Health, and Substance Use Disorders FAQs”, available at <http://csgjusticecenter.org/substance-abuse/faqs/>, at p. 2: “In a study of more than 800 individuals released from U.S. prisons, nearly all—eight in 10 men and nine in 10 women—had chronic health conditions requiring treatment or management...People in the study often had more than one type of health problem-conditions that they had when they entered the facility and that required ongoing attention upon release. Roughly four in 10 men and six in 10 women reported a combination of physical health, mental health, and substance use conditions.”

³ *ibid* at p.2: “Co-occurring mental health and substance use disorders are common. In prisons, approximately 30 percent of individuals with substance use disorders also have a major mental health disorder. Conversely, in jails, an estimated 72 percent of individuals with serious mental illnesses have a substance use disorder. In prisons, co-occurring disorder estimates range from 3 to 11 percent of the total incarcerated population.”

disorders were in state prisons and 17% in jails, with a corresponding 5.4% for the general public.

Table 1 Estimated Proportion of Adults with Mental Health, Substance Use, and Co-occurring Disorders in U.S. Population and under Correctional Control and Supervision

	General Public	State Prisons	Jails
Serious Mental Disorders	5.4%	16%	17%
Substance Use Disorders (Alcohol and Drugs) — Abuse and/or Dependence	16%	53%	68%
A Co-occurring Substance Use Disorder When Serious Mental Disorder Is Diagnosed	25%	59%	72%
A Co-occurring Serious Mental Disorder When Substance Use disorder Is Diagnosed	14.4%	59.7%	33.3%

Source: GAINS Center for Behavioral Health and Justice Transformation, 2013, available at: http://www.asca.net/system/assets/attachments/4908/9.27.12_Behavioral_Framework_v6_full.pdf?1348755628

Increased attention to the mental health needs of inmates is needed.

We do share a concern about the language in Section 1 of LB 592 as it was introduced. We are concerned about broadening the commitment statute to include personality disorders. We agree with the recommendations of the Nebraska Psychological Association to change the language regarding the definition of mentally ill and dangerous. We have discussed our concern with Senator Bolz and we are confident that the language could be reworked to alleviate our concern.

Providing services and treatment for mental health needs of inmates is crucial. We support the creation of individualized treatment plans in this bill (see page 6, lines 14-15 of original bill). The vast majority of persons incarcerated in U.S. prisons and jails will eventually be released. Former inmates with mental illness have significant recidivism rates and many individuals with behavioral health issues (if left without adequate support systems and treatment inside and outside the prison/jail setting) will cycle in and out of corrections. A released prisoner's unmet need for mental health care often precipitates arrest⁴. According to the Prisoner Reentry FAQ from the Nebraska Legislative Research Office, Nebraska has invested an insufficient amount of resources towards prisoner reentry: "a relatively small percentage of those resources are invested

⁴ Bazelon Center for Mental Health Law (2001), "Finding the Key to Successful Transition from Jail or Prison to the Community", available at <http://www.bazelon.org/LinkClick.aspx?fileticket=Bd6LW9BVRhQ=&tabid=104>

in parole supervision and prisoner reentry. In fact, there is no central clearinghouse for information relevant to inmates leaving prison.”⁵ We support the funding of re-entry planning described in Section 8 of the bill and would emphasize the need to include, planning for accessing mental health services in the community in the re-entry plan.

However, we do have a few clarifying language edits to suggest:

1. Page 3 of the original bill, line 14: we would suggest adding language in the list to include not only the time spent in housing other than general population, but also the frequency with which inmates are housed in this context.
2. Page 6 of the original bill, line 15: some clarity should be provided as to what “adequate” mental health treatment is.
3. Page 6 of the original bill, line 20: some clarity should be provided as to what classifies someone as “potentially” mentally ill. The phrase “potentially mentally ill” is used on pages 6 and 7 of the original bill. Perhaps the word “potentially” should be used to modify dangerousness instead.
4. Page 9 of the original bill, line 10: we suggest that the personalized program plan document be “...drawn up developed in consultation with the active participation of the committed offender.”
5. Page 11 of the original bill, lines 12-19: there is no definition of “mental disability” as used in lines 12-13;
 - a. we would also suggest the following edits to the language in lines 13-16:
“...shall be provided with appropriate ~~mental health care~~ treatment for their mental illness. The ~~mental health care~~ treatment for an inmate’s mental illness shall utilize evidenced-based ~~therapy models and recognized best practices~~ that include an evaluation component to ~~track~~ assess the effectiveness of ~~interventions~~ these practices.”
6. Page 11 of the original bill, line 19: we suggest replacing the word “programming” with “treatment”.

Disability Rights Nebraska supports LB 592 and with the improvements noted in our testimony, would recommend that it advance.

⁵Nebraska Legislative Research Office, “Prisoner reentry FAQ: Frequently Asked Questions about Nebraska’s Post-Prison Policies”, 2014, available at: <http://nebraskalegislature.gov/pdf/reports/research/2014prFAQ.pdf>