

Ohio House Civil Justice Committee
Testimony of Evelyn Lundberg Stratton
In Support of H.B. 439
January 18, 2022

Good afternoon, Chairman Hillyer, Vice Chair Grendell, Ranking Member Galonski, and Members of the House Civil Justice Committee. I appreciate the opportunity to testify in support of H.B. 439.

My name is Evelyn Stratton. I served on the Ohio Supreme Court for 16 years and retired in 2012 to devote my time to identifying and addressing gaps in the mental health system that cause thousands of Ohioans with mental illness to cycle in and out of the criminal justice system. I have spent over 30 years working on these reforms at the state and national level. I work with great partners now as co-chair of the Attorney General Task Force on Criminal Justice and Mental Illness, lead Stepping Up Ohio, whose goal is to reduce those with mental illness in jails, and serve on the Governor's Recovery Ohio Council.

I am proud of the many improvements that have resulted from the work of these groups. However, I hear all the time about tragedies that could have been prevented if the mental health system had just been able to intervene earlier. I have heard many tragic stories from parents and family who could not help their loved ones in crisis because of our commitment barriers. Despite all my connections, I have faced those same barriers with family and relatives. Unfortunately, despite years of work on these issues, we have not been able to address that aspect of the problem ... until now.

State civil commitment statutes underwent a major overhaul during the deinstitutionalization of state mental health hospitals in the 1960's. It was at that time that states began overhauling their civil commitment standards to require that an individual demonstrate dangerousness in order to be involuntarily hospitalized. The goal was to prevent being reinsitutionalized. Under Ohio law, a person with mental illness may be considered dangerous if they pose a substantial risk of physical harm to self or others, or pose a grave and imminent risk to substantial rights of self or others, or are unable to meet their basic survival needs.

But as well-meaning as these changes were, the barriers they created have significantly delayed help to individuals in urgent need. It has led to a corresponding rise in the number of individuals with untreated mental illness ending up in our jails, prisons and on the streets. So often I have heard a parent say "I called the police for help, but they said unless my child was trying to harm or kill us or himself, they couldn't help us," despite the clear deterioration in their child's behavior. We should be able to help before we reach that level of desperate need.

H.B. 439, which would add a psychiatric deterioration standard to Ohio's inpatient commitment law, helps to strike a much-needed balance. It allows the court to look beyond the snapshot of the person with severe mental illness standing before them at the time of a hearing by also considering the person's treatment history and the likelihood that their mental health will deteriorate without intervention. This change will allow the mental health system to intervene and stabilize a person before they become a danger to self or others, when they can no longer make the necessary rational decisions to care for themselves.

A similar standard already exists in Ohio's law but is limited to outpatient commitment. Expanding the standard to inpatient commitment recognizes that involuntary hospitalization is most often the first step in securing psychiatric treatment for individuals in desperate need. Intervening earlier means that patients can be stabilized sooner and placed on a path to recovery. Patients will likely require less time in the hospital, freeing hospital beds for others. Finally, it means that communities will be safer because someone with untreated mental illness who is in crisis is less likely to become a physical danger to self or others, and is less likely to end up in jail as the "de facto" hospital.

I will leave you with a quote from an excellent article by two Ohio psychiatrists, Drs. Megan Testa and Sara G. West, entitled *Civil Commitment in the United States*. After charting the transformation of our civil commitment standards driven by the deinstitutionalization movement, the authors observe:

"Although the shift toward strict dangerousness criteria for civil commitment was based on the honorable intentions of protecting the rights of individuals with mental illnesses and ensuring that they received effective treatment delivered in the least socially disruptive settings, serious unintended negative consequences have occurred...Current civil commitment criteria force relatives to watch their loved ones go through progressive stages of psychiatric decompensation before they can get them any help at all."

To set Ohio on a more humane course, I urge you to support H.B. 439. Thank you.