



Joint Commission on Health Care

Summary of Public Comments Statutory Language on Barrier Crimes

Organizations/Individuals Submitting Comments

Four comments were received regarding the barrier crime policy options presented to the Behavioral Health Care Subcommittee in September. Comments were submitted by:

- Mira Signer on behalf of the National Alliance on Mental Illness (NAMI) Virginia
- Mary Ann Bergeron on behalf of the Virginia Association of Community Services Boards (VACSB)
- Jennifer Fidura on behalf of the Virginia Network of Private Providers, Inc. (VNPP)
- Violet Taylor

Public Comments on Policy Options

Options	In Support
1	VACSB VNPP
2	NAMI
3	None
Other	Violet Taylor

Option 1: Take no action.

Option 2: Introduce legislation to amend the *Code of Virginia* § 37.2-416.C to allow an individual with a conviction of assault and battery against a family or household member to be assessed for employment by providers licensed by DBHDS and to amend *Code* §§ 37.2-416.E and 37.2-506.E to make it clear that the provisions in subsection C do not affect the provision to allow hiring “persons who have been convicted of not more than one misdemeanor offense under §18.2-57 or §18.2-57.2, if 10 years have elapsed following the conviction, unless the person... [was] employed in a direct consumer care position.”

Option 3: Introduce legislation to amend the *Code of Virginia* § 37.2-506.C to remove the provision allowing an individual with a conviction of assault and battery against a family or household member to be assessed for employment by community services boards and to amend *Code* §§ 37.2-416.E and 37.2-506.E to make it clear that the provisions in subsection C do not affect the provision to allow hiring “persons who have been convicted of not more than one misdemeanor offense under §18.2-57 or §18.2-57.2, if 10 years have elapsed following the conviction, unless the person... [was] employed in a direct consumer care position.”

Comment Excerpts

Mary Ann Bergeron of the Virginia Association of Community Services Boards commented in **support of Option 1:**

“The VACSB strongly supports choosing Option 1 (take no action) when considering the decision matrix related to barrier crimes. Should the Joint Commission wish to look more comprehensively at the entire statute in the future, the VACSB will be pleased to serve as a resource.”

Jennifer Fidura of the Virginia Network of Private Providers commented in **support of Option 1:**

“Even though there is, with current law, a difference between the options available in the public sector and those available in the private sector for considering for employment certain individuals in recovery, the issue is not substantial enough to warrant requesting reconsideration.”

Summary of Public Comments
Statutory Language on Barrier Crimes

The differing opinions between the majority of the members of JCHC and the majority in the committee of referral in the House has, in the past two years, left us with no resolution and the potential for changes in the Code which would be even more damaging to providers or individuals who have achieved the stability necessary to be valuable employees in limited circumstances.

There may be a reason in the future to look more carefully at the entirety of the barrier crimes issue, but for the coming year, we feel that it is best to live with what we have and deal with the more pressing issues facing us.”

Mira Signer, Executive Director of NAMI-Virginia commented in **support of Option 2** indicating there were several reasons for that support:

- “1. It is possible, and not uncommon, for a person who has since recovered from serious mental illness to have a past conviction of assault on a family member that occurred during an acute episode of mental illness, or during the issuance of an Emergency Custody Order or Temporary Detention Order.
2. If there is no statutory provision to review the circumstances surrounding the assault conviction, the conviction will keep person who is now recovered from being assessed for employment in adult substance abuse or adult mental health treatment facilities, even if the criminal behavior was determined to be substantially related to the person’s substance abuse or mental illness and the person has been successfully rehabilitated and is not a risk to consumers based on his/her background and his/her substance abuse or mental illness history, (unless 10 years have elapsed).
3. Carefully screened, trained peer counselors can be very effective in working with other people who are in treatment for mental illness.
4. Employment is considered a cornerstone of recovery, independence, and self-sufficiency.
5. There is no requirement that a provider must hire a person with this conviction; it would simply allow for a person to be assessed for employment.”

Violet Taylor commented without supporting a specific Option by stating (in part):

“As DBHDS moves toward hiring more trained consumers in the state/county mental health system, I’m asking you to consider that if a person who has a disability that they didn’t want or ask for, and has had NGRI, or served time due to untreated, or undertreatment of their disability and has moved forward into recovery, that each consumer/applicant not be punished further by disallowance from the application/employment process as a Certified Peer Specialist.

I believe that each person should be looked at as an individual, and the realization of potential in recovery should be considered. Each person should have an Equal Employment Opportunity.

Let’s not throw out the power of that person’s personal recovery in a therapeutic setting, and their recovery story cannot be disregarded - it would be quite valuable. The strength to overcome stigma; self-stigma, system-stigma, societal-stigma and potential employer-stigma says much about the person.

I’m requesting that potential employers, (CSBs, state hospitals and other facilities,) interview and assess the talents, education, expertise and abilities of each applicant as they are in the moment, considering the progress made in recovery, and continual time with stable health.”