

Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century

The Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century (the Joint Subcommittee) was established by Senate Joint Resolution 47 during the 2014 Session of the General Assembly. The Joint Subcommittee was tasked with:

- i. Reviewing and coordinating with the work of the Governor's Taskforce on Improving Mental Health Services and Crisis Response;
- ii. Reviewing the laws of the Commonwealth governing the provision of mental health services, including involuntary commitment of persons in need of mental health care;
- iii. Assessing the systems of publicly funded mental health services, including emergency, forensic, and long-term mental health care and the services provided by local and regional jails and juvenile detention facilities;
- iv. Identifying gaps in services and the types of facilities and services that will be needed to serve the needs of the Commonwealth in the 21st century;
- v. Examining and incorporating the objectives of House Joint Resolution 240 (1996) and House Joint Resolution 225 (1998) into its study;
- vi. Reviewing and considering the report *The Behavioral Health Services Study Commission: A Study of Virginia's Publicly Funded Behavioral Health Services in the 21st Century*; and
- vii. Recommending statutory or regulatory changes to improve access to services, the quality of services, and outcomes for individuals in need of services.

During the 2017 Regular Session, the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century was extended for two years in the 2017 Appropriation Act (Chapter 836 of the Acts of Assembly of 2017). The Joint Subcommittee is scheduled to complete its work and issue its final report by December 1, 2019.

WORK OF THE JOINT SUBCOMMITTEE

Since its creation in 2014, the Joint Subcommittee has met many times to receive information and discuss issues related to the provision of mental health services in the Commonwealth and has made numerous recommendations for changes to the Commonwealth's system of publicly funded behavioral health services.

2014

Meeting #1 - July 21, 2014

At its first meeting, the Joint Subcommittee elected Senator R. Creigh Deeds to serve as chairman of the Joint Subcommittee and Delegate Robert B. Bell, III, to serve as vice-chairman of the Joint Subcommittee, and it reviewed the scope and purpose of the Joint Subcommittee as set out in Senate Joint Resolution 47 (2014). The Joint Subcommittee also received an overview of the Commonwealth's publicly funded mental health system; a presentation on changes to laws governing emergency custody, temporary detention, and involuntary commitment processes enacted during the 2014 Regular Session; and a presentation on civil commitment laws in other

states, including background on the commitment process in the United States, trends and developments in treatment laws nationally, how Virginia compares with other states, and opportunities for Virginia to improve its commitment process.

Meeting #2 - September 9, 2014

The Joint Subcommittee received an overview of various common mental health disorders and their symptoms, characteristics, and treatment; an overview on the work of the Governor's Taskforce on Improving Mental Health Services and Crisis Response, and a presentation from Mr. Ted Lutterman, Senior Director of Government and Commercial Research, National Association of State Mental Health Planning Directors (NASMHPD) Research Institute, on Virginia's state mental health system, comparisons with mental health systems in other states, and trends in state mental health systems. At the end of the meeting, Senator Deeds also announced the creation of three work groups, focused on crisis intervention, continuum of care, and children and other special populations.

Meeting #3 - December 16, 2014

At its final meeting of the 2014 interim, the Joint Subcommittee received information on the final recommendations of the Governor's Taskforce on Improving Mental Health Services and Crisis Response and voted to support the taskforce's recommendations, with particular emphasis on the following:

- **RECOMMENDATION 1: Secure Assessment Centers and Crisis Stabilization Units.** Expand funding for secure crisis intervention team (CIT) assessment centers (drop-off centers) and crisis stabilization units for children and adults across the Commonwealth as the highest priorities for funding.
- **RECOMMENDATION 2: Crisis Intervention Teams.** Expand funding for CIT program development, including training for law-enforcement officers throughout the Commonwealth. Virginia needs to invest in CIT programs (to include CIT assessment centers) so that every community in Virginia has a functional CIT program including an assessment center.
- **RECOMMENDATION 8: Center for Behavioral Health and Justice.** Establish an intergovernmental Center for Behavioral Health and Justice to identify and utilize Virginia's resources (both public and private) to more effectively address behavioral health needs within the Commonwealth.
- **RECOMMENDATION 10: Alternative Transportation.** Develop a mechanism whereby alternative transportation (via ambulance, EMS, secure cab, etc.) is available in all communities.
- **RECOMMENDATION 14: Virginia Criminal Information Network (VCIN).** Enable first responders (police officers) to gain access to the temporary detention order database already in VCIN. Add training requirements for VCIN.
- **RECOMMENDATION 15: Protected Health Information (PHI) Disclosures.** Develop legislation that (i) authorizes sharing of PHI between community services boards, law-enforcement agencies, health care entities and providers, and families and guardians about individuals who are believed to meet the criteria for temporary detention

(whether or not they are in custody or ultimately detained) and (ii) contains a "safe harbor" provision for practitioners and law-enforcement officers who make such disclosures and act in good faith. The Department of Behavioral Health and Developmental Services (DBHDS) should develop a disclosure "toolkit" for practitioners and law enforcement that can support effective, consistent understanding of disclosure and information sharing in the emergency context.

- **RECOMMENDATION 20: Resources for Families.** Expand support for families and individuals in crisis, including increased functionality, utilization, and support of psychiatric advance directives, complete with education on what a model advance directive should include.
- **RECOMMENDATION 25: Psychiatric Bed Registry Reporting.** Fully utilize the data reporting capacity of the psychiatric bed registry and add data fields as necessary to automate data collection to better understand where the gaps or pressure points exist.

The Joint Subcommittee did not adopt any other recommendations at the end of the 2014 interim.

Outcome of 2014 Recommendations

RECOMMENDATION 10

HB 1693 (Bell, Robert B.) / SB 1263 (Deeds) - Civil admission process; alternative transportation. Provided that a magistrate may authorize alternative transportation for a person subject to an emergency custody order or temporary detention order when there exists a substantial likelihood that the person will cause serious physical harm to himself or others and providing liability protection for alternative transportation providers.

- Signed by the Governor (Chapters 297 and 308, Acts of Assembly of 2015).

RECOMMENDATION 14

SB 1264 (Deeds) - Law-enforcement access to involuntary admission and incapacity information. Provided that certain information related to persons adjudicated incapacitated or ordered to involuntary inpatient or outpatient treatment or to persons who were subject to a temporary detention order who agreed to voluntary admission may be disseminated to a full-time or part-time employee of a law-enforcement agency for purposes of the administration of criminal justice.

- Signed by the Governor (Chapter 540, Acts of Assembly of 2015).

RECOMMENDATION 25

HB 2118 (Cline) / SB 1265 (Deeds) - Acute psychiatric bed registry; frequency of updating. Required state facilities, community services boards, behavioral health authorities, and private inpatient psychiatric service providers to update information included in the acute psychiatric bed registry whenever there is a change in bed availability for the facility, board, authority, or provider or, if no change in bed availability has occurred, at least once daily.

- Signed by the Governor (Chapters 34 and 116, Acts of Assembly of 2015).

2015

Meeting #1 - February 24, 2015

Dr. Steven Sterns, Merrill H. Bankard Professor of Economics at the University of Virginia, presented information about a recently completed study of the availability of public mental health services in the Commonwealth. He described characteristics of individuals seeking public mental health services, including age, educational levels, average household income, and insurance coverage; provided an overview of the 40 community services boards providing public mental health services in the Commonwealth, including the size of the population in the region served by each community services board, the types of services offered, and the total number of individuals served by year; provided an estimate of the number of individuals in each community services board's service area that could be expected to need mental health services, based on mental health problem prevalence data that takes into account age, race, education, family income, and insurance status; and noted the deficit in the supply of mental health services as compared with the demand for mental health services provided by community services boards, with all but a few community services boards expected to demonstrate such deficits and a few expected to demonstrate substantial deficits.

The Joint Subcommittee also discussed the work plan for the 2015 interim, including the need for work group meetings throughout the 2015 interim.

Meeting #2 - April 16, 2015

The Joint Subcommittee received an overview of mental health–related legislation enacted during the 2015 Regular Session and discussed the work plan for the 2015 interim, noting the need to determine what mental health services should be provided by the Commonwealth, how such services should be provided, and how the Commonwealth should pay for such services. The Joint Subcommittee also decided to hold a series of two-day meetings in various locations across the Commonwealth to gain a full understanding of the issues affecting the delivery of mental health services in the Commonwealth.

Meeting #3 - June 30, 2015

The Joint Subcommittee met at the August County Government Center in Verona, Virginia, on June 30, 2015. At that meeting, the Joint Subcommittee received an overview of the history of Virginia's laws governing involuntary commitment and the different legal models governing involuntary commitment used in the United States from Professor Richard J. Bonnie, Director, Institute of Law, Psychiatry and Public Policy at the University of Virginia's School of Law. Following the presentation, members of the Joint Subcommittee recommended further inquiry into several items, including:

- Criteria for mandatory outpatient treatment and how mandatory outpatient treatment works in relation to involuntary admission for treatment;
- The rights and responsibilities of individuals with custodial relationships over other individuals to seek treatment and services for such persons, particularly in cases in which the person is in the custody of law enforcement;
- The impact of early intervention services on the number of involuntary admissions for treatment; and

- The training of special justices involved in the involuntary commitment process.

Following the meeting, the Joint Subcommittee toured the Commonwealth Center for Children and Adolescents.

Meeting #4 - September 24, 2015

The Joint Subcommittee met at the Suffolk City Hall in Suffolk, Virginia, on September 24, 2015. At the meeting, the Joint Subcommittee received an overview of (i) mental health services in jails and the need for additional funding and service capacity, (ii) current funding for mental health services in the Commonwealth, (iii) progress of the DBHDS System Transformation initiative and the STEP-VA model of services, (iv) and the strengths and challenges of the Commonwealth's mental health system from the perspective of families and individuals involved with the system.

Meeting # 5 - November 13, 2015

The Joint Subcommittee met at the James J. McCoart Administration Building in Woodbridge, Virginia, on November, 13, 2015. At the meeting, the Joint Subcommittee received presentations on (i) the challenges of providing mental health services to individuals in jails; (ii) magistrate involvement in the involuntary commitment process, including training of magistrates; and (iii) the San Antonio Model of mental health treatment in jails that focuses on early intervention and diversion.

Meeting # 6 - January 13, 2016

In a meeting held on January 13, 2016, the Joint Subcommittee adopted the following legislative recommendations proposed by the Criminal Justice Diversion Work Group:

- **RECOMMENDATION 1: Involuntary psychiatric admission from local correctional facility.** The Code of Virginia should be amended to clarify that, for the purposes of petitioning for the involuntary psychiatric treatment of an inmate in a local correctional facility, the petition shall be filed by the sheriff or other person in charge of the local correctional facility where the inmate is incarcerated.
- **RECOMMENDATION 2: Hearing for temporary detention or involuntary admission; notice to family member or personal representative.** The Code of Virginia should be amended to require that, for any hearing for temporary detention or involuntary admission, notice of the hearing shall be provided to the petitioner's personal representative or nearest known relative, and such person shall be entitled to retain counsel, be present during the hearing, and testify and present evidence.
- **RECOMMENDATION 3: Hearing for temporary detention or involuntary admission; recommendations of relatives.** The Code of Virginia should be amended to require that, in any hearing for temporary detention or involuntary admission, the magistrate shall consider the recommendations of the person's personal representative or any relative of the person as well as recommendations of any treating or examining physician.

- **RECOMMENDATION 4: Hearing for temporary detention or involuntary admission; contents of evaluation or preadmission screening report.** The Code of Virginia should be amended to provide that, if an employee or designee of the local community services board recommends that the person should not be subject to a temporary detention order or order for involuntary admission, the employee or designee shall include in the evaluation any recommendations of the person's personal representative or relative, or any treating or examining physician, that are contrary to such recommendation.
- **RECOMMENDATION 5: Hearing for temporary detention or involuntary admission; access to medical records.** The Code of Virginia should be amended to direct the employee or designee of the local community services board who is conducting an evaluation for temporary detention or involuntary admission to request medical records of the person and to provide any records received to the magistrate.

Interim Report - 2015

At the end of the 2015 interim, the Joint Subcommittee submitted its interim report, noting that during the first two years of its work, the Joint Subcommittee had concentrated on reviewing the works and recommendations of previous studies on the provisions of mental health services in the Commonwealth and on familiarizing itself as to the current state of the mental health system in Virginia, receiving extensive testimony from numerous experts in the field of mental health, both from inside and outside the governmental sector, and touring numerous mental health facilities or service providers throughout the Commonwealth. During the second two years of its work, the Joint Subcommittee planned to utilize the information collected during the first two years to develop recommendations as to what services should be provided and the statutory or regulatory changes necessary to improve access to such services by persons who are in need of mental health care. In keeping with this goal, the Joint Subcommittee noted its intent to reconfigure the membership and subject matter areas of its work groups in order to facilitate the making of such recommendations.

Outcome of 2015 Recommendations

RECOMMENDATION 1

House Bill 543 (Watts) / Senate Bill 566 (Barker) - Involuntary psychiatric admission from local correctional facility. Clarified that for the purposes of petitioning for the involuntary psychiatric treatment of an inmate in a local correctional facility, the petition shall be filed by the sheriff or other person in charge of the local correctional facility where the inmate is incarcerated.

- Signed by the Governor (Chapters 599 and 357, Acts of Assembly of 2016)

RECOMMENDATIONS 2, 3, 4, AND 5

House Bill 1110 (Bell, Robert B.) / Senate Bill 567 (Deeds) - Temporary detention; notice of recommendation; communication with magistrate. Provided that the magistrate conducting a temporary detention hearing shall consider, if available, information provided by the person who initiated emergency custody. The bill also required the community services board evaluating a person for temporary detention, if the evaluator recommends that the person not be subject to

temporary detention, (i) to notify, if present, the person who initiated emergency custody of such recommendation in addition to the current obligation to notify the petitioner and an onsite treating physician; (ii) to promptly inform the person who initiated emergency custody that the community services board will facilitate communication between such person and the magistrate if such person disagrees with the recommendation of the community services board; and (iii) to arrange for the person who initiated emergency custody to communicate, upon request, with the magistrate as soon as practicable prior to the expiration of the period of emergency custody. Finally, the bill imposed a duty on health care providers providing services to a person subject to emergency custody, temporary detention, or involuntary admission proceedings to make a reasonable attempt to notify the person's family member or personal representative and clarified that such representative includes an agent named in an advance directive; currently, such health care provider has discretion as to whether to make such notification.

- Signed by the Governor (Chapters 569 and 693, Acts of Assembly of 2016)

2016

Meeting #1 - April 19, 2016

At the first meeting of the 2016 interim, Dr. Jack Barber, Acting Commissioner of DBHDS, provided an overview of the DBHDS Certified Community Behavioral Health Clinics initiative and development of the STEP-VA model of mental health service delivery, and June W. Jennings, State Inspector General, and Ms. Priscilla Smith reported on the Office of the Inspector General's investigation into the death of Jamycheal Mitchell while he was in the custody of the Hampton Roads Regional Jail. At the end of the meeting, Senator Deeds announced the creation of four work groups, which will focus on service system structure and financing, criminal justice diversion, crisis and emergency services, and housing. Senator Deeds also announced the creation of expert advisory panels to advise and assist the work groups.

Meeting #2 - June 23, 2016

At its June 23, 2016, meeting the Joint Subcommittee received another update on development and implementation of the DBHDS Certified Community Behavioral Health Clinics initiative and development of the STEP-VA model of mental health service delivery and received the following reports from the work groups:

- Work Group #1, Service System Structure and Financing, reported on receiving information about community services boards performance contracts and the financing of public mental health services in the Commonwealth.
- Work Group #2, Criminal Justice Diversion, reported receiving preliminary recommendations from the DBHDS justice-involved transformation teams.
- Work Group #3, Crisis and Emergency Services, reported receiving information about alternative models of transportation for individuals involved in the involuntary commitment process.
- Work Group #4, Housing, reported receiving information on permanent supportive housing.

Meeting #3 - August 22, 2016

At its August 22, 2016, meeting, the Joint Subcommittee received the following reports from the work groups:

- Work Group #1, Service System Structure and Financing, reported receiving information about implementation of the DBHDS Certified Community Behavioral Health Clinics initiative and development of the STEP-VA model of mental health service delivery, including discussion of specific service definitions and service descriptions, the community services boards' needs assessment, and various data collection models, as well as information about local government perspectives on publicly funded mental health services.
- Work Group #2, Criminal Justice Diversion, reported receiving information on the development of mental health dockets in the Roanoke and Salem General District Courts, the Collaboration for Recovery and Reentry Program in Alexandria, and the process by which in-custody deaths are investigated in regional jails.
- Work Group #3, Crisis and Emergency Services, reported receiving information on the topic of telepsychiatry, including an overview of telepsychiatry and the University of Virginia's telepsychiatry program, the need for telepsychiatry in meeting needs for services in the Commonwealth, the various challenges to implementing telepsychiatry, and barriers to expansion of telepsychiatry in the Commonwealth.
- Work Group #4, Housing, reported receiving information on options for increasing access to federal funding for housing assistance for the mentally ill.

The Joint Subcommittee also received an update on recent improvements in Virginia's behavioral health system, including activities around reducing the jail waiting list and development of new standards and processes for emergency evaluators, and on the DBHDS Certified Community Behavioral Health Center Clinics initiative and the STEP-VA model of mental health service delivery, including completion of the community services boards service survey and evaluation of the cost of implementing STEP-VA at the participating community services boards. The Joint Subcommittee also received information about the Center for Behavioral Health and Justice, including creation of its strategic implementation plan, creation of the Center Advisory Group, convening of the Behavioral Health and Justice Summit, and development of action committees to address specific issues.

Meeting #4 October 26, 2016

At its October 26, 2016, meeting, the Joint Subcommittee received information about the federal Helping Families in Mental Health Crisis Act and potential changes to funding for mental health services. The Joint Subcommittee also received reports and legislative proposals from the work groups.

Work Group #1, Service System Structure and Financing, reported receiving information about implementation of the STEP-VA model of mental health services delivery and discussing options for continuation of the work of the Joint Subcommittee after the end of the period authorized by Senate Joint Resolution 47.

Work Group #2, Criminal Justice Diversion, reported receiving information about continued deficiencies in the Office of the Inspector General's investigation into the death of Jamycheal Mitchell while he was in the custody of the Hampton Road Regional Jail and discussing options for improving investigations into such events, including options for providing the Board of Corrections with the authority to conduct such investigations.

Work Group #3, Crisis and Emergency Services, reported that during the 2016 interim, the work group focused on three specific topics: alternative transportation, telemental health services, and establishment of psychiatric emergency services units.

Work Group #4, Housing, reported continued discussions on efforts to improve access to housing.

Meeting #5 - December 6, 2016

At the final meeting of the 2016 interim, the Joint Subcommittee adopted the following recommendations:

Work Group 1 Recommendations:

- **RECOMMENDATION 1:** Endorse the goal of the Commonwealth's public mental health system providing access to 10 services that would ensure that all individuals with mental illness receive needed services and fully fund the statewide implementation of two of these 10 services: same-day access to mental health screening and timely access to assessment, diagnostic, and treatment services (estimated cost: \$1.5 million in FY 2017, \$12.3 million in FY 2018, and \$17.3 million annually thereafter) and outpatient primary care screening and monitoring services (estimated cost: \$3.72 million in FY 2019 and \$7.44 million annually thereafter). The 10 service goals are as follows:
 - Emergency services
 - Same-day access to mental health screening services;
 - Outpatient primary care screening and monitoring services;
 - Crisis services;
 - Outpatient mental health and substance abuse services;
 - Psychiatric rehabilitation services;
 - Peer support and family support services;
 - Mental health services for members of the armed forces and veterans;
 - Care coordination services; and
 - Case management services, including targeted mental health case management services.
- **RECOMMENDATION 2:** Request the Joint Commission on Health Care to review the work group's report on telemental health services and develop recommendations for increasing the use of telemental health services.

- **RECOMMENDATION 3:** Amend Va. Code § 37.2-818 to allow transmission of records related to involuntary admission proceedings to DBHDS to enable it to maintain statistical archives and conduct research on the consequences and characteristics of such proceedings.
- **RECOMMENDATION 4:** Manage the utilization of Virginia's state hospitals through the following:
 - Implementation of the census reduction initiatives adopted by DBHDS and the community services boards;
 - Development of budget requests by DBHDS for FY 2018 to stabilize and maintain state hospital utilization at no more than 90 percent of capacity;
 - Continued study by the work group of the statutory, policy, financing, and administrative elements of the current mental health system that are not aligned with the work group's strategic and operational objectives; and
 - Study by DBHDS and the Department of Medical Assistance Services (DMAS) of the potential use of the Involuntary Mental Commitment Fund for both involuntary and voluntary temporary detention.

Work Group 2 Recommendations:

- **RECOMMENDATION 1:** Provide authority to the Board of Corrections to investigate in-custody deaths in jails.
- **RECOMMENDATION 2:** Require the use of a standardized instrument upon intake of persons into jails to screen for mental illnesses.
- **RECOMMENDATION 3:** Require DBHDS to develop a plan for the provision of discharge planning services for persons being released from jail that ensures that each jail in the Commonwealth has access to such services. The plan shall include an estimate of the cost of providing discharge planning services as well as an estimate of any cost savings that may result from the provision of such services.

Work Group 3 Recommendations:

- **RECOMMENDATION 1:** Require DBHDS and other relevant stakeholders to develop a model for the use of alternative transportation providers, including the criteria for the certification of such providers and the costs and benefits associated with the implementation of the model.
- **RECOMMENDATION 2:** Amend Virginia's laws to facilitate the use of telemental health services to the extent allowable under federal law.

Work Group 4 Recommendations:

- **RECOMMENDATION 1:** Provide \$10 million in new funding for permanent supportive housing targeted to address frequent users of high-cost systems (i.e., state psychiatric hospitals and jails).

- **RECOMMENDATION 2:** Require the Department of Housing and Community Development, in consultation with other agencies and stakeholders, to develop and implement strategies for housing individuals with serious mental illness.
- **RECOMMENDATION 3:** Require DMAS, in consultation with other agencies and stakeholders, to research and recommend strategies for financing permanent supportive housing through Medicaid reimbursement.

The Joint Subcommittee also discussed a proposal to transfer the work of the Joint Subcommittee to the Joint Commission on Health Care at the end of the four years authorized by Senate Joint Resolution 47. An alternative recommendation to extend the work of the Joint Subcommittee by another two years was offered and ultimately adopted.

Outcome of 2016 Recommendations

Work Group 1 - Service System Structure and Financing

RECOMMENDATION 1

House Bill 1549 (Farrell) / Senate Bill 1005 (Hanger) - Community services boards and behavioral health authorities; services to be provided. Provided that, effective July 1, 2019, the core of services provided by community services boards and behavioral health authorities shall include (i) same-day access to mental health screening services and (ii) outpatient primary care screening and monitoring services for physical health indicators and health risks and follow-up services for individuals identified as being in need of assistance with overcoming barriers to accessing primary health services. The bill provided that, effective July 1, 2021, the core of services provided by community services boards and behavioral health authorities additionally shall include (a) crisis services for individuals with mental health or substance use disorders, (b) outpatient mental health and substance abuse services, (c) psychiatric rehabilitation services, (d) peer support and family support services, (e) mental health services for members of the armed forces located 50 miles or more from a military treatment facility and veterans located 40 miles or more from a Veterans Health Administration medical facility, (f) care coordination services, and (g) case management services. The bill also required DBHDS to report annually regarding progress in the implementation of the bill.

- Signed by the Governor (Chapters 683 and 607, Acts of Assembly of 2017)
- Budget Item 315(GG) provided \$4.9 million in FY 2018 to implement same-day access for community behavioral health services

RECOMMENDATION 2

Item 30(B), Appropriation Act of 2017. Directed the Joint Commission on Health Care to study options for increasing access to telemental health services, including the issues and recommendations set forth in the report of the Telemental Health Work Group, and report its recommendations to the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century.

RECOMMENDATION 3

House Bill 1551 (Farrell) / Senate Bill 1006 (Hanger) - Commitment hearings; sharing of records and information. Required the Office of the Executive Secretary of the Supreme Court to provide electronic data, including individually identifiable information, on proceedings

pursuant to the Psychiatric Treatment of Minors Act (§ 16.1-335 et seq. of the Code of Virginia) and the Emergency Custody and Voluntary and Involuntary Civil Admissions Act (§ 37.2-800 et seq. of the Code of Virginia) to DBHDS upon request and provides that DBHDS may use such data for the purpose of developing and maintaining statistical archives, conducting research on the outcome of such proceedings, and preparing analyses and reports for use by DBHDS. The bill requires DBHDS to take all necessary steps to protect the security and privacy of the records and information provided pursuant to the provisions of the bill in accordance with the requirements of state and federal law and regulations governing health privacy.

- Signed by the Governor (Chapters 188 and 719, Acts of Assembly of 2017)

RECOMMENDATION 4

House Bill 1550 (Farrell) / Senate Bill 1007 (Hanger) - Involuntary Mental Commitment Fund; DBHDS et al., to study use of Fund. Required DBHDS, in cooperation with DMAS, to study the use of the Involuntary Mental Commitment Fund, including (i) the potential use of the Involuntary Mental Commitment Fund to fund both involuntary temporary detention and voluntary treatment in a health care facility for the treatment of mental illness to reduce the use of involuntary treatment in the Commonwealth, (ii) the potential benefits of transferring management of the Involuntary Mental Commitment Fund from DMAS to DBHDS, and (iii) any other strategies for improving use of the funds in the Involuntary Mental Commitment Fund to improve access to mental health services in the Commonwealth. DBHDS shall report its findings to the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century by November 1, 2017.

- Was not adopted during the 2017 Regular Session

Work Group 2 - Criminal Justice Diversion

RECOMMENDATION 1

Senate Bill 1063 (Deeds) - State Board of Corrections; membership; powers and duties; review of death of inmates in local correctional facilities. Authorized the State Board of Corrections (the Board) to conduct a review of the death of any inmate in a local or regional correctional facility in order to determine the circumstances surrounding the inmate's death and whether the facility was in compliance with the Board's regulations. The bill required the Board to develop and implement policies and procedures for the review of the death of any inmate that occurs in any local or regional correctional facility. The bill provided that the Board (i) may request the Department of Corrections to conduct a death review if the Board determines that it cannot adequately conduct such review because the Board is already in the process of conducting another review and (ii) shall request the Office of the State Inspector General to review the operation of any entity other than a correctional facility if such review is necessary to complete the death review. Finally, the bill also specified requisite qualifications for individuals appointed to the Board.

- Signed by the Governor (Chapter 759, Acts of Assembly of 2017)

Item 394(O), Appropriation Act of 2017. Provided \$100,000 in Fiscal Year 2018 to fund a single FTE to carry out the provisions of Chapter 759.

RECOMMENDATION 2:

House Bill 1783 (Bell, Robert B.) / Senate Bill 940 (Cosgrove) - Mental health screening of prisoners in local correctional facilities. Required that the staff of a local, regional, or community correctional facility screen persons admitted to the facility for mental illness using a scientifically validated instrument identified by the Department of Criminal Justice Services in consultation with the State Board of Corrections and DBHDS. The bill also required that these entities develop and deliver a training program for employees of such facilities in the administration of such instrument. The bill provided that if the screening indicates that a person may have a mental illness, an assessment of his need for mental services shall be conducted within 72 hours of the time of the screening by a qualified mental health professional.

- Left in House Committee on Appropriations

Item 70(J)(2), 2017 Appropriation Act. Required that every person admitted to a local or regional correctional facility be screened for mental illness using a scientifically validated instrument designated by the Commissioner of Behavioral Health and Developmental Services.

Item 70(J)(3), 2017 Appropriation Act. Required that the Compensation Board review its jail staffing standard with respect to the provision of mental health and medical treatment in jails, including evaluation of the costs and benefits of requiring all jails to conduct a mental health assessment within 72 hours of completion of an initial screening indicating need for mental health services.

RECOMMENDATION 3

House Bill 1784 (Bell, Robert B.) / Senate Bill 941 (Cosgrove) - Forensic discharge planning services; local and regional correctional facilities. Directed the Commissioner of Behavioral Health and Developmental Services, in conjunction with the relevant stakeholders, to develop a comprehensive plan, by November 1, 2017, for the provision of forensic discharge planning services at local and regional correctional facilities for persons who have serious mental illnesses who are to be released from such facilities.

- Signed by the Governor (Chapters 192 and 137, Acts of Assembly of 2017)

Work Group 3 - Crisis and Emergency Services

RECOMMENDATION 1

House Bill 1426 (Garrett) / Senate Bill 1221 (Barker) - Emergency custody or involuntary admission process; alternative transportation model. Directed the Commissioner of Behavioral Health and Developmental Services and the Director of Criminal Justice Services, in conjunction with the relevant stakeholders, to develop a comprehensive model for the use of alternative transportation providers to provide safe and efficient transportation of individuals involved in the emergency custody or involuntary admission process as an alternative to transportation by law enforcement. The bill required that the model be completed by October 1, 2017, and reported to the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century, the House Committee for Courts of Justice, and the Senate Committee for Courts of Justice.

- Signed by the Governor (Chapters 94 and 97, Acts of Assembly of 2017)

RECOMMENDATION 2

House Bill 1767 (Garrett) / Senate Bill 1009 (Dunnivant) - Practice of telemedicine; prescribing. Provided that a health care practitioner who performs or has performed an appropriate examination of a patient, either physically or by the use of instrumentation and diagnostic equipment, for the purpose of establishing a bona fide practitioner-patient relationship may prescribe Schedule II through VI controlled substances to the patient, provided that the prescribing of such controlled substance is in compliance with federal requirements for the practice of telemedicine. The bill also authorized the Board of Pharmacy to register an entity at which a patient is treated by the use of instrumentation and diagnostic equipment for the purpose of establishing a bona fide practitioner-patient relationship and is prescribed Schedule II through VI controlled substances to possess and administer Schedule II through VI controlled substances when such prescribing is in compliance with federal requirements for the practice of telemedicine and the patient is not in the physical presence of a practitioner registered with the U.S. Drug Enforcement Administration.

- Signed by the Governor (Chapters 110 and 58, Acts of Assembly of 2017)

Work Group #4 - Housing

RECOMMENDATION 1

Item 315 (AA), Acts of Assembly of 2017. Provided an additional \$4.9 million in FY 2018 for permanent supportive housing, increasing the total amount available from \$4,270,500 to \$9,170,500.

Item 313, Acts of Assembly of 2017. Provided \$100,000 in each year for a single FTE at DBHDS to oversee the Permanent Supportive Housing program.

RECOMMENDATION 2

Item 108(H), Acts of Assembly of 2017. Directed the Department of Housing and Community Development, in conjunction with other agencies and stakeholders, to develop and implement strategies that may include potential Medicaid financing for housing individuals with serious mental illness and to report annually on such strategies and their implementation.

RECOMMENDATION 3: Budget language requiring DMAS to recommend strategies for financing supportive housing services through Medicaid reimbursement offered by Delegate Yost was not adopted.

2017

Meeting #1 - April 5, 2017

The Joint Subcommittee's first meeting of the 2017 interim was scheduled for Wednesday, April 5, 2017. Due to conflicting meetings, a quorum of the Joint Subcommittee was not present and the meeting was not convened. However, the chair of the Joint Subcommittee, Senator R. Creigh Deeds, announced that the Mental Health Crisis and Emergency Services Work Group would be incorporated into the Service System Structure and Financing Work Group and that the Housing Work Group would be incorporated into the Criminal Justice Diversion Work Group. Senator Deeds stated that the two work groups would likely meet at least four times during 2017. Senator Deeds noted that the House Committee for

Courts of Justice referred five bills introduced during the 2017 Regular Session to the Joint Subcommittee for study and that each bill will be assigned to the appropriate work group. Finally, Senator Deeds noted that the Joint Subcommittee had been appropriated funds in the 2017–2018 budget that will enable the engagement of a consultant to assist the work of the Joint Subcommittee, if necessary.

Meeting #2 - September 28, 2017

At its September 28, 2017, meeting, the Joint Subcommittee received an update on the implementation of various behavioral health system reforms, including progress toward implementation of same-day access to mental health screening services and primary care screening and monitoring services in the Commonwealth; activities to ensure access to behavioral health services for uninsured Virginians, including steps to align services delivered through managed care behavioral health programs managed by DMAS with the STEP-VA model of service delivery; current state hospital bed utilization and projected increases in such utilization; rates of emergency custody and temporary detention and changes in the number of individuals subject to temporary detention orders treated in private hospitals; activities around development of the plan for financial realignment of services delivered by DBHDS and community services boards required by Item 284 E.1. of the Appropriation Act of 2017; workforce challenges affecting DBHDS; and plans for development of community capacity to reduce demand for state hospital beds.

The Joint Subcommittee also received an update on the activities of the advisory panels.

- Dr. Richard Bonnie reported that the System Structure and Financing Expert Advisory Panel continued to focus on governance of the public behavioral health service system, including (i) a review of the oversight authority and responsibilities of DBHDS regarding the delivery of mental health services in the Commonwealth generally and the work of the community services boards specifically and (ii) a study of the roles, needs, and responsibilities of local governments and regional collaborations in the delivery of mental health services in the Commonwealth. Dr. Bonnie also requested funding for a position to carry out research and coordinate studies for the System Structure and Financing Expert Advisory Panel, and the Joint Subcommittee approved between \$60,000 and \$64,000 for such purpose.
- Dr. Heather Zelle reported that the Criminal Justice Diversion Expert Advisory Panel had been visiting jails throughout the Commonwealth and conducting a survey of the localities to determine which localities had mental health/criminal justice stakeholder groups in operation. She also stated that the panel was monitoring (i) the use of mental health dockets in the wake of the recent Supreme Court of Virginia rule allowing courts to establish such dockets, (ii) the forensic discharge planning study being completed by DBHDS, and (iii) the implementation of the requirement that inmates entering all jails in the Commonwealth be screened for mental illness using a uniform instrument. She stated that the panel planned to continue the process of identifying rural areas in need of assistance with launching CIT and jail diversion efforts and the resources needed to do so, as well as developing a tool to measure the readiness of rural areas to launch such efforts.

- John Oliver reported that the Emergency and Crisis Services Expert Advisory Panel continued to monitor the work of the Alternative Transportation Work Group and the work of the Joint Commission on Health Care with regard to the study of options to expand use of telemental health services, as well as efforts to develop a description of core services that should be available to individuals in a mental health crisis no matter where the individual is located in the Commonwealth and efforts to develop psychiatric emergency centers in the Commonwealth.

The Joint Subcommittee also discussed several bills referred to the Joint Subcommittee, including:

- Senate Bill 1222 (Barker) and House Bill 1918 (Robinson), creating the Acute Psychiatric Patient Registry. Senator George Barker, Delegate Roxann Robinson, and Jennifer Wicker, Director of Intergovernmental Affairs at the Virginia Hospital and Healthcare Association, noted that during the 2017 Session of the General Assembly, several concerns were raised about the form and function of the proposed registry but that during the course of discussions among the stakeholders a solution had been identified and that implementation of a system for sharing data and information about patients in need of psychiatric beds could be implemented without additional legislation.
- SB 1064 (Deeds), requiring mental health awareness training for law-enforcement officers, firefighters, and emergency medical services personnel. Mr. Art Lipscomb, Director of Government Affairs, Virginia Professional Fire Fighters, noted that the bill had been revised during the course of the session before being referred to the Joint Subcommittee and that the Virginia Professional Fire Fighters preferred the original version of the bill. He noted that the organization would be working with Senator Deeds and Delegate Helsel to reintroduce the bill during the 2018 Regular Session. Senator Deeds stated that he would like to have the Joint Subcommittee review the proposed legislation once a draft is prepared.

Meeting #3 - November 28, 2017

At the November 28, 2017, meeting the Joint Subcommittee received a report on the work of the Farley Health Policy Center and DMAS around actions to align and integrate the Commonwealth's mental health system, development of standards and accountability for the system, and development of multiple entry points for easy access to the system; a report on the strategies of DBHDS to realign public mental health services funding to emphasize creation of community-based services and shift the burden of providing care from state hospitals; and a report on forensic discharge planning efforts for individuals with severe mental illnesses leaving jails.

Meeting #4 - December 19, 2017

At its final meeting of the 2017 interim, the Joint Subcommittee received and reviewed proposals developed by the work groups and adopted the following recommendations.

From Work Group 1, Service System Structure and Financing:

- **RECOMMENDATION 1: Study of temporary detention.** The expert advisory panel should establish a work group to study measures to facilitate effective emergency intervention services and reduce admissions pursuant to temporary detention orders at state hospitals.
- **RECOMMENDATION 2: Telemental health services.** The work group recommended a budget amendment to provide \$1.1 million per year for three years to Appalachian Telemental Health Network Initiative.
- **RECOMMENDATION 3: Alternative transportation.** The work group recommended a budget amendment to provide \$1.7 million per year to support and expand alternative transportation pilot programs in the area served by the Mount Rogers Community Services Board and the area served by the Region 10 Community Services Board. After some discussion of the benefits of a pilot program or establishment of a statewide program, the Joint Subcommittee adopted a recommendation that a budget amendment be introduced to provide \$10.2 million to fund statewide implementation of the alternative transportation model proposed in RD 337 (2017) - Virginia Department of Behavioral Health and Developmental Services and Virginia Department of Criminal Justice Services: Alternative Transportation Workgroup Final Report.
- **RECOMMENDATION 4: STEP-VA.** The work group recommended continued support for ongoing efforts to implement STEP-VA in accordance with the provisions of Chapters 607 and 683 of the Acts of Assembly of 2017. The Governor's proposed budget included \$11.8 million in general funds to expand access to same-day mental health screening and evaluation to every community services board in the Commonwealth and an additional \$6.4 million to complete implementation of same-day access and \$11.2 million in general funds to support outpatient clinics to provide primary health care screenings for individuals receiving services at community services boards.
- **RECOMMENDATION 5: Community Integration Plan.** The work group recommended continued support for the efforts of DBHDS to reduce the census at state hospitals by improving community integration of individuals with mental illness. The Governor's proposed budget included \$4.8 million in general funds to support needed community services as a result of the mental health facility census and \$6.9 million in general funds to provide discharge planning assistance to assist in discharging approximately 80–90 people on the extraordinary barriers list currently awaiting discharge from state hospitals.
- **RECOMMENDATION 6: Plan for fiscal realignment.** The work group recommended continued support for the development of the Secretary of Health and Human Resources' plan for fiscal realignment of the public behavioral health system in accordance with Item 284 of the Appropriation Act of 2017.
- **RECOMMENDATION 7: Funding options.** The work group recommended continued exploration of options for funding the public behavioral health system, including options available under the Affordable Care Act.

From Work Group 2, Criminal Justice Diversion:

- **RECOMMENDATION 1: CIT programs in rural communities.** The work group recommended a budget amendment to provide DBHDS with \$657,648 to make grants to support development, implementation, and operation of CIT training programs in up to six rural communities and \$1,925,400 to make grants to support development, implementation, and operation of CIT assessment centers in six rural communities.
- **RECOMMENDATION 2: Jail diversion programs.** The work group recommended a budget amendment to provide \$1,417,326 in general funds to support creation of diversion programs at Intercept 2 (initial detention/initial court appearance) in up to six rural communities.
- **RECOMMENDATION 3: Forensic discharge planning.** The work group recommended a budget amendment to provide \$4,109,900 in general funds to make forensic discharge planning available at five jails in the Commonwealth for persons with serious mental illness upon their release from jails to allow for better coordination of care, enhance public safety by linking individuals to needed care, and reduce the risk of future criminal justice involvement.
- **RECOMMENDATION 4: Virginia Housing Trust Fund.** The work group recommended a budget amendment to provide \$4.5 million in general funds per year to the Virginia Housing Trust Fund to increase capital investment in order to increase available rental housing and expand access to permanent supportive housing.

Outcome of 2017 Recommendations

Work Group 1 - Service System Structure and Financing:

RECOMMENDATION 1: Study of temporary detention. A letter was sent to the expert advisory panel requesting that the panel establish a work group to study measures to facilitate effective emergency intervention services and reduce admissions pursuant to temporary detention orders at state hospitals; a report is expected by the end of 2018.

RECOMMENDATION 2: Telemental health services. The work group recommended a budget amendment to provide \$1.1 million per year for three years to Appalachian Telemental Health Network Initiative.

- The Senate budget included \$1.1 million in each year to establish the Appalachian Telemental Health Initiative; funding was not included in the House budget.

RECOMMENDATION 3: Alternative transportation. The work group recommended a budget amendment to provide \$1.7 million per year to support and expand alternative transportation pilot programs in the area served by the Mount Rogers Community Services Board and the area served by the Region 10 Community Services Board. After some discussion of the benefits of a pilot program or establishment of a statewide program, the Joint Subcommittee adopted a recommendation that a budget amendment be introduced to provide \$10.2 million to fund statewide implementation of the alternative transportation model proposed in RD 337 (2017) - Virginia Department of Behavioral Health and Developmental Services and Virginia Department of Criminal Justice Services: Alternative Transportation Workgroup Final Report.

- The Senate budget included \$2.5 million in the first year and \$4.5 million in the second year for alternative transportation for adults and children under a temporary detention order; funding was not included in the House budget.

RECOMMENDATION 4: STEP-VA. The work group recommended continued support for ongoing efforts to implement STEP-VA in accordance with the provisions of Chapters 607 and 683 of the Acts of Assembly of 2017. The Governor's proposed budget included \$10.8 million in general funds to expand access to same-day mental health screening and evaluation to every community services board in the Commonwealth and \$ 3,720,000 in the first year and \$7,440,000 in the second year for primary health care screenings for individuals receiving services at community services boards.

- The House budget included funding for same-day access to mental health screening and evaluation services and primary health care screenings for individuals receiving services at community services boards; the Senate budget eliminated funding for primary health care screenings for individuals receiving services at community services boards in the first year and reduced funding for primary health care screenings for individuals receiving services at community services boards to \$3,720,000 in the second year.

RECOMMENDATION 5: Community Integration Plan. The work group recommended continued support for the efforts of DBHDS to reduce the census at state hospitals by improving community integration of individuals with mental illness. The Governor's proposed budget included \$4.8 million in general funds to support needed community services as a result of the mental health facility census and \$6.9 million in general funds to provide discharge planning assistance to assist in discharging approximately 80–90 people on the extraordinary barriers list currently awaiting discharge from state hospitals.

- The House budget included \$4.6 million in general funds to support community services to facilitate reduction of the state hospital census; funding was not included in the Senate budget.
- The House budget included \$6.9 million for discharge assistance planning to assist in discharging people on the extraordinary barriers list; the Senate budget reduced the amount to \$3.4 million for such purpose.

Work Group 2 - Criminal Justice Diversion:

RECOMMENDATION 1: CIT programs in rural communities. The work group recommended a budget amendment to provide DBHDS with \$657,648 in each year to make grants to support development, implementation, and operation of CIT training programs in up to six rural communities and \$1,925,400 to make grants to support development, implementation, and operation of CIT assessment centers in six rural communities.

- The Senate budget included \$657,648 in each year to make grants to support development, implementation, and operation of CIT training programs in six rural communities; funding was not included in the House budget.
- The House Budget included \$900,000 in the first year and \$1.8 million in the second year to support development, implementation, and operation of CIT assessment centers in six rural communities; funding was not included in the Senate budget.

RECOMMENDATION 2: Jail diversion programs. The work group recommended a budget amendment to provide \$708,663 in each year to support creation of diversion programs at Intercept 2 (initial detention/initial court appearance) in up to six rural communities.

- The Senate budget included \$708,663 in each year to support creation of diversion programs at Intercept 2 (initial detention/initial court appearance) in up to six rural communities; funding was not included in the House budget.

RECOMMENDATION 3: Forensic discharge planning. The work group recommended a budget amendment to provide \$4,109,900 in general funds to make forensic discharge planning available at five jails in the Commonwealth for persons with serious mental illness upon their release from jails to allow for better coordination of care, enhance public safety by linking individuals to needed care, and reduce the risk of future criminal justice involvement.

- The Senate budget included \$1.6 million in each year for discharge planning at jails for individuals with serious mental illness; funding was not included in the House budget.

RECOMMENDATION 4: Virginia Housing Trust Fund. The work group recommended a budget amendment to provide \$4.5 million in general funds per year to the Virginia Housing Trust Fund to increase capital investment in order to increase available rental housing and expand access to permanent supportive housing.

- Funding was not included in either the House or Senate budgets.