

**ALTERNATIVE (NON-LAW ENFORCEMENT) TRANSPORTATION OF CHILDREN
AND ADULTS IN MENTAL HEALTH CRISIS: RECOMMENDATIONS FOR THE
2018 GENERAL ASSEMBLY SESSION**

The transportation work group of the SJ 47 Advisory Panel on Mental Health Crisis Response and Emergency Services supports the findings and recommendations of the Task Force on Alternative Transportation created by the 2017 General Assembly (HB1426 and SB1221). Noting that the estimated cost to implement such transportation statewide (as set out in the Task Force Report) exceeds \$10 million a year (and covers only half of all adult TDO transports), the work group makes the following recommendations in the event the General Assembly determines it is not ready to fund statewide implementation:

- (1) **Phased implementation:** A process of “phased implementation” should be pursued, with Phase 1 consisting of the following:
 - (a) **Two areas:** implement non-law enforcement transportation in two areas of the state:
 - (i) the areas in HPR (Health Planning Region) 3 served by the Mt. Rogers CSB and the five neighboring CSBs (New River Valley, Cumberland Mountain, Highlands, Dickenson County and Planning District 1) that had been the original vision of the Mt. Rogers alternative transportation pilot project. This is a region where the stresses from the current transportation system on small local law enforcement departments have been particularly acute and where, as a result of the Mt. Rogers pilot, there is both experience and expertise regarding alternative transportation (including experienced magistrates) to facilitate smooth implementation.
 - (ii) the areas in HPR 1 served by the Region 10 CSB, where the groundwork of interagency cooperation regarding alternative transportation for children (not addressed by the Task Force but in need of urgent action) is already being laid, and where there is a unique blend of urban (Charlottesville), suburban (Albemarle County) and rural (Fluvanna, Greene, Louisa and Nelson Counties) populations that would provide vital experience on the challenges involved in implementing alternative transport in other urban, suburban and rural settings in Virginia.
 - (b) **DBHDS management and oversight:** utilize DBHDS, which provided the oversight for the Mt. Rogers pilot (and which is the agency recommended by the Task Force to manage statewide implementation), to perform a similar role for Phase 1, issuing the RFP for private vendors to provide this transportation service. (A Request for Information (RFI) issued by DBHDS earlier in 2017 received responses from three established private security companies that have experience in secure transport, so there is competition for this work.)
 - (c) **Capacity for inclusion of children’s transportation:** include in the RFP a requirement that the chosen contractor demonstrate a capacity to provide transportation services for children, and be willing to add children’s transport once a set of standards and procedures for such transport are established.
 - (d) **Standards and procedures for children’s transportation:** convene a work group of public and private stakeholders, under the direction of DBHDS, to develop a set of standards and procedures for the non-law enforcement transportation of children under a TDO. (Standards and procedures were developed and used successfully for adults in the Mt. Rogers project.)
 - (e) **Outcome measures, data collection and evaluation:** develop a plan for data collection based on outcome measures for program success. A comprehensive Evaluation Proposal, developed by K.M. Faris and A.A. Allen at the Institute of Law, Psychiatry and Public Policy, is attached. That proposal sets out a comprehensive plan for developing quantitative and qualitative outcome measures, data collection to capture those outcomes, and an framework for evaluation.

(f) **Reports to SJ 47 Joint Subcommittee and to General Assembly:** submit reports to the SJ 47 Joint Subcommittee and to the General Assembly by November 1 of 2018 and 2019 regarding collected data and outcomes. It is anticipated that the time required for developing and implementing standards, procedures and training for the transportation of children will delay the start of such transportation until July or August of 2018, so that the November 1, 2019 report regarding the transportation of children will be the most salient.

(g) **Expansion to adjoining areas:** if the data from the first year of operation confirms the anticipated benefits of non-law enforcement transportation, the next phase would involve expansion to all of HPR 1 and 3.

(h) **Funding:** to ensure full funding to implement Phase 1, an annual budget of \$1.7 million. This includes funds for (1) an anticipated increase in non-law enforcement transports to 66% of total TDO transports, vs. the 50% estimated by the Task Force report, based upon the experience of the Mt. Rogers pilot once the CSB evaluators and magistrate gained confidence in the capacities of the alternative transportation provider; and (2) implementation of non-law enforcement transportation of children, which were not included in the Task Force estimate.

- (2) **Statutory changes:** to make the shift to non-law enforcement transportation, the following statutory changes would be appropriate, and would benefit both law enforcement and the non-law enforcement transportation providers:
- (a) **Executing the TDO:** Currently the Virginia Code requires that a law enforcement officer “execute” the TDO (serve it on the person). In those cases where the magistrate finds that non-law enforcement transportation is appropriate, and directs the alternative provider to take custody of the person and transport the person, the magistrate, as part of this process, should have the discretionary authority to direct the provider to execute the TDO. This removes another burden from law enforcement, and further “de-criminalizes” the crisis experience for the person being transported. The proposed language change would preserve the magistrate’s authority and discretion to order law enforcement to serve the order.
 - (b) **Law enforcement authority to complete an alternative transport if the provider is unable to complete it:** There may be circumstances in which the alternative transportation provider, after assuming custody of a person under a TDO, becomes unable to complete the transport. This could be for any number of reasons, including the behavior of the person being transported. The proposed language makes it clear that a law enforcement agency in the jurisdiction in which this occurs has the authority to take the person into custody and complete the transports.

The proposed code changes to address these two issues are included in an attachment. They are a direct response to concerns expressed by law enforcement officers and magistrates in informal discussions. However, we note that staff from the Office of the Executive Secretary (OES) have expressed concerns regarding these changes as conceived and drafted. Accordingly, the changes are offered here primarily to express the need to review the current law to ensure that it adequately accommodates more robust alternative transportation.

(3) **Medicaid and other insurance coverage for non-law enforcement transportation:** A mental health crisis is a *health* crisis. Medicaid and other insurers should have provisions for qualifying transportation providers to take individuals needing emergency mental health services to an appropriate mental health facility. The General Assembly should direct DMAS and other providers to address this issue.