

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

June 30, 2015

**Augusta County Government Center Board Room
Verona, Virginia**

Members Present: Senator R. Creigh Deeds (Chairman), Delegate Robert B. Bell, III (Vice-Chairman), Senator Janet D. Howell, Senator Emmett W. Hanger, Jr., Senator George L. Barker, Senator John A. Cosgrove, Jr., Delegate Vivian E. Watts, Delegate T. Scott Garrett, Delegate Peter F. Farrell, Delegate Joseph R. Yost

The Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century met on Tuesday, June, 30, 2015, at the Augusta County Government Center in Verona, Virginia.

Presentation: Professor Richard J. Bonnie, Director, Institute of Law, Psychiatry and Public Policy, University of Virginia School of Law

Professor Bonnie provided 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. Specifically, Professor Bonnie explained that states employ either the judicial certification model, in which the decision for emergency treatment is made by a judicial officer, or the medical certification model, in which the decision for emergency treatment is made by a medical professional and subsequently reviewed by a judicial officer. He noted that the two models differ in the strictness of the criteria employed and reflect differing substantive policy concerns (paternalistic versus libertarian). However, as the focus of civil commitment law has shifted from long-term hospitalization to short-term emergency hospitalization, these differences have become less pronounced.

Professor Bonnie stated that between 1968 and the present day, Virginia transformed from a state that utilizes the medical certification model to one that utilizes the judicial certification model. Prior to 1974, a person could be involuntarily committed on the basis of a medical certification of need for hospitalization. Such person could be held for up to 60 days prior to a judicial review of the decision. Professor Bonnie noted that in 1974 Virginia adopted the judicial certification model, many elements of which are still in place today. Professor Bonnie also reviewed various reforms to the commitment laws during this period, including those made during the 2015 Session of the General Assembly. Professor Bonnie also detailed the priorities that remain for future reforms of Virginia's law, including (i) access to safe, non-stigmatizing transportation; (ii) alternatives to emergency departments for crisis evaluations; (iii) removal of impediments to voluntary admission; (iv) facilitation of the use of advance directives; and (v) continued improvement in the collection of data regarding emergency evaluations, emergency custody orders (ECO), temporary detention orders (TDO), and commitment hearings to facilitate evidence-based policy decisions. Professor Bonnie also reviewed recent trends in ECOs, TDOs, and commitment orders, beginning in April 2014, that demonstrate an increase in the frequency of ECOs and TDOs and a decrease in the number of commitment orders.

Joint Subcommittee Discussion

The members of the Joint Subcommittee discussed Professor Bonnie's presentation.

Delegate Farrell observed that the criteria for involuntary commitment and mandatory outpatient treatment (MOT) are identical and suggested that the Joint Subcommittee look at whether the MOT criteria should be different. Professor Bonnie noted that though the criteria for involuntary commitment and MOT in Virginia is identical, there is some difference between that and the criteria for "step-down" MOT (the release of an involuntarily committed person for MOT). Senator Deeds requested information on the number of persons ordered to MOT who have complied with the treatment. Professor Bonnie responded that a study would have to be done to answer that question and that it may be possible to access MOT orders and any judicial revocation of such orders.

Delegate Watts requested more information on the responsibility of someone with custodial authority over a person to obtain treatment for such person, which issue arises out of the February 2015 death of a Fairfax County mentally ill woman associated with physical restraints used by deputies taking her into custody.

Delegate Bell asked if any data suggests that the availability and use of more early intervention, such as crisis stabilization units, reduces the numbers of commitments. Professor Bonnie stated that there is data in Virginia that shows that such early intervention can reduce the number of persons who need commitment or otherwise suffer a mental health crisis.

Senator Howell requested more information regarding the training of special justices used in the commitment process.

Public Comment

Senator Deeds asked if any members of the public would like to speak. After receiving public comment, Senator Deeds announced that the Joint Subcommittee would be taking an informational tour of the Commonwealth Center for Children and Adolescents and then adjourned the meeting.