



July/August 2016 Issue

Activities of Virginia Legislative Study Commissions and Joint Subcommittees During the Legislative Interim



Virginia Division of Legislative Services

Virginia Legislative Record

Volume 26 Issue 2

The *Virginia Legislative Record* is a report of the activities of Virginia legislative study commissions and joint subcommittees, reflecting the ongoing deliberations and recommendations of interim legislative studies. Meeting summaries were prepared by the staff of the Division of Legislative Services. More information concerning the individual commissions and committees is available on the DLS website (<http://dls.virginia.gov/>) or by calling 804-786-3591.

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Regulation Information

The *Virginia Register of Regulations* is Virginia's official publication of proposed, final, and emergency regulations. All regulations must be filed with the Registrar of Regulations to become law. The *Virginia Register*, published every other Monday, provides a snapshot of all regulatory activity in Virginia. The current *Register* issue, as well as prior issues and additional information about the regulatory process in Virginia, is available at <http://register.dls.virginia.gov>. Contact the Division of Legislative Services at 804-786-3591 (ext. 258, 261, or 262) or follow the *Virginia Register* on Twitter @varegs for more information.

Autism Advisory Council

June 30, 2016

The Virginia Autism Advisory Council held its first meeting of the 2016 interim on Thursday, June 30, 2016, at the General Assembly Building in Richmond, with Senator Emmett Hanger, chairman, presiding. Council members Senator Frank Wagner and Ms. Dilshad Ali were in attendance.

Overview of the Autism Advisory Council Scope and Purpose

Staff provided an overview of the Autism Advisory Council (the Council). The Council was established pursuant to Chapter 752 of the Acts of Assembly of 2011, codified at Chapter 50 (§ 30-326 et seq.) of Title 30 of the Code of Virginia, to (i) promote coordination of services and resources among agencies involved in the delivery of services to Virginians with autism spectrum disorders and (ii) increase public awareness of such services and resources. The Council has the power and duty to:

1. Facilitate the coordination of services and resources among agencies involved in the delivery of services to Virginians with autism spectrum disorders;
2. Monitor the implementation of action plans developed by agencies in response to the report of the Joint Legislative Audit and Review Commission entitled “Assessment of Services for Virginians with Autism Spectrum Disorders,” House Document No. 8 (2009);
3. Recommend policies, legislation, and funding needed to implement the action plans developed in response to the report of the Joint Legislative Audit and Review Commission entitled “Assessment of Services for Virginians with Autism Spectrum Disorders,” House Document No. 8 (2009), and address other emerging issues; and
4. Determine services, resources, and policies that may further address the needs of individuals with autism spectrum disorders.

The Council is required to submit an annual report containing progress updates and recommended next steps to be taken by agencies in the following year to the Governor and the General Assembly and to the Division of Legislative Automated Systems for publication as a House or Senate document by December 1 of each year. The budget for the Council is \$6,472 in each year for fiscal year 2017 and fiscal year 2018.

Activities of the Department for Aging and Rehabilitative Services (DARS) Related to Autism

Ms. Kathy Hayfield, Director of the Division of Rehabilitative Services (the Division), DARS, described the role of the Division of Rehabilitative Services and gave an overview of the vocational rehabilitation services provided by the Division and the clients served. She then introduced Mr. Richard Kriner, Autism Service Coordinator, DARS. Mr. Kriner described trends in service utilization and delivery and current services provided to individuals with autism. He stated that the number of individuals with autism spectrum disorder (ASD) receiving vocational rehabilitation services is increasing, with an average of 4.3 individuals applying for services each day in fiscal year 2016, as compared to one individual per day in fiscal year 2015. As a result of this growth, one in five youth (ages 14 to 22) applicants for vocational rehabilitation services have an autism diagnosis. Services for individuals with autism tend to be more expensive than other vocational rehabilitation cases, with cases involving individuals with ASD costing an average of \$7,283 per case compared to an average of \$4,686 per case for cases involving a person with a diagnosis other than autism. At the same time, success rates for cases involving individuals with ASD are also higher, with 67.3% of cases involving a person with ASD

successfully closed in 2015, compared with 56.5% of cases involving a person with a diagnosis other than ASD.

Mr. Kriner also provided information about positive results of two pilot programs for individuals with ASD. First, he reported that an evaluation of Project SEARCH showed that access to intensive training embedded in community environments may improve the employment outcomes for youth with ASD, and that youth with significant ASD can successfully transition into meaningful health care employment in nontraditional positions. He also described an autism employment pilot program that combined increased access to qualified service providers, enhanced assessment and planning and targeted, evidence-based interventions to deliver stronger services and achieve better outcomes. Despite a higher median cost per individual served (\$8,377.25 for individuals participating in the program as compared to \$3,034.80 for individuals in the control group), this model resulted in a much higher rate of successful vocational rehabilitation case closures (88.5% of cases participating in the autism pilot program versus 56.9% for individuals in the control group). Mr. Kriner also described the Department's Autism Subject Matter Experts initiative, through which regional autism subject matter experts provide consultation and technical assistance for DARS counselors in serving vocational rehabilitation clients with autism. These individuals form a statewide team, coordinated by the DARS Autism Program Coordinator.

At the end of his presentation, Mr. Kriner described the many benefits of assistive technology for individuals with ASD. Assistive technology can improve skills for postsecondary success, organization and time management, travel training, communication and social skills, self-advocacy skills and independence, and other soft skills that help individuals with ASD succeed in the workplace.

In closing, Mr. Kriner reiterated that a person-centered and flexible approach to services for individuals with autism is critical, that early engagement and interagency coordination are essential, that soft skills development is important to success at work, and that a successful program must engage families of individuals with ASD. Looking forward, he pointed out that DARS continues to work to expand services to individuals with ASD and to provide specialized services to individuals with ASD through use of regional autism subject matter experts. One challenge that DARS faces moving forward is a need for expanded employment supports for up to 200 individuals with autism through the Long-Term Employment Support Service Program. The total cost of funding these individuals would be about \$300,000.

Following Mr. Kriner's report, members of the Council discussed several points related to vocational rehabilitation services for individuals with ASD. Senator Wagner inquired about challenges related to finding employment for individuals with ASD. Mr. Kriner reported that recent successes have increased the willingness of employers to participate in the program and that DARS continued to engage in outreach and education in communities to develop employer options. Senator Wagner noted that transportation could be a problem for individuals matched with employers through the program. Mr. Kriner responded that DARS is working to develop public transportation programs and is considering using transportation network companies like Uber in some localities, recognizing that transportation solutions must take into account the individuals' unique needs and the available services. Senator Wagner expressed an interest in learning more about transportation options.

Senator Wagner also raised the issue of long-term planning for families of individuals with ASD, specifically the need for long-term planning for housing and other services. He described a model currently being implemented in the Tidewater area and requested more information, as well as information on ways the Commonwealth could partner with private and nonprofit entities to increase the availability of services.



Ms. Ali asked for information about how DARS supports individuals who are entering the workforce with a significant need for services and other support. She asked whether those individuals faced ongoing challenges related to finding employment and what the Commonwealth could do to address these issues.

Senator Hanger asked about efforts to identify individuals who might need vocational rehabilitation services. Mr. Kriner stated that DARS works with school systems to reach students who may need services prior to the student's 16th birthday. This allows more time for planning and preparation. Senator Hanger inquired about funding for the autism employment pilot program and how services through the program interface with services provided under the Medicaid waiver program. Mr. Kriner answered that the program was initially funded through an Autism Speaks grant and now is supported with federal funds provided through the vocational rehabilitation program. The program staff works together with staff of other state and local agencies to coordinate service for individuals receiving both Medicaid waiver and other services. Coordination and collaboration are essential for success.

Activities of the Department of Behavioral Health and Developmental Services Related to Autism

Ms. Heather Norton, Director of Community Support Services at the Department of Behavioral Health and Developmental Services (DBHDS), provided an overview of the activities of DBHDS related to autism. Ms. Norton noted that DBHDS was engaged in efforts around implementation of the redesigned Medicaid waivers for individuals with intellectual and developmental disabilities. In 2013, DBHDS initiated a redesign of Medicaid waivers for individuals with intellectual and developmental disabilities. At that time, three waivers were available: the Day Support Waiver, Intellectual Disability Waiver, and Individual and Family Supports Developmental Disabilities Waiver. Eligibility for each of these waivers depended on the individual's diagnosis (intellectual disability or developmental disability). Services provided through each waiver varied, and individuals were not able to transfer between waiver programs as their needs changed. Ultimately, the waiver system did not meet the needs of individuals or the changing service system.

The new waiver system will be based on service needs rather than diagnosis and includes the following new waivers:

- The Building Independence waiver will provide supports for adults able to live independently in the community with other support or housing subsidies as needed;
- The Family and Individual Supports waiver will provide supports for individuals living with their families, friends, or in their own homes, including supports for those with some medical or behavioral needs, and will be available to adults and children; and
- The Community Living waiver, which will also be available to adults and children, will provide up to and including 24/7 services and supports for individuals with exceptional medical or behavioral support needs through licensed services and will include residential supports and a full array of medical, behavioral, and nonmedical supports.

Individuals will be able to move between waiver programs as needed. The new waiver system will allow greater flexibility for individuals with intellectual or developmental disabilities. For individuals with autism, the new waivers will include specific requirements developed by the Virginia Autism Council, which reflect best practices. DBHDS is currently working with providers to train them on these requirements.

In response to a question from Ms. Ali regarding waiting lists for waiver services, Ms. Norton described the new categories of prioritization. Category 1 priority is for individuals who need services within one year, Category 2 priority is for individuals who need services in one to five years, and Category 3 priority is for individuals who will need services in five years or later. She noted that each case will be evaluated to determine which category applies and that an individual's service needs and category of priority may change over time.

Ms. Norton also touched on some of the issues raised by members of the Council following the previous presentation. She noted the need for housing for individuals with autism and other intellectual and developmental disabilities, transportation services to help individuals get to work as well as to meet other transportation needs, and employment services to help individuals with autism obtain and maintain meaningful employment in the community. She noted that individuals in need of employment supports to address behavioral, medical, or safety concerns could receive on-the-job workplace assistance.

Senator Wagener raised concerns about how services are provided in light of the settlement agreement between the Commonwealth and the U.S. Department of Justice and how the service system in general seems to be fractured. He emphasized the need for a more coordinated and effective system of services. Ms. Norton noted that DBHDS is working to bring providers together and is focusing on providing training and support to improve service delivery and coordination.

Ms. Ali asked about supports to help families navigate the service system once they are participating in the waiver program. She noted the difficulties families face in accessing services and maximizing the benefits available to individuals in need of services. She pointed out that case management is of utmost importance to help address these issues. Ms. Norton stated that DBHDS will have a support coordinator available to help families identify service providers and determine how to access those services. DBHDS is also working with providers and community services boards to make sure families and providers have the information they need to navigate the system. However, Ms. Norton pointed out that some challenges will continue to exist where services simply aren't available. For example, the Commonwealth is experiencing a shortage of behaviorists, resulting in a serious lack of access.

Senator Hanger asked how the Office of Community Support interfaced with community services boards around the delivery of services to individuals with autism. Ms. Norton stated that they work closely with community services boards, providing information and training and monitoring the community services boards' activities.

Overview of the Virginia Autism Council

Ms. Heather Norton and Ms. Deana Buck, Program Leader for Early Childhood and Early Intervention with the Virginia Commonwealth University Partnership for People with Disabilities, provided an overview of the Virginia Autism Council. The Virginia Autism Council is an interagency group of autism stakeholders, including representatives from service and support agencies across the lifespan, family members, and self-advocates, that was established in 2001 to advance higher education, training, and educational opportunities for personnel and caregivers supporting individuals with autism. The Virginia Autism Council works to define needed skill competencies and provide training and support to implement the competencies.

The Virginia Autism Council has implemented a collective impact model, bringing together a group of people from different sectors committed to a common agenda for solving a specific social problem. This model includes shared measurement, mutually reinforcing activities, continuous communication, and a central support organization. Using this model, the Virginia Autism Council has worked in small groups



to identify initiatives and key players and develop strategies to improve service delivery and supports. Key initiatives include early identification of autism and transition from school to adult services. The Virginia Autism Council has worked to identify key stakeholders with whom to collaborate and build partnerships and funding streams that align with initiatives undertaken by the Virginia Autism Council. The goal for the future is a “cradle-to-career vision for education.” Looking forward, the Virginia Autism Council will focus on school curriculum, employment development, postsecondary education, inclusion, and systematic instruction.

Public Comment

Following presentations, the Council received public comment.

- Ms. Heidi Lawyer, Executive Director of the Virginia Board for People with Disabilities, noted the positive impacts of the waiver redesign and implementation of the integrated settings rule issued by the Centers for Medicare and Medicaid Services. She stated that Virginia is moving toward providing services and supports in the most integrated settings and that experience indicates services provided in small group settings are most beneficial. Ms. Lawyer expressed her hope that the Council would fully embrace the move toward community integration.

Ms. Lawyer also described two grants that the Board for People with Disabilities has recently made. The first, to the Virginia Hospital Research Foundation, will support hospitals in providing follow-up and support services to families whose infants spend time in the Neonatal Intensive Care Unit and may require early intervention services. The second, to the Department of Education, will support efforts to ensure that students with disabilities have the best opportunities to make decisions regarding postsecondary education and training by encouraging families and school staff to initiate discussions and planning early and by providing information about the key decisions that could impact a student’s ability to pursue the path toward higher education in the future.

- Dr. Sandy Lewis, Executive Director of the Virginia Treatment Center for Children (the Center), identified several issues for the Council to think about. First, she noted that clinical providers are seeing more patients with higher acute needs in psychiatric units and that at times units may be unable to admit because they aren’t staffed or equipped to provide the care these children need. In some cases, children with behavior problems have not yet been diagnosed, leading to greater challenges for providers. Dr. Lewis encouraged the Council to find ways to improve coordination among service providers and develop services to meet these higher acuity needs. Second, Dr. Lewis also noted the challenge of finding and retaining qualified staff, particularly with regard to psychiatrists. Limited numbers of qualified individuals combined with low salaries make hiring and retaining staff very difficult. Third, Dr. Lewis described the very limited number of children that the Center could serve. Currently, the Center has one diagnostic clinic serving 12 children. A second clinic is opening and will be able to serve an additional 12 children. However, the demand for services far outweighs the availability of services. One barrier to expanding the services is the need for a more cooperative, interdisciplinary approach; however, private insurance and Medicaid rules limit who can bill. As a result, some providers are unable to bill for services. Fourth, Dr. Lewis noted that it would be beneficial to develop innovative ideas regarding what can be done to improve service availability and delivery at the state, regional, and local levels to most efficiently utilize scarce resources. One option might be development of regional centers of excellence.

Discussion of 2016 Work Plan

At the end of the meeting, the Council discussed ideas for a work plan for the 2016 interim. Staff will assemble a list of potential topics and issues for further study to be distributed to the members of the Council, and a work plan will be prepared for consideration by the members at the next meeting.

Autism Advisory Council

Senator Emmett W. Hanger, Jr., Chair

Sarah Stanton, DLS Senior Attorney

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***Brown v. Board of Education* Scholarship Awards Committee**

August 3, 2016

The *Brown v. Board of Education* Scholarship Awards Committee (the Committee) met on August 3, 2016, in Richmond to review applications for awards for the 2016–2017 academic year, the final year in which the Committee will receive initial applications. Thereafter, the Committee will meet annually to review applications for scholarship renewal.

Program Overview

Committee staff provided an overview of the program since its inception in 2004 and briefed the Committee on the program's status to date. Nearly 200 students have been served since 2004, from literacy programs through college, and approximately 89 award recipients have enrolled in undergraduate or graduate school. The Committee approved 16 new and renewal applications for the 2016–2017 academic year and voted to provide a book of allowance of \$1,000 and \$1,200 per term (fall, spring, and summer) for undergraduate and graduate students, respectively. Although the number of applicants has decreased, the steep rise in tuition, fees, and books and the increase in the number of students who have elected to pursue four-year and graduate degree programs over the years has nearly depleted the *Brown v. Board of Education* Scholarship Program Fund (the Fund). According to Lee Andes, Assistant Director of Financial Assistance, State Council of Higher Education for Virginia, the balance in the Fund is estimated to be sufficient only to cover the cost of tuition, fees, and books for those persons currently awarded a scholarship. Therefore, the Committee determined that money remaining in the Fund should be preserved to ensure that those students are able to complete their educational goals. The Committee also directed staff to survey current students to ascertain their educational goals in order to project when the money remaining in the Fund will be depleted.

In addition, the Committee directed the staff to identify a vendor with which the Committee can negotiate to provide computers for students who need them and to develop draft policies for computer distribution, invoicing, and student use.

Executive Session

The Committee properly voted to convene in executive session pursuant to subdivision A 37 of § 2.2-3711 of the Code of Virginia to discuss and consider matters pertaining to the *Brown v. Board of*



Education Scholarship Program excluded from public discussion under this section. At the conclusion of the executive session, the Committee voted to return to open session.

Next Meeting

The Committee agreed to meet again at a date and time to be announced to receive the staff report on the student survey and computers.

***Brown v. Board of Education* Scholarship Awards Committee**

Senator L. Louise Lucas, Chairwoman

Brenda H. Edwards, DLS Senior Research Associate

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brownscholarship.virginia.gov/

Virginia Code Commission

June 20, 2016

The Virginia Code Commission (the Commission) met on June 20, 2016, with Senator John Edwards, chair, presiding.

Administrative Law Advisory Committee (ALAC) report

Tom Lisk, Chair of ALAC

Mr. Lisk presented the ALAC work plan for 2016. The work plan contains the following items:

- Update of the Virginia Supreme Court’s hearing officer deskbook - The update will account for recent changes to the Administrative Process Act.
- Guidance document requirements; definition of “agency” in the Virginia Register Act - The review will consider whether the guidance document list filing requirement should apply to agencies without rulemaking authority that issue guidance documents that interpret or implement a statute.
- Model State Administrative Procedure Act - The judicial work group will reconvene to consider additional sections of the model act.
- Executive review process - The work group will continue to discuss recommendations to future administrations on ensuring the efficiency and effectiveness of the executive review process for regulations.

The Commission approved the work plan as presented.

Study of (i) Use of Gender-Specific References throughout the Code of Virginia and (ii) Referred Bills from the 2016 Session of the General Assembly

David Cotter, Senior Attorney, Division of Legislative Services

Mr. Cotter reviewed the issues prompting this study, including gender-specific terms bills referred to the Commission, a request from House and Senate leadership for the Commission to set up a study to evaluate the Code of Virginia in light of the 2015 U.S. Supreme Court ruling on same-sex marriage,

numerous bills amending Virginia law governing discrimination referred to the Commission during the 2016 Session of the General Assembly, and a May 10, 2016, opinion of the Virginia Attorney General addressing Virginia's antidiscrimination statutes.

Mr. Cotter stated that he is proposing six work groups of relevant stakeholders with expertise in various areas to be utilized for the study. After identifying relevant Code provisions, the work groups will convene to review the laws and the issues, drawing on the expertise of the members of the work groups. Mr. Cotter explained that the work groups will address both gender terms and discrimination provisions. The goal is to complete the work in time for the 2018 Session of the General Assembly.

Delegate Habeeb stated that, although the timeline seems lengthy, he is not aware of any current right or privilege that Virginians do not or will not have in the interim because the Code of Virginia has a general definition of gender, and the ruling of the U.S. Supreme Court overrides any Virginia law to the contrary.

Recodification of Title 55, Property and Conveyances

Kristen Walsh, Attorney, and Amigo Wade, Senior Attorney, Division of Legislative Services

Ms. Walsh advised members that the Title 55 recodification work group met on June 1 and developed an outline for proposed Title 55.1. The proposed organization for new Title 55.1 consists of Subtitle I - Real Estate Conveyances; Subtitle II - Real Estate Settlements and Recordation; Subtitle III - Rental Conveyances; Subtitle IV - Common Interest Communities; and Subtitle V - Miscellaneous. Ms. Walsh presented names of work group members and explained that, in addition to the overarching work group, other sub-work groups have been established to focus on (i) common interest communities, (ii) real estate conveyances, and (iii) rental conveyances.

Mr. Wade stated that the work group is starting with Subtitle III - Rental Conveyances and next plans to review Subtitle IV - Common Interest Communities. Staff projects that the recodification will be finalized by the end of 2017.

Delegate Habeeb commented that he expects some overlap with the gender-specific terms study, and Ms. Walsh advised members that the recodification work group will be communicating with Mr. Cotter about relevant findings of the gender-specific terms work group.

Virginia Administrative Code Copyright

Mark Vucci, DLS Director

Mr. Vucci explained that under the Commission's contract with West to publish the Virginia Administrative Code (VAC), West applies to register a copyright with the United States Copyright Office on behalf of the Commonwealth. The Commonwealth owns the copyright and grants a license to West to publish and sell the print version of VAC. Mr. Vucci advised members that the Copyright Office declined to register the copyright filed for 2015, claiming that the material is not copyrightable because it lacks a sufficient amount of new copyrightable material or compilation authorship. West is appealing the decision.

The Commission discussed what implications, if any, this might have on the statutory code. The Chair called on Mr. Ganten, with LexisNexis, who stated that this is an evolving topic. The state of Georgia is in the midst of a lawsuit on the code-related material that it can claim is copyrightable. Oregon does all of its code work in-house and sold the data but, when challenged, decided not to defend its copyright.

Staff will monitor and report on the outcome of the copyright appeal.



Follow-up on Proposal to Restructure § 58.1-322 of the Code of Virginia

Mark Vucci, DLS Director

At its May 16, 2016, meeting, the Commission discussed restructuring § 58.1-322 of the Code of Virginia, which pertains to Virginia taxable income of residents, because the section is quite lengthy and has become unwieldy. The section is frequently amended, and most amendments are single paragraph additions to an isolated part of the section. The consensus of the Commission was to move forward with drafting legislation to restructure the section, and the Commission requested that Mr. Vucci contact the Department of Taxation for feedback before the Commission makes a final decision.

Mr. Vucci stated that he contacted the Department of Taxation and the department fully supports restructuring the section. The Commission agreed that staff should prepare a draft bill to split § 58.1-322 into more manageable sections. Mr. Vucci stated that the bill draft will be presented to the Commission in the fall.

Next Meeting

The Commission met on Monday, August 1, 2016. The next meeting is scheduled for Monday, September 19, 2016, in Richmond.

Virginia Code Commission

Senator John S. Edwards, Chair

Jane Chaffin, DLS Staff

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codecommission.dls.virginia.gov/

Virginia Conflict of Interest and Ethics Advisory Council

April 26, 2016

The Virginia Conflict of Interest and Ethics Advisory Council (the Council) met in Richmond on April 26, 2016, Judge Patricia L. West, chair, presiding. The Honorable Pete W. Stout, III, was nominated and unanimously confirmed as vice-chair.

Executive Director Report and Transactional Immunity Report

Chris Piper, Executive Director

Mr. Piper presented the Executive Director Report to the Council and updated the Council on transactional immunity provided by the ethics law to city and county attorneys. Local government attorneys and attorneys for the Commonwealth discussed the issue during the 2016 Session of the General Assembly and a recommendation was included in the ethics omnibus bill being reviewed by the Governor.

Formal Advisory Opinions

Chris Piper presented the following formal advisory opinions for action by the Council:

A motion was made to approve question one of formal advisory opinion *2016-F-001 § 2.2-3101 Professional organization membership* and the motion was seconded. The Council unanimously

approved the answer to question one of the formal advisory opinion. A motion was made to amend the answer to question two and the motion was withdrawn. A motion was made to approve the answer to question two of the formal advisory opinion and the motion was seconded. The answer to question two was approved by Council vote.

A motion was made to approve formal advisory opinion *2016-F-002 §§ 2.2-3114, 2.2-3115, & 2.2-3116 Departure filing* and the motion was seconded. The Council unanimously approved the motion.

A motion was made to approve formal advisory opinion *2016-F-003 §§ 2.2-3117 & 30-111 Board of directors filers* and the motion was seconded. The Council unanimously approved the motion.

A motion was made to amend formal advisory opinion *2016-F-004 § 2.2-419 PACs associated with a lobbyist's principal* and the motion was seconded. A motion was made to approve the formal advisory opinion as amended and the motion was seconded. The formal advisory opinion as amended was approved by Council vote.

A motion was made to approve formal advisory opinion *2016-F-005 § 30-103.1 Lobbyist friends* and the motion was seconded. The Council unanimously approved the motion.

A motion was made to defer acting on formal advisory opinion *2016-F-006 § 30-111 Legislator reporting of an event* and the motion was seconded. The Council unanimously agreed to defer a vote on the formal advisory opinion.

A motion was made to defer acting on formal advisory opinion *2016-F-007 §§ 2.2-3103.1 & 30-103.1 Widely attended events* and the motion was seconded. The Council unanimously agreed to defer a vote on the formal advisory opinion.

A motion was made to approve formal advisory opinion *2016-F-008 §§ 30-103.1 & 30-111 Legislative organization conferences* and the motion was seconded. The Council unanimously approved the motion.

Updates to Forms

Chris Piper presented the updated forms in a block to the Council. A motion was made to approve the following forms and the motion was seconded. The Council unanimously approved the forms.

General Assembly Statement

State and Local Statement

Financial Disclosure Statement

Lobbyist Disclosure Form

Lobbyist Registration Statement

Public Comment

Judge West asked for public comment.

- Roger Wiley spoke concerning the advisory opinions, noting his thanks for the Council's work. He urged the Council to adopt a procedure whereby the drafts of formal opinions are published for a public comment period prior to the Council considering those formal opinions at its meetings.



Following the public comment period the meeting was adjourned.

June 14, 2016

The Virginia Conflict of Interest and Ethics Advisory Council (the Council) met in Richmond on June 14, 2016. Judge Pete W. Stout, III, vice-chair, called the meeting to order.

Deadline Extension Requests

Rebekah Stefanski, Council Staff Attorney

Ms. Stefanski outlined each individual who submitted a deadline extension request.

Senator Thomas K. Norment made a motion that Individuals A, B, C, E, F, G, and H be approved for the length of extension recommended by staff. The motion was seconded by Delegate C. Todd Gilbert and unanimously approved by the Council.

Delegate Jennifer L. McClellan made a motion that Individual D's suggested length of extension be changed from an indefinite extension to an extension deadline of July 31, 2016. The motion was seconded and unanimously approved by the Council.

Staff recommendations regarding forms and procedures:

- Ms. Stefanski presented staff recommendations on the Filing Deadline Extension Request Form. Delegate Gilbert made a motion to approve the form. The motion was seconded and approved by Council vote, with the exception of Mr. Henderson.
- Ms. Stefanski presented staff recommendations on the Deadline Extension Procedures. Judge Stout made a motion to approve the recommended procedures. The motion was seconded and unanimously approved by the Council.
- Ms. Stefanski presented a staff recommendation that the Council delegate the deadline extension authority to staff. Mr. Henderson made a motion to delegate authority to Mark Vucci until the time that an Executive Director is appointed, at which time the authority will move to the Executive Director. The motion was seconded by Delegate Gilbert. The motion was approved unanimously by the Council.

Judge Stout asked for public comment and hearing none the meeting was adjourned.

Virginia Conflict of Interest and Ethics Advisory Council

The Honorable Patricia L. West, Chair

Stewart Petoe, Executive Director

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ethics.dls.virginia.gov/

Virginia Disability Commission

May 17, 2016

The Virginia Disability Commission (the Commission) met in Richmond on May 17, 2016. Senator Dave Marsden, 2014–2015 Chairman, called the meeting to order, and the Commission members introduced themselves.

Election of Chair

Senator Marsden explained that, because his two-year term as chairman had expired, the Commission needed to elect a new chairman. The Commission unanimously elected Delegate Brenda Pogge as chairwoman.

Presentation: Virginia's Support Waiver Redesign

Connie Cochran, Assistant Commissioner, Department of Behavioral Health and Developmental Services (DBHDS)

Mr. Cochran gave a presentation on the impact of Virginia's redesigned support waivers. Mr. Cochran explained that individuals with developmental disabilities living, working, and playing in their own communities are becoming the norm, not the exception. A developmental disability, defined in § 37.2-100 of the Code of Virginia, is a severe, chronic disability that (i) is attributable to a mental or physical impairment, or a combination of mental and physical impairments, other than a sole diagnosis of mental illness; (ii) is manifested before the individual reaches 22 years of age; (iii) is likely to continue indefinitely; (iv) results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and (v) reflects the individual's need for a combination and sequence of special interdisciplinary or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

Mr. Cochran explained that under the Day Support Waiver, the Building Independence Waiver provides support for adults to live independently in the community. It allows individuals to own, lease, or control their own living arrangements and supports with the option of non-waiver-funded rent subsidies. Under the Developmental Disability (DD) Waiver, the Family & Individual Supports Waiver, available to both children and adults, provides support to individuals living with their families or friends, or in their own homes, including supports for those with some medical or behavioral needs. Finally, under the Intellectual Disability (ID) Waiver, the Community Living Waiver, available to adults and some children, provides residential supports and a full array of medical, behavioral, and non-medical supports for individuals with complex medical or behavioral support needs through licensed services.

Mr. Cochran explained that community services boards (CSBs) will be the single point of entry for all individuals seeking services funded by the ID, DD, and Day Support, Waivers. A new waiver management system and streamlined, needs-based eligibility process are in place, along with new waiver services and rates, support levels and reimbursement tiers, and a single, statewide priority-based waiting list.

Mr. Cochran addressed management of the combined DD, ID, and Day Support, Waiver waiting list priority levels. Mr. Cochran explained that all three amended waivers will serve individuals with a DD diagnosis, including ID. Individuals seeking waiver services will have diagnostic and functional eligibility confirmed by their local CSB and, as appropriate, be placed on a single statewide waiting list.



Waiver waiting lists will be maintained by the local CSB for all individuals under their jurisdiction, including those currently associated with DD case management agencies. With the goal of increasing consistency, five DBHDS Regional Support Specialists will assist CSBs in managing this process and support the Waiver Slot Assignment Committees. Accordingly, the amended waivers separate the entities determining eligibility from the slot assignment entities.

Finally, Mr. Cochran explained that 20 slots have been added for housing and that certain Section 8 set-aside vouchers have been converted from pilot-program status to ongoing funding. Mr. Cochran stated that, in addition to waiver changes, the budget includes additional funding for crisis services. This allocation includes funds to build two eight-bed therapeutic homes and for mobile crisis services, respite services for children, and crisis coordinators in each region. The current crisis budget is \$16,250,000. These additional funds, proposed in the Governor's budget and appropriated by the General Assembly, will help the Commonwealth meet the terms of its settlement agreement with the Department of Justice, which requires the existence of therapeutic homes in all five regions for children and adults, monitoring utilization of such homes, and development of additional homes based on need.

Discussion of 2015 DACUM (Develop a Curriculum) Exercise, 2016 Work Plan, and Work Groups

David May, Attorney, Division of Legislative Services

Mr. May provided an overview of the DACUM exercise that the Commission conducted during the 2015 interim and suggested topics for the 2016 work plan. Mr. May explained that on December 15, 2015, at Senator Marsden's direction, the Commission invited members of the public to appear before the Commission and suggest items for the 2016 work plan. All suggestions received were categorized and ultimately inserted into an organized chart, which can be found on the Commission's website at <http://dls.virginia.gov/commissions/vdc.htm?x=mtg>. From the topics received and Mr. May's suggestions, the Commission chose the following issues for immediate attention: (i) community living, (ii) education, (iii) employment, and (iv) waiver services.

The Commission also made work group appointments and assigned the above topics for focus by the individual work groups. The Education and Employment Work Group, assigned all education and employment issues from the DACUM exercise, will comprise Delegate Pogge, Gayl Brunk, Michael Lewis, Joseph Murray, and Ed Turner. The issues include ensuring that individuals with disabilities are included in state and federal workforce programs, have access to transportation necessary for employment, have opportunities for competitive employment and access to higher education, are trained by teachers with sufficient education and certifications, are provided qualified interpreters and assistive technology, and are provided assistance with their transition from school to work. The work group also seeks to secure better resources and more choices for students with special needs in the public school system.

The Housing & Transportation Work Group, assigned all topics listed under "community living" from the DACUM exercise, will consist of Delegate Ronald Villanueva, Delegate David Toscano, and Frank Lombardi. These issues, which received substantial interest during the DACUM exercise, include housing, community empowerment, support services, and several transportation-related issues.

The Publicly Funded Services Work Group, assigned all topics listed under "waivers" from the DACUM exercise and certain additional issues, will comprise Senator Marsden and Delegate Robert Orrock. These issues include support waiver structure and funding, case management, community support, personal assistance services (PAS), number of available providers, overtime restrictions on PAS and other community support programs, Support Service Providers (SSP), crisis services for individuals

with neurobehavioral disorders, services for individuals with brain injuries, centers for independent living (CILs), emergency preparedness and services, and transition.

Public Comment

Several members of the public testified that certain areas in the Commonwealth do not have a local CIL. These citizens testified that CILs are important to individuals with disabilities because they help them live better lives, create spirit, engage in extracurricular activities, obtain necessary transportation, engage in peer counseling, and much more. It was requested that the Commission secure \$1,250,000 to create five additional CILs across the Commonwealth.

Another stakeholder testified that additional funding is needed for existing CILs. The stakeholder explained that while the Commission helped gather \$200,000 in additional funds for existing CIL transition services during the 2016 Session, such CILs need \$650,000 more. This stakeholder also requested that the Commission make efforts to lift the current 40-hour cap on PAS providers and allow them to collect overtime wages from the state. The stakeholder testified that the 40-hour cap is causing problems for many individuals with disabilities who use PAS, especially in rural areas due to a limited number of providers and certain transportation and commute related issues.

Next Meetings

Chairwoman Pogge stated that the Commission will host a total of four meetings during the 2016 interim. The remaining meetings will be held on July 19, September 27, and October 18. Work groups will meet approximately one hour before all full Commission meetings.

July 19, 2016

The Virginia Disability Commission (the Commission) met in Richmond on July 19, 2016, with Delegate Brenda Pogge, Chairwoman, presiding. Chairwoman Pogge read the Commission's statutory purpose delineated in § 30-232 of the Code of Virginia: "The purpose of the Commission is to identify and recommend legislative priorities and policies for adoption or examination by the General Assembly in order to provide ongoing support in developing and reviewing services and funding related to Virginians with physical and sensory disabilities." Chairwoman Pogge stated that it is important that such legislative priorities and policies come from stakeholders and members of the public who are active in the field and understand current needs in the Commonwealth.

The Commission then held a moment of silence in honor of Theresa Preda, who passed away on July 14, 2016, following a brief illness. Ms. Preda was, among many other things, the Director of Independent Living for the Virginia Department for Aging and Rehabilitative Services (DARS) for 29 years and a founding member of ADAPT and the National Council of Independent Living. Gayl Brunk noted that Ms. Preda was a great leader in our field.

Reporting from Work Groups

The Commission's three work groups, which met one hour before the full Commission meeting, then reported on their progress. First, Ms. Brunk reported that the Education and Employment Work Group received a brief overview of the DARS report on employment support services programs, on which the work group intends to base its recommendations for any necessary budget amendments. Ms. Brunk explained that the Education and Employment Work Group is also focusing on creating more employment opportunities for students with disabilities exiting the public school system. In pursuit of



this goal, a presentation has been scheduled for the next full Commission meeting, at which the Center for Transition Innovations, in conjunction with the Department of Education, will provide an overview of transition initiatives, the geographical breakdown of Indicator 14 data, and an explanation of successful programs that show potential for replication in other areas of the Commonwealth. Ed Turner requested that the work group also request an update from the Department of Human Resource Management regarding the Commonwealth's employment of individuals with disabilities. Mr. Turner stated that a survey conducted in 2009 revealed unsatisfactory statistics on this issue and recommended that the Commission set a target for the Commonwealth to work toward.

Next, Delegate David Toscano reported that the Housing & Transportation Work Group discussed the need for increased housing options for Virginians with physical and sensory disabilities. The work group intends to analyze the effectiveness of Virginia's Livable Home Tax Credit in hopes of deciding whether any changes are needed to address this need. The work group further intends to assess auxiliary grant portability in hopes of expanding access to affordable housing for individuals with disabilities. Delegate Toscano stated that the work group is also looking into issues involving possible amendments to the Building Code to encourage the creation of more housing options, along with an assessment of whether fraudulent use of service animals is affecting housing availability. Delegate Ronald Villanueva recommended that a presentation on autonomous vehicles be scheduled, noting this topic will likely be relevant and helpful to Virginians with physical and sensory disabilities.

Finally, Senator David Marsden reported that the Publicly Funded Services Work Group received information about certain challenges facing individuals who receive Medicaid-reimbursed personal assistance services (PAS). U.S. Department of Labor regulations now require overtime pay for PAS providers. These regulations, coupled with language included in Item 306.PPPP of the 2016 Appropriation Act, prohibiting payment of overtime wages for Medicaid-reimbursed consumer directed personal assistance, respite, and companion services by the Department of Medical Assistance Services, prevent individuals who receive PAS from employing a single consumer-directed PAS provider for more than 40 hours per week. This creates challenges for individuals who have been approved for more than 40 hours of consumer-directed PAS each week, some of whom have had to hire and train additional PAS providers for services in excess of 40 hours and some of whom, despite their efforts, have been unsuccessful in securing additional PAS providers. In light of these concerns, the work group is looking into the possibility of crafting exceptions to Virginia's restriction on overtime pay for cases in which enforcing the limit would create substantial risk to the well-being of the individuals receiving services. The work group is sending a letter to William A. Hazel, Jr., Secretary of Health and Human Resources, requesting that his office convene a work group of stakeholders to discuss this issue and develop recommendations for legislative, budgetary, and policy changes to address the problem prior to the Commission's next meeting on September 27.

The Publicly Funded Services Work Group also reported that there are an insufficient number of case managers for the deaf and hard-of-hearing and that assistive equipment is needed in government buildings for these individuals. Lastly, this work group has set a goal on ensuring more access to care for individuals with brain injuries and intends to schedule a presentation by the Joint Commission on Health Care regarding the report issued on this topic that resulted from a study conducted by the Joint Legislative Audit and Review Commission.

Discussion of Work Group Reports and 2016 Work Plan

Chairwoman Pogge stated that the work groups will meet again approximately one to two hours before the third and fourth full Commission meetings of the 2016 interim, on September 27 and October 18.

Chairwoman Pogge further explained that she expects two proposals from each work group prior to the Commission's final 2016 interim meeting on October 18, and reiterated that such proposals should come from stakeholders and members of the public who are active in the field and understand current needs in the Commonwealth.

Virginia Disability Commission

Delegate Brenda Pogge, Chair

David May, DLS Attorney

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Commission on Employee Retirement Security and Pension Reform

July 11, 2016

The Commission on Employee Retirement Security and Pension Reform (the Commission) held its first meeting on July 11, 2016, in Richmond. The Commission was created by House Bill 665 (2016), introduced by Delegate William J. Howell, Speaker of the House of Delegates. The Commission, consisting of 11 legislative members, eight nonlegislative citizen members, and two ex officio members, is charged with studying, reporting, and making recommendations relating to the financial soundness of retirement plans covering state and local employees, the changing state and local government workforce, and compensation and benefits packages of state and local government employees. Such study shall include a review of the unfunded liabilities of state and local defined benefit retirement plans and strategies to reduce such liabilities.

The Commission unanimously elected Speaker Howell as chairman and Senator Frank Ruff as vice-chairman. Speaker Howell noted that there are concerns about the fiscal stability of the Commonwealth's retirement systems, as well as concerns about the challenges facing the Commonwealth due to changes in the workforce. There exists a real need to come up with workable solutions to these problems, and this newly formed Commission provides an opportunity to develop solutions and accomplish much.

The Commission next heard a series of presentations designed to establish background and framework for the future work of the Commission. Patricia S. Bishop, Director of the Virginia Retirement System (VRS), provided an overview of the entire retirement system. Her presentation highlighted the various plans that have been adopted over the years, including Plan 1, Plan 2, and the Hybrid Plan, as well as the State Police Officers' Retirement System, the Virginia Law Officers' Retirement System, the Judicial Retirement System, and the plans available to political subdivisions. The General Assembly has enacted reforms to VRS in the past several years, most notably with the adoption of Plan 2 in 2010 and the adoption of the Hybrid Plan in 2012 (effective for employees hired on or after January 1, 2014). Ms. Bishop also provided an overview of unfunded liability issues confronting VRS.

Sara Redding Wilson, Director of the Department of Human Resource Management, discussed the demographics and compensation of the Virginia workforce. She highlighted the high number of employees eligible for retirement in five years or less and current trends in recruitment and retention. She noted that the compensation of state employees is generally below market rate, which leads to challenges related to both recruitment and pay compression.



Greg Mennis, Director of the Public Sector Retirement Systems Project at the Pew Charitable Trusts, provided a detailed 50-state overview of public pensions, allowing for comparison with the performance of VRS. He touched on pension funding and fiscal health, investment trends and issues, state benefits, and governance structures. He closed with suggested principles to be followed for fiscal sustainability and retirement security. A copy of each of the presentations received by the Commission are available on the Commission's website: retirementcommission.virginia.gov/.

Speaker Howell indicated that he planned to form working groups to support the work of the Commission. He suggested three working groups focused respectively on retirement issues, workforce issues, and compensation issues. He asked the Commission members to contact him about their interest in working on a particular group.

No public comment was offered, and the meeting was adjourned.

Commission on Employee Retirement Security and Pension Reform

Speaker William J. Howell, Chair

David Rosenberg, DLS Senior Attorney

Lisa Wallmeyer, DLS Senior Attorney

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Joint Subcommittee on Block Grants, SJR 223 (1993)

August 3, 2016

The Joint Subcommittee on Block Grants, SJR 223 (1993) (the Joint Subcommittee) held its biennial public hearing on the Community Services Block Grant federal application on August 3, 2016, at the General Assembly Building in Richmond. The meeting opened with the election of Senator Richard Black as chairman, followed by introductions of the members present (Senators Louise Lucas and David Suetterlein and Delegates Les Adams, Buddy Fowler, Monty Mason, Brenda Pogge, and Ronald Villanueva).

Following introductions and opening remarks, staff provided a brief recap of the history of the Joint Subcommittee. Staff reported that over the past several decades, a number of federal block grant programs have required states to hold public hearings to collect public input regarding proposed state plans for the use of block grant funds. The Joint Subcommittee was established in 1982 as a mechanism for holding these required legislative hearings. The Joint Subcommittee has met in alternating years since that time to carry out its legislative purpose.

At this time, the Community Services Block Grant (the Block Grant or CSBG) is the only federal block grant requiring legislative hearings and as such is the only block grant on which the Joint Subcommittee receives public comment. The Community Services Block Grant is administered by the Department of Social Services (the Department). The required State Plan for the Community Services Block Grant (the State Plan) is submitted as a narrative plan in compliance with Title VI, Subtitle B, of the Omnibus Budget Reconciliation Act of 1981, as amended by various provisions, including the 1998 Community Action Block Grant Act (42 U.S.C. § 9901 et seq.).

Funds received through the Community Services Block Grant are used to fund a range of services to assist low-income individuals to become self-sufficient. These programs are provided by the Commonwealth's community action agencies (CAAs) and include programs and services for:

- Job training and skills development
- Micro-enterprises
- Child care
- Head Start
- Education; e.g., motivating young people to attend college, adult literacy, and GED
- Housing
- Transportation
- Services for the homeless
- Emergency services
- Water and wastewater facility development

Overview of the State Plan for the Community Services Block Grant

Margaret Ross Schultze, Commissioner of Social Services, provided an overview of the proposed State Plan. She stated that the State Plan details how funds provided to the Commonwealth through the Block Grant would be allocated to the 28 local and three statewide community action agencies and what those agencies would do with the funds provided. A total of \$15.6 million, including \$4.2 million transferred from the Commonwealth's TANF block grant to the Block Grant, will be available to the community action agencies through the Block Grant. Development of the State Plan included several opportunities for input by the community action agencies. The Commonwealth's State Plan establishes one of the most cooperative programs in the country, with oversight and technical assistance provided to the community action agencies by the Department's Office on Volunteerism and Community Service. The Office on Volunteerism and Community Service has also worked with the Virginia Community Action Partnership to develop joint training plans and deliver information to and receive information from the community action agencies.

As presented to the Joint Subcommittee, the proposed State Plan includes a description of the development of the plan, the goals of the plan, administrative processes, a list of community action agencies that are eligible for funds provided through the Block Grant, organizational standards for the eligible community action agencies, details about the use of block grant funds provided to the community action agencies, details regarding state training and technical assistance for community action agencies, details about state linkages and communication with other programs and the community action agencies to ensure access to services funded through the Block Grant and avoid duplication of services, monitoring of and correction action and fiscal controls for community action agencies, the Results Oriented Management and Accountability System, and other details. The State Plan also addresses monitoring principles and practices and monitoring instruments and organizational standards compliance documentation.



Public Comment

Jim Schuyler, Executive Director, Virginia Community Action Partnership

Mr. Schuyler spoke on behalf of the Virginia Community Action Partnership (VACAP), the state membership association for the Commonwealth's 28 private and public local community action agencies and three statewide organizations. He noted that the keys to the association's success have been (i) partnerships between private and public sectors at the federal, state, and local levels; (ii) involvement of businesspeople and citizens in determining and prioritizing local needs; and (iii) collaborations with other community partners as well as with local governments and among community action agencies. The relationship between VACAP, the Department's Office on Volunteerism and Community Services, and the community action agencies is another important factor.

Mr. Schuyler noted the new national CSBG Organizational Standards, which establish quality standards for nonprofit and public community action agencies. VACAP and the Department have been working together with the community action agencies to assist them in meeting the standards. VACAP and the Department have also been working to increase the number and quality of certified Results Oriented Management and Accountability (ROMA) trainers available to help community action agencies implement the performance-based initiatives to strengthen performance management and outcomes measures.

Mr. Schuyler concluded by highlighting the importance of public-private partnerships in carrying out the work of the community action agencies. He stated that for every \$1 of federal funds received through the CSBG, community action agencies leveraged \$12.40 from other federal, state, local, and private sources. This allowed the community action agencies to provide services to more than 168,000 low-income individuals in the Commonwealth in 2014, including more than 50,000 children, 28,000 seniors, and 21,000 people with disabilities. The community action agencies make significant contributions to the quality of life in the Commonwealth and to the economic development and growth of local communities while providing opportunities to become self-sufficient to the Commonwealth's low-income families.

Jim Mundy, President and CEO, Lynchburg Community Action Group, and President, Virginia Community Action Partnership

Mr. Mundy described a number of services provided by the Lynchburg Community Action Group, which serves central Virginia. The agency provides an array of emergency services programs, including utility assistance, emergency food allocation, and a clothing closet. Project Discover assists students from households in which no family member has previously attended college with preparation and planning for entering and completing college. The Virginia CARES program helps ex-offenders exiting prison and transitioning back to the community, including assistance with clothing, housing, resume development, and job skills training. The Housing Services program provides housing counseling services, including financial literacy, mortgage foreclosure mitigation, a homebuyers club, rapid rehousing services, housing services for veterans, and a homeless shelter for families and children. These services are funded through a mix of federal, state, local, and private funds, and the CSBG funds are an important part of that mix. CSBG funds also pay for staff salaries and benefits, space for programs, and program expenses.

Rob Goldsmith, President and CEO, People Incorporated of Virginia, and Vice President, Virginia Community Action Partnership

Mr. Goldsmith described People Incorporated, a developmental organization focused on helping individuals, families, and communities to reach their goals by building on their strengths to develop,

acquire, and build assets to serve as a firm foundation to move into the economic mainstream. People Incorporated provides a broad and diverse range of services for vulnerable families and low-income communities, including early childhood education, affordable housing, workforce development, small business development, community services, and community development programs. This comprehensive asset-based development strategy seeks to address the multitude of needs faced by individuals and communities. Since 2008, People Incorporated has expanded its services into the Northern Shenandoah Valley, Prince William County, the Cities of Manassas and Manassas Park, and the Northern Piedmont communities of Fauquier, Culpeper, and Rappahannock Counties.

Mr. Goldsmith stated that the CSBG is the most effective tool available to assist community action agencies with planning, development, and support of growth opportunities throughout the service area. The availability of CSBG funds allows the organization to design, pilot, and support a wide variety of services for low-income families and communities and is an invaluable resource that helps the agency ensure that citizens and communities have access to the services and opportunities that meet their individual needs and paths toward self-sufficiency. People Incorporated uses CSBG funds to leverage other, often private, funds. In 2015, the agency used \$1.22 million in CSBG funds to leverage over \$16 million in private and other public funds.

Jack Lanier, Executive Director, Quin Rivers Community Action Agency

Mr. Lanier described the work of the Quin Rivers Community Action Agency, a community action agency serving the Counties of Caroline, Charles City, Hanover, New Kent, King and Queen, King William, King George, Stafford, and Spotsylvania, the City of Fredericksburg, and the Town of West Point. The agency provides Healthy Families programs that support families that are at risk for adverse childhood experiences, including child maltreatment; homelessness prevention services; housing counseling services to assist individuals struggling with mortgage payments or the inability to manage personal finances effectively; micro-loans for rural, small businesses that require financing or capital for entrepreneurial startup; the Project Discovery Program to help students from families in which no person has attended college prepare for and complete college; the Project Hope program, which assists survivors of domestic and sexual violence and their families; representative payee services to assist individuals who are in critical need of help in managing their personal finances, including bill payment; and supportive services for veterans and their families, particularly those facing homelessness. Through these programs, Quin Rivers has a tremendous impact on the lives of individuals served. CSBG funding is key to the agency's ability to provide these services.

Annette Lewis, President and CEO, Total Action for Progress, and Veronica Garcia

Ms. Lewis described the work of Total Action for Progress (TAP), a community action agency serving 11 jurisdictions. TAP provides an array of educational, employment, economic, and real estate development programs; affordable housing services; and programs focused on safe and healthy environments for children and families. TAP employs a two-generational approach and bundling services that result in individuals' achieving economic and personal independence.

Ms. Garcia described her life experiences as an individual who experienced domestic violence and, through the assistance of TAP, was able to leave her abuser and build a new life for herself and her children. Housing, education, and employment services provided by TAP, together with other services, helped Ms. Garcia secure stable housing and employment and a healthy life for herself and her family. Ms. Garcia now works with TAP's domestic violence support program to help others fleeing domestic violence and rebuilding their lives.



Tom Wagstaff, Executive Director, Capital Area Partnership Uplifting People

Mr. Wagstaff described the work of Project Discovery, a post-secondary access program that encourages students to complete high school and provides resources and tools for students to successfully make the transition to post-secondary education. The program is currently offered through 24 partner agencies throughout the Commonwealth. The goal of the project is to help people out of poverty by assisting them with college completion, earning a trade certification, or entering the military. In the Richmond area, more than 250 students are enrolled in Project Discovery. The Richmond program has recently expanded into Colonial Heights and Dinwiddie County.

Russell Rice, Director of Planning and Development, South East Rural Community Action Project, and Marty Moates, Rockingham County

Mr. Rice described the work of the South East Rural Community Action Project (SERCAP), one of three statewide community action agencies serving the Commonwealth. SERCAP's mission is to improve the quality of life for low-income individuals by promoting affordable water and wastewater facilities and working with community water and wastewater systems to fund repairs and promote public and environmental health. SERCAP also works with individuals on their water and wastewater systems. In 2015, SERCAP served 283,000 residents of the Commonwealth, using \$170,000 in CSBG funds to leverage \$1.5 million from other sources.

Mr. Moates, a resident of the Commonwealth, described how SERCAP helped him repair his home. His relationship with SERCAP began when his septic system failed and he reached out to a local organization for assistance. That organization put Mr. Moates in touch with SERCAP, and SERCAP was able to replace the septic system with a new functional system. SERCAP staff also conducted a thorough inspection of the house while working on the septic system, identifying several repair issues with the heating system, windows, and insulation. SERCAP staff arranged for local contractors to resolve these issues and also arranged for a series of modifications to the house to make the home more accessible for Mr. Moates's wife, who has cancer. Mr. Moates stated that if not for the help provided by SERCAP, the house would have been condemned.

Recommendation of the Joint Subcommittee

At the end of the meeting, the members of the Joint Subcommittee voted unanimously to approve the State Plan.

Next Meeting

The next meeting will likely be held on August 22. There will likely be an opportunity for the working groups to meet that day as well.

Joint Subcommittee on Block Grants, SJR 223 (1993)

Senator Richard Black, Chair

Sarah Stanton, DLS Senior Attorney

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

June 23, 2016

The Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century (the Joint Subcommittee) met on June 23, 2016, at the Capitol in Richmond, with Senator Creigh Deeds, chair, presiding.

Update on Certified Community Behavioral Health Clinics

Dr. Jack Barber, Interim Commissioner, Department of Behavioral Health and Developmental Services (DBHDS)

Dr. Barber provided an update on the recent improvements in Virginia's behavioral health system and on the DBHDS Certified Community Behavioral Health Clinic (CCBHC) model of mental health service delivery. The CCBHC model is a mode of behavioral health service delivery described in the federal Excellence in Mental Health Act (the Act). This model of service delivery provides a comprehensive range of mental health and substance use disorder services, prioritizes underserved and special populations, includes quality and performance measures to enhance quality of services, utilizes a prospective payment system, and requires ongoing oversight over service delivery to ensure uniform access to a full range of behavioral health services. The Act establishes a grant program to facilitate adoption of the model by participating states. Currently, Virginia is receiving a planning grant. As part of the grant process, DBHDS is working with eight community services boards (CSBs) to determine what changes may be necessary in their existing array of services and operational procedures to comply with the requirements of the Act and to develop plans that comply with those requirements.

Dr. Barber described the services that each of the eight CSBs would be required to provide under the CCBHC model. The required services are behavioral health crisis services; screening, assessment, and diagnosis, including risk assessment; person-centered treatment planning, risk assessment, and crisis planning; outpatient mental health and substance use services; outpatient clinic primary care screening and monitoring; targeted case management; psychiatric rehabilitation services; peer support and family support, including parent peer support for children; intensive community-based mental health care for members of the armed forces and veterans; and care coordination. Dr. Barber explained that each of the eight CSBs is mostly ready to implement or ready to implement with remediation the required services.

Dr. Barber then described what he termed the Virginia model for behavioral health. The Virginia model would integrate the CCBHC model recommendations with those of the Transformation Team. The Virginia model would encompass the required services under the CCBHC grant and would also include medication-assisted treatment for opiate addiction; in-home children's services; and housing, employment, education, and social services in addition to primary care to provide true care coordination. The model would provide critical support for individuals at risk for incarceration, those in crisis, and those in need of stable housing. Implementation of the Virginia model would require building in services over several biennia beginning with same-day access and primary care screening.

Dr. Barber explained that under the Virginia model the behavioral health needs of jail inmates would be the responsibility of CSBs. In addition, the model would include diversion, screening, assessment, and release planning. Diversion and planning for services post-release require that services are accessible and sufficiently comprehensive to meet individual needs. To provide such services, every jail should have at least one staff member to aid in coordinating release planning, and each CSB should have at least one staff member to coordinate release planning for individuals.



Dr. Barber noted that a crisis system that relies on inpatient beds or crisis stabilization units is expensive and not recovery oriented. A true crisis system has the capacity to make acute medications available and provide next-day referrals for assessment and establishment of a plan of care, emergency housing, and direct referrals for social supports. Such system requires a robust community behavioral health system that is well integrated with the crisis response system.

Dr. Barber then spoke about access to housing as an integral component to a community behavioral health system. The lack of stable housing reflects psychosocial distress and impedes individuals from getting past such distress. Dr. Barber explained that housing is a key determinant of health and individuals who are homeless are at greater risk for poor health. Homelessness is correlated with high health care costs, and the high proportion of complex health needs and co-occurring health and behavioral health disorders increases the number, intensity, and scope of the services needed. Homelessness also increases the likelihood of excessive use of hospitals and crisis services. In addition to the relationship to poorer health outcomes and higher costs, lack of housing can be a key factor in recurrent arrests, loss of sobriety, and lack of adherence to prescribed medications for psychiatric or medical reasons.

Finally, Dr. Barber noted that Virginia must continue to focus on building a system of responsive, consistent community-based services that go beyond responding to each crisis. The system Virginia builds needs to connect critical partners in housing and the criminal justice system and needs to be closely integrated with crisis services. The basic framework of the CCBHC model, tailored to meet current and future needs of the Commonwealth, will give Virginia the opportunity to build the system it needs.

Update on the Activities of the Work Groups

Each of the four work groups met in the morning prior to the Joint Subcommittee meeting and reported the results of their meetings to the full Joint Subcommittee.

Senator Emmett Hanger updated the Joint Subcommittee on the activities of Work Group 1 (Service System Structure and Financing). Dr. Richard Bonnie, Director of the Institute of Law, Psychiatry and Public Policy at the University of Virginia School of Law and Chairman of the System Structure and Financing Expert Advisory Panel (the Panel), provided an update on the Panel's activities. Daniel Herr, Assistant Commissioner of Behavioral Health Services, DBHDS, provided information about CSB performance contracts. In addition, Mike Tweedy, Legislative Fiscal Analyst, Health and Human Resources, Virginia Senate Finance Committee, provided an overview of public mental health service system financing in the Commonwealth.

Delegate Robert Bell updated the Joint Subcommittee on the activities of Work Group 2 (Criminal Justice Diversion). The work group received an update on activities of the criminal justice diversion expert advisory panel. The work group also received a summary of recommendations of justice-involved transformation teams from Dr. Michael Schaefer, Assistant Commissioner for Forensic Services, DBHDS.

Delegate Scott Garrett updated the Joint Subcommittee on the activities of Work Group 3 (Crisis and Emergency Services). The work group received an update on activities of the crisis and emergency services advisory panel from John Oliver of the Institute of Law, Psychiatry and Public Policy at the University of Virginia. The group also heard presentations from John Jones of the Virginia Sheriffs' Association and Will Frank of DBHDS.

Senator Janet Howell updated the Joint Subcommittee on the activities of Work Group 4 (Housing). The work group heard a presentation on permanent supportive housing from Kristin Yavorsky of DBHDS. The work group also received an update on the activities of the expert panel. In addition, the work group discussed the group's work plan.

Public Comment

Senator Deeds then invited members of the audience to offer public comment. Jill Hankin of the Virginia Poverty Law Center asked the Joint Subcommittee to consider the opportunity to improve the mental health service system by expanding the Medicaid program. Ms. Hankin indicated that thousands of low income adults need better access to care and Medicaid expansion offers the opportunity to provide that service. She noted that expansion is not a silver bullet, but it is a financing mechanism that would provide federal funding to pay at least 90 percent of the cost of behavioral health services for low income adults.

Materials

Presentations and materials from the meeting can be found on the website of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century at http://dls.virginia.gov/interim_studies_MHS.html.

August 22, 2016

The Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century (the Joint Subcommittee) met on August 22, 2016, at the Capitol in Richmond, with Senator Creigh Deeds, chair, presiding.

Update on the Activities of the Work Groups

Each of the four work groups met in the morning prior to the Joint Subcommittee meeting and reported the results of its meeting to the full Joint Subcommittee.

Sarah Stanton of DLS, on behalf of Work Group 1 (Service System Structure and Financing), reported that Work Group 1 first heard an update on the activities of the expert advisory panel. The group then received a presentation on the steps taken toward the implementation of the Certified Community Behavioral Health Clinics (CCBHC) model that involved discussion of certain service definitions and service descriptions, a Community Services Boards (CSB) needs assessment, and various data collection models. Next, Work Group 1 heard a presentation regarding the local government perspective on publicly funded mental health services.

Delegate Robert B. Bell and Delegate Vivian Watts updated the Joint Subcommittee on the activities of Work Group 2 (Criminal Justice Diversion). Following an update on the activities of Work Group 2's expert advisory panel, the Honorable Jacqueline F. Ward Talevi, Chief Judge, General District Court, 23rd Judicial District, presented on the mental health dockets in the Roanoke and Salem General District Courts. Michelle Albert of the Alexandria Department of Community and Human Services then presented on the Collaboration for Recovery and Reentry Program based in Alexandria. Finally, Work Group 2 heard from Bobby Russell, Superintendent of the Western Virginia Regional Jail and President of the Virginia Association of Regional Jails. Mr. Russell presented information regarding how in-custody deaths in regional jails are investigated.



Delegate Joseph Yost updated the Joint Subcommittee on three presentations heard at the Work Group 3 (Crisis and Emergency Services) morning meeting, the focus of which was telepsychiatry. First, Dr. Richard Merkel and Dr. Anita Clayton from the University of Virginia School of Medicine presented an overview of telepsychiatry and spoke about the University of Virginia's telepsychiatry program. Next, Work Group 3 heard from Ted Stryker and Dr. Stephanie Loveridge of Centra Health, who spoke generally about the overwhelming need for mental health services in the Commonwealth and how telepsychiatry may help meet that need. Finally, the work group heard from Stephanie Lynch of the Virginia Association for Health Plans and Dr. Renee Miskimmin of Virginia Premier Health, Inc., on the biggest challenges in the psychiatry field generally and how telepsychiatry may assist in addressing those challenges. Delegate Yost noted that much of the discussion in the morning meeting focused on existing barriers to the expansion of telepsychiatry.

Senator Janet Howell reported on behalf of Work Group 4 (Housing). The work group first heard from Brian Campbell and Karen Kimsey of the Department of Medical Assistance Services, who addressed, among other points, possible ways to access more federal funding for housing assistance for the mentally ill. Marti Knisley of the Technical Assistance Collaborative then presented on the North Carolina settlement agreement with the Department of Justice. Finally, Work Group 4 received an update on the activities of the expert advisory panel.

Update on Certified Community Behavioral Health Clinics

Dr. Jack Barber, Interim Commissioner of the Department for Behavioral Health and Developmental Services (DBHDS)

Dr. Barber provided an update on the recent improvements in Virginia's behavioral health system and on the DBHDS Certified Community Behavioral Health Clinic (CCBHC) model of mental health service delivery. The CCBHC model is a mode of behavioral health service delivery described in the federal Excellence in Mental Health Act (the Act). The model provides a comprehensive range of mental health and substance use disorder services, prioritizes underserved and special populations, includes quality and performance measures to enhance quality of service, utilizes a prospective payment system, and requires ongoing oversight over service delivery to ensure uniform access to a full range of behavioral health services.

Dr. Barber first updated the Joint Subcommittee on recent progress improving Virginia's behavioral health system. He noted, among other improvements, improvements in the jail waiting list. In September 2015 the list included 85 individuals, 75 of whom had been waiting more than seven days. As of August 15, 2016, the list included only 22 individuals, only six of whom had been waiting more than seven days. He also noted that a planning grant for CCBHCs had been completed and that a plan had been developed for a multiyear, stakeholder-involved transformation initiative for system change. Dr. Barber pointed out that although there has been a dramatic increase in emergency admissions at state hospitals in the last two years, a hospital bed has been provided for everyone needing one under a temporary detention order since July 1, 2014.

Dr. Barber then touched on new standards and processes for emergency evaluators, a joint effort of DBHDS and the Virginia Association of Community Services Boards. He noted that all new emergency evaluator hires must have a master's degree or a doctorate and that all supervisors must be licensed and have at least two years of experience. He then indicated that DBHDS is working with state hospitals, including Eastern State Hospital (ESH) and the Commonwealth Center for Children & Adolescents (CCCA), to strengthen operations and improve processes and staffing. He noted that ESH has an 18-

month goal for restoration of its acute psychiatric certification. The current CCCA 18-month goal includes a change in processes to reduce the average length of stay for an individual to 14 days.

Dr. Barber then updated the Joint Subcommittee on the CCBHC model of DBHDS. He noted that DBHDS has been working with eight CSBs to determine what changes may be necessary in the existing array of CSB services and operational procedures to comply with the requirements of the Act. He presented the results of a CCBHC service ranking survey evaluating the eight CSBs in 11 different service areas to assess the readiness for CCBHC certification. On the basis of the survey results, none of the eight CSBs are yet ready for CCBHC certification. He noted that the one-time cost to achieve CCBHC certification is estimated to be \$6.52 million; ongoing costs are estimated to be \$38.02 million.

He reported that 24 states, including Virginia, received federal grant funds to plan for CCBHCs. Out of these states, eight may be awarded funds for a federal demonstration grant; CSBs would receive an increased match of 65 percent federal funds for behavioral health services provided if selected for the demonstration grant. However, some states are determining that the costs to the states to achieve CCBHC certification are greater than the enhanced 65 percent federal match. DBHDS has learned that, due to this determination, up to half of the 24 states have stated that they do not plan to apply for the demonstration grant.

Dr. Barber then noted that the CCBHC planning grant provided an opportunity to promote access, consistency, and accountability in Virginia. He highlighted major accomplishments achieved during the process, including developing a comprehensive definition of core services for Virginia and developing cost models to provide specific services at each of the eight evaluated CSBs. He stated that Virginia still needs ongoing improvements, emphasizing that there is an overreliance on crisis services in Virginia and a considerable variation among CSBs across Virginia in terms of the services offered.

Dr. Barber then spoke about the System Transformation, Excellence and Performance in Virginia (STEP-VA) model. The STEP-VA model builds on federal CCBHC requirements and transformation team recommendations with services Virginians specifically need. He noted that STEP-VA would provide essential support for individuals at risk of being incarcerated, in crisis, and in need of stable housing. Among other inclusions, Dr. Barber noted that the STEP-VA model adds to CCBHC requirements same-day access for assessment at CSBs, medication assistance treatment, and primary care screening requirements. Dr. Barber presented an example of a funding timeline with cost estimates for these additional STEP-VA requirements, based on a needs assessment. Dr. Barber also noted that a similar plan should be developed for jail-based services; he noted that much like the STEP-VA model for CSBs, a basic array of mental health services should be agreed upon.

Finally, Dr. Barber presented on CSB data collection options. Currently, the collection process is difficult and prone to delays. Moreover, the data gathered does not offer CSBs meaningful insight into their own efficiency or effectiveness. DBHDS has identified alternative data collection options and recommends executing a project to move to standard metrics, measures, and data transmissions. The project would involve engagement of a consulting firm, with the end goal of adopting a meaningful use outcome measure and collecting useful data to inform the CSBs and DBHDS and support the needs of individuals in their care.

Overview of the Center for Behavioral Health and Justice

Joe Flores, Deputy Secretary of Health and Human Resources

Mr. Flores gave a presentation on the Center for Behavioral Health and Justice (the Center). He explained that the Center is an interagency collaborative designed to better coordinate behavioral health



and justice services in the Commonwealth. The Center was established at the recommendation of the Governor's Task Force for Improving Mental Health Services and Crisis Response. The recommendation included 25 specific recommendations centered around expanding access, strengthening administration, and improving quality of services.

Mr. Flores then reported on Center activities. The Center has drafted a strategic implementation plan, created a Center Advisory Group, convened a Behavioral Health and Justice Summit, established a special subcommittee to assist its efforts, finalized a website, and assigned dedicated staff to the Center.

In addition, three Action Committees have been established, composed of members of the Center Advisory Group and co-chaired by a member of such group and the Executive Committee. Action Committee 1 is the Technology, Data, and Information Sharing Committee, focusing on an expansion of the use of technology, providing guidelines to communities regarding information sharing, tracking interventions and criminal justice contact to improve handoffs between systems, and tightening the guidelines on transmission of judicial treatment orders. Action Committee 2, the Committee on Diversion and Re-entry, will focus on expanding diversion options; supporting judicial involvement in ongoing diversion efforts; improving access to Medicaid, the Governor's Access Plan, Social Security, and other benefits available to those being released from incarceration; and expanding use of outpatient restoration. Action Committee 3, the Criminal Justice and Behavioral Health Facilities Committee, will address inequities in jail mental health services, ensure jail and prison screening for veterans, and work to improve access to benefits available to those being released from incarceration.

Mr. Flores explained the Center's next steps. The Center will continue to refine the Action Committee work plans and provide technical assistance to localities to promote the use of best practices for justice-involved behavioral health consumers. Mr. Flores anticipates that the Center's website will go live in September 2016.

Discussion: Proposals for the 2017 Session

The Joint Subcommittee had initial conversations about potential legislative proposals for the 2017 Session. Senator John Cosgrove began by discussing potential legislation addressing a provision in the Code of Virginia that allows a minor over the age of 14 to refuse inpatient therapy. Delegate Bell spoke about potential legislation addressing the perceived problem of getting the inspector general in to investigate incidents occurring in the jails. Finally, Senator Howell discussed potentially amending the Housing Trust Fund so that 20 percent of that Fund goes towards funding permanent supportive housing and similar housing programs.

Public Comment

Senator Deeds then invited members of the audience to offer public comment. No public comment was offered.

Materials and Next Meeting

Presentations and materials from the meeting can be found on the website of the Joint Subcommittee at http://dls.virginia.gov/interim_studies_MHS.html.

The next meeting of the Joint Subcommittee is scheduled to take place on October 26, 2016, at 1 p.m. in the General Assembly Building in Richmond.

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

Senator R. Creigh Deeds, Chair

David Cotter, DLS Senior Attorney

Britt Olwine, DLS Attorney

Sarah Stanton, DLS Senior Attorney

Tom Stevens, DLS Attorney

804-786-3591 ext. 204, 208, 238, or 231

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Virginia Commissioners for the Promotion of Uniformity of Legislation in the United States

June 22, 2016

The Virginia Commissioners for the Promotion of Uniformity of Legislation in the United States (the Uniform Law Commission or ULC) met on June 22, 2016, in Richmond with the following participants present: Ellen Dyke, Jescey French, Lane Kneedler, E.M. Miller, Chris Nolen, Connie Ring, and Mark Vucci. Mary Devine participated via remote connection. Mr. Ring stated that, although he will continue to be active in the Uniform Law Commission, he will be stepping down as chairman and asked that the election of a chairman be postponed until the annual meeting.

Presentations

The Commissioners heard presentations on the following acts:

Uniform Unsworn Declarations Act and Uniform Unsworn Domestic Declarations Act (Final Readings). David Cotter of the Division of Legislative Services (DLS) reported that the Uniform Law Commission (ULC) is considering updating the Uniform Unsworn Foreign Declarations Act (UUFDA), approved by the ULC in 2008, to include language that mirrors 17 U.S.C. § 1746. In 2005 Virginia enacted its own version of 17 U.S.C. § 1746 as Va. Code § 8.01-43, which allows the use of both unsworn domestic declarations and unsworn foreign declarations. The drafting committee has promulgated a freestanding act, the Uniform Unsworn Domestic Declarations Act (UUDDA), intended for states that have already adopted UUFDA, as well as an act that serves to amend UUFDA, the Uniform Unsworn Declarations Act (UUDA). With the exception of the scope of each act, UUDDA and UUDA are essentially identical, and both are essentially identical to UUFDA. There was discussion of whether there is any reason for Virginia to replace its law that has been on the books for 11 years and whether the issue should be referred to the Virginia Bar Association for study.

Foreign Notarization Amendment to the Revised Uniform Law on Notarial Acts. David Cotter explained that the proposed amendment would authorize the performance of notarial acts for persons located outside of the United States by a notary located within the United States. Since 2011 Virginia has allowed an electronic notary to perform notarial acts for persons who are not physically present before the notary but whose identity is established by satisfactory evidence. Va. Code § 47.1-15. Mr. Cotter compared the requirements for electronic notarization in Virginia with the proposed amendment. It was determined that since Virginia has not adopted the Revised Uniform Law on Notarial Acts and



already has provisions for electronic notarization, there seems to be little reason for Virginia to consider adopting the amendment.

Wage Garnishment Act (Final Reading). Emma Buck of DLS reviewed the provisions of the Act and federal and Virginia law on garnishments and highlighted the changes that have been made since the first reading of the Act last year. Ms. Buck noted that federal law sets minimum requirements for wage garnishment, but the laws of the states vary in other requirements. A major change from the 2015 Annual Meeting draft is the extension of the Act to earnings deposited in bank accounts. The Act uses an extrajudicial process, whereas garnishment in Virginia is a judicial proceeding. In addition, the Act places administrative responsibilities with the garnishee. Commissioners discussed the significant policy shift of removing the administration of garnishment actions from Virginia's judicial process and relying on administration by employers and banks.

Model Veterans Court Act (First Reading). Emma Buck of DLS gave an overview of alternative courts and dockets in Virginia, noting that there is statutory authority in Virginia for drug treatment courts in certain jurisdictions and that some courts have specialized dockets for veterans. The 2016–2018 biennium budget requires the Virginia Department of Behavioral Health and Developmental Services to develop a model program for the development of specialty mental health dockets, including consideration of veterans mental health dockets. Ms. Buck discussed the proposed Act, including eligibility, structure, and services. She noted that although there have not been any constitutional challenges, there is a potential equal protection concern as offenders would be treated differently on the basis of veteran or nonveteran status. The Commissioners asked that subsequent to the annual meeting the draft be sent to the Executive Secretary of the Supreme Court for review.

Employee and Student Online Privacy Protection Act (ESOPPA) (Final Reading). Brittany Olwine of DLS reviewed the background of the Act, the provisions of the Act, recent Virginia legislation on the subject, differences between the Virginia law and ESOPPA, and the concerns of certain groups. The Act addresses the tension between the individual privacy rights of employees and students in their personal online accounts (mainly social media accounts) and the employers' or educational institutions' interest in protecting proprietary information and avoiding legal liability. A uniform act may be desirable to multistate employers and educational institutions that have a presence in more than one state. Ms. Olwine reviewed the provisions of the Act that prohibit employers/educational institutions from requiring, coercing, or requesting an employee/student to disclose or modify login information or content for a protected personal online account and the provisions that allow employer/educational institution access.

Revised Uniform Guardianship and Protective Proceedings Act. (First Reading). Jescey French of DLS reviewed the revisions to the Act and noted that most of them reflect recommendations from the 2011 Third Guardianship Summit and are designed to provide the least restrictive alternatives so that persons subject to guardianship and conservatorship can function as independently as they are able. Ms. French stated that a number of entities are interested in promoting quality guardianship in Virginia and suggested that those entities be kept informed of the contents of the Act as it is revised following first reading.

Non-parental Rights to Child Custody and Visitation Act. (First Reading) Mary Devine, a member of the Drafting Committee, stated that the Act sets out procedures and factors for the court to consider in custody and visitation proceedings in which a party to the proceedings is not a legally recognized parent of the child, but specifically excludes cases in which the child is the subject of a guardianship, abuse, neglect, or dependency proceeding. The intent is to create a constitutionally permissible balance

between the rights and interests of children, their parents, and those persons with whom the child may have a special, close relationship (See *Troxel v. Granville*, 530 U.S. 57 (2000)). Ms. Devine reviewed the details of the Act and Virginia law, which entitles “any party with a legitimate interest” to an adjudication of matters involving custody, visitation, support, control, or disposition of a child by the juvenile and domestic relations district court. Va. Code § 16.1-241. Given this provision of Virginia law, it is not clear how the Act would be beneficial in Virginia.

Electronic Registry for Residential Mortgage Notes (previously known as the Home Foreclosure Procedures Act). Connie Ring, co-chair of the drafting committee for the Act, discussed the activities and discussions that have been held by the drafting committee including the major changes from the 2015 draft, the interaction with federal law, congressional efforts regarding this subject matter, and the possibility that the ULC may establish additional committees owing to issues that have been identified by the drafting committee. Mr. Ring stated that substantial funds would be needed for a software program for a registry provision. A draft is not being presented at this time because substantial work is needed. A second committee has been authorized by the ULC to consider amendments to Articles 3, 4, and 9 of the Uniform Commercial Code.

Discussion

There was considerable discussion of the role of the ULC and how the ULC’s limited resources should be allocated. Topics discussed included (i) whether the ULC is overextending itself in subject matters that do not lend themselves to uniform acts, (ii) the relationship between the quantity of acts and their quality, (iii) the rate of adoption in the states, (iv) model acts versus uniform acts, (v) monetary concerns and funding decisions, (vi) the role of special interest groups, and (vii) communication among drafting or study committee members. Mr. Ring stated that he believes that the work of the ULC is a valuable resource to the states and should be fully dedicated to providing guidance to the states on important issues. Mr. Kneeder said that the ULC should not shy away from model acts as they, as well as uniform acts, can provide important guidance. Mr. Ring said that he would like to continue the discussion of the role of the ULC at the Annual Meeting.

Legislative Activity

Regarding possible legislation for the 2017 Session of the General Assembly, Ms. French stated that the Wills, Trusts and Estates Section of the Virginia Bar Association (the Section) has been studying the Uniform Trust Decanting Act and that it appears likely that the Section will find a patron to introduce the Act in the 2017 Session. She stated that the Section has formed a five-person subcommittee, chaired by Farhad Aghdami of Williams Mullen, that is studying the Act, including what is needed to conform the Act to existing Virginia law, and may wish to find a patron to introduce the Act in the 2017 Session.

Virginia Commissioners for the Promotion of Uniformity of Legislation in the United States

Connie Ring, Chair

Jescey French, DLS Senior Attorney
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Virginia World War I and World War II Commemoration Commission

July 13, 2016

The Virginia World War I and World War II Commemoration Commission (the Commission) met in Richmond on July 13, 2016, Delegate M. Kirkland Cox, chair, presiding. Chairman Cox welcomed Clay Mountcastle, the new director of the Virginia War Memorial, who succeeds Jon Hatfield as an ex officio member of the Commission.

Staff Reports

Cheryl Jackson, Executive Director

Ms. Jackson provided updates on a number of programs.

“Welcome Home, Dr. Heilman” Event

The Commission joined with the Virginia War Memorial on May 25, 2016, to host an event to welcome home Dr. Bruce Heilman, World War II veteran and Chancellor of the University of Richmond, as he returned to Richmond following a month-long motorcycle ride across the country to raise awareness of the 75th anniversary of the attack on Pearl Harbor and the U.S. entry into World War II. Chairman Cox presented Dr. Heilman with a commendation from the General Assembly at the event, which included a motorcycle parade across the Lee Bridge.

WWI/WWII Tourism Marketing Grants Open

The first round of the WWI/WWII Tourism Marketing Grant program opened on June 30, and applications will be accepted through August 31. Chairman Cox requested that Clay Mountcastle serve on the grants review team, along with Commission and Virginia Tourism Corporation (VTC) staff. The grant provides up to \$5,000 on a 1:1 matching basis to organizations for marketing related to the 100th anniversary of World War I and the 75th anniversary of World War II. Members were asked to encourage applications within their constituencies.

Locality and Partner Outreach

Commission staff has been holding information sessions across the state to bring together and share information with local planning partners. Sessions have been held in Richmond, Bedford, Norfolk, Winchester, Blacksburg, Prince William County, and Newport News. Hundreds of partners are now working with the Commission, including representatives from nearly every local government and the Virginia Association of Museums, Virginia National Guard, Joint Leadership Council, Keep the Spirit of '45 Alive Coalition, U.S. WWI Centennial Commission, and many more organizations.

Website and Marketing Partnerships

An interactive map has been added to VirginiaWorldWarI.org and VirginiaWorldWarII.org, which will enable online visitors to easily browse and plan visits to related museums and historic sites in the state. Local partners are submitting information to the Statewide Calendar of Events, which has already highlighted more than 80 events.

VTC Partnership: Welcome Center Signs, Virginia Travel Guide, Save the Date Distribution

In partnership with the VTC, signs have been placed in each of Virginia's Welcome Centers with the Commission's logos and website addresses. More than 2.5 million visitors pass through the Welcome Centers each year, all of whom can easily see the signs and visit the websites for information. Printed materials will be developed to accompany the signs, but members agreed that rack cards that draw

visitors to the website are preferable to driving brochures, which provide more detailed site location information that can quickly become outdated.

In addition to the logo signs, more than 11,000 Save the Date cards are being distributed at the Welcome Centers, inviting visitors to participate in the Tribute to WWII Veterans that will be held on December 8, 2016. The Commission will also have placement in the 2017 Travel Guide.

Logo Approval Process

Partners are beginning to request use of the Commission's logo for affiliation with programs and special events. The Commission agreed to the following logo approval process: Partners submit a logo application to staff, which review the application and request any follow-up information that may be needed. If the request appears to be in order and supports the Commission's goals for logo usage, the Executive Director may grant provisional approval to the applicant and allow use of the logo. If an application is in question, the Executive Director will defer provisional approval, and the Commission will consider the application at its next regularly scheduled meeting. The Commission will review requests (both those that have received provisional approval and those that have been deferred) and grant final approval for logo use.

Staff presented the following logo requests, which have received provisional approval. Delegate Richard Anderson made a motion that the logo requests receive final approval. The motion was seconded by Senator Bryce Reeves and passed unanimously.

1. Pulaski County Courthouse Exhibits Committee: Logo will be used with articles that will be published in search of living World War II veterans whom Pulaski County plans to honor at the annual July 4 ceremony.
2. Pulaski County Courthouse Exhibits Committee: Logo will be used on programs handed out at the county's annual 4th of July Remembrance of Veterans and Members of the Armed Forces Ceremony. This year honors WWII veterans.
3. Pulaski County Courthouse Exhibits Committee: Logo will be used on banners placed on each side of vehicle, as WWII veteran George Rash will be the Grand Marshal in the 4th of July parade.

“Dawn of Infamy: America Goes to War” (December 8, 2016, University of Richmond)

Staff reviewed an outline of events for the December 8 Tribute to WWII Veterans, and members discussed outreach efforts through state veterans centers, American Legion posts, the Virginia Military Advisory Council, and military and veterans organizations across the state. Members also suggested outreach to the Virginia Military Institute or Virginia Tech cadet bands, the Old Guard, or a World War II commemorative band. Delegate Anderson and Senator Reeves asked that invitations to General Assembly members be issued on behalf of the Commission and the General Assembly Military and Veterans Caucus.

Profiles of Honor Tour

Staff presented a detailed concept review for the “World War I and World War II Profiles of Honor Tour,” which will present the stories of the people behind the tanks, planes, ships, and home front support of the wars. The exhibit will be housed in a 36-foot gooseneck trailer, which will be pulled by a Chevy Silverado leased through the Department of General Services. The Commission will work in partnership with the Department of Motor Vehicles to hire Drivers/Tour Operators and with the VTC to hire part-time Travel Counselors. Members reviewed a detailed budget for the project and determined to



lease the trailer for three years, with an option for bumper-to-bumper maintenance (excluding tires). Members decided not to purchase another support vehicle but rather to rent as may be needed.

Senator Frank Ruff made a motion to approve the Profiles of Honor Tour concept as presented, with a three-year tour budget not to exceed \$1.4 million. The motion was seconded by Delegate John O'Bannon and passed unanimously.

Library of Virginia Archive for Scanned Photos

Staff is working with the Library of Virginia to develop a proposal to create an online archive for Profiles of Honor photos. The proposal will be presented at the next meeting of the Commission.

Teacher Symposium (Summer 2017)

A planning team has been created to develop the Statewide Teacher Symposium that will take place in the summer of 2017. Planning team members include representatives of the Department of Education, teachers, and museum education specialists. The group will work toward the goal of strengthening efforts by creating a "mega" institute in 2017.

U.S. Entry into WWI/National Guard Proposal (April 2017)

The Virginia National Guard is developing a proposal to work in partnership with the Commission to host the Military Ball of Virginia in April 2017, in conjunction with the National Guard Association meeting, in honor of the 100th anniversary of the U.S. entry into World War I. That proposal, along with a companion Speakers' Series, will be presented at the next meeting of the Commission.

Battle of Midway 75th Anniversary (June 2017)

Staff has started working with the Hampton Roads Naval Museum, MacArthur Memorial, and Secretary of Veterans and Defense Affairs to develop a program to mark the 75th anniversary of the Battle of Midway. More information will follow at the next meeting of the Commission.

Members expressed support for the programs in development and discussed fundraising efforts to offset their costs. Chairman Cox offered to further explore philanthropic support.

Next Meeting

The next meeting of the Commission will be on October 17, 2016, at 1:00 p.m. in the General Assembly Building.

Virginia World War I and World War II Commemoration Commission

Delegate M. Kirkland Cox, Chair

Cheryl Jackson, Executive Director

804-786-3591 ext. 276

VirginiaWorldWarI.org

VirginiaWorldWarII.org

Other Legislative Commissions and Committees

The following legislative commissions and committees are not staffed by DLS. They also hold regular meetings during the interim. Visit their websites to obtain full information regarding their meeting dates, agendas, and summaries.

Virginia State Crime Commission
vscc.virginia.gov/meetings.asp

Joint Commission on Health Care
jchc.virginia.gov/meetings.asp

Joint Legislative Audit and Review Commission (JLARC)
jlarc.virginia.gov/calendar.asp

Virginia Commission on Youth
vcoy.virginia.gov/meetings.asp

House Appropriations Committee
hac.virginia.gov/

Senate Finance Committee
sfc.virginia.gov/

Legislative Meeting Calendar for September 2016

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|--------------|------------|--|--|
| September 12 | 10 a.m. | Joint Legislative Audit and Review Commission (JLARC) | Senate Room A, GAB |
| | noon | Joint Retreat - House Committee on Agriculture, Chesapeake and Natural Resources and Senate Committee on Agriculture, Conservation and Natural Resources | Chesapeake Bay Foundation, Brock Environmental Center, 3663 Marlin Bay Drive, Virginia Beach |
| | 1 p.m. | Commission on Employee Retirement Security and Pension Reform Retirement Working Group | House Room C, GAB |
| September 13 | 9 a.m. | Joint Retreat - House Committee on Agriculture, Chesapeake and Natural Resources and Senate Committee on Agriculture, Conservation and Natural Resources | Chesapeake Bay Foundation, Brock Environmental Center, 3663 Marlin Bay Drive, Virginia Beach |
| | 1 p.m. | Jamestown-Yorktown Foundation Board of Trustees 2019 Commemoration: Resources and Logistics Committee | McGuireWoods Consulting LLC, Frances Hayes Room, 800 East Canal Street, Richmond |
| | 2 p.m. | Virginia Housing Commission Historic Districts Sub Work Group | 5th Floor East Conference Room, GAB |
| September 14 | 9 a.m. | Virginia Housing Commission Companion Animal Sub Work Group | 5th Floor East Conference Room, GAB |
| | 10 a.m. | Joint Subcommittee to Study Alcoholic Beverage Control Laws | Senate Room B, GAB |
| | 10:30 a.m. | Commission on Employee Retirement Security and Pension Reform Compensation Working Group | Senate Room A, GAB |



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| September 14 | 11 a.m. | Joint Commission on Administrative Rules | Senate Room 1, The Capitol |
| | 1 p.m. | Joint Subcommittee on Coastal Flooding | Chesapeake Bay Foundation, Brock Environmental Center, 3663 Marlin Bay Drive, Virginia Beach |
| September 15 | 9 a.m. | Criminal Justice Services Board Committee on Training | House Room D, GAB |
| | 9 a.m. | State Executive Council for the Children's Services Act | Richmond and Henrico Rooms, 1604 Santa Rosa Road, Richmond |
| | 11 a.m. | Criminal Justice Services Board | House Room D, GAB |
| | 1 p.m. | House Committee on Commerce and Labor Wireless Communications Infrastructure Work Group | 6th Floor Speaker's Conference Room, GAB |
| September 16 | 10 a.m. | Commission on the Virginia Alcohol Safety Action Program (VASAP) | 6th Floor Speaker's Conference Room, GAB |
| | noon | Jamestown-Yorktown Foundation Board of Trustees Executive and Finance Committees | House Room 1, The Capitol |
| | noon | Virginia War Memorial Foundation Board of Trustees | 621 South Belvidere Street, Richmond |
| September 19 | 9:30 a.m. | House Committee on Appropriations | 9th Floor Appropriations Room, GAB |
| | 10 a.m. | Virginia Code Commission | 6th Floor Speaker's Conference Room, GAB |
| | 10 a.m. | Virginia Freedom of Information Advisory Council Meetings Subcommittee | House Room C, GAB |
| | 1:30 p.m. | Virginia Freedom of Information Advisory Council | House Room C, GAB |
| September 20 | 10 a.m. | Virginia Commission on Youth | House Room C, GAB |
| | noon | Tobacco Region Revitalization Commission Special Projects Committee | The Inn at Wise, 10 East Main Street, Wise |
| | 2 p.m. | Senate Committee on Finance Health and Human Resources Subcommittee | 10th Floor Conference Room, GAB |
| September 21 | 10 a.m. | Virginia Housing Commission | House Room C, GAB |
| | 11 a.m. | Dr. Martin Luther King, Jr. Memorial Commission | House Room D, GAB |

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|--------------|-----------|--|-----------------------------------|
| September 21 | noon | Virginia Foundation for Healthy Youth | 3831 Westerre Parkway, Henrico |
| September 22 | 9:30 a.m. | Senate Committee on Finance | Senate Room B, GAB |
| | 11 a.m. | Virginia Indigent Defense Commission | 1604 Santa Rosa Road, Richmond |
| | 1 p.m. | Joint Subcommittee to Evaluate Tax Preferences | House Room D, GAB |
| | 1 p.m. | Broadband Advisory Council | House Room 1, The Capitol |
| September 27 | 10 a.m. | Health Insurance Reform Commission | House Room D, GAB |
| | 2 p.m. | Virginia Disability Commission | House Room C, GAB |
| September 29 | 10 a.m. | Joint Commission on Technology and Science (JCOTS) | House Room C, GAB |
| | 10 a.m. | Virginia Freedom of Information Advisory Council Records Subcommittee | House Room D, GAB |

Meetings may be added at any time; please check the General Assembly and DLS websites for updates.

Law Portal Updated July 1, 2016

Visit the Virginia Law Portal (law.lis.virginia.gov) for publications that constitute “Virginia law,” including the Code of Virginia, the Virginia Administrative Code, the Constitution of Virginia, Compacts, Charters, Authorities, and Uncodified Acts of Assembly.

The Code of Virginia and the Compacts, Charters, Authorities, and Uncodified Acts databases on the **Virginia Law Portal website** were updated on July 1 to reflect changes made during the 2016 Session. For updates, follow Virginia Law on Twitter @VA_Laws.

Complete information on meetings during the 2016 interim is available on the website of the Division of Legislative Services (<http://dls.virginia.gov/commissions.html>).

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