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HOUSE JOINT RESOLUTION NO. 614

Offered January 10, 2001

Prefiled January 10, 2001

Establishing a joint subcommittee, in cooperation with the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Virginia Association of Community Services Boards, and consumer and family members, to study the statewide system of providing substitute consent for people with mental disabilities.

Patron—DeBoer

Referred to Committee on Rules

WHEREAS, whenever possible, mentally disabled citizens should be provided the greatest amount of independence to make their own decisions; and

WHEREAS, in certain circumstances, there is a need for legal intervention in the decision-making of certain persons with mental disabilities, usually through the appointment of a guardian under current law; and

WHEREAS, it is essential to have a feasible and workable process in place to make medical treatment and other service decisions for certain mentally disabled citizens in Virginia to ensure their particular needs are met in a timely fashion; and

WHEREAS, there are some instances in which the lack of a guardian results in individuals with mental disabilities being unable to obtain medical care or participate in certain services and programs; and

WHEREAS, mentally disabled citizens with no family members who are active in their care must resort to a stranger to serve as their guardian; and

WHEREAS, pilot programs to train public guardians are available in some localities, but other localities have few training opportunities for guardians; and

WHEREAS, the legal cost associated with obtaining a guardian is approximately \$2,000 and the Department of Social Services can only provide this service to a limited number of customers, and only to those who are deemed indigent; and

WHEREAS, because of lack of training opportunities and lack of funding, substitute decision makers with little or no experience in working with disabled people are often appointed; and

WHEREAS, additional tools and resources are needed to provide consistent and ongoing assistance to individuals with mental disabilities identified as needing someone to assist with decision making; and

WHEREAS, there may be other alternatives for assisting in decision making for citizens with mental disabilities in order to allow the person to retain as much autonomy as possible, receive treatment and services in a timely fashion, ensure that they are protected, and to minimize the cost; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee, in cooperation with the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Virginia Association of Community Services Boards, and consumer and family members be established to study the statewide system of providing substitute consent for people with mental disabilities. The joint subcommittee shall consist of fourteen members as follows: five members of the House of Delegates, to be appointed by the Speaker of the House, in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate, to be appointed by the Senate Committee on Privileges and Elections; three consumers or family members of consumers and one representative of an advocacy organization, to be appointed by the Speaker; and one consumer or family member of a consumer and one representative of an advocacy organization, to be appointed by the Senate Committee on Privileges and Elections.

In conducting its study, the joint subcommittee shall study the statewide system of providing substitute consent for people with mental disabilities, including guardianship, and identify solutions regarding the best means for providing substitute consent that will allow people with mental disabilities the most access to care, services, and personal autonomy.

The direct costs of this study shall not exceed \$13,000.

The Division of Legislative Services shall provide staff support for the study. Technical assistance shall be provided by the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Supreme Court of Virginia. All agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The joint subcommittee shall complete its work in time to submit its findings and recommendations

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59 to the Governor and the 2002 Session of the General Assembly as provided in the procedures of the
60 Division of Legislative Automated Systems for the processing of legislative documents.
61 Implementation of this resolution is subject to subsequent approval and certification by the Joint
62 Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the
63 study.