

# GENERAL ASSEMBLY OF VIRGINIA -- 2001 SESSION

ENROLLED

## HOUSE JOINT RESOLUTION NO. 614

*Establishing a select committee to study the statewide system of providing substitute consent for people with mental disabilities.*

Agreed to by the House of Delegates, February 22, 2001

Agreed to by the Senate, February 21, 2001

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 having strangers serve as their guardians; 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 select committee be established to study the statewide system of providing substitute consent for people with mental disabilities. The select committee shall consist of seven members as follows: four members of the House Committee on Health, Welfare and Institutions, upon the recommendation of the co-chairmen, 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; two members of the Senate Committee on Education and Health, upon the recommendation of the chairman, to be appointed by the Senate Committee on Privileges; and one member of the Senate Committee on Rehabilitation and Social Services, upon recommendation of the chairman, to be appointed by the Senate Committee on Privileges and Elections. The select committee shall seek the input and participation of consumers, family members of consumers, and advocacy organizations, including the Virginia Association of Community Services Boards.

In conducting its study, the select committee 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 \$7,000.

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 select committee, upon request.

The select committee shall complete its work in time to submit its findings and recommendations by November 30, 2001, to the Governor and the 2002 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the

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study.