

# Department of Planning and Budget 2002 Fiscal Impact Statement

**1. Bill Number** HB25

**House of Origin** ☒ Introduced ☐ Substitute ☐ Engrossed  
**Second House** ☐ In Committee ☐ Substitute ☐ Enrolled

**2. Patron** Darner

**3. Committee** Courts of Justice

**4. Title** Juvenile not guilty by reason of insanity.

**5. Summary/Purpose:**

Juvenile not guilty by reason of insanity. Recognizes the finding of "not guilty by reason of insanity" for a child charged with a delinquent act in juvenile court proceedings. The bill closely parallels the adult statute on not guilty by reason of insanity. If the court finds a child not guilty, and the child poses an unreasonable risk to the community, the court may commit the child to the Department of Mental Health, Mental Retardation and Substance Abuse Services for treatment. If the child does not pose a risk, the court may refer the child as one in need of services to the local family assessment and planning team for services under the Comprehensive Services Act for At-Risk Youth and Families. The bill adds such children to the mandated service pool under the Act.

**6. Fiscal Impact Estimates are:**

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2002-03	\$9,932,978	25.0	GF
2003-04	\$5,305,735	25.0	GF

**7. Budget amendment necessary:** Yes, Item 299, Item 335, Section 2 -24, and Item 34

**8. Fiscal implications:**

All calculations are based on the assumption that 12 of these cases would be served in secure juvenile residential treatment facilities and 12 juveniles would be placed in appropriate psychiatric facilities. These estimates are based on a survey by Juvenile and Domestic Relations District Court Judges.

**The Comprehensive Services Act**

These additional costs are to provide extensive secure residential and mental health services to children who have been found by the juvenile court to be "not guilty by reason of insanity" of a delinquent act. As these children will receive extensive residential mental health services, the annual cost was calculated by utilizing the annual cost for appropriate CSA residential services (children assessed at Level of Need 5 on the CSA uniform assessment instrument). The cost of these services is estimated to be \$182,987

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annually for each of the 12 cases. Additionally, in order to process these claims from normal CSAreimbursements, system modification will be required at an estimated cost of \$100,000. Since this bill does not require a local matching share as with all other CSA services, the state would pay the entire annual service cost of **\$2,195,844 in FY03**. Service costs are projected to increase at 5%, requiring a GF need of **\$2,305,636 in FY04** for 12 children.

### **The Department of Mental Health, Mental Retardation and Substance Abuse Services**

Estimates of the fiscal impact for the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) are comprised of initially purchasing acute psychiatric treatment services in a secure community facility and subsequently constructing a secure unit at a public facility, which would be the Commonwealth Center for Children and Adolescents (CCCA). Funds for unit staffing and support associated with a secure public facility unit are also needed. In addition, funding for training in implementing this legislation is needed. Best data available at this time indicates services would be needed for 12 clients per year. These cost estimates are considered preliminary at this time.

**Contract Costs:** The Department is continuing to review and assess the availability of suitable community options for serving these clients. However, given that there are no existing secure child/adolescent facilities in the public sector, it is anticipated that acute psychiatric services would likely be purchased from private vendors in the community. It is projected that contracting for these services would be needed for 12 months in FY2003 and 6 months in FY2004; this is based on a projected completion date of January 1, 2004 for construction of a secure unit. It is anticipated that services would be needed on a phased basis, with contract services needed for 12 clients by the end of FY2003 and six months of services for 12 clients in FY2004. Per day costs are estimated at \$715 in FY2003. With a phase-in of clients for the first year, costs for FY2003 are estimated at \$2,153,580. In FY2004, it is projected that contract costs would increase by 10%, to \$787 per day; FY2004 costs are estimated at \$1,718,808.

**Construction costs:** Provision of acute psychiatric treatment services in a secure public facility for children and adolescents would require construction of an additional unit at the Commonwealth Center for Children and Adolescents. This construction cost is estimated at \$5,329,202, with a projected completion by January 1, 2004 (FY2004).

**Staffing/Support costs:** Based on cost data as of June 30, 2001 at the CCCA, per year bed costs are \$195,156. Additional staffing required for these secure units is estimated at 25 FTEs. Costs for staffing and associated support costs would be phased in for 6 months in FY2004, beginning January 1, 2004. This is estimated at \$1,170,939 for 6 months ( $\$195,156 \times 6$ ) in FY2004. Ongoing, 12-month costs are estimated at \$2,341,877 beginning in FY2005. Of this, it is estimated that staffing would be \$743,899 for 6 months in FY2004; ongoing, 12-month costs beginning in FY2005 are estimated at \$1,257,798.

**Implementation and Monitoring Costs:** Training and monitoring activities are also needed to ensure successful implementation of this legislation. Cost for these activities is projected at \$122,000 in FY2003 and \$78,000 in FY2004. These funds are needed for several one-time training events in FY2003 for existing evaluators as well as additional evaluators who will be conducting juvenile evaluations. On-going training events in FY2003 and FY2004 are also needed. It is anticipated that start-up activities for monitoring, consultation and administrative support for the implementation of this legislation could be handled by existing staff.

However, additional review will be needed to determine staffing needs for these activities as well as outcome research, as required by the proposed legislation.

Total cost for the Department of Mental Health, Mental Retardation and Substance Abuse Services for the 2002 - 2004 biennium are estimated at **\$7,604,782 in FY03 and \$2,967,747 in FY04.**

### **The Courts System**

A hearing must be held to determine if there is probable cause to believe that the mental condition of the juvenile will be a significant factor in the defense of juvenile. Whenever the workload of judges and clerks is increased, the efficiency of the courts system may be impacted. If the workload increases to an unacceptable level, then additional judgeships and clerk positions may need to be added. Costs for such a case would include expert evaluators and witnesses. The evaluators would be paid pursuant to Virginia Code § 19.2-175 out of the criminal fund. The fee will be \$400 for each expert for the performance of the evaluation and any assistance provided for the development of a defense. If the defense provides notice that it intends to raise the insanity defense, an expert shall be appointed to perform an evaluation for the Commonwealth. This expert will also receive a \$400 fee. If the defense places the juvenile's mental condition at issue at the adjudication hearing, most likely at least one expert will appear for the juvenile and one for the Commonwealth. Each expert, under Virginia Code § 19.2-275 will receive \$100 a day plus mileage to appear at the adjudication hearing. If it is assumed that the defense and the Commonwealth will each have one expert and each expert witness travels 100 miles to the adjudication hearing, each adjudication hearing where the insanity defense is litigated will cost \$254. In any case in which a guardian *ad litem* is appointed to represent a child whose mental condition at the time of the offense has been raised, the fiscal impact will be increased by \$256. This figure is based upon the average compensation for a guardian *ad litem* appointed pursuant to § 16.1-266. Based upon all of these components, the potential additional cost of a proceeding in which the insanity defense is raised is estimated at **\$32,352 in each year**.

### **Total Costs**

A summary of costs is as follows:

	FY2003	FY2004
<b>CSA</b>		
Purchased Services	\$2,195,844	\$2,305,636
Systems Modification	\$100,000	\$0
<b>DMHMR/SAS</b>		
Contract for Services	\$2,153,580	\$1,718,808
Construction of CCCA	\$5,329,202	\$0
Operating Costs for CCCA	\$0	\$1,170,939
Implementation/Monitoring	\$122,000	\$78,000
<b>The Courts System</b>		
Operating Costs	\$32,352	\$32,352
<b>TOTAL</b>	<b>\$9,932,978</b>	<b>\$5,305,735</b>

## **9. Specific agency or political subdivisions affected:**

Office of Comprehensive Services  
Department of Mental Health, Mental Retardation and Substance Abuse Services  
Juvenile and Domestic Relations District Courts  
Local Governments (see other comments)

**10. Technical amendment necessary:** N/A

**11. Other comments:** This bill creates a new mandated population for service under the Comprehensive Services Act. The bill is not congruent with the overall mission of the Comprehensive Services Act as it bypasses the Community Policy and Management Team and Family Assessment and Management process entirely. The bill does not assess a local match, which is inconsistent with all other mandated services paid by CSA. Essentially, the bill uses the Comprehensive Services Act to pay for services that are not administered by the Act. The Department of Mental Health, Mental Retardation and Substance Abuse Services is the overall decision maker regarding service assessment and need for the children to be served by this bill.

**Date:** 01/14/02/JLR

**Document:** G:\Fis2002\Csa\Hb25.Doc Jeff Ryan

cc: Secretary of Health and Human Resources