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SENATE BILL NO. 158

Offered January 13, 2010

Prefiled January 11, 2010

A BILL to amend the Code of Virginia by adding a section numbered 19.2-180.1, relating to mental health courts.

Patrons—Edwards and Miller, J.C.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 19.2-180.1 as follows:

§ 19.2-180.1. Mental health courts.

A. For purposes of this section, "mental health court" means a specialized court docket within the existing structure of Virginia's court system offering judicial monitoring of the treatment and supervision of individuals with mental illness who have pending criminal charges.

B. The Office of the Executive Secretary of the Supreme Court shall invite applications from any jurisdiction or any combination of jurisdictions intending to establish a mental health court to commence operation by January 1, 2011. Such applications shall include (i) an agreement from the local community services board or behavioral health authority serving the jurisdiction or combination of jurisdictions to provide or contract for the provision of such services as are necessary to assure that clients of the mental health court have access to appropriate services; (ii) a statement from the general district or circuit court serving the jurisdiction, or a statement from the general district or circuit courts serving the combination of jurisdictions, agreeing to establish a mental health court; and (iii) a plan for evaluating the mental health court and an agreement between the court or courts and the community health court shall be established unless the Executive Secretary approves such application.

C. Each jurisdiction or combination of jurisdictions that intends to establish a mental health court shall establish a local mental health court advisory committee. Each advisory committee shall ensure quality, efficiency, and fairness in the planning, implementation, and operation of the mental health court that serves the jurisdiction or combination of jurisdictions and evaluate the effectiveness of the mental health court in improving access to services and reducing arrest and incarceration rates. Advisory committee membership shall include the following persons or their designees: (i) the judge overseeing the mental health court; (ii) the attorney for the Commonwealth, and, where applicable, the city or county attorney who has responsibility for the prosecution of misdemeanor offenses; (iii) the public defender or a member of the local criminal defense bar in jurisdictions in which there is no public defender; (iv) the clerk of the court in which the mental health court is located; (v) the executive director of the community services board or behavioral health authority that serves the jurisdiction or combination of jurisdictions; (vi) the chief magistrate of the jurisdiction where the mental health court is located; (vii) a sheriff, chief of police, or jail superintendent of the jurisdiction where the mental health court is located; (viii) a representative of a local community-based probation and pretrial services agency; (ix) a representative of the Virginia Department of Corrections, or the Department of Juvenile Justice, or both, from the local office which serves the jurisdiction or combination of jurisdictions; (x) the mental health court administrator; and (xi) a citizen who serves or has served as an advocate for the rights of persons with mental illness.

D. Each jurisdiction or combination of jurisdictions that intends to establish a mental health court shall, in consultation with and the approval of the local mental health court advisory committee, establish criteria for the eligibility and participation of offenders who have been determined to have a mental illness. Such criteria shall specify and describe (i) clinical eligibility; (ii) charge eligibility, such as misdemeanor, felony, and non-violent offenses; and (iii) the target population, which may include juveniles, veterans of the armed forces of the United States, and adults within the jurisdiction of the juvenile and domestic relations district court. Subject to the provisions of this section, neither the establishment of a mental health court nor anything herein shall be construed as limiting the discretion of the attorney for the Commonwealth to prosecute any criminal case arising therein which he deems advisable to prosecute, except to the extent the participating attorney for the Commonwealth agrees to do so.

E. Each jurisdiction or combination of jurisdictions shall develop, in consultation with and approval of the local mental health court advisory committee, policies and procedures for the operation of the mental health court that include (i) prompt identification and placement of offenders in accordance with

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59 *the eligibility criteria; (ii) prompt scheduling of hearings in cases in which an offender meeting the*  
60 *eligibility criteria has agreed to participate in a treatment program operated by the local community*  
61 *services board or behavioral health authority, or by another public or private mental health care*  
62 *provider in agreement with the community services board or behavioral health authority; and (iii)*  
63 *monitoring and disposing of the case under specified conditions or upon successful completion of or*  
64 *participation in the program.*

65 *F. Participation by an offender in a mental health court shall be voluntary and made pursuant only*  
66 *to a written agreement entered into by and between the offender and the Commonwealth with the*  
67 *concurrence of the court.*

68 *G. Nothing contained in this section shall confer a right or an expectation of a right to treatment for*  
69 *an offender or be construed as requiring a local mental health court to accept for participation every*  
70 *offender.*

71 *H. The Office of the Executive Secretary of the Supreme Court shall apply for any federal grants or*  
72 *other funding available to establish mental health courts. The Office of the Executive Secretary shall be*  
73 *responsible for providing oversight for the distribution of any grant funds it applies for and receives.*  
74 *Each jurisdiction or combination of jurisdictions establishing a mental health court may, with approval*  
75 *of the office of the Executive Secretary of the Supreme Court, apply for any federal or other funds*  
76 *available to establish and operate such court.*

77 *I. Each local mental health court advisory committee shall submit evaluative reports to the Office of*  
78 *the Executive Secretary of the Supreme Court as requested. The Office of the Executive Secretary of the*  
79 *Supreme Court shall submit a report to the General Assembly on the effectiveness and utilization of*  
80 *those mental health courts established pursuant to this section by December 1, 2013.*