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SENATE BILL NO. 158

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 8, 2010)

(Patrons Prior to Substitute—Senators Edwards and Miller, J.C. [SB 592])

A BILL to amend the Code of Virginia by adding a section numbered 19.2-180.1, relating to specialized court dockets.

Whereas, the tightening of state laws regulating involuntary hospitalization and the downsizing of state psychiatric hospitals have led some persons with mental illness to slip through the cracks in the community mental health system and to end up homeless, without medication, and arrested by police; and

Whereas, an estimated 1,255,700 mentally ill offenders were incarcerated in the nation's state and federal prisons and local jails, according to a report issued in 2006 by the U.S. Department of Justice, and an additional 547,800 persons with mental illness were on probation in the community, according to a report issued in 1999 by the U.S. Department of Justice; and

Whereas, the U.S. Department of Justice also found that more than half of all inmates in state and federal prisons and local jails had mental health problems; and

Whereas, the mission of mental health courts is to increase public safety and deal humanely with individuals with mental disorders who enter the criminal justice system; and

Whereas, in 1999, Broward County, Florida, and King County, Washington, instituted Mental Health Courts, the goals of which were to provide effective cooperation between the mental health treatment system and the criminal justice system, offer faster case processing time, improve access to public mental health treatment services, improve public safety, and reduce the rate of return through the courts and jail of persons with mental illness; and

Whereas, on November 13, 2000, President Clinton signed into law landmark legislation that established a national mental health courts demonstration program for nonviolent offenders with severe mental illnesses that seeks to divert such offenders from jails and place them into appropriate community programs; and

Whereas, Congress authorized an appropriation of \$4 million for fiscal year 2002 for grants to states and municipalities to establish mental health courts to hear cases involving individuals with severe mental illnesses charged with misdemeanors or nonviolent felonies for the purpose of diverting as many of these cases as possible away from criminal incarceration into appropriate mental health treatment services. Those funds will also support specialized training for law-enforcement and judicial personnel to identify and address the unique needs of people with serious mental illness who come into contact with the criminal justice system; and

Whereas, as of June 2005, there were approximately 125 operational mental health courts in 36 states; and

Whereas, although Virginia did not take advantage of the initial opportunity to apply for federal funding, additional funding opportunities may become available; now, therefore,

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 separate court docket within the existing calendar of a district or circuit court offering judicial monitoring of the treatment and supervision of certain individuals with mental illness who are under the jurisdiction of the criminal court. Any such court shall be required to have (i) identification of eligible individuals; (ii) the provision of services by a willing local community services board or behavioral health authority serving the territorial jurisdiction of the court and which can provide, or contract for the provision of, appropriate treatment and services for the offender; (iii) court-established treatment and compliance terms of participation; and (iv) a process for monitoring the adherence to court requirements.

"Offender" means an individual with mental illness who is under the jurisdiction of the criminal court and is capable of making, and is provided the opportunity to make, an informed decision as to his participation in the mental health court.

B. Any district court or circuit court may establish a mental health court. Nothing contained in this section shall confer a right or an expectation of a right to the establishment of a mental health court in any jurisdiction or to treatment for an offender; neither shall it be construed as requiring a mental health court to accept for participation every offender.

Any community services board or behavioral health authority, agency, or organization serving the

60 *territorial jurisdiction of the court, or any locality sharing, in whole or in part, territorial limits with*
61 *such court, may apply for and accept any grants or funding available to establish or operate such*
62 *mental health court.*