

## Department of Planning and Budget 2012 Fiscal Impact Statement - Revised

- 1. Bill Number:** HB 475
- |                        |  |                                     |                                    |
|------------------------|--|-------------------------------------|------------------------------------|
| <b>House of Origin</b> | <input checked="" type="checkbox"/> Introduced | <input type="checkbox"/> Substitute | <input type="checkbox"/> Engrossed |
| <b>Second House</b>    | <input type="checkbox"/> In Committee          | <input type="checkbox"/> Substitute | <input type="checkbox"/> Enrolled  |
- 2. Patron:** Albo
- 3. Committee:** Courts of Justice
- 4. Title:** Involuntary commitment; alters criteria for ordering mandatory outpatient treatment
- 5. Summary:** This bill alters the criteria and procedures for ordering a person to mandatory outpatient treatment. The bill replaces the current “substantial likelihood” standard with a new standard based on necessity of court-ordered outpatient treatment to prevent deterioration that would result in the person meeting inpatient commitment criteria, and a history of outpatient treatment refusal by the person on more than one prior occasion. The bill also eliminates the requirement that the treating physician determine that the person has the capacity to understand and comply with the treatment, has expressed an interest in outpatient treatment, and has agreed to comply with the treatment before discharging a person for a period of mandatory outpatient treatment following involuntary commitment. The bill also increases the maximum duration of mandatory outpatient treatment following involuntary commitment to 90 days (from 30 days), unless the order is continued. The bill also eliminates requirements for key factors to be in place before discharging a person under a MOT order, including that the person is able to understand his treatment and has agreed to abide by his plan, that services can be provided on an outpatient basis, and that providers have agreed to provide the ordered service. The bill also eliminates certain types of evidence that the judge or special justice was required to consider before ordering involuntary commitment. The bill also provides that mandatory outpatient treatment shall be provided in the least restrictive appropriate manner and that treatment with anti-psychotic medication does not include the use of force or restraint in administering such medication.
- 6. Budget Amendment Necessary:** See fiscal implications below.
- 7. Fiscal Impact Estimates:** Indeterminate
- 8. Fiscal Implications:** This bill removes several key factors required to be in place before discharging a person under a mandatory outpatient treatment order (step-down MOT) and increases the maximum duration of the MOT from 30 days to 90 days. In FY 2011, 33 individuals were ordered to MOT at an average cost of \$3,363 per case, or \$110,980 total.

Additionally, the bill changes the criteria for MOT from the current “substantial likelihood” standard to a new, lower standard for consideration during a commitment hearing. With the

proposed language changes, it is likely that more people could be subject to MOT orders at commitment hearings and for 'step-down' MOT at discharge. While these amendments would expand the pool of persons eligible for MOT, they make it less likely that such persons will comply with MOT orders by also eliminating the requirement that an individual understand the treatment plan, thereby increasing required court oversight and review activities for non-compliant consumers. Based on FY2011 data, about 18.5% of commitment hearings resulted in dismissal, and 0.1% resulted in MOT orders. It is anticipated that there would be fewer dismissals based on the 'lowered' standard and requirements and a resultant increase in MOT orders. However, existing data does not allow for a projection of the numbers of increased MOT orders or associated costs.

**9. Specific Agency or Political Subdivisions Affected:** Department of Behavioral Health and Developmental Services, Community Services Boards, Virginia Courts

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.

**Date:** 02/03/2012

**Document:** G:\FY2012\FIS\HB475.doc

c: Secretary of Health and Human Resources