

## Department of Planning and Budget 2012 Fiscal Impact Statement

**1. Bill Number: SB 314**

House of Origin     Introduced     Substitute     Engrossed  
Second House     In Committee     Substitute     Enrolled

**2. Patron: Blevins**

**3. Committee: Passed Senate; not assigned House committee**

**4. Title: Sexually violent predators**

**5. Summary:**

State law defines a “sexually violent predator” as someone who (i) has been convicted of at least one of a specified group of sexually violent offenses and (ii) “because of a mental abnormality or personality disorder, finds it difficult to control his predatory behavior, which makes him likely to engage in sexually violent acts.” A person who has been determined to be a sexually violent predator can be involuntarily committed to the Department of Behavioral Health and Developmental Services (DBHDS) for treatment after he has completed serving a prison sentence for the sexually violent offense. The Code of Virginia sets out a procedure for determining whether an offender meets the second part of the definition of sexually violent predator. The proposed legislation would amend those procedures.

Currently, the law requires the Department of Corrections (DOC) to identify those offenders in its custody who have committed one of the defined sexually violent offenses. Within about 10 months of the schedule release of any such inmate, the department is required to use an assessment instrument called the Static 99 for such inmate. If the inmate receives a score of four or five, depending on his offense, the department is required to refer the inmate to the Commitment Review Committee (CRC). The CRC is composed of employees of the DOC, DBHDS, and the Attorney General’s office. Using licensed psychologists and psychiatrists, the CRC assesses the inmate to determine if he meets the definition of a sexually violent predator. Upon completion of its assessment, the CRC makes a recommendation to the Attorney General regarding the inmate. The Attorney General then makes a decision whether to ask a court to declare the inmate a sexually violent predator and involuntarily commit him.

The proposed legislation would eliminate the requirement that DOC use the Static 99 assessment instrument and would eliminate the designation of a minimum score that qualifies one to be further considered for involuntary commitment. Instead, the legislation would direct DOC, in coordination with DBHDS and the Attorney General’s office, to develop a protocol “consistent with evidence-based best practices to assess whether the individual

meets the definition of a sexually violent predator.” DOC would use that protocol in deciding which inmates should be referred to the CRC for further assessment.

The proposed legislation makes one additional change in the procedure. Currently, the CRC has 120 days from receiving the referral from DOC to make its assessment and submit a recommendation to the Attorney General. The legislation would increase this timeframe to 180 days.

**6. Budget Amendment Necessary:** Yes. Item 389. The Governor has submitted an executive amendment providing the appropriation for this legislation.

**7. Fiscal Impact Estimates:**

**Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2013	\$76,231	2.0	General
2014	\$115,394	2.0	General
2015	\$115,394	2.0	General
2016	\$115,394	2.0	General
2017	\$115,394	2.0	General
2018	\$115,394	2.0	General

**8. Fiscal Implications:**

Currently, DOC has to administer the STATIC assessment instrument to an inmate who has committed one of the qualifying sexual violent offenses. The score that the inmate receives determines whether that inmate is then referred to the CRC for further assessment. Under the proposed legislation, DOC would not be able to rely on a single test before making the referral. Although the protocol has not been developed, it will likely require DOC to make assessments beyond the results of a single test. To accomplish these assessments within the time limits available, the agency will need additional personnel. The expenditure impact identified in Item 7 is based on adding a psychologist position and a clerical position.

**9. Specific Agency or Political Subdivisions Affected:**

Department of Corrections  
Department of Behavioral Health and Developmental Services  
Office of the Attorney General

**10. Technical Amendment Necessary:** None.

**11. Other Comments:** None.

**Date:** 2/6/2012

**Document:** G:\LEGIS\fis-12\sb314s1.doc Dick Hall-Sizemore