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SENATE JOINT RESOLUTION NO. 16

Offered January 8, 2014

Prefiled December 20, 2013

Establishing a joint subcommittee to study mental health and the criminal justice system. Report.

Patron—Howell

Referred to Committee on Rules

WHEREAS, the Commonwealth has made a commitment to provide a system of community-based care for the mentally ill, but the number of mental health beds in state behavioral health facilities has been reduced and the resources available to local and regional community services boards and behavioral health authorities have been limited, when compared to the numbers of persons in need of services; and

WHEREAS, there is a need to assure that all individuals and families experiencing mental health crises have access to needed emergency mental health services without delay, including crisis intervention team (CIT) programs, secure assessment centers, inpatient and outpatient mental health treatment, and supportive community programs; and

WHEREAS, many Virginians in need of emergency mental health treatment have been unable to access treatment and support services on a timely basis, with the result that a significant number of persons with mental illness commit various offenses, and in many cases, minor, nonviolent offenses, and are arrested by law-enforcement officers, brought before the courts, and held in jails or juvenile detention facilities, rather than being provided with the necessary treatment in the most appropriate setting, in order to prevent their entry into the criminal justice system; and

WHEREAS, Virginia's criminal justice system, including the courts, law-enforcement agencies, probation and court services offices, and secure facilities for both adult and juvenile offenders at the regional and local level have been largely unprepared to address the challenges posed by the numbers of offenders with mental illness but have responded as best they can under the circumstances with limited resources; and

WHEREAS, the mental health system for emergency services is highly dependent upon the cooperation and communication between multiple partners, including community services boards, law enforcement, the judicial system, and private hospitals, and effective collaboration among these partners is essential to ensure the most favorable outcomes for people in crisis; and

WHEREAS, in July 2013 an estimated 23.5 percent of Virginia's local and regional jail population, or 6,346 offenders, were estimated to be mentally ill, and of these offenders, 56 percent, or 3,555 offenders, were estimated to be seriously mentally ill, according to the annual jail mental health survey conducted by the State Compensation Board in cooperation with the Department of Behavioral Health and Developmental Services; and

WHEREAS, 18 jails already have separate, unlicensed mental health units and 15 jails would consider hosting a state-funded mental health residential treatment program; and

WHEREAS, currently, 1,412 mentally ill offenders are housed in isolation or segregation cells in jails that do not have a mental health unit; and

WHEREAS, jails report that 2,580 additional beds are needed in jail mental health units; and

WHEREAS, the January 2014 report of the Office of the State Inspector General on Mental Health Services in Jail found that Virginia's local and regional jails are the Commonwealth's largest provider of mental health services for persons with mental illness, but they lack the resources to develop and implement the policies and practices necessary to provide needed mental health services to incarcerated persons, with the result that individuals in the Commonwealth's jails are denied equal access to the array of mental health services that are available to nonincarcerated mentally ill persons in the community; and

WHEREAS, the Commonwealth has provided support for certain promising initiatives to begin to address this issue, including crisis intervention team (CIT) training for law-enforcement officers and other first responders and crisis receiving centers and other jail diversion programs, all of which show great promise; and

WHEREAS, the question still remains as to which offenders should be held in jail for treatment and which offenders should be diverted to more appropriate treatment and housing programs, if such alternatives were available; and

WHEREAS, the question still remains as to what kinds of facilities are needed to which offenders with mental illness should be referred, how such facilities should be financed, designed, constructed,

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59 supervised, operated, staffed, and licensed, and whether such facilities should be provided by or within
60 state hospitals, private hospitals, jails and juvenile detention facilities, or some combination thereof; and

61 WHEREAS, the Department of Juvenile Justice likewise estimates that significant percentages of the
62 populations of Virginia's state juvenile correctional centers and regional and local secure juvenile
63 detention facilities have some type of mental illness, so that the same issues pertain to Virginia's
64 juvenile justice system; now, therefore, be it

65 RESOLVED by the Senate, the House of Delegates concurring, That a joint subcommittee be
66 established to study mental health and the criminal justice system. The joint subcommittee shall consist
67 of 15 members that include eight legislative members and seven nonlegislative citizen members.
68 Members shall be appointed as follows: three members of the Senate to be appointed by the Senate
69 Committee on Rules; five members of the House of Delegates to be appointed by the Speaker of the
70 House of Delegates in accordance with the principles of proportional representation contained in the
71 Rules of the House of Delegates; one representative of the Virginia Sheriffs' Association, one
72 representative of the Virginia Association of Regional Jails, and two nonlegislative citizen members, at
73 least one of whom shall be a representative of the mental health advocacy community, to be appointed
74 by the Senate Committee on Rules; one judge to be appointed by the Speaker of the House of Delegates
75 upon consideration of the recommendation of the Chief Justice of the Supreme Court of Virginia, if any;
76 and one representative of the Virginia Hospital and Healthcare Association and one community services
77 board or behavioral health authority director to be appointed by the Speaker of the House of Delegates.
78 Nonlegislative citizen members shall be citizens of the Commonwealth of Virginia. The joint
79 subcommittee shall elect a chairman and vice-chairman from among its membership, who shall be
80 members of the General Assembly.

81 In conducting its study, the joint subcommittee shall review (i) the training provided to
82 law-enforcement officers and other first responders under the crisis intervention team program, (ii) the
83 need for crisis receiving centers at the local level, and (iii) the need for mental health treatment beds or
84 other appropriate alternatives for jail diversion at the regional or local level, including the current and
85 projected future availability of beds in state and private hospitals and local and regional jails and other
86 housing arrangements where appropriate.

87 In reviewing the need for treatment beds, the joint subcommittee shall give consideration to whether
88 the current fiscal incentives for expanding regional jail capacity should be eliminated and replaced with
89 a new incentive for construction, renovation, or enlargement of jail mental health units.

90 The joint subcommittee shall consider the appropriate location of such facilities; cooperative
91 arrangements with community services boards, behavioral health authorities, and public or private
92 hospitals; licensing, staffing, and funding requirements; and the statutory and administrative
93 arrangements for the governance of such facilities. The joint subcommittee shall give consideration to
94 the development of such facilities on a pilot program basis.

95 Administrative staff support shall be provided by the Office of the Clerk of the Senate. Legal,
96 research, policy analysis, and other services as requested by the joint subcommittee shall be provided by
97 the Division of Legislative Services. Technical assistance shall be provided by the Secretary of Health
98 and Human Resources, the Secretary of Public Safety, the Office of the Executive Secretary of the
99 Supreme Court of Virginia, the Office of the Attorney General, and the staffs of the Senate Finance and
100 House Appropriations Committees, as requested. All agencies of the Commonwealth shall provide
101 assistance to the joint subcommittee for this study, upon request.

102 The joint subcommittee shall be limited to four meetings for the 2014 interim and four meetings for
103 the 2015 interim, and the direct costs of this study shall not exceed \$21,040 for each year without
104 approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require
105 the written authorization of the chairman of the joint subcommittee and the respective Clerk. If a
106 companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall
107 be required.

108 No recommendation of the joint subcommittee shall be adopted if a majority of the Senate members
109 or a majority of the House members appointed to the joint subcommittee (i) vote against the
110 recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the
111 joint subcommittee.

112 The joint subcommittee shall complete its meetings for the first year by November 30, 2014, and for
113 the second year by November 30, 2015, and the chairman shall submit to the Division of Legislative
114 Automated Systems an executive summary of its findings and recommendations no later than the first
115 day of the Regular Session of the General Assembly for each year. Each executive summary shall state
116 whether the joint subcommittee intends to submit to the General Assembly and the Governor a report of
117 its findings and recommendations for publication as a House or Senate document. The executive
118 summaries and reports shall be submitted as provided in the procedures of the Division of Legislative
119 Automated Systems for the processing of legislative documents and reports and shall be posted on the
120 General Assembly website.

121 Implementation of this resolution is subject to subsequent approval and certification by the Joint
122 Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or
123 delay the period for the conduct of the study, or authorize additional meetings during the 2014 or 2015
124 interim.

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