

SENATE JOINT RESOLUTION NO. 47

Establishing a joint subcommittee to study mental health services in the Commonwealth in the twenty-first century. Report.

Agreed to by the Senate, March 8, 2014

Agreed to by the House of Delegates, March 8, 2014

WHEREAS, the provision of mental health services has been a core responsibility of the Commonwealth of Virginia since 1776, with the establishment of the nation's first publicly supported state mental institution in Williamsburg; and

WHEREAS, the Commonwealth appropriated \$585 million for behavioral health services provided through the Department of Behavioral Health and Developmental Services (the Department) in fiscal year 2013, and of this total amount, 52 percent was provided to serve 1,203 individuals treated in state mental health facilities and the remaining 48 percent provided services for 146,503 individuals living in the community; and

WHEREAS, the current system of care should be reexamined to ensure that resources are aligned to serve the most individuals with behavioral health issues in the most appropriate settings along the continuum of care funded by the Department; and

WHEREAS, in the twenty-first century, the Commonwealth is challenged to provide mental health care through a complex and often confusing array of facilities, programs, and services for individuals with a broad range of mental health needs, including persons requiring voluntary and involuntary, emergency, short-term, forensic, and long-term mental health care in both inpatient and outpatient settings in the public and private sectors; and

WHEREAS, the Commonwealth, since the report of the Hirst Commission over 40 years ago, has made a commitment to provide a system of community-based care for the mentally ill; and

WHEREAS, the fulfillment of that commitment requires that every individual and family experiencing a mental health crisis has access to emergency mental health services without delay; and

WHEREAS, the resources available to local and regional community services boards and behavioral health authorities have not kept pace with the increasing number of persons in need of services as, despite those increasing needs, the Department has reduced the number of beds in state facilities, and private hospitals have often lacked the resources and reimbursement mechanisms needed to fill the gaps when called upon; and

WHEREAS, many persons in need of crisis intervention and emergency mental health treatment have been unable to access treatment and support services on a timely basis, and at the same time a significant number of persons with mental illness commit various offenses, 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, 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; and

WHEREAS, the Commonwealth has provided significant resources to both local and regional community services boards and behavioral health authorities and to local and regional jails and juvenile detention centers, including a significant fiscal incentive through the reimbursement of up to one-half of the capital cost of construction or enlargement of regional jails, but no comparable incentive for the development of mental health facilities at the community level that may be needed to serve persons with serious mental illness has been provided; and

WHEREAS, significant changes have occurred in recent years in the legal and regulatory framework, federal and state reimbursement structures, and service delivery systems, both public and private, for mental health care, including the largely unintended consequences of the increasing involvement of persons with mental illness in the criminal justice system; and

WHEREAS, there is a need for the General Assembly to consider the types of facilities, programs, and services and appropriate financing mechanisms that will be needed in the twenty-first century to provide mental health care, both in traditional mental health delivery systems and in the criminal justice system; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That a joint subcommittee be established to study mental health services in the Commonwealth in the twenty-first century. The joint subcommittee shall consist of 12 legislative members. Members shall be appointed as follows: five

members of the Senate, of whom two shall be members of the Senate Committee on Education and Health, two shall be members of the Senate Committee on Finance, and one shall be a member at-large, to be appointed by the Senate Committee on Rules; and seven members of the House of Delegates, of whom two shall be members of the House Committee on Health, Welfare and Institutions, two shall be members of the House Committee on Appropriations, and three shall be members at-large, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates. The joint subcommittee shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

The joint subcommittee may appoint work groups to assist it with its work. In conducting its study, the joint subcommittee shall (i) review and coordinate with the work of the Governor's Task Force on Improving Mental Health Services and Crisis Response; (ii) review the laws of the Commonwealth governing the provision of mental health services, including involuntary commitment of persons in need of mental health care; (iii) assess the systems of publicly funded mental health services, including emergency, forensic, and long-term mental health care and the services provided by local and regional jails and juvenile detention facilities; (iv) identify gaps in services and the types of facilities and services that will be needed to serve the needs of the Commonwealth in the twenty-first century; (v) examine and incorporate the objectives of House Joint Resolution 240 (1996) and House Joint Resolution 225 (1998) into its study; (vi) review and consider the report *The Behavioral Health Services Study Commission: A Study of Virginia's Publicly Funded Behavioral Health Services in the 21st Century*; and (vii) recommend statutory or regulatory changes needed to improve access to services, the quality of services, and outcomes for individuals in need of services.

In reviewing the need for facility beds at the community level, the joint subcommittee shall give consideration to whether the current fiscal incentives for expanding regional jail capacity should be eliminated and replaced with a new incentive for construction, renovation, or enlargement of community mental health facilities or programs, which may or may not be co-located with selected jails on a regional basis. The joint subcommittee shall consider the appropriate location of such facilities; cooperative arrangements with community services boards, behavioral health authorities, and public and private hospitals; licensing, staffing, and funding requirements; and the statutory and administrative arrangements for the governance of such facilities. The joint subcommittee shall give consideration to the development of such facilities or programs on a pilot basis.

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

The direct costs of this study shall not exceed \$72,560 for each year without approval as set out in this resolution. Of this amount an estimated \$50,000 is allocated for speakers, materials, and other resources. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

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

The joint subcommittee shall submit its interim report by December 1, 2015, to the Governor and the General Assembly and its final report by December 1, 2017, to the Governor and 2018 Regular Session of the General Assembly. The interim and final reports shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional meetings during the 2014 and 2017 interims.