

Department of Planning and Budget

2022 Fiscal Impact Statement

1. Bill Number: SB682

House of Origin	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Deeds

3. Committee: Education and Health

4. Title: Temporary detention; alternative custody.

5. Summary: Provides that if the facility indicated on a temporary detention order is a state facility, no bed for the person detained or in custody pursuant to the temporary detention order is immediately available at such state facility, and an employee or designee of such state facility is available to take custody of such person, such employee or designee of the state facility may assume custody of such person wherever such person is located and maintain custody of such person and transport such person to such state facility or to an alternative facility of temporary detention. The bill also provides that a person who is an inmate who is subject to an order authorizing treatment shall remain in law-enforcement custody at all times prior to admission to the facility designated for treatment of the person pursuant to such order

6. Budget Amendment Necessary: Yes. Item 312.

7. Fiscal Impact Estimates: Preliminary - See 8 below.

8. Fiscal Implications: The substitute bill authorizes that when an individual is placed under a temporary detention order (TDO) to a state facility, and no bed is available at that state facility, the custody of the individual may be transferred to an employee or designee of the state facility where the individual is located, if there is an employee or designee of the state facility available. In these instances, the employee or the designee of the state facility shall maintain custody until the individual is transported to the state facility or alternative facility of temporary detention, if one is designated.

However, unlike the introduced bill, the substitute bill does not contain any provisions that would allow an individual to remain in law enforcement custody if alternative custody funds provided for this purpose are exhausted. It is not clear if the alternative transportation and custody provided for in the substitute bill would still be subject to the alternative transportation process outlined in Section 37.2-810, Code of Virginia, that requires alternative transportation be ordered by a magistrate when appropriate only if the alternative transportation provider is available, willing, and able to provide transportation in a safe manner. Without the funding clause, all available alternative transportation and proposed

alternative custody funds may be required to address those individuals who are being taken to state facilities, with no funding left for those who are to be transported to private hospitals.

The Department of Behavioral Health and Developmental Services (DBHDS) currently operates a program of alternative transportation for some individuals under temporary detention orders who have been deemed appropriate by a magistrate for transportation to a facility by someone other than law enforcement. Under the current contract, which is funded at \$4.5 million per year, Allied Universal Security does not assume custody of the individual until the individual is ready for transport to the available bed. As it stands, the vendor is working to provide 50 percent of the transportation services under TDO (approximately 11,400 transports per year), which will require an additional \$2.0 million general fund above the current funding. The introduced budget includes an amendment to fully fund up to 50 percent of TDO transports via alternative transportation. It should be noted that the goal of these transports is for all types of hospitals, both private and public.

Under the current contract, approximately 80 percent of alternative transportation services are provided to individuals who are being transported to private facilities, with an average trip time of 5.5 hours per transport. According to DBHDS, state facilities typically receive approximately 5,800 – 5,900 TDOs per year, however TDOs to state facilities have been lower during the COVID-19 pandemic due to low staffing levels and facilities' inability to take admissions. DBHDS estimates that adding the alternative custody period could result in anywhere from 12 – 72 hours of additional time for the contractor for any individual going to a state facility, significantly increasing the amount of time an alternative transportation provider would maintain custody. Additionally, if an individual's clinical presentation during the emergency custody order (ECO) period requires the use of restraint, this would be beyond the program's current capabilities to maintain custody of that individual. Therefore, additional training and administrative resources at each of the facilities would be needed to make this a viable option under this code change as presented in the bill.

It is not clear what would be required in the event an alternative custody provider is not available, nor if all funding has been exhausted.

Estimate of Costs:

Individuals taken to state facilities versus private hospitals are often deemed more clinically complex, and may require the use of restraint or higher patient to staff ratios. This analysis is based solely on TDO transport and alternative custody for state facilities. This analysis does not assume any additional transports to non-state hospitals. This analysis is based on current data and makes assumptions about what the structure of the program would look like to account for transportation as well as alternative custody time by the contracted employees; however, the volume of time needed for alternative custody is unknown. Additionally, any type of new service model will have to be negotiated with the vendor and costs could vary as a result of the additional expectations.

This estimate assumes a centralized model, and factors in the need for additional staffing based on the percentage of transfers to each facility. It is possible this bill will increase the number of individuals under TDOs being transferred to state facilities because of the possibility of alternative custody for those waiting for beds, thus the financial breakdown has estimated the possibility of an increase in the number of yearly TDOs. Costs are calculated based on a potential range of 5,900, 6,195, and 6,490 TDO transfers to state facilities per year, applying the percentage breakdown of the number of TDOs that have gone to each hub on average over the last three fiscal years.

This estimate makes assumptions about the number of staff needed to provide both 2:1 and 1:1 staff to patient ratios. The combined amount is then multiplied to account for 3 shifts across a 24/7 period, and then multiplied by 1.5 based on current employee retention. The current contract with Allied assumes \$30/hour for a total of 2,080 hours per year per contracted employee. The estimated total yearly general fund costs would vary based on any future contract changes with Allied or any future alternative transportation providers.

The following is an estimate based on 5,900 TDOs to state facilities using alternative transportation:

Alternative Transportation Hubs	Percentage of 5,900 total State Facility TDO Transfers	TDOs per year/ AT Hub	TDOs per day	Staff Needed Across 3 Shifts	# Staff based on 1.5 Replacement Rate	Cost Per Employee (\$30 per hour/2080 hours)	Total Labor Costs
Hub 1 (Marion)	6%	354	1	4	6	\$62,400	\$374,400
Hub 2 (Danville)	5%	295	1	3	4.5	\$62,400	\$280,800
Hub 3 (Salem)	10%	590	2	7	10.5	\$62,400	\$655,200
Hub 4 (Richmond)	17%	1003	3	12	18	\$62,400	\$1,123,200
Hub 5 (Charlottesville)	12%	708	2	8	12	\$62,400	\$748,800
Hub 6 (Norfolk)	25%	1475	4	17	25.5	\$62,400	\$1,591,200
Hub 7 (Warrenton)	13%	767	2	9	13.5	\$62,400	\$842,400
Hub 8 (Fairfax)	12%	708	2	8	12	\$62,400	\$748,800
Total							\$6,364,800

The following table provides the impact assuming the same staffing percentages are applied to 5,900, 6,195, or 6,490 TDOs to state facilities:

Total TDO Transfers to State Facility Per Year	TDOs Per Day	Two Employees Per TDO Ratio	One Employee Per TDO Ratio	Projected Staff Needed for 2:1 Ratio	Projected Need for Staff for 1:1 Ratio	Total Staff Needed Per Shift	Staff Needed Across 3 Shifts	# of Employees Based on 1.5 Replacement Rate	Cost Per Employee	Total Labor Costs Across Ranges
5,900	16	0.4	0.6	13	10	23	68	102	\$62,400	\$6,364,800
6195	17	0.4	0.6	14	10	24	71	107	\$62,400	\$6,676,800
6490	18	0.4	0.6	14	11	25	75	112	\$62,400	\$6,988,800

In addition to the costs for labor, additional funding will be necessary for mileage and overhead:

Additional Costs		
Mileage	\$.56/mi assuming 50,000 mi/month	\$ 336,000
Vehicle Leasing Fee for 23 Vehicles Across All Hubs	\$15,333.33 Per Month	\$ 184,000
4 Supervisors	\$30/hour *2080 hours	\$ 249,600
Project Manager		\$ 80,000
Total		\$ 849,600

Available funding for alternative custody:

The introduced budget includes an additional \$3.5 million general fund in FY 2024 earmarked for the purposes of addressing custody transfer for individuals under a TDO who have been deemed appropriate for alternative transportation and who are waiting for a bed in a facility that would be available to offset the cost of this legislation. The introduced budget does not include any funding for FY 2023, but requires DBHDS to work with stakeholders to develop a program and draft the appropriate and necessary legislation required for implementation. If this bill becomes effective as of July 1, 2022, and no additional funding is added, there is no identified funding for alternative custody available. It should also be noted that as a result of the pandemic, the current contractor has struggled to fill vacancies. As of February, 2022, of the 51 funded positions, there are 13 vacancies.

9. Specific Agency or Political Subdivisions Affected: Department of Behavioral Health and Developmental Services.

10. Technical Amendment Necessary: No.

11. Other Comments: Currently, all funding for alternative transportation is earmarked in the DBHDS budget specifically for transportation and does not address any type of period of alternative custody prior to transportation.