Department of Planning and Budget
2023 Fiscal Impact Statement

1. **Bill Number:** SB1512

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

2. **Patron:** Mason

3. **Committee:** Education and Health

4. **Title:** Temporary detention; certified evaluators; report.

5. **Summary:** Authorizes hospitals with a psychiatric emergency department to employ certain trained individuals to perform evaluations to determine whether a person meets the criteria for temporary detention for behavioral health treatment. The bill requires participating hospitals with psychiatric emergency departments to annually report the number of temporary detention order evaluations completed, the number of temporary detention orders petitioned, the number of individuals evaluated for temporary detention who were determined to not meet the criteria for temporary detention, and the number of individuals under a temporary detention order admitted to a state facility to the Chairmen of the Senate Committee on Education and Health, the House Committee on Health, Welfare and Institutions, and the Behavioral Health Commission. The bill has an expiration date of July 1, 2025.

6. **Budget Amendment Necessary**: Indeterminate.

7. **Fiscal Impact Estimates:** Preliminary. See Item 8.

8. **Fiscal Implications:** The substitute legislation would allow hospitals with psychiatric emergency departments to employ "certified evaluators" as defined in the bill for the purposes of performing evaluations to determine whether a person meets the criteria for temporary detention for behavioral health treatment. Under current law such evaluations are conducted by a designee of the local community service board (CSB) as defined in § 37.2-809.

   If this legislation becomes law, the Department of Behavioral Health and Developmental Services (DBHDS) would make the evaluation certification program open to evaluators employed by a hospital with a psychiatric emergency department. This program is conducted through the COV Learning Center and could be extended to non-CSB employees at no additional cost.

   In addition to online modules, the training program for Certified Preadmission Screening Clinicians (CPSCs) includes:

- in-person training consisting of developing competency in 13 areas including but not limited to: civil commitment process, documentation expectations, local policies and procedures, interfacing with local law enforcement, interfacing with magistrates and special justices, federal and state laws regarding disclosure of information; and orientation to the bed registry.

- 40 hours of direct observation of a CPSC, including conducting preadmission screening evaluations, as well as 40 hours of supervised direct provision of such emergency services. This requirement could be completed through observation and supervision of a DBHDS employed CPSC trainer, or through observation and supervision of CSB staff, should they be able and willing to participate in the training of privately employed "certified evaluators".

- the completion of a minimum of three preadmission screening evaluations under direct observation of a CPSC.

- consultation with a supervisory level CPSC when the outcome of the preadmission screening evaluation is not recommending hospitalization for an individual from an Emergency Custody Order (ECO) for a minimum of the first three months of the certification period. This consultation must occur immediately, as the individual who was evaluated cannot be released prior to approval from a supervisory level CPSC.

Overall, the process of training a CPSC requires a significant time commitment for both the applicant and the supervisor. The total time commitment for an applicant is typically 4 to 8 weeks. Additionally, the requirement that newly certified prescreeners consult with a supervisor on cases for the first three months following the completion of orientation requires an ongoing relationship with the training supervisor and the applicant. Including the 3-month consultation period, the total time period of CPSC supervisor involvement can range from 4 to 5 months.

The legislation does not dictate who is responsible for the costs of training certified evaluators. If the DBHDS central office is responsible for providing this training, there would be additional administrative costs associated with implementing a certified evaluator program statewide. In developing this program, DBHDS may be able to require participating hospitals with "psychiatric emergency departments" to reimburse the department for the cost of training, which would mitigate these costs.

The projected volume of requests for training is indeterminate. Neither the proposed legislation nor the Code of Virginia define "psychiatric emergency department" so it is unclear whether similar programs that are provided as a part of a hospital, such as a comprehensive psychiatric emergency programs (CPEP), would qualify as a "psychiatric emergency department" for the purposes of this legislation. The governor's introduced budget includes $20 million for the purpose of funding comprehensive psychiatric emergency programs or similar models of psychiatric care in emergency departments, which may increase the number of facilities seeking certified evaluators.

DBHDS estimates they would need four CPSCs to implement a statewide training program. These positions could be restricted, or the positions could be contracted, which could reduce costs if fringe is not included.

A payment/reimbursement structured program with hospitals would reduce the fiscal impact as it would create a revenue opportunity to offset the cost of additional FTEs, however, the structure of a contractual arrangement would need to be established with each participating hospital and would likely be based on the volume of individuals trained as well as time requirements for DBHDS trainers. Because this legislation sunsets on July 1, 2025, the table below assumes the costs of four restricted positions in FY2024 and FY2025. The estimated salary for each position would be $90,000, in addition to fringe benefits, travel, and non-personnel expenses.

Program Costs	**Cost Per FTE**	**# of Positions**	**Total each year**
Salary, Fringe, Overhead	$135,450	4	$541,800
State Vehicle	$6,000	4	$24,000
IT and PPE	$5,000	4	$20,000
Total	**$146,450**		**$585,800**

The addition of non-CSB evaluators into the behavioral health care system would increase the number of evaluators operating in Virginia. DBHDS will need to monitor the outcome of evaluations performed by non-CSB evaluators to ensure consistent evaluation protocols across the civil commitment process, which will add an additional administrative burden.

Permitting a certified evaluator to conduct temporary detention order evaluations in lieu of the designee of a community service board may result in a reduction in CSB workload. The significance of any cost avoidance CSBs is indeterminate, as it is unknown the extent to which providers will take advantage of this option.

If this legislation is enacted, DBHDS anticipates an increase in the number of individuals who are evaluated and admitted to a state hospital. This would lead to increasing census pressures throughout the system that are already experiencing significant census pressures. The cost of these additional admissions is dependent on the magnitude of new commitments.

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

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

11. **Other Comments:** According to DBHDS, prior to legislative changes several decades ago, the practice of non-CSB designated clinicians conducting emergency evaluations was permitted. Multiple criticisms of the commitment process emerged during this time period, including inadequate screening that resulted in numerous TDOs and admissions to state hospitals and a lack of community services and supports to prevent unnecessary

hospitalization. At the time, the law mandated examination by an independent physician or a psychologist. Subsequently, a series of studies were conducted by the Institute of Law, Psychiatry and Public Policy (ILPPP) at the University of Virginia in 1988, DBHDS in 1990, and the Joint Legislative Audit and Review Committee (JLARC) in 1994. After the JLARC study, the General Assembly required that in all cases, only an evaluation conducted by a community services board (CSB) could lead to the issuance of a TDO and required the CSB to determine the place of hospitalization. The requirement was designed to ensure consideration of less restrictive interventions and avoid unnecessary TDOs.