

## Department of Planning and Budget 2007 Fiscal Impact Statement

**1. Bill Number** SB763

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

**2. Patron**        Cuccinelli

**3. Committee** Education and Health

**4. Title**            Outpatient treatment orders; changes criteria therefor.

**5. Summary/Purpose:** This bill changes the legal criteria for ordering outpatient mental health treatment rather than involuntary inpatient treatment. It strikes the requirement that a person be found a danger to himself or others and instead requires a finding that assisted outpatient treatment will be sufficient to prevent him from harming himself or others.

**6. Fiscal Impact Estimates are:** Preliminary

**6a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2006-07	- 0 -	0.00	N/A
2007-08	\$25,000,000	0.00	GF
2008-09	\$25,000,000	0.00	GF
2009-10	\$25,000,000	0.00	GF
2010-11	\$25,000,000	0.00	GF
2011-12	\$25,000,000	0.00	GF
2012-13	\$25,000,000	0.00	GF

**7. Budget amendment necessary:** Item 312 (Grants to Localities); Program 44500 (Financial Assistance for Health Services)

**8. Fiscal implications:** This bill amends the criteria in §37.2-817.C for involuntary outpatient treatment. Specifically, the bill eliminates the first two requirements (i.e., that the person is an “*imminent danger to himself or others...or substantially unable to care for himself*” and that “*less restrictive alternatives to inpatient treatment have been investigated and are deemed suitable*”) and replaces these with the finding that “*an assisted outpatient treatment program, either in lieu of involuntary inpatient treatment or following an initial period of involuntary inpatient treatment, is adequate to meet the individual’s needs and is sufficient to prevent harm that the individual might otherwise inflict upon himself or others within the near future*”.

By amending the criteria, this bill creates a lower standard by which a judge might enter an order for involuntary outpatient treatment by eliminating the “dangerous to self or others” and “inability to care fore self” standards that exist under current law. Such an order might be an alternative to involuntary hospitalization or a “conditional release” order following involuntary hospitalization. The new standard is based on a new concept, an “assisted outpatient treatment

program”, which is not defined anywhere in this bill or under current law. This term needs further definition to establish the basis on which a judge could find an “assisted outpatient treatment program” is adequate, and so order involuntary outpatient treatment.

When combined with the other criteria for involuntary outpatient treatment, this amendment could significantly expand the pool of people with mental illness who might be ordered involuntarily into treatment. Although the number of potential eligible consumers and the specific mandatory services needed are unknown, it is possible that services similar to assertive community treatment (PACT) could be used but at a more intensive level. Because the target group for assisted outpatient treatment services would be inherently less willing to engage in treatment than current PACT consumers are, it is projected that costs would be \$25,000 per case. If these were to be made available statewide with 25 cases at each CSB, costs would be  $25 \times 40 \text{ CSBs} = 1,000 \text{ cases} \times \$25,000 = \$25,000,000$ . Additional resources would be needed to implement services for these additional consumers as well as ensure availability of other services. Without additional resources for outpatient services, the impact of additional court-ordered patients on existing outpatient services would be to displace current voluntary service recipients. Again, however, data is not available to be able to determine the number of consumers and specific services needed so this could be significantly understated.

In addition, some such people might be ordered into inpatient treatment first, although they might not need inpatient level of care at the time of the order. Additional court-ordered inpatients would create demand in excess of current inpatient treatment capacity. .

**9. Specific agency or political subdivisions affected:** Department of Mental Health, Mental Retardation and Substance Abuse Services, Community Services Boards

**10. Other comments:** The Joint Legislative Audit and Review Commission studied the fiscal impact of 2006 General Assembly Session version (SB309) version of this bill. Their analysis added an additional \$10 million by using a per case cost of \$35,000. The additional \$10 million assumes an increase of \$10,000 per case for administrative and evaluation costs.

The Supreme Court of Virginia has initiated a Commission on Mental Health Law Reform, which is intensively studying Virginia’s involuntary civil commitment laws, including proposals such as this one. This group includes representation from all stakeholders, and will complete its study and recommendations in time for the 2008 Session.

**Date:** 01/16/07/eee

**Document:** G:\FY2007\2007 Legislation\SB763.Doc Emily Ehrlichmann

cc: Secretary of Health and Human Resources