

## Department of Planning and Budget 2007 Fiscal Impact Statement

**1. Bill Number** SB780

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

**2. Patron** Cuccinelli

**3. Committee** Courts of Justice

**4. Title** Involuntary temporary detention; issuance and execution of order.

**5. Summary/Purpose:** This bill adds new language to §37.2-809B, relating to the issuance of a temporary detention order (TDO) by a magistrate. Specifically, the bill adds language clarifying that the types of evidence that a magistrate may consider when deciding to issue a TDO are prior treatment records, reports of witnesses, family members, physicians and mental health professionals. The bill also strikes the criterion that the person presents an “*imminent danger*” to himself or others and replaces this with the term “*a significant risk*”.

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

**7. Budget amendment necessary:** See Fiscal Impact below.

**8. Fiscal Impact:** The new language regarding types of evidence is clarifying but has no discernable cost impact since the law already allows the magistrate to consider “*all evidence readily available*”, which presumably may include the evidence referenced by the new language.

The substitution of “*significant risk*” for “*imminent danger*” is much more substantive, and could have a significant impact. Specifically, this change could greatly expand the pool of persons eligible for temporary detention because significant risk is not further defined. Absent further definition, this language invites widely varying interpretation and the likelihood that many more people could be temporarily detained who don’t necessarily need involuntary confinement in a hospital or other facility. There is not sufficient data to project the increased numbers to whom this bill would apply, but the existing service system would not have the capacity to absorb these newly detained persons, and there could be a significant financial impact.

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

**10. Technical amendment necessary:** No

**11. Other comments:** The decision about issuance of a TDO does not occur at a hearing, and there may be numerous practical difficulties if a magistrate feels he must have all the evidence listed in the new language in order to issue a TDO (e.g., obtaining and reviewing

treatment records, hearing from all witnesses and providers, etc) because it would involve a significant amount of time and effort to pull these persons and all this information together. The emergency custody period during which this activity most often occurs is already only four hours, which is often too short to do what is already required.

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\SB780.Doc Emily Ehrlichmann

**cc:** Secretary of Health and Human Resources