

Department of Planning and Budget 2008 Fiscal Impact Statement (Revised)

1. Bill Number: SB177

House of Origin X Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Marsh

3. Committee: Courts of Justice

4. Title: **Assisted outpatient treatment program; established for severely mentally ill.**

5. Summary: Mental health; assisted outpatient treatment. Establishes a program of assisted outpatient treatment for the severely mentally ill. The bill authorizes assisted outpatient treatment for persons previously hospitalized due to noncompliance with prescribed psychiatric treatment, who would be likely to meet the criteria for inpatient commitment without treatment. The bill requires that a specific written treatment plan be prepared by the community services board that gives consideration to the treatment preferences of the individual and explicitly bars the forcible administration of medication. The bill also authorizes a magistrate to issue a temporary detention order for an individual who fails to comply with an outpatient treatment order without good cause. The bill limits the duration of the court order to 180 days or less, and provides the person with procedural protections, including the right to an adversary hearing, the right to counsel, the right to an appeal, and the right to a jury trial on appeal.

6. Fiscal Impact Estimates:

6a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2008			
2009	\$ 7,343,464		
2010	\$ 7,343,464		
2011	\$ 7,343,464		
2012	\$ 7,343,464		
2013	\$ 7,343,464		
2014	\$ 7,343,464		

7. Budget Amendment Necessary: Item 316 (Grants to Localities)

8. Fiscal Implications: This proposed language could significantly expand the pool of people with mental illness who might be ordered involuntarily into treatment. This legislation allows for trends to be a consideration for involuntary commitment: a history of noncompliance, past behaviors, prevention of relapse/deterioration, and the "likelihood" of their compliance. Although the number of potential eligible consumers and the specific mandatory services needed are unknown, services similar to assertive community treatment

(PACT) could be used but at a more intensive level. However, 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 costs would be approximately \$25,000 per case. This includes the cost of pharmacy services.

The original fiscal impact statement was based on a rough estimate of the number of consumers that would be served by this legislation. The Department of Mental Health, Mental Retardation and Substance Abuse Services has revised their estimate using New York's experience of consumers served under a similar law (.0039% percent of NY's 19 million total population) in previous years. If the same percentage is used, it is projected that SB177 could apply to 296 individuals in VA (.0039% percent Virginia's 7.6 million population), for a total cost of \$7.3 million per year.

Further inquiry has demonstrated that the costs of this bill are ultimately indeterminate as experience across states has varied significantly, and as availability of community services and court interpretation also varies. New information from New York's Office of Mental Health indicates that approximately 1,400 individuals are currently being served under this law, a percentage which when adjusted for population, would result in approximately 550 consumers in Virginia. A report issued by the Office indicates that \$32 million was budgeted in FY 2005 for the state contribution to services provided under "Kendra's Law", but no comprehensive per capita data is available. However it can be speculated that if 1,400 individuals are served at a cost of \$32 million, the per capita is approximately \$23,000, similar to the DMHMRSAS's original cost per case, for a total cost of \$12.7 million.

A Joint Legislative Audit and Review Commission study projected a potentially higher cost an added an additional \$10 million by using a per case cost of \$35,000. Additional resources would be needed to implement services for these additional consumers as well as ensure availability of other services. Other requirements could increase CSB costs for monitoring compliance and other entities costs associated with temporary detention orders, independent examiners, and appeals. Data is not available to be able to determine the exact number of consumers and specific services needed so these projections could vary considerably either way.

This legislation may reduce demand for inpatient hospital beds, however because the availability of beds is scarce and demand continues to rise, it is not anticipated that there will be any quantifiable savings to state mental health facilities in this biennium.

9. Specific Agency or Political Subdivisions Affected: Community Services Boards, Supreme Court, Department of Medical Assistance Services.

10. Technical Amendment Necessary: No

11. Other Comments: The Governor's introduced budget provides funds for outpatient services, but these funds are not sufficient to comply with requirements of this bill.

Date: 2/5/2008

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cc: Secretary of Health and Human Resources