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HOUSE JOINT RESOLUTION NO. 639

Offered January 12, 2011

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Directing the Joint Legislative Audit and Review Commission to study the costs of transitioning to 100 percent community-based services for intellectual and developmental disabilities. Report.

Patrons—Englin, Hope and Brink

Referred to Committee on Rules

WHEREAS, in its March 2010 press release, the Department of Behavioral Health and Developmental Services conservatively estimated that "nearly 140,000 adults and children in Virginia are developmentally disabled, and that this number includes 71,500 adults and children over age 6 with an intellectual disability and the 1 in 91 children with an autism spectrum disorder"; and

WHEREAS, the Department indicated further that "persons with intellectual and developmental disabilities desire the same opportunities as others and given effective support systems close to their homes, most people with intellectual and developmental disabilities can live successful lives and participate actively in their communities"; and

WHEREAS, in *Olmstead v. L.C.*, 527 U.S. 581 (1999), the Supreme Court opined that the unjustified institutionalization of people with disabilities is a form of unlawful discrimination under the Americans with Disabilities Act (ADA), and this landmark decision required that persons with disabilities be placed in community settings rather than in institutions when the individual prefers community services, appropriate services can be provided, and community placement can be accommodated; and

WHEREAS, community-based services facilitate independent living and allow persons to live in their homes and communities with access to support services, and the provision of community-based services for persons with intellectual and developmental disabilities is consistent with Virginia's policy of providing care and support to persons with disabilities since the founding of the Commonwealth; and

WHEREAS, current federal law requires that states cover nursing home care in their Medicaid programs and institutional care costs much more than community-based services, which are optional services provided to individuals with disabilities through Medicaid waivers; and

WHEREAS, in a report pursuant to Item 315. Z of the 2008-2010 Appropriation Act, the Virginia Department of Behavioral Health and Developmental Services found that reliance on institutional care is considerably more costly than providing needed services within the community and that the community-based services approach better serves the needs and desires of people with disabilities and their families; and

WHEREAS, like many other states over the years, Virginia has shifted state funds for disability services to community-based providers, and more families are opting to wait for Medicaid waivers that can be used in noninstitutional settings, allowing loved ones to remain in the home and community; and

WHEREAS, advocates for persons with intellectual and developmental disabilities and their families in Virginia have expressed concerns about the lack of community integration of persons with intellectual and developmental disabilities, the continued institutionalization of these individuals in outdated and segregated state facilities, long waiting lists for Medicaid waivers for community-based services, underfunded existing community services, and the state's dismal ranking of 46th among states for funding community-based services for persons with intellectual and developmental disabilities; and

WHEREAS, to address this matter, funding has been proposed by the Governor in the 2011 Session to provide assistance for community-based services and to fund Medicaid waivers; and

WHEREAS, the cost of transitioning from a focus on institutional care to a community-based services system for intellectual and developmental disabilities is unknown and must be ascertained, and other public policy considerations must be weighed prior to any conversion; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Legislative Audit and Review Commission be directed to study the costs of transitioning to 100 percent community-based services for intellectual and developmental disabilities.

In conducting its study, the Joint Legislative Audit and Review Commission shall (i) review federal and state law, regulations, and requirements governing the provision of care and services to persons with intellectual and developmental disabilities; (ii) determine the number of persons with intellectual and developmental disabilities in the Commonwealth desiring community-based services and the number on the waiting list for Medicaid waivers; (iii) determine the costs of institutional care of persons with intellectual and developmental disabilities and assess whether a community-based services system would be cost effective; (iv) determine the cause of the Medicaid waiver backload and the costs of Medicaid

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59 waivers granted annually; (v) estimate the initial and ongoing costs of converting from care in
60 institutional settings to community-based care, and identify the potential revenue streams to support a
61 100 percent community-based care system in Virginia; and (vi) consider other public policy implications
62 and necessary changes relative to transitioning to community-based services.

63 Technical assistance shall be provided to the Joint Legislative Audit and Review Commission by the
64 Department of Behavioral Health and Developmental Services, Department of Medical Assistance
65 Services, Department of Social Services, and the staffs of the House Committee on Appropriations and
66 the Senate Committee on Finance. All agencies of the Commonwealth shall provide assistance to the
67 Joint Legislative Audit and Review Commission for this study, upon request.

68 The Joint Legislative Audit and Review Commission shall complete its meetings by November 30,
69 2011, and the chairman shall submit to the Division of Legislative Automated Systems an executive
70 summary of its findings and recommendations no later than the first day of the 2012 Regular Session of
71 the General Assembly. The executive summary shall state whether the Joint Legislative Audit and
72 Review Commission intends to submit to the General Assembly and the Governor a report of its
73 findings and recommendations for publication as a House or Senate document. The executive summary
74 and report shall be submitted as provided in the procedures of the Division of Legislative Automated
75 Systems for the processing of legislative documents and reports and shall be posted on the General
76 Assembly's website.