

Department of Planning and Budget 2014 Fiscal Impact Statement

1. **Bill Number:** HB478

House of Origin Introduced Substitute Engrossed

Second House In Committee Substitute Enrolled

2. **Patron:** Villanueva

3. **Committee:** Passed Both Houses

4. **Title:** Emergency custody orders; duration; extension.

5. **Summary:** Extends the time that a person may be held pursuant to an emergency custody order from four hours with a possible two-hour extension to eight hours. The bill also provides that a representative of the law-enforcement agency that takes the person into emergency custody or executes an emergency custody order must notify the local community services board as soon as practicable after the person is taken into custody or the order is executed. The bill also requires that a person who is the subject of an emergency custody order or temporary detention order be given a written summary of the procedures and statutory protections associated with such custody or detention. Finally, the bill directs the Governor's Mental Health Task Force to study issues associated with law enforcement's involvement in the admission process and make recommendations designed to reduce the burden on law enforcement resources.

6. **Budget Amendment Necessary:** See fiscal implications below.

7. **Fiscal Impact Estimates:**

7a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2014	-	-	-
2015	\$115,000	-	General Fund
2016	\$115,000	-	General Fund
2017	\$115,000	-	General Fund
2018	\$115,000	-	General Fund
2019	\$115,000	-	General Fund
2020	\$115,000	-	General Fund

8. **Fiscal Implications:** The existing Code specifies that after the initial four hour hold period under an emergency custody order (ECO), a two hour extension may be granted in a case where a facility is being located, or where a medical evaluation must be completed. This bill would bring the maximum period of time a person may be held under an emergency custody

order to eight hours, with no involvement of the magistrate after the initial issuance of the order.

This fiscal impact statement generates the possible costs of the bill using information from various sources including a 2013 University of Virginia study, Virginia Supreme Court data, and clinical expertise at the Department of Behavioral Health and Developmental Services (DBHDS). The actual impact of the legislation will be dictated by how behaviors and practices change as a result of the modification of the emergency custody order process.

ECO extension – Law Enforcement

The state does not currently provide funding to reimburse sheriffs' offices or local police for mandated activities related to ECOs. Therefore, unless the decision is made to begin providing state support for this activity, the proposal is not expected to have a fiscal impact on state funding for law enforcement. However, by eliminating the requirement that a magistrate extend the period of detention after four hours, and by adding an additional two hours to the total period of detention, the legislation will have an impact on local law enforcement agencies. Below presents the estimated additional costs that could be incurred by localities under the proposal.

Under current law, law enforcement officers serve the individual with an Emergency Custody Order that has been obtained from a magistrate or via a 'paperless' ECO when on the road and encounter a situation that requires them to take custody. The ECO is currently time-limited at four hours plus a possible two hour extension upon approval of a magistrate. The time period begins upon service of the order. From that time to the order's expiration, the individual's placement in a facility under TDO, or the individual's release from care (whichever occurs first) a law enforcement officer is required to be present and maintain custody of the individual. Based on available data provided by the Compensation Board, the estimated number of emergency custody order cases that require the presence of local law enforcement each year is approximately 11,950.

Using data compiled from the ILPPP study, the Department of Behavioral Health and Developmental Services has estimated that 736 individuals per year will be in an extended ECO period, and will require continued law enforcement presence past the six hour window, assuming that the extension period is limited to finding an available bed for an individual who has been recommended for a TDO. Applying the average hourly wage of a deputy, the estimated increased cost to law enforcement of an additional two hours is \$30,030.

However, the removal of the requirement that a magistrate approve an extension of the ECO after a psychiatric evaluation has been completed by the four hour mark could increase the number of ECOs that extend past the current legal if the process is not closely monitored and addressed by the appropriate staff at DBHDS and the CSBs. Any increase beyond the estimated 736 individuals noted above would add additional costs to local law enforcement agencies.

Involuntary Mental Commitment Fund – ECO extension

Despite the current six hour limit on emergency custody orders, according to a study completed by the Institute of Law, Psychiatry and Public Policy (ILPPP) for the month of April, 2013, of the 1,370 individuals recommended for temporary detention order, only 19 individuals were reported as not being granted a temporary detention order. The study notes that in many cases where a person did not receive a TDO, the most commonly reported reason was that the individual was still undergoing medical treatment. Using the limited data available, the Department of Behavioral Health and Developmental Services has estimated that a second two-hour extension of the ECO period will result in an additional 24-108 of those individuals being granted temporary detention orders each year, resulting in a minimal increased cost to the involuntary mental commitment fund of \$25,000 - \$115,000 per year.

Because the Involuntary Mental Commitment fund does reimburse state facilities, the cost listed under state facilities may be slightly offset by any reimbursement from the IMC fund, however the state's per diem cost is significantly higher than payments from the IMC fund, particularly if an individual has significant medical needs.

- 9. Specific Agency or Political Subdivisions Affected:** Involuntary Mental Commitment fund, local law enforcement, sheriffs.
- 10. Technical Amendment Necessary:** No.
- 11. Other Comments:** This bill incorporates HB 242, HB 294, HB 583, and HB 621.