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SENATE BILL NO. 479

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 37.2-308, 37.2-504, and 37.2-605 of the Code of Virginia and to repeal Article 2 (§ 37.2-315) of Chapter 3 of Title 37.2 and §§ 63.2-1400 and 63.2-1500 of the Code of Virginia, relating to health services; obsolete provisions.

Patron—McClellan

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-308, 37.2-504, and 37.2-605 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-308. Data reporting on children and adolescents.

A. The Department shall collect and compile the following data:

- 1. The total number of licensed and staffed inpatient acute care psychiatric beds for children under the age of 14 and adolescents ages 14 through 17; and
- 2. The total number of licensed and staffed residential treatment beds for children under the age of 14 and adolescents ages 14 through 17 in residential facilities licensed pursuant to this title, excluding group homes.

B. The Department shall collect and compile data obtained from the community policy and management team pursuant to subdivision 16 of § 2.2-5206 and each community services board or behavioral health authority pursuant to § 37.2-507 and subdivision 17 of § 37.2-605. The Department shall ensure that the data reported is not duplicative.

C. The Department shall report this data on a quarterly basis to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations and to the Virginia Commission on Youth.

§ 37.2-504. Community services boards; local government departments; powers and duties.

A. Every operating and administrative policy community services board and local government department with a policy-advisory board shall have the following powers and duties:

- 1. Review and evaluate public and private community mental health, developmental, and substance abuse services and facilities that receive funds from it and advise the governing body of each city or county that established it as to its findings.
- 2. Pursuant to § 37.2-508, submit to the governing body of each city or county that established it a performance contract for community mental health, developmental, and substance abuse services for its approval prior to submission of the contract to the Department.
- 3. Within amounts appropriated for this purpose, provide services authorized under the performance contract.
- 4. In accordance with its approved performance contract, enter into contracts with other providers for the delivery of services or operation of facilities.
- 5. In the case of operating and administrative policy boards, make policies or regulations concerning the delivery of services and operation of facilities under its direction or supervision, subject to applicable policies and regulations adopted by the Board.
- 6. In the case of an operating board, appoint an executive director of community mental health, developmental, and substance abuse services, who meets the minimum qualifications established by the Department, and prescribe his duties. The compensation of the executive director shall be fixed by the operating board within the amounts made available by appropriation for this purpose. The executive director shall serve at the pleasure of the operating board and be employed under an annually renewable contract that contains performance objectives and evaluation criteria. For an operating board, the Department shall approve the selection of the executive director for adherence to minimum qualifications established by the Department and the salary range of the executive director. In the case of an administrative policy board, the board shall participate with local government in the appointment and annual performance evaluation of an executive director of community mental health, developmental, and substance abuse services, who meets the minimum qualifications established by the Department, and prescribe his duties. The compensation of the executive director shall be fixed by local government in consultation with the administrative policy board within the amounts made available by appropriation for this purpose. In the case of a local government department with a policy-advisory board, the director of the local government department shall serve as the executive director. The policy-advisory board shall

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59 participate in the selection and the annual performance evaluation of the executive director, who meets  
60 the minimum qualifications established by the Department. The compensation of the executive director  
61 shall be fixed by local government in consultation with the policy-advisory board within the amounts  
62 made available by appropriation for this purpose.

63 7. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the  
64 jurisdiction or supervision of the board and establish procedures for the collection of those fees. All fees  
65 collected shall be included in the performance contract submitted to the local governing body or bodies  
66 pursuant to subdivision 2 and § 37.2-508 and shall be used only for community mental health,  
67 developmental, and substance abuse services purposes. Every board shall institute a reimbursement  
68 system to maximize the collection of fees from individuals receiving services under its jurisdiction or  
69 supervision, consistent with the provisions of § 37.2-511, and from responsible third party payors.  
70 Boards shall not attempt to bill or collect fees for time spent participating in commitment hearings for  
71 involuntary admissions pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8.

72 8. Accept or refuse gifts, donations, bequests, or grants of money or property from any source and  
73 utilize them as authorized by the governing body of each city or county that established it.

74 9. Seek and accept funds through federal grants. In accepting federal grants, the board shall not bind  
75 the governing body of any city or county that established it to any expenditures or conditions of  
76 acceptance without the prior approval of the governing body.

77 10. Notwithstanding any provision of law to the contrary, disburse funds appropriated to it in  
78 accordance with such regulations as may be established by the governing body of each city or county  
79 that established it.

80 11. Apply for and accept loans as authorized by the governing body of each city or county that  
81 established it.

82 12. Develop joint written agreements, consistent with policies adopted by the Board, with local  
83 school divisions; health departments; boards of social services; housing agencies, where they exist;  
84 courts; sheriffs; area agencies on aging; and regional offices of the Department for Aging and  
85 Rehabilitative Services. The agreements shall specify the services to be provided to individuals. All  
86 participating agencies shall develop and implement the agreements and shall review the agreements  
87 annually.

88 13. ~~Develop and submit to the Department the necessary information for the preparation of the~~  
89 ~~Comprehensive State Plan for Behavioral Health and Developmental Services pursuant to § 37.2-315.~~

90 ~~14. Take all necessary and appropriate actions to maximize the involvement and participation of~~  
91 ~~individuals receiving services and family members of individuals receiving services in policy formulation~~  
92 ~~and services planning, delivery, and evaluation.~~

93 ~~15. 14. Institute, singly or in combination with other community services boards or behavioral health~~  
94 ~~authorities, a dispute resolution mechanism that is approved by the Department and enables individuals~~  
95 ~~receiving services and family members of individuals receiving services to resolve concerns, issues, or~~  
96 ~~disagreements about services without adversely affecting their access to or receipt of appropriate types~~  
97 ~~and amounts of current or future services from the community services board.~~

98 ~~16. 15. Notwithstanding the provisions of § 37.2-400 or any regulations adopted thereunder, release~~  
99 ~~data and information about each individual receiving services to the Department so long as the~~  
100 ~~Department implements procedures to protect the confidentiality of that data and information.~~

101 ~~17. 16. In the case of administrative policy boards and local government departments with~~  
102 ~~policy-advisory boards, carry out other duties and responsibilities as assigned by the governing body of~~  
103 ~~each city or county that established it.~~

104 ~~18. 17. In the case of an operating board, have authority, notwithstanding any provision of law to the~~  
105 ~~contrary, to receive state and federal funds directly from the Department and act as its own fiscal agent,~~  
106 ~~when authorized to do so by the governing body of each city or county that established it.~~

107 By local agreement between the administrative policy board and the governing body of the city or  
108 county that established it, additional responsibilities may be carried out by the local government,  
109 including personnel or financial management. In the case of an administrative policy board established  
110 by more than one city or county, the cities and counties shall designate which local government shall  
111 assume these responsibilities.

112 B. Every policy-advisory community services board, with staff support provided by the director of  
113 the local government department, shall have the following powers and duties:

114 1. Advise the local government regarding policies or regulations for the delivery of services and  
115 operation of facilities by the local government department, subject to applicable policies and regulations  
116 adopted by the Board.

117 2. Review and evaluate the operations of the local government department and advise the local  
118 governing body of each city or county that established it as to its findings.

119 3. Review the community mental health, developmental, and substance abuse services provided by  
120 the local government department and advise the local governing body of each city or county that

121 established it as to its findings.

122 4. Review and comment on the performance contract, *and* performance reports, ~~and Comprehensive~~  
123 ~~State Plan information~~ developed by the local government department. The board's comments shall be  
124 attached to the performance contract, *and* performance reports, ~~and Comprehensive State Plan~~  
125 ~~information~~ prior to their submission to the local governing body of each city or county that established  
126 it and to the Department.

127 5. Advise the local government as to the necessary and appropriate actions to maximize the  
128 involvement and participation of individuals receiving services and family members of individuals  
129 receiving services in policy formulation and services planning, delivery, and evaluation.

130 6. Participate in the selection and the annual performance evaluation of the local government  
131 department director employed by the city or county.

132 7. Carry out other duties and responsibilities as assigned by the governing body of each city or  
133 county that established it.

134 **§ 37.2-605. Behavioral health authorities; powers and duties.**

135 Every authority shall be deemed to be a public instrumentality, exercising public and essential  
136 governmental functions to provide for the public mental health, welfare, convenience, and prosperity of  
137 the residents and such other persons who might be served by the authority and to provide behavioral  
138 health services to those residents and persons. An authority shall have the following powers and duties:

139 1. Review and evaluate public and private community mental health, developmental, and substance  
140 abuse services and facilities that receive funds from the authority and advise the governing body of the  
141 city or county that established it as to its findings.

142 2. Pursuant to § 37.2-608, submit to the governing body of the city or county that established the  
143 authority an annual performance contract for community mental health, developmental, and substance  
144 abuse services for its approval prior to submission of the contract to the Department.

145 3. Within amounts appropriated for this purpose, provide services authorized under the performance  
146 contract.

147 4. In accordance with its approved performance contract, enter into contracts with other providers for  
148 the delivery of services or operation of facilities.

149 5. Make and enter into all other contracts or agreements as the authority may determine that are  
150 necessary or incidental to the performance of its duties and to the execution of powers granted by this  
151 chapter, including contracts with any federal agency, any subdivision or instrumentality of the  
152 Commonwealth, behavioral health providers, insurers, and managed care or health care networks on such  
153 terms and conditions as the authority may approve.

154 6. Make policies or regulations concerning the delivery of services and operation of facilities under  
155 its direction or supervision, subject to applicable policies and regulations adopted by the Board.

156 7. Appoint a chief executive officer of the behavioral health authority, who meets the minimum  
157 qualifications established by the Department, and prescribe his duties. The compensation of the chief  
158 executive officer shall be fixed by the authority within the amounts made available by appropriation for  
159 this purpose. The chief executive officer shall serve at the pleasure of the authority's board of directors  
160 and be employed under an annually renewable contract that contains performance objectives and  
161 evaluation criteria. The Department shall approve the selection of the chief executive officer for  
162 adherence to minimum qualifications established by the Department and the salary range of the chief  
163 executive officer.

164 8. Authorize the chief executive officer to maintain a complement of professional staff to operate the  
165 behavioral health authority's service delivery system.

166 9. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the  
167 jurisdiction or supervision of the authority and establish procedures for the collection of those fees. All  
168 fees collected shall be included in the performance contract submitted to the local governing body  
169 pursuant to subdivision 2 and § 37.2-608 and shall be used only for community mental health,  
170 developmental, and substance abuse services purposes. Every authority shall institute a reimbursement  
171 system to maximize the collection of fees from individuals receiving services under the jurisdiction or  
172 supervision of the authority, consistent with the provisions of § 37.2-612, and from responsible third  
173 party payors. Authorities shall not attempt to bill or collect fees for time spent participating in  
174 commitment hearings for involuntary admissions pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8.

175 10. Accept or refuse gifts, donations, bequests, or grants of money or property or other assistance  
176 from the federal government, the Commonwealth, any municipality thereof, or any other sources, public  
177 or private; utilize them to carry out any of its purposes; and enter into any agreement or contract  
178 regarding or relating to the acceptance, use, or repayment of any such grant or assistance.

179 11. Seek and accept funds through federal grants. In accepting federal grants, the authority shall not  
180 bind the governing body of the city or county that established it to any expenditures or conditions of  
181 acceptance without the prior approval of that governing body.

182 12. Notwithstanding any provision of law to the contrary, disburse funds appropriated to it in  
183 accordance with applicable regulations.

184 13. Apply for and accept loans in accordance with regulations established by the board of directors.

185 14. Develop joint written agreements, consistent with policies adopted by the Board, with local  
186 school divisions; health departments; local boards of social services; housing agencies, where they exist;  
187 courts; sheriffs; area agencies on aging; and regional offices of the Department for Aging and  
188 Rehabilitative Services. The agreements shall specify the services to be provided to individuals. All  
189 participating agencies shall develop and implement the agreements and shall review the agreements  
190 annually.

191 15. ~~Develop and submit to the Department the necessary information for the preparation of the~~  
192 ~~Comprehensive State Plan for Behavioral Health and Developmental Services pursuant to § 37.2-315.~~

193 16. Take all necessary and appropriate actions to maximize the involvement and participation of  
194 individuals receiving services and family members of individuals receiving services in policy formulation  
195 and service planning, delivery, and evaluation.

196 17. 16. Institute, singly or in combination with community services boards or other behavioral health  
197 authorities, a dispute resolution mechanism that is approved by the Department and enables individuals  
198 receiving services and family members of individuals receiving services to resolve concerns, issues, or  
199 disagreements about services without adversely affecting their access to or receipt of appropriate types  
200 and amounts of current or future services from the authority.

201 18. 17. Notwithstanding the provisions of § 37.2-400 and regulations adopted thereunder, release data  
202 and information about each individual receiving services to the Department, so long as the Department  
203 implements procedures to protect the confidentiality of that data and information. Every authority shall  
204 submit data on children and youth in the same manner as community services boards, as set forth in  
205 § 37.2-507.

206 19. 18. Fulfill all other duties and be subject to applicable provisions specified in the Code of  
207 Virginia pertaining to community services boards.

208 20. 19. Make loans and provide other assistance to corporations, partnerships, associations, joint  
209 ventures, or other entities in carrying out any activities authorized by this chapter.

210 21. 20. Transact its business, locate its offices and control, directly or through stock or nonstock  
211 corporations or other entities, facilities that will assist the authority in carrying out the purposes and  
212 intent of this chapter, including without limitations the power to own or operate, directly or indirectly,  
213 behavioral health facilities in its service area.

214 22. 21. Acquire property, real or personal, by purchase, gift, or devise on such terms and conditions  
215 and in such manner as it may deem proper and such rights, easements, or estates therein as may be  
216 necessary for its purposes and sell, lease, and dispose of the same or any portion thereof or interest  
217 therein, whenever it shall become expedient to do so.

218 23. 22. Participate in joint ventures with persons, corporations, partnerships, associations, or other  
219 entities for providing behavioral health care or related services or other activities that the authority may  
220 undertake to the extent that such undertakings assist the authority in carrying out the purposes and intent  
221 of this chapter.

222 24. 23. Conduct or engage in any lawful business, activity, effort, or project that is necessary or  
223 convenient for the purposes of the authority or for the exercise of any of its powers.

224 25. 24. As a public instrumentality, establish and operate its administrative management infrastructure  
225 in whole or in part independent of the local governing body; however, nothing in the chapter precludes  
226 behavioral health authorities from acquiring support services through existing governmental entities.

227 26. 25. Carry out capital improvements and bonding through existing economic or industrial  
228 development authorities.

229 27. 26. Establish retirement, group life insurance, and group accident and sickness insurance plans or  
230 systems for its employees in the same manner as cities, counties, and towns are permitted to do under  
231 § 51.1-801.

232 28. 27. Provide an annual report to the Department of the authority's activities.

233 29. 28. Ensure a continuation of all services for individuals during any transition period.

234 **2. That Article 2 (§ 37.2-315) of Chapter 3 of Title 37.2 and §§ 63.2-1400 and 63.2-1500 of the**  
235 **Code of Virginia are repealed.**