

The Virginia General Assembly



2008 LEGISLATIVE REPORT: Mental Health Related Bills

DMHMRSAS

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- *Section I: Key Mental Health Bills: By Subject Area*
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Key Mental Health Bills: By Subject Area

Bills Passed or Referred by Letter for Further Study

Bill Number	Description	Status	Page #
<i>Omnibus Bill</i>			
HB0499/ SB0246	Omnibus MH bill (incorporates ideas from HB 559, 560, 576, 583, 1144; SB 75, 78, 79, 80, 96, 97, 101, 103, 104, 129, 139, 140, 144, 217, 220, 273, 341, 769)	Passed	5
<i>Commitment Related Bills</i>			
<i>A. Criteria</i>			
HB0559	ECO, TDO, involuntary commitment; criteria.	Passed	6
SB0106	Involuntary commitment; criteria for determining outpatient treatment.	Letter	13
<i>B. Disclosures</i>			
HB0576	Medical records; disclosure; safe harbor.	Passed	6
SB0336	Temporary detention orders; encryption of medical records not required.	Passed	8
<i>C. Custody, Transfer of Custody, Transportation</i>			
HB0401	Emergency custody; who may accept custody.	Passed	5
HB0707	Involuntary commitment hearings; person shall be held in custody until released to secure facility. (PS lead)	Passed	9
SB0081	Emergency custody; who may accept custody.	Passed	7
SB0102	Three-tiered system of transportation	Letter	13
<i>D. Emergency Custody (ECO) Temporary Detention Order (TDO) Time</i>			
HB0583	Emergency custody orders; extension of time (2 hours).	Passed	6
SB0143	Temporary detention order; extend time period	Letter	13
<i>E. Independent Examiner (IE/Community Services Board (CSB) Reports and Participation</i>			
HB0560	Commitment hearing; community services board representative and treating physician to attend.	Passed	6
SB0141	Discharge planning; release from state hospitals.	Passed	7
SB0333	Independent examiners; dismissal of involuntary commitment petitions	Letter	14
<i>F. Court Procedure</i>			
HB0267	Involuntary commitment; indigent petitioner; right to counsel.	Letter	11
HB0708	Temporary detention orders; admission as evidence.	Passed	6
HB0938	Involuntary commitment hearings; petitioner right to appeal.	Letter	11

HB0939	Involuntary commitment order; detainee may petition court to transfer to outpatient treatment.	Letter	11
HB1144	Temporary detention order; magistrate may consider recommendation of examining physician, etc.	Passed	10
HB1323	Temporary detention order; magistrates to issue based on recommendation of treating physicians.	Passed	7
SB0142	Involuntary commitment hearings; recordings	Passed	7
SB0214	Special Justices; required to complete minimum training program.	Letter	15
II. Access to Firearms			
HB0709/ SB0226	Purchase of firearms; consent form; mental health questions. (PS lead)	Passed	9
HB0815	Voluntary admission; report to CCRE. (PS lead)	Passed	9
SB0216	Involuntary mental health treatment; purchase of firearms; reporting to Central Criminal Records Exchange. (PS lead)	Passed	10
III. Minors			
HB0400/ SB067	Parental admission of minors for inpatient treatment; minors incapable of giving consent.	Passed	5
HB0402	Involuntary commitment petition; minors; dismissal or withdrawal.	Passed	5
HB0582/ SB276	Psychiatric inpatient treatment of minors; timing of petition and hearing.	Passed	6
SB0068	Involuntary commitment petition; withdrawal.	Passed	7
SB0247	Commitment of minors; appointment of counsel and guardians ad litem.	Passed	8
SB0330	Custody and visitation cases; admissibility of mental health care records.	Passed	8
IV. Other			
HB0475/ SB0297	Mental health and rehabilitative services; Dept. of Veteran Services, et al, to establish program. (DVS lead)	Passed	9
HB1005	Higher educational institutions; notification to parent of mental health treatment for student.	Passed	9
HB1186/ SB0380	Incompetent defendants; misdemeanors; dismissal of charges.	Passed	7
SB0047	Advance directives; mental health.	Letter	12
SB0064	Community services boards; core services.	Letter	12
SB0335	Voluntary outpatient treatment	Letter	14

SB0345	Conditional release; voluntary admission to a state hospital.	Passed	8
SB0538	Higher educational institutions; first warning and emergency notification system required. (PS lead)	Passed	9
SB0539	Higher educational institutions; threat assessment teams at each public institution of higher education. (ED lead)	Passed	10
SB0636	Higher educational institutions; requesting complete student record from high school. (ED lead)	Passed	10
SJ 0042	Mental health reform; joint subcommittee to study.	Passed	8
SJ 0046	Mental Health Needs & Treatment of Minority Young Adults; Joint Commission on Health Care Studying.	Passed	8

2008 Final Legislative Report

Total Counts Lead and Secondary: 134 Bills/5 Resolutions (HB: 68 HJ: 2 SB: 66 SJ: 3) (Lead only: 101 Bills/5 Resolutions)

Bills: DMHMRSAS Lead Agency to Track	<u>Explanation</u>
<p>HB 400 - <u>Hamilton</u>/SB 67 - <u>Howell</u> - Inpatient treatment; parental admission of minors incapable of giving consent</p>	<ul style="list-style-type: none"> ▪ Amends §16.1-336 and 16.1-339 to add a definition of “incapable of making an informed decision” and to allow for parental admission of minors for inpatient treatment when the minor is incapable of giving consent. “Incapable of making an informed decision” is defined as unable to understand the proposed treatment and its possible consequences, risks, or risks of not having the treatment. Minors with dysphasia or other communication disorders who are mentally competent and able to communicate are not considered incapable of giving consent for the purposes of this bill. ▪ The Code currently allows a minor 14 years of age or older to be admitted upon his parents application when the minor objects to admission. These amendments expand parental admission of these minors to those who are incapable of making an informed decision (as defined in the amendment) whether they object or not. This bill is a recommendation of the Commission on Mental Health Law Reform, and is identical to SB 67.
<p>HB 401 - <u>Hamilton</u> - Emergency custody; who may accept custody.</p>	<ul style="list-style-type: none"> ▪ Amends §37.2-808 (emergency custody orders - ECO) to allow a law enforcement officer to turn over custody to the “location” (i.e., program) to which he transported a person under an ECO if the location is licensed to provide the necessary security, is capable of providing the security, and willing to accept custody of the person. ▪ This bill originated with the Commission on Mental Health Law Reform and is identical to SB 81 (Cuccinelli).reflects the widespread interest in resolving law enforcement concerns about maintaining physical custody of persons throughout the period of emergency custody, even though some programs might be suitable to assume custody and maintain the necessary security. The burden for law officers to maintain custody for persons under the present statute is significant.
<p>HB 402 - <u>Hamilton</u> - Involuntary commitment petition; dismissal or withdrawal.</p>	<ul style="list-style-type: none"> ▪ Amends § 16.1-341, relating to the petition for involuntary commitment of minors. The bill strikes the word “dismissed” on line 33 and replaces it with the word “withdrawn”. This is a clarifying change and does not substantively impact § 16.1-341, and will simplify the process in a positive way for families and children, as well as courts. This came from the Commission on Mental Health Law Reform.
<p>HB 499 - <u>Hamilton</u>/SB 246 - <u>Howell</u> - Involuntary commitment; establishes new standard for outpatient commitment. (incorporates ideas from HB 559, 560, 576, 583, 1144; rolled in SB 75, 78, 79, 80, 96, 97, 101, 103, 104, 129, 139, 140, 144, 217, 220, 273, 341, 769)</p>	<p>This is the Omnibus bill (identical to SB 246), includes language identical to certain other House Bills, and makes extensive changes to numerous sections of the Code related to:</p> <ul style="list-style-type: none"> ▪ Disclosures authorized during the emergency custody, temporary detention and commitment process (in juvenile and adult commitment, jail transfer, and Health Records Privacy statutes) ▪ Commitment criteria for civil cases, jail transferees and DOC prisoners ▪ Evidence that can be considered in issuing ECO, TDO, commitment orders ▪ Extension of ECO period for 2 additional hours, for good cause ▪ Time period of detention. Must be sufficient for completion of exams and preadmission screening, and

	<p>to start treatment before hearing</p> <ul style="list-style-type: none"> ▪ Components of independent exam ▪ Examiner and CSB attendance and participation in hearings ▪ Transfers between CSBs and between courts when necessary ▪ New Mandatory Outpatient Treatment requirements and procedures for issuance of MOT order, monitoring and reporting, court review (for noncompliance, extension, rescission), rescission of order and extension of order ▪ Confidentiality of court records <p>Additional technical changes are also throughout the bill.</p>
HB 505 - <u>Hamilton</u> - Interagency Civil Admissions Advisory Council; removes sunset provision.	<ul style="list-style-type: none"> ▪ Removes the sunset clause of the Interagency Civil Admissions Advisory Council, thereby making the Council permanent. Established in 2005, the Council was originally set to sunset on July 1, 2008.
HB 559 - <u>Bell</u> - Emergency custody orders, temporary detention orders, and involuntary commitment; criteria. (in Omnibus)	<ul style="list-style-type: none"> ▪ Identical to language found in HB 499/SB 246 in regard to changes to the criteria for emergency custody, temporary detention and involuntary commitment.
HB 560 - <u>Bell</u> - Commitment hearing; community services board representative, treating physician, etc. to attend. (in Omnibus)	<ul style="list-style-type: none"> ▪ Identical to language found in HB 499/SB 246 relating to the attendance and participation of the independent examiner, treating physician, and community services board representative at the commitment hearing.
HB 576 - <u>Watts</u> - Mental health records; health provider shall disclose information to provide care, etc. of minor. (in Omnibus)	<ul style="list-style-type: none"> ▪ This bill reflects consensus language of stakeholders and is also in the Omnibus bill. This bill clarifies the kinds of health care information that can be disclosed, and to whom, while at the same time limiting the information only to what is necessary to aid in the treatment and provision of services to an individual involved in the commitment process.
HB 582 - <u>Marsden/SB 276</u> - <u>Cuccinelli</u> - Psychiatric inpatient treatment of minors; timing of petition and hearing.	<ul style="list-style-type: none"> ▪ The bill increases from 72 hours to 96 hours the length of time (i) to hold a hearing for the involuntary commitment of a minor or the emergency admission of a minor for inpatient treatment, and (ii) that a minor may be admitted by his parents to a facility over his objections. ▪ The bill also provides that the time to hold the involuntary commitment hearing runs from the filing of the petition for such hearing. This bill states that a minor 14 years or older who objects to admission may be admitted to a willing facility for up to 96 hours, upon the application of a parent. Once the minor is admitted, the facility shall file a petition for a judicial approval no sooner than 24 hours and no later than 96 hours after admission. ▪ This bill is responsive to the Virginia Tech legislative package, as well as the Mental Health Law Reform Commission Blueprint. *This bill is identical to SB 276 (Senator Cuccinelli).
HB 583 - <u>Marsden</u> - Emergency custody orders; extension of time. (in Omnibus)	<ul style="list-style-type: none"> ▪ Conforms with the language in the Omnibus bill and amends § 37.2 808 to allow a magistrate, upon good cause shown, to grant an extension to the initial four hour emergency custody order for a second period not to exceed two hours. Good cause may include (i) the need for additional time to secure a bed in a suitable facility in which the person can be detained, or (ii) for a medical evaluation of the person to be completed as necessary.
HB 708 - <u>Janis</u> - Temporary detention orders;	<ul style="list-style-type: none"> ▪ Clarifies that the review of a petition and issuance of a temporary detention are “judicial records” and

admission as evidence.	may be received as prima facie evidence in a judicial proceeding.
HB 1186 - <u>Melvin</u> / SB 380 - <u>Martin</u> - Incompetent defendants; dismissal of charges when charged with nonviolent misdemeanor.	<ul style="list-style-type: none"> ▪ Agency Bills HB 1378/SB 626 were incorporated into these bills. ▪ This comes from a study conducted by the Behavioral Healthcare Subcommittee of the Joint Commission on Health Care (JCHC), and amends § 19.2-169.3 to limit to 45 days the competency restoration treatment period for defendants charged with certain nonviolent misdemeanor offenses (trespassing, larceny, and disorderly conduct). Following the 45 day period, the court has the option of civilly committing the defendant, or releasing him from custody. ▪ Allows the court the choice of dismissing or not dismissing the charges.
HB 1203 - <u>Melvin</u> / SB 381 - <u>Martin</u> - Mental health and substance abuse treatment providers; background checks.	<ul style="list-style-type: none"> ▪ Amends § 37.2-416, which requires background checks for employees of providers licensed by DMHMRSAS to add adult mental health programs to facilities that are exempt from employing individuals who committed certain crimes. The bill also adds a new offense (assault and battery) to the exemptions to the barriers to employment listed in §37.2-416. This bill is a result of a 2006 JCHC barrier crimes study. The study found that that persons with a history of mental illness and/or substance abuse problems often have criminal backgrounds related to their illness or substance abuse problems, and often have difficulty obtaining employment, making rehabilitation more difficult. The study also found that programs serving this population have difficulty obtaining a qualified workforce.
HB 1323 - <u>Toscano</u> - Temporary detention order; magistrates to issue based on recommendation of treating physicians.	<ul style="list-style-type: none"> ▪ Amends § 37.2 – 809 B to add “treating physician” after “any responsible person” in the same sentence, thus specifically authorizing treating MDs to request a TDO. Additionally it conforms this section to other Code sections by changing ‘may’ to ‘shall’ in regard to a magistrate issuing an order for temporary detention. Both of these amendments are clarifying in nature.
HB 1354 - <u>Ware, O.</u> - Substance abuse services; applications for funding.	<ul style="list-style-type: none"> ▪ Agency Bill eliminating the requirement that applicants for federal funding applications be sent to the Department prior to submission of the grant application to the federal funding agency. This should reduce the burden on applicants to complete an application in time for an agency review that has no bearing on the potential award.
SB 68 - <u>Howell</u> - Involuntary commitment petition; minors; dismissal or withdrawal.	<ul style="list-style-type: none"> ▪ Amends § 16.1-341, to add “or withdrawn” to § 16.1-341 B, so that the proceeding a may be halted based on the petition being dismissed or withdrawn. Existing language requires a court to act on a petition unless the petition is dismissed. This is a clarifying amendment, and comes from the Commission on MH Law Reform.
SB 81 - <u>Cuccinelli</u> - Emergency custody; who may accept custody.	<ul style="list-style-type: none"> ▪ Amends §37.2-808 to allow a law enforcement officer to turn over custody to the “location” (i.e., program) to which he transported a person under an ECO if the location is licensed to provide the necessary security, is capable of providing the security, and has an agreement in place to accept custody of the person. No fees for transfer can be charged. The burden for law officers to maintain custody for persons under the present statute is significant. This bill originated as a Commission on Mental Health Law Reform bill.
SB 141 - <u>Edwards</u> - State hospitals; discharge plans upon release.	<ul style="list-style-type: none"> ▪ Amends § 37.2-837 to require discharge plans to identify (1) the services that the consumer will require upon discharge from a state hospital or training center and (2) the public or private agencies that have agreed to provide these services. This requirement already exists in § 37.2-505 A.3.
SB 142 - <u>Edwards</u> - Involuntary commitment	<ul style="list-style-type: none"> ▪ Amends § 37.2-818 to require that each hearing be recorded separately and there shall only be one

hearings; recordings.	hearing per tape. Current law requires each involuntary commitment hearing to be recorded.
SB 247 - <u>Howell</u> - Involuntary commitment of minors; appointment of counsel and guardians ad litem.	<ul style="list-style-type: none"> Amends §16.1-339, 16.1-341, and 16.1-343 to add counsel and guardians ad litem in sections where that wording was not previously present, assuring consistency in the Code, and such appointment shall be made within 24 hours. The bill provides for the attorney to interview all parties and examine all reports as far as possible in advance of any action taken pursuant to a petition.
SB 330 - <u>Quayle</u> - Custody and visitation cases; admissibility of mental health care records.	<ul style="list-style-type: none"> Repeals § 20-124.3:1 relating to the admissibility of mental health care records in custody and visitation cases, making such records subject to disclosure (only) when there is reasonable concern for the safety or welfare of a child in custody or visitation proceedings. Current law provides that in any case in which custody or visitation of a child is at issue, the mental health records concerning a parent shall be privileged and confidential and the mental health care provider may not be required to testify on behalf of or against a parent or any of the parent's adult relatives.
SB 336 - <u>Cuccinelli</u> - Temporary detention order; encryption of medical records not required.	<ul style="list-style-type: none"> Amends § 37.2-809 to allow health care providers and designees of local community services boards or behavioral health authorities to e-mail information or medical records without encryption to a magistrate unless there is reason to believe that a third party will attempt to intercept the e-mail.
SB 345 - <u>Blevins</u> - Conditional release; voluntary admission to a state hospital.	<ul style="list-style-type: none"> Amends §§19.2-182.7, 19.2-182.8, and 19.2-182.9 to clarify the role of the courts in revoking the conditional release of NGRI acquittees who have violated the provisions of their release plans. This legislation reverses language that was added to the Code in 2006 which has proven to be confusing to the courts.
SJ 42 - <u>Lucas</u> - Mental health system; Joint Health Care Commission to review recommendations and legislation.	<ul style="list-style-type: none"> Directs JCHC to receive, review, and evaluate the impact of certain recommendations and legislation on the mental health system in the Commonwealth by the CMHLR, the Virginia Tech Review Panel, the OIG, other committees and commissions proposing recommendations related to the involuntary commitment process specifically and the system of mental health services in the Commonwealth, and legislation enacted by the 2008 Session. Technical assistance shall be provided by DMHMRSAS. Meetings shall be complete by November 30, 2008 and 2009 an executive summary shall be submitted by the first day of the next Regular Session of the General Assembly for each year.
SJ 46 - <u>Marsh</u> - Mental Health Needs & Treatment of Minority Young Adults; Joint Commission on Health Care Studying.	<ul style="list-style-type: none"> Directs JCHC to continue its study of the mental health needs and treatment of young minority adults in the Commonwealth. Technical assistance shall be provided by DMHMRSAS. Meetings shall be complete by November 30, 2008 and 2009 an executive summary shall be submitted by the first day of the next Regular Session of the General Assembly for each year.

Bills: Other Agencies Lead/ DMHMRSAS Comment Only	<u>Explanation</u>
HB 475 - <u>Cox</u> / SB 297 - <u>Puller</u> - Veterans; Commissioner et al., to establish comprehensive program to address mental health needs.	<ul style="list-style-type: none"> ▪ Enacts the Commonwealth’s Veterans Joint Leadership Councils (VJLC) “Wounded Warrior” initiative, in concert with the strategy jointly developed by DVS and DMHMRSAS to meet the expectations of Executive Order 19 for those veterans with behavioral health and traumatic brain injury issues resulting from operational deployments. The agencies, with DRS, must establish a program to monitor and coordinate mental health and rehabilitative services support for veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service.
HB 707 - <u>Janis</u> - Involuntary commitment hearings; person shall be held in custody until released to secure facility.	<ul style="list-style-type: none"> ▪ Amends § 37.2-809 so that persons being evaluated for involuntary commitment shall be held in law officer's custody until detained in a secure facility or accepted by the appropriate personnel designated by the of TDO facility.
HB 709 - <u>Janis</u> / SB 226 - <u>McDougle</u> - Firearms; person legally incompetent, etc. prohibited from purchasing.	<ul style="list-style-type: none"> ▪ Amends §§ 18.2-308.1:1 and 18.2-308.2:2 to require that a person seeking to purchase a firearm from a firearms dealer answer questions on the state background check consent form concerning whether the applicant has ever been acquitted by reason of insanity, been adjudicated legally incompetent or mentally incapacitated, or been involuntarily admitted to a facility or involuntarily ordered to outpatient mental health treatment..
HB 815 – <u>Albo</u> – Mental health treatment; report to CCRE; restoration of rights to possess firearms. (incorporates ideas from HB 535, 657, 741, 835, 1054, 1168, 1475, and 1517)	<ul style="list-style-type: none"> ▪ Codifies Executive Order 50, requiring information regarding involuntary admission to a facility or for mandatory outpatient treatment be forwarded to the Central Criminal Records Exchange for purposes of determining an individual's eligibility to possess, purchase, or transfer a firearm. ▪ Makes substantive changes to who may possess, purchase, or transfer a firearm. In addition to those ordered to involuntary treatment pursuant to Title 37.2, the bill makes it illegal for a person found incompetent to stand trial and ordered to mental health treatment to possess or purchase a firearm. The bill also makes it illegal for a person who was the subject of a temporary detention order, and subsequently agreed to voluntarily admission for mental health treatment, to possess or purchase a firearm. Such person would be advised that agreeing to voluntary treatment would affect the person's right to possess or purchase a firearm. ▪ Revises the procedures for a person prohibited from possessing or purchasing a firearm because of an acquittal by reason of insanity, involuntary mental health treatment, or voluntary mental health treatment after a temporary detention order to restore his rights to purchase or possess a firearm.
HB 1005 - <u>Bell</u> - Higher educational institutions; notification to parent of mental health treatment for student.	<ul style="list-style-type: none"> ▪ Amends § 23-9.2:3 to require the board of visitors or other governing board of any public institution of higher education to establish policies and procedures requiring the notification of a parent of a dependent student when such student receives mental health treatment at the institution's student health or counseling center and it has been determined that there exists a substantial likelihood that, as a result of mental illness the student will, in the near future (i) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs.

<p>HB 1144 - <u>Fralin</u> - Temporary detention order; magistrate may consider recommendation of examining physician, etc. (in Omnibus)</p>	<ul style="list-style-type: none"> ▪ Clarifies the kinds of evidence that magistrates and special justices may consider when issuing temporary detention orders and involuntary commitment orders, respectively. The language matches the Omnibus bill.
<p>SB 216 - <u>Edwards</u> - Voluntary admission; report to Central Criminal Records Exchange. (incorporates ideas from SB 731)</p>	<ul style="list-style-type: none"> ▪ Codifies Executive Order 50 regarding the right to purchase a firearm (“such person shall be prohibited from purchasing a firearm from that dealer until that person’s firearms rights have been restored”) to also possessing or transporting a firearm. According to the State Police, this change brings Virginia’s Code in line with Federal law. change was recommended by the Commission on Mental Health Law Reform.
<p>SB 538 - <u>Obenshain</u> - Higher educational institutions; first warning and emergency notification system required.</p>	<ul style="list-style-type: none"> ▪ Mandates that by January 1, 2009, each public institution of higher education establish a comprehensive, prompt, and reliable first warning and emergency notification system for students, staff, and faculty. This codifies recommendations of the Governor’s Virginia Tech Review Panel: (II-6, II-7, II-8) and brings in line with the federal Jeanne Clery Act to provide "timely warnings" when the school considers a crime to pose an ongoing "threat to students and employees"
<p>SB 539 - <u>Obenshain</u> - Higher educational institutions; board of visitors, etc. to establish violence prevention committee.</p>	<ul style="list-style-type: none"> ▪ Codifies a recommendation (II-3) of the Virginia Tech Review Panel to require the board of visitors or other governing body of every public institution of higher education in the Commonwealth to establish a threat assessment team. The team must establish a campus-wide committee charged with education and prevention of violence on campus.
<p>SB 636 - <u>Cuccinelli</u> - Higher educational institutions; requesting complete student record from high school.</p>	<ul style="list-style-type: none"> ▪ Allows each public and private institution of higher education to request from its students complete student records, including any mental health records held by the originating school. These records shall be kept confidential as required by state and federal law.
<p>SB 640 - <u>Ticer</u> - Family life education.</p>	<ul style="list-style-type: none"> ▪ Adds mental health education & awareness to the list of topics to be covered.

Legislation of Interest: Failed, Carried Over, Incorporated, or Recommended for Further Study

Bills: DMHMRSAS Lead Agency to Track	<u>Last action</u>
HB 121 - <u>Lingamfelter</u> - Mental health treatment for minors; parental notification required.	(S) Passed by indefinitely in Education and Health (11-Y 3-N)
HB 173 - <u>Ware, O.</u> - Emergency custody orders; magistrate may designate police department or sheriff to execute.	(H) Stricken from docket by Courts of Justice
HB 256 - <u>Fralin</u> - Involuntary outpatient commitment; five day review of compliance.	(H) Left in Courts of Justice
HB 258 - <u>Fralin</u> - Voluntary commitment; acknowledgement as sexually violent predator.	(H) Left in Courts of Justice
HB 267 - <u>Albo</u> - Involuntary admission; court determines petitioner is indigent, court shall appoint counsel.	(S) Subject matter referred to Commission on Mental Health Law Reform pursuant to Senate Rule 20 (L)
HB 480 - <u>Brink</u> - Conditional release; voluntary admission to state hospital.	(H) Tabled in Courts of Justice
HB 706 - <u>Janis</u> - Temporary detention order; transportation to medical facility for assessment.	(H) Stricken from docket by Health, Welfare and Institutions
HB 735 - <u>Caputo</u> - Involuntary commitment hearings; third-year law students may represent petitioner.	(H) Continued to 2009 in Courts of Justice
HB 737 - <u>Caputo</u> - Independent examiner; records to be reviewed.	(H) Incorporated by Courts of Justice (HB1144-Fralin)
HB 816 - <u>Albo</u> - Outpatient treatment; community services board et al., to report any material noncompliance.	(H) Incorporated by Courts of Justice (HB499-Hamilton)
HB 937 - <u>Gilbert</u> - Involuntary outpatient treatment; disclosure of medical information.	(H) Tabled in Health, Welfare and Institutions
HB 938 - <u>Gilbert</u> - Involuntary commitment hearings; petitioner right to appeal.	(S) Subject matter referred to Commission on Mental Health Law Reform pursuant to Senate Rule 20 (L)
HB 939 - <u>Gilbert</u> - Involuntary commitment order; detainee may petition court to transfer to outpatient treatment.	(S) Subject matter referred to Commission on Mental Health Law Reform pursuant to Senate Rule 20 (L)
HB 948 - <u>Iaquinto</u> - Community services board employees; legal fees and expenses.	(H) Tabled in Health, Welfare and Institutions
HB 1004 - <u>Bell</u> - Advance directives; mental health directives follows same procedures as for medical.	(H) Continued to 2009 in Health, Welfare and Institutions

HB 1006 - <u>Bell</u> - Emergency custody order and temporary detention order hearings; evidence.	(H) Tabled in Health, Welfare and Institutions
HB 1059 - <u>Amundson</u> - Emergency custody orders, temporary detention orders, and involuntary commitment; criteria.	(H) Incorporated by Courts of Justice (HB559-Bell)
HB 1139 - <u>Fralin</u> - Involuntary commitment; consideration of preadmission screening report.	(H) Incorporated by Courts of Justice (HB1144-Fralin)
HB 1146 - <u>Fralin</u> - Medical records; persons involved in civil commitment process to access.	(H) Left in Courts of Justice
HB 1168 - <u>Eisenberg</u> - Temporary detention order; prohibits purchasing firearms if agrees to mental health treatment.	(H) Incorporated by Courts of Justice (HB815-Albo)
HB 1237 - <u>Jones, D.C.</u> - Inmates; emergency psychiatric treatment.	(H) Incorporated by Courts of Justice (HB559-Bell)
HB 1322 - <u>Toscano</u> - Involuntary outpatient treatment; court to determine treatment of orders.	(H) Incorporated by Courts of Justice (HB49-Hamilton)
HB 1324 - <u>Toscano</u> - Mental health records; mandatory sharing.	(H) Incorporated by Courts of Justice (HB576-Watts)
HB 1378 - <u>Morrissey</u> - Incompetent defendants; disposition. Agency Bill.	(H) Incorporated by Courts of Justice (HB1186-Melvin)
HB 1491 - <u>Nutter</u> - Temporary detention order; shall not exceed 96 hours.	(H) Incorporated by Appropriations (HB499-Hamilton)
HJ 215 - <u>Tyler</u> - Jails, local and regional; joint subcommittee to study mental health services.	(H) Left in Rules
SB 18 - <u>Edwards</u> - Mental health courts; establishment of pilot program, report.	(S) Continued to 2009 in Finance (16-Y 0-N)
SB 47 - <u>Whipple</u> - Advance directives; mental health directives follows same procedures as for medical.	(S) Subject matter referred to Commission on Mental Health Law Reform pursuant to Senate Rule 20 (L)
SB 58 - <u>Howell</u> - Emergency custody order; renewal.	(S) Stricken at the request of Patron in Courts of Justice (15-Y 0-N)
SB 59 - <u>Howell</u> - Community services board; requires employee that prepared report to attend hearing.	(S) Stricken at the request of Patron in Courts of Justice (15-Y 0-N)
SB 60 - <u>Howell</u> - Involuntary commitment; criteria.	(S) Stricken at the request of Patron in Courts of Justice (15-Y 0-N)
SB 64 - <u>Howell</u> - Community services board; adds crisis stabilization, outpatient, etc. to list of core services.	(S) Subject matter referred to Commission on Mental Health Law Reform pursuant to Senate Rule 20 (L)
SB 65 - <u>Howell</u> - Community criminal justice boards; membership.	(H) Continued to 2009 in Courts of Justice
SB 66 - <u>Howell</u> - Emergency custody; who may accept custody.	(S) Incorporated by Courts of Justice (SB81-Cuccinelli) (13-Y 0-N)
SB 75 - <u>Cuccinelli</u> - Community services board; requires employee that prepared report to attend hearing.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)

SB 78 - <u>Cuccinelli</u> - Involuntary commitment; time frame for examination of person by independent examiner.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)
SB 79 - <u>Cuccinelli</u> - Independent examiner; records to be reviewed.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)
SB 80 - <u>Cuccinelli</u> - Involuntary commitment; electronic examination by independent examiner.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)
SB 86 - <u>Cuccinelli</u> - Involuntary commitment hearings; third-year law students may represent petitioner.	(S) Failed to report (defeated) in Courts of Justice (4-Y 9-N 1-A)
SB 96 - <u>Lucas</u> - Involuntary commitment hearings; confidentiality of records.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)
SB 97 - <u>Lucas</u> - Mental health records; disclosure.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)
SB 101 - <u>Cuccinelli</u> - Emergency custody order; renewal.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)
SB 102 - <u>Cuccinelli</u> - Three-tiered system of transportation; established.	(S) Subject matter referred to Commission on Mental Health Law Reform pursuant to Senate Rule 20 (L)
SB 103 - <u>Cuccinelli</u> - Independent examiner's report; admissibility of written certification.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)
SB 104 - <u>Cuccinelli</u> - Outpatient treatment; community services board et al., to report any material noncompliance.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)
SB 106 - <u>Cuccinelli</u> - Involuntary commitment; criteria for determining outpatient treatment.	(S) Subject matter referred to Commission on Mental Health Law Reform pursuant to Senate Rule 20 (L)
SB 129 - <u>Cuccinelli</u> - Emergency custody orders, temporary detention orders, and involuntary commitment; criteria.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)
SB 139 - <u>Edwards</u> - Community services board; requires employee that prepared report to attend hearing.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)
SB 140 - <u>Edwards</u> - Independent examinations; training of persons conducting.	(S) Incorporated by Finance (SB246-Howell) (16-Y 0-N)
SB 143 - <u>Edwards</u> - Temporary detention order; extends time period.	(S) Subject matter referred to Commission on Mental Health Law Reform pursuant to Senate Rule 20 (L)
SB 144 - <u>Edwards</u> - Emergency custody orders, temporary detention orders, and involuntary commitment; criteria.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)
SB 177 - <u>Marsh</u> - Assisted outpatient treatment program; established for severely mentally ill.	(S) Continued to 2009 in Finance (16-Y 0-N)
SB 217 - <u>Edwards</u> - Involuntary commitment; independent examination.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)
SB 220 - <u>Edwards</u> - Outpatient treatment order; community services board to monitor person's compliance with order.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)

SB 245 - <u>Howell</u> - Psychiatric inpatient treatment of minors; timing of petition and hearing.	(S) Incorporated by Courts of Justice (SB276-Cuccinelli) (14-Y 0-N)
SB 255 - <u>Deeds</u> - Involuntary mental health treatment; possession of firearms.	(S) Left in Courts of Justice
SB 273 - <u>Deeds</u> - Emergency custody orders, temporary detention orders, etc.; eliminates & adds requirements.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)
SB 274 - <u>Cuccinelli</u> - Involuntary commitment order; detainee may petition court to transfer to outpatient treatment.	(S) Continued to 2009 in Courts of Justice (14-Y 0-N)
SB 275 - <u>Cuccinelli</u> - Inmates; emergency psychiatric treatment.	(S) Continued to 2009 in Finance (16-Y 0-N)
SB 331 - <u>Cuccinelli</u> - Custody and visitation cases; admissibility of mental health care records.	(S) Incorporated by Courts of Justice (SB330-Quayle) (13-Y 0-N)
SB 333 - <u>Cuccinelli</u> - Independent examiners; dismissal of involuntary commitment petitions.	(S) Subject matter referred to Commission on Mental Health Law Reform pursuant to Senate Rule 20 (L)
SB 335 - <u>Cuccinelli</u> - Voluntary outpatient treatment; provides option therefor prior to commitment hearing.	(S) Subject matter referred to Commission on Mental Health Law Reform pursuant to Senate Rule 20 (L)
SB 341 - <u>Cuccinelli</u> - Temporary detention order; time for hearing.	(S) Incorporated by Courts of Justice (SB246-Howell) (13-Y 0-N)
SB 440 - <u>McEachin</u> - Inmates; emergency psychiatric treatment. Agency Bill.	(S) Continued to 2009 in Finance (16-Y 0-N)

Bills: Other Agencies Lead/DMHMRSAS Comment Only Counts: HB: 16 SB: 3	<u>Last action</u>
HB 109 - <u>Cole</u> - Firearms; regulation thereof by state entities.	(H) Left in Militia, Police and Public Safety
HB 510 - <u>Hamilton</u> - Medical assistance plan; DMAS to contract with DMHMRSAS for mental health services.	(H) Continued to 2009 in Appropriations
HB 535 - <u>Mathieson</u> - Involuntary mental health treatment; prohibition from purchasing, etc. firearms.	(H) Incorporated by Courts of Justice (HB815-Albo)
HB 671 - <u>Marshall, R.G.</u> - Parental notification; student's receipt of mental health treatment.	(H) Incorporated by Education (HB1005-Bell)
HB 741 - <u>Caputo</u> - Involuntary mental health treatment; prohibition from purchasing, etc. firearms.	(H) Incorporated by Courts of Justice (HB815-Albo)
HB 751 - <u>Peace</u> - Involuntary commitment hearings; accessibility of results by colleges and universities.	(H) Continued to 2009 in Health, Welfare and Institutions
HB 752 - <u>Peace</u> - Higher educational institutions; mental health record release	(H) Continued to 2009 in Education

authorization when enrolling.	
HB 765 - <u>Tata</u> - Emergency custody or temporary detention order; payment of cost of transportation.	(H) Stricken from docket by Health, Welfare and Institutions
HB 782 - <u>Kilgore</u> - Mental health records; disclosure, etc.	(H) Left in Courts of Justice
HB 1054 - <u>Scott, J.M.</u> - Involuntary mental health treatment; prohibition from purchasing, etc. firearms.	(H) Incorporated by Courts of Justice (HB815-Albo)
HB 1064 - <u>Brink</u> - Veterans; Commissioner et al., to establish comprehensive program to address mental health needs.	(H) Incorporated by General Laws (HB475-Cox)
HB 1251 - <u>Fralin</u> - Institutions of higher education; notification of mental health treatment.	(H) Incorporated by Education (HB1005-Bell)
HB 1475 - <u>Eisenberg</u> - Central Criminal Records Exchange; clarifies orders for mental health treatment forwarded by court.	(H) Incorporated by Courts of Justice (HB815-Albo)
SB 16 - <u>Edwards</u> - Crisis intervention team pilot programs; established for persons with mental illness, report.	(S) Continued to 2009 in Finance (16-Y 0-N)
SB 138 - <u>Puller</u> - Prisoners; medical and psychiatric benefits.	(S) Continued to 2009 in Rehabilitation and Social Services (15-Y 0-N)
SB 214 - <u>Edwards</u> Prisoners; medical and psychiatric benefits.	(S) Subject matter referred to Commission on Mental Health Law Reform pursuant to Senate Rule 20 (L)
SB 231 - <u>McDougle</u> - Involuntary mental health treatment; prohibition from purchasing, etc. firearms.	(S) Incorporated by Courts of Justice (SB216-Edwards) (14-Y 0-N)

FY 2009-10 Budget Amendments (excluding capital appropriations)

	FY09 (G)	FY09 (G)	FY10 (G)	FY10 (G)	FY09 (GA)	FY09 (GA)	FY10 (GA)	FY10 (GA)
	GF	NGF	GF	NGF	GF	NGF	GF	NGF
New Funding for Operation								
Outpatient Services - Tech	\$ 1,500,000		\$ 3,000,000		Language *			
Emergency Services - Tech	\$ 5,300,000		\$ 9,300,000		Language *			
Psychiatric Consultation \$1 million, \$2 million								
Emergency Clinician \$1.4 million, \$2.8 million								
36 Crisis stabilization Beds \$2.9 million, \$4.5 million								
Case Management - Tech	\$ 3,500,000		\$ 5,300,000		Language *			
Grants to Localities					Language *		\$ 406,164	
CSB's monitoring and accountability - Tech	\$ 300,000		\$ 575,000				\$ (275,000)	
Jail Diversion	\$ 3,000,000		\$ 3,000,000					
Training for law enforcement staff	\$ 300,000		\$ 300,000					
Licensing Staff	\$ 141,952		\$ 331,164				\$ (131,164)	
Outpatient Services to Children	\$ 2,800,000		\$ 3,000,000					
Autism (one position)	\$ 100,000		\$ 100,000		\$ (100,000)		\$ (100,000)	
VCBR Staffing	\$ 2,000,000		\$ 3,900,000				\$ (1,968,000)	
Opiate Treatment		\$ 273,239		\$ 276,013				
E-record Maintenance		\$ 270,930		\$ 570,930				
Waiver start -up					\$ 1,600,000		\$ 800,000	
Holiday House - Portsmouth					\$ 100,000		\$ 100,000	
DMAS' Budget								
Money Follows Persons (110+110)								
Community Waiver Slots (75+75+450=600)	\$ 2,300,000	\$ 2,300,000	\$ 4,900,000	\$ 4,900,000	\$ 9,378,525	\$ 9,378,525	\$ 12,620,325	\$ 12,620,325
Waiver Rate Increase 3.6% (residential)					\$ 5,000,000	\$ 5,000,000	\$ 5,000,000	\$ 5,000,000
G - Governor's Budget								
GA - General Assembly's Amendments								
GF - General Funds								
NGF - Non General Funds								

* See Item 316-KK of the *Appropriations Act* on the following page

Health And Human Resources

Grants To Localities

FY 08-09

\$0

FY 09-10

\$406,164 GF

Item 316

KK. Out of this appropriation, \$10,300,000 the first year and \$18,006,164 the second year from the general fund shall be used to provide emergency services, crisis stabilization services, case management, and inpatient and outpatient mental health services for individuals who are in need of emergency mental health services or who meet the criteria for mental health treatment set forth pursuant to House Bill 559 and Senate Bill 246, 2008 Session of the General Assembly. Funding provided in this item also shall be used to offset the fiscal impact of (i) establishing and providing mandatory outpatient treatment, pursuant to House Bill 499 and Senate Bill 246, 2008 Session of the General Assembly; and (ii) attendance at involuntary commitment hearings by community services board staff who have completed the prescreening report, pursuant to House Bill 560 and Senate Bill 246, 2008 Session of the General Assembly. The Commissioner of Mental Health, Mental Retardation and Substance Abuse Services, in consultation with the Virginia Association of Community Services Boards, the Office of the Executive Secretary of the Supreme Court, the Department of Medical Assistance Services, the Virginia Sheriff's Association, the Medical Society of Virginia and the Virginia Hospital and Healthcare Association, shall implement a process for determining the allocation of funding in this item. The allocation process shall include an estimate of the number of consumers expected to utilize services, a method for distributing the funding across services to address the mental health treatment needs of consumers with mental illness, funding needed to support the involuntary commitment process, and an estimate of the impact of treatment costs on the Involuntary Mental Commitment fund at the Department of Medical Assistance Services. The Commissioner shall report on the assumptions and process used to allocate funding in this item across agencies and service categories, as well as the amount of the allocations, to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by September 1, 2008.

Explanation:

(This amendment adds \$406,164 from the general fund the second year for emergency mental health services that was reduced from licensing and central office staff included in the introduced budget. The amendment also deletes language from the introduced budget that allocated specific amounts of new funding for community mental health services. Language is added pooling the new funding for mental health services and directing the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services to ensure that funding is appropriately allocated among services to address the emergency mental health needs for individuals projected to utilize services and to address the fiscal impact of new mental health legislation passed by the 2008 General Assembly. The Commissioner is required to consult with interested parties to implement a process for determining the allocation of funding for mental health service categories. The Commissioner is required to report on the assumptions and process guiding the funding allocation and the amounts allocated for these services to the Governor and General Assembly by September 1, 2008.)

New Monitoring and Data Collection Requirements:

Item 316

LL. The Department of Mental Health, Mental Retardation and Substance Abuse Services, in cooperation with the Virginia Association of Community Services Boards (VACSB) and with input from the Senate Finance and House Appropriations Committees, shall develop and maintain a reporting process to monitor implementation of (i) the new services funded in this item and (ii) changes to the civil commitment process included in Senate Bill 246, House Bill 499, House Bill 559 and House Bill 560 from the 2008 Session of the General Assembly. The Department and VACSB shall identify specific data elements or performance measures that will be reported through this process. The Commissioner shall submit a report on the implementation of these new services no later than December 1, 2008, and each year thereafter. The Commissioner shall submit a report describing the reporting process to measure CSB performance on participation in the civil commitment process no later than December 1, 2008, and shall submit a report on that performance beginning no later than December 1, 2009, and each year thereafter.

Secretary of Health and Human Resources

Item 282

C. The Secretary of Health and Human Resources, in consultation with the Executive Secretary of the Supreme Court, shall develop a reporting system to collect relevant information on emergency custody orders (ECOs), involuntary commitment orders (TDOs), and mental health commitment hearings by fiscal year. The data collected shall include, but not be limited to, the number of ECOs, TDOs, and commitment hearings that occur each fiscal year by locality, and the estimated cost, duration, location, and disposition of each proceeding. The information collected shall comply with all relevant state and federal health privacy laws and shall not include any personal identifiable information. The data collected shall be reported to the Governor, the Chairmen of the Senate Finance and House Appropriations Committees, and the Supreme Court by November 1, 2008, and each year thereafter.