

The Virginia General Assembly



2013 LEGISLATIVE REPORT
DBHDS

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2013 Final Legislative and Budget Report

LEAD LIST BILLS – PASSED

<i>DBHDS LEAD Agency Bills:</i>	<i>Explanation:</i>
<p><u>HB 1423</u> – <u>O’Bannon</u> - Mandatory outpatient treatment; who may file petition.</p>	<ul style="list-style-type: none"> • Amends §§ 37.2-805 and 37.2-817 governing voluntary and involuntary admissions and treatment of persons with mental illness. Specifically, the bill makes several amendments to the current language (enacted by HB 476 in 2012) specifying which community services board (CSB) may file a motion for a mandatory outpatient treatment hearing prior to release from hospitalization. • This bill broadens this procedure to allow a motion to be filed, not only by the CSB serving the county or city where the facility is located, but also by the CSB serving the county or city where the person resides, or the county or city where the person receives treatment.
<p><u>HB 1444</u> – <u>O’Bannon</u> - Medications; administration by certain employees or contract service providers.</p>	<ul style="list-style-type: none"> • Amends §§ 8.01-225 and 54.1-3408 to add providers licensed by DBHDS to those already approved to provide the administration of insulin, glucagon, and epinephrine to individuals receiving services in an emergency situation without being liable for civil damages.
<p><u>HB 1668</u> – <u>Crockett-Stark</u> - Southwestern VA Mental Health Institute; DBHDS authorized to convey real property in Smyth County.</p>	<ul style="list-style-type: none"> • Authorizes the Governor to convey a portion of the real property to the Mount Rogers CSB at Southwestern Virginia Mental Health Institute (SWVMHI). This is done without requiring the CSB to pay anything for the property. It requires Mount Rogers to pay any fees associated with the cost of transferring the property.
<p><u>HB 1672</u> – <u>O’Bannon</u> - Naloxone; administration by unlicensed individual in cases of opiate overdose.</p>	<ul style="list-style-type: none"> • Amends §§ 8.01-225 and 54.1-3408 to allow any person participating in a pilot conducted by DBHDS to administer naloxone using a nasal device to prevent another person from overdosing from opiates and would protect the person from any civil damages. • It also allows persons participating in this pilot to obtain a prescription for naloxone for a family member or a friend and allows that person to possess and administer the drug for this purpose.

	<ul style="list-style-type: none"> • The bill requires DBHDS to work with the Department of Health Professions (DHP), the Department of Health (VDH), law enforcement agencies, substance abuse recovery organizations, and other stakeholders to develop and implement a pilot program that will train law enforcement personnel to identify opiate overdose and to administer nasal naloxone. • Additional language states that DBHDS is charged with implementing and evaluating this pilot and with providing a report to the General Assembly by December 1, 2014.
<p>HB 1759 – <u>O’Bannon</u> - Percutaneous gastrostomy tube; administration of medications. AGENCY.</p>	<ul style="list-style-type: none"> • Amends §54.1-3408 to add certain prescription drug administration procedures for non-licensed staff who have completed training developed by the Board of Nursing and maintain appropriate care standards in programs licensed by DBHDS. Specifically, it adds these changes only for medication administered via ‘percutaneous gastrostomy tube.’ • Emergency clause.
<p>HB 1844 – <u>Orrock</u> - Protection and Advocacy, Virginia Office for; privatization.</p>	<ul style="list-style-type: none"> • This is a technical bill in support of the conversion of VOPA to a nonprofit entity. <ul style="list-style-type: none"> ○ Formally changes the name of VOPA to <i>disAbility Law Center of Virginia</i>. The bill removes entirely, or changes any reference to VOPA to ‘<i>Commonwealth’s designated protection and advocacy system</i>’ in numerous Code sections regarding membership on committees, councils and boards, duties of the Inspector General and Commissioner of the Department of Behavioral Health and Developmental Services. ○ Removes all reference to VOPA in, and its records being excluded from, disclosure under § 2.23705.3, the Virginia Freedom of Information Act (FOIA). ○ Removes the prohibition on VOPA, when representing the petitioner, from collecting attorney fees or instituting a class action suit. ○ Addresses the transfer of property and records.
<p>HB 2328 – <u>Cline</u> - Behavioral Health and Developmental Services, Department of; list of licensed providers on website.</p>	<ul style="list-style-type: none"> • Requires DBHDS to list providers on the Office of Licensing’s page of the agency web site by the provider’s assumed or fictitious name or any other Virginia corporate name (if different from assumed/fictitious name) under which the provider is doing business in Virginia.
<p>SB 920 – <u>Carrico</u> - Emergency custody and</p>	<ul style="list-style-type: none"> • Amends §§ 37.2-808 and 37.2-810 related to transportation of individuals under

<p>involuntary temporary detention; transportation.</p>	<p>emergency custody orders (ECO) and temporary detention orders (TDO) by changing the statutory language in §37.2-808 (ECO) from:</p> <ul style="list-style-type: none">○ “the magistrate may authorize” alternative transportation to○ “the magistrate shall consider any request to authorize” alternative transportation “in accordance with this section, whenever an alternative transportation provider is identified to the magistrate, which may be a person, facility, or agency....” <ul style="list-style-type: none">● Requires that “there is no substantial likelihood that the person will cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information.”● Amends §37.2-810 (TDO) to conform the alternative transportation provisions in this section to those in §37.2-808, as described above.
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SECONDARY (Comment) LIST BILLS – PASSED

(bills with * indicate comment was not requested, but DBHDS offered comment and tracked)

<i>DBHDS Comment Agency Bills:</i>	<i>Explanation:</i>
<p><u>HB 1419</u> – <u>Pogge</u> – Family health care structures, temporary; zoning provisions. (Lead: DHCD)</p>	<ul style="list-style-type: none"> • Amends §15.2-2292.1 regarding zoning provisions for temporary family health care structures to: <ul style="list-style-type: none"> ○ Make eligible a person who requires assistance with only one activity of daily living, as opposed to the currently required two activities of daily living, in the definition of "mentally or physically impaired person," who may reside in a temporary residential structure; ○ Amend the occupancy restriction in the definition of "temporary family health care structure," by increasing it from one to two individuals if they are a married couple, both of whom are mentally or physically impaired individuals. ○ Change the time from 30 days to 90 days within which the unit must be removed from the property after it is no longer occupied by the mentally or physically impaired person. • A temporary health care structure is a small (no more than 300 square feet) mobile-home type structure.
<p><u>HB 1439</u> – <u>Watson</u>/ <u>SB 992</u> – <u>Locke</u> – Background checks; children’s residential facilities regulated by Department of Juvenile Justice. (Lead: DJJ)</p>	<ul style="list-style-type: none"> • Amends §§ 63.2-1726 and 66-24 to require children’s residential facilities overseen by the Department of Juvenile Justice (DJJ) to conduct background checks as a condition of employment, volunteering, or providing services on a regular basis for any individual not employed, volunteering, or providing services prior to July 1, 2007. • This change would bring DJJ background check requirements in line with the other agencies overseeing children’s residential facilities including the Departments of Social Services (DSS), Education (DOE), Veterans Services (DVS), and Behavioral Health and Developmental Services (DBHDS).
<p><u>HB 1519</u> – <u>Villanueva</u>/ <u>SB 1071</u> – <u>Hanger</u> – Community Integration Advisory Commission; extends sunset provision. (Lead: DARS)</p>	<ul style="list-style-type: none"> • Amends § 2.2-2529 to extend the expiration date of the Community Integration Advisory Commission (CIAC) by two years, making the new expiration date July 1, 2016. The CIAC’s duties include:

	<ul style="list-style-type: none"> ○ Monitor the implementation of state and federal laws concerning community integration of Virginians with disabilities; ○ Study all matters that present barriers or challenges to full community integration of Virginians with disabilities; ○ Advise and make recommendations to the Director and the Implementation Team related to eliminating barriers and challenges to community integration of Virginians with disabilities and such other related matters as may arise in the performance of their duties; ○ Review and advise the Director and the Implementation Team on its strategic plan; and ○ Report recommendations to the Governor.
<p>SB 944* – <u>Edwards</u> –Administrative Process Act; issues on review. (Lead: Admin)</p>	<ul style="list-style-type: none"> ● Amends § 2.2-4027 to provide that when the final decision of an agency is appealed under the Administrative Process Act (APA), the court has a duty with respect to the issues of fact to determine whether there was substantial evidence in the record to support the agency decision. ● In such appeals, the bill specifies that the court has a duty, with respect to issues of law, to review the agency decision <i>de novo</i>. The bill would allow the court to augment the agency record in whole or in part upon the motion of either party. The bill also provides that the court shall enter judgment, either setting aside, modifying, remanding, or affirming the order or decision of the agency.

Legislation of Interest: Failed, Incorporated, Referred by Letter

LEAD LIST BILLS - Failed, Incorporated, Referred by Letter

<i>DBHDS LEAD Agency Bills:</i>	<i>Last action:</i>
<i>Failed</i>	
<u>SB 1182</u> – <u>Vogel</u> / <u>HB 1751</u> – <u>J. Miller</u> – Crimes; assault and battery. AGENCY.	(S) Passed by indefinitely in Finance
<u>HB 1669</u> – <u>Crockett-Stark</u> / <u>SB 972</u> – <u>Black</u> – Closure of the Southwestern Virginia Training Center prohibited.	(H) Laid on the table in Health, Welfare, and Institutions - Subcommittee #4 (S) Stricken at the request of the Patron in Education and Health
<u>HB 1680</u> – <u>Yost</u> / <u>SB 996</u> - <u>Barker</u> – Temporary detention orders; increases maximum duration person may be detained from 48 to 72 hours.	(H) Tabled in Courts (S) Tabled in House Appropriations – HHR Subcommittee
<u>HB 2232</u> – <u>Greason</u> – Problem Gambling Treatment Fund established.	(H) Tabled in Appropriations – HHR Subcommittee
<u>HB 2252</u> – <u>Lopez</u> – Virginia Children’s Mental Health Commission established.	(H) Tabled in Rules

SECONDARY (Comment) LIST BILLS - Failed, Incorporated, Referred by Letter

(bills with * indicate comment was not requested, but DBHDS offered comment and tracked)

<i>DBHDS COMMENT Agency Bills:</i>	<i>Last action:</i>
<i>Failed</i>	
<u>HB 1365*</u> – <u>Morrissey</u> - Mental health experts; appointment in criminal cases not involving insanity defense or competency. (PubSaf)	(H) Left in Courts of Justice
<u>HB 1529</u> - <u>R.G. Marshall</u> –Justice for Victims of Sterilization Act; established, Fund created. (Lead: FIN)	(H) Left in Appropriations
<u>SB 721</u> – <u>Carrico</u> - VIEW; substance abuse screening and assessment of public assistance applicants and recipients. (Lead: DSS)	(S) Read third time and defeated (19- Y 20- N)
<u>SB 868</u> – <u>Edwards</u> - Criminal history background record checks; barrier crimes. (Lead: DSS)	(S) Passed by indefinitely in Courts of Justice
<u>SB 928</u> – <u>Vogel</u> - Mental health assessments; juvenile and domestic relations court to order for certain juveniles. (Lead: DJJ)	(S) Passed by indefinitely in Courts of Justice with letter
<u>SB 1275</u> – <u>Martin</u> - Medical data in an electronic or digital format; limitations on use, storage, sharing, and processing. (Lead: VDH)	(S) Passed by indefinitely in Education and Health

FYI Bills - PASSED

Bills of Minor Interest (FYI only) - PASSED

[HB 1499](#) – [Stolle](#) – Emergency medical services personnel; administration of medications.

[HB 1619](#) – [Ward](#) – Secure inpatient treatment hearings; report to counsel for respondent.

[HB 1682](#) – [Bell, Robert B.](#)/ [SB 706](#) – [Stuart](#) – Mentally incapacitated persons; financial exploitation, penalty.

[HB 1683](#) – [Bell, Richard P.](#) – Comprehensive Services, Office of; reporting expenditures for children receiving services.

[HB 2114](#) – [Landes](#)/ [SB 1176](#) – [Ruff](#) – State Inspector General; additional powers and duties, report.

[HB 2122](#) – [Herring](#) – Incapacitated adults; photographs, x-rays, may be taken as part of medical evaluation, etc.

[HB 2194](#) – [Lingamfelter](#)/ [SB 1265](#) - [Ruff](#) – Capital outlay; establishes six-year plan for projects.

[HB 2322](#) – [Surovell](#) – Community Colleges, State Board for; Board shall develop mental health referral policies, etc.

[SB 759](#) – [Edwards](#) – Guardianship and conservatorship; makes various changes to laws.

[SB 1217](#) – [Stuart](#)/ [HB 2148](#) - [Keam](#) – Sentencing guidelines; definition of violent felony.

[SJ 330](#) – [Northam](#) – Study; service needs of individuals with autism and autism spectrum disorder transitioning

Budget Bill

<http://lis.virginia.gov/cgi-bin/legp604.exe?131+men+SB2>

Description	2013 GF	2013 NGF	2014 GF	2014 NGF
Central Office:				
VITA Increase	2,045,589		2,045,589	
Rental Cost Increase	51,382		68,510	
Electronic Health Record Project	4,380,000	12,000,000	1,900,000	8,500,000
Additional IT Staff for Health Records project			375,000	
Enhance Financial Oversight	185,982	43,482	893,929	173,929
Part C Funding	2,250,000		6,000,000	
VITA Reduction			(120,000)	
Reduce Central Office Cost			(225,000)	
Total for Central Office	8,912,953	12,043,482	10,938,028	8,673,929
Community Services Boards:				
Increase DBHDS Trust Fund	30,000,000			
Establish Drop Off Centers	600,000		1,500,000	
Children's BH Services	1,500,000		1,750,000	
Task Force for School Safety			1,100,000	
ID Crisis Services			1,250,000	
ID Adult Services			3,800,000	
DAP Expansion			1,500,000	
Childrens MH Crisis			1,900,000	
Total for CSBs	32,100,000		12,800,000	
Facilities:				
NVMHI Beds	600,000		700,000	
MH Treatment Center Reductions			(1,548,584)	
VCBR Funding for Additional Census	2,774,446		3,743,753	
Total for Facilities	3,374,446		2,895,169	
Total for DBHDS	44,387,399	12,043,482	26,633,197	8,673,929

New Budget Language

Note that these are only new or revised items. It does not indicate ongoing requirements or those deleted from the budget.

Appropriation Act Item #	Office with Primary Responsibility	ASSESSMENT AND REPORTING: Deliverable and Status - Description	DLAS Report Required	Report Due Date
4-8.01	HR	DHRM Human Capital Report (Full-Time, Part-Time, Temporary, Contractual employees funded by the Commonwealth) per § 2.2-1201. A. 14.(including the net gain/ loss to the agency in personnel from the previous FY and the net gains/losses in personnel for each agency for a 3-year pd)	Monthly	?
4-8.02	Fin & Adm	<p>a. As received, <u>all agencies shall forward copies of each federal audit performed on agency or institution programs or activities</u> to the Auditor of Public Accounts and to the State Comptroller. Upon request, <u>all state agencies shall provide copies of all internal audit reports and access to all working papers</u> prepared by such auditors to the Auditor of Public Accounts and to the State Comptroller.</p> <p>b. <u>Annually: Within five calendar days after state agencies submit</u> their budget requests, amendment briefs, or requests for amendments to DPB, the DPB Director shall submit, electronically if available, copies to the HAC/SFC Chairs.</p> <p>c. <u>By September 1 of each year</u>, state agencies receiving any asset as the result of a law-enforcement seizure and subsequent forfeiture by either a state or federal court, shall submit a report identifying all such assets received during the prior fiscal year and their estimated net worth, to the Chairmen of the House Appropriations and Senate Finance Committees.</p>	No	Documents as required; requested
255 B-C.	Fin & Adm/ HR	<p>B.1 OSFIN and OSADM shall convene a work-group comprised of reps from HAC/SFC, OES of SCV, DHRM, and DPB, and such state employee reps as may seem appropriate, to conduct a comprehensive review of compensation for state employees (compression, recruitment, retention, hiring practices, and strategies to minimize future compensation disparities). <u>All state agencies shall provide information</u> as required for the work-group to conduct its study.</p> <p>2. Priorities of the work-group shall include a review of compensation for PS related personnel and a review of the pay practices and salary schedules of the deputy clerks in the district courts, with a comparison to pay practices for other public sector employees doing comparable work.</p>		November 1, 2013 (initial) June 30, 2014 (final)

<u>307 BBBB. 1-2.</u>	DMAS/ID	DMAS shall have the authority to establish a 25% higher reimbursement rate for congregate residential services for to meet the complex medical or behavioral needs of individuals currently residing in an institution and unable to transition to the community due to the need for services that cannot be provided within the maximum allowable rate, or individuals whose exceptional needs present imminent risk of institutionalization and for whom enhanced waiver services are needed beyond that provided through the existing maximum rates. DMAS shall have authority to promulgate regulations to implement this change within 280 days. 2. DMAS, in cooperation with DBHDS, shall report to the Governor, HAC/SFC Chairs, and DPB Director on the effectiveness of this rate increase in addressing the transition of institutionalized individuals to the community and will include the number of individuals eligible for the higher reimbursement rate, whether they transitioned from an institution or were already receiving community services, and the costs to the Medicaid program.	Yes	Feb 2, 2014 (FY14 1st-2nd Quarters) August 1, 2014 (FY14 3rd-4th Quarters)
<u>307 JJJJ.</u>	DMAS/ID	DMAS shall establish an ongoing work group of reps of providers of home/community-based care services to continue improving the utilization and review audit process in order to reduce the number of retractions that are subsequently overturned on appeal. A report to the HAC/SFC Chairs annually.	Yes	Dec 1, ongoing
<u>315 H.4.</u>	CFS-Part C	DBHDS shall promulgate regulations to comply with 34 CFR Parts 300 and 303. The department shall have authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment date of this act.	Regs	within 280 days
<u>314 M.</u>	A&E	<u>Pre</u> planning for construction/renovation of VCBR II facility on state-owned property in/around the current VCBR site. Options shall include costs for any relocation of current services as well as re-purposing of current facilities. Report the options for this project to HAC/SFC Chairs by October 15, 2013. If OSHHR and the HAC/SFC Chairs agree on an option, OSFIN is authorized to allocate up to \$1,000,000 for <u>detailed planning</u> of this project.	Yes	10/15/2013 (Sept 1)
<u>314 N.</u>	MH	DBHDS, in collaboration with VDH, DOE, DVS, DARS, and other partners shall develop and implement a statewide program of public education, evidence-based training, health/behavioral health provider capacity-building, and related suicide prevention activity. A progress report to the HAC/SFC Chairs by November 1, 2013.	Yes	November 1, 2013 (Sept 15)

<p><u>314 O.1-4.</u></p>	<p>ID</p>	<p>Quarterly reports to HAC/SFC Chairs and Governor on progress in implementing the plan to close TCs: # of ARs who have/haven't made decisions on type of placement; (iii) barriers to discharge; (iv) GF/NGF cost of services; and (v) the use of services to meet exceptional needs in fiscal year 2014, provided in Item 307 BBB.1-2. Six months prior to closure DBHDS shall complete a survey of each resident to determine services/supports needed to receive appropriate care in the community (adequacy of community to provide, including appropriateness of provider rates, adequacy of waiver services, and availability of housing). Convene quarterly meetings with ARs/families/service providers in HPRs I- IV. If provider capacity cannot meet the needs of individuals from TCs, DBHDS shall work with CSBs/private providers to explore the feasibility of developing (i) a limited number of small group homes or ICFs/MR, and/or (ii) an RCSC to provide specialty services.</p>	<p>Yes</p>	<p>October 1, 2013 (Aug 15), quarterly, ongoing</p>
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Note that these are only newly added items. It does not indicate ongoing requirements or those deleted from the budget.