

2015 Legislative Changes to Virginia's Mental Health Laws

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June 2015

Overview

- Bed registry
- Alternative transportation
- Medical TDO during ECO
- TDO custody
- Law enforcement access to information
- Changes to Psychiatric Treatment of Minors Act

Acute Psychiatric Bed Registry

- § 37.2-308.1 was added in 2014 to create an acute psychiatric bed registry that provides real-time information about the number of beds available at public and private inpatient psychiatric facilities and residential crisis stabilization units.
- Real-time?

Acute Psychiatric Bed Registry HB2118/SB1265

- State facilities, CSBs, and private inpatient providers licensed by DBHDS shall update information in the bed registry whenever there is a change in bed availability
- If no change in bed availability, at least daily

Alternative Transportation

HB1693/SB1263

- Amends juvenile ECO and adult ECO and TDO transportation provisions to permit a magistrate to authorize alternative transportation regardless of which prong of the commitment criteria is used
 - Had only been available for juvenile ECO and adult ECO and TDO if individual was unable to care for self
- Added an immunity provision for the alternative transportation provider

Medical TDO During ECO

SB1114

- Law enacted in 2014 requires an individual under an ECO to be transported to a state facility upon issuance of a TDO if no other facility can be identified by the time of the expiration of the ECO (§ 37.2-809.1)
- What about situations where the individual has a medical condition that cannot be addressed by the TDO facility or would cause transfer to the TDO facility to be unsafe?

Medical TDO During ECO

SB1114

- Specifically references § 37.2-1104 (medical TDO) in the ECO statute (§ 37.2-808)
- Made changes to the medical TDO statute (§ 37.2-1104)
- For a person under an ECO, closes the loop at the end of the medical TDO

Medical TDO During ECO SB1114

- Medical TDO statute (§ 37.2-1104)
 - Court, or if court unavailable, a magistrate may issue an order authorizing the temporary detention of an individual by a hospital ER or other appropriate facility and authorizing testing, observation, or treatment
 - Issued on the advice of a licensed physician who has attempted to obtain consent

Medical TDO During ECO

SB1114

- Medical TDO (§ 37.2-1104)
 - Must find probable cause to believe that the individual is
 - Incapable of making an informed decision regarding treatment of a physical or mental condition or is incapable of communicating such a decision due to a physical or mental condition; and
 - That the medical standard of care calls for testing, observation, or treatment within the next 24 hours to prevent
 - Death;
 - Disability; or
 - To treat an emergency medical condition that requires immediate action to avoid harm, injury, or death

Medical TDO During ECO SB1114

- Medical TDO (§ 37.2-1104)
 - Cannot exceed 24 hours unless extended by the court as part of a judicial authorization for treatment order under § 37.2-1101.

Medical TDO During ECO

SB1114

- ECO statute (§ 37.2-808) specifically states that nothing precludes the issuance of a medical TDO for a person under an ECO
- Upon completion of the medical TDO, the ER or other facility where the person is detained shall notify the nearest CSB
- As soon as practicable and prior to the expiration of the medical TDO, designee of CSB shall evaluate the individual to determine if TDO criteria are met under § 37.2-809

TDO Custody

HB1694/SB966

- 2014 law stated that an “individual shall not during the duration of the TDO be released from the custody of the CSB” (§ 16.1-340.1:1; § 37.2-809.1(B))
- 2015 change made by HB1694/SB966
 - “Individual shall not during the duration of the TDO be released from custody”
 - Removed CSB

Law Enforcement Access to Information SB1264

- Officers and employees of criminal justice agencies are authorized to receive criminal history record information under § 19.2-389
- SB1264 amended § 19.2-389 to state that criminal history record information includes information sent to the CCRE under §§ 37.2-819 and 64.2-2014 when disseminated to an employee of the State Police, a police department, or sheriff's office.

Law Enforcement Access to Information SB1264

- Information reported to the CCRE includes
 - Inpatient commitment orders
 - MOT orders
 - Certification of an individual subject to TDO who agreed to voluntary admission
 - Order finding a person incapacitated
 - Orders appointing a guardian or conservator

Psychiatric Treatment of Minors Act SB779

- Parental admission of objecting minor 14 years or older (§ 16.1-339)
 - Upon application of a parent, a minor 14 years of age or older who objects to admission or is incapable of making an informed decision may be admitted to a willing facility for up to 120 hours
 - Still must be examined within 24 hours of admission by a qualified evaluator
 - Facility must file a petition for judicial approval no sooner than 24 hours and no later than 120 hours

Psychiatric Treatment of Minors Act HB1717/SB773

- Nonobjecting minors 14 years of age or older (§ 16.1-338)
 - If a minor 14 or older objects to further treatment, the facility shall immediately notify the consenting parent and provide the consenting parent a summary of the procedures for requesting continued treatment of the minor

Psychiatric Treatment of Minors Act

HB1717/SB773

- Parental admission of objecting minor 14 years or older (§ 16.1-339)
 - New criteria
 - The minor appears to have a mental illness serious enough to warrant inpatient treatment and is reasonably likely to benefit from the treatment
 - The minor has been provided with a clinically appropriate explanation of the nature and purpose of the treatment; and
 - All available modalities of treatment less restrictive than inpatient treatment have been considered and no less restrictive alternative is available that would offer comparable benefits to the minor.

Evaluations

HB2368

- Directs the Commissioner of DBHDS in conjunction with VACSB, NAMI-Virginia, PSV, VCEP, VHHA, VACP, MSV, and UVA's ILPPP to review the current practice of conducting emergency evaluations and identify CSBs and catchment areas where significant delays are occurring or have occurred
- Develop a comprehensive plan to authorize psychiatrists and ER physicians to evaluate individuals for involuntary civil admission where appropriate to expedite emergency evaluations
- Review and plan with recommendations shall be completed by November 15, 2015 and reported to the Governor, the SJ47 Subcommittee, House HWI, and Senate Ed and Health

What Bills Failed?

- SB1408
 - Would have required DBHDS to establish standards for emergency medical services provided by CSBs and conduct annual reviews of emergency services provided by CSBs
 - Annual reviews would have included review of clinical documentation, documentation of crisis intervention approaches attempted, collateral contact efforts undertaken and the results of such efforts, plans developed for family outreach during and after a crisis, and the rationale for all actions taken
 - Results of annual review would have been reported to the General Assembly each year prior to the legislative session

What Bills Failed?

- SB1409
 - Would have required DBHDS to enter into agreements with health care providers experienced in the provision of emergency services for the provision of technical assistance and guidance to CSBs

What Bills Failed?

- SB1410
 - Would have required all TDO evaluations to be conducted by an employee or designee of a CSB who was certified by DBHDS as a crisis intervention specialist

What to Watch

- Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century (SJ47 Subcommittee)
 - 3 workgroups
 - Special Populations (Del. Yost)
 - Emergency Services (Del. Bell)
 - Continuum of Care (Sen. Hanger)
 - Want to tour facilities and visit CSBs and private providers
 - Proposed meeting dates
 - June 30-July 1
 - September 24-25
 - November 12-13

What to Watch

- DBHDS Transformation Teams
 - 4 initial teams
 - Adult Behavioral Health Services
 - Adult Developmental Services
 - Child and Adolescent Behavioral Health Services
 - Services to Individuals who are Justice Involved
 - Townhall style meetings were held in May and public comment received on the teams' initial recommendations
 - Commissioner will finalize and prioritize recommendations
 - For more info, go to: <http://www.dbhds.virginia.gov/about-dbhds/commissioner-transformation-teams>.

What to Watch

- Center for Behavioral Health and Justice
 - Established in Executive Directive 4 by Governor McAuliffe
 - Goal is to achieve better coordination among behavioral health and justice agencies in the public, private, and not-for-profit sectors
 - Will use a collaborative, multi-systems approach in the following areas:
 - Data collection and analytics
 - Evidence-based programs and practices
 - Education, outreach and training
 - Technical assistance and resource development

What to Watch

- Center for Behavioral Health and Justice
 - Led by an Executive Leadership Council including Commissioners of DBHDS and VDH, and the Directors of DOC, DCJS, DJJ, and DMAS
 - Council convened by Deputy Secretary of Public Safety & Homeland Security and the Deputy Secretary of Health & Human Resources.
 - Council must develop an organizational structure and implementation plan by July 1, 2015

QUESTIONS??