

**Department of Planning and Budget
2014 Fiscal Impact Statement**

1. Bill Number: SB260S

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Deeds

3. Committee: Finance

4. Title: Emergency custody; time limit

5. Summary: Extends the time that a person may be held pursuant to an emergency custody order to 24 hours. Currently, a person may be held for up to four hours, with an additional two-hour extension available upon a finding by a magistrate that good cause exists for an extension. Directs the Department of Behavioral Health and Developmental Services to establish an acute psychiatric bed registry that will provide information on the availability of beds in public and private psychiatric facilities and residential crisis stabilization units for individuals who meet the criteria for temporary detention. Provides that an individual for whom a temporary detention order is issued shall be detained in a state facility if an employee or designee of the community services board is unable to identify an alternative facility that is able and willing to provide temporary detention.

6. Budget Amendment Necessary: Yes.

7. Fiscal Impact Estimates: Preliminary. See fiscal implications below.

8. Fiscal Implications: The bill creates additional costs in four areas: (1) Department of Behavioral Health and Developmental Services (DBHDS) central office expenses associated with coordinating and monitoring the bed registry (2) additional costs to Community Services Boards (CSB), law enforcement, and Department of Behavioral Health and Developmental Services central office associated with a 24 hour Emergency Custody Order (ECO), (3) the fiscal impact on DBHDS mental health facilities if an appropriate facility has not been identified for the temporary detention of person in the last hour of the ECO and such an individual must be placed in a state facility, and (4) the Involuntary Mental Commitment Fund (IMC).

The complexity of the issues that must be addressed in implementing the provisions of this bill makes it difficult to clearly quantify an overall fiscal impact. Providing a single, accurate cost to this legislation has been impeded by the lack of concrete data on the impact of the current law on both law enforcement and individuals affected by the process. Therefore, this fiscal impact statement includes several scenarios which generate a range of possible costs. For the purposes of this estimate, information has been taken from various sources including a 2013 University of Virginia study, Virginia Supreme Court data, and clinical expertise at

DBHDS. The actual impact of the legislation will be dictated by how behaviors and practices change as a result of the modification of the emergency custody order process.

	Scenario One		Scenario Two		Scenario Three	
	FY 2015	FY 2016	FY 2015	FY 2016	FY 2015	FY 2016
Acute Bed Registry	\$ 111,715	\$ 121,871	\$ 111,715	\$ 121,871	\$ 111,715	\$ 121,871
Community Services Boards	\$ 166,713	\$ 166,713	\$ 442,378	\$ 442,378	\$ 2,706,818	\$ 2,706,818
DBHDS central office	\$ 215,835	\$ 234,388	\$ 215,835	\$ 234,388	\$ 215,835	\$ 234,388
Law enforcement	\$ 107,271	\$ 107,271	\$ 284,648	\$ 284,648	\$ 1,741,702	\$ 1,741,702
DBHDS facilities	\$ 4,070,663	\$ 4,070,663	\$ 4,070,663	\$ 4,070,663	\$ 4,070,663	\$ 4,070,663
One-time capital at Hiram Davis	\$ 375,000		\$ 375,000		\$ 375,000	
Involuntary Mental Commitment Fund	\$ 242,778	\$ 242,778	\$ 242,778	\$ 242,778	\$ 242,778	\$ 242,778
Total fiscal impact	\$ 5,289,975	\$ 4,943,684	\$ 5,743,017	\$ 5,396,726	\$ 9,464,511	\$ 9,118,220

Acute Bed Registry

This bill requires the Department of Behavioral Health and Developmental Services to establish and operate a web-based registry of public and private acute psychiatric and crisis stabilization beds statewide, including availability of beds by facility. The agency is currently in the final stages of implementing such a registry using funds appropriated by the General Assembly in Chapter 806, 2013 Acts of Assembly. The registry, created via contract with Virginia Health Information, is anticipated to be operational by April 1, 2014. Funding to operate the registry is proposed in HB30/SB30.

However, to improve the effectiveness of the registry and ensure that facilities are in compliance and cooperating with the system's requirements, the department will need an additional FTE in the central office, Item 307. This position will be responsible for providing training and technical assistance to users, visiting sites to identify barriers to admissions, analyzing and reporting on data that is being collected, tracking trends, and suggesting corrective actions to improve system effectiveness. The individual will also work with hospitals and community providers on prompt discharge of clinically ready persons to reduce bed blockage for new admissions. The annualized cost of this position and the associated costs is assumed at \$121,871 per year. The first year cost is assumed at 22 pay periods, or \$111,715.

Salary	\$80,000
Fringe Benefits	\$32,420
Subtotal, Personal Services	\$112,420
Travel	\$4,726
Office Supplies	\$150
Training	\$2,500
Telephone	\$449
Computer/Blackberry	\$1,626
Subtotal, Nonpersonal Services	\$9,451
Annual Total	\$121,871
First Year	\$111,715

24 Hour ECO – Law Enforcement

The state does not currently provide funding to reimburse sheriffs' offices or local police for mandated activities related to ECOs. Therefore, unless the decision is made to begin providing state support for this activity, the proposal is not expected to have a fiscal impact on state funding for law enforcement. However, by expanding the number of hours related to ECO activities for local law enforcement officers, the proposal will have an impact, possibly significant, on local law enforcement agencies. Below presents the estimated additional costs that could be incurred by localities under the proposal.

Under current law, law enforcement officers serve the individual with an Emergency Custody Order that has been obtained from a magistrate or via a 'paperless' ECO when on the road and encounter a situation that requires them to take custody. The ECO is currently time-limited at four hours plus a possible two hour extension upon approval of a magistrate. The time period begins upon service of the Order. From that time to the Order's expiration, the individual's placement in a facility under a Temporary Detention Order (TDO), or the individual's release from care (whichever occurs first) a law enforcement officer is required to be present and maintain custody of the individual.

Based on available data provided by the Compensation Board, the estimated number of emergency custody order cases that require the presence of local law enforcement each year is approximately 11,950.

This fiscal impact statement includes a range of possible costs to law enforcement. The range is a result of the indeterminate nature of the number of ECOs that will extend beyond the current six hour time limit. It can be assumed that any number of hours beyond the current

limit will have a cost to local law enforcement, as they will remain present throughout the period of custody.

In order to develop the range, information has been compiled from various sources, including the eMagistrate system, a study completed by the Institute of Law, Psychiatry and Public Policy (ILPPP) at the University of Virginia in 2013, and clinical experience at DBHDS.

Information provided via the eMagistrate system documents that in FY 2013, 1,953 emergency custody order extensions (beyond the initial four hour period) were granted. Further, using available data on emergency custody orders and temporary detention orders from the ILPPP study for April 2013, it can be extrapolated that in 736 cases in 2013, an individual was recommended for a temporary detention order, but reached the end of the six hour period without a placement. It is therefore reasonable to assume that as long as current patterns and behaviors remain consistent, the number of individuals who will require law enforcement present beyond the six hour period would likely not exceed the range of 736-1,953. However, the removal of the requirement that a magistrate approve an extension of the ECO after a psychiatric evaluation has been completed by the four hour mark could increase the number of ECOs that extend past the current legal limit up to a total of 11,950 if the process is not closely monitored and addressed by the appropriate staff at DBHDS and the CSBs.

Scenario One:

Using data compiled from the ILPPP study, the Department of Behavioral Health and Developmental Services has estimated that 736 individuals per year will require continued law enforcement presence past the current six hour window, assuming that current practice does not change. If the scope is limited to 736 per year, and the distribution of those cases over the 24 hour period matches the projections, the annual cost to law enforcement for the additional hours is \$107,271. This impact statement also includes an assumed per diem cost of meals, which is reflected in the tables below.

Total ECO period (in hours)	Distribution of ECOs beyond 6 hours	Projected number of ECOs for timeframe	Hours added for each ECO	Total number of hours	Cost for additional hours
6-8	43.3%	319	2	637	\$12,996
8-10	10.5%	77	4	309	\$6,303
10-12	3.0%	22	6	132	\$2,701
12-14	20.9%	154	8	1231	\$25,092
14-16	10.5%	77	10	773	\$15,757
16-18	6.0%	44	12	530	\$10,805
18-20	4.5%	33	14	464	\$9,454
20-22	0.0%	0	16	0	\$0
22-24	1.5%	11	18	199	\$4,052
		736			\$87,161

Per diem meals	\$20,110
Total Cost	\$107,271

Scenario Two:

According to data provided by eMagistrate, in FY 2013, 1,953 individuals were granted extensions on their emergency custody orders. Applying the same distribution, the annual cost to law enforcement is \$284,648.

Total ECO period (in hours)	Distribution of ECOs beyond 6 hours	Projected number of ECOs for timeframe	Hours added for each ECO	Total number of hours	Cost for additional hours
6-8	43.3%	846	2	1691	\$34,486
8-10	10.5%	205	4	820	\$16,725
10-12	3.0%	59	6	352	\$7,168
12-14	20.9%	408	8	3265	\$66,582
14-16	10.5%	205	10	2051	\$41,813
16-18	6.0%	117	12	1406	\$28,672
18-20	4.5%	88	14	1230	\$25,088
20-22	0.0%	0	16	0	\$0
22-24	1.5%	29	18	527	\$10,752
		1953			\$231,284
				Per diem meals	\$53,364
				Total Cost	\$284,648

Scenario Three:

If current practice changes drastically as a result of the general extension of the ECO period, it could be assumed that all ECOs involving law enforcement officers could go past the current 6 hour period, at an annual cost to law enforcement of \$1,741,702.

Total ECO period (in hours)	Distribution of ECOs beyond 6 hours	Projected number of ECOs for timeframe	Hours added for each ECO	Total number of hours	Cost for additional hours
6-8	43.3%	5174	2	10349	\$211,010
8-10	10.5%	1255	4	5019	\$102,337
10-12	3.0%	359	6	2151	\$43,859
12-14	20.9%	2498	8	19980	\$407,400
14-16	10.5%	1255	10	12548	\$255,844
16-18	6.0%	717	12	8604	\$175,436

18-20	4.5%	538	14	7529	\$153,506
20-22	0.0%	0	16	0	\$0
22-24	1.5%	179	18	3227	\$65,788
		11950			\$1,415,180
Per diem meals					\$326,522
Total Cost					\$1,741,702

24 Hour ECO – Impact on CSBs

The following table provides a breakout of the 24 hour costs using the average hourly rate of a CSB employee at \$39 per hour. If the same three scenarios as applied to law enforcement are applied to the CSBs, the costs would be as follows:

Scenario 1 - Current Practice, same number of individuals kept past 6 hours

Total ECO period (in hours)	Distribution of ECOs beyond 6 hours	Projected number of ECOs for timeframe	Hours added for each ECO	Total number of hours	Cost for additional hours
6-8	43.3%	319	2	637	\$24,858
8-10	10.5%	77	4	309	\$12,056
10-12	3.0%	22	6	132	\$5,167
12-14	20.9%	154	8	1231	\$47,993
14-16	10.5%	77	10	773	\$30,139
16-18	6.0%	44	12	530	\$20,667
18-20	4.5%	33	14	464	\$18,084
20-22	0.0%	0	16	0	\$0
22-24	1.5%	11	18	199	\$7,750
		736		Total Cost	\$166,713

Scenario 2 - All individuals currently kept after four hours are included

Total ECO period (in hours)	Distribution of ECOs beyond 6 hours	Projected number of ECOs for timeframe	Hours added for each ECO	Total number of hours	Cost for additional hours
6-8	43.3%	845.6	2	1691	\$65,961
8-10	10.5%	205.1	4	820	\$31,990
10-12	3.0%	58.6	6	352	\$13,710
12-14	20.9%	408.2	8	3265	\$127,351
14-16	10.5%	205.1	10	2051	\$79,975

16-18	6.0%	117.2	12	1406	\$54,840
18-20	4.5%	87.9	14	1230	\$47,985
20-22	0.0%	0.0	16	0	\$0
22-24	1.5%	29.3	18	527	\$20,565
		1953		Total Cost	\$442,378

Scenario 3 - All ECOs are broken out over the extension period.

Total ECO period (in hours)	Distribution of ECOs beyond 6 hours	Projected number of ECOs for timeframe	Hours added for each ECO	Total number of hours	Cost for additional hours
6-8	43.3%	5174	2	10349	\$403,599
8-10	10.5%	1255	4	5019	\$195,741
10-12	3.0%	359	6	2151	\$83,889
12-14	20.9%	2498	8	19980	\$779,236
14-16	10.5%	1255	10	12548	\$489,353
16-18	6.0%	717	12	8604	\$335,556
18-20	4.5%	538	14	7529	\$293,612
20-22	0.0%	0	16	0	\$0
22-24	1.5%	179	18	3227	\$125,834
		11950		Total Cost	\$2,706,818

24 Hour ECO – DBHDS Central Office

It is estimated that the central office will require an additional two FTE to be responsible on a 24/7 basis for the response to both the four hour notification and for assisting in the location of a bed if time on the ECO is expiring. These employees will work with current agency employees to meet the requirements of the bill. The cost of these two positions is estimated at \$234,388 including benefits and associated costs. The first year cost is assumed at 22 pay periods, or \$215,835.

Calculations for one position:

Salary	\$80,000
Fringe Benefits	\$32,420
Subtotal, Personal Services	\$112,420
Office Supplies	\$150
Training	\$2,500

Telephone	\$449
Computer/Blackberry	\$1,675
Subtotal, Nonpersonal Services	\$4,774
Annual Total	\$117,194
First Year	\$107,918

State Mental Health Hospitals as Facility of Last Resort

The bill will likely create a greater demand for beds in the state facilities. However, the location or distribution of these incidences is difficult to predict over the course of year. In addition, logistical arrangement of staffing necessitates beds to be opened as a set or pods as opposed to single beds.

To ensure capacity for all regions and proper staffing, DBHDS has proposed a strategy of adding 10 beds at each of the following facilities; Southwestern Mental Health Institute (SWVMHI) and Northern Virginia Mental Health Institute (NVMHI). Individuals with significant medical requirements cannot currently be accommodated by DBHDS facilities. To address this need, DBHDS is also proposing setting up a 10 bed medical unit at Hiram Davis Medical Center. For the eastern region, the governor's proposed budget provides \$2.2 million (GF) a year to open a 20 bed unit at Eastern State Hospital. Western State has sufficient capacity to handle an increase of potential TDOs.

Projected Direct and Indirect Costs for Each 10 Bed Increase

Classifications	FTEs*	10 BED BUDGETS
Physician II	1	\$ 205,008
RN II	3	\$ 202,118
LPN	2	\$ 91,015
DSA/Therapist Asst/Peer Support Specialist	7	\$ 211,162
Psychologist II	1	\$ 67,716
Counselor II	1	\$ 43,647
Therapists	1	\$ 43,647
Housekeeper	2	\$ 50,140
Food Serv Tech	1	\$ 24,164
AOS II	1	\$ 31,040
Sub Total		\$ 969,657
Pharmaceuticals		\$ 87,500
Food/Fd serv Supp		\$ 30,000
Special Hospital		\$ 50,000
Laundry & Linen		\$ 9,000

Medical Supplies		\$ 7,500
Facility Maint Supp		\$ 5,000
Office Supplies		\$ 2,501
	Sub Total	\$ 191,501
	Total	\$ 1,161,158

Costs for Three 10-Bed Units Staffing and Supplies

1 Units (SWVMHI)* \$1,161,158 = \$1,161,158

1 Unit (NVMHI) = 1.3 (Adjustment Factor) * 1,161,158 = \$1,509,505

1 Unit (Hiram Davis) = \$1,400,000 Estimate

= \$1,161,158 + 1,509,505 + \$1,400,000 = \$4,070,663

Therefore, the annual operating costs associated with ensuring sufficient capacity at state hospitals is \$4.1 million.

In addition to the capital costs identified above, there would be approximately \$375,000 in capital costs at Hiram Davis to isolate one-half of a floor from other patients. The following are a list of capital costs.

- Entrance doors will have to be changed to security doors with security hardware - \$15,000.
- The ceilings are at 9 feet and will need to be hardened with access panels for the mechanical and electrical items above the ceiling - \$40,000.
- Door hardware will have to be made anti-ligature - \$20,000.
- Hanging hazards will have to be addressed in all rooms - \$80,000.
- Toilets and showers will have to be made accessible - \$50,000.
- A nurses' station will have to be created inside the space - \$50,000.
- Windows will have to be replaced with high impact resistant type similar to WSH - \$70,000.
- Paint all patient room walls and corridors with a high durability paint - \$30,000.
- Assume that the HVAC, electrical and fire alarm can remain and only modified for the new arrangement - \$10,000.
- Additional miscellaneous costs - \$10,000.

Involuntary Mental Commitment Fund

Based on the ILPPP study for the month of April, 2013, of the 1,370 individuals recommended for temporary detention order, only 19 individuals were not granted a temporary detention order despite the current six hour limit. The study notes that in many cases where a person did not receive a TDO, the most commonly reported reason was that the individual was still undergoing medical treatment. If that figure is extrapolated for a full year, it can be assumed a maximum of 228 individuals will be affected, at a cost of \$242,778. However that figure is tentative, as some

of those individuals may not end up in a TDO situation for other reasons, such as agreeing to voluntary treatment, or being offered another path to mental health treatment.

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

9. Specific Agency or Political Subdivisions Affected: Community Service Boards (CSBs), state and local law enforcement, state mental health facilities, DBHDS central office, State Compensation Board.

10. Technical Amendment Necessary: None

11. Other Comments: No