# Department of Planning and Budget
## 2024 Session Fiscal Impact Statement

1. **Bill Number:** SB176

| House of Origin | ☐ Introduced | ☐ Substitute | ☐ Engrossed |
|---|---|---|---|
| **Second House** | ☐ In Committee | ☐ Substitute | ☒ Enrolled |

2. **Patron:** Favola

3. **Committee:** Passed Both Houses

4. **Title:** Civil commitments and temporary detention orders; definition of mental illness neurocognitive.

5. **Summary:** Specifies that for the purpose of civil commitments and temporary detention orders, behaviors and symptoms that manifest from a neurocognitive disorder or neurodevelopmental disability are excluded from the definition of mental illness and are, therefore, not a basis for placing an individual under a temporary detention order or committing an individual involuntarily to an inpatient psychiatric hospital. The bill provides that if a state facility has reason to believe that an individual's behaviors or symptoms are solely a manifestation of a neurocognitive disorder or neurodevelopmental disability, the state facility may require that a licensed psychiatrist or other licensed mental health professional reevaluate the individual's eligibility for a temporary detention order before the individual is admitted and shall promptly authorize the release of an individual held under a temporary detention order if the licensed psychiatrist or other licensed mental health professional determines the individual's behaviors or symptoms are solely a manifestation of a neurocognitive disorder or neurodevelopmental disability. The foregoing provisions of the bill do not become effective unless reenacted by the 2025 Session of the General Assembly. The bill also directs the Secretary of Health and Human Resources to convene a work group to evaluate, identify, and develop placements for individuals with neurocognitive disorders and neurodevelopmental disabilities, as well as any statutory or funding changes needed to prevent inappropriate placements for such individuals, and to report his findings and recommendations by November 1, 2024.

6. **Budget Amendment Necessary**: No. If reenacted, Item 295.

7. **Fiscal Impact Estimates:** See 8 below.

8. **Fiscal Implications**: This fiscal impact statement is divided into sections in order to explain the various areas of fiscal impact resulting from this legislation. Because the legislation has a reenactment clause, any of the possible costs or cost avoidance generated by this legislation would not be realized until fiscal year 2026 (second year of next biennium) and are contingent on reenactment. At that time, additional funding would be needed for training and secondary evaluations.

**Training costs - $1.0 million (one-time)**
In order to meet the requirements for identifying neurocognitive presentations, additional training of prescreeners would be required. The Department of Behavioral Health and Developmental Services (DBHDS) estimates that the one-time costs of updating pre-screener modules would be approximately $500,000 each (one-time) for neurocognitive and neurodevelopmental modules, for a total one-time cost of approximately $1.0 million general fund. The modules would be added to the Commonwealth of Virginia Learning Center and be included as a required course for prescreener training.

Current prescreening staff at Community Services Boards (CSB's) would also need to complete the newly created modules. The cost of additional staff time to complete updated training is indeterminate.

**Secondary evaluations - $251,700 (annually)**
The legislation provides that if a state facility has reason to believe that the individual's behaviors or symptoms are solely a manifestation of a neurocognitive disorder or neurodevelopmental disorder, the state facility may require that a licensed psychiatrist or other licensed mental health professional reevaluate the individual's eligibility for a temporary detention order before the individual is admitted. While the payor of this secondary evaluation is not delineated, for this fiscal impact statement it is assumed that the state facility disputing admission is responsible for the cost of the secondary evaluation.

A secondary evaluation of an individual who is suspected of a neurocognitive disorder would require a geriatric psychiatrist or other licensed mental health professional who specializes in geriatric care. A secondary evaluation related to neurodevelopmental disabilities would require a psychiatrist or other licensed mental health professional that specializes in developmental disabilities. The Bureau of Labor and Statistics does not provide salary information for these specific sub-specialties of psychiatric care, however, the most recent data provided indicates that the mean compensation for all psychiatrists in Virginia is $251,070 annually, or $120.71 per hour.

DBHDS estimates that on average two hours will be needed to complete an evaluation. While the number of individuals who might be impacted by this legislation is unknown, DBHDS estimates that there are approximately five individuals admitted to state facilities each week who may meet the requirements for this evaluation, or 260 annually. If each evaluation takes, on average, two hours, the annual cost of this secondary evaluation is estimated to be $62,769 general fund.

**Potential cost avoidance of reduced temporary detention order admissions to state facilities**
This legislation may result in a reduction in the number of individuals who are admitted to state facilities under a temporary detention order (TDO). The Department maintains data on the number of individuals discharged from state facilities who have a principal or primary diagnosis of a neurocognitive disability (e.g. dementia), however, the Department does not have information on the number of individuals admitted to state facilities solely for a neurocognitive disorder. Similarly, the Department maintains data on individuals with a

developmental disability (DD), including autism, who are admitted to state facilities, however, data delineating whether a developmental disability is the principal/primary or sole diagnosis is not currently available.

Individuals with neurocognitive and neurodevelopmental disorders frequently have a co-occurring or secondary diagnosis of a mental health disorders, which would warrant admission through a temporary detention order under the amended criteria. In FY 2023, 176 individuals with a principal diagnosis of dementia, 34 individuals with a principal diagnosis of a neurodevelopmental disability, and 39 individuals with a principal diagnosis of autism were discharged from state mental health facilities. DBHDS does not have data on whether or not the individuals with these principal diagnoses also had a co-occurring mental health disorder that may lead to the issuance of a TDO under the criteria established in this legislation.

As shown in the following tables, the number of individuals discharged with principal diagnoses of these conditions varies across fiscal years, therefore, potential cost avoidance would be similarly varied from year to year. Information on the median length of stay for these individuals is also provided. As shown, the median length of stay (LOS) for these conditions is significantly higher than the overall census of state facilities, which had a median length of stay of 32 days for all individuals discharged in FY 2023.

Number of Discharged Patients with Principal Discharge Diagnosis of Dementia

and No Other Discharge Diagnosis of Dementia, ID/DD, or Autism

| Facility | FY19 | FY20 | FY21 | FY22 | FY23 | **Total** |
|---|---|---|---|---|---|---|
| CATAWBA HOSPITAL | 66 | 69 | 79 | 67 | 67 | **348** |
| CENTRAL STATE HOSPITAL | 6 | 8 | 8 | 7 | 2 | **31** |
| EASTERN STATE HOSPITAL | 23 | 39 | 26 | 22 | 10 | **120** |
| NORTHERN VIRGINIA MENTAL HEALTH INST | 7 | 8 | 9 | 3 | 7 | **34** |
| PIEDMONT GERIATRIC HOSPITAL | 37 | 72 | 81 | 57 | 58 | **305** |
| SOUTHERN VA MENTAL HEALTH INSTITUTE | 1 | 4 | | | 4 | **9** |
| SOUTHWESTERN VA MENTAL HEALTH INSTITUTE | 14 | 18 | 22 | 16 | 23 | **93** |
| WESTERN STATE HOSPITAL | 17 | 25 | 11 | 8 | 5 | **66** |
| **Total** | **171** | **243** | **236** | **180** | **176** | **1006** |

## Number of Discharged Patients with Principal Discharge Diagnosis of ID/DD

and No Other Discharge Diagnosis of Dementia, ID/DD, or Autism

| Facility | FY19 | FY20 | FY21 | FY22 | FY23 | **Total** |
|---|---|---|---|---|---|---|
| CATAWBA HOSPITAL | 10 | 6 | 8 | 1 | 3 | **28** |
| CENTRAL STATE HOSPITAL | 36 | 21 | 15 | 7 | 2 | **81** |
| COMMONWEALTH CENTER FOR CHILDREN | 1 | 2 | | | | **3** |
| EASTERN STATE HOSPITAL | 9 | 9 | 6 | | 3 | **27** |
| NORTHERN VIRGINIA MENTAL HEALTH INST | 8 | 21 | 8 | 12 | 7 | **56** |
| PIEDMONT GERIATRIC HOSPITAL | | | | | 1 | **1** |
| SOUTHERN VA MENTAL HEALTH INSTITUTE | | 2 | 1 | 2 | 8 | **13** |
| SOUTHWESTERN VA MENTAL HEALTH INSTITUTE | 9 | 10 | 1 | 7 | 6 | **33** |
| WESTERN STATE HOSPITAL | 18 | 25 | 10 | 6 | 4 | **63** |
| **Total** | **91** | **96** | **49** | **35** | **34** | **305** |

## Number of Discharged Patients with Principal Discharge Diagnosis of Autism

and No Other Discharge Diagnosis of Dementia, ID/DD, or Autism

| Facility | FY19 | FY20 | FY21 | FY22 | FY23 | **Total** |
|---|---|---|---|---|---|---|
| CATAWBA HOSPITAL | | 1 | 1 | 2 | 6 | **10** |
| CENTRAL STATE HOSPITAL | 8 | 4 | 12 | 6 | 3 | **33** |
| COMMONWEALTH CENTER FOR CHILDREN | 17 | 1 | 3 | | 1 | **22** |
| EASTERN STATE HOSPITAL | 9 | 13 | 1 | | 3 | **26** |
| NORTHERN VIRGINIA MENTAL HEALTH INST | 19 | 25 | 14 | 11 | 11 | **80** |
| SOUTHERN VA MENTAL HEALTH INSTITUTE | | | | 2 | 5 | **7** |
| SOUTHWESTERN VA MENTAL HEALTH INSTITUTE | 3 | 2 | | 1 | 3 | **9** |
| WESTERN STATE HOSPITAL | 4 | 4 | 6 | 9 | 7 | **30** |
| **Total** | **60** | **50** | **37** | **31** | **39** | **217** |

## Median LOS for Discharged Patients with Principal Discharge Diagnosis of Dementia

and No Other Discharge Diagnosis of Dementia, ID/DD, or Autism

| Facility | FY19 | FY20 | FY21 | FY22 | FY23 | **Total** |
|---|---|---|---|---|---|---|
| CATAWBA HOSPITAL | 52 | 85 | 84 | 55 | 83 | **70** |
| CENTRAL STATE HOSPITAL | 220 | 95 | 59 | 122 | 335 | **112** |
| EASTERN STATE HOSPITAL | 41 | 88 | 54 | 86 | 132 | **65** |
| NORTHERN VIRGINIA MENTAL HEALTH INST | 11 | 50 | 64 | 220 | 23 | **36** |
| PIEDMONT GERIATRIC HOSPITAL | 50 | 60 | 97 | 93 | 103 | **84** |
| SOUTHERN VA MENTAL HEALTH INSTITUTE | 196 | 103 | | | 71 | **100** |
| SOUTHWESTERN VA MENTAL HEALTH INSTITUTE | 59 | 111 | 81 | 148 | 138 | **100** |
| WESTERN STATE HOSPITAL | 79 | 80 | 88 | 179 | 79 | **82** |
| **Total** | **50** | **81** | **79** | **89** | **99** | **80** |

| Median LOS for Discharged Patients with Principal Discharge Diagnosis of ID/DD and No Other Discharge Diagnosis of Dementia, ID/DD, or Autism | | | | | | |
|---|---|---|---|---|---|---|
| Facility | FY19 | FY20 | FY21 | FY22 | FY23 | **Total** |
| CATAWBA HOSPITAL | 22 | 18 | 35 | 3 | 30 | **23** |
| CENTRAL STATE HOSPITAL | 11 | 20 | 40 | 16 | 95 | **18** |
| COMMONWEALTH CENTER FOR CHILDREN | 3 | 54 | | | | **27** |
| EASTERN STATE HOSPITAL | 8 | 4 | 15 | | 86 | **9** |
| NORTHERN VIRGINIA MENTAL HEALTH INST | 27 | 16 | 21 | 43 | 71 | **23** |
| PIEDMONT GERIATRIC HOSPITAL | | | | | 238 | **238** |
| SOUTHERN VA MENTAL HEALTH INSTITUTE | | 98 | 47 | 80 | 62 | **60** |
| SOUTHWESTERN VA MENTAL HEALTH INSTITUTE | 15 | 6 | 33 | 27 | 3 | **12** |
| WESTERN STATE HOSPITAL | 29 | 66 | 30 | 43 | 84 | **35** |
| **Total** | **15** | **19** | **30** | **34** | **59** | **24** |

| Median LOS for Discharged Patients with Principal Discharge Diagnosis of Autism and No Other Discharge Diagnosis of Dementia, ID/DD, or Autism | | | | | | |
|---|---|---|---|---|---|---|
| Facility | FY19 | FY20 | FY21 | FY22 | FY23 | **Total** |
| CATAWBA HOSPITAL | | 9 | 132 | 68 | 20 | **20** |
| CENTRAL STATE HOSPITAL | 9 | 14 | 15 | 52 | 142 | **16** |
| COMMONWEALTH CENTER FOR CHILDREN | 9 | 4 | 21 | | 3 | **9** |
| EASTERN STATE HOSPITAL | 3 | 4 | 686 | | 22 | **5** |
| NORTHERN VIRGINIA MENTAL HEALTH INST | 8 | 12 | 11 | 35 | 29 | **18** |
| SOUTHERN VA MENTAL HEALTH INSTITUTE | | | | 21 | 30 | **30** |
| SOUTHWESTERN VA MENTAL HEALTH INSTITUTE | 19 | 28 | | 6 | 109 | **19** |
| WESTERN STATE HOSPITAL | 22 | 40 | 28 | 45 | 43 | **40** |
| **Total** | **8** | **9** | **16** | **41** | **29** | **16** |

**Additional need for REACH crisis services**

Currently, individuals who have a neurodevelopmental disability who meet the criteria for a TDO are evaluated by a CSB prescreener, and admitted to a state mental health facility if there is no other facility that is willing to admit the individual for treatment. Under this legislation, individuals who have been evaluated for a TDO where it has been determined that their behavior is solely the result of a neurodevelopmental disability would no longer be eligible for admission to a state facility under a temporary detention order. In these instances, individuals could be diverted to REACH (Regional, Education, Assessment, Crisis Services, Habilitation) services to receive care and care coordination.

It is current practice for CSB prescreeners to call a CSB REACH provider when individuals being evaluated for a TDO are suspected to have an intellectual or developmental disability. When available, REACH providers will co-evaluate the individual with the CSB prescreener to determine if the individual may be diverted from admission to a mental health facility and instead receive crisis care services and coordination by REACH. However, frequently REACH providers are unable to co-evaluate individuals due to limited staff availability.

DBHDS anticipates that if passed, the proposed legislation will result in an increased demand for REACH services, either for co-evaluation services, or for REACH services provided to individuals who have been determined ineligible for a TDO under the amended criteria.

Chapter 1, 2023 Acts of Assembly, Special Session I, included $10 million in one-time funding in FY 2024 for mobile crisis services. DBHDS intends to use a portion of this funding, and the additional $10 million for additional mobile crisis teams proposed in the Governor's introduced budget for FY 2025, for recruitment and retention initiatives to fill the vacant REACH/mobile crisis positions and retain existing staff, however it is not clear if this will be sufficient to fill vacancies. The amount of additional funding needed to provide sufficient REACH capacity is unknown at this time.

**Evaluation of available services**

Finally, the legislation would require the Secretary of Health and Human Resources to convene a work group of relevant stakeholders to (i) evaluate the current availability of placements for individuals with neurocognitive disorders and neurodevelopmental disabilities who would otherwise be placed in state psychiatric hospitals; (ii) identify and develop placements and services other than state psychiatric hospitals that would better support such individuals, especially individuals whose behaviors or symptoms are solely a manifestation of such disorders and disabilities, including through enhanced Medicaid reimbursements and a Medicaid waiver for individuals with neurocognitive disorders; (iii) specify any additional funding or statutory changes needed to prevent inappropriate placements of such individuals in state psychiatric hospitals; (iv) provide recommendations for training of magistrates and community services boards related to the implementation of this act; and (v) report the work group's findings and recommendations by November 1, 2024.

It is assumed the evaluation can be completed with existing resources. The cost of increasing the availability of placements and services for individuals impacted by this legislation is indeterminate until completion of the evaluation.

Any possible cost of this legislation on the court system is currently indeterminate. If additional information becomes available, this fiscal impact statement will be updated to reflect those costs.

9. **Specific Agency or Political Subdivisions Affected:** Department of Behavioral Health and Developmental Services, Courts, Office of the Secretary of Health and Human Resources, Community Services Boards.

10. **Technical Amendment Necessary:** No.

11. **Other Comments:** This legislation is similar to HB888.