



Highlights from 2021 Virginia Legislative Session

The Virginia General Assembly adjourned on March 1st, concluding a historic legislative session. The 2021 session was largely held virtually due to the ongoing COVID-19 pandemic. In total, 1,549 bill and hundreds of budget amendments were introduced related to a broad array of issues and policies. At the conclusion of session, more than 800 bills were approved and sent to Governor Northam for his signature. The General Assembly will meet for a one-day reconvened session on April 7th to act on bills that are vetoed or amended by the Governor.

Below you will find updates to select budget items and legislation of interest to Mental Health America of Virginia and its supporters. MHAV has also compiled an expansive [bill tracking chart for the 2021 session](#).

2021 Budget Investments: Mental Health

Problem: *Severe shortage of a trained mental health workforce - Virginia ranks 41st nationally*

Behavioral Health Loan Repayment Program: \$1.6 Million

- Restores funding and language for the Behavioral Health Loan Repayment Program which was originally allocated during the 2020 session.
- The goal is to increase the number of behavioral health practitioners in Virginia through an educational loan repayment incentive.
- Mental Health practitioners will receive loan repayment for up to 25 percent of their student loan debt for each year of health services provided to Virginians.
- Participating practitioners will have an initial two-year minimum participation obligation and may renew for a third and fourth year.

Problem: *Overcrowding at state mental hospitals*

Pilot Programs to Reduce State Hospital Census Pressures: \$3.75 Million

- Provides \$3.75 million in FY2022 to fully restore funding for alternative inpatient options to state hospital care. It creates two-year pilot programs that address census pressures on state psychiatric hospitals for children and adults.
- Clarifies that funding could also be used to build community capacity for patients on the Extraordinary Barriers List (EBL) – who are cleared for release but remain in the hospital because they have nowhere to go.



Clinical Staffing at the Commonwealth Center for Children and Adolescents (CCCA):
\$765,428

- Restores **\$765,428** GF in FY2022 to support the need for additional clinical staff at the Commonwealth Center for Children and Adolescents, Virginia’s only inpatient psychiatric hospital for children.

Develop Options for Virginia Treatment Center for Children (VTCC): Language Only

- Directs the Department of Behavioral Health and Developmental Services (DBHDS) to work with VTCC to develop strategies that better utilize VTCC to help relieve census pressures on the Commonwealth Center for Children and Adolescents.
- The strategies will reported to the Behavioral Health Commission by 11.1.21, and may include:
 - diversion strategies when CCCA is near capacity
 - increasing VTCC Temporary Detention Order (TDO) admissions
 - Operating as a step-down facility from CCCA.

Chesapeake Regional Healthcare Psychiatric Unit: Language only

- Directs DBHDS to collaborate with Chesapeake Regional Healthcare to develop an agreement for dedicating a portion of its planned 20-bed psychiatric unit to provide treatment to individuals who may otherwise be admitted to state psychiatric hospitals.

Problem: *State transportation to the hospital is not round trip*

Transportation for Individuals leaving state psychiatric hospital: \$150,000

- Restores \$150,000 GF in FY2022 to provide for the transportation costs of patients discharged from state hospitals that were admitted under a Temporary Detention Order (TDO).
- Oftentimes individuals under a TDO are transported to a state facility that is hours away from home and therefore upon discharge may have difficulty getting transportation back to their home location.

Problem: *The first few weeks after release from jail are critical in connecting someone with community treatment and preventing re-incarceration.*

Forensic Discharge Planning in Jails: \$2,100,800

- Restores over \$2.1 Million GF in FY2022 to expand forensic discharge planning services at three additional jails with a high percentage of inmates with serious mental illness.
- This funding adds to the existing \$1.6million in FY2020 for discharge planning services at two local jails.
- Discharge planning includes linking inmates with serious mental illness to community providers for treatment and housing as they transition from jails to the community.

2021 Key Mental Health Policy Changes/Legislative Outcomes

Behavioral Health Commission Created | [SB1273](#) (Deeds).

- Creates a permanent Behavioral Health Commission in the legislative branch for the purpose of:
 - Studying and making recommendations for the improvement of behavioral health services in Virginia to encourage the adoption of policies to increase the quality and availability of high-quality, effective, an efficient behavioral health services for all
 - Provide ongoing oversight of the behavioral health system in the Commonwealth, including monitoring and evaluation of established programs and services, as well as implementation of new initiatives
 - The budget includes [\\$348,744 in FY2022](#) to support this effort.

Authorization of drugs prescribed for the treatment of a mental health disorder | [HB2008](#) & [SB1269](#) (Del. Heretick & Sen. McPike)

- Eliminates prior authorization requirements for medications prescribed for the treatment of mental health disorders listed in the DSM-5.
- An annual review of the patient is required to evaluate the drug's continued efficacy and changes in the patient's health status

Mandatory Outpatient Treatment | [HB2166](#) (Del. Hope)

- Makes several changes to the current Mandatory Outpatient Treatment (MOT) Statute. Most notably, it removes the requirement that a person agree to participate in MOT, and it extends the maximum period of MOT from 90 days to 180 days.
 - Revises criteria for entry of MOT to be effective upon expiration of an order for involuntary inpatient treatment
 - Eliminates requirement that the patient agree to abide by a MOT treatment plan to be eligible for MOT and instead requires that a judge must find the person able to adhere to a MOT treatment plan
 - Revises requirements for monitoring of a person's adherence to a MOT treatment plan by a Community Services Board (CSB)
 - Adds a provision allowing status hearings during the period of MOT. During the hearing, the treatment plan may be amended upon mutual agreement of the parties.
 - This bill has a delayed effective date of July 1, 2022.

Immigration status and mental health facilities | [SB1220](#) (Sen. Favola)

- Repeals the requirements that the state mental health facilities screen patients' immigration status and report both documented and undocumented immigrants to ICE.



- Works towards ending stigmatization and deportation of those immigrants (both children and adults) experiencing a mental health crisis and seeking inpatient psychiatric treatment.

Crisis Call Center Fund and regulations established | [SB1302](#) (Sen. McPike)

- Provides that the crisis call center shall be designated as the 9-8-8 Crisis Hotline Center to align and participate in the National Suicide Prevention Lifeline initiative.
- Directs the Department of Behavioral Health and Developmental Services, in its development of the crisis call center, MARCUS Alert community care teams, and mobile crisis teams, to comply with any applicable requirements of the National Suicide Hotline Designation Act of 2020.
- Establishes a non-reverting fund to be called the Crisis Call Center Fund that will receive funds from surcharges on wireless services. Amounts collected into this fund would be used solely for the establishment and operation of the crisis call center.
 - Estimates anticipate \$9.2 million to be collected in FY22 and \$10 million in FY23.

Arrest and prosecution when reporting overdoses | [HB1821](#) (Del. Bulova).

- Prohibits the arrest or prosecution of an individual for the unlawful purchase, possession, or consumption of alcohol, possession of a controlled substance, possession of marijuana, public intoxication, or possession of a controlled paraphernalia if:
 - that individual, in good faith, renders emergency care or assistance, including CPR or the administration of naloxone (or other opioid antagonists), to an individual experiencing an overdose while another individual seeks or obtains emergency medical attention.
 - Such individual remains at the scene of the overdose
 - Such individuals identify themselves to responding law-enforcement

School-based health services | [SB1307](#) (Sen. Dunnivant)

- Requires the state Department of Medical Assistance Services (DMAS) to amend its plan in order to pay for services delivered to Medicaid-eligible students that may be provided currently by school divisions, regardless of whether the student receiving such services has an individualized Education Plan (IEP).
- Will allow local education agencies to receive federal reimbursement ([an estimated \\$2.3 million NGE](#)) for the services they provide to Medicaid and FAMIS enrolled students outside of their IEP or for students that do not have an IEP.

Health Workforce Development Authority | [HB1976](#) (Del. Willett)

- Expands the mission of the Virginia Health Workforce Development Authority to include,

- Developing strategies to increase diversity in the health workforce by examining demographic data on race and ethnicity in training programs and health professional licensure.
- Identifying ways to leverage technology to increase access to health workforce training and
- Develop a centralized health care careers roadmap

Key Criminal Justice Reform legislation

Virginians with mental illness are significantly over-represented in our local jails and state prisons, and Black and Brown Virginians remain more likely to be incarcerated due to their mental illness than they are to receive clinical care to address their mental illness.

Consideration of mental condition during criminal proceedings | [HB2047](#) & [SB1315](#) (Del. Bourne & Sen. McClellan)

- This significant change in criminal procedure will modernize our criminal justice process to more fairly address Virginians with mental illness, developmental and intellectual disabilities by allowing evidence of those conditions to be considered prior to sentencing.
- Will allow defendants with mental illness (as well as intellectual or developmental disabilities) to introduce evidence in court pertaining to their diagnosis and how it may have impacted their mental state at the time of the alleged offense.
- It nullifies a Virginia Supreme Court ruling from 1985 that banned the introduction of such evidence during a trial.
- Requires judges to consider mental illness, intellectual disability, and developmental disability during bail and sentencing.
- Requires training for court-appointed lawyers to help them understand the unique responsibility of representing defendants with such conditions.

Note: Partner for Mental Health (Charlottesville) and Mental Health America of Virginia strongly supported this legislation.

Abolition of the death penalty | [SB1165](#) & [HB2263](#) (Sen. Surovell & Del. Mullin).

- Provides that no person may be sentenced to death or put to death, including the two individuals currently on death row in Virginia.
- Eliminating the death penalty will save Virginia just under \$4 million GF in FY2022.
- Virginia is the first state in the South to abandon the use of capital punishment and an historic policy change. Since 1976, Virginia has executed 113 people, a higher percentage of death row inmates than any other state, and the highest number of state executions, second only to Texas.

[National coverage of this issue](#)

Automatic expungement of criminal records | [HB2113](#) & SB1339 (Del. Herring & Sen. Surovell).

- Removes a major barrier for many whose arrest years ago has automatically blocked their access to housing or employment, including individuals whose mental illness was a factor in their arrest record.
- Will allow automatic expungement of nine misdemeanor offenses after seven years without a subsequent conviction.
- Creates a process for people to request a court remove other crimes from their record after seven years of good behavior.
- Has a delayed effective date of July 1, 2022.

Legalization of Marijuana | [SB1406](#) & [HB2312](#) (Sen. Ebbin & Del. Herring).

- Lawmakers approved legislation that legalizes recreational use of marijuana by adults over the age of 21 beginning in 2024.

[Media coverage from Virginia Mercury](#)

Constitutional amendment allowing for automatic restoration of political rights | [HJ555](#) (Del. Jones & Del. Herring).

- The General Assembly gave initial approval to a proposed constitutional amendment that would restore the voting rights of people convicted of a felony and released from prison.
- This measure would restore those rights automatically upon release; currently, people can only petition the governor to restore their voting rights.

Key Racial Justice Legislation

Recognizes Racism as a public health crisis in Virginia | [HJ537](#) (Del. Aird).

- Passed a resolution declaring racism a public health crisis in the Commonwealth.
- Virginia is the first Southern state to pass such as a measure.

Removal of Harry F. Byrd statue from Capitol Square | [HB2208](#) (Del. J. Jones).

- Both the House and Senate passed legislation to remove the statue of segregationist Governor and U.S. Senator Harry F. Byrd from the Virginia Capitol Square.



The following bills did NOT pass during the 2021 legislation session:

Abolition of the common-law crime of suicide | [HB1951](#) (Del. Simon)

- The House passed this legislation that would have abolished the common-law crime of suicide, however for the second year in a row, Senate Courts committee killed this stigma-reducing legislation.
- MHAV is extremely disappointed that this bill failed to pass and thanks Del. Simon for carrying this important piece of legislation.

Restrictions and prohibition on isolated confinement | [SB1301](#) (Sen. Morrissey).

- The Senate passed legislation that would end most use of solitary confinement in Virginia prisons, however, House leadership killed the bill by leaving it in the Appropriations Committee without giving it a hearing.

Mandatory Minimum Sentences | HB2331 & SB1443 (Del. Mullin & Sen. Edwards)

- The House and Senate both passed legislation that would eliminate most mandatory minimum sentences; however, bill conferees could not agree on key provisions of the final bill and this effort died.