



LEGISLATIVE UPDATE VALHSO WINTER CONFERENCE FEBRUARY 10, 2022

JANET ARESON AND KATIE BOYLE

UPCOMING KEY DATES

- February 15: “Crossover” deadline for each chamber to complete work on legislation originating in that chamber (except for the budget bill)
- February 20: Money committees report budgets by midnight
- February 22: Money committee full budget proposals available by noon
- February 24: Houses of introduction must complete work on budget
- March 2: Deadline for each chamber to complete work on other chamber’s budget proposal and revenue bills and appoint conferees
- March 7: Deadline for committee action on legislation by midnight
- March 12: Scheduled adjournment *sine die*
- April 27: Reconvened session for consideration of Governor’s amendments and vetoes

STATE REVENUES AND MAJOR TAX PROPOSALS

- General Fund revenues have demonstrated strong growth
- Revenues are forecasted to grow by 4.8 percent in FY 2023 and 4.2 percent in FY 2024 (after adjusting for tax policy changes assumed in the introduced budget, general fund revenues are projected to decline by 0.6 percent in FY 2023 and grow by 8.9 percent in FY 2024).
 - \$13.8 billion in resources above the base budget over FY 2022-FY 2024

STATE REVENUES AND MAJOR TAX PROPOSALS

- Proposals in December 2021 introduced budget (Governor Northam's outgoing budget):
 - One-time refund of \$250 single/\$500 married.(approximately \$1 billion)
 - Reduction of the grocery tax (eliminated 1.5 percent state-imposed portion of the 2.5 percent imposed on food for human consumption and essential personal hygiene products)
 - Eliminated the 1 percent school-age population distribution portion, with one-time hold-harmless payment
 - Eliminated the 0.5 percent transportation allocation
 - Did not eliminate the 1 percent local option sales tax portion.
 - Refundable earned income tax credit of 15 percent of the federal refundable credit (\$156 million per year)
- Key tax/revenue issues under discussion during legislative session
 - Full or partial elimination of the grocery tax and revenue replacement for localities
 - Increasing one-time refund in introduced budget to \$300 single/\$600 married
 - Doubling the standard deduction
 - Income tax subtraction for military retirement benefits

MAJOR SPENDING ITEMS IN INTRODUCED BUDGET

- \$563.9 million voluntary deposit to the Revenue Reserve Fund in FY 2022
- \$500 million in FY 2023 for school construction and modernization grants
- \$752 million GF over the biennium to increase teacher salaries by 5 percent in each year of the biennium
- \$806.8 million GF over the biennium to increase salaries for state employees and state-supported local employees by 5 percent in each year of the biennium
- \$924 million deposit to VRS in FY 2023 to address unfunded liability
- Targeted compensation actions:
 - Compensation plan for sworn positions in the Virginia State Police (\$48.4 million GF over the biennium); the plan addresses pay compression and increases the starting salary for newly-hired troopers from \$47,843 to \$51,500.
 - Compensation plan for the Department of Corrections (\$85.2 million GF over the biennium); the plan addresses pay compression and increases the starting salary for correctional officers from \$35,064 to \$44,000.
 - \$74 million over the biennium to increase the entry-level salary of sworn deputy sheriffs and regional jail officers to \$42,000.
 - \$15.6 million GF over the biennium to provide compression adjustments for sworn deputy sheriffs and regional jail officers of \$100 per year of service for incumbents that have served in a Compensation Board-funded position for a minimum of three years of service, up to a maximum of 30 years of service.
 - Salary increases for direct care staff at state behavioral health facilities (\$71.5 million GF in FY 2024). Provides \$1.1 million GF and \$7.8 million in Non-General Funds (NGF, Medicaid funds in this instance) in FY 2024 for salary increases for direct care staff in state training centers; provides direct care salary increases at the Virginia Center for Behavioral Rehabilitation in 2024 with \$7.5 million GF. Salary increases in FY 2023 are funded through American Rescue Plan Act (ARPA) Fiscal Recovery Funds.



CHILDREN'S SERVICES ACT



CSA BILLS

- **HB 427** (Herring)/**SB 435** (Barker) – as introduced, would have required a parent serving on a FAPT/CPMT to be a caregiver of a child who had received child welfare, juvenile justice, special education, or behavioral health services; as amended, this provision is removed and both bills instead include enactment clauses directing the SEC to inventory current efforts to recruit and retain parent representatives and compile a list of best practices for including and elevating parent voices. SB 435 strikes existing language allowing parent representatives who are employed by a public or private program that receives CSA funds, or agencies represented on a FAPT team, to serve provided that they do not, as a part of their employment, interact directly on a regular and daily basis with children or supervise employees who interact directly on a regular basis with children. HB 427 revises this language to allow such parent representatives to serve if no other parent representative is available. *(HB 427 is on House floor; SB 435 has passed Senate)*
- **SB 356** (Stuart) would allow CSA funds to support students who transfer from private day placements to a public school special education program established and funded jointly by a local governing body and school division located within Planning District 16 when the public program is able to provide comparable services and the student would require placement in an approved private school special education program but for the availability of the public school special education program. *(This bill has been “carried over” (continued to 2023) in Senate Finance and Appropriations to allow the workgroup on private day placements created by 2021 legislation to complete its work this year.)*

CSA-RELATED MEMBER BUDGET AMENDMENTS

- **Support: Item 284 #1h (Plum)/Item 285 #2s (Hanger)** – funding for four regional consultants at OCS to support local CSA programs (request of VACo and VML to support recommendations of HB 2212 (2021) implementation workgroup)
- **Support: Item 284 #2h (Plum)/Item 284 #1s (Hanger)** – additional state support for local administration of CSA programs (request of VACo and VML to support recommendations of implementation workgroup)
- **Oppose: Item 285 #1h (Plum)/Item 285 #1s (Deeds)/Item 285 #3s (Ruff)/Item 285 #4s (Barker)** – removes \$100,000 General Funds (GF)/year and language directing rate setting for private day special education



HEALTH



HEALTH-RELATED BILLS

- **HB 87 (Ware)/SJ 10 (Surovell)** create a Joint Subcommittee to Study Pandemic Response and Preparedness in the Commonwealth. *(HB 87 has passed the House; SJ 10 has passed the Senate)*
- **HB 191 (Hodges)** creates the position of Special Advisor to the Governor for Health Workforce Development and tasks the Special Advisor with coordinating efforts to expand the health workforce. The bill directs the Virginia Health Workforce Development Authority to work with an institution of higher education in the Commonwealth on efforts to develop the health workforce in the Commonwealth, and establishes the Virginia Health Workforce Development Fund, which will be used to support the Authority and to make grants to regional health workforce development initiatives. *(On House floor)*
- **HB 229 (Coyner)** directs the Department of Health to collect and analyze information, including demographic data, regarding social determinants of health and the impact of social determinants of health on health risks and health outcomes of residents of the Commonwealth and make this information available to the public on its website. *(Passed House)*
- **SB 192 (Mason)** allows a local health director to possess a master's or doctoral degree in the area of public health and three years of relevant experience, or be otherwise qualified for the position as determined by the Commissioner. Currently, a local health director must be a physician licensed to practice in the Commonwealth. The bill provides that if a local health director is not a physician and there is no licensed physician on staff, the local health director shall enter into a consulting agreement with a licensed physician to execute prescribing duties, consult on clinical matters, and perform all other duties as requested. *(Passed Senate)*
- **SJ 14 (Mason)** directs the Joint Commission on Health Care to complete a two-year study of the Commonwealth's public health system and develop recommendations for its improvement. *(Passed Senate)*

BUDGET ITEMS - INTRODUCED BUDGET

- Provides \$2.8 million GF in FY 2023 and \$5.7 million GF in FY 2024 to fund the remaining two years of the three-year phase-in of changes to local match rates for the cooperative local health budget for local health departments pursuant to budget language and legislation enacted in 2021.
- Provides \$1.1 million GF in FY 2023 and \$1.7 million GF in FY 2024 for additional comprehensive harm reduction programs.
- Includes \$878,435 GF/\$650,411 NGF in FY 2023 and \$892,559 GF/\$661,967 NGF in FY 2024 for rent increases for local health departments.
- Provides \$800,00 GF in FY 2023 and \$300,000 GF in FY 2024 for the Virginia Health Workforce Development Authority. The first year funding includes \$500,000 for a workgroup to study primary care workforce issues and potential solutions, including loan forgiveness programs.
- Replaces \$1 million in Temporary Assistance to Needy Families (TANF) funding with a like amount of GF in order to continue support for the Resource Mothers program, which assists pregnant and parenting teens with care coordination and home visiting.



BEHAVIORAL HEALTH



KEY LEGISLATION – BEHAVIORAL HEALTH

- **HB 105** (Rasoul) directs the Department of General Services, in cooperation with the Department of Behavioral Health and Developmental Services, to study the feasibility of transforming Catawba Hospital into a facility at which a continuum of substance abuse treatment and recovery services, including long-term, short-term, acute, and outpatient services, is provided in addition to the array of behavioral health and other services currently provided. *(On House floor)*
- **HB 679** (Hope)/**SB 300** (Deeds) eliminates the provisions in current law barring a provider of treatment for persons with opiate addiction through the use of (i) methadone or (ii) opioid replacements other than opioid replacements approved for the treatment of opioid addiction by the U.S. Food and Drug Administration from being located within one-half mile of a public or private licensed day care center or a public or private K-12 school. *(HB 679 has passed the House; SB 300 has passed the Senate)*
- **HB 1191** (Ransone) a substitute introduced and accepted in subcommittee this morning would delay implementation of the Marcus Alert system (changes include one year delay for localities greater than 40,000 pop; two years for smaller than 40,000 pop). SB 361 (Stuart), as passed by the Senate, allows localities with populations of 40,000 or less to opt out, but all localities must still develop local protocols to divert calls from the 9-1-1 dispatch and response system to a crisis call center for risk assessment and engagement, including assessment for mobile crisis or community care team dispatch if available. *(HB 1191 is in subcommittee; SB 361 has passed the Senate)*
- **HB 1341** (Brewer), as amended in House Courts, provided that every community services board must, upon notification by a local correctional facility that an individual committed to the local correctional facility has been determined to have severe mental illness, arrange for the admission of such individual to a mental health facility for treatment, with admission of an individual required within 72 hours of receipt of notification of the need for admission. *(Tabled in House Appropriations with a letter to the Behavioral Health Commission)*

KEY LEGISLATION – BEHAVIORAL HEALTH (CONTINUED)

- **SB 429** (Dunnavant) requires DBHDS to develop or obtain a mental health mobile application for suicide prevention and the provision of educational materials related to suicide prevention. The bill also requires the Department of State Police to develop or obtain a public safety mobile application that is capable of receiving text, audio, images, and video to submit confidential tips concerning a suspected, anticipated, or completed criminal violation, including bullying and threats of school violence. *(On Senate floor)*
- **SB 434** (Barker) requires the State Corporation Commission's Bureau of Insurance to collect certain comparative analyses from health carriers related to mental health parity and to include such analyses in a report that describes the methodology the Bureau used to verify compliance with the federal Mental Health Parity and Addiction Equity Act of 2008 and any related federal regulations or guidance. *(Passed Senate)*
- **SB 714** (Deeds) directs the Department of Behavioral Health and Developmental Services to implement a voluntary mental health check-in option as part of the comprehensive crisis system and to report by November 1, 2022, to the Governor and the Chairmen of the House Committees on Appropriations and Health, Welfare and Institutions and the Senate Committees on Education and Health and Finance and Appropriations regarding its progress in implementing such program. *(In Senate Finance and Appropriations)*

KEY LEGISLATION – BEHAVIORAL HEALTH (CONTINUED)

- **HB 1147** (Bell) provides that if the facility indicated on a temporary detention order is a state facility, no bed for the person detained or in custody pursuant to the temporary detention order is immediately available at such state facility, and an employee or designee of such state facility is available to take custody of such person, an employee or designee of the state facility may assume custody of the person and transport the person to the state facility or to an alternative facility of temporary detention. *(In House Courts)*
- **SB 202** (Newman) directs the Secretary of Health and Human Resources and the Secretary of Public Safety and Homeland Security to study options to increase the use of alternative custody arrangements for individuals who are subject to an emergency custody or temporary detention order. *(Passed Senate)*
- **SB 268** (Favola) directs the magistrate or court issuing an emergency custody order to consider all options for alternative transportation in determining a transportation provider. Allows an employee or contractor of DBHDS to be an alternative transportation provider. Allows law enforcement to transfer custody to the alternative transportation provider upon execution of an ECO or TDO. Allows an employee/designee of a state facility to take custody as in HB 1147. Directs DBHDS to amend its existing contract for alternative transportation or enter into new contracts to ensure sufficient availability of alternative transportation providers. *(On Senate floor)*
- **SB 593** (Newman) provides that auxiliary police officers may execute emergency custody orders and provide transportation for a person subject to an emergency custody or temporary detention order; includes provisions regarding transfer of custody as in SB 268. *(On Senate floor)*

INTRODUCED BUDGET – BEHAVIORAL HEALTH

- Provides \$2 million GF in FY 2022 for the operations of crisis assessment centers that have converted into crisis receiving center (which offer a broader array of services).
- Provides \$4.2 million GF in FY 2022 for overtime costs at state hospitals.
- Uses \$9 million GF in FY 2022 in one-time funds to continue temporary staffing contracts to address staffing shortages at state behavioral health facilities.
- Provides \$3 million GF in FY 2023 for a contract with the Virginia Health Care Foundation for a pilot project to remove barriers to the mental health workforce, including the payment of supervision costs for individuals seeking degrees in social work or counseling.
- Provides \$1.9 million GF per year for the remaining costs of the contract for alternative transportation of individuals under a Temporary Detention Order to ensure 24/7 coverage statewide.
- Directs the Department of Behavioral Health and Developmental Services, in consultation with affected stakeholders, to create a plan to provide alternative custody options for individuals under temporary detention orders to reduce the length of time law enforcement is involved and improve patient outcomes. The plan is due by September 1, 2022. Sets aside \$3.4 million GF in FY 2024 to implement the plan's recommendations.
- Provides \$1 million GF per year to expand a pilot program providing transportation for individuals returning from state facilities to their homes.
- Provides \$3.7 million GF in FY 2023 and \$3.3 million GF in FY 2024 for discharge assistance planning (funding in the first year includes the costs of a contract to study and implement rates for services provided with these funds, as well as the costs of information technology for tracking these funds).
- Provides \$1 million GF per year for regional dementia behavioral specialists to provide training and consultative services and support.
- Provides \$1.65 million GF in FY 2024 to continue a pilot program for individuals with dementia who may otherwise be admitted to a state facility (the pilot program is funded through American Rescue Plan Act State Fiscal Recovery Fund dollars in FY 2023).
- Provides \$2.9 million GF per year to support the Virginia Mental Health Access Program, which expands access to mental health services for children.

INTRODUCED BUDGET – BEHAVIORAL HEALTH (CONTINUED)

- Provides \$11.25 million GF in FY 2023 and \$19.1 million GF in FY 2024 for permanent supportive housing (\$2.5 million per year of this funding is set aside for individuals with serious mental illness residing in Northern Virginia).
- Provides \$1.7 million GF in FY 2023 and \$1.8 million GF in FY 2024 for additional permanent supportive housing for pregnant/parenting women with substance use disorders.
- Provides \$1.1 million GF in FY 2023 and \$2.7 million GF in FY 2024 for the state rental assistance program for individuals with intellectual or developmental disabilities.
- Provides \$2 million GF in FY 2023 and \$22 million GF in FY 2024 for crisis services, including support for the expansion of Crisis Intervention Team Assessment Centers or Crisis Stabilization Units into 23-hour crisis receiving or observation centers. \$20 million in ARPA Fiscal Recovery Funds supports these efforts in FY 2023.
- Appropriates \$1.7 million per year from the Crisis Call Center Fund (generated by a surcharge on wireless service charges enacted in 2021) for costs associated with the establishment and operation of the 988 Crisis Call Center. In addition to serving as the National Suicide Prevention Lifeline (988 will be the new federally-designated number to reach these resources, effective in July 2022), the call center is envisioned to be a key element of the Marcus Alert system for resolution of low-acuity calls for service and an avenue for access to behavioral health supports in times of crisis.
- Provides \$3 million GF per year to continue the phased implementation of the Marcus Alert system (each local or regional implementation area will receive \$600,000 per year).
- Funds the remaining three services in STEP-VA, as well as funds for local infrastructure and regional management (\$22.2 million GF in FY 2023 and \$28.3 million GF in FY 2024 and \$4.7 million NGF in FY 2023 and \$7.5 million NGF in FY 2024 from 988 call center funding).
- Provides \$650,000 GF per year to expand and provide additional support to existing mental health dockets.
- Funds a comprehensive study of the state and local behavioral health care systems with \$1 million GF in FY 2023. Sets aside \$100 million in FY 2024 to fund the study's recommendations.
- Provides \$5 million GF in FY 2024 for substance use disorder-specific training of the intellectual disability and developmental disability provider workforce, the development and implementation of substance use disorder services specific to transition-age youth (up to age 25), and additional substance use disorder services related to the COVID-19 pandemic. Funding in the first year is provided through American Rescue Plan Act State Fiscal Recovery Fund dollars.
- Provides \$2.2 million GF per year for grants to members of the Virginia Association of Recovery Residences

KEY MEMBER BUDGET AMENDMENTS – BEHAVIORAL HEALTH

- **Item 313 #1h** (Sickles)/**Item 313 #1s** (Hanger)/**Item 313 #4s** (Deeds) provide \$167.5 million GF per year for workforce development initiatives for Community Services Boards.
- **Item 313 #2h** (Sickles)/**Item 313 #2s** (Barker) provide \$2.9 million GF each year in additional funding for Part C Early Intervention services.
- **Item 313 #5s** (Favola) provides \$9.3 million GF each year to implement Marcus Alert system programs and community care teams for CSBs located in Region 2.
- **Item 313 #7s** (Ebbin) provides \$11 million GF in FY 2024 to expand Crisis Intervention Team Assessment Centers or Crisis Stabilization Units into crisis receiving centers. **Item 486 #23s** (Ebbin) is intended to provide an additional \$11 million in ARPA funding for this purpose in FY 2023.



SOCIAL SERVICES

KEY LEGISLATION – SOCIAL SERVICES

- **HB 349** (Tata) requires local departments to provide housing support for a period of no more than six months to a youth between 18 and 21 who turns 18 while in foster care, or who turns 18 while in the custody of the Department of Juvenile Justice (if the youth was in the custody of a local department immediately prior to commitment to the Department of Juvenile Justice), is transitioning from such commitment to self-sufficiency, and declines to participate in the Fostering Futures program. *(Passed House)*
- **HB 653** (Wampler) directs the Department of Social Services to establish and implement a collaborative local board placement program to increase kinship placements and the number of locally approved foster homes; the program must require local boards to work collaboratively to i) facilitate approval of kinship foster parents through engagement, assessment, and training and expand the pool of available foster homes. *(Passed House)*
- **HB 716** (Gooditis) requires local boards of social services, upon receiving a request from a child's relative to become a kinship foster parent, to provide the relative with materials regarding how to become a kinship foster parent within 15 days. If a relative's application is denied, the local board must provide information regarding the reasons for denial as well as information regarding how to file an appeal. The bill allows relatives to file an appeal regarding such decisions with the Commissioner of Social Services. **SB 307** (Mason) is similar. *(HB 716 is on the House floor; SB 307 has passed the Senate)*
- **HB 733** (Bell)/**SB 316** (Marsden) are Commission on Youth recommendations and allows for certain limited information sharing between local departments of social services and the staff of (i) a court services unit, (ii) the Department of Juvenile Justice, (iii) a local community services board, or (iv) the Department of Behavioral Health and Developmental Services who are providing treatment, services, or care for a child, for a purpose relevant to the provision of the treatment, services, or care when the local agencies have entered into a formal agreement with the Department of Juvenile Justice to provide coordinated services to such children. *(HB 733 has passed House; SB 316 has passed Senate)*
- **HB 1270** (Sickles) directs the Department of Social Services to submit a waiver request to the U.S. Department of Agriculture to allow individuals in the custody of state or local correctional facilities in to apply for SNAP benefits prior to release from custody. The Department is directed to implement a process for these applications upon approval of such waiver. *(On House floor)*
- **SB 56** (Favola) establishes a Foster Care Prevention Program that would enable the provision of payments to a relative who has custody of a child pursuant to a court order when the child's parent or guardian voluntarily placed the child with the relative, and when the placement with the relative averted the local department's likely petition to remove the child from the parent or guardian's home due to an imminent risk of child abuse or neglect. The bill directs the Board of Social Services to promulgate regulations to implement the bill, which may include provisions governing how payments are prioritized based on available funding. Payments to the relative would be made pursuant to an agreement with the local department and the Department of Social Services. *(Passed Senate)*
- **SB 396** (Edwards) provides that the court has the authority to review and approve or deny a foster care plan filed by a local board of social services. The bill requires a foster care plan to assess the stability of proposed placements, the services provided or plans for services to be provided to address placement instability, and a description of other placements that were considered for the child. The bill codifies the factors to be considered when determining the best interests of a child for the purposes of developing foster care plans. *(Passed Senate)*

INTRODUCED BUDGET – SOCIAL SERVICES

- Increases the auxiliary grant rate from \$1562 to \$1609 per month in the caboose budget, effective January 1, 2022. Localities pay a 20 percent match for the auxiliary grant.
- Funds a pilot program for the Office of New Americans to award grants to immigrant- and refugee-serving organizations (\$4 million GF per year).
- Directs the creation of a workgroup on TANF block grant spending to recommend changes necessary to ensure annual structural balance in state TANF spending.
- Provides \$3.5 million GF and \$7.1 million GF (with matching amounts of NGF each year) to develop an updated child welfare information system to meet federal requirements.
- Provides \$2.6 million GF/\$12.3 million NGF in FY 2023 and \$8.5 million GF/\$23.5 million NGF in FY 2024 to replace the Virginia Case Management System.
- Directs the Department of Social Services to establish an interagency task force to ensure state-level support for local criminal justice diversion initiatives.
- Provides \$400,000 GF/\$3.6 million NGF in FY 2023 and \$831,410 GF/\$4 million NGF in FY 2024 to fund implementation of the Family First Prevention Services Act, including fidelity monitoring and evaluation of evidence-based prevention services.

KEY MEMBER BUDGET AMENDMENTS – SOCIAL SERVICES

- **Item 206 #4s** (Mason) provides \$1.1 million GF in FY 2023 and \$1.2 million GF in FY 2024 for the Center for Evidence-Based Partnerships at VCU; **Item 311 #10s** (Mason) provides \$130,000 GF/year for DBHDS to administer the Center
- **Item 283 #1h** (March) and **Item 283 #1s** (Mason) continue the workgroup created during the 2021 Session to elevate aging services in the Commonwealth.
- **Item 345 #3s** (Mason) provides \$180,000 GF/\$60,000 NGF in FY 2023 and \$360,000 GF/\$120,000 NGF in FY 2024 to add slots to the Child Welfare Stipend Program, which assists local departments of social services in recruiting and retaining staff.