

VIRGINIA COMMISSION ON YOUTH

November 18, 2013

1:00 p.m.

House Room C

MINUTES

Attending:

Delegates Christopher Peace, Mamy E. BaCote, Robert Brink, Anne Crockett-Stark, Peter Farrell
Senator Barbara Favola, Stephen H. Martin
Citizen members Charles Slemp

Attending Electronically:

Dr. Frank S. Royal, Jr.

Not Attending:

Delegate Beverly Sherwood
Citizen member Gary Close
Note: One Senate seat is vacant.

Staff Attending

Amy Atkinson, Leah Mills, Kristin Lough

I. Call to Order and Opening Remarks

Delegate Christopher K. Peace, Chair

Delegate Peace welcomed everyone to the meeting. Delegate Peace suggested that the members introduce themselves, and then asked that the Commission recognize Delegates Sherwood and Crockett-Stark for their years of services to the General Assembly and the Commission on Youth; Delegate Crockett-Stark thanked the Commission. Delegate Peace then turned the meeting over to Ms. Glazer for a briefing on the Virginia School Readiness Report Card.

II. Virginia School Readiness Report Card

Kathy Glazer, President Virginia Early Childhood Foundation and Derek A. Chapman, Ph.D., Associate Director for Research, Center on Society and Health & Assistant Professor, Division of Epidemiology, Department of Family Medicine and Population Health, Virginia Commonwealth University

Ms. Glazer stressed that early childhood education in children up to age three is the least expensive but most effective to gain positive outcomes. If there is a gap in achievement at kindergarten, it will widen significantly later if not addressed. Dr. Chapman pointed out that the Reach program focuses on early learning and strengthening families. Delegate Crockett-Stark stated that she understood 9,000 children in the Commonwealth did not finish high school. She asked there was any

information why this was so. Ms. Glazer answered that the Department of Education tracked the information.

Ms. Glazer recommended an early warning system to identify risk gaps including knowledge, quality of education, service and delivery, and recovery. She cited Virginia's Longitudinal Data System, which is a good program, but requested that it include early childhood data. She additionally cited Phonological Awareness Literacy Screening (PALS), which works well for basic literacy, but noted that it needs more self-regulation. Ms. Glazer also pointed out a locality mismatch, wherein certain localities fail to draw down on money available to them because the localities are expected to provide a 50 percent match.

Delegate Farrell inquired about the policy which permits expedited retakes of the Standards of Learning (SOL) by 3rd grade students. Delegate Farrell noted that the pass rates for the 3rd grade reading SOLs would probably be lower if this policy was not in place. He also commented that it seemed inconsistent to not have this as an option for elementary school students when this option is available for high school students, particularly when they marginally fail. These students could retake the SOL within 2 to 3 weeks.

Delegate Farrell's second question of Ms. Glazer referenced the Virginia Preschool Initiative. He pointed out that Henrico has a 50 percent vacancy rate, Goochland has a 100 percent vacancy rate, and Louisa has a high number of vacant slots. Ms. Glazer answered that the formula is based on the number of children in poverty minus those for whom Head Start is available to determine the funds available for early childhood education. However, that money must be matched by the locality based on the composite index. The vacancies are often because localities cannot provide the funding match. Dr. Chapman also noted that it could also be difficult to find physical space and qualified staff.

Senator Favola asked about capacity and whether there was a way to establish incentives, such as providing physical space from the private sector, to help the jurisdiction to draw down these funds. Ms. Glazer stated that several localities developed partnerships to fill these slots. Ms. Glazer noted that it is difficult to get superintendents comfortable with the quality of services provided by private partners, and that localities want to do more to provide education, but the local match is the biggest barrier. Additionally, the state assumes a cost of \$6,000 per child, and while that is accurate in many parts of the state, in other parts of the state, it can cost \$12,000 per child.

Senator Favola asked about the quality of the state curriculum. Ms. Glazer said that the state curriculum is of high quality and that the state provides a rubric for the curriculum. She then asked whether the state can determine a more accurate statewide cost. Ms. Glazer said that it is based on a survey that needs to be updated.

Delegate Crockett-Stark noted that this is a systemic problem, and noted that while most colleges want to train preschool instructors, there is a need to account for the higher education costs associated with this training such as new buildings and faculty. Delegate Crockett-Stark then noted that that the developmental needs of these children must be addressed. Teachers need to understand childhood development by age, and that there is a difference between a 5 year old and a 6 year old. She would like the

House and Senate to look at the overall cost of teacher preparation and ensuring that teachers understand the age levels of students. Delegate Crockett-Stark noted that teachers reported that SOLs and early childhood teaching requires too much paperwork and not enough time spent teaching. Ms. Glazer concurred that students are “assessed to death” and recommended assessments that included observation.

Mr. Slemp commended the 2013 Virginia’s Biennial School Readiness Report Card book provided by Smart Beginnings. Ms. Glazer showed the Commission a map, available at www.vareportcard.com/map.php, which provides an opportunity to compare the school readiness by county and independent city within the Commonwealth. She noted that she would provide it to the Commission when the mapping was completed.

Delegate Peace thanked Ms. Glazer and Mr. Chapman for the information they provided. He also noted that a low or no cost Early Education Caucus of the General Assembly would raise the profile of the issue and that it may be worth pursuing.

III. Virginia’s Public Guardian and Conservator Program

Amy M. Atkinson, Executive Director

Delegate Peace noted that he requested staff to present on Virginia’s Public Guardian and Conservator Program. This program serves the Commonwealth’s most vulnerable citizens. He noted that in the past couple of years, the number of unserved localities increased from nine localities to nineteen localities. The intent of the General Assembly is for this program to be a statewide program.

Ms. Atkinson presented on the Virginia Public Guardian and Conservator Program. She stated the Program was established by statute in 1998 as a resource of last resort to provide guardianship and/or conservatorship to incapacitated citizens. The Department of Aging and Rehabilitative Services (DARS) may contract with local service providers for “around the clock” availability. Ms. Atkinson stated that guardianship was caring for the affairs of the incapacitated and that conservatorship was overseeing the finances of the incapacitated. DARS partners with the Virginia Department of Behavioral Health and Developmental Services (DBHDS) to increase services available to people served by local Community Service Boards and increase coverage throughout the Commonwealth. The Public Guardian and Conservator Program serves as a resource and advisor to those acting as guardians and conservators, conducts education and outreach, and assists in developing regulations regarding guardians and conservators in the Commonwealth. The program serves Virginians as young as 20 years of age and as old as 102 years of age. It costs an average of \$3,062 from the General Fund, \$3,137 from MH/MR Funds, \$4,268 from DBHDS funds, and an average of \$3,577 per client in total. The 2006-2008 Biennial Budget increased funding through DBHDS to serve individuals in, or at risk of, placement in state Training Centers. This allowed 44 individuals to transition from the Centers and saved the Commonwealth \$2.5 million per year.

Ms. Atkinson explained the impact of *Olmstead v. L.C. (Olmstead)* on community-based services to people with disabilities. The U.S. Supreme Court held that unjustifiably segregating persons with disabilities constitutes discrimination and violates Title II of the Americans with Disabilities Act (ADA). The Court held that public entities must provide community-based services to persons with disabilities when the services are appropriate, the individuals do not oppose community-based treatment, and community-based services can be reasonably accommodated. In August 2008, the U.S.

Department of Justice (DOJ) began investigating the Central Virginia Training Center pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA). In 2010, DOJ expanded the investigation to all five of Virginia's Training Centers to assess compliance with the ADA and *Olmstead*. In February 2012, DOJ submitted a letter stating that the services provided by the Commonwealth are not provided in the most integrated setting appropriate to their needs.

Ms. Atkinson described the process by which Virginia and DOJ reached a Settlement Agreement under *Olmstead*. In March 2011, Virginia began negotiating with DOJ to reach a settlement, and the Settlement Agreement was reached on January 26, 2012. On August 23, 2012, the Court approved the Settlement Agreement. The Agreement shifted the services provided by Virginia from an institutional model to a community-based model, and it expanded and supported quality community-based services while transitioning Virginia from Training Centers. Ms. Atkinson noted that the Virginia Public Guardian and Conservator Program provides a cost effective method to transition vulnerable adults from the Training Centers into the community, and it saves the Commonwealth approximately \$58,800 per individual moved.

The 2012 Biennial Report to the Governor and General Assembly indicated that 242 individuals are documented on program waiting lists, but that is a low estimate as not all requests are received. The projected unmet need is substantially higher. The estimated required funding would serve 537 individuals, including the 242 on the waiting list, 15 living in Training Centers who may require a guardian and 280 in unserved and underserved areas of the Commonwealth. A 2013 estimate by DARS included documented demand for 580 individuals. DARS requested three things: 1) a budget increase of \$3,429,687, 2) \$409,000 to stabilize existing programs, and 3) \$3,020,687 to meet unmet needs and provide a uniform guardianship system. Ms. Atkinson pointed out that the areas in Virginia which are unserved include the Counties of Brunswick, Dickenson, Dinwiddie, Charles City, Greensville, Halifax, Henry, Lee, New Kent, Mecklenburg, Patrick, Pittsylvania, Prince George, Russell, Surry, and Sussex and the Cities of Emporia, Danville, and Martinsville.

Finally, Ms. Atkinson presented a recommendation that the Virginia Commission on Youth support the Virginia Public Guardian and Conservator Program, specifically the strategic investments recommended by the Department for Aging and Rehabilitative Services to the Secretary of Health and Human Resources in the 2014-2016 Biennial Budget.

Delegate Peace noted that the Virginia Commission on Youth has jurisdiction over youth and families in Virginia and that jurisdiction includes a wider swath of information which impacts families as well as youth in Virginia. Delegate Peace noted that there were 19 unserved localities. Mr. Slemp inquired about the process for obtaining a public guardian/conservator and whether the court is petitioned. Delegate Peace noted the recommendation would be a letter. Senator Favola asked what the letter would specify, and Delegate Peace answered that the letter would be a recommendation to support the program and, at minimum, support funding of \$409,000 to stabilize the program.

Senator Favola moved to support the Public Guardian and Conservator Program. Delegate Farrell seconded the motion. Delegate Crockett-Stark noted her opposition to the closure of Virginia's Training Centers and asked that her comments be included on the record. She stated that she believed the state was shortsighted in closing Virginia's

Training Centers. For many of these individuals, the Training Center are their “communities”. She stated she did not believe there would ever enough waiver slots to meet the needs of these individuals and their families. She stated that she while opposed the closure of the Training Centers, she supported funding for waiver slots and funding wherever it would help Virginia’s citizens who did not have a voice. Delegate Peace told Delegate Crockett-Stark that this program strengthened the safety net so that individuals could be better served in their communities. The members voted unanimously to support Virginia’s Public Guardian and Conservator Program.

IV. **2013 Legislative Studies**

Leah D. Mills, Senior Policy Analyst

- **Study of Assessment of Mental Health Needs of Juvenile Offenders**

Delegate Peace noted that Ms. Mills was presenting the findings of the Commission’s 2013 legislative studies. The draft findings and recommendations from the Commission’s *Study on Mental Health Assessments for Juvenile Offenders* were presented at the September 17th meeting. Delegate Peace noted that the Commission received written public comments through November 12th. Staff included a summary of those public comments in red in the decision matrix. Members of the public, who signed up, could provide public comments after each recommendation was presented.

Ms. Mills reminded the members that the study originated from a bill introduced during the 2013 General Assembly Session. Senator Jill Vogel introduced Senate Bill 928, which would require an interdisciplinary team to evaluate the service needs of a juvenile when the Commonwealth is seeking the juvenile’s commitment. The Senate Courts of Justice Committee asked the Commission to study the provisions set forth in the legislation.

Ms. Mills stated that, as part of the study plan, Commission staff conducted site visits and stakeholder interviews, conducted a literature review, reviewed federal legislation/statutes, and reviewed Virginia laws, regulations, and policies. Thanks to assistance from the Department of Juvenile Justice (DJJ) and Virginia’s detention home officials, several informal surveys were conducted to learn more about the identified issues and to assess the impact of the proposed recommendations. Ms. Mills stated that staff focused the study efforts on using what is already in place to help juveniles’ with mental health concerns. She noted that Commission staff interviewed representatives from 11 localities.

Finding 1

Ms. Mills stated that the first recommendation under Finding 1 was to create social histories sooner in the process, particularly whenever a juvenile is before a court. Delegate Peace noted that the most contention was based in this recommendation from DJJ of Juvenile Justice, and he asked if the language included “may,” and whether Ms. Mills presented that. Ms. Mills noted that she did present that language. She also pointed out that there was concern with an issue of increased ordering and a problem of increased workload on Court Services Units.

Ms. Mills explained her second recommendation under Finding 1, and noted that “within 15 days” should be stricken, but that social histories should be required prior to a juvenile being committed to DJJ. Delegate Peace asked if there was support from

attorneys, and Ms. Mills answered that there was because it shifted the timeline for social histories rather than increased the workload. Senator Favola noted that this recommendation only applied to juveniles being committed. Mr. Slemp asked what the recommendation did aside from striking language regarding 15 days. Ms. Mills answered that the recommendation applies only to those juveniles being committed, and that it addresses the mental health services needs of those juveniles.

Recommendation 3 was to amend the *Code of Virginia* to state that a commitment order will be supported by a determination that the interests of the juvenile and community require that the juvenile be committed. Ms. Mills noted that a majority of Court Services Unit (CSU) directors commented that the additional requirement is unnecessary as it is already implied.

Recommendation four under Finding 1 was to request DJJ create a model social history and guidelines for CSUs to utilize when assisting the court's dispositional decisions. This information may include ideas for obtaining individualized educational program (IEP) assessments and information about trauma exposure. This recommendation can be resolved by a letter from VCOY to the Department of Juvenile Justice regarding a model social history. She noted that recommended the second and fourth recommendations. Mr. Slemp asked Ms. Mills to clarify feasibility problems with her fourth recommendation, and Delegate Peace answered that the fourth recommendation may be presented as an enactment clause rather than as a part of the *Code of Virginia*. Ms. Atkinson suggested that it could also be presented as a letter, but Delegate Peace stated that an enactment clause has more authority.

Senator Favola moved that the Commission adopted Recommendation 2 under Finding 1 and go forward with a bill draft request. Delegate Farrell seconded the motion. Senator Favola moved that, when drafting a bill under Recommendation 2, the Commission direct the Department of Juvenile Justice to draft model guidelines. Delegate Peace added that the direction should be given to the DJJ and other related entities, and Senator Favola added that it should include any entities which collaborate with the Department. Senator Favola moved that Recommendation 4 include the language that DJJ report back to the Commission on Youth prior to the 2015 General Assembly. Delegate Peace asked if the model social history and guidelines should be ready when the law change went into effect, and that maybe the law should include a delayed effective date of October 1. The members adopted Recommendations 2 and 4 as amended.

Finding 2

Ms. Mills presented Finding 2, which includes two recommendations. The first was to introduce a budget amendment to fund up to one qualified mental health professional (QMHP) for each Court Services Unit (CSU) that best suits their needs, including conducting mental health, substance abuse, and/or trauma screenings, assessments and evaluations. The first recommendation allows the CSU to hire the position or enter into a Memorandum of Understanding (MOU) with their local community service board (CSB). In the alternative, Ms. Mills' second recommendation was to introduce a budget amendment authorizing CSUs to contract with a QMHP to provide mental health, substance abuse, and/or trauma screenings, assessments and evaluations. This second recommendation provides the CSU authority to hire the position, contract with the local CSB, or contract with a private provider.

Ms. Mills pointed out that there are 32 CSUs run by the state and three that are locally administered. Ms. Mills continued that it would be helpful to have a QMHP on staff who are either hired by the locality or provided via a MOU entered into with a local CSB.

Senator Favola stated that these recommendations were critical. She continued that the cost may be partially covered by drawing down some Medicaid funds, and that the Commission should investigate whether that is possible. Senator Favola then asked if the community services boards would provide the professional. Ms. Mills answered that they could contract out or hire a QMHP. Ms. Mills continued to explain that the first recommendation would be \$3 million to allow each CSU to hire or utilize the CSB to provide a professional. The second recommendation is a \$1.6 million cost to contract for services with outside QMHP. Finding 2 had the largest number of supporting comments. There was some concern from CSUs that oversight and workload may overwhelm the CSUs.

Delegate Farrell noted that, in light of the fact that there may not be a QMHP with whom the CSU could partner, he was in favor of both Recommendations 1 and 2. Senator Favola asked if it was possible to seek a federal revenue stream to help fund the option. Delegate Farrell asked if, under recommendation 1, QMHP meant a licensed mental health professional. Ms. Mills noted that QMHP expands the pool of potential candidates beyond licensed professional, but requires supervision. She continued that it takes a long time to get a mental health professional licensed. Delegate Farrell inquired whether the supervising individual would be licensed and Ms. Mills confirmed that would be the case.

Delegate Crockett-Stark asked about access to mental health professionals across the Commonwealth. Ms. Mills pointed out that CSBs across the Commonwealth may only offer services that are prioritized by mandate and that there are service gaps across the Commonwealth. These Recommendations seek to help close some of these gaps.

Delegate Peace pointed out that there are three options – Recommendation 1 which costs \$3 million, Recommendation 2 which costs \$1.6 million, and taking no action. He stated that the Commission recommends policies options and that the budgetary impact was secondary to this mandate. Delegate Farrell stated that these recommendations were very important, in his opinion. Senator Favola moved to support Recommendation 1 as the priority and Recommendation 2 as the secondary recommendation and for staff to assess whether there were any federal revenue streams to draw down the cost. Delegate Brink seconded the motion.

Delegate Crockett Stark asked if the Recommendations would be mandatory or optional. Ms. Mills answered that Recommendation 1 would be mandatory, and Recommendation 2 would be mandatory. Delegate Peace noted that the Commission cares about the mental health of juvenile offenders and wants something done. He asked if all were in favor, and all responded with aye. There were no nays.

Delegate Peace recognized Commonwealth Attorney for Henrico, Shannon Taylor, for attending the meeting.

Finding 3

Ms. Mills presented Finding 3, Recommendation 1 which requests DBHDS to work with detention home superintendents in Virginia and CSB executive directors to develop

mental health and substance use screening, assessment, and other necessary services for detained juveniles. Recommendation 2 requests that DBHDS train detention home and CSB representatives to clarify each agency's role providing mental health and substance use services including assessments, evaluations, outpatient treatment, and crisis and case management services to juveniles in detention. Virginia's Council of Juvenile Detention (VCJD) and the VACSB should be included in the process. DBHDS shall report its progress to COY prior to the 2015 General Assembly Session. Recommendation 3 is to introduce a budget amendment for a state general fund appropriation for \$167,996 to offset the loss of funds for 6 CSBs not receiving a full state general fund appropriation during FY 2014.

Ms. Mills pointed out that staff received information about the provision of mental health assessments and services by the CSBs to juveniles in local detention home. Clarification would be helpful to communicate the expectations and goals of this program. She recommended that the Commission adopted Recommendations 1 and 2. These would take the form of a letter to the Virginia Department of Behavioral Health and Developmental Services (DBHDS). DBHDS were in support of these Recommendations. Ms. Mills stated that Recommendations 1 and 2 should address the issue contained in Recommendation 3. Delegate Peace recommended that the Commission support Recommendations 1 and 2 through a letter and not law. He pointed out that 3 could be an example of what happens when a program starts out with federal funding which is later cut. Delegate Brink moved to adopt, and Delegate BaCote seconded the motion. The Commission adopted Recommendations 1 and 2.

Finding 4

Ms. Mills moved on to Finding 4 regarding trauma. Recommendation 1 requested DJJ to investigate the feasibility of implementing formal trauma screening, as well as that DJJ develop a training program to recognize trauma and treat the youth appropriately when trauma is present. Ms. Mills' second recommendation is to request the Department of Criminal Justice Services (DCJS), the Office of Executive Secretary for the Supreme Court and DJJ include training for all appropriate parties, including police officers, judges and staff, to recognize trauma and treat youth appropriately when trauma is present. She pointed out that several commenters noted opposition to Recommendation 1 because CSU staff were not trained in trauma. Delegate Peace recommended changing the language in Recommendation 2 from "request" to "support" to acknowledge the work that has already been done. Senator Favola noted that Recommendation 2 includes addressing gaps in trauma-related services. Delegate Peace sought a motion, and Senator Favola moved to support the chairman write a letter in support of recommendations 1 and 2 to DJJ, DCJS, and the Office of Executive Secretary for the Supreme Court. All members said aye, and there were no nays.

Finding 5

Ms. Mills presented Finding 5 and Recommendation 1 requesting DJJ include case management for juveniles in ongoing training efforts. The training could include best practices for juveniles with mental health, substance use, and co-occurring disorders along with the impact of trauma. Most of the responses to this recommendation supported it, and they did include requests that topics be added. Mr. Slemp moved to adopt this Recommendation. Senator Favola confirmed that this Recommendation would be carried out as a letter. Delegate Peace asked that the message be consolidated with others, if appropriate. The Commission adopted the Recommendation.

- **Collection of Evidence-based Treatments for Children and Adolescents with Mental Health Treatment Needs**

Ms. Mills outlined the Collection of Evidence-based Treatments for Children and Adolescents with Mental Health Treatment Needs (Collection), and explained that it is currently in its fifth edition. The Commission is working with the Advisory Group to update the Collection and incorporate changes from the DSM-5, which was published in May. She pointed out that there are many changes, notably in Autism and ADHD diagnoses. Additionally, staff is working to include a crosswalk between the DSM-IV and DSM-5 for this edition.

Delegate Farrell moved to update the Collection, and Senator Favola seconded the motion. The Commission adopted the recommendation unanimously.

Delegate Peace noted that the provisions regarding truancy prevention may need an overhaul and the Commission would be looking at this issue in greater detail. The members agreed that the Commission start looking at this issue and develop a study plan for consideration for the 2015 study year.

V. Election of Chair

Delegate Crockett-Stark moved to nominate Delegate Peace as the Chair of the Virginia Commission on Youth. Mr. Slemp seconded the motion. The members voted unanimously to re-elect Delegate Peace as Chairman. Delegate Peace thanked the Commission for their support.

The meeting adjourned at 3:00 p.m.

While opportunity for public comment was provided, no public comment was received at this meeting.