



## Virginia Commission on Youth 2023 Legislative Studies and Initiatives

### Admission of Minors to a Mental Health Facility for Inpatient Treatment

Draft Recommendations	Public Comment
<p><b>Change age of admission for inpatient treatment from 14 to 16:</b></p> <p><u>Recommendation 1:</u> Amend the <i>Code of Virginia</i> § 16.1-338 and § 16.1-339 to raise the age of minor objection from 14 to 16.</p>	<p><b>Laura Savinda, Roanoke:</b> Supports recommendation 1. “As a parent of a child who has been suffering from anorexia for 2 1/2 years, I fully understand the fear of a child making the decision if he or she needs help...Young teens (and in my opinion up to 18) should not be allowed to make these crucial decisions. It’s a matter of life or death.”</p> <p><b>Virginia Association of Community Services Boards (VACSB):</b> Shares concerns it has with recommendation 1. “Treatment is more effective when the individual can consent to his/her care. If the commonwealth raises the age for when a minor can object to treatment from 14 to 16, this would be removing the opportunity for a minor to provide consent, therefore could potentially have a negative impact on the effectiveness of that treatment. At the current age of consent, the individual is capable of recognizing the signs of a need for mental health treatment.”</p> <p>“In addition, the Preadmission Screening process happens the same whether the age of consent is 14 or 16.”</p>

**Richard J. Bonnie, Emeritus Director, Institute of Law, Psychiatry and Public Policy, University of Virginia School of Law:**

“I propose that the General Assembly permit psychiatric hospitalization with consent of a responsible parent without judicial involvement for children younger than 16 (just as the Commission has proposed).”

“At the same time, however, I strongly urge the Commission to couple this proposal with a permanent monitoring requirement. Specifically, the admitting hospitals should be directed to record specified data regarding the youth’s admission, diagnosis, treatment and discharge from hospitalization. The details of these data requirements can be developed at a later time, of course, but they should be detailed enough to permit outcomes and trajectories to be monitored. (The data would, of course, be anonymized.)”

**disAbility Law Center of Virginia (dLCV):**

Opposes recommendation 1.

**Virginia Chapter of the American Academy of Pediatrics (VA AAP):**

Opposes recommendation 1. “The current law is consistent with what we know about the brain development of adolescents. The American Academy of Pediatrics references empirical studies that suggest that by the age of 14, adolescents have the ability, very similar to adults, to make rational and reasonable health care decisions. Furthermore, the age of 14 is used throughout the Code of Virginia as when a minor can give consent for services.”

**Voices for Virginia’s Children:**

Opposes Recommendation 1. “Changing this law would revoke the autonomy and consent of youth aged 14 and 15 to make informed decisions regarding their mental health needs. Changing the age of consent from 14 to 16 would conflict with current laws that deem

minors eligible to give informed consent for other forms of health care services and treatment, such as the receipt of birth control, treatment for sexually transmitted infections, and emergency services.”

“Young people are more likely to seek and participate in services when they can take control over their mental health care... In 2022, the American Psychiatric Association (APA) indicated in their Resource Document on Consent for Voluntary Hospitalization of Minors that research on adolescent decision-making on medical issues show that adolescents aged 14 and older tend to have similar capacities to make medical decisions as adults when given time to reflect.”

**Virginia Poverty Law Center (VPLC):**

Opposes recommendation 1. “Under Virginia law, juveniles are presumed to have a certain degree of agency beginning at age 14, often considered the “age of discretion.” For example, our juvenile justice laws allow a juvenile at age 14 to be tried as an adult. And youth at age 14 have certain rights when in foster care. Changing the age from 14 to 16 for this purpose would cause inconsistency under the law.”

“Further, as far as increasing the age for a minor to object to admission upon application of a parent, we believe that adequate tools exist for any youth who is believed to be a danger to self or others to be admitted over their objection.”

**Make clarifications to the Psychiatric Treatment of Minors Act:**

Recommendation 2: Amend the *Code of Virginia* §16.1-338 and § 16.1-339 to state the age of parent and minor consent for entering inpatient substance use treatment. The current law (14 for minor objection) is not explicitly stated but rather implied.

(and)

Amend the *Code of Virginia* to add clarifying language to §16.1-339 to state that if a minor is being granted admission to a willing facility under the application of a parent, then a temporary detention order (TDO) shall not be required under this section.

**Virginia Association of Community Services Boards (VACSB):**

“VACSB supports the first part of this recommendation. However, it is worth noting that there are very few facilities in the state that provide inpatient SUD treatment for minors.”

“For the second part of this recommendation, VACSB cannot comment because it is not clear if this is referring to a need for mental health treatment or substance use disorder treatment. As well, this code section (§16.1- 339) does not require a TDO as currently written, so it is unclear as to why there is language in this recommendation to not require a TDO, when a TDO is already not required.”

**disAbility Law Center of Virginia (dLCV):**

Supports recommendation 2.

**Virginia Chapter of the American Academy of Pediatrics (VA AAP):**

Supports recommendation 2.

**Voices for Virginia’s Children:**

Supports recommendation 2.

<p><b>Request review of transportation options for youth needing inpatient treatment:</b></p> <p><u>Recommendation 3:</u> Request the Department of Behavioral Health and Developmental Services to put together a work group with Virginia Association of Chiefs of Police, Virginia Sheriffs' Association, the Virginia Association of Community Services Boards (VACSB), the Virginia Magistrates Association, Office of the Executive Secretary of the Supreme Court of Virginia, and any other relevant stakeholders to consider options for the transportation of minors that can be admitted under §16.1-339, as is currently done for emergency custody orders and temporary detention orders as described in § 16.1-340.1. DBHDS shall make any recommendations to the Commission on Youth by November 1, 2024.</p>	<p><b>Virginia Association of Community Services Boards (VACSB):</b> Supports recommendation 3.</p> <p><b>disAbility Law Center of Virginia (dLCV):</b> Supports recommendation 3.</p> <p><b>Virginia Chapter of the American Academy of Pediatrics (VA AAP):</b> Supports recommendation 3. “We believe that recommendations 3-6 will help educate more parents and providers on what the laws allow and what resources are available.”</p> <p><b>Voices for Virginia’s Children:</b> Supports recommendation 3. “Voices recommends that stakeholders from youth-centered systems are a core part of the workgroup to consider alternative transportation options...Voices suggests that this workgroup should also include a pediatric mental health provider and professional from a child and youth mental health advocacy organization.”</p>
<p><b>Improve public guidance for age of admission process:</b></p> <p><u>Recommendation 4:</u> Request (or) Introduce a section one bill to require the Department of Behavioral Health and Developmental Services to provide a page on its website geared towards the public that describes the laws, options, and frequently asked questions as they relate to the Psychiatric Treatment of Minors Act. The information posted shall be done with the assistance of mental health, substance abuse, and disability experts and advocates.</p>	<p><b>Virginia Association of Community Services Boards (VACSB):</b> Supports recommendation 4 and requests that VACSB be asked to provide a CSB representative to assist with the formation of this information.</p> <p><b>disAbility Law Center of Virginia (dLCV):</b> Supports recommendation 4.</p> <p><b>Virginia Chapter of the American Academy of Pediatrics (VA AAP):</b> Supports recommendation 4.</p> <p><b>Voices for Virginia’s Children:</b> Supports recommendation 4. “Voices recommends that young people be included amongst the stakeholders that will assist DBHDS in creating the webpage and content.”</p>

<p><b>Update Department of Social Services’ guidance:</b></p> <p><u>Recommendation 5:</u> Request the Department of Social Services update guidance, and have the Department of Social Services Director send a letter to local departments of social services describing the admission of minors to inpatient treatment process, including §16.1-339.</p>	<p><b>Virginia Association of Community Services Boards (VACSB):</b> Supports recommendation 5.</p> <p><b>disAbility Law Center of Virginia (dLCV):</b> Supports recommendation 5.</p> <p><b>Virginia Chapter of the American Academy of Pediatrics (VA AAP):</b> Supports recommendation 5.</p> <p><b>Voices for Virginia’s Children:</b> Supports recommendation 5.</p>
<p><b>Provide educational materials to qualified examiners and local CSBs:</b></p> <p><u>Recommendation 6:</u> Request the Department of Behavioral Health and Developmental Services provide educational materials to the Psychiatric Society of Virginia, the Virginia Academy of Clinical Psychologists, and community services boards for further dissemination to their members on the voluntary and involuntary admissions process for minors to a mental health facility for inpatient treatment. DBHDS should consult the Juvenile Law and Practice in Virginia manual, Office of the Executive Secretary of the Supreme Court of Virginia training materials, and information provided by Virginia’s medical schools.</p>	<p><b>Department of Behavioral Health and Developmental Services (DBHDS):</b> Under “Right Help Right Now” a “training is currently in development and will cover topics to include what a behavioral health crisis in a child or adolescent may look like, how and when to seek help, possible resources for help in the community, and a brief dive into the involuntary commitment code for minors (ECO, TDO, unintended consequences of the legal avenues for care).”</p> <p>“The training will also cover voluntary admissions to behavioral health facilities. Once the training is fully developed, it will be made applicable to a wide variety of audiences.”</p> <p><b>Virginia Association of Community Services Boards (VACSB):</b> Supports recommendation 6.</p> <p><b>Anne Marie Dietrich, M.D., Alexandria:</b> For recommendation 6, “please consider adding the Washington Psychiatric Society (WPS) because psychiatrists in Northern Virginia are members of the WPS and they could also benefit from the educational materials.”</p>

	<p><b>disAbility Law Center of Virginia (dLCV):</b> Supports recommendation 6.</p> <p><b>Virginia Chapter of the American Academy of Pediatrics (VA AAP):</b> Supports recommendation 6.</p> <p><b>Voices for Virginia’s Children:</b> Supports recommendation 6.</p>
<p><b>Support use of federal funds for higher intensity services:</b></p> <p><u>Recommendation 7:</u> Request the Department of Behavioral Health and Developmental Services work with CSBs to target American Rescue Plan Act (ARPA) and other available one time federal funds towards higher intensity substance use services for minors. These are services ASAM level 2.5 and higher.</p>	<p><b>Virginia Association of Community Services Boards (VACSB):</b> Supports recommendation 7.</p> <p><b>disAbility Law Center of Virginia (dLCV):</b> Supports recommendation 7.</p> <p><b>Virginia Chapter of the American Academy of Pediatrics (VA AAP):</b> Supports recommendation 7. “We strongly support seeking additional federal funding to help provide substance use services for minors.”</p>