

Allocate \$5 Million of Diversion Pilot Funds to Address Forensic Admissions to State Facilities

The Governor’s introduced budget allows \$5 million of the existing \$7.5 million pilot program for discharge and diversion of inpatient psychiatric hospitalization to be used on programs to address the increase in forensic admissions to DBHDS facilities.

- DBHDS will use this flexibility to pursue partnerships with correctional facilities, CSBs, and private providers that increase the capacity for restoration to be provided in non-DBHDS settings and reduce admission or length of stay of restoration cases at DBHDS facilities.
- Competency restoration provided in a jail/outpatient setting is more cost-effective than inpatient treatment and will alleviate census pressures so a greater number of beds can be made available to individuals who have been committed to inpatient treatment through the civil process.

Background:

- Over 60 percent of state facility beds are currently occupied by forensic patients. This includes individuals in jail who meet the requirements for a TDO, individuals who have been found Incompetent to Stand Trial (IST) and require competency restoration treatment in order to stand trial, individuals who require evaluations for competency/sanity, and those found Unrestorably Incompetent to Stand Trial (URIST) or Not Guilty by Reason of Insanity (NGRI).
- Restoration admissions have increased by over 150 percent over the past ten years. The vast majority of restoration is provided in an inpatient setting which is significantly resource intensive and is a more restrictive level of care than necessary for many restoration cases.
- Unlike civil patients, forensic patients are only admitted to DBHDS facilities. The growth in restoration admissions is the primary driver behind the overall “forensification” of DBHDS.
- DBHDS developed a waitlist for forensic admissions in 2023 to control the percentage of state beds that are utilized by forensic patients. As of January 9, 2024, there were 45 individuals on the forensic waitlist. Of those, 75.5 percent (34) are for restoration of competency to stand trial.
- Virginia code requires that DBHDS admit restoration defendants within 10-days of receipt of the order, which places significant pressure on the agency to meet this requirement given the current census pressures.

Cost of Inpatient Competency Restoration Treatment and Outpatient Alternatives

- The average length of stay for restoration is 95 days. Given that the cost of housing and providing inpatient restoration is greater than \$1,000 per day, the average cost of an

inpatient restoration admission is more than \$95,000. In practice, this cost is often significantly more as restoration requires innumerable clinical hours related to treatment and is highly variable to the needs of each individual. In contrast, the average cost per client for providing Jail Diversion services in 2022 was \$2,645.

- If the percentage of forensic patients admitted to state facilities remains high, then significant capital investment will be needed to retrofit facilities with infrastructure needs related to serving this population. Other than the CSH maximum security unit (111 beds), most DBHDS facilities were built to house civil patients for rehabilitation, not to confine patients under jail detainers or under the jurisdiction of the criminal courts.
- Traditional outpatient restoration at the jail is often minimal and fragmented. Some CSBs provide restoration services in the jail but may or may not have a working relationship with the jail medical/psychiatric providers. Inmates often receive individual restoration sessions 1-2 times a week with little or no additional services provided.
- With this flexibility, DBHDS can establish partnerships to grow the capacity for outpatient restoration through a jail-based restoration unit within a correctional facility. Individuals who require restoration but are not so impaired that they require DBHDS hospitalization could receive treatment without being transferred into DBHDS custody for inpatient treatment.
- The services provided in a jail-based restoration unit would largely mirror DBHDS services including psychiatric medications, group psychosocial rehabilitation classes, group and individual restoration interventions, case management, nursing, and forensic evaluations. Services would be provided by private third-party providers that specialize in jail-based restoration.

