

JLARC Workplan

2020



COMMISSION DRAFT

Joint Legislative Audit and Review Commission

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1 JLARC Workplan

The Joint Legislative Audit and Review Commission (JLARC) is the oversight agency of the Virginia General Assembly. The legislature established JLARC in 1973 to review and evaluate the operations and performance of state agencies and programs. Since its establishment, JLARC's responsibilities have been expanded to include oversight and fiscal analysis in several areas of Virginia government.

JLARC uses a structured but flexible process for planning agency work. This workplan, which is prepared annually and submitted to the Commission for review and approval, represents a staff proposal for a feasible work schedule. The workplan may be revised to reflect changes in organizational priorities and needs. The sections that follow cover JLARC's major work functions: Studies, Ongoing Evaluation and Oversight, Fiscal Analysis, and Support.

Proposed Commission meeting schedule 2020

July	JLARC Workplan VRS Virginia529
August	<i>No meeting</i>
September	Regional and infrastructure incentives Department of Small Business and Supplier Diversity JLARC Impacts: General Assembly action (2020 session)
October	DOE Central Office VITA State spending
November	Legalizing marijuana in the Commonwealth Children's Services Act Economic development incentives Insurance coverage for behavioral health and medical services Unimplemented JLARC recommendations
December	Special education VRS Cardinal State Spending: K-12 Standards of Quality

2 Studies

Major research studies are the agency's primary work. JLARC's topic selection subcommittee typically recommends research topics, which are then approved by the full Commission. JLARC also receives studies through joint resolutions passed by the General Assembly.

Studies follow project-specific workplans, which are developed by study teams and reviewed by JLARC's project review team—director, associate directors, methodologist, and publications staff—to ensure that high-quality work can be completed in the time allotted. The project review team examines each project at every major stage of the research process. JLARC staff are assigned to study teams on a full-time basis for the duration of the project.

Studies to be completed in 2020 are summarized below. Study resolutions are included in the appendix.

Department of Small Business and Supplier Diversity

***Mandate: Commission resolution
Scheduled publication: September 2020***

The General Assembly established the Department of Small Business and Supplier Diversity (SBSD) in 2014 by merging the Department of Business Assistance and the Department of Minority Business Enterprise. The Virginia Small Business Financing Authority (VSBFA) also became part of SBSD. SBSD has four main program areas: (1) small, women-owned, and minority-owned (SWaM) business certification, (2) disadvantaged business enterprise (DBE) certification, (3) VSBFA small business financing programs, and (4) business technical assistance programs. SBSD employs about 40 staff and was appropriated \$6.8 million in FY20.

The JLARC study team will compare Virginia's certifications and small business definition to the federal government and other states. The team will assess whether SBSD's business certification programs, SBSD's business technical assistance programs, and the state's SWAM program are sufficiently designed and administered. The team will review how effectively SBSD's 10 business financing programs support the development and growth of eligible businesses. The team also will determine how effectively and efficiently SBSD manages and staffs the agency.

Follow-up review on VITA's transition to a multi-supplier service model

Mandate: *Directed by Commission chairman*

Scheduled publication: *October 2020*

The Virginia Information Technologies Agency (VITA) provides IT infrastructure goods and services to executive branch agencies through contracts with private-sector vendors. In 2018, VITA implemented a multi-source model to deliver Virginia's IT infrastructure. Eight vendors provide the state's IT infrastructure goods and services, with one vendor acting as a service integrator. Previously a single vendor provided all of Virginia's IT infrastructure goods and services.

JLARC's 2019 review of VITA's transition to a multi-supplier service model found implementation was significantly behind schedule and performance improvements were needed. This year's follow-up review will assess the model's implementation status and performance one year later. It will also examine whether there are fundamental reasons behind any deficiencies. For example, the review will examine whether the allocation of governance and contract management responsibilities between VITA and the integrator is clear and appropriate.

Department of Education Central Office

Mandate: *Commission resolution*

Scheduled publication: *October 2020*

In Virginia's locally administered K-12 system, local school boards have supervisory authority over the schools in their division, while the Virginia Department of Education (VDOE) (through the Board of Education) has the broad statutory direction to provide "general supervision of the public school system." VDOE addresses this direction through four key activities: ensuring local accountability for state and federal requirements, supporting local school divisions, partnering with other state agencies and education stakeholder groups, and distributing more than \$8 billion in state and federal funds to school divisions. VDOE employs about 300 staff and was appropriated about \$121 million in FY20.

The JLARC study team will assess how effectively and efficiently VDOE holds school divisions accountable and compare VDOE's approach with those in other states and with best practices. The team will also assess VDOE's support to school divisions, how well its staff support the Board of Education, and how well it coordinates with other state agencies and education organizations. The team also will determine how effectively and efficiently VDOE manages and staffs the agency.

Legalizing marijuana in the Commonwealth

Mandate: SJ67, HJ130 (2020)

Scheduled publication: November 2020

The 2020 General Assembly directed JLARC to study and make recommendations for how Virginia should legalize and regulate the growth, sale, and possession of marijuana. Recreational marijuana use is currently legal in 11 states, most of which also regulate the production and retail sale of marijuana. Virginia has loosened restrictions on marijuana use in recent years. During the 2020 session, the General Assembly decriminalized possession of one ounce or less of marijuana, instead classifying possession as a civil violation subject to a \$25 fine. Virginia, like many states, also has legalized medical marijuana use under certain conditions. However, marijuana is still illegal under the federal Controlled Substances Act.

The study team will review other states' experiences with marijuana legalization to help develop options for the Virginia legislature to consider if it chooses to legalize marijuana. To develop these options, the team will focus on several key aspects of legalization. For example, the study team will review (a) different models to commercialize marijuana cultivation, processing, distribution, and retail sales; (b) various governance and regulatory approaches for commercial marijuana businesses; and (c) how Virginia would need to change its laws to allow individuals to use, possess, and cultivate marijuana for recreational purposes. The team will also determine how legalization might impact Virginia's law enforcement and criminal justice system and the likely physical and mental health impacts on Virginians and applicable state programs.

A major focus for the team will be to determine how specific populations in Virginia have been disproportionately, negatively affected by the criminalization and prohibition of marijuana use. As the team develops options to legalize marijuana, it will focus on the feasibility of various legalization approaches aimed at benefiting those populations that have been most disproportionately harmed.

The team will also develop estimates of potential state revenue from marijuana legalization in Virginia. The team is securing consultant expertise to supplement some of its work, especially in modeling demand and state revenues.

Children's Services Act

Mandate: Commission resolution

Scheduled briefing: November 2020

The Children's Services Act (CSA) was designed to create a collaborative system of services for at-risk children and their families in Virginia. Services are funded through a single appropriation, and the state and localities are required to cover the full cost of services deemed necessary for these children. Local inter-agency Family Assessment and Planning Teams (FAPT) coordinate CSA services. Eligibility for CSA-funded services is established in the Code of Virginia and includes children receiving foster care services;

children who attend private, special education day schools; and children with severe emotional or behavioral needs.

In FY19, the state and localities spent \$418 million to serve more than 15,000 CSA-eligible children. While the majority of these children were either in foster care or are at risk of being placed in foster care, nearly half of CSA funds were spent on services for children placed in private day schools. Spending on private day school services has increased at a much higher rate than spending on other CSA services.

The study team will examine variation in the use, cost, and quality of private special education day schools across Virginia's localities, the CSA program's role in private day school placement decisions, and the outcomes of children served by private day schools. The study team will also determine the factors driving CSA spending growth—including private day school use and other services—and identify strategies to manage future cost increases without affecting the quality of services. The study team also will evaluate state and local oversight and administration of the CSA program, including the effectiveness of the FAPT teams and the local CSA programs' management of children's service plans and progress.

Review of health insurance coverage for behavioral health and medical services

Mandate: Senate Bill 280 (2020)

Scheduled publication: November 2020

In 2020, the General Assembly passed SB 280 (Barker), requiring the State Corporation Commission's Bureau of Insurance (BOI) to collect and report new information in its annual report comparing health insurance claims for behavioral health services to those for medical services. The bill also directs JLARC to evaluate whether BOI's annual report includes sufficient information to assess whether health insurance plans are covering behavioral health services to the same degree as medical services (i.e. "parity").

The legislation requires JLARC to report recommendations for modifying the report to the Senate and House Commerce and Labor committees and to the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the Twenty-First Century.

This work will be completed by JLARC's Health and Human Resources Unit. JLARC staff will determine whether Virginia is collecting adequate information from insurance plans to assess parity and evaluate whether insurance plans appear to be meeting parity requirements. If the team determines there are not enough behavioral health providers in some networks, JLARC staff will collect provider and insurance plans' perspectives on the reasons why.

Special Education

Mandate: Commission resolution

Scheduled publication: December 2020

About 157,000 Virginia K–12 students received special education services in the 2018–2019 school year, representing approximately 13 percent of Virginia’s total student population. Special education is specially designed instruction and related services provided to children with disabilities to ensure that they are able to make appropriately ambitious progress toward academic goals. The majority of Virginia students in special education are served in the general education classroom.

As with general education, local school divisions are responsible for administering special education services to students, and the Virginia Department of Education (VDOE) is responsible for oversight. Of the \$2.6 million spent on special education in Virginia in FY19, local funds made up the majority (70 percent) of spending, followed by state funds (20 percent), and federal funds (11 percent).

The study team will evaluate whether local school divisions effectively identify children for special education services and implement federally required Individualized Education Programs, which outline students’ specialized services and educational goals. The study team will also evaluate school divisions’ capacity to provide special education instruction and support services, specifically by examining the availability of licensed special education teachers and the special education training general education teachers and school administrators receive. The team will also evaluate student outcomes and school divisions’ success in maximizing the amount of time students are able to spend in general education classrooms. The team will also examine VDOE’s oversight and support of school divisions’ special education programs. Finally, the team will examine special education spending and enrollment in Virginia.

Mandated health insurance benefits

As directed by the Code of Virginia, JLARC staff participate in the assessments of bills that would mandate insurance coverage of specific health-care benefits, when requested by the Health Insurance Reform Commission. JLARC’s assessments focus on

- the medical effectiveness of the proposed coverage;
- the current availability and use of treatment;
- the current financial impact on people without coverage for treatment; and
- the proposed mandate’s consistency with the purpose of health insurance and impact on public health.

JLARC staff in the agency’s Health and Human Resources Unit will assess health insurance coverage of hearing aids for children, pursuant to Item 487 C.1 of the 2020–22 Appropriation Act. Findings will be presented to the chairs of the House Appropriations and Senate Finance & Appropriations committees and to the Health Insurance Reform Commission by November 1, 2020. Additional assessments may be completed at the request of the Health Insurance Reform Commission.

3 Ongoing Evaluation & Oversight

JLARC provides ongoing evaluation and oversight for the General Assembly. The General Assembly has directed JLARC to evaluate and oversee the following topics. Two JLARC staff members are permanently assigned to evaluation and oversight. Other staff members are assigned as needed.

Economic development incentives

The Appropriation Act directs JLARC to review and evaluate economic development initiatives and policies on an ongoing basis. The Commission selects the incentives to evaluate each year. JLARC contracts with the University of Virginia's Weldon Cooper Center for Public Service to perform evaluations. Evaluations analyze

- economic development incentives, such as grants and tax preferences;
- success by businesses in meeting goals in return for incentives;
- the economic benefits of incentives; and
- effectiveness of incentives in influencing business activity.

JLARC staff will present two reports in 2020:

Evaluation of regional and infrastructure incentives

Scheduled publication: September 2020

Annual economic development incentives report

Scheduled publication: November 2020

Virginia Retirement System

The Virginia Retirement System Oversight Act (Chapter 10 of Title 30 of the Code of Virginia) authorizes oversight of the Virginia Retirement System (VRS). Under this authority, JLARC evaluates

- the structure and governance of the retirement system;
- the structure of the investment portfolio;
- investment practices, policies, and performance;
- the actuarial policy and the actuarial soundness of the trust funds; and
- the administration and management of the retirement system.

JLARC staff conduct independent research and attend meetings of the VRS Board of Trustees and committees to observe agency and board operations. JLARC staff will present two reports in 2020:

VRS oversight reports

Scheduled publication: July and December 2020

Virginia529

The Virginia College Savings Plan Oversight Act (Chapter 51 of Title 30 of the Code of Virginia) authorizes oversight of the Virginia College Savings Plan (Virginia529). Under this authority, JLARC evaluates

- the structure and governance of Virginia529;
- the structure of investment portfolios;
- investment practices, policies, and performance;
- the actuarial policy and the actuarial soundness of the legacy prepaid tuition program; and
- the administration and management of the plan.

JLARC staff conduct independent research and attend meetings of the Virginia529 Board of Directors and committees to observe agency and board operations. JLARC staff will present the following report in 2020:

Biennial Virginia529 oversight report

Scheduled publication: July 2020

Virginia Information Technologies Agency

The Appropriation Act directs JLARC to review and evaluate the Virginia Information Technologies Agency (VITA) on an ongoing basis. Under this authority, JLARC evaluates

- the state's IT infrastructure outsourcing contracts;
- VITA's planning and oversight responsibilities; and
- VITA's procurement services and oversight of state agency procurement activities.

JLARC staff conduct independent analysis and attend IT advisory and agency relational meetings to observe VITA's operations. In response to direction from the Commission, JLARC staff in 2020 will conduct a follow-up review of VITA's implementation of a multi-supplier IT services model:

Follow-up review: VITA's implementation of a multi-supplier IT services model

Scheduled publication: October 2020

Cardinal

The Appropriation Act directs JLARC to review and evaluate Cardinal, the Commonwealth's enterprise resource planning system, on an ongoing basis. Under this authority, JLARC evaluates:

- procurements and contracts related to Cardinal;
- the development, implementation, performance, and costs of Cardinal;
- the viability of the technologies used in Cardinal;
- the system of governance for Cardinal; and
- the security of information contained in Cardinal.

JLARC staff conduct independent analysis and attend meetings of the Cardinal Human Capital Management Project Steering Committee to assist with its oversight of Cardinal. JLARC staff will present the following briefing in 2020:

Update on the status of Cardinal Human Capital Management Project

Scheduled briefing: December 2020

4 Fiscal Analysis

JLARC provides fiscal analysis services to the General Assembly. Under this function, JLARC staff

- provide an independent assessment of the fiscal impact of proposed legislation and executive orders;
- report on state spending and how Virginia compares nationwide;
- monitor and provide technical support for major forecasts related to the state budget; and
- provide other fiscal analysis support to the General Assembly as requested.

Several JLARC staff members work part time on fiscal analysis. Activities and reports for this year include:

Second opinion fiscal impact reviews of proposed legislation

Upon request of a committee chair

Fiscal impact reviews of executive orders issued by the governor

Upon request of a committee chair

Annual state spending report

Scheduled publication: October 2020

Annual state spending report on K–12 Standards of Quality

Scheduled publication: December 2020

Medicaid spending and enrollment

Scheduled briefing: December 2020

Annual Virginia compared with the other states publication

Scheduled publication: January 2021

Monitoring of major expenditure forecasts

Ongoing and periodic

Review of internal service funds

Upon request of JLARC, House Appropriations Committee or Senate Finance & Appropriations Committee chairs

Debt Capacity Advisory Committee

Participation by JLARC director

5 Support Functions

Several functions support the research and oversight work of JLARC staff: research methods, publications, business and administrative support, and staff training and development.

Research methods

JLARC's chief methodologist supports teams in developing and evaluating state programs and agencies. The chief methodologist

- supports the conceptualization, design, and implementation of research methods and techniques to improve the accuracy and validity of findings;
- advises study teams on data collection, approaches to analysis, and statistical methods;
- leads complex or critical analyses for teams;
- reviews work products for methodological soundness and accuracy of interpretation;
- develops and implements training to enhance staff capabilities;
- provides technical assistance for the fiscal analysis function; and
- serves as a member of the project review team.

Publications

JLARC's two-person publications team supports the study teams and advances communication of JLARC's work to the legislature and to the public. The publications team

- participates in project review during the development of reports and briefing materials;
- edits reports and other documents for clarity, logic, usage, and style;
- contributes to the design of graphics;
- handles design and layout of JLARC documents and publications;
- maintains staff resources for writing and graphics; and
- oversees output and distribution of JLARC publications online and in print.

The JLARC publications team maintains the JLARC website, making sure that public information is current and accurate.

Business operations and administrative support

JLARC's business operations are carried out by a two-person team. The business manager oversees daily operations of the function, which include

- executing the agency's annual budget and ensuring effective internal financial controls;
- providing human resources, payroll, and benefits services to agency staff;
- managing the agency's fixed assets inventory;
- managing agency records and archives;
- arranging travel for site visits;
- conducting administrative preparation and follow-up for Commission meetings; and
- coordinating staff recruiting efforts.

In addition, this function provides administrative support to study teams as needed.

Staff training and development

Staff training activities ensure that staff have the skills and knowledge necessary to perform their work, improve their individual performance, and contribute to the organization's overall performance. JLARC offers several opportunities to help staff meet their training needs and to address organization-wide training needs.

In 2020, training may include:

- in-house training for new staff on selected topics, to be led by external experts and trainers;
- in-house training for new staff, to be led by experienced or skilled JLARC staff members;
- external training and skills development courses, designed to address the professional growth or skills development needs of selected staff;
- professional development opportunities offered by the National Legislative Program Evaluation Society at its annual conference; and
- webinars relevant to the work of the agency, available through the National Conference of State Legislatures and other professional organizations.

Appendix: Study resolutions

Review of the Department of Small Business and Supplier Diversity

Authorized by the Joint Legislative Audit and Review Commission on December 10, 2018

WHEREAS, the Virginia Department of Small Business and Supplier Diversity (SBSD) was created in 2014 by consolidating the powers and duties of the Department of Business Assistance and the Department of Minority Business Enterprise; and

WHEREAS, the mission of SBSD is to enhance growth opportunities for Virginia's small businesses to prosper through increased revenue and job creation thereby raising the standard of living for all Virginians; and

WHEREAS, SBSD was appropriated \$7.3 million in FY19 and \$6.8 million in FY20, of which approximately 60% is from general funds; and

WHEREAS, SBSD developed an agency workplan for 2018 establishing agency goals, objectives, and performance metrics; and

WHEREAS, SBSD administers the Commonwealth's business certification programs, including the Small-Woman-owned and Minority-owned Businesses (SWaM) program, which is designed to improve state procurement opportunities for SWaM businesses, and the Disadvantaged Business Enterprise program, which is designed to increase the participation of disadvantaged business enterprises in projects funded by the U.S. Department of Transportation; and

WHEREAS, SBSD's Virginia Small Business Finance Authority (VSBFA) promotes economic development by administering loan and loan assistance programs for small businesses, not-for-profits, and economic development authorities that may not be able to obtain financing from conventional private sources, such as commercial banks; and

WHEREAS, VSBFA administers two economic development grant programs, the Small Business Investment Grant Program and the Small Business Jobs Grant Program, which awarded over \$1 million in grants in FY17 and which recent legislation sought to transfer to the Virginia Economic Development Partnership; and

WHEREAS, SBSD's Business Development and Outreach Services Division provides programs designed to assist entrepreneurs and business owners in obtaining the information and resources to establish and grow their businesses; now, therefore be it

RESOLVED by the Joint Legislative Audit and Review Commission (JLARC) that staff be directed to review the operations and performance of the Department of Small Business and Supplier Diversity. In conducting its study, staff shall (i) determine whether SBSD's operations are focused on the topics that will most effectively support and accomplish its mission; (ii) evaluate the staffing, performance, spending, and management of SBSD, including the VSBFA; (iii) assess whether SBSD's

business certification programs and related processes are efficiently and effectively administered; (iv) determine whether SBSB is the most suitable state agency to administer the state's business certification programs and assist businesses with the state's procurement processes; (v) compare the definition of "small business" used by SBSB to federal and other state definitions; (vi) assess the effectiveness of SBSB's economic development and outreach programs in assisting applicable businesses; (vii) assess the need for SBSB programs and assistance to temporarily or permanently facilitate individual businesses; (viii) evaluate whether other state agencies could more effectively administer SBSB's economic development and outreach programs; and (ix) review the scope and scale of programs in other states designed to assist similar businesses. JLARC shall make recommendations as necessary and review other issues as warranted.

All agencies of the Commonwealth, including the Department of Small Business and Supplier Diversity, the Virginia Department of General Services, and the Virginia Economic Development Partnership shall provide assistance, information, and data to JLARC for this study, upon request. JLARC staff shall have access to all information in the possession of state agencies pursuant to § 30-59 and § 30-69 of the Code of Virginia including all documents related to proceedings or actions of the Virginia Small Business Financing Authority board of directors. No provision of the Code of Virginia shall be interpreted as limiting or restricting the access of JLARC staff to information pursuant to its statutory authority.

Operations and Performance of Virginia’s Department of Education

Authorized by the Joint Legislative Audit and Review Commission on December 10, 2018

WHEREAS, the Virginia Department of Education (VDOE) is led by the Superintendent of Public Instruction, who is tasked with providing “such assistance in his office as shall be necessary for the proper and uniform enforcement of the provisions of the school laws in cooperation with the local school authorities” (§ 22.1-23); and

WHEREAS, Virginia’s educational environment has become increasingly complex for many reasons including: a more competitive global economy necessitating a highly educated workforce; evolving standards for student readiness, and teacher and school assessment and accountability; a greater percentage of students living in poverty, with limited English proficiency, and with unique or special educational needs; and

WHEREAS, VDOE distributes more than \$8 billion annually in federal and state general funds to Virginia’s 132 school divisions for the purpose of educating 1.25 million public school students; and

WHEREAS, VDOE seeks to assist school divisions to design and implement instructional and special education programs; to regulate licensure of school personnel and preparation programs; and to administer statewide assessment tests; and

WHEREAS, Virginia’s 132 school divisions are of widely varying sizes and levels of administrative expertise, and receive substantially differing levels of state and local funding; and this wide variation necessitates effective and tailored state support; and

WHEREAS, the General Assembly appropriated \$108 million for VDOE operations (comprising 57 percent general funds and 43 percent non-general funds); and VDOE was authorized to employ about 330 full-time equivalent staff in FY19; and

WHEREAS, VDOE classified and wage employee staffing declined following the Great Recession then subsequently increased; and

WHEREAS, a 2016 review by the Auditor of Public Accounts found several material weaknesses in VDOE’s budgeting and fiscal oversight and internal controls; and

WHEREAS, the Joint Legislative Audit and Review Commission (JLARC) has never reviewed VDOE central office operations; now, therefore be it

RESOLVED by the Joint Legislative Audit and Review Commission that staff be directed to review the operations and performance of the Virginia Department of Education. In conducting its study, staff shall assess (i) whether VDOE successfully identifies major, statewide challenges to improving student performance—such as low performing schools and poor instructional quality—and implements workable strategies to address those challenges; (ii) whether VDOE adequately helps school divisions in the design and implementation of effective instructional and instructional support programs; (iii) whether VDOE sufficiently incorporates best practices into the assistance it provides and effectively facilitates sharing of evidence-based and innovative practices among school divisions; (iv) whether VDOE adequately monitors compliance with educational and operational requirements

that apply to school divisions; (v) whether VDOE effectively coordinates with other education and workforce agencies; (vi) whether the Board of Education has an effective relationship with VDOE; and (vii) whether VDOE is organized, staffed, and structured to ensure efficient and effective internal operations. JLARC shall make recommendations as necessary and review other issues as warranted.

All agencies of the Commonwealth, including local school divisions and boards, shall provide assistance, information, and data to JLARC for this study, upon request. JLARC staff shall have access to all information in the possession of state agencies pursuant to § 30-59 and § 30-69 of the Code of Virginia. No provision of the Code of Virginia shall be interpreted as limiting or restricting the access of JLARC staff to information pursuant to its statutory authority.

20109391D

HOUSE JOINT RESOLUTION NO. 130
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Rules
on February 28, 2020)
(Patron Prior to Substitute—Delegate Heretick)

Directing the Joint Legislative Audit and Review Commission to study and make recommendations for how Virginia should legalize and regulate the growth, sale, and possession of marijuana and address the impacts of marijuana prohibition. Report.

WHEREAS, the mechanisms and pathways for legalizing marijuana have not been fully vetted and analyzed in Virginia; and

WHEREAS, data and analysis including, but not limited to, Illinois, New Mexico, Colorado, and Washington, as states that have legalized recreational use of marijuana, can help inform the conversation in Virginia and also include a review of the costs, benefits, and societal impact; and

WHEREAS, the effects on all populations including communities of color, children, young and older adults, as well as students, and adults and youth in recovery should be considered; and

WHEREAS, consideration should be given to the specific impact of the criminalization of marijuana use and possession on communities of color, specifically the impact of incarceration on youth ages 18-24, neighborhoods or other geographic areas where impact has been the most disparate, and programs and policies that must be implemented to identify particularly disadvantaged areas and provide appropriate redress for the harm caused; and

WHEREAS, it is important to ensure that any market created for the regulated sale of marijuana assures that business opportunities are available to those people previously marginalized and geographic areas harmed by criminalization of marijuana possession and use; and

WHEREAS, it is important to ensure that any regulating entity or group established to study regulation, sale, and possession of marijuana include those who have been impacted by the criminalization of marijuana use and possession; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Legislative Audit and Review Commission be directed to study and make recommendations for how Virginia should go about legalizing and regulating the growth, sale, and possession of marijuana by July 1, 2022, and address the impacts of marijuana prohibition.

In conducting its study, the Joint Legislative Audit and Review Commission shall (i) review Illinois' Cannabis Regulation and Tax Act and consider best practices that could be applied to Virginia including policies addressing the impact of marijuana prohibition on marginalized community members; (ii) review New Mexico's Marijuana Legalization Work Group Findings; (iii) make recommendations for a regulated, adult use market; and (iv) make recommendations for programs and policies that must be implemented to provide appropriate redress for the harm caused to communities most impacted by marijuana prohibition including the impact of incarceration on youth ages 18-24 and neighborhoods or other geographic areas where impact has been the most disparate. Recommendations should be inclusive of these five primary tenets: (a) maintain and expand Virginia's medical marijuana program; (b) install public safety protections to protect minors and identify and prosecute those who sell marijuana without legal authority; (c) create strong testing and labeling; (d) provide equity and economic opportunity for every community, especially those disproportionately impacted by prohibition drug policies with an emphasis on ensuring equity in ownership in the marijuana industry; and (e) ensure racially equitable programs and policies exist that will provide reinvestment in communities most impacted by marijuana prohibition. In addition, the Joint Legislative Audit and Review Commission shall include in its study a review of the work of any joint subcommittee established by the General Assembly to study the development of a framework for regulated adult use of cannabis and the creation of a regulatory entity to oversee licensing and regulation of industrial hemp, medical cannabis, and adult use of cannabis.

All agencies of the Commonwealth shall provide assistance to the Joint Legislative Audit and Review Commission for this study, upon request.

The Joint Legislative Audit and Review Commission shall submit to the Division of Legislative Automated Systems a report of its findings and recommendations no later than December 1, 2020. The report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

SENATE SUBSTITUTE

HJ130S1

Review of the Children's Services Act's Purpose, Spending, and Service Delivery

Approved by the JLARC Study Subcommittee on October 7, 2019

WHEREAS, the Children's Services Act (CSA) (§ 2.2-5200 et seq. of the Code of Virginia), originally known as the Comprehensive Services Act, was established in 1992 as a comprehensive system of services and funding through interagency planning and collaboration at the state and local levels in an effort to better meet the needs of at-risk youth and their families; and

WHEREAS, since its creation, the Children's Services Act has undergone numerous changes regarding its administration, covered services, and funding sources; and

WHEREAS, most participants are children in foster care or special education and are federally mandated to receive services; and

WHEREAS, program spending on private school special education services represents the largest use of CSA funds, and the average annual cost per student placed in a private school for special education services has increased sharply to more than \$40,000; and

WHEREAS, localities are primarily responsible for administering the program, creating the potential for variation in policies and procedures for determining program eligibility, service provision, and oversight of outcomes and spending; now, therefore, be it

RESOLVED by the Joint Legislative Audit and Review Commission that staff be directed to study the administration of the Children's Services Act.

In conducting its study, staff shall (i) assess the extent to which there are any gaps in the availability of services for youth and their families under the CSA program, including children's residential services, private school special education services, and community-based services; (ii) evaluate the costs of those services and the CSA program's reimbursement for them, especially for private school special education services; (iii) evaluate whether children are receiving the most cost-effective services based on their needs, including how decisions are made regarding the placement of children in private school special education services; (iv) determine what has driven changes in the cost of services through CSA and the number of children being served; (v) evaluate state oversight and administration of the program; (vi) evaluate the local oversight and administration of the program, specifically with regard to delivering cost-effective services, evaluating service delivery outcomes, and managing individual cases; and (vii) determine whether any fundamental changes are needed to the program to improve the efficiency and effectiveness of serving youth and their families.

JLARC shall make recommendations as necessary and review other issues as warranted.

All agencies of the Commonwealth, including the Office of Children's Services, the Virginia Department of Education, the Virginia Department of Social Services, the Virginia Department of

Medical Assistance Services, the Virginia Department of Behavioral Health and Developmental Services, local school divisions and school boards, local departments of social services and boards, and Community Services Boards shall provide assistance, information, and data to JLARC for this study, upon request. JLARC staff shall have access to all information in the possession of state agencies pursuant to § 30-59 and § 30-69 of the Code of Virginia. No provision of the Code of Virginia shall be interpreted as limiting or restricting the access of JLARC staff to information pursuant to its statutory authority.

Effectiveness of Virginia's Special Education Programs

Authorized by the Joint Legislative Audit and Review Commission on December 10, 2018

WHEREAS, the federal Individuals with Disabilities Education Act (IDEA) cites improving educational results for children with disabilities as essential to ensure equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities; and

WHEREAS, the Code of Virginia directs the Board of Education to ensure that children with disabilities have free access to an appropriate education meeting their needs (§ 22.1-214 A); and

WHEREAS, school divisions are legally required to provide physical, medical, psychological, rehabilitation, occupational, therapeutic, and speech and auditory services, as needed, to each child deemed to have a disability (including a developmental delay); and

WHEREAS, Virginia's 132 school divisions provide special education services in elementary and secondary schools, as well as 11 regional special education programs that serve multiple school divisions, and other settings such as a home or a hospital, as appropriate; and

WHEREAS, school divisions are required to develop and follow an individualized education program (IEP) for children identified as having a disability; and

WHEREAS, through its Training and Technical Assistance Centers, the Virginia Department of Education (VDOE) seeks to provide special education guidance and technical support to school divisions; and

WHEREAS, in Virginia, more than 150,000 school-age children have been identified as having a disability (12 percent of all school age-children in Virginia public schools), and more than 17,000 children under the age of six have been identified as having a disability; and

WHEREAS, federal IDEA grants total \$263 million, state funds total \$513 million, and localities also provide substantial funding for special education services; and

WHEREAS, Virginia's school divisions are generally meeting federal IDEA targets for graduation and parental involvement, but missing federal targets for serving children in the least restrictive environment and developing reading and math skills; and

WHEREAS, court decisions—especially the 2017 U.S. Supreme Court decision in *Endrew F. v. Douglas County School* that schools need to ensure students make “appropriately ambitious” progress—necessitate robust special education services and public resources; and

WHEREAS, the Joint Legislative Audit and Review Commission (JLARC) has not systematically reviewed special education since 1984; now, therefore be it

RESOLVED by the Joint Legislative Audit and Review Commission that staff be directed to review the effectiveness of Virginia's special education programs. In conducting its study, staff shall assess (i) spending trends in special education and related services, and major drivers of spending changes

20102103D

HOUSE JOINT RESOLUTION NO. 79

Offered January 8, 2020

Prefiled January 7, 2020

Directing the Joint Legislative Audit and Review Commission to study special education staffing ratios. Report.

Patrons—Guzman, Hope, Levine, Rasoul, Samirah and Willett; Senator: Morrissey

Referred to Committee on Rules

WHEREAS, on December 10, 2018, the Joint Legislative Audit and Review Commission resolved to review the effectiveness of Virginia's special education programs by assessing "(i) spending trends in special education and related services, and major drivers of spending changes over time; (ii) the processes used to identify, refer, and determine eligibility for services for children who may have a disability or developmental delay; (iii) the effectiveness and consistency of the process used to determine the services needed for each child, and least-restrictive settings in which to provide those services, including services and settings funded through the Comprehensive Services Act; (iv) the process through which school divisions determine placements for students, in regional special education programs or in private facilities; (v) the performance, as measured through federal IDEA and other relevant performance indicators, of programs and services for children with disabilities; (vi) the effectiveness of VDOE's special education monitoring, guidance, and support, including through Training and Technical Assistance Centers; (vii) the adequacy and consistency of school division training and expertise in special education; and (viii) coordination across programs and services, including early childhood, K-12 programs, private facilities, educational services, social services, and other programs and services"; and

WHEREAS, the Joint Legislative Audit and Review Commission is conducting such study, with a scheduled completion in 2020; and

WHEREAS, a key aspect of the effectiveness of Virginia's special education programs is ensuring that the proper ratios of students to special education instructional and support personnel is maintained; and

WHEREAS, as part of its study, the Joint Legislative Audit and Review Commission should specifically examine the prescribed and actual ratios of students to special education instructional and support personnel in public elementary and secondary schools in the Commonwealth to determine whether any adjustment to such ratios is necessary; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Legislative Audit and Review Commission be directed to study special education staffing ratios.

In conducting its study, the Joint Legislative Audit and Review Commission shall examine the prescribed and actual ratios of students to special education instructional and support personnel in public elementary and secondary schools in the Commonwealth to determine whether any adjustment to such ratios is necessary.

Technical assistance shall be provided to the Joint Legislative Audit and Review Commission by the Department of Education. All agencies of the Commonwealth shall provide assistance to the Joint Legislative Audit and Review Commission for this study, upon request.

The Joint Legislative Audit and Review Commission shall complete its meetings by November 30, 2020, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2021 Regular Session of the General Assembly. The executive summary shall state whether the Joint Legislative Audit and Review Commission intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

INTRODUCED

HJ79

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 847

An Act to amend and reenact § 38.2-3412.1 of the Code of Virginia and to repeal the third enactment of Chapter 649 of the Acts of Assembly of 2015, relating to health insurance; mental health parity; required report.

[S 280]

Approved April 7, 2020

Be it enacted by the General Assembly of Virginia:

- 1. That § 38.2-3412.1 of the Code of Virginia is amended and reenacted as follows:
§ 38.2-3412.1. Coverage for mental health and substance use disorders.**

A. As used in this section:

"Adult" means any person who is 19 years of age or older.

"Alcohol or drug rehabilitation facility" means a facility in which a state-approved program for the treatment of alcoholism or drug addiction is provided. The facility shall be either (i) licensed by the State Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 or (ii) a state agency or institution.

"Child or adolescent" means any person under the age of 19 years.

"Inpatient treatment" means mental health or substance abuse services delivered on a 24-hour per day basis in a hospital, alcohol or drug rehabilitation facility, an intermediate care facility or an inpatient unit of a mental health treatment center.

"Intermediate care facility" means a licensed, residential public or private facility that is not a hospital and that is operated primarily for the purpose of providing a continuous, structured 24-hour per day, state-approved program of inpatient substance abuse services.

"Medication management visit" means a visit no more than 20 minutes in length with a licensed physician or other licensed health care provider with prescriptive authority for the sole purpose of monitoring and adjusting medications prescribed for mental health or substance abuse treatment.

"Mental health services" or "mental health benefits" means benefits with respect to items or services for mental health conditions as defined under the terms of the health benefit plan. Any condition defined by the health benefit plan as being or as not being a mental health condition shall be defined to be consistent with generally recognized independent standards of current medical practice.

"Mental health treatment center" means a treatment facility organized to provide care and treatment for mental illness through multiple modalities or techniques pursuant to a written plan approved and monitored by a physician, clinical psychologist, or a psychologist licensed to practice in this Commonwealth. The facility shall be (i) licensed by the Commonwealth, (ii) funded or eligible for funding under federal or state law, or (iii) affiliated with a hospital under a contractual agreement with an established system for patient referral.

"Network adequacy" means access to services by measure of distance, time, and average length of referral to scheduled visit.

"Outpatient treatment" means mental health or substance abuse treatment services rendered to a person as an individual or part of a group while not confined as an inpatient. Such treatment shall not include services delivered through a partial hospitalization or intensive outpatient program as defined herein.

"Partial hospitalization" means a licensed or approved day or evening treatment program that includes the major diagnostic, medical, psychiatric and psychosocial rehabilitation treatment modalities designed for patients with mental, emotional, or nervous disorders, and alcohol or other drug dependence who require coordinated, intensive, comprehensive and multi-disciplinary treatment. Such a program shall provide treatment over a period of six or more continuous hours per day to individuals or groups of individuals who are not admitted as inpatients. Such term shall also include intensive outpatient programs for the treatment of alcohol or other drug dependence which provide treatment over a period of three or more continuous hours per day to individuals or groups of individuals who are not admitted as inpatients.

"Substance abuse services" or "substance use disorder benefits" means benefits with respect to items or services for substance use disorders as defined under the terms of the health benefit plan. Any disorder defined by the health benefit plan as being or as not being a substance use disorder shall be defined to be consistent with generally recognized independent standards of current medical practice.

"Treatment" means services including diagnostic evaluation, medical, psychiatric and psychological care, and psychotherapy for mental, emotional or nervous disorders or alcohol or other drug dependence rendered by a hospital, alcohol or drug rehabilitation facility, intermediate care facility, mental health

treatment center, a physician, psychologist, clinical psychologist, licensed clinical social worker, licensed professional counselor, licensed substance abuse treatment practitioner, licensed marriage and family therapist or clinical nurse specialist who renders mental health services. Treatment for physiological or psychological dependence on alcohol or other drugs shall also include the services of counseling and rehabilitation as well as services rendered by a state certified alcoholism, drug, or substance abuse counselor or substance abuse counseling assistant, limited to the scope of practice set forth in § 54.1-3507.1 or 54.1-3507.2, respectively, employed by a facility or program licensed to provide such treatment.

B. Except as provided in subsections C and D, group and individual health insurance coverage, as defined in § 38.2-3431, shall provide mental health and substance use disorder benefits. Such benefits shall be in parity with the medical and surgical benefits contained in the coverage in accordance with the Mental Health Parity and Addiction Equity Act of 2008, P.L. 110-343, even where those requirements would not otherwise apply directly.

C. Any grandfathered plan as defined in § 38.2-3438 in the small group market shall either continue to provide benefits in accordance with subsection B or continue to provide coverage for inpatient and partial hospitalization mental health and substance abuse services as follows:

1. Treatment for an adult as an inpatient at a hospital, inpatient unit of a mental health treatment center, alcohol or drug rehabilitation facility or intermediate care facility for a minimum period of 20 days per policy or contract year.

2. Treatment for a child or adolescent as an inpatient at a hospital, inpatient unit of a mental health treatment center, alcohol or drug rehabilitation facility or intermediate care facility for a minimum period of 25 days per policy or contract year.

3. Up to 10 days of the inpatient benefit set forth in subdivisions 1 and 2 of this subsection may be converted when medically necessary at the option of the person or the parent, as defined in § 16.1-336, of a child or adolescent receiving such treatment to a partial hospitalization benefit applying a formula which shall be no less favorable than an exchange of 1.5 days of partial hospitalization coverage for each inpatient day of coverage. An insurance policy or subscription contract described herein that provides inpatient benefits in excess of 20 days per policy or contract year for adults or 25 days per policy or contract year for a child or adolescent may provide for the conversion of such excess days on the terms set forth in this subdivision.

4. The limits of the benefits set forth in this subsection shall not be more restrictive than for any other illness, except that the benefits may be limited as set out in this subsection.

5. This subsection shall not apply to any excepted benefits policy as defined in § 38.2-3431, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

D. Any grandfathered plan as defined in § 38.2-3438 in the small group market shall also either continue to provide benefits in accordance with subsection B or continue to provide coverage for outpatient mental health and substance abuse services as follows:

1. A minimum of 20 visits for outpatient treatment of an adult, child or adolescent shall be provided in each policy or contract year.

2. The limits of the benefits set forth in this subsection shall be no more restrictive than the limits of benefits applicable to physical illness; however, the coinsurance factor applicable to any outpatient visit beyond the first five of such visits covered in any policy or contract year shall be at least 50 percent.

3. For the purpose of this section, medication management visits shall be covered in the same manner as a medication management visit for the treatment of physical illness and shall not be counted as an outpatient treatment visit in the calculation of the benefit set forth herein.

4. For the purpose of this subsection, if all covered expenses for a visit for outpatient mental health or substance abuse treatment apply toward any deductible required by a policy or contract, such visit shall not count toward the outpatient visit benefit maximum set forth in the policy or contract.

5. This subsection shall not apply to any excepted benefits policy as defined in § 38.2-3431, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

E. The requirements of this section shall apply to all insurance policies and subscription contracts delivered, issued for delivery, reissued, renewed, or extended, or at any time when any term of the policy or contract is changed or any premium adjustment made.

F. The provisions of this section shall not apply in any instance in which the provisions of this section are inconsistent or in conflict with a provision of Article 6 (§ 38.2-3438 et seq.) of Chapter 34.

G. The Bureau of Insurance (the Bureau), in consultation with health carriers providing coverage for mental health and substance use disorder benefits pursuant to this section, shall develop reporting requirements regarding denied claims, complaints, appeals, and network adequacy involving such coverage set forth in this section. By September 1 of each year, the Bureau shall (i) compile the information for the preceding year into a report that ensures the confidentiality of individuals whose

information has been reported and is written in nontechnical, readily understandable language; (ii) make the report available to the public by, among such other means as the Bureau finds appropriate, posting the reports on the Bureau's website; and (iii) submit the report to the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor.

2. That the Joint Legislative Audit and Review Commission (JLARC) shall conduct a third-party review of the State Corporations Commission's Bureau of Insurance (the Bureau) report required by the provisions of this act and the third enactment of Chapter 649 of the Acts of Assembly of 2015. In conducting such review, JLARC shall examine the information compiled by the Bureau from 2017 through 2020 and any other information it deems relevant and shall report (i) its findings regarding mental health and substance abuse disorder benefits parity with medical and surgical benefits and access to mental health and substance abuse disorder services and (ii) its recommendations, if any, to the House Committee on Labor and Commerce, the Senate Committee on Commerce and Labor, and the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the Twenty-First Century by December 1, 2020.

3. That the third enactment of Chapter 649 of the Acts of Assembly of 2015 is repealed.

VIRGINIA STATE BUDGET

2020 Session

Budget Amendments - HB30 (Conference Report)

Bill Order » Item 487 #1c

HIRC Review of Hearing Aid Coverage (language only)

Item 487 #1c

Independent Agencies

State Corporation Commission

Language

Page 471, after line 20, insert:

"C.1. Notwithstanding § [38.2-3418.18](#), as enacted during the 2020 Regular Session of the General Assembly, coverage of hearing aids for children shall not become effective until the Health Insurance Reform Commission, established pursuant to Chapter 53 (§ [30-339](#) et seq.) of Title 30 of the Code of Virginia, has completed an assessment of such coverage in accordance with the requirements of § [30-343](#) of the Code of Virginia, including a joint assessment by the Bureau of Insurance of the State Corporation Commission and the Joint Legislative Audit and Review Commission of the social and financial impact of the proposed mandate in accordance with § [30-343](#) of the Code of Virginia and the impact of the proposed mandate on health care providers, access to health care services, and the cost of health care in the Commonwealth and any process changes required to implement the mandated benefit. In addition, the Joint Legislative Audit and Review Commission and the Bureau of Insurance shall jointly examine whether changes could be made to the Essential Health Benefits Benchmark Plan to include hearing aids for minors as an essential health benefit without cost to the Commonwealth.

2. The Health Insurance Reform Commission, the Bureau of Insurance, and the Joint Legislative Audit and Review Commission shall report their findings to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 1, 2020.

3. If the findings determine that no fiscal impact shall be incurred by the Commonwealth, such coverage may commence on July 1, 2021."

Explanation

(This amendment requires that the insurance mandate to cover hearing aids for children is assessed by the Health Insurance Reform Commission (HIRC) as required by Chapter 53 (§ [30-339](#) et seq.) of Title 30 of the Code of Virginia, prior to the implementation of such coverage. Language requires the HIRC assessment to include a joint assessment by the Bureau of Insurance and the Joint Legislative Audit and Review Commission to determine the social and financial impact of such coverage and report back to the to House Appropriations and Senate Finance and Appropriations Committees by November 1, 2020. Upon a finding of no fiscal impact, coverage may commence in fiscal year 2022.)



JLARC.VIRGINIA.GOV

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