

JLARC Impacts

Actions Taken on Report Recommendations

2023



JLARC
JOINT LEGISLATIVE AUDIT
AND REVIEW COMMISSION

Commission members

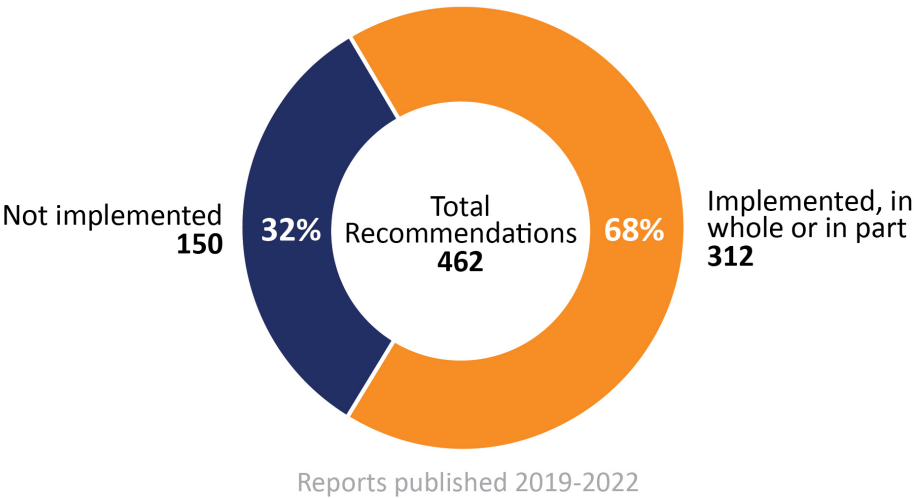
Senator Janet D. Howell, Chair
Delegate Robert D. Orrock, Sr., Vice Chair

Delegate Terry L. Austin
Delegate Betsy B. Carr
Delegate Barry D. Knight
Senator Mamie E. Locke
Senator Jeremy S. McPike
Senator Thomas K. Norment, Jr.
Delegate Kenneth R. Plum

Senator Lionell Spruill, Sr.
Delegate Luke E. Torian
Delegate R. Lee Ware
Delegate Tony O. Wilt

Staci Henshaw, Auditor of Public
Accounts

JLARC Performance: Recommendations



November 13, 2023

Members of the Virginia General Assembly

Dear Members:

In JLARC's biennial *JLARC Impacts: Actions Taken on Report Recommendations*, JLARC staff report on the response of agencies to reports and recommendations, recap actions taken by the General Assembly on key recommendations, and highlight recommendations that are still outstanding.

Over the last two years, JLARC studies have had impact on a broad range of public policy areas in Virginia, including adult guardianship and conservatorship, community services boards' behavioral health services, affordable housing, the juvenile justice system, economic development incentives, and state agencies' IT services. In addition, in response to a 2022 JLARC report that highlighted the pandemic's impact on K–12 education, the General Assembly passed legislation to address challenges that resulted from an unprecedented disruption to education.

I would like to express my gratitude for your support of JLARC's vital work for the Commonwealth of Virginia. By taking action on a wide range of JLARC recommendations, the General Assembly has expressed its commitment to efficiency and effectiveness in state government.

Cordially,

A handwritten signature in dark ink, reading "Hal E. Greer". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Hal E. Greer
Director

Contents

Mission, Goals, and Performance 1

JLARC Reports 2019–2022: Follow-up

CSB Behavioral Health Services 4

Affordable Housing 13

Adult Guardianship and Conservatorship 19

Virginia’s Juvenile Justice System 27

Pandemic Impact on K–12 Education 33

Virginia Information Technologies Agency 37

Transportation Infrastructure and Funding 43

Trade and Transportation Incentives 47

Infrastructure and Regional Incentives 50

Virginia Department of Education 53

Virginia’s Regional and Local Jails 57

Department of Wildlife Resources 59

Ongoing Evaluation and Oversight 63

Fiscal Analysis Services 68

Recent JLARC Reports 69

JLARC Mission, Goals, and Performance

Mission

JLARC provides the Virginia General Assembly with objective and rigorous oversight of state agencies and programs.

Goals

JLARC's goals are grounded in the state statutes that established its authority:

Provide the General Assembly with objective, non-partisan analysis and evaluation for use in legislative decision making.

Assess state agencies and programs for efficiency and effectiveness.

Offer timely, actionable recommendations and options for improvement.

Cultivate an exemplary work environment that sustains high levels of productivity and employee satisfaction.

Performance

JLARC reports on its own performance to the General Assembly every two years. In 2021 and 2022, JLARC staff presented and published 111 evaluative and analytical research products, including reports, briefings, policy memos, racial and ethnic impact statements, and fiscal impact reviews.

JLARC recommendations are intended to improve the efficiency and effectiveness of state government. When implemented, the recommendations can result in substantial savings to the state. Since JLARC was established in 1975, the Commission's work has saved an estimated cumulative \$1.45 billion (adjusted for inflation to 2022 dollars).

JLARC uses three performance measures to track its own agency performance: recommendations implemented, legislation introduced, and savings.

Recommendations implemented through legislative or administrative action

Recommendations made 2019–2022 462

Recommendations implemented, in whole or in part 312

Percentage implemented 68

Legislation introduced in 2022 and 2023 in response to JLARC recommendations

Bills 77

Budget amendments 66

Savings attributable to implementation of recommendations

Estimated savings FY21–FY22 \$9.9 million

Estimated FY21–FY22 savings are due to the Virginia Information Technologies Agency (VITA) implementing a JLARC recommendation to develop a process for automatically collecting financial penalties from IT infrastructure suppliers that do not comply with contractual service levels or other contractual requirements. The recommendation was included in JLARC’s 2019 report on VITA’s Transition to a Multi-Supplier Service Model. VITA took the initiative to implement the recommendation two months before the JLARC report was published. VITA collected \$4.0 million in FY21 from suppliers that did not meet contractual requirements, and it collected \$5.9 million in FY22. Of the penalties collected in FY22, approximately \$341,000 can still be earned back by suppliers through improved service levels in the future.

In addition to the FY21–FY22 savings, VITA collected \$4.6 million in financial penalties from infrastructure suppliers that did not meet contractual requirements in FY20. Through October 2022, VITA had collected a little over \$1 million in financial penalties from suppliers for FY23, approximately one-third of which suppliers can earn back if their service levels improve. If suppliers

do not meet required service levels in the future, the state will continue to experience savings from VITA's implementation of this recommendation.

Recommendations are tracked for reports published over the prior four calendar years. The status of all recommendations made over these four years is reflected in the performance measures. Only actions taken since the 2021 JLARC Impacts report are included in the following pages.



Community Services Boards' Behavioral Health Services

Report issued in 2022

JLARC reviewed the state's 40 community services boards (CSBs) in 2022. Virginia's CSB system is the state's primary approach to providing publicly funded behavioral health services in communities, and the state requires every locality to establish or join a CSB. CSBs provide both emergency and non-emergency behavioral health services to individuals and are designated as the "single point of entry" into Virginia's publicly funded system of behavioral health services. Virginia's CSB system delivers services at over 500 locations around the state. CSBs' priority consumers for mental health services are those with a serious mental illness, and CSBs served 20 percent more consumers with a serious mental illness in FY22 than compared with a decade ago.

JLARC found

CSB consumers with the most significant impairments generally improve their functioning after receiving CSB services, according to a functional assessment called the DLA-20. However, 40 percent of higher functioning consumers performed worse on their DLA-20 scores after receiving CSB services. JLARC staff recommended that the Department of Behavioral Health and Developmental Services (DBHDS) collect more detailed data on

these functional assessments to better monitor consumer outcomes across CSBs' services.

JLARC found that CSBs had shortages in behavioral health staff, especially staff responsible for providing mental health crisis services and for determining whether mentally ill individuals need to be temporarily detained and treated in a psychiatric hospital. In addition, JLARC found that staff shortages were a major factor in lengthy consumer wait times for outpatient therapy and impeded state initiatives to improve community-based behavioral health services. Uncompetitive salaries were a key reason for these shortages, and even though the General Assembly had periodically appropriated funding for CSB staff salary increases, some CSBs had not raised staff pay, in part because of the required local match. JLARC staff recommended that the General Assembly fund a salary increase for CSBs' direct care staff. To better monitor CSB staffing, JLARC also recommended DBHDS report annually to the State Board of Behavioral Health and Developmental Services and the Behavioral Health Commission on CSBs' average salaries and turnover and vacancy rates, by position type.

JLARC staff also found that burdensome administrative requirements were contributing to CSBs' staffing shortages and recommended that DBHDS determine whether they could be streamlined or any could be eliminated.

CSBs are required to conduct preadmission screenings to determine whether individuals experiencing a behavioral health crisis should be placed under a civil temporary detention order (TDO). These civil TDOs have contributed to increased admissions to state psychiatric hospitals, and JLARC staff found that between 20 and 50 percent of civil patient admissions at public psychiatric hospitals were inappropriate placements. JLARC staff found that insufficient training and lack of oversight for preadmission screenings likely contribute to these inappropriate placements.

JLARC staff also found that residential crisis stabilization units (RCSUs), which help stabilize individuals in crisis, are a key alternative to easing pressures on psychiatric hospital admissions.

However, JLARC staff found that Virginia likely needs twice the RCSUs than are currently available. Crisis stabilization service gaps exist in particular parts of the state and for children and adolescents. JLARC staff recommended that the General Assembly provide funding to allow CSBs to fully staff current RCSUs and develop new centers, particularly in the Southside area and for children and adolescents.

The state psychiatric hospital bed registry is designed to help find available beds for mentally ill individuals needing temporary detention. However, JLARC staff found that the registry lacks real-time, useful information. In practice, CSB staff must notify psychiatric facilities of need for a bed and share information with each facility, typically through faxes. CSB staff contacted a median of 32 facilities before finding placement for individuals. JLARC staff recommended that DBHDS contract with a vendor for a secure online portal that would allow CSBs to upload and share individuals' records.

CSBs are also responsible for creating discharge plans for psychiatric hospital patients, but JLARC staff found several shortcomings related to CSBs' discharge planning. Interviews with state hospital staff indicated that some CSB staff did not collaborate with patients on their discharge plans, some did not fulfill their discharge responsibilities, and services did not start soon enough after release from the hospital. JLARC staff recommended that DBHDS develop a plan to monitor CSBs' discharge planning.

The study team also found that CSBs are not maximizing their Medicaid reimbursements, and some CSBs reported not consistently billing for Medicaid services. The extent of this problem is unknown because neither DBHDS nor the Department of Medical Assistance Services monitors whether CSBs bill for eligible services. In addition, billing is complicated because it requires working with six different managed care organizations, each with its own policies, procedures, and billing practices.

JLARC staff found that Virginia's CSB system lacks clear performance expectations and accountability. State law does not

clearly define the purpose of CSBs, which makes it difficult to effectively guide policymaking, funding decisions, or oversight. JLARC recommended that the General Assembly clearly define CSBs' purpose and that DBHDS develop goals and objectives that align with this purpose.

JLARC staff found that DBHDS has not devoted sufficient attention and staff resources to CSB oversight. State law allows but does not require DBHDS to monitor CSB performance contract requirements. JLARC recommended that the General Assembly direct DBHDS to develop requirements for monitoring CSBs' performance, use available enforcement mechanisms when CSBs do not meet these performance requirements, and report CSB-level performance information to each CSB governing board, the Behavioral Health Commission, and the State Board of Behavioral Health and Developmental Services.

In addition, DBHDS and CSBs' information technology infrastructure is overly complex, outdated, and unreliable. Currently, each CSB submits data to DBHDS through at least 10 different data systems. DBHDS and CSBs are undergoing a major data exchange initiative, which JLARC staff found warrants ongoing legislative monitoring and recommended that DBHDS report quarterly to the Behavioral Health Commission and State Board of Behavioral Health and Developmental Services on the project.

► ACTION TAKEN BY THE GENERAL ASSEMBLY

Increasing salaries of direct care staff at CSBs

Appropriation Act

The General Assembly approved \$18 million to increase compensation for CSB staff starting January 1, 2024. The funding does not require a local match.

Expanding crisis services

Appropriation Act

The General Assembly approved \$58 million to expand and modernize crisis services, including additional crisis receiving

centers, crisis stabilization units, and enhancements to existing sites.

CSBs' purpose in state law and CSBs' performance contracts
SB 1465 (2023) – Senator Hanger

The General Assembly approved legislation that defined CSBs' purpose: "to enable individuals who have a mental illness or substance use disorder that significantly impairs their functioning to access effective, timely, and cost-efficient services that help them (i) overcome or manage functional impairments caused by the mental illness or substance use disorder and (ii) remain in the community to the greatest extent possible, consistent with the individual's well-being and public safety." The legislation requires DBHDS to develop specific goals and objectives for service delivery based on this definition.

The legislation also requires DBHDS to add several items in its performance contracts with CSBs, including specific goals and objectives, relevant and measurable performance measures to assess the experiences of individuals receiving services, benchmarks and monitoring activities for each performance measure, and the anticipated revenues and costs of providing these services.

Improving DBHDS oversight of CSBs
HB 2185/SB 1169 (2023) – Delegate Rasoul and Senator Hanger

The General Assembly approved legislation to improve DBHDS's oversight of CSBs. The legislation says DBHDS's performance contracts with CSBs must contain enforcement mechanisms (including a remediation process) for not meeting performance requirements. In addition, the legislation directs DBHDS to implement ongoing monitoring of CSBs to ensure their compliance with contracts. The legislation also dictates that receipt of state funds requires CSBs to have an approved performance contract with DBHDS; provide service, cost, and revenue data and information about individuals' outcomes; use standardized accounting and financial management measures; and either be

in compliance with their performance contract, or be making improvement through a remediation process.

► ACTION NEEDED

Reporting on CSB consumer outcomes

- The General Assembly may wish to consider including language in the Appropriation Act requiring the Department of Behavioral Health and Developmental Services (DBHDS) to report annually on (i) community services board (CSB) performance in improving the functioning levels of its consumers based on composite and individual item scores from the DLA-20 assessment, or results from another comparable assessment, by CSB, (ii) changes in CSB performance in improving consumer functioning levels over time, by CSB, and (iii) the use of functional assessment data by DBHDS to improve CSB performance to the State Board of Behavioral Health and Developmental Services and the Behavioral Health Commission. (Recommendation 2)

Reporting on CSBs' average salaries and turnover and vacancy rates

- The General Assembly may wish to consider including language in the Appropriation Act directing the Department of Behavioral Health and Developmental Services to report annually to the State Board of Behavioral Health and Developmental Services and the Behavioral Health Commission on average salaries, turnover, and vacancy rates, by position type, across community services boards. (Recommendation 4)

Eliminating CSBs' administrative requirements that are non-essential, duplicative, or conflicting

- The General Assembly may wish to consider including language in the Appropriation Act directing the Department of Behavioral Health and Developmental Services (DBHDS) to (i) identify all current DBHDS requirements related to documentation and reporting of community services board (CSB) behavioral health services; (ii) identify which of

these requirements currently apply to work by CSB direct care staff; (iii) identify any DBHDS requirements of direct care staff that are duplicative of or conflict with other DBHDS requirements; (iv) eliminate any requirements that are not essential to ensuring consumers receive effective and timely services or are duplicative or conflicting; and (iv) report to the State Board of Behavioral Health and Developmental Services and the Behavioral Health Commission on progress made toward eliminating administrative requirements that are not essential, are duplicative, or are conflicting. (Recommendation 6)

Training on CSBs' TDO and psychiatric hospital preadmission screenings

- The General Assembly may wish to consider including language in the Appropriation Act directing the Department of Behavioral Health and Developmental Services (DBHDS) to contract with one or more higher education institutions to establish training and technical assistance centers to (i) deliver standardized training for preadmission screening clinicians on developing appropriate preadmission screening recommendations, interpreting lab results, and understanding basic medical conditions and (ii) provide technical assistance to preadmission screening clinicians, particularly when quality improvement is deemed necessary by DBHDS. (Recommendation 7)

Online portal to allow CSBs to share patient documents with psychiatric facilities

- The Department of Behavioral Health and Developmental Services (DBHDS) should contract as soon as practicable with a vendor to implement a secure online portal, which is compliant with the Health Insurance Portability and Accountability Act (HIPAA), for community services boards to upload and share patient documents with inpatient psychiatric facilities. (Recommendation 11)

DBHDS oversight of CSBs' discharge planning from psychiatric hospitals

- The Department of Behavioral Health and Developmental Services (DBHDS) should develop and implement (i) a comprehensive and structured process to oversee the practices of community services boards (CSBs) related to discharge planning from psychiatric hospitals, particularly compliance with and effectiveness of their discharge planning responsibilities, and (ii) mechanisms for corrective action, technical assistance, and guidance when shortcomings are identified with CSBs' discharge planning efforts. (Recommendation 13)

Improving CSBs' Medicaid billing process

- The General Assembly may wish to consider including language in the Appropriation Act directing the Department of Behavioral Health and Developmental Services to work with the Department of Medical Assistance Services to (i) develop and implement a targeted review process to assess the extent to which community services boards (CSBs) are billing for Medicaid-eligible services they provide, (ii) provide technical assistance and training, in coordination with Medicaid managed care organizations, on appropriate Medicaid billing and claiming practices to relevant CSB staff, and (iii) report the results of these targeted reviews, and any technical assistance or training provided in response, to the House Appropriations and Senate Finance and Appropriations committees annually. (Recommendation 14)

Standardizing MCOs' policies, requirements, and procedures for CSB Medicaid reimbursements

- The General Assembly may wish to consider including language in the Appropriation Act directing the Department of Medical Assistance Services to (i) work with the managed care organizations (MCOs) to standardize, to the maximum extent practicable, policies, procedures, and

requirements that CSBs must follow to receive reimbursement for the cost of Medicaid services they provide, including documentation, training, and credentialing requirements; and (ii) report on the improvements made to MCO policies, procedures, and requirements to the Behavioral Health Commission. (Recommendation 15)

Reporting status updates on CSBs' data exchange initiative

- The Department of Behavioral Health and Developmental Services, in consultation with the Virginia Information Technologies Agency, should provide status updates on the data exchange initiative to the Behavioral Health Commission and State Board of Behavioral Health and Developmental Services at least every three months until the project is complete. These reports should report on project status, funding, risks that could prevent the project from being completed on time and on budget, and plans to mitigate those risks. (Recommendation 19)



Affordable Housing in Virginia and Virginia Housing

Reports issued in 2021 and 2022

JLARC reviewed housing affordability in Virginia in 2021. JLARC staff estimated the number of Virginia households that are housing cost burdened (spending more than 30 percent of their income on housing) and the supply of affordable quality housing by region and statewide; examined the state's efforts to increase the supply of affordable housing and provide direct financial assistance to households struggling to afford homes; reviewed the effectiveness of the state's housing assistance programs; and examined how local zoning laws affect construction of affordable housing. JLARC staff also reviewed Virginia Housing in a 2022 briefing.

JLARC found

JLARC found that Virginia has an affordable housing shortage of at least 200,000 rental units for extremely and very low income households. Affordable housing shortages occur in all of the state's regions, but localities in the state's Urban Crescent make up more than 70 percent of housing needs.

Unlike other states, Virginia has not regularly conducted state-wide housing assessments. Instead, Virginia's approach to identifying the state's housing needs has been decentralized and

reliant on localities. JLARC recommended the General Assembly direct the Department of Housing and Community Development (DHCD) to conduct statewide housing assessments at least every five years to help the General Assembly strategically deploy available resources to help address housing needs.

JLARC staff also found that some states develop housing plans to address needs identified in statewide assessments. JLARC recommended that DHCD develop a housing plan for Virginia that includes measurable goals and update the General Assembly on these goals annually.

JLARC also found that local zoning ordinances, especially in the state's fastest-growing localities, can hamper the development of affordable housing. However, like most states, Virginia does not have a comprehensive source of localities' zoning policies. Access to data and information about local zoning practices could help state policymakers identify options for improving the availability of affordable housing. JLARC staff recommended that the General Assembly direct DHCD to contract for a study on how to create a comprehensive source of statewide zoning policies.

JLARC staff also found that Virginia Housing could contribute more to its Resources to Enable Affordable Community Housing (REACH) program, the state's largest source of discretionary funds to expand affordable housing access. JLARC staff, with advice from a consultant, found that the authority could spend an additional \$230 million on REACH by FY31 by modifying its formula for calculating REACH contributions, including increasing the percentage of the authority's net income contributed to the program.

In addition to increasing its contributions, JLARC staff found that Virginia Housing tracks limited outcome and output measures for the REACH program. JLARC recommended that Virginia Housing better track outcomes for the program and share them with the General Assembly so that policymakers can understand how the state's largest discretionary affordable housing fund is spent and the impacts of those expenditures.

In its review of Virginia Housing, JLARC staff found that the authority is generally well staffed and managed, and that the Board of Commissioners is engaged. In its 2021 report, JLARC staff recommended that Virginia Housing staff provide the board with more detailed information about the authority's financial performance. In June 2022, JLARC staff recommended that the board create a dedicated finance committee to develop expertise on the authority's financial performance and strategies and receive information and recommendations from an independent financial adviser hired by the authority.

JLARC staff found Virginia Housing's board has not actively overseen the authority's internal audit function. In addition, the internal audit division was understaffed and did not report to the board's audit committee. To improve the internal audit function and increase its independence, JLARC staff recommended that Virginia Housing's internal audit division report to the board's audit committee rather than Virginia Housing's CEO.

JLARC staff also found that the Virginia Housing board had delegated CEO compensation decisions to its Executive Committee rather than the full board. JLARC staff recommended that, to provide the most balanced compensation recommendations, the Executive Committee include members from both the public and private sectors and that the full board have a final decision on CEO compensation.

► ACTION TAKEN BY THE GENERAL ASSEMBLY

Studying and planning for Virginia's housing affordability needs

HB 2046/SB 839 (2023) – Delegate Carr/Senator Locke

HB 2494 – Ware

Appropriation Act

The General Assembly enacted legislation that requires the DHCD director to conduct a statewide assessment of housing cost burden and Virginia's supply and demand of affordable housing at least every five years. In addition, the legislation directs the DHCD director to develop a housing plan with mea-

asurable goals to be updated every five years and provide annual updates to the General Assembly on the state's progress toward meeting these goals. The Appropriation Act included \$200,000 for DHCD to conduct the study.

The legislation also requires localities with populations greater than 3,500 to submit annually a report to DHCD on the adoption of any policies or ordinances that affect housing construction and development. The report should include changes such as proffers, zoning ordinances, comprehensive plans, local fees, or incentives for housing construction and development.

► ACTION TAKEN BY AGENCIES

Virginia Housing Board of Commissioners

Reporting Virginia Housing's financial position

CSG Advisors created an economic model for Virginia Housing that forecasts the authority's financial resources over the next five years, including profitability, balances, funds available for REACH allocations, and risk-adjusted net position. The model will be updated and reported at least annually to the board.

Adjusting calculations for affordable housing allocations

At its December 2022 meeting, Virginia Housing's Board of Commissioners implemented several recommendations that will likely increase contributions to its REACH program. The board agreed to increase REACH contributions to 75 percent of average excess revenues from the previous three fiscal years, starting in FY25. The board also agreed to not consider expenses made from REACH program grants when calculating the percentage of the authority's net income that would be contributed to the REACH program, which will also increase contributions.

Establishing a more robust committee structure

The board implemented four of JLARC's 2022 recommendations to improve its committee structures. In October 2022, the board

voted to:

- create a finance committee to monitor the authority's financial resources, capital markets activity, and financial performance;
- grant the authority's Audit Committee responsibility for replacing or dismissing the authority's internal audit director;
- require that the Executive Committee include members of both the public and private sectors; and
- make the Executive Committee's CEO compensation recommendations subject to approval from the full board.

► ACTION NEEDED

Reporting on expenditures and outcomes of Virginia Housing's REACH program

- The General Assembly may wish to consider amending §36-55.51 of the Code of Virginia to require Virginia Housing to submit an annual report to the chairs of the Senate Finance and Appropriations Committee, House Appropriations Committee, and Virginia Housing Commission describing: i) Virginia Housing's annual contributions to the Resources Enabling Affordable Community Housing (REACH) program and the annual fund balance (or any future program that reinvests Virginia Housing's net earnings into affordable housing initiatives); ii) amount of REACH funds spent in the fiscal year by broad purpose; and iii) the outputs and outcomes associated with those and prior REACH expenditures, as measured through its REACH performance measures. This report should be submitted at the end of each fiscal year. (Recommendation 5)

Incentives for development of affordable housing

- The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia

Department of Housing and Community Development to evaluate different approaches to structuring, administering, and funding an incentive program to provide additional state funding for infrastructure improvements to localities that adopt zoning policies designed to facilitate the development of affordable housing and report on it. The report should include recommendations for implementing an incentive program and should be submitted to the House Committee on Counties, Cities, and Towns; the Senate Local Government Committee; and the Virginia Housing Commission. (Recommendation 18)



Adult Guardianship and Conservatorship

Report issued in 2021

In 2021, JLARC staff reviewed Virginia’s adult guardianship and conservatorship system. Guardianship is a legal process where a court-appointed individual supervises the personal affairs of an adult who is incapacitated because of a disability or illness. These adults typically have long-term, complex physical or mental health conditions such as dementia or autism. A conservator is a court-appointed individual who manages the financial affairs of an incapacitated adult. In addition to actions taken in 2023, the 2022 General Assembly approved several laws based on JLARC’s recommendations, including requiring guardians ad litem to submit more detailed information to the court on individual guardianship cases, creating a workgroup to assess the feasibility of requiring more frequent visits to incapacitated adults by their guardians, requiring guardians to provide additional information in their annual reports to the local department of social services, requiring the Department for Aging and Rehabilitative Services (DARS) to review the public guardianship program’s guardian-to-client ratios every 10 years, and requiring financial institutions to cooperate with local department of social services staff who are investigating alleged adult abuse.

JLARC found

Circuit court judges have limited training on how to conduct guardianship cases. JLARC staff found that circuit court judges receive less than one hour of training about guardianship cases, and there were no ongoing training courses available. JLARC staff recommended that the Office of the Executive Secretary (OES) of the Supreme Court of Virginia maintain training for judges on adult guardian and conservator cases and that the Judicial Conference of Virginia periodically offer training for judges on these cases.

JLARC staff also found that there is no ongoing training for guardians ad litem, the impartial court-appointed investigators in guardianship decision cases. Training is especially important because contested guardianship cases are becoming more common, which can lead to increased litigation.

Guardians ad litem also reported to JLARC staff they had insufficient authority to collect information on the finances of adults under consideration for guardianship that could be pertinent to the appointment. JLARC recommended that the General Assembly specifically allow financial institutions to share financial records of individuals under consideration for guardianship with guardians ad litem.

JLARC staff found that because a guardianship appointment removes nearly all of an adult's rights, periodic judicial hearings about existing guardianship arrangements could help protect the rights and well-being of adults under guardianship. These hearings would help a judge determine whether changes to an adult's condition warrant modifications to the guardianship arrangement, including whether guardianship is no longer needed, and whether guardians are effectively carrying out their responsibilities.

JLARC found that local social services staff do not consistently know how to review guardians' annual reports regarding the circumstances of the adult under their care or when follow-up with guardians is needed. JLARC recommended that DARS develop training to help social services staff understand how to

use and act on the information reported by guardians in their annual guardianship reports.

Guardians sometimes restrict certain individuals from contacting or visiting adults under their guardianship, typically to prevent harm to the individual. JLARC staff found that family and friends of an adult under guardianship may not be aware of the reason for a contact restriction or their ability to challenge it. JLARC found that Virginia needs a more formal and transparent process for visitation and contact restrictions with adults under guardianship to better balance the guardians' authority with the desires of family and friends and well-being of the adult. JLARC recommended that state law outline the reasons guardians can issue contact and visitation restrictions, require guardians to inform affected individuals of the restriction and how they can challenge the restriction in court, and require guardians to file visitation restrictions with the local department of social services.

► ACTION TAKEN BY THE GENERAL ASSEMBLY

Guardian ad litem access to information for guardianship appointments

HB 2063/SB 1144 (2023) – Delegate Glass/Senator McPike

The General Assembly adopted legislation that requires entities and individuals with information relevant to a guardianship or conservatorship proceeding to provide them to a guardian ad litem upon request. The requirement includes health-care providers and schools, criminal justice institutions, and financial institutions and financial advisers. The bill also requires certain financial institutions to make available any records that could be relevant to an investigation of alleged abuse, neglect, or exploitation of an adult.

Requiring periodic review hearings

SB 987 (2023) – Senator Mason

The General Assembly adopted legislation that requires courts to hold periodic hearings to review guardianship arrangements

and determine whether the guardian or conservator is fulfilling his or her duties, whether continuation of guardianship is necessary, and whether the scope of the arrangement requires modification. Review hearings are to be held no later than one year after the initial appointment of a guardian and at least every three years afterwards unless the court deems them to be unnecessary or impractical on a case-by-case basis.

Visitation restrictions

HB 2027 (2023) – Delegate Roem

The General Assembly passed legislation that prevents a guardian from restricting an incapacitated adult's ability to communicate or visit with individuals, unless that restriction would help prevent physical or emotional harm to the incapacitated adult. The legislation requires that guardians who create visitation restrictions provide a written notice to the restricted person letting them know of the terms of the restriction, the reasons for the restriction, and how the restriction can be challenged in court. The legislation outlines that a court can modify, continue, or terminate any visitation restriction. In addition, visitation restrictions must be filed with the local department of social services.

Visitation requirements for guardians

HB 2028 (2023) – Delegate Roem

The General Assembly passed legislation that requires guardians to visit adults under their guardianship at least three times a year. At least one visit must be in person and one can be done virtually. The third visit can be performed by either the guardian or a family member or friend monitored by the guardian and can be carried out through a virtual conference.

► ACTION TAKEN BY STATE AGENCIES

Guardianship training for circuit court judges and guardians ad litem

OES

OES launched an online learning center in January 2023 that includes training on adult guardian and conservator cases. In addition, the 2022 Judicial Conference of Virginia offered training on guardianship cases. A subcommittee of the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) is reviewing the recommendation to develop training for guardians ad litem.

Training local social services staff on annual guardianship reports

DARS

DARS hired two adult services specialists to conduct trainings for local staff to help identify concerns in annual guardianship reports that should prompt a more in-depth review or investigation.

► ACTION NEEDED

Requiring more detailed guardian ad litem reports

- The General Assembly may wish to consider amending §64.2-2003 of the Code of Virginia to require that guardian ad litem reports to the court include i) the size of the prospective guardian's current guardianship caseload, ii) whether the prospective guardian employs representatives to manage day-to-day tasks of guardianship, iii) the travel time between the prospective guardian's residence or place of business and the expected residence of the adult under consideration for guardianship, iv) whether the prospective guardian works as a professional guardian on a full-time basis, and v) whether the guardian is named as an alleged perpetrator in any substantiated Adult Protective

Services complaint. (Recommendation 2)

Addressing suitability of potential guardians in guardian ad litem reports

- The General Assembly may wish to consider amending §64.2-2003 of the Code of Virginia to require that guardians ad litem include in their reports an assessment of suitability and propriety of all individuals interested in serving as a guardian for the adult who is the subject of the petition. (Recommendation 4)

Requiring training for private guardians

- The General Assembly may wish to consider amending Title 64.2 of the Code of Virginia to require any individual who is named as a private guardian, and staff who perform duties on their behalf, to undergo guardianship training developed by the Department for Aging and Rehabilitative Services within four months of appointment and give local departments of social services responsibility for verifying compliance with the training requirement. (Recommendation 19)

Granting new private guardian responsibilities to DARS

- The General Assembly may wish to consider amending Title 51.1, Chapter 14, Article 6 of the Code of Virginia to grant new responsibilities to the Department for Aging and Rehabilitative Services to strengthen the accountability and quality of the private guardian system. These new responsibilities should include: providing information about Adult Protective Services complaints against prospective guardians to guardians ad litem as part of the guardianship court hearing process; providing and/or coordinating training to private guardians and local department of social services staff; facilitating additional monitoring of private guardians through independent care visits; improving guardianship data tracking and quality control; and creating and administering a private guardian complaint process. (Recommendation 24)

Requiring guardians to notify designated contacts of major changes

- The General Assembly may wish to consider amending §64.2-2019 of the Code of Virginia to require the guardian to notify designated contacts, as specified by the court, of certain changes in the condition or circumstances of an adult under guardianship, including a change to the adult's primary residence, a temporary change in living location, admission to a hospital or hospice care, and death, as well as provide them with a copy of the annual guardianship report each year at the time it is submitted to the local department of social services. (Recommendation 31)

Prohibiting self-dealing by guardians and conservators

- The General Assembly may wish to consider amending §64.2-2009 of the Code of Virginia to (i) define self-dealing, at a minimum, to include using the estate of an adult under guardianship or conservatorship to complete a sale or transaction with the guardian or conservator, their spouse, agent, attorney, or business with which they have a financial interest; (ii) prohibit self-dealing by a guardian or conservator unless court approval is first obtained or the sale or transaction was entered into before the guardian or conservator was appointed; and (iii) make voidable by the court any sale or transaction that constitutes self-dealing. (Recommendation 32)

Helping ensure accuracy of adult's initial inventory of assets

- The General Assembly may wish to consider amending Title 64.2, Chapter 12 of the Code of Virginia to require conservators to (i) notify family members and other interested parties, who are specified in the initial petition for conservatorship, that an initial inventory of assets will be submitted, and (ii) provide copies of the initial inventory to notified parties, if requested, and inform these parties that they may raise any concerns about the accuracy and completeness of the inventory with the commissioner of accounts overseeing the conservator. (Recommendation 39)

Helping ensure adult's initial inventory of assets is correct for conservator petitions

- The General Assembly may wish to consider amending §64.2-2003 of the Code of Virginia to require guardians ad litem to include in their report to the court all assets and income of adults under consideration for guardianship that they identify when determining the amount of surety on a conservator's bond. (Recommendation 40)

Listing financial resources on court order for conservatorship

- The General Assembly may wish to consider amending §64.2-2009 of the Code of Virginia to require the court order appointing a conservator to include a list of the financial resources of the adult being placed under conservatorship to the extent known as identified in the petition for conservatorship and the guardian ad litem report. (Recommendation 41)



Virginia's Juvenile Justice System

Report issued in 2021

Virginia's juvenile justice system responds to allegations of illegal acts committed by youth. The Department of Juvenile Justice (DJJ) is primarily responsible for administering and overseeing juvenile justice services. DJJ operates 30 of 32 court service units and the Bon Air Juvenile Correctional Center (JCC). Localities also operate 24 juvenile detention centers. About 3,000 youth are involved in the juvenile justice system, most of whom are in the community on a diversion plan, probation, or parole. Starting in 2016, DJJ began an initiative intended to increase local services and placements, reduce recidivism, and reduce the number of youth detained at a juvenile correctional center.

JLARC found

Youth who commit offenses are treated differently across Virginia. For example, youth are diverted from the juvenile justice system at varying rates depending on the court service unit. These differences occur for several reasons, including the lack of available community-based services for youth, which can prevent courts from diverting some youth from the juvenile justice system. JLARC staff recommended DJJ assess available community services across the state and develop a plan to expand needed services.

JLARC staff found that Black youth were 2.5 times more likely to

be referred to the juvenile justice system. In November 2021, DJJ received a \$1 million federal grant to conduct a three-year project focusing on improving equity and outcomes of referrals to the juvenile justice system. JLARC staff recommended that DJJ publish the report's conclusions and identify potential changes to mitigate the racial disproportionality in juvenile justice system referrals.

JLARC staff also found that different youth outcomes occur because of inconsistent policies across court service units and judges' preferences or knowledge of available local services. JLARC staff recommended that DJJ develop statewide policies for court service units to use when making diversion, probation, and parole violation decisions and when to "petition" youth, or charge them with a crime. Staff also recommended that DJJ require court service units to develop and maintain inventories of available community services. These inventories should be updated regularly and provided to judges.

DJJ had already developed a Standard Disposition Matrix (SDM) to provide judges with a suggested disposition, or consequence, when they are found delinquent of a crime, based on youths' risk levels across the state. JLARC staff recommended that DJJ study the effectiveness of the SDM, including gathering feedback from attorneys and judges, and refine it as necessary.

JLARC found that DJJ used a nationally recognized case management model for its probation system—Effective Practices in Community Supervisions (EPICS)—and provided adequate guidance and training on the model. JLARC staff found that coaching on using the EPICS model would help probation officers fully use it to more effectively serve youth. In addition, probation officers told JLARC staff they would benefit from cultural competency and implicit bias training. JLARC staff also found that training in motivational interviewing techniques, which promote interacting with youth empathetically, would benefit probation officers.

Part of DJJ's transformation was to serve more youth on probation through quality community services rather than being com-

mitted to DJJ. DJJ's Division of Community Programs is charged with ensuring the quality of youth probation programs, but it has several other responsibilities. To ensure evaluations of the program are objective, efficient, and receive sufficient attention, JLARC staff recommended that probation quality assurance responsibility be transferred to DJJ's quality assurance unit.

JLARC staff also found that DJJ provides only limited oversight of rehabilitative programming at juvenile detention centers, because it is not authorized in statute to evaluate all rehabilitative programs offered. JLARC staff recommended that the General Assembly amend the law to allow DJJ to review all rehabilitative programs at juvenile detention centers.

DJJ recently changed its behavior management model at its Bon Air JCC to a Community Treatment Model that emphasizes providing treatment to youth rather than just focusing on security. However, JLARC staff found that resident specialists, who have both therapeutic and security responsibilities, were not being trained on their therapeutic responsibilities before they began work at Bon Air JCC. JLARC staff recommended that resident specialists receive training on these responsibilities during their initial five-week training.

JLARC staff found the Bon Air JCC does not have enough resident specialists, with 35 percent of these positions vacant in December 2021. JLARC staff recommended that DJJ work with the Department of Human Resource Management to identify the root causes of recruitment and retention challenges.

JLARC staff also found that DJJ's rehabilitation programs, both at Community Placement Programs in juvenile detention centers and at Bon Air JCC, are not fully effective at preventing recidivism. JLARC staff recommended that the General Assembly require DJJ to provide rehabilitative youth treatment programs that are based on best available evidence of reducing recidivism. In addition, JLARC staff found that DJJ's changes to length-of-stay guidelines have reduced how long youth are in DJJ custody. However, court service units often determine youths' length of stay before their treatment needs are consid-

ered. JLARC staff recommended that a youth's treatment needs be assessed before determining their length of stay.

While DJJ collects recidivism data, it does not use this data to evaluate and improve rehabilitative services. JLARC staff recommended that DJJ implement a process to evaluate its rehabilitative programming for DJJ-committed youth.

JLARC staff also found that DJJ-committed youth have limited access to step-down opportunities that help them transition to the community. JLARC recommended that DJJ develop a plan to improve its re-entry programming.

► ACTION TAKEN BY THE GENERAL ASSEMBLY

Report on available community services

Appropriation Act

Through budget language, the General Assembly directed DJJ to report to the money committees an assessment of options available to committed youth once they return to the community.

Length of stay

Appropriation Act

Through the Appropriation Act, the General Assembly directed DJJ to produce a report on the impact of the revisions to the Guidelines for Determining the Length of Stay for Juveniles Indeterminately Committed to DJJ. The report is to include the research and evidence used to determine the guidelines and more data on the youth in DJJ custody, including recidivism rates.

► ACTION TAKEN BY STATE AGENCIES

DJJ

Standardizing youth treatment across the state

DJJ updated its diversion and resolution policy in February 2023 and began a study of the DJJ system to track diversion decisions made across the state. The agency also developed a list of services in each court service unit region. DJJ surveyed judicial stakeholders to assess the usefulness and necessity of the SDM. DJJ paused using the SDM and created a workgroup to assess whether the SDM should be refined or replaced.

Improving Virginia's youth probation system

DJJ had additional staff obtain certification for training in the EPICS model to increase the agency's internal training capacity. In addition, DJJ developed more than 15 coaching models, which provide in-service training, individual coaching by supervisors, and self-guided learning. The DJJ Equity Workgroup was developing implicit bias training, and the agency was creating a curriculum to expand training on motivational interviewing. The agency also restructured its organization to combine all quality assurance teams.

Better therapeutic training for resident specialists at Bon Air JCC and assessment of recruitment challenges

The Bon Air JCC's training center has added a two-day training on core correctional practices and added a behavior management section that focuses on leading group therapy sessions. New hires also receive training on adolescent care and trauma-informed practices. In addition, DJJ established a recruitment workgroup to address hard-to-fill positions in the agency.

Letting treatment needs guide length-of-stay guidelines

DJJ updated its length-of-stay guidelines to include a new multi-level review process with clear requirements and guide-

lines before youth are released.

Using data to improve rehabilitative program effectiveness

DJJ created a temporary data support specialist position to collect and assess data on Community Treatment Model data to target improvement areas.

Improving the transition from DJJ custody to the community

DJJ developed a Workforce Program Unit to provide skills training for youth in areas of high employment demand. The Bon Air JCC program includes classroom instruction in electrical, plumbing, HVAC, and fiber optics. DJJ also is implementing a re-entry assistance program to support youth preparing for release. The program includes options such as furloughs, work release, independent living programs, and other opportunities to help youth adjust to living in the community.

► ACTION NEEDED

Ensuring quality assurance of post-dispositional rehabilitative programs

- The General Assembly may wish to consider amending §66-3.2 of the Code of Virginia to authorize the Department of Juvenile Justice to regularly conduct quality assurance reviews of juvenile detention centers' post-dispositional rehabilitative programs and provide technical assistance as needed to ensure the centers meet statutory and regulatory requirements. (Recommendation 19)



Pandemic Impact on K–12 Education

Report issued in 2022

JLARC reviewed the COVID-19 pandemic’s impact on K–12 public education in Virginia, which resulted in an unprecedented disruption to the 2019–20 and 2020–21 school years. JLARC staff evaluated the pandemic’s impact on students’ academic achievement, mental health, and behavior. In addition, staff reviewed the pandemic’s impact on teachers and school divisions’ ability to recruit and retain a qualified workforce.

JLARC found

School staff, mental health staff, and health-care providers were concerned about the growing number of students experiencing mental health issues, such as anxiety, depression, self-harm, and suicidal ideation, following the pandemic. However, JLARC staff found schools have not been able to employ enough mental health staff to address increases in mental health issues. More than half of school superintendents responding to a JLARC survey indicated they were pessimistic about their ability to employ a suitable mental health workforce for the 2022–23 school year.

JLARC staff recommended several options to increase mental health support in schools. School psychologists have the highest vacancy rates among school mental health positions. JLARC recommended that the state allow qualified, licensed clinical psychologists to receive provisional licenses as a school psy-

chologist.

To allow school counselors to spend more of their time providing direct support to students, JLARC recommended that the General Assembly define “direct counseling” in state law to increase the amount of time school counselors spend directly working with students. State law requires school counselors to spend at least 80 percent of their time on direct counseling but did not define direct counseling.

JLARC found that school divisions and experts say partnering with public or private mental health providers can be an effective way to provide mental health support to students. More than 80 percent of school divisions indicated on a JLARC survey that they have, or soon will develop, partnerships with an external mental health provider. The Virginia Department of Education (VDOE) was developing a model memorandum of understanding (MOU) school divisions can use as a template to develop these partnerships. JLARC recommended that VDOE consult with the Department of Behavioral Health and Developmental Services on the template and that it include best practices.

JLARC found that Virginia students’ academic achievement declined following the pandemic, with math scores falling substantially. Staff found that Virginia lacks additional instruction to address declines in mathematics scores for younger students and recommended that the state create a temporary program to help elementary school students who fail their math SOL.

JLARC staff found that instructional assistants could help address several challenges associated with the pandemic, by reducing teacher workload and helping manage widening academic achievement gaps and behavior problems in the classroom. JLARC recommended that the General Assembly provide funds for instructional assistants to schools that are not fully accredited.

► ACTION TAKEN BY THE GENERAL ASSEMBLY

Defining direct counseling

SB 1043/HB 2187 (2023) – Senator McPike / Delegate Rasoul

The General Assembly enacted legislation to define “direct counseling” and “program planning and school support” in the law, which requires school counselors to spend at least 80 percent of their time on direct counseling and up to 20 percent of their time on program planning and school support.

Filling vacant school psychologist positions

SB 1043/HB 2124 (2023) – Senator McPike / Delegate Wilt

The General Assembly enacted legislation that allows school divisions to fill vacant school psychologist positions by hiring licensed clinical psychologists under a provisional license. These licenses are eligible for three years. An additional two years can be added with superintendent approval. The legislation also directs the VDOE to work with the Virginia Academy of School Psychologists to ensure the process and criteria for these psychologists to become fully licensed are adequate.

Developing a model MOU between school divisions and community mental health providers

SB 1043 (2023) – Senator McPike

The General Assembly enacted legislation that requires VDOE, the Department of Behavioral Health and Developmental Services, and the Department of Medical Assistance Services to develop and distribute an MOU between a school board and a public or private community mental health services provider to facilitate partnerships between school divisions and external mental health providers.

Funding to help students with learning loss

Appropriation Act

The General Assembly included \$418 million to help school divisions implement the Virginia Literacy Act, learning loss recovery programs, and additional operating and infrastructure support. This money could be used to help elementary students who failed their math SOL.

► ACTION NEEDED

Hiring additional instructional assistants at schools that are not fully accredited

- The General Assembly may wish to consider including language and funding in the Appropriation Act to provide additional, temporary funding for a subset of schools accredited with conditions to hire more instructional assistants to (i) help teachers provide small group and individualized instruction necessitated by widening academic needs within classrooms, (ii) help teachers manage challenging student behaviors within classrooms, and (iii) reduce teacher workloads. (Recommendation 5)



VITA's Transition to a Multi-Supplier Model and Organizational and Staffing Review

Reports issued in 2020 and 2021

JLARC has ongoing oversight of the Virginia Information Technologies Agency (VITA), which provides IT infrastructure services to the state's executive branch agencies. Through direction of the Commission, JLARC staff conducted several in-depth studies recently: the agency's implementation of a multi-supplier service model in 2019, a follow-up review on VITA's transition to a multi-supplier model in 2020, and an organizational structure and staffing review in 2021.

2020

JLARC found

VITA had improved management of its multi-supplier model. The agency had improved its contract management and had drastically increased its enforcement of supplier performance requirements, leading to a substantial assessment of financial penalties for missed performance and improvement plans in some instances.

JLARC also found that VITA had improved its issue resolution platform, which is used to address complicated and widespread problems among suppliers. In 2020, the agency had reduced the number of unresolved issues in the platform, but they were still

taking too long to address. JLARC staff recommended that VITA review its platform at the end of 2020 and determine whether its multi-source service integrator needed to devote more staff to the issue resolution platform.

JLARC staff found that some state agencies had network connectivity problems, which can be caused by either VITA's centralized network or the agency's own portion of the network. Therefore, even if VITA's network supplier is meeting its performance requirements, agencies may still have network problems. State agencies said they had little insight into their network's performance. JLARC staff recommended that VITA provide agencies with regular assessments of their network performance that included whether agencies need to upgrade their network. JLARC staff also recommended that the General Assembly require VITA to report annually on the adequacy of the network.

JLARC staff found that while VITA had made progress in resolving service incidents within contractual timeframes, many state agencies were still dissatisfied with the resolution of IT service incidents. JLARC staff found that suppliers consistently missed two key performance requirements related to resolution of incidents that took longer than 30 days and incidents that had to be reopened. JLARC staff found that about 17 percent of service incidents had to be rerouted to a different supplier, which contributed to delays in resolving problems. JLARC staff recommended that VITA implement targeted improvement plans to increase supplier compliance with these requirements. JLARC staff recommended that these plans also require suppliers to reduce the number of incidents that must be rerouted to a different supplier. JLARC staff also recommended that VITA provide agencies with regular updates about service incidents that remain unresolved for longer than 30 days.

JLARC staff found that VITA needed to more proactively address customer agencies' concerns. While VITA regularly surveyed customer agencies, the agency did not ask about agencies' experience with each supplier and made limited efforts to follow-up

with agencies about the concerns they expressed on their surveys. JLARC staff recommended that VITA's customer surveys specifically ask about satisfaction with each of the suppliers and VITA's overall infrastructure services. In addition, JLARC staff recommended that VITA use survey results to address agency concerns and consider changing performance requirements based on these results.

2021

JLARC found that VITA had a reasonable organizational structure that included no unclear or overlapping responsibilities. However, JLARC staff determined that the placement of the project management division, which oversees customer agency projects as well as VITA's own IT projects, under VITA's chief operating officer (COO) created the potential for conflicts of interest, because the COO also oversees staff responsible for implementing VITA's own projects. JLARC staff recommended elevating PMD to a directorate and creating a policy that allows PMD to report directly to the chief information officer for project oversight when potential conflicts of interest arise.

JLARC also found that VITA's directorates generally coordinated well, except that a lack of coordination between the operations and security directorates had been a key factor in development delays for new statewide IT services. VITA had implemented new procedures in early 2021 to address this lack of coordination, and JLARC recommended that the agency review at the end of 2021 whether their procedures were working and meeting the agency's goals of developing new IT solutions within an average of 100 days.

JLARC found that VITA lacks enough security staff, but overall staffing levels are less of a concern in other areas. Only 7 percent of VITA's IT security staff agreed that the division had enough employees to manage their responsibilities. In addition, JLARC staff found that VITA has difficulty filling some highly technical positions and recommended that VITA work with the

Department of Human Resource Management to identify compensation flexibilities available under the Virginia Personnel Act.

JLARC also found that VITA is overly reliant on contractors, who typically are more costly to employ and turn over more frequently. JLARC recommended that VITA develop guidelines for when contractors should be hired and determine which contractors could transition to classified employees.

► ACTION TAKEN BY STATE AGENCIES

2020 report

Improving the timeliness of the issue resolution platform *VITA*

VITA has ongoing efforts to ensure platform governance is working as intended. The agency examines quarterly the total number of issues in the platform and length of time required to address the issues.

Improving the transparency of network performance and causes of low performance

Infrastructure suppliers are reporting monthly and quarterly on agencies' network capacity and utilization and providing upgrade recommendations. These reports are being provided to state agencies. The General Assembly included language in the 2021 Appropriation Act requiring VITA to provide an annual report to the General Assembly on network infrastructure adequacy.

Reducing incidents that take longer than 30 days to resolve and tickets that need to be reopened

VITA escalated all service incidents that take over 30 days to resolve to a critical service level, which has provided a better mechanism to hold suppliers accountable for this performance requirement. VITA has worked with suppliers on queue management to reduce the number of incidents that have to be rerouted to other suppliers. VITA is also monitoring and reporting on incidents open over 30 days on a weekly basis and pro-

viding operational status information, including these incidents, regularly to state agencies.

Better meeting customer agency needs

VITA has augmented its regular customer satisfaction surveys to include questions about individual suppliers. The agency said it has established a process to work with customer agencies to address dissatisfaction reported on the surveys. In addition, the agency is using data analytics, survey feedback, and customer interactions to monitor whether services are meeting agencies' needs.

2021 report

Faster development of new statewide IT services

VITA

By the end of 2022, VITA had accelerated its development of new IT services and met its goal of implementing new IT services within an average of 100 days. VITA said it engages in continuous monitoring and improvement of the process to develop new IT services.

Elevating the project management division to avoid conflicts of interest

VITA elevated its project management division to a directorate. VITA recently reorganized in 2022, and the COO position, which PMD previously reported to, no longer exists. The PMD directorate now reports to the agency's chief customer experience officer. In addition, VITA adopted a policy that when a potential conflict of interest arises for project oversight, PMD should report directly to the chief information officer.

Development of a security staffing plan

VITA developed and submitted an IT security plan that concluded that the agency needed an additional 22 information security positions over two hiring phases to adequately handle the group's increasing responsibilities. The General Assembly provided funding in the 2022 Appropriation Act for VITA to hire

nine additional security positions.

Development of compensation strategies for difficult-to-fill positions

VITA has worked with DHRM to gain market data on employee positions. VITA typically hires, worked with DHRM to understand compensation best practices, and has standardized how it recruits for difficult-to-fill positions. For example, VITA provides these candidates with sign-on bonuses, annual leave grants, and relocation assistance.

Reducing the use of contractors

VITA developed guidelines for when to hire a contractor. In addition, the agency converted 20 contractor positions to classified positions. The General Assembly increased VITA's Maximum Employment Level in the 2022 Appropriation Act to accommodate the additional classified positions. VITA is also limiting the length of time contractors can work at the agency to two years. Contract positions that serve at the governor's office can stay for four years, the duration of the administration.



Virginia's Transportation and Infrastructure Funding

Report issued in 2021

In 2021, JLARC staff reviewed Virginia's surface transportation system and funding. A major motivation for the review was concern over the state's gas tax revenue as vehicles become more fuel-efficient. To begin to address this concern, Virginia created a voluntary mileage-based user fee (MBUF) program so owners of fuel-efficient and electric vehicles can choose to be taxed based on how much they drive rather than on a flat rate. JLARC's transportation study reviewed current transportation revenue and future projections, road conditions and maintenance funding, road improvements planning and funding, and transit condition and funding.

JLARC found

Other states have had difficulties implementing mileage-based user fee (MBUF) programs for fuel-efficient cars. These states said citizens were reluctant to join these programs because of privacy concerns.

Because MBUF may become a more important revenue stream as cars become more fuel-efficient, JLARC staff recommended that the Department of Motor Vehicles (DMV) evaluate MBUF's effectiveness and make changes as needed. For example, Vir-

ginia may need to adjust eligibility rules, fees, and program administrative costs.

JLARC staff also found that the Commonwealth Transportation Board (CTB) could reverse policies implemented in response to a downturn in state revenues during the pandemic. For example, the state lengthened the time it allocated funds for its revenue-sharing program to five-to-six years. The revenue-sharing program helps localities fund projects, and this long timeline increases projects' costs because of inflation in material and labor costs. JLARC recommended that the CTB move to a shorter award timeline—three-to-four years after application. JLARC staff also proposed a policy option to restore FY23–FY24 revenue-share funding that was not awarded because of the pandemic.

JLARC staff also found that the state could more efficiently and economically maintain its bridges by allowing funding from the State of Good Repair program to be used on bridges that are in "fair condition" rather than those deemed "structurally deficient." Addressing bridge maintenance before they deteriorate to "structurally deficient" can allow the bridges to be repaired, whereas structurally deficient bridges often need to be fully replaced.

JLARC staff found that transit capital needs were likely to outpace available funds. The state's MERIT program helps pay for transit agencies' capital needs, such as replacing aging fleet vehicles and investing in new assets. In 2021, JLARC staff found that the gap between transit funding needs and revenues was \$226 million over the next five years. JLARC staff recommended that the CTB restore funding that was reduced because of the pandemic. Staff also proposed a policy option for the CTB to dedicate surplus revenues to mass transit capital needs.

JLARC staff found that some transit agencies experienced significant declines in ridership after the pandemic. For example, Loudoun County Transit ridership fell 80 percent. Because transit operational funds are affected by ridership, reduced ridership could significantly affect some agencies' budgets. JLARC

staff recommended that the Department of Rail and Public Transportation (DRPT) monitor ridership and develop options to change the operating assistance formula to avoid harming transit agencies that saw significant declines in ridership.

JLARC staff also found that using a cost-benefit analysis in Smart Scale funding decisions could help the CTB make decisions about selecting Smart Scale projects. This analysis is used in many federal transportation programs. JLARC proposed a policy option for the Office of Intermodal Planning and Investment (OIPI) to require the largest Smart Scale applicants to submit information to determine the project's return on investment. The CTB could then decide whether the cost-benefit analysis helped its decision-making for Smart Scale projects.

► ACTION TAKEN BY STATE AGENCIES

Evaluating the Mileage-Based User Fee program *DMV*

DMV is collecting participant data to report to transportation committees.

Restoration and timing of revenue-share funding *CTB*

In its Six-Year Improvement Plan, the CTB shortened revenue-sharing allocations from between five and six years to between three and four years. In addition, the CTB reprogrammed the improvement plan to move eligible projects earlier in the schedule.

Restoring mass transportation funding and dedicating surplus revenue to transit projects *CTB*

CTB directed \$39.8 million in FY21 transportation revenue surplus funds to the Commonwealth Mass Transit Fund (CMTF) to restore funding to pre-pandemic levels and direct those funds to be used for capital and Transit Ridership Incentive Program

projects that had been recommended for funding but that were not funded because of FY21 shortfalls. In addition, the CTB also directed \$185 million in revenue toward the CMTF for transit projects.

Ensuring low ridership does not harm transportation agencies' funding

DRPT

DRPT convened the Transit Service Delivery Advisory Committee to review potential policy changes to the Merit Capital and Merit Operation programs. DRPT staff provided ridership data and modeled potential FY24 funding allocations. The committee determined that the current funding allocations did not need changes. However, the committee planned to meet again to review ridership data.

Incorporating cost-benefit analyses into Smart Scale

OIPI

OIPI is conducting a full-scale review of the Smart Scale process, as directed by the secretary of transportation. As part of the review, OIPI looked at the potential value and cost associated with incorporating cost-benefit analyses into the Smart Scale selection process.

► ACTION NEEDED

Allowing State of Good Repair program to fix bridges considered in fair condition

- The General Assembly may wish to consider amending §33.2-369 of the Code of Virginia to improve bridge safety and reduce long-term costs by allowing the State of Good Repair program to fund bridges that are in fair condition, specifically those that have a general condition rating less than or equal to 5.0. (Recommendation 4)



Trade and Transportation Incentives

Report issued in 2021

JLARC evaluated Virginia's trade and transportation incentives as part of an ongoing series evaluating the effectiveness of the state's economic development incentives. Virginia offers 11 incentives to promote economic activity by businesses in the rail, air, and water transportation industries and to promote international trade.

JLARC found

Virginia spent \$49 million in FY19 and \$409 million between FY10 and FY19 on these 11 incentives. JLARC staff found that the common carrier exemptions for railroads, airlines, and ships and vessels are longstanding incentives that have low to negligible economic impacts but are offered by most other states and have other tax and public policy purposes.

JLARC found that the railroad rolling stock exemption has not expanded the state's rolling stock manufacturing industry, has negligible economic benefits per \$1 million spent compared with other incentives, and does not influence companies to move freight by rail rather than by truck because rail is already the most economical choice. Therefore, JLARC staff recommended that the state eliminate the exemption.

JLARC found that the state's four incentives (three credits and a

grant) designed to promote port activity have moderate returns in state revenue compared with other incentives evaluated to date, and that the economic benefits of these incentives are low-to-moderate when compared with other incentives. However, JLARC found these port incentives' effectiveness could be improved in several ways. JLARC staff recommended that:

- three of the incentives be better targeted to export cargo;
- the Port of Virginia Economic Infrastructure and Development Grant guidelines be better aligned with the Virginia Economic Development Partnership's (VEDP) economic development incentives guidelines;
- the Virginia Port Volume Increase Tax Credit be converted to a grant to improve its usability and better target geographic regions less likely to use the port;
- and that the value of the International Trade Facility Tax Credit be increased to encourage job creation and be combined with the grant.

► ACTION TAKEN BY THE GENERAL ASSEMBLY

Better targeting port incentive grants

HB 1832/SB 1345 (2023) – Delegate Wyatt/Senator Barker

The General Assembly enacted legislation to combine the existing Port of Virginia Economic Development Incentive Grant and the International Trade Facility Tax Credit, which have similar purposes, into a new discretionary grant program—the Port of Virginia Economic Development Grant Program and Fund. This new program includes two grants, requires grant recipients to pay workers at least 1.2 times the minimum wage, and instructs the Virginia Port Authority to work with VEDP to develop guidelines and procedures for qualifying for the grant. The legislation also helps one of the grant programs better target job creation by increasing the job reimbursement with inflation.

The legislation also converts both the Virginia Port Volume Increase Tax Credit and the Virginia Barge and Rail Usage Tax

Credit to grants. The legislation increased the total annual expenditure of the port volume increase grant (from a total of \$3.2 million to \$3.8 million) and the barge and rail grant (from \$500,000 to \$1 million).

► ACTION NEEDED

Eliminating the railroad rolling stock exemption

- The General Assembly may wish to consider eliminating the railroad rolling stock exemption. (Recommendation 1)



Infrastructure and Regional Incentives

Report issued in 2020

JLARC evaluated Virginia's infrastructure and regional incentives as part of an ongoing series evaluating the effectiveness of the state's economic development incentives. Virginia provides 10 incentives to promote business growth through financial incentives for infrastructure development and to encourage business activity in distressed regions of the state. In 2021, based on JLARC's recommendations, the General Assembly eliminated the state's coal tax credits and allowed the Commonwealth Transportation Board (CTB) to change criteria for the Economic Development Access Program.

JLARC found

A significant amount of Job Creation Grants, which are one of two enterprise zone grants designed to encourage job creation and retention in economically distressed areas, are made to businesses that create jobs for a short time period. Fewer than half of businesses receive the grant for the full five years they are eligible, and 25 percent receive the grant for only one year. This is likely because businesses have not maintained sufficient jobs needed to continue receiving the grant. JLARC staff recommended that the Department of Housing and Community Development (DHCD) determine how to best incentivize long-term job creation.

JLARC staff also found that the Virginia Economic Development Partnership (VEDP) did not require business sites in their Business Ready Sites Program to renew their business-ready certification. Most states require that these certifications be renewed every two-to-five years because some environmental reviews have a limited shelf life, and site conditions can change. JLARC staff recommended that VEDP require business sites to renew their certification at least every five years.

JLARC staff found that the Economic Development Access Program, which provides grant funding for roadway access to industrial or business sites, required only that projects be in an export-base industry. JLARC staff recommended that the program's eligibility criteria should better align with VEDP's criteria to improve the program's economic benefits, which required a change in statute before the CTB adjusted the grant's criteria.

► ACTION TAKEN BY STATE AGENCIES

Requiring business sites to renew business-ready certification *VEDP*

VEDP is notifying partner organizations, which are responsible for providing documentation for site certifications and recertifications, that recertification will be required every five years. With recent increased funding for the Business Ready Sites Program, localities will have more financial support to pursue recertification.

Improving program and eligibility criteria for the Economic Development Access Program *CTB*

The Commonwealth Transportation Board adopted policies to improve the Economic Development Access Program. Program guidelines now require consideration of job creation, capital investment, and other relevant data to improve the economic impact of the program. The changes also reduced capital investment requirements in economically distressed localities.

These policies follow 2021 legislation that directed the CTB to strengthen the program's criteria.



Virginia Department of Education

Report issued in 2020

In 2020 JLARC staff reviewed the operations and performance of the Virginia Department of Education (VDOE). VDOE, through the Virginia Board of Education, has the broad statutory direction to provide “general supervision of the public school system” and to conduct “proper and uniform enforcement of the provisions of the school laws in cooperation with the local school authorities.” The General Assembly implemented several recommendations from the report in 2021 and 2022 related to supervision of school division compliance, school improvement, and teacher recruitment and retention.

JLARC found

VDOE collected inadequate data to fully understand teacher shortages and identify strategies to address them. For example, VDOE did not require school divisions to report the proportion of teacher vacancies, just the total number of vacancies. JLARC recommended that VDOE also collect the number of filled teacher positions and calculate vacancy rates by division, region, and endorsement area to help the state better understand and address its teacher shortages.

JLARC found that funding for teacher mentorships, an important tool for retaining first-year teachers, could be distributed more effectively. The agency allocated mentorship funding based on

school divisions' number of new teachers. JLARC staff recommended allocating it instead based on school divisions with the highest turnover of new teachers. JLARC also recommended that VDOE provide school divisions with better support and guidance on how to implement effective mentorship programs.

JLARC staff found that VDOE's paper-based licensure process was inefficient. In addition, it did not allow the agency to collect data to determine how long it took to process teacher licenses. JLARC staff recommended that VDOE set specific goals for how long it should take to process licenses and measure timeliness of licensure processing. JLARC staff also recommended that the agency determine whether its Office of Licensure had sufficient administrative staff and licensing specialists.

JLARC staff found that the Code of Virginia does not expressly require the Board of Education or the superintendent of public instruction to develop and implement an effective school improvement program. Because this program is so vital for helping underperforming schools, JLARC staff recommended directing in statute that the superintendent of public instruction maintain an effective school improvement program to ensure it remains a priority for VDOE leadership.

VDOE staff responding to a JLARC survey indicated that they were dissatisfied with their salary and workload, but workload concerns varied by office, and the agency did not track hours. JLARC recommended that VDOE track total hours worked to better track and monitor employee workloads.

JLARC found that VDOE could improve several of its communications to school divisions, and JLARC staff recommended regularly reviewing the agency's website, improving emails sent to school divisions, and better promoting resources available at VDOE.

ACTION TAKEN BY THE GENERAL ASSEMBLY

Board role in teacher recruiting and retention

SB 1052 (2023) – Senator McPike

Legislation passed by the General Assembly directs the Advisory Board on Teacher Education and Licensure to submit recommendations on policies to help school divisions more effectively recruit and retain teachers. It also allows teachers to extend their provisional license by two years if they receive a recommendation from a school division superintendent and a satisfactory evaluation, if they were evaluated.

► ACTION TAKEN BY STATE AGENCIES

Better data on teacher vacancies

VDOE

VDOE began collecting Positions and Exits Collection data in the 2022–23 school year. This data enables the state and school divisions to help understand critical staff shortages by position and geographic region, measure growth and decline of staffing levels, and evaluate the reasons licensed personnel leave the field.

Improving the teacher licensure process

VDOE

VDOE is implementing a new licensure system that will allow the agency to measure how long it takes to process a license. In addition, VDOE reallocated staff and hired new staff based on staffing needed for the new licensing system.

Improving mentorships

Effective FY22, VDOE distributed state teacher mentorship funds by weighting the severity of unfilled teaching positions. The agency also reviewed VDOE's mentorships documents and

sent revisions to Guidelines for Mentor Teacher Programs for Beginning and Experienced Teachers to the Board of Education, which it approved and then distributed publicly.

Tracking staff hours and workload

VDOE

Employees are now required to track their hours through Cardinal, the state's human resource management system.

Improving communication

VDOE launched a redesigned website in December 2022, which is designed to offer more intuitive access to information and resources related to the agency, schools, and childcare providers. The agency is also going through old site material to eliminate information that is no longer relevant. The new website includes a list of staff contacts, and the agency adopted internal procedures to collect and share professional development opportunities.

The agency also adopted a new email platform, GovDelivery, to create targeted, organized emails. The Office of Communications reviews outgoing GovDelivery messages to ensure alignment with the agency's mission and priorities.

► ACTION NEEDED

Requiring an effective school improvement program in Code

- The General Assembly may wish to consider amending §22.1-23 of the Code of Virginia to direct the superintendent of public instruction to (i) develop and implement an effective school improvement program, (ii) identify measures to evaluate the effectiveness of the services the Office of School Quality provides to school divisions, (iii) evaluate and make changes as needed to ensure effectiveness, and (iv) annually report to the Board of Education. (Recommendation 10)



Local and Regional Jail Oversight

Report issued in 2019

Virginia's jails are operated by localities and regional authorities but are subject to state oversight. The State Board of Local and Regional Jails, formerly called the Board of Corrections, establishes standards for jail operations and reviews all inmate deaths.

JLARC found

At meetings, board members typically requested that death investigation reports include additional information, such as the events leading up to the inmate's death, if and when inmates refused medications, and the inmate's responses to questions during an intake interview. This request for additional information delayed the board's investigations.

To improve the efficiency of the board's death investigations, JLARC staff recommended that the board develop guidelines for information that the death investigation reports should include. In addition, JLARC recommended that the board's death investigators have medical training to understand treatments, conditions, and medications that may be important for inmate death investigations.

► ACTION TAKEN BY STATE AGENCIES

State Board of Local and Regional Jails

Improving death investigation reports

The board is rewriting regulations to document the minimum amount of information death investigation reports should include.

Hiring a death investigator with health experience

The board hired a death investigator in 2021 who is a diplomate of the American Board of Medicolegal Death Investigators (ABMDI). ABMDI certifies that death investigators have the necessary knowledge and skills to perform medicolegal death investigations.



Department of Wildlife Resources (previously called the Department of Game and Inland Fisheries)

Report issued in 2019

JLARC reviewed the operations and performance of the Department of Game and Inland Fisheries, which changed its name to the Department of Wildlife Resources (DWR) in 2020. DWR enforces hunting and fishing laws and regulations and undertakes several activities to conserve wildlife habitats, such as purchasing and maintaining wildlife management areas. DWR hired a new executive director in mid-2019, during the time JLARC staff were reviewing the agency.

JLARC found

A 2019 JLARC survey found that most staff had a lack of confidence with senior leadership of the agency, which included the former executive director. Only about one-third of survey respondents agreed that senior leadership adequately addressed challenges, motivated staff to work efficiently, and promoted a culture of efficiency and effectiveness. JLARC recommended that the new leadership administer a survey to determine whether staff's confidence in senior leadership had improved.

When evaluating DWR's police conservation force, JLARC staff

found that conservation officers would benefit from additional field training, especially because their responsibilities can vary throughout the year. In addition, some officers' enforcement of violations varied significantly, and a survey of conservation officers found that many would enforce certain violations differently. JLARC staff recommended providing supervised field training for all seasons and better monitoring officers' enforcement actions to provide targeted assistance as needed.

JLARC staff found that while DWR and the Virginia Marine Resources Commission (VMRC) did not need to be consolidated, the agencies' law enforcement divisions should better coordinate their recreational boating patrol and enforcement in the eastern part of the state.

JLARC staff also included several policy options for the agency to consider addressing:

- Virginia's boat registration and permit fees, which were much lower than other surrounding states, and
- the dispersion of non-game staff and activities throughout the agency, which some staff said caused de-prioritization of the agency's non-game responsibilities.

ACTION TAKEN BY STATE AGENCIES

DWR

Determining staff's confidence in agency leadership

DWR created an "Inclusive Excellence Council" in 2021, which administered the first "climate survey" to all DWR staff in FY23. The climate survey will be administered every other year to assess staff's confidence in senior leadership and working conditions such as work culture, development opportunities, mission, and compensation. In addition, the Board of Wildlife Resources assesses staff confidence in leadership as part of the executive director's annual performance review.

Ensuring consistent enforcement actions

DWR is monitoring conservation officers' enforcement actions through a comprehensive records management system that captures all summonses, arrests, and written warnings. The system allows supervisors to monitor officers' enforcement actions to ensure they are consistently applied. Supervisors also use this information to conduct quarterly and yearly performance evaluations.

Ensuring conservation officers receive adequate field training

DWR has added a new group of field training officers who are specially trained to support new officers.

Monitoring boat fees for needed increases

Based on DWR staff recommendations, the Board of Wildlife Resources increased boat registrations by \$5 and titles by \$3 in 2019. DWR staff have not proposed any further increases after analyzing boater participation data and comparison data from other neighboring states. Staff share financial trends with the board quarterly to consider needs for increased registration fees.

Improving website

DWR has improved its website to help citizens understand the fishing and hunting licenses and permits they may need. The website now offers license "packages" (or bundles) that combine the most frequent combinations of licenses purchased and expanded auto-reminder and auto-renewal of licenses previously purchased. The website now also better highlights needed permits and licenses.

Consolidating non-game employees

During a board-directed strategic planning process, staff assessed how to better utilize agency staff who specialized in non-game animals. Beginning in FY23, the agency was restructured to bring all non-game employees under the oversight of the deputy executive director for wildlife and fisheries. The

restructuring brought all of the agency's non-game functions together and elevated the prominence of the agency's non-game responsibilities.

Improved collaboration with Virginia Marine Resources Commission

The law enforcement divisions of DWR and VMRC meet regularly throughout the year to discuss boat inspections, dispatch functions, and other operational and administrative functions. In addition, VMRC is joining DWR and the Department of Conservation and Recreation in maintaining a centralized records management system that should improve future collaboration, including boat inspections and officer dispatch support.



Ongoing Evaluation and Oversight

JLARC provides ongoing legislative evaluation and oversight of the state's economic development incentives, the Virginia Retirement System (VRS), the Virginia Information Technologies Agency (VITA), the Virginia College Savings Plan (Virginia529), Cardinal, proposed health insurance mandates, and racial and ethnic impact statements for proposed criminal justice legislation. Ongoing evaluation and oversight helps keep the General Assembly informed in key areas and ensures proper stewardship of the state's resources and taxpayer dollars.

Economic development incentives

JLARC is responsible for ongoing evaluation of the state's economic development incentives. Areas of evaluation include spending on incentives, business activity generated by incentives, economic benefits of incentives, and the effectiveness of incentives. JLARC contracts with the University of Virginia's Weldon Cooper Center for Public Service to assist with the evaluations.

JLARC issued an in-depth report of the state's trade and transportation incentives in 2021 and of the state's science and technology incentives in 2022. JLARC also issued reports on overall spending and business activity for Virginia's economic development incentives in 2021 and 2022. The 2022 report provided estimates of the collective impact of Virginia's economic development incentives.

Virginia Retirement System

JLARC regularly reports on the structure and governance of VRS, including the structure of the investment portfolios, investment practices and performance, actuarial policy and soundness, and administration and management.

In 2021, JLARC staff reported that the VRS board had approved changes to some of the actuarial assumptions for the VRS plan based on recommendations from the VRS plan actuary. Several of the changes were based on recommendations from a 2018 actuarial audit of VRS conducted by JLARC's independent actuary. The recommended changes from JLARC's independent actuary, which were adopted by the board, related to the plans' mortality assumptions and assumptions about when during the year members leave active membership.

In 2022, JLARC's independent actuary conducted an updated actuarial audit of VRS. JLARC is required by statute to conduct an audit of VRS every four years with the assistance of an actuary. The audit confirmed that VRS is actuarially sound. JLARC's independent actuary also had several recommendations related to VRS's actuarial assumptions, funding policy, and actuarial report.

Virginia Information Technologies Agency

JLARC is responsible for ongoing review and evaluation of VITA. Areas of review include VITA's infrastructure outsourcing contracts; adequacy of VITA's planning and oversight, including IT projects, security, and agency procurement; and cost effectiveness and adequacy of VITA's procurement services.

In 2021, JLARC issued a review of VITA's organizational structure and staffing (see page 37). The report addressed the reasonableness of VITA's organizational structure, the adequacy of VITA's staff, and the satisfaction of staff working at VITA. The report also addressed hard-to-fill positions and VITA's use of contractors.

Virginia College Savings Plan

JLARC staff periodically report on the structure and governance of Virginia529, including the structure of the investment portfolios, investment practices and performance, actuarial policy and soundness, and administration and management. In 2021, JLARC's independent actuary conducted an actuarial audit of Virginia529's Prepaid529 Program. JLARC is required by statute to conduct an audit of Virginia529's defined benefit program every four years with the assistance of an actuary. The audit confirmed that Prepaid529 is actuarially sound and has more than sufficient assets to cover the actuarially estimated value of tuition obligations. The actuary found that, as of the June 30, 2020 valuation, Prepaid529 was projected to have a surplus of \$3.8 billion at the end of FY44 after all tuition obligations have been paid. The actuary also determined that the primary actuarial assumptions for Prepaid529 were reasonable.

In 2022, JLARC issued a report on the Defined Benefit 529 Surplus Funds. The report reiterated that the DB529 fund, which includes the Prepaid529 program, is higher than needed to cover future obligations and found that \$1.3 billion in DB529 surplus funds could be safely withdrawn over at least five years, based on the 2021 valuation. The report found that DB529 surplus funds could be returned to account holders and also could be used to support higher education access and affordability through options such as grants and scholarships for the highest financial need students. The report also found that creating a dedicated fund for higher education access and affordability would provide flexibility and a long-term funding source, and that dedicated fund assets could remain in the DB529 fund and be managed by Virginia529. The report included nine recommendations and 10 policy options for how the General Assembly could operationalize removing surplus funds from the DB529 fund and return them to account holders and support higher education access and affordability.

In 2023, the Virginia529 board approved a \$500 million allocation of surplus DB529 funds into a newly created access

fund for higher education access and affordability. Virginia529 needs General Assembly approval to spend money in the new fund. Virginia529 also created an Access Advisory Committee, including representation from four-year institutions, community colleges, and other higher education access stakeholders, to identify opportunities to support higher education access and affordability. The General Assembly created a workgroup in the 2023 Appropriation Act to review the recommendations of JLARC's 2022 review. The workgroup is directed to review the considerations in the JLARC report and produce recommendations on (i) the method, timing, and amount of withdrawals from the DB529 fund, (ii) guidelines for the appropriate allocation and use of monies withdrawn from the fund, including returning funds to account holders and supporting higher education access and affordability, and (iii) ongoing oversight of DB529 fund balances to determine the availability of future surpluses. The workgroup is to provide its findings and recommendations by October 2024.

Cardinal

JLARC is responsible for ongoing review and evaluation of Cardinal, the Commonwealth's enterprise resource planning system. JLARC's focus has been on the state's efforts to expand Cardinal to include Human Capital Management (HCM) functions. In 2021 and 2022, JLARC staff provided the commission with updates covering the history of Cardinal; the status of the HCM expansion, including schedule and projected costs; and risks and future considerations related to the HCM expansion. The Cardinal project closed out in early 2023.

Mandated health insurance benefits

JLARC staff participate in 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, current availability and use of the treatment, and the financial impact on people without coverage. In 2021,

JLARC issued two assessments of proposed mandated health insurance benefits—coverage of donated human breast milk (HB 2049 and SB 1650) and coverage of prosthetics (HB 2669).

Racial and ethnic impact statements for proposed criminal justice legislation

Starting with the 2022 session, JLARC began providing reviews of proposed criminal justice legislation to determine the potential impact on racial and ethnic disparities in the Commonwealth. Reviews can be requested by the chairs of the House Judiciary Committee and the House Courts of Justice Committee. JLARC was asked to provide racial and ethnic impact statements for three bills during the 2022 session: repealing enactment of a new classification system affecting the rate at which inmates earn sentence credits (HB735), changing laws related to probation and suspended sentences (HB 758), and raising the age for delinquency matters in juvenile and domestic relations district court (SB 134).

Fiscal Analysis Services

JLARC staff provide several fiscal analysis services to the General Assembly, many of which are required by statute.

Fiscal impact reviews

JLARC was asked to review the fiscal impact statement for one bill after the 2022 session that would have raised the age for delinquency matters in juvenile and domestic relations district court.

Spending and benchmarking reports

JLARC staff issue annual reports on total state spending and on state spending for the K–12 Standards of Quality. Staff also produce an annual publication comparing Virginia with other states on taxes, demographics, state budget, and other indicators. These publications are popular sources of information for the General Assembly and the public and are frequently referenced in the media.

JLARC Reports

Joint Legislative Audit and Review Commission (JLARC) research is directed by resolution of the General Assembly or by the Commission. JLARC's full-time staff conduct research; develop recommendations for improving operations, services, and programs; and report their findings and recommendations in a public briefing before the Commission. Reports are available in print and on the JLARC website, jlarc.virginia.gov.

Forthcoming in 2023

State psychiatric hospitals

GO Virginia

2021–2022 reports

CSB Behavioral Health Services

The Costs of Virginia's Dual Enrollment Program

Defined Benefit 529 Surplus Fund

Pandemic Impact on K-12 Education

Higher Education Financial Aid Grant Programs and Awards

Oversight and Administration of Gaming in the Commonwealth

Options to Make Virginia's Individual Income Tax More Progressive

Science and Technology Incentives

Affordable Housing in Virginia

Virginia's Juvenile Justice System

Operations and Performance of the Virginia Employment Commission

Transportation Infrastructure and Funding

Improving Virginia's Adult Guardian and Conservator System

Review of VITA's Organizational Structure and Staffing

Trade and Transportation Incentives

Periodic updates

Virginia Compared with the Other States (annual)

State spending (annual)

State spending on the K–12 Standards of Quality (annual)

Oversight: Virginia Retirement System (semi-annual)

Oversight: Virginia529 (biennial)

Oversight: Virginia Information Technologies Agency (periodic)

Oversight: Cardinal (periodic)

Economic Development Incentives



JLARC.VIRGINIA.GOV

919 East Main Street, Suite 2101
Richmond, VA 23219