This summary provides information about mental health legislation addressed at the 2021 General Assembly session. NAMI Virginia's Advocacy Page has an abundance of information to assist you in your advocacy efforts. One item included on NAMI Virginia's Advocacy Page is a listing of legislative terms and definitions. Check out the legislative terms and definitions page to learn the meaning of terms you may not be familiar with that are used in this report.

Mental Health Legislation (budget items)

The 2021 General Assembly session convened at noon on January 13, 2021 and adjourned on February 11, 2021. The 2021 Special Session convened at 11:00 a.m. on February 10, 2021 and adjourned sine die on March 1, 2021. During the Special Session, each house considered legislation and amendments from the other house, except the Budget Bill. Committees responsible for the Budget Bill completed the Budget Bill of their house. Below is a summation of 2021 budget items and mental health legislation:

- $3.8 million was restored in fiscal year 2022 to fully fund pilot projects to address census pressures on state psychiatric hospitals. This amendment provides monies from the general fund each year to fully restore funding for alternative inpatient options to state behavioral health hospital care through the establishment of two-year pilot projects to reduce census pressures on state hospitals. A total of $7.5 million each year was approved in the 2020 Session, but the funding was un-allotted or removed due to the revenue impact from the Coronavirus Pandemic. Half the funding was approved in the Special Session in Chapter 56 and this amendment restores the remaining amount. Out of this appropriation, $3,750,000 the first year and $3,750,000 the second year from the general fund is provided for the Department of Behavioral Health and Developmental Services (DBHDS) to pursue alternative inpatient options to state behavioral health hospital care through the establishment of two-year pilot projects that will reduce census pressures on state hospitals. Proposals shall be evaluated on several factors including the expected impact on state hospital bed use, including the impact on the extraordinary barrier list.¹ The extraordinary barriers list is a list one is placed on when one is clinically ready for discharge but there are extraordinary barriers to discharge due to a lack of capacity, resources and services in the community. This lack of capacity, services, and resources in the community leads to one being hospitalized indefinitely. A lack of community-based supportive housing is often cited as a barrier to discharge.

- $1.6 million is provided in fiscal year 2022 to address the severe shortage of behavioral health practitioners in the Commonwealth. These funds will support a program that allows behavioral health providers to receive an educational loan repayment incentive from the Commonwealth of up to 25% of student loan debt for each year of behavioral health service they provide in underserved communities. Maximum loan repayment amounts per year are dependent upon

the type of behavioral health professional applying and shall not exceed the total student loan debt. Participating practitioners will have an initial two-year minimum participation obligation and may renew for a third and fourth year. The program would allow for a variety of behavioral health practitioners to receive a student loan repayment award from the Commonwealth in exchange for providing service to underserved Virginia communities. The application to apply for this program can be accessed through the Virginia Department of Health (VDH) at https://www.vdh.virginia.gov/health-equity/virginia-loan-repayment-programs-2/

- $765,428 was restored in fiscal year 2022 from the general fund to provide critical clinical staffing at the Commonwealth Center for Children and Adolescents. These funds were included in the budget passed in March during the 2020 Session, but subsequently un-allotted or removed in April 2020 due to the COVID-19 pandemic. The Commonwealth Center for Children & Adolescents (CCCA) is located in Staunton Virginia and operated by DBHDS. CCCA has 48-beds and provides acute mental health care for youth under the age of 18 years.

- $4.4 million was restored in fiscal year 2022 from general funds to increase the Auxiliary Grant (AG) rate, a state supplement that provides maintenance and care to aged, blind, and disabled adults residing in assisted living facilities (ALF), adult foster care homes, or supportive housing settings, by 10 percent, or $142, on July 1, 2021. This $4.4 million will follow the individual and not stay with the facility which supports one’s choice of least restrictive environment.

- $30.2 million remains budgeted from the general fund for fiscal year 2022 to support System Transformation, Performance and Excellence in Virginia, or STEP-VA, to address Accountability, Access, Quality, and Consistency across all Community Services Boards (CSBs) and to enable CSBs statewide to deliver, at a minimum, nine standard services plus care coordination. The funding includes $6.8 million for mobile crisis services and $4.7 million for crisis dispatch that will assist in the implementation of House Bill 5043 / Senate Bill 5038 (Marcus Alert), that creates a mental health awareness response system. These funds were included in the budget passed in March 2020, but subsequently un-allotted or removed in April 2020 due to the COVID-19 pandemic and eliminated in the introduced budget for the 2020 Special Session.² NAMI Virginia has supported funding for STEP-VA since its inception. STEP-VA goals support excellence in Virginia’s behavioral healthcare system. STEP-VA focuses on health and wellness by integrating behavioral health and primary care and strategically investing in community services and supports.

- $20 million in fiscal year 2021 and $34 million in fiscal year 2022 remains budgeted for permanent supportive housing. The need for Permanent Supportive Housing (PSH) in Virginia has been a longtime concern of NAMI Virginia. Although a total of $54 million is budgeted for PSH in FY21 through FY22, there is still a great need for additional PSH units to meet the needs of Virginians. The statewide target for PSH is 5000 units. Per the 2016 needs assessment on PSH for Virginians with serious mental illness (SMI) and current, March 2021, PSH annual costs of $13,500 per unit, Virginia remains short 2482 PSH units at an additional cost of $33.5 million annually. If the per unit costs of $13,500 remains steady, with Virginia’s target goal of 5000 units, the annual costs to fund 5000 PSH units at $13,500 each is $67.5 million annually. The Virginia approved budget amounts of $20 million for FY21 and $34 million for FY22 fall short by more than fifty-percent of the total amount needed to meet PSH needs in Virginia.

PSH continues to remain a top priority for NAMI Virginia. Permanent Supportive Housing (PSH) is an evidence-based practice that meets the housing preferences of many individuals with serious mental illness (SMI) and demonstrates positive outcomes such as reduced hospitalizations and homelessness, increased housing stability, and improved behavioral and physical health. Data from the Virginia Department of Behavioral Health and Development Services’ PSH program demonstrates positive results in all of these areas. In November 2018, Governor Northam issued Executive Order 25, recognizing Virginia’s unmet housing needs and highlighting the need for PSH as a top priority. At the request of the Deeds Commission, DBHDS assessed the need for PSH for adults with serious mental illness who

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² Virginia General Assembly, State Budget (2021) at https://budget.lis.virginia.gov/amendment/2020/2/HB5005/introduced/CR/482.20/17c/
need PSH to address extreme crises such as long-term homelessness, institutionalization, and frequent use of emergency services and criminal justice interventions. DBHDS's assessment established a need for 5,000 PSH units.

- $80,000 is allotted for fiscal year 2021 and $691,692 for fiscal year 2022 to fund additional administrative costs for the new Marcus Alert Mobile Crisis System which passed during the 2020 Special Session. NAMI Virginia supported Marcus Alert legislation during the 2020 Special Session. Marcus Alert is the ‘Mental Health Awareness Response and Community Understanding Services’ alert system. Marcus Alert is a comprehensive crisis system that includes a community care team comprised of mental health service providers to help stabilize individuals in crisis situations.

**Mental Health Legislation (bills)**

A number of bills passed the 2021 General Assembly session and have been sent to the Governor for signature. A few noteworthy bills include:

- HB2263 and SB1165: This legislation abolishes the death penalty. The bill(s) provide that no person may be sentenced to death or put to death on or after July 1, 2021 for any violation of law. This bill provides that an offender convicted of a Class 1 felony who was 18 years of age or older at the time of the offense must be sentenced to imprisonment for life and would be ineligible for parole, good conduct allowance, earned-sentence credits, or conditional release. Any person who was 18 years of age or older at the time of the offense, who received a sentence of death before July 1, 2021, and who has not been executed by that date, would have his sentence changed to life imprisonment and would be ineligible for parole, good conduct allowance, sentence credits, or conditional release.

- SB1302: This legislation establishes the 988 Crisis Call Center Fund to be consist with federal guidelines. The crisis call center is to be administered by the Department of Behavioral Health and Developmental Services (DBHDS), to serve as a designated 9-8-8 Crisis Hotline Center for suicide prevention and mental health crisis. DBHDS, in its development of the crisis call center, community care teams, and mobile crisis teams, must comply with applicable requirements of the National Suicide Hotline Designation Act of 2020. Operation of the crisis call center will be funded through a $0.12 surcharge on postpaid wireless charges and a $0.08 surcharge on prepaid wireless charges to be collected by the Department of Taxation and distributed to the Crisis Call Center Fund. This legislation also increases the wireless E-911 surcharge from $0.75 to $0.82 and the prepaid wireless E-911 charge from $0.50 to $0.55, the prepaid wireless E-911 charge, with the increased revenue to be distributed to public safety answering points (PSAPs). Public safety answering point" or "PSAP" means communications operated by or on behalf of a governmental entity that is equipped and staffed on a 24-hour basis to receive and process telephone calls for emergency assistance.³

- HB2047 and SB1315: This legislation allows for the consideration of mental condition and intellectual and developmental disabilities at criminal proceedings. Evidence of a defendant's mental condition will be admissible in any criminal case. Evidence is permitted on the defendant's mental condition at the time of the alleged offense. This legislation requires that evidence offered by the defendant to establish an underlying mental condition must show that one's condition existed at the time of the offense and that the condition satisfies the diagnostic criteria for a mental illness, developmental disability or intellectual disability or autism spectrum disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

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³ Virginia General Assembly LIS (2021) at https://law.lis.virginia.gov/vacode/56-484.19/
• HB1874: Requires that individuals committed to local correctional facilities be referred to a behavioral health service provider for a behavioral health assessment when a behavioral health screening indicates reason to believe the person may have mental illness. This legislation also provides that requirements related to behavioral health screenings and assessments must include a requirement that in cases in which there is reason to believe an individual is experiencing acute mental health distress or is at risk for suicide, staff of the correctional facility must consult with the behavioral health service provider to implement immediate interventions, must provide ongoing monitoring to ensure the safety of the individual, and the behavioral health assessment must be completed within 72 hours of completion of the behavioral health screening. This legislation also requires that the State Board of Local and Regional Jails review the behavioral health screening and assessment process for individuals committed to local correctional facilities to identify barriers to ensuring that all behavioral health assessments are completed within 72 hours of completion of the behavioral health screening and develop recommendations for addressing identified barriers. The Board must report its findings and recommendations to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Committees on Health, Welfare and Institutions and Public Safety and the Senate Committee on Rehabilitation and Social Services by October 1, 2021.4

• HB1808: Adds reports of serious incidents, injuries, and illnesses to be reported to the Department of Behavioral Health and Developmental Services by providers of children’s residential services licensed by the Department and reports of allegations of abuse or neglect of an individual receiving services in programs operated or licensed by the Department to the list of reports the Commissioner of DBHDS must provide. SB1154 also includes the same reports within limitations to children.

• HB1848: Adds discrimination on the basis of disability as an unlawful employment practice under the Virginia Human Rights Act. Requires employers make reasonable accommodation to the known physical and mental impairments of an otherwise qualified person with a disability unless the employer can demonstrate that the accommodation would impose an undue hardship on the employer.

• HB2007: Requires every health carrier, pharmacy benefits manager, wholesale drug distributor, and drug manufacturer to report information about prescription drug prices to the Department of Health and requires the Department to make such information available on its website.

• HB2008 and SB169: Requires that any provider contract between a carrier and a participating health care provider with prescriptive authority, or its contracting agent, contain provisions that require, when a carrier has previously approved prior authorization for any drug prescribed for the treatment of a mental disorder listed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, no additional prior authorization can be required if the drug is a covered benefit; the prescription does not exceed the U.S. Food and Drug Administration-labeled dosages; the prescription has been continuously issued for no fewer than three months, and the prescriber performs an annual review of the patient to evaluate the drug's continued efficacy, changes in the patient’s health status, and potential contradictions.

• HB2162: Requires every medical care facility, as defined in the bill, to allow a person with a disability who requires assistance as a result of such disability to be accompanied by a designated support person who will provide the support and assistance necessary based on the specifics of the person’s disability during an admission to a medical care facility. This legislation defines “person with a disability” as a person who, prior to admission to a medical care facility, had a physical, sensory, mental, or emotional impairment that substantially limits one or more activities of daily living or has a record of such impairment. The legislation defines a "Designated support person" as a person 18 years of age or older; knowledgeable about the needs of a person with a disability; and designated, orally or in writing, by the

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4 Virginia General Assembly Special Session (2021) at https://lis.virginia.gov/cgi-bin/legp604.exe?212+oth+HB1874FER122+PDF
person with a disability or his guardian, authorized representative, or care provider, to provide support and assistance necessary due to the specifics of the person’s disability at any time during which health care services are provided.

- **HB2166**: Amends provisions governing involuntary inpatient and mandatory outpatient treatment (MOT) to revise criteria for entry of a mandatory outpatient treatment order to become effective upon expiration of an order for involuntary inpatient treatment. This legislation eliminates the requirement that a person agree to abide by an MOT plan to be eligible for MOT and instead require that the judge or special justice find that the person is able to adhere to a MOT plan. This bill eliminates the role of a treating physician in determining when a person is eligible to transition from inpatient to MOT and increase the length of an MOT order from 90 to 180 days. This legislation revises requirements for monitoring of a person's adherence to a MOT plan by a community services board; expands the category of persons who may file petitions for various reviews of a MOT order or plan; and, adds a provision for status hearings during the period of MOT.

- **SB1273**: Creates the Behavioral Health Commission in the legislative branch of state government for the purpose of studying and making recommendations for the improvement of behavioral health services and the behavioral health service system in the Commonwealth to encourage the adoption of policies to increase the quality and availability of a continuum of high-quality, effective, and efficient behavioral health services for all persons in the Commonwealth. The Commission will provide ongoing oversight of behavioral health services and the behavioral health service system in the Commonwealth, including monitoring and evaluation of established programs, services, delivery and payment structures and implementation of new services and initiatives and develop recommendations for improving such programs, services, structures, and implementation.  

Legislation that NAMI Virginia supported that did not pass in the 2021 General Assembly Session:

- **SB1427**: At the end of the 2021 session, this bill was left in Appropriations. SB1427 establishes the Coordinated Specialty Care Program Advisory Board for the purpose of assisting the Department of Behavioral Health and Developmental Services (DBHDS) in expanding the provision of high-quality, evidence-based early psychosis and mood disorder detection and intervention services. SB1427 does have a fiscal impact. DBHDS estimates that the cost of the board will be similar to the cost of the DBHDS State Board (“the Board”), which is approximately $18,000 per year for nine board members. This would include both a per diem and the costs of transportation, lodging, and other associated costs. In addition, the substitute legislation requires that DBHDS provide staffing for the advisory board. Assuming that the activities and requirements for staffing are similar to that of the Board, DBHDS estimates they will need approximately $50,000 per year for 0.5 positions. This staff would be responsible for coordinating meetings, tracking documents and minutes, developing agendas and policy documents, conducting meetings, and coordinating recruitment of individuals for appointments. Depending on the number of meeting each year, the actual amount of staff resources required will vary.

- **HB1951**: Abolishes the common-law crime of suicide. Suicide is currently a common-law crime in Virginia, although there is no statutorily prescribed punishment. HB1951 passed in the House of Delegates with a vote of 66 yeas’ and 34 nays’. Unfortunately, on 02/17/21, the bill was defeated in the Senate Judiciary Committee with a vote of 5 yeas’ and 10 nays’. 

NAMI Virginia will continue to work on legislation that supports early psychosis identification and intervention and the abolishment of suicide as a common law crime.

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5 Virginia General Assembly (2020) at https://virginiageneralassembly.gov/
NAMI Virginia Action Alerts:

NAMI Virginia sent weekly Action Alerts (Calls to Action) to Advocates during the 2021 General Assembly and Special Sessions. An average of 275.2 advocates acted on NAMI Virginia’s weekly calls to action. The advocacy efforts of these 275 advocates clearly shows in the 2021 legislative successes achieved! Advocates actions influence the legislative process and public policy. Advocates build public awareness, change perceptions, and tell their stories to convince policymakers of the need for change. Advocacy is an important component of NAMI Virginia. NAMI Virginia sends a great BIG thank you to all advocates who took part in 2021 legislative advocacy efforts. Together, we make a difference!

Advocates in Action

Due to the Coronavirus, before the 2021 General Assembly session convened, decisions were made on how and where legislators would meet. The Virginia House of Delegates met using videoconference. The Virginia Senate met in person in a large room at the Virginia Science Museum where they adhered to strict social distancing requirements. Advocacy during the 2021 session looked different than in previous years. Advocates registered in advance to provide live testimony during sessions via videoconferencing. Signing up in advance provided one with a good chance of being called upon to speak however, did not guarantee one would be given the opportunity to speak. The General Assembly did permit the use of the ‘raise hand’ feature in Zoom when committees took up bills that advocates wanted to speak to. Advocates also communicated with legislators via written testimony sent using email or post office mail. NAMI Virginia encouraged advocates submit written comments as-well-as live testimony.

NAMI Virginia Public Affairs Committee

NAMI Virginia Public Affairs Committee members care deeply about mental health advocacy, funding, and services in Virginia. The Public Affairs Committee: 1) makes recommendations on NAMI Virginia’s policy position on legislative or budget issues that will best further our mission; 2) Monitors and assesses public affairs activities in accordance with the mission and strategic goals of NAMI Virginia; 3) Evaluates and make recommendations on community partnerships, public relations and media relations; and 4) Evaluates and make recommendations, in consultation with the Executive Committee, on NAMI Virginia’s position on noteworthy matters of immediate concern to its membership and mission.

2021 NAMI Virginia Public Affairs Committee Members:

Beth Tolley, Chair
Julia Torres Barden
Rob Krupicka
Kim Curtis
Lesley Harrop
Carolyn Wood
Paige Long
Sonja Brown
Lynda Hyatt

Other Issues of Importance

NAMI Virginia has long advocated for Alternative Transportation programs. On March 18, 2021, the Department of Behavioral Health and Developmental Services (DBHDS) announced that alternative transportation is now available statewide for children
and adults under a temporary detention order (TDO) experiencing a mental health crisis. To learn more, see the press release HERE.

**Advocacy Survey:**
Between September 1, 2021 and October 30, 2021, NAMI Virginia will mass distribute an Advocacy Survey to our membership. The results of this survey will help NAMI Virginia identify the advocacy interests of our members to represent their viewpoints in our public policy efforts. The survey will address short and long term mental health needs, housing, access to care, psychiatric beds, and more. Please keep an eye on your inbox and respond to the survey. The results of the survey play an invaluable role in identifying NAMI Virginia’s 2022 legislative priorities!