

2026 SESSION

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HOUSE JOINT RESOLUTION NO. 39

Offered January 14, 2026

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Requesting the Secretary of Public Safety and Homeland Security, in collaboration with the Secretary of Health and Human Resources, to study the financial and operational challenges faced by law-enforcement offices in the Commonwealth as a result of an increased number of emergency custody orders and temporary detention orders executed. Report.

Patron—Phillips

Committee Referral Pending

WHEREAS, law-enforcement officers are often the first responders to situations in which individuals are experiencing a mental health crisis or are otherwise deemed incapable or unwilling to care for themselves, and are a possible danger to themselves or others, and such officers are required by law to execute and retain custody of any individual subject to an emergency custody order or temporary detention order until such time allotted for the execution of the order has expired, or until a psychiatric facility is located that has the space and capability to assume custody of such an individual, unless such custody can be transferred to an approved alternative transportation provider; and

WHEREAS, an emergency custody order must be executed within eight hours, and a temporary detention order must be secured if it is determined that the individual under the emergency custody order needs additional time for evaluation or treatment, and the majority of temporary detention orders expire at 72 hours unless additional time for evaluation or treatment prior to a hearing is granted or the order expires on a weekend, holiday, or other day when the court is lawfully closed; and

WHEREAS, law-enforcement agencies report that their officers often retain custody for the full eight hours or 72 hours for temporary detention orders due to the lack of availability of staff to conduct a mental health evaluation or due to the designated psychiatric facility not having a bed available for such individual, and in such cases where an individual is waiting for admittance to a psychiatric facility, such law-enforcement officer maintaining custody of the individual must transport them to a hospital and wait until such time as a bed is available in the Commonwealth for the individual; and

WHEREAS, in 2014, the General Assembly passed legislation commonly referred to as the "bed of last resort" law, which requires state hospitals to provide a bed for individuals subject to an emergency custody order or temporary detention order when any such individual has been determined to need hospitalization or treatment and a bed in a private facility is not yet available, and this may require law-enforcement officers to travel a great distance to transfer custody of the individual to the facility with the first available bed regardless of how great the distance is from the locality where such law-enforcement officer is employed; and

WHEREAS, the 2022 general appropriation act directed the Secretary of Public Safety and Homeland Security and the Secretary of Health and Human Resources to study options to increase the use of alternative custody arrangements for individuals who are subject to an emergency custody or temporary detention order and mitigate the burden the requirement for law-enforcement custody places on local law-enforcement officers and local law-enforcement agencies, and such report included recommendations to potentially alleviate some of this strain; and

WHEREAS, law-enforcement agencies designated to execute emergency custody orders and temporary detention orders, especially those without additional personnel authorized and available to assume custody of individuals as alternative transport providers, continue to report that their offices are experiencing strain due to the legal requirements for the execution of such orders, and additional evaluation of these burdens is necessary to ensure that law-enforcement agencies across the Commonwealth can function optimally in order to provide necessary resources to and maintain the safety of the public; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Secretary of Public Safety and Homeland Security, in collaboration with the Secretary of Health and Human Resources, be requested to study the financial and operational challenges faced by law-enforcement offices in the Commonwealth as a result of an increased number of emergency custody orders and temporary detention orders executed.

In conducting this study, the Secretary of Public Safety and Homeland Security, in collaboration with the Secretary of Health and Human Resources, shall obtain and analyze available data from each law-enforcement office designated in each locality within the Commonwealth to execute emergency custody orders and temporary detention orders and (i) determine the overall percentage increase in executed emergency custody orders and temporary detention orders since the passage of legislation referred to as the "bed of last resort" law by the General Assembly in 2014; (ii) evaluate occurrences where a law-enforcement officer specified to execute an emergency custody order or temporary detention order was required to travel

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59 outside of his jurisdiction to a facility due to a lack of available staff to conduct an emergency medical
60 evaluation or unavailability of beds at the facility specified in the order, and in those instances (a) determine
61 the total distance traveled to locate a facility with the availability to accept custody of such individual under
62 the emergency custody order or temporary detention order and (b) determine the total hours law enforcement
63 spent maintaining custody of such individual while executing such emergency custody order or temporary
64 detention order; (iii) evaluate the financial impacts on each law-enforcement office designated to execute
65 emergency custody orders and temporary detention orders, to include any overtime pay to officers for hours
66 spent executing such an order beyond their scheduled shifts or regular hours of employment and hours spent
67 coordinating with other parties involved in the evaluation or treatment of individuals who are the subject of
68 such emergency custody order or temporary detention order, additional fuel costs in instances where an
69 individual must be transported outside of the locality or region if a designated facility does not have available
70 staff or beds to accept custody of such an individual, and any other financial impacts; (iv) evaluate impacts of
71 increased numbers or increased time spent on emergency custody orders and temporary detention orders on
72 the daily operations of law-enforcement offices designated to execute such orders, to include impacts such as
73 (a) the reduction in number of available officers capable of handling regular duties or responding to
74 emergency calls and (b) the additional time-sensitive responsibilities associated with executing such orders,
75 such as coordination with magistrates, mental health evaluators or community service board employees,
76 health care providers, family members, or other law-enforcement agencies designated to assume custody and
77 execute transport of such an individual subject to such emergency custody order or temporary detention
78 order; (v) determine if any recommendations to reduce time and resources spent by law-enforcement officers
79 in the execution of emergency custody orders or temporary detention orders have been implemented as
80 suggested in the 2022 Report on the Study to Increase the Use of Alternative Custody Arrangements, and if
81 so, the impact of such implemented recommendations on the finances and operations of law-enforcement
82 offices; (vi) analyze any differences between the procedures and timelines for the execution of emergency
83 custody orders or temporary detention orders for adults and for the execution of such orders for juveniles to
84 identify specific operational burdens on law enforcement when executing such orders; (vii) consider the
85 impacts of (a) mandating an evaluation to begin within four hours of a law-enforcement officer assuming
86 custody in emergency custody order cases where the subject of such order is a juvenile and (b) mandating
87 hearings by a judge to take place within 72 hours of the execution of an emergency custody order where the
88 subject of such order is a juvenile; (viii) consider the impacts of expanding the use of triage centers or mobile
89 crisis teams to permit law-enforcement officers who have executed an emergency custody order or temporary
90 detention order to transfer custody of a juvenile who is the subject of such order to such triage center or
91 mobile crisis team when a bed in a facility is not yet available or a judicial hearing is pending; and (ix)
92 provide any additional recommendations to reduce financial or operational strain on law-enforcement offices
93 designated to execute emergency custody orders or temporary detention orders in the Commonwealth.
94

95 Technical assistance shall be provided to the Secretary of Public Safety and Homeland Security and the
96 Secretary of Health and Human Resources by the Department of Criminal Justice Services and the
97 Department of Behavioral Health and Developmental Disabilities. All agencies of the Commonwealth shall
98 provide assistance to the Secretary of Public Safety and Homeland Security and the Secretary of Health and
99 Human Resources for this study, upon request.

100 The Secretary of Public Safety and Homeland Security, in collaboration with the Secretary of Health and
101 Human Resources, shall complete his meetings by November 30, 2026, and shall submit to the Governor and
102 the General Assembly an executive summary and a report of his findings and recommendations for
103 publication as a House or Senate document. The executive summary and report shall be submitted as
104 provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative
105 documents and reports no later than the first day of the 2027 Regular Session of the General Assembly and
shall be posted on the General Assembly's website.