

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BILIRAKIS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

DISTRICT OF COLUMBIA MENTAL HEALTH CIVIL COMMITMENT MODERNIZATION ACT OF 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4302) to amend title 21, District of Columbia Official Code, to enact the provisions of the Mental Health Civil Commitment Act of 2002 which affect the Commission on Mental Health and require action by Congress in order to take effect, as amended.

The Clerk read as follows:

H.R. 4302

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Mental Health Civil Commitment Modernization Act of 2004".

SEC. 2. COMPOSITION, APPOINTMENT, AND ORGANIZATION OF COMMISSION ON MENTAL HEALTH.

(a) IN GENERAL.—Section 21-502, District of Columbia Official Code, is amended to read as follows:

"§ 21-502. Commission on Mental Health; composition; appointment and terms of members; organization; chairperson; salaries

"(a) The Commission on Mental Health is continued. The Chief Judge of the Superior Court of the District of Columbia shall appoint the members of the Commission, and the Commission shall be composed of 9 members and an alternate chairperson. One member shall be a magistrate judge of the Court appointed pursuant to title 11, District of Columbia Official Code, who shall be a member of the bar of the Court and has engaged in active practice of law in the District of Columbia for a period of at least 5 years prior to his or her appointment. The magistrate judge shall be the Chairperson of the Commission and act as the administrative head of the Commission. The Chairperson shall preside at all hearings and direct all of the proceedings before the Commission. Eight members of the Commission shall be psychiatrists or qualified psychologists, as those terms are defined in section 21-501, who have not had less than 5 years of experience in the diagnosis and treatment of mental illness.

"(b)(1) Appointment of members of the Commission shall be for terms of 4 years.

"(2) The initial appointment of a psychiatrist or a qualified psychologist shall be for a probationary period of one year. After the initial one-year probationary appointment, subsequent appointments of the psychiatrist or qualified psychologist shall be for terms of 4 years.

"(c) The psychiatrist or qualified psychologist members of the Commission shall serve on a part-time basis and shall be rotated by assignment of the Chief Judge of the Court, so that at any one time the Commission

shall consist of the Chairperson and 2 members, each of whom is either a psychiatrist or a qualified psychologist. Members of the Commission who are psychiatrists or qualified psychologists may practice their professions during their tenures of office, but may not participate in the disposition of a case of a person in which they have rendered professional service or advice.

"(d) The Chief Judge of the Court shall appoint a magistrate judge of the Court to serve as an alternate Chairperson of the Commission. The alternate Chairperson shall serve on a part time basis and act as Chairperson in the absence of the permanent Chairperson.

"(e) The rate of compensation for the members of the Commission who are psychiatrists or qualified psychologists shall be fixed by the Executive Officer of the Court."

(b) CLERICAL AMENDMENT.—The item relating to section 21-502 in the table of sections for subchapter I of chapter 5 of title 21, District of Columbia Official Code, is amended to read as follows:

"21-502. Commission on Mental Health; composition; appointment and terms of members; organization; chairperson; salaries."

(c) EFFECTIVE DATE; TRANSITION FOR CURRENT MEMBERS.—The amendments made by this section shall take effect on the date of the enactment of this Act, except nothing in this section or the amendments made by this section may be construed to affect the appointment or term of service of any individual who serves as a member or alternate member of the Commission on Mental Health (including an individual who serves as the Chairperson or alternate Chairperson of the Commission) on such date.

SEC. 3. COMMISSION MEMBERS DEEMED COMPETENT AND COMPELLABLE WITNESSES AT MENTAL HEALTH PROCEEDINGS.

Section 21-503(b), District of Columbia Official Code, is amended by striking "The Commission, or any of the members thereof," and inserting "Commission members who are psychiatrists or qualified psychologists".

SEC. 4. DETENTION FOR EMERGENCY OBSERVATION AND DIAGNOSIS.

Section 21-526, District of Columbia Official Code, is amended by adding at the end the following new subsections:

"(c) The maximum period of time for detention for emergency observation and diagnosis may be extended for up to 21 days, if judicial proceedings under subchapter IV of this chapter have been commenced before the expiration of the order entered under section 21-524 and a psychiatrist or qualified psychologist has examined the person who is the subject of the judicial proceedings and is of the opinion that the person being detained remains mentally ill and is likely to injure himself or others as a result of the illness unless the emergency detention is continued. For good cause shown, the Court may extend the period of detention for emergency observation and diagnosis. The period of detention for emergency observation and diagnosis may be extended pursuant to section 21-543(b) or following a hearing before the Commission pursuant to subsections (d) and (e) of this section.

"(d) If the Commission, at the conclusion of its hearing pursuant to section 21-542, has found that the person with respect to whom the hearing was held is mentally ill and, because of the mental illness, is likely to injure himself or others if not committed, and has concluded that a recommendation of inpatient commitment is the least restrictive alternative available to prevent the person from injuring himself or others, the deten-

tion for emergency observation and diagnosis may be continued by the Department or hospital—

"(1) pending the conclusion of judicial proceedings under subchapter IV of this chapter;

"(2) until the Court enters an order discharging the person; or

"(3) until the Department or hospital determines that continued hospitalization is no longer the least restrictive form of treatment appropriate for the person being detained.

"(e) If the Commission, at the conclusion of its hearing, finds that the person is mentally ill, is likely to injure himself or other persons as a result of mental illness if not committed, and that outpatient treatment is the least restrictive form of commitment appropriate, then, within 14 days of the date of the hearing, the person shall be discharged from inpatient status and shall receive outpatient mental health services or mental health supports as an emergency nonvoluntary patient consistent with this subchapter, pending the conclusion of judicial proceedings under subchapter IV of this chapter."

SEC. 5. REPRESENTATION BY COUNSEL OF PERSONS ALLEGED TO BE MENTALLY ILL.

Section 21-543, District of Columbia Official Code, is amended—

(1) in subsection (a) (as redesignated by section 2(r)(1) of the Mental Health Civil Commitment Act of 2002), by striking the last sentence; and

(2) by adding at the end the following new subsection:

"(b) The Commission may not grant a continuance for counsel to prepare his case for more than 5 days. The Commission may grant continuances for good cause shown for periods of up to 14 days. If the Commission grants a continuance, the emergency observation and detention of the person about whom the hearing is being held shall be extended for the duration of the continuance."

SEC. 6. HEARING AND DETERMINATION ON QUESTION OF MENTAL ILLNESS.

(a) IN GENERAL.—Section 21-545, District of Columbia Official Code, is amended—

(1) in subsection (a), by striking "jury trial" each place it appears and inserting "jury trial or a trial by the Court";

(2) by amending subsection (b) to read as follows:

"(b)(1) If the Court or jury finds that the person is not mentally ill or is not likely to injure himself or others as a result of mental illness, the Court shall dismiss the petition and order the person's release.

"(2) If the Court or jury finds that the person is mentally ill and, because of that mental illness, is likely to injure himself or others if not committed, the Court may order the person's commitment to the Department or to any other facility, hospital, or mental health provider that the Court believes is the least restrictive alternative consistent with the best interests of the person and the public. An order of commitment issued pursuant to this paragraph shall be for a period of one year."; and

(3) by adding at the end the following new subsections:

"(c) The psychiatrists and qualified psychologists who are members of the Commission shall be competent and compellable witnesses at a hearing or trial held pursuant to this chapter.

"(d) The jury to be used in any case where a jury trial is demanded under this chapter shall be impaneled, upon order of the Court, from the jurors in attendance upon other branches of the Court, who shall perform the services in addition to and as part of their duties in the Court."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect

to trials under section 21-545, District of Columbia Code, which are initiated on or after the date of the enactment of this Act.

SEC. 7. RENEWAL OF COMMITMENT STATUS BY COMMISSION.

(a) IN GENERAL.—Subchapter IV of chapter 5 of title 21, District of Columbia Official Code, is amended by inserting after section 21-545 the following new section:

“§ 21-545.01. Renewal of commitment status by commission; review by Court

“(a) At least 60 days prior to the expiration of an order of commitment issued pursuant to section 21-545 or this section, the chief clinical officer of the Department, or the chief of service of the facility, hospital, or mental health provider to which the person is committed may petition the Commission for a renewal of the order of commitment for that person. For good cause shown, a petition of commitment may be filed within the last 60 days of the one-year period of commitment. The petition for renewal of commitment shall be supported by a certificate of a psychiatrist or qualified psychologist stating that he has examined the person and is of the opinion that the person is mentally ill, and, because of the illness, is likely to injure himself or other persons if not committed. The term of the renewed commitment order shall not exceed one year.

“(b) Within 3 days of the filing of a petition under subsection (a) of this section, the Commission shall send a copy of the petition and supporting certificate by registered mail to the person with respect to whom the petition was filed and by regular mail to the person's attorney.

“(c) The Commission shall promptly examine a person for whom a petition is filed under subsection (a) of this section, and, in accordance with the procedures described in sections 21-542 and 21-543, shall thereafter promptly hold a hearing on the issue of the person's mental illness and whether, as a result of a mental illness, the person is likely to injure himself or other persons if not committed.

“(d) If the Commission finds, after a hearing under subsection (c) of this section, that the person with respect to whom the hearing was held is no longer mentally ill, or is not mentally ill to the extent that the person is likely to injure himself or other persons if not committed, the Commission shall immediately order the termination of the commitment and notify the Court of that fact in writing.

“(e) If the Commission finds, after a hearing under subsection (c) of this section, that the person with respect to whom the hearing was held remains mentally ill to the extent that the person is likely to injure himself or others if not committed, the Commission shall order the renewal of the commitment of the person for an additional term not to exceed one year and shall promptly report that fact, in writing, to the Court. The report shall contain the Commission's findings of fact and conclusions of law. A copy of the report shall be served by registered mail on the person with respect to whom the hearing was held and by mail on the person's attorney.

“(f) If a petition for a renewal of an order of commitment is pending at the expiration of the commitment period ordered under section 21-545 or this section, the Court may, for good cause shown, extend the period of commitment pending resolution of the renewal petition.

“(g) Within the last 30 days of the period of commitment, the chief clinical officer of the Department, or the chief of service of the facility, hospital, or mental health provider to which a person is committed, shall notify the Court which ordered the person's com-

mitment pursuant to section 21-545 or this section of the decision not to seek renewal of commitment. Notice to the Court shall be in writing and a copy of the notice shall be mailed to the person who was committed and the person's attorney.

“(h)(1) A person for whom the Commission orders renewed commitment pursuant to subsection (e) of this section may seek a review of the Commission's order by the Superior Court of the District of Columbia, and the Commission, orally and in writing, shall advise the person of this right.

“(2) A review of the Commission's order of renewed commitment, in whole or in part, may be made by a judge of the appropriate division sua sponte and shall be made upon a motion of one of the parties made pursuant to procedures established by rules of the Court. The reviewing judge shall conduct such proceedings as required by the rules of the Court.

“(3) An appeal to the District of Columbia Court of Appeals may be made only after a judge of the Court has reviewed the Commission's order of renewed commitment.”

(b) CLERICAL AMENDMENT.—The table of sections of subchapter IV of chapter 5 of title 21, District of Columbia Official Code, is amended by inserting after the item relating to section 21-545 the following:

“21-545.01. Renewal of commitment status by Commission; review by Court.”

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4302, the District of Columbia Civil Commitment Modernization Act of 2004.

I introduced this legislation, along with the gentlewoman from the District of Columbia (Ms. NORTON), in order to amend the authorities of the D.C. Commission on Mental Health. The Commission is a branch of the D.C. Superior Court that presides over civil commitment hearings and makes recommendations to the court.

Mr. Speaker, this legislation is important because the current mental health care system in the District is outdated, and these improvements are imperative and long overdue. First, H.R. 4302 will limit the duration of civil commitment to one year from indeterminate. The bill includes provisions that will create a streamlined procedure for civil recommitment, permit the commission to determine the least restrictive setting for the patient's care and permit qualified psy-

chologists to join the panel of doctors who preside over commitment hearings. In addition, these changes will enable private hospitals to provide emergency in-patient psychiatric treatment, relieving a significant financial burden from the District of Columbia.

H.R. 4302 is based on the D.C. Mental Health Civil Commitment Act of 2002 which passed the D.C. Council last year. Today's legislation is necessary, because the D.C. Home Rule Act requires congressional approval of measures that affect the D.C. Superior Court.

Mr. Speaker, I urge Members to join with the gentlewoman from the District of Columbia and myself to help the District modernize its mental health care practices and end the era of Federal court cases against the city.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that the gentlewoman from the District of Columbia (Ms. NORTON) manage the time on our side for this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Ms. NORTON. Mr. Speaker, I thank the gentleman from Illinois for yielding me this time to manage the bill, and I especially thank my good friend, the gentleman from Virginia (Mr. DAVIS), the chairman of the Committee on Government Reform, for introducing this bill with me.

Mr. Speaker, I yield myself such time as I may consume.

The District of Columbia Mental Health Civil Commitment Modernization Act would significantly help modernize the way mental health services in the District of Columbia are delivered. Under the Home Rule Charter, these changes require affirmative action by the Congress.

The amendments are intended to reinvigorate the rights of people with mental illness in the District of Columbia and encourage community-based treatment alternatives to costly and restrictive hospital confinement. The amendments are designed to ensure that people with mental illness are treated in the least restrictive setting, consistent with the individual's needs and public safety. The amendments also are designed to promote the use of private or community hospitals by people who are in need of acute psychiatric care, thus reducing the burden on Saint Elizabeth's Hospital.

Mr. Speaker, H.R. 4302 would adopt verbatim the changes to the Commission on Mental Health proposed in the District's law. In passing this bill, the Congress will play an important role in aiding the District to reform its mental health services and to treat its mental health patients with dignity and respect.

Last year, the District government approved sweeping changes to its 40-year old civil commitment statute, commonly referred to as the

"Ervin Act" after its principal author, Sam Ervin. Some provisions required no more than the 30-day congressional review period, while others required affirmative congressional approval. The amendments were intended to reinvigorate the rights of people with mental illness and encourage community-based treatment alternatives to costly and restrictive hospital confinement. The amendments are designed to ensure that people with mental illness are treated in the least restrictive setting consistent with the individual's needs and public safety. The amendments also are designed to promote the use of private or community hospitals by people who are in need of acute psychiatric care, thus reducing the burden on St. Elizabeth's Hospital, and increasing the amount of acute care that can be paid for by Medicaid instead of local tax dollars.

Among its significant improvements, the District's new law sets a limit on the length of commitment and limits how long a person can be confined to a hospital while waiting for a hearing. Specifically, this bill: (1) changes the duration of civil commitment from an indeterminate period to a year period; (2) permits the Commission on Mental Health to determine the least restrictive setting for a patient's care; (3) sets new limits on the postponement of the Commission's hearing; and (4) permits qualified psychologists to join the panel of doctors who preside over hearings on a rotating basis.

H.R. 4302 would adopt verbatim the changes to the Commission on Mental Health proposed in the District's law. In passing this bill, the Congress will play an important role in aiding the District to reform its mental health services and to treat its mental health patients with the dignity and respect.

Mr. Speaker, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I have no other speakers, urge adoption of the bill, and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and pass the bill, H.R. 4302, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL WORKFORCE FLEXIBILITY ACT OF 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 129) to provide for reform relating to Federal employment, and for other purposes, as amended.

The Clerk read as follows:

S. 129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Workforce Flexibility Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

Sec. 101. Recruitment, relocation, and retention bonuses.

Sec. 102. Streamlined critical pay authority.

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

Sec. 201. Agency training.

Sec. 202. Annual leave enhancements.

Sec. 203. Compensatory time off for travel.

TITLE III—PROVISIONS RELATING TO PAY ADMINISTRATION

Sec. 301. Corrections relating to pay administration.

Sec. 302. Technical corrections.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 101. RECRUITMENT, RELOCATION, AND RETENTION BONUSES.

(a) BONUSES.—

(1) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by striking sections 5753 and 5754 and inserting the following:

"§ 5753. Recruitment and relocation bonuses

"(a)(1) This section may be applied to—

"(A) employees covered by the General Schedule pay system established under subchapter III of chapter 53; and

"(B) employees in a category approved by the Office of Personnel Management at the request of the head of an Executive agency.

"(2) A bonus may not be paid under this section to an individual who is appointed to or who holds—

"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

"(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

"(3) In this section, the term 'employee' has the meaning given that term in section 2105, except that such term also includes an employee described in subsection (c) of that section.

"(b) The Office of Personnel Management may authorize the head of an agency to pay a bonus under this section to an individual only if—

"(1) the position to which such individual is appointed (as described in paragraph (2)(A)) or to which such individual moves or must relocate (as described in paragraph (2)(B)) is likely to be difficult to fill in the absence of such a bonus; and

"(2) the individual—

"(A) is newly appointed as an employee of the Federal Government; or

"(B)(i) is currently employed by the Federal Government; and

"(ii)(I) moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

"(II) must relocate to accept a position in a different geographic area.

"(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not longer than 4 years. The Office may, by regulation, prescribe a minimum service period for purposes of this section.

"(2)(A) The agreement shall include—

"(i) the commencement and termination dates of the required service period (or provisions for the determination thereof);

"(ii) the amount of the bonus;

"(iii) the method of payment; and

"(iv) other terms and conditions under which the bonus is payable, subject to the re-

quirements of this section and regulations of the Office.

"(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

"(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

"(ii) the effect of the termination.

"(C) The required service period shall commence upon the commencement of service with the agency or movement to a new position or geographic area, as applicable, unless the service agreement provides for a later commencement date in circumstances and to the extent allowable under regulations of the Office, such as when there is an initial period of formal basic training.

"(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (including a fractional part of a year, as determined under regulations of the Office) in the required service period of the employee involved.

"(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full period of service required by the agreement, or in a combination of these forms of payment.

"(3) A bonus under this section is not part of the basic pay of an employee for any purpose.

"(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.

"(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the maximum bonus allowable shall—

"(1) be equal to the maximum that would be determined if subsection (d)(1) were applied by substituting '50' for '25'; but

"(2) in no event exceed 100 percent of the annual rate of basic pay of the employee at the beginning of the service period.

Nothing in this subsection shall be considered to permit the waiver of any requirement under subsection (c).

"(f) The Office shall require that an agency establish a plan for the payment of recruitment bonuses before paying any such bonuses, and a plan for the payment of relocation bonuses before paying any such bonuses, subject to regulations prescribed by the Office.

"(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a bonus under this section in appropriate circumstances when the agreed-upon service period has not been completed.

"§ 5754. Retention bonuses

"(a)(1) This section may be applied to—

"(A) employees covered by the General Schedule pay system established under subchapter III of chapter 53; and

"(B) employees in a category approved by the Office of Personnel Management at the request of the head of an Executive agency.

"(2) A bonus may not be paid under this section to an individual who is appointed to or who holds—

"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

"(C) a position which has been excepted from the competitive service by reason of its