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HOUSE BILL NO. 323

Offered January 14, 2004

Prefiled January 12, 2004

A BILL to amend and reenact §§ 37.1-70.4 and 37.1-70.5 of the Code of Virginia, relating to instruments used to assess sexually violent offenders.

Patron—Griffith

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:**1. That §§ 37.1-70.4 and 37.1-70.5 of the Code of Virginia are amended and reenacted as follows:**

§ 37.1-70.4. Treatment plans; database of prisoners convicted of sexually violent offenses; maintained by Department of Corrections; notice of pending release to CRC.

A. The Director shall establish and maintain a treatment program for prisoners convicted pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 and committed to the custody of the Department of Corrections. Such program shall include a clinical assessment of all such prisoners upon receipt into the custody of the Department of Corrections and the development of appropriate treatment plans if indicated. This program shall be operated under the direction of a licensed clinical psychiatrist or licensed clinical psychologist who is experienced in the diagnosis and treatment of mental abnormalities and disorders associated with criminal sexual offenders.

B. The Director of the Department of Corrections shall establish and maintain a database of prisoners in his custody who are incarcerated for sexually violent offenses. The database shall include the following information regarding each prisoner: (i) the prisoner's criminal record, (ii) the prisoner's sentences and scheduled date of release, and (iii) the appropriate locality for a commitment petition.

C. Each month, the Director shall review the database of prisoners incarcerated for sexually violent offenses and identify all such prisoners who are scheduled for release from prison within 10 months from the date of such review who receive a score of four or more on the Rapid Risk Assessment for Sexual Offender Recidivism or a like score on a comparable, scientifically validated instrument as designated by the Commissioner rating of high propensity for recidivism on a nationally recognized, scientifically validated sex offender recidivism instrument. Upon the identification of such prisoners, the Director shall forward their name, their scheduled date of release, and a copy of their file to the CRC for assessment.

§ 37.1-70.5. CRC assessment of prisoners eligible for commitment as sexually violent predators; mental health examination; recommendation.

A. Within 90 days of receiving notice from the Director pursuant to § 37.1-70.4 regarding a prisoner who is incarcerated for a sexually violent offense, the CRC shall (i) complete its assessment of such prisoner for possible commitment pursuant to subsection B and (ii) forward its recommendation regarding the prisoner, in written form, to the Attorney General pursuant to subsection C.

B. CRC assessments of prisoners incarcerated for sexually violent offenses shall include a mental health examination, including a personal interview, of the prisoner by a licensed psychiatrist or a licensed clinical psychologist, designated by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services, who is skilled in the diagnosis and treatment of mental abnormalities and disorders associated with violent sex offenders, and who is not a member of the CRC. The licensed psychiatrist or licensed clinical psychologist shall determine whether the prisoner is a sexually violent predator as defined in § 37.1-70.1 and forward the results of this evaluation and any supporting documents to the CRC for its review. The CRC assessment shall also include consideration of the prisoner's score on the Rapid Risk Assessment for Sexual Offender Recidivism or a comparable, scientifically validated instrument as designated by the Commissioner rating for recidivism on a nationally recognized, scientifically validated sex offender recidivism instrument and a review of (i) the prisoner's institutional history and treatment record, if any; (ii) the prisoner's criminal background; and (iii) any other factor which is relevant to the determination of whether such prisoner is a sexually violent predator.

C. Following the examination and review of a prisoner conducted pursuant to subsection B, the CRC shall recommend that such prisoner (i) be committed as a sexually violent predator pursuant to this article; (ii) not be committed, but be placed in a conditional release program as a less restrictive alternative; or (iii) not be committed because he does not meet the definition of a sexually violent predator. To assist the Attorney General in his review, the Department of Corrections, the CRC, and the psychiatrist or psychologist who conducts the mental health examination pursuant to this section shall

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59 provide the Attorney General with all evaluation reports, prisoner records, criminal records, medical
60 files, and any other documentation relevant to determining whether a prisoner is a sexually violent
61 predator.

62 D. Pursuant to clause (ii) of subsection C, the CRC shall recommend that a prisoner enter a
63 conditional release program if it finds that (i) such prisoner does not need inpatient hospitalization, but
64 needs outpatient treatment and monitoring to prevent his condition from deteriorating to a degree that he
65 would need inpatient hospitalization; (ii) appropriate outpatient supervision and treatment are reasonably
66 available; (iii) there is significant reason to believe that the prisoner, if conditionally released, would
67 comply with the conditions specified; and (iv) conditional release will not present an undue risk to
68 public safety.