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SENATE BILL NO. 556

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Marsh
on February 3, 2004)

(Patron Prior to Substitute—Senator Marsh)

A BILL to amend and reenact § 37.1-70.10 of the Code of Virginia, relating to notice of certain facility for civil commitment of persons convicted of sexually violent offenses.

Be it enacted by the General Assembly of Virginia:

1. That § 37.1-70.10 of the Code of Virginia is amended and reenacted as follows:

§ 37.1-70.10. Placement of committed persons; notice to certain elected officials of proposed facility for such commitment; advisory committee to be established.

A. Any person committed pursuant to this article shall be placed in the custody of the Department of Mental Health, Mental Retardation and Substance Abuse Services for control, care and treatment until such time as the person's mental abnormality or personality disorder has so changed that the person will not present an undue risk to public safety. The Department of Mental Health, Mental Retardation and Substance Abuse Services shall provide such control, care and treatment at a facility operated by it, or may contract with private or public entities, within or without the Commonwealth, and with other states to provide comparable control, care or treatment. At all times, persons committed for control, care and treatment by the Department of Mental Health, Mental Retardation and Substance Abuse Services pursuant to this article shall be kept in a secure facility. Persons committed under this article shall be segregated by sight and sound at all times from prisoners in the custody of a correctional facility. The Commissioner may make treatment and management decisions regarding committed persons in his custody without obtaining prior approval of or review by the committing court.

B. Prior to the siting of a new facility or the designation of an existing facility to be operated by the Department for the control, care and treatment of persons convicted of a sexually violent offense who have been referred for civil commitment, the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services shall notify the state elected officials for and the local governing body of the jurisdiction of the proposed location or designation of the facility. Upon receiving such notice, the local governing body of the jurisdiction of the proposed site or where the existing facility is located shall publish a descriptive notice once a week for two successive weeks concerning the proposed site in a newspaper of general circulation in the jurisdiction.

The Commissioner shall also establish an advisory committee relating to any facility for which notice is required by this subsection or any facility being operated for the purpose of the control, care and treatment of persons convicted of a sexually violent offense who have been referred for civil commitment that shall consist of state and local elected officials and community organizations serving the jurisdiction in which the facility is proposed to be or is located. Upon request, the members of the appropriate advisory committee shall be notified of each admission to the relevant facility in a manner that is in compliance with the patient privacy regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996.