

VIRGINIA ACTS OF ASSEMBLY -- 2006 SESSION

CHAPTER 401

An Act to amend and reenact §§ 16.1-340 and 16.1-341 of the Code of Virginia, relating to admissibility of state mental health facility recommendations during an involuntary commitment hearing for a minor.

[H 368]

Approved March 31, 2006

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-340 and 16.1-341 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-340. Emergency admission.

A minor, including a minor in detention or shelter care pursuant to an order of a juvenile and domestic relations court, may be taken into custody and admitted for inpatient treatment pursuant to the procedures specified in Article 4 (§ 37.2-808 et seq.) of Chapter 8 of Title 37.2. If the minor is admitted to a willing facility in accordance with § 37.2-809, the temporary detention order shall be effective until such time as the juvenile and domestic relations district court serving the jurisdiction in which the minor is located ~~or resides~~ schedules a hearing. The juvenile and domestic relations district court serving the jurisdiction in which the minor is located ~~or resides~~ shall schedule a hearing pursuant to § 16.1-341 no sooner than 24 hours and no later than 72 hours from the time of the issuance of the temporary detention order. If the 72-hour period expires on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the 72 hours shall be extended to the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

§ 16.1-341. Involuntary commitment; petition; hearing scheduled; notice and appointment of counsel.

A. A petition for the involuntary commitment of a minor may be filed with the juvenile and domestic relations district court serving the jurisdiction in which the minor is located by a parent or, if the parent is not available or is unable or unwilling to file a petition, by any responsible adult, including the person having custody over a minor in detention or shelter care pursuant to an order of a juvenile and domestic relations district court. The petition shall include the name and address of the petitioner and the minor and shall set forth in specific terms why the petitioner believes the minor meets the criteria for involuntary commitment specified in § 16.1-345. The petition shall be taken under oath.

If a commitment hearing has been scheduled by a juvenile and domestic relations district judge pursuant to subdivision 3 of subsection C of § 16.1-339, the petition for judicial approval filed by the facility under subsection C of § 16.1-339 shall serve as the petition for involuntary commitment as long as such petition complies in substance with the provisions of this subsection.

B. Upon the filing of a petition for involuntary commitment of a minor, the juvenile and domestic relations district court serving the jurisdiction in which the minor is located may schedule a hearing which shall occur no sooner than 24 hours and no later than 72 hours from the time the petition was filed. If the 72-hour period expires on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the 72 hours shall be extended to the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed. The attorney for the minor, the attorney for the Commonwealth in the jurisdiction giving rise to the detention, and the juvenile and domestic relations district court having jurisdiction over any minor in detention or shelter care shall be given notice prior to the hearing.

If the petition is not dismissed, copies of the petition, together with a notice of the hearing, shall be served immediately upon the minor and the minor's parents, if they are not petitioners. No later than 24 hours before the hearing, the court shall appoint counsel to represent the minor, unless it has determined that the minor has retained counsel. Upon the request of the minor's counsel, for good cause shown, and after notice to the petitioner and all other persons receiving notice of the hearing, the court may continue the hearing once for a period not to exceed 72 hours.

Any recommendation made by a state mental health facility or state hospital regarding the minor's involuntary commitment may be admissible during the course of the hearing.