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HOUSE BILL NO. 353

Offered January 11, 2006

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A BILL to amend and reenact §§ 37.2-808, 37.2-810, and 37.2-829 of the Code of Virginia, and to repeal § 37.2-830 of the Code of Virginia, relating to transportation of individuals to be admitted to a mental health facility.

Patron—Hamilton

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-808, 37.2-810, and 37.2-829 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-808. Emergency custody; issuance and execution of order.

A. Any magistrate may issue, upon the sworn petition of any responsible person or upon his own motion, an emergency custody order when he has probable cause to believe that any person within his judicial district (i) has mental illness, (ii) presents an imminent danger to himself or others as a result of mental illness or is so seriously mentally ill as to be substantially unable to care for himself, (iii) is in need of hospitalization or treatment, and (iv) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment.

B. Any person for whom an emergency custody order is issued shall be taken into custody and transported to a convenient location to be evaluated to assess the need for hospitalization or treatment. The evaluation shall be made by a person designated by the community services board or behavioral health authority who is skilled in the diagnosis and treatment of mental illness and who has completed a certification program approved by the Department.

C. The magistrate issuing an emergency custody order shall specify the ~~primary law-enforcement agency~~ and jurisdiction to execute the emergency custody order, and ~~the sheriff's office of such jurisdiction shall~~ provide transportation. Transportation under this section shall include transportation to a medical facility as may be necessary to obtain emergency medical evaluation or treatment. This evaluation or treatment shall be conducted immediately in accordance with state and federal law.

D. The magistrate shall order the ~~primary law-enforcement agency~~ ~~sheriff's office~~ from the jurisdiction served by the community services board or behavioral health authority that designated the person to perform the evaluation required in subsection B to execute the order and provide transportation. If the community services board or behavioral health authority serves more than one jurisdiction, the magistrate shall designate the ~~primary law-enforcement agency~~ ~~sheriff's office~~ from the particular jurisdiction within the community services board's or behavioral health authority's service area where the person who is the subject of the emergency custody order was taken into custody or, if the person has not yet been taken into custody, the ~~primary law-enforcement agency~~ ~~sheriff's office~~ from the jurisdiction where the person is presently located to execute the order and provide transportation.

E. A law-enforcement officer may lawfully go to or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing an emergency custody order pursuant to this section.

F. A law-enforcement officer who, based upon his observation or the reliable reports of others, has probable cause to believe that a person meets the criteria for emergency custody as stated in this section may take that person into custody and transport that person to an appropriate location to assess the need for hospitalization or treatment without prior authorization. Such evaluation shall be conducted immediately.

G. Nothing herein shall preclude a law-enforcement officer from obtaining emergency medical treatment or further medical evaluation at any time for a person in his custody as provided in this section.

H. The person shall remain in custody until a temporary detention order is issued or until the person is released, but in no event shall the period of custody exceed four hours.

I. If an emergency custody order is not executed within four hours of its issuance, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if such office is not open, to any magistrate thereof.

§ 37.2-810. Transportation of person in the temporary detention process.

A. The magistrate issuing the temporary detention order shall specify the ~~law-enforcement agency~~ and jurisdiction that shall execute the temporary detention order, and ~~the sheriff's office of such~~

59 *jurisdiction shall provide transportation. The magistrate shall specify in the temporary detention order*
60 *the law-enforcement agency sheriff's office of the jurisdiction in which the person resides to execute the*
61 *order and provide transportation. However, if the nearest boundary of the jurisdiction in which the*
62 *person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the person*
63 *is located, the law-enforcement agency sheriff's office of the jurisdiction in which the person is located*
64 *shall execute the order and provide transportation. The order may include transportation of the person to*
65 *such other medical facility as may be necessary to obtain emergency medical evaluation or treatment*
66 *prior to placement. Nothing herein shall preclude a law-enforcement officer from obtaining emergency*
67 *medical treatment or further medical evaluation at any time for a person in his custody as provided in*
68 *this section. Such evaluation or treatment shall be conducted immediately in accordance with state and*
69 *federal law.*

70 B. A law-enforcement officer may lawfully go to or be sent beyond the territorial limits of the
71 county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing
72 any temporary detention order pursuant to this section. Law-enforcement agencies may enter into
73 agreements to facilitate the execution of temporary detention orders and provide transportation.

74 § 37.2-829. Transportation of person in civil admission process.

75 When a person has been ordered to be admitted to a facility under §§ 37.2-814 through 37.2-821, a
76 determination shall be made by the judge or special justice regarding the transportation of that person to
77 the proper facility. The judge or special justice may consult with the person's treating mental health
78 professional and any involved community services board or behavioral health authority staff regarding
79 the person's dangerousness and whether the sheriff should transport or whether transportation alternatives
80 as provided in § 37.2-830 may be utilized. If the judge or special justice determines that the person
81 requires transportation by the sheriff, the person may be delivered to the care of the sheriff, as specified
82 in this section, who shall transport the person to the proper facility. In no event shall transport
83 commence later than six hours after notification to the sheriff of the judge's or special justice's order.

84 The sheriff of the jurisdiction where the person is a resident shall be responsible for transporting the
85 person unless the sheriff's office of that jurisdiction is located more than 100 road miles from the
86 nearest boundary of the jurisdiction in which the proceedings took place. In cases where the sheriff of
87 the jurisdiction of which the person is a resident is more than 100 road miles from the nearest boundary
88 of the jurisdiction in which the proceedings took place, it shall be the responsibility of the sheriff of the
89 latter jurisdiction to transport the person. The cost of transportation of any person ordered to be admitted
90 pursuant to §§ 37.2-814 through 37.2-821 shall be paid by the Commonwealth from the same funds as
91 for care in jail.

92 If any state hospital has become too crowded to admit any such person, the Commissioner shall give
93 notice of the fact to all sheriffs and shall designate the facility to which they shall transport such
94 persons.

95 2. That § 37.2-830 of the Code of Virginia is repealed.