

077651204

## HOUSE BILL NO. 1904

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions  
on January 25, 2007)

(Patron Prior to Substitute—Delegate Albo)

A BILL to amend and reenact § 37.2-817 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 37.2-816.1, relating to commitment hearings for involuntary commitment.

**Be it enacted by the General Assembly of Virginia:**

**1. That § 37.2-817 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 37.2-816.1 as follows:**

§ 37.2-816.1. Commitment hearing for involuntary admission; relevant testimony.

The district court judge or special justice shall allow, when available, testimony from individuals closely associated with the person who is the subject of the hearing, including immediate family members, as to (i) whether the person presents an imminent danger to himself or others as a result of mental illness or is so seriously mentally ill that he is substantially unable to care for himself and (ii) how the person's history of mental illness relates to the person's current condition. Such testimony shall be sworn and may be either oral or written.

§ 37.2-817. Involuntary admission and outpatient treatment orders.

A. The district court judge or special justice shall render a decision on the petition for involuntary admission after the appointed examiner has presented his report, orally or in writing, pursuant to § 37.2-815 and, after the community services board or behavioral health authority that serves the county or city where the person resides or, if impractical, where the person is located has presented a preadmission screening report, orally or in writing, with recommendations for that person's placement, care, and treatment pursuant to § 37.2-816, and after any immediate family members or other individuals closely associated with the subject of the hearing have given sworn testimony pursuant to § 37.2-816.1. These reports, if not contested, may constitute sufficient evidence upon which the district court judge or special justice may base his decision.

B. After observing the person and obtaining the necessary positive certification and considering any other relevant evidence that may have been offered, if the judge or special justice finds by clear and convincing evidence that (i) the person presents an imminent danger to himself or others as a result of mental illness or has been proven to be so seriously mentally ill as to be substantially unable to care for himself and (ii) alternatives to involuntary inpatient treatment have been investigated and deemed unsuitable and there is no less restrictive alternative to involuntary inpatient treatment, the judge or special justice shall by written order and specific findings so certify and order that the person be admitted involuntarily to a facility for a period of treatment not to exceed 180 days from the date of the court order. Such involuntary admission shall be to a facility designated by the community services board or behavioral health authority that serves the city or county in which the person was examined as provided in § 37.2-816. If the community services board or behavioral health authority does not designate a facility at the commitment hearing, the person shall be involuntarily admitted to a facility designated by the Commissioner. The person shall be released at the expiration of 180 days unless he is involuntarily admitted by further petition and order of a court or such person makes application for treatment on a voluntary basis as provided for in § 37.2-805.

C. After observing the person and obtaining the necessary positive certification and considering any other relevant evidence that may have been offered, if the judge or special justice finds by clear and convincing evidence that (i) the person *either* (a) presents an imminent danger to himself or others as a result of mental illness or has been proven to be so seriously mentally ill as to be substantially unable to care for himself, *or* (b) *has been previously diagnosed with psychoses, has been prescribed antipsychotic or psychotropic medication, has failed to properly take such medication as prescribed, resulting in patient commitment in the past two years, and without such medication will present an imminent danger to himself or others as a result of mental illness or will likely be so seriously mentally ill as to be substantially unable to care for himself*, (ii) less restrictive alternatives to involuntary inpatient treatment have been investigated and are deemed suitable, (iii) the person (a) has the degree of competency necessary to understand the stipulations of his treatment, (b) expresses an interest in living in the community and agrees to abide by his treatment plan, and (c) is deemed to have the capacity to comply with the treatment plan, and (iv) the ordered treatment can be delivered on an outpatient basis and be monitored by the community services board, behavioral health authority or designated provider, the judge or special justice shall order outpatient treatment, which may include day treatment in a hospital, night treatment in a hospital, outpatient involuntary treatment with anti-psychotic medication pursuant to Chapter 11 (§ 37.2-1100 et seq.), or other appropriate course of treatment as may be necessary to meet

HOUSE SUBSTITUTE

HB1904H1

60 the needs of the person. The community services board or behavioral health authority that serves the city  
61 or county in which the person resides shall recommend a specific course of treatment and programs for  
62 the provision of involuntary outpatient treatment. The community services board, behavioral health  
63 authority, or designated provider shall monitor the person's compliance with the treatment ordered by the  
64 court under this section, and the person's failure to comply with involuntary outpatient treatment as  
65 ordered by the court may be admitted into evidence in subsequent hearings held pursuant to the  
66 provisions of this section. Upon failure of the person to adhere to the terms of the outpatient treatment  
67 order, the judge or special justice may revoke it and, upon notice to the person and after a commitment  
68 hearing, order involuntary admission to a facility.