

077861748

SENATE BILL NO. 1134

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 19, 2007)

(Patron Prior to Substitute—Senator Lambert)

A BILL to amend and reenact § 19.2-182.6 of the Code of Virginia, relating to petition for release of a person acquitted by reason of insanity.

Be it enacted by the General Assembly of Virginia:**1. That § 19.2-182.6 of the Code of Virginia is amended and reenacted as follows:**

§ 19.2-182.6. Petition for release; conditional release hearing; notice; disposition.

A. The Commissioner may petition the committing court for conditional or unconditional release of the acquittee at any time he believes the acquittee no longer needs hospitalization. The petition shall be accompanied by a report of clinical findings supporting the petition *with respect to the factors set forth in § 19.2-182.3* and by a conditional release or discharge plan, as applicable, prepared jointly by the hospital and the appropriate community services board. The acquittee may petition the committing court for release only once in each year in which no annual judicial review is required pursuant to § 19.2-182.5. The party petitioning for release shall transmit a copy of the petition to the attorney for the Commonwealth for the committing jurisdiction.

~~B.1. Upon receipt of a petition for release~~ When a petition for release is made by the acquittee, the court shall order the Commissioner to appoint two persons in the same manner as set forth in § 19.2-182.2 to assess and report on the acquittee's need for inpatient hospitalization by reviewing his condition with respect to the factors set forth in § 19.2-182.3. The evaluators shall conduct their evaluations and report their finding in accordance with the provisions of § 19.2-182.2, except that the evaluations shall be completed and findings reported within ~~forty-five~~ 45 days of issuance of the court's order for evaluation.

2. When a petition for release is made by the Commissioner no further evaluations of the acquittee shall be required unless otherwise deemed necessary by the court. If the court determines that further evaluation is necessary, the court shall order the Commissioner to appoint two persons in the same manner as set forth in § 19.2-182.2 to assess and report on the acquittee's need for inpatient hospitalization by reviewing his condition with respect to the factors set forth in § 19.2-182.3. The evaluators shall conduct their evaluations and report their finding in accordance with the provisions of § 19.2-182.2, except that the evaluations shall be completed and findings reported within 45 days of issuance of the court's order for evaluation.

The Commissioner shall give notice of the hearing to any victim of the act resulting in the charges on which the acquittee was acquitted or the next of kin of the victim at the last known address, provided the person submits a written request for such notification to the Commissioner.

C. Upon receipt of the reports of evaluation, the court shall conduct a hearing on the petition. The hearing shall be scheduled on an expedited basis and given priority over other civil matters before the court. The acquittee shall be provided with adequate notice of the hearing, of the right to be present at the hearing, the right to the assistance of counsel in preparation for and during the hearing, and the right to introduce evidence and cross-examine witnesses. Written notice of the hearing shall be provided to the attorney for the Commonwealth for the committing jurisdiction. The hearing is a civil proceeding.

At the conclusion of the hearing, based upon the report and other evidence provided at the hearing, the court shall order the acquittee (i) released from confinement if he does not need inpatient hospitalization and does not meet the criteria for conditional release set forth in § 19.2-182.3, provided the court has approved a discharge plan prepared jointly by the hospital and the appropriate community services board; (ii) placed on conditional release if he meets the criteria for such release as set forth in § 19.2-182.7, and the court has approved a conditional release plan prepared jointly by the hospital and the appropriate community services board; or (iii) retained in the custody of the Commissioner if he continues to require inpatient hospitalization based on consideration of the factors set forth in § 19.2-182.3.

D. Persons committed pursuant to this chapter shall be released only in accordance with the procedures set forth governing release and conditional release.