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HOUSE BILL NO. 258

Offered January 9, 2008

Prefiled January 2, 2008

A BILL to amend and reenact § 37.2-907 of the Code of Virginia, relating to opportunity to volunteer for treatment as sexually violent predator without a trial to determine such status.

Patrons—Fralin, Athey, Carrico, Cole, Cosgrove, Gilbert, Lingamfelter, Massie, Merricks and Sherwood

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 37.2-907 of the Code of Virginia is amended and reenacted as follows:**

§ 37.2-907. Right to assistance of experts; opportunity to submit to treatment without trial; compensation.

A. Upon a finding of probable cause the judge shall *inquire of the respondent if he acknowledges that he is a sexually violent predator as defined in § 37.2-900 and if he is therefore willing to submit to commitment and treatment under this chapter without proceeding to trial for such a determination. If the respondent so acknowledges and so submits, the court shall proceed under § 37.2-908 as if a determination that he is a sexually violent predator had been made at trial. If the respondent does not so acknowledge and not so submit, the judge shall* ascertain if the respondent is requesting expert assistance *for trial*. If the respondent requests expert assistance and has not employed an expert at his own expense, the judge shall appoint such experts as he deems necessary; however, if the respondent refused to cooperate pursuant to § 37.2-901 any expert appointed to assist the respondent shall not be permitted to testify at trial. Any expert employed or appointed pursuant to this section shall be a licensed psychiatrist or licensed clinical psychologist who is skilled in the diagnosis, treatment, and risk assessment of sex offenders and who is not a member of the CRC. Any expert employed or appointed pursuant to this section shall have reasonable access to all relevant medical and psychological records and reports pertaining to the respondent.

B. Each psychiatrist, psychologist, or other expert appointed by the court to render professional service pursuant to this chapter who is not regularly employed by the Commonwealth, except by the University of Virginia School of Medicine and the Virginia Commonwealth University School of Medicine, shall receive a reasonable fee for such service. The fee shall be determined in each instance by the court that appointed the expert, in accordance with guidelines established by the Supreme Court after consultation with the Department. The fee shall not exceed \$5,000. However, in addition, if any such expert is required to appear as a witness in any hearing held pursuant to this chapter, he shall receive mileage and a fee of \$750 for each day during which he is required to serve. An itemized account of expenses, duly sworn to, shall be presented to the court, and, when allowed, shall be certified to the Supreme Court for payment out of the state treasury, and shall be charged against the appropriations made to pay criminal charges. Allowance for the fee and for the per diem authorized shall also be made by order of the court, duly certified to the Supreme Court, for payment out of the appropriation to pay criminal charges.

INTRODUCED

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