

2008 SESSION

INTRODUCED

081429432

HOUSE BILL NO. 938

Offered January 9, 2008

Prefiled January 8, 2008

A BILL to amend and reenact § 37.2-821 of the Code of Virginia, relating to the right of a petitioner to appeal a decision ruling against involuntary commitment.

Patrons—Gilbert, Albo, Athey, Cole, Cosgrove, Lingamfelter, Massie and Sherwood

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-821 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-821. Appeal of involuntary admission or certification order.

A. Any person ~~involuntarily admitted~~ *who is a party pursuant to a civil commitment hearing under §§ 37.2-814 through 37.2-819 or certified a certification proceeding as eligible for admission pursuant to § 37.2-806, shall have the right to appeal the order to the circuit court in the jurisdiction where he was involuntarily admitted or certified or the hearing or proceeding was heard or the jurisdiction where the commitment facility to which he was admitted is located.* Choice of venue shall rest with the party noting the appeal. The court may transfer the case upon a finding that the other forum is more convenient. An appeal shall be filed within 30 days from the date of the order and shall be given priority over all other pending matters before the court and heard as soon as possible, notwithstanding § 19.2-241 regarding the time within which the court shall set criminal cases for trial. The clerk of the court from which an appeal is taken shall immediately transmit the record to the clerk of the appellate court. The clerk of the circuit court shall provide written notification of the appeal to the ~~petitioner~~ *appellee* in the case in accordance with procedures set forth in § 16.1-112. No appeal bond or writ tax shall be required, and the appeal shall proceed without the payment of costs or other fees. Costs may be recovered as provided for in § 37.2-804.

B. The appeal shall be heard de novo in accordance with the provisions set forth in § 37.2-806 or this article. The circuit court may require an independent evaluation of the person pursuant to § 37.2-815, or may rely upon the evaluation report in the commitment hearing from which the appeal is taken. An order continuing the involuntary admission shall be entered only if the criteria in § 37.2-817 are met at the time the appeal is heard. The person so admitted or certified shall be entitled to trial by jury. Seven persons from a panel of 13 shall constitute a jury.

C. If the ~~person~~ *respondent* is not represented by counsel, the judge shall appoint an attorney to represent him. Counsel so appointed shall be paid a fee of \$75 and his necessary expenses. The order of the court from which the appeal is taken shall be defended by the attorney for the Commonwealth.

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