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SENATE BILL NO. 103

Offered January 9, 2008

Prefiled January 3, 2008

A BILL to amend and reenact § 37.2-815 of the Code of Virginia, relating to admissibility of the examiner's written certification.

Patrons—Cuccinelli and Ticer; Delegates: Caputo and Watts

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-815 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-815. Commitment hearing for involuntary admission; examination required.

Notwithstanding § 37.2-814, the district court judge or special justice shall require an examination of the person who is the subject of the hearing by a psychiatrist or a psychologist who is licensed in Virginia by the Board of Medicine or the Board of Psychology and is qualified in the diagnosis of mental illness or, if such a psychiatrist or psychologist is not available, any mental health professional who is (i) licensed in Virginia through the Department of Health Professions and (ii) qualified in the diagnosis of mental illness. The examiner chosen shall be able to provide an independent examination of the person. The examiner shall (a) not be related by blood or marriage to the person, (b) not be responsible for treating the person, (c) have no financial interest in the admission or treatment of the person, (d) have no investment interest in the facility detaining or admitting the person under this chapter, and (e) except for employees of state hospitals, the U.S. Department of Veterans Affairs, community service boards, and behavioral health authorities, not be employed by the facility. For purposes of this section, the term "investment interest" shall be as defined in § 37.2-809.

All such examinations shall be conducted in private. The judge or special justice shall summons the examiner who shall certify that he has personally examined the person and has probable cause to believe that the person (i) does or does not present an imminent danger to himself or others as a result of mental illness or is or is not so seriously mentally ill as to be substantially unable to care for himself and (ii) requires or does not require involuntary inpatient treatment. Alternatively, the judge or special justice may accept written certification of the examiner's findings if the examination has been personally made within the preceding five days and if there is no objection sustained to the acceptance of the written certification by the person or his attorney. *Such written certification shall be admissible, despite objections, as evidence of the facts stated therein if the examiner is either present in person at the hearing or is available through a two way video and audio communication system.* The judge or special justice shall not render any decision on the petition until the examiner has presented his report orally or in writing.

INTRODUCED

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