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SENATE BILL NO. 79

Offered January 9, 2008

Prefiled December 26, 2007

A BILL to amend and reenact § 37.2-815 of the Code of Virginia, relating to independent examination; records to be reviewed.

Patrons—Cuccinelli and Ticer; Delegate: 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.

Prior to initiating the examination required by this section, the examiner shall review any relevant, readily available reports, records or other evidence, including, at minimum, the person's medical records, the prescreening report prepared pursuant to § 37.2-816, and any advanced directive created by the person.

All ~~such~~ examinations conducted pursuant to this section shall be conducted in private. ~~The~~At the hearing, the judge or special justice shall summons the examiner who shall certify that he has reviewed the person's medical records, the prescreening report required by § 37.2-816, any advanced directive created by the person, and all other relevant, readily available reports, records, and other evidence, and 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. 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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