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HOUSE BILL NO. 305

Offered January 13, 2010
Prefiled January 11, 2010

A BILL to amend and reenact §§ 37.2-805, 37.2-813, and 37.2-819 of the Code of Virginia, relating to voluntary admission for mental health treatment prior to involuntary commitment hearing.

Patron—O'Bannon

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-805, 37.2-813, and 37.2-819 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-805. Voluntary admission.

Any ~~state facility shall admit any~~ person ~~requesting admission who~~ *may be admitted voluntarily to a facility:*

1. Upon request of the person and agreement of the proposed admitting facility. If the proposed admitting facility is a state facility, the person may be admitted upon request and agreement of the proposed admitting facility only after the person has been ~~(i)~~ screened by the community services board or behavioral health authority that serves the city or county where the person resides or, if impractical, where the person is located, ~~(ii) examined by a physician on the staff of the state facility,~~ and ~~(iii)~~ deemed by the *community services* board or *behavioral health* authority and the state facility ~~physician~~ to be in need of treatment, training, or habilitation in a state facility*; or*

2. In accordance with the provisions of § 37.2-805.1 authorizing admission to a facility by an agent in accordance with a valid advance directive, 37.2-813, or 37.2-814.

§ 37.2-813. Release from custody or voluntary admission prior to commitment hearing for involuntary admission.

~~Prior to a hearing as authorized in §§ 37.2-814 through 37.2-819 or § 16.1-341, the district court judge or special justice may release the person on his personal recognizance or bond set by the district court judge or special justice if it appears from all evidence readily available that the person does not meet the commitment criteria specified in subsection D of § 37.2-817. In the case of a minor, the juvenile and domestic relations district court judge may release the minor to his parent.~~ The ~~director of any facility in which the person is detained~~ *attending or consulting physician of any person who is detained pursuant to § 37.2-809* may release the person prior to a hearing as authorized in §§ 37.2-814 through 37.2-819 ~~or § 16.1-341 if it appears, based on an evaluation conducted by the psychiatrist or clinical psychologist treating the person,~~ *if the attending or consulting physician determines, following an in-person evaluation of the person, consideration of information provided by the petitioner or contained in the petition for temporary detention, and consultation with the community services board,* that the person would not meet the commitment criteria specified in subsection *C or* D of § 37.2-817 ~~or § 16.1-345 if released~~.

The attending or consulting physician of any person who is detained pursuant to § 37.2-809 may voluntarily admit the person prior to a hearing for involuntary admission as provided in §§ 37.2-814 through 37.2-819 if he determines, following an in-person evaluation of the person, consideration of information provided by the petitioner or contained in the petition for temporary detention, and consultation with the community services board, that the person is capable of accepting voluntary admission and treatment, and willing to accept voluntary admission and treatment. Prior to voluntarily admitting a person pursuant to this subsection, the attending or consulting physician shall advise the person (i) that as a condition of being admitted voluntarily, the person shall be required to give the facility to which he is admitted at least 48 hours' notice prior to leaving the facility, and (ii) that if the person accepts voluntary admission, he will be prohibited from possessing, purchasing, or transporting a firearm pursuant to § 18.2-308.1:3.

Upon the release from custody or voluntary admission of a person pursuant to this section, the person's attending or consulting physician or other representative of the facility in which the person was involuntarily detained, shall notify the clerk of the court in which the case against the person is pending, on a form developed by the Department for such purpose, that the person has been released or admitted voluntarily. Upon receipt of such notice, the clerk of the court shall notify the court and the court shall dismiss the petition. Upon receipt of an order dismissing the petitioner, the clerk shall certify and forward to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of the order as required by § 37.2-819.

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For the purposes of this section, "attending or consulting physician" means a physician on the medical staff of a facility in which a person is detained pursuant to § 37.2-809, who is responsible for providing health care services to that person.

§ 37.2-819. Order of involuntary admission or involuntary outpatient treatment forwarded to CCRE; certain voluntary admissions forwarded to CCRE; firearm background check.

A. Upon receipt of any order from a commitment hearing issued pursuant to this chapter for involuntary admission to a facility, the clerk of court shall, as soon as practicable but not later than the close of business on the next following business day, certify and forward to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of the order. Upon receipt of any order from a commitment hearing issued pursuant to this chapter for mandatory outpatient treatment, the clerk of court shall, prior to the close of that business day, certify and forward to the Central Criminal Records Exchange, on a form provided by the exchange, a copy of the order.

B. The clerk of court shall also, as soon as practicable but no later than the close of business on the next following business day, forward upon receipt to the Central Criminal Records Exchange, on a form provided by the Exchange, certification of any person who has been the subject of a temporary detention order pursuant to § 37.2-809, and who, after being advised by the judge or special justice that he will be prohibited from possessing a firearm pursuant to § 18.2-308.1:3, subsequently agreed to voluntary admission pursuant to § 37.2-805*, or has been released from custody or voluntarily admitted for inpatient treatment prior to a hearing for involuntary commitment pursuant to § 37.2-813*.

C. The copy of the forms and orders sent to the Central Criminal Records Exchange pursuant to subsection A, and the forms ~~and~~, certifications*, and notifications* sent to the Central Criminal Records Exchange regarding voluntary admission pursuant to subsection B, shall be kept confidential in a separate file and used only to determine a person's eligibility to possess, purchase, or ~~transfer~~ *transport* a firearm. No medical records shall be forwarded to the Central Criminal Records Exchange with any form, order, ~~or~~ certification*, or notification* required by subsection A or B. The Department of State Police shall forward only a person's eligibility to possess, purchase, or ~~transfer~~ *transport* a firearm to the National Instant Criminal Background Check System.