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SENATE BILL NO. 91

Offered January 11, 2012

Prefiled January 9, 2012

A BILL to amend and reenact § 37.2-903 of the Code of Virginia, relating to the assessment of violent sex offenders for possible civil commitment.

Patron—Howell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 37.2-903 of the Code of Virginia is amended and reenacted as follows:**

§ 37.2-903. Database of prisoners convicted of sexually violent offenses; maintained by Department of Corrections; notice of pending release to CRC.

A. The Director shall establish and maintain a database of each prisoner in his custody who is (i) incarcerated for a sexually violent offense or (ii) serving or will serve concurrent or consecutive time for another offense in addition to time for a sexually violent offense. The database shall include the following information regarding each prisoner: (a) the prisoner's criminal record and (b) the prisoner's sentences and scheduled date of release. A prisoner who is serving or will serve concurrent or consecutive time for other offenses in addition to his time for a sexually violent offense, shall remain in the database until such time as he is released from the custody or supervision of the Department of Corrections or Virginia Parole Board for all of his charges. Prior to the initial assessment of a prisoner under subsection C, the Director shall order a national criminal history records check to be conducted on the prisoner.

B. Each month, the Director shall review the database and identify all such prisoners who are scheduled for release from prison within 10 months from the date of such review ~~who receive a score of five or more on the Static-99 or a similar score on a comparable, scientifically validated instrument designated by the Commissioner, or a score of four on the Static-99 or a similar score on a comparable, scientifically validated instrument if the sexually violent offense mandating the prisoner's evaluation under this section was a violation of § 18.2-67.3 where the victim was under the age of 13 and suffered physical bodily injury and any of the following where the victim was under the age of 13: § 18.2-61, 18.2-67.1, or 18.2-67.2 who warrant further assessment as possible sexually violent predators using the process prescribed by the Commissioner. The Commissioner shall prescribe a screening process for prisoners that shall at a minimum include the use of a current and scientifically validated actuarial risk assessment instrument, guideline threshold score, and criteria to deviate from that score when justified.~~

~~The Commissioner and Director shall report biennially to the House Health, Welfare and Institutions; House Appropriations; Senate Rehabilitation and Social Services; and Senate Finance Committees which actuarial risk assessment instrument and guideline threshold score will be used and the estimated risk of re-offense associated with the score. The report shall disclose whether the current instrument and score will continue to be used or whether a different instrument and score will be adopted, along with the reasons for and implications of the decision.~~

C. If the Director and the Commissioner agree that no specific scientifically validated instrument exists to measure the risk assessment of a prisoner, the prisoner may instead be screened by a licensed psychiatrist, licensed clinical psychologist, or a licensed mental health professional certified by the Board of Psychology as a sex offender treatment provider pursuant to § 54.1-3600 for an initial determination of whether or not the prisoner may meet the definition of a sexually violent predator.

D. Upon the identification of such prisoners, the Director shall forward their names, their scheduled dates of release, and copies of their files to the CRC for assessment.

INTRODUCED

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