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SENATE BILL NO. 1323

Offered January 18, 2013

A BILL to amend and reenact §§ 16.1-340.2 and 37.2-810 of the Code of Virginia, relating to temporary detention order; execution and transportation.

Patron—Garrett

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-340.2 and 37.2-810 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-340.2. Transportation of minor in the temporary detention process.

A. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the magistrate shall specify in the temporary detention order the law-enforcement agency of the jurisdiction in which the minor resides to execute the order and, in cases in which transportation is ordered to be provided by the primary law-enforcement agency, provide transportation. However, if the nearest boundary of the jurisdiction in which the minor resides is more than 50 miles from the nearest boundary of the jurisdiction in which the minor is located, the law-enforcement agency of the jurisdiction in which the minor is located shall execute the order and provide transportation.

B. The magistrate issuing the temporary detention order shall specify the law-enforcement agency to execute the order and provide transportation. However, the magistrate may authorize transportation by an alternative transportation provider, including a parent, family member, or friend of the minor who is the subject of the temporary detention order, a representative of the community services board, or other transportation provider with personnel trained to provide transportation in a safe manner upon determining, following consideration of information provided by the petitioner; the community services board or its designee; the local law-enforcement agency, if any; the minor's treating physician, if any; or other persons who are available and have knowledge of the minor, and, when the magistrate deems appropriate, the proposed alternative transportation provider, either in person or via two-way electronic video and audio or telephone communication system, that the proposed alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner. When transportation is ordered to be provided by an alternative transportation provider, the magistrate shall order the specified primary law-enforcement agency to execute the order, to take the minor into custody, and to transfer custody of the minor to the alternative transportation provider identified in the order. In such cases, a copy of the temporary detention order shall accompany the minor being transported pursuant to this section at all times and shall be delivered by the alternative transportation provider to the temporary detention facility. The temporary detention facility shall return a copy of the temporary detention order to the court designated by the magistrate as soon as is practicable. Delivery of an order to a law-enforcement officer or alternative transportation provider and return of an order to the court may be accomplished electronically or by facsimile.

The order may include transportation of the minor to such other medical facility as may be necessary to obtain further medical evaluation or treatment prior to placement as required by a physician at the admitting temporary detention facility. Nothing herein shall preclude a law-enforcement officer or alternative transportation provider from obtaining emergency medical treatment or further medical evaluation at any time for a minor in his custody as provided in this section. Such medical evaluation or treatment shall be conducted immediately in accordance with state and federal law.

C. A law-enforcement officer may lawfully go or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing any temporary detention order pursuant to this section. Law-enforcement agencies may enter into agreements to facilitate the execution of temporary detention orders and provide transportation.

D. The specified primary law-enforcement agency shall execute the order and provide transportation by 5:00 p.m. on the day following receipt of the magistrate's order.

§ 37.2-810. Transportation of person in the temporary detention process.

A. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the magistrate shall specify in the temporary detention order the law-enforcement agency of the jurisdiction in which the person resides to execute the order and, in cases in which transportation is ordered to be provided by the primary law-enforcement agency, provide transportation. However, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person is located shall execute the order and provide transportation.

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59 B. The magistrate issuing the temporary detention order shall specify the law-enforcement agency to
60 execute the order and provide transportation. However, the magistrate may authorize transportation by an
61 alternative transportation provider, including a family member or friend of the person who is the subject
62 of the temporary detention order, a representative of the community services board, or other
63 transportation provider with personnel trained to provide transportation in a safe manner upon
64 determining, following consideration of information provided by the petitioner; the community services
65 board or its designee; the local law-enforcement agency, if any; the person's treating physician, if any;
66 or other persons who are available and have knowledge of the person, and, when the magistrate deems
67 appropriate, the proposed alternative transportation provider, either in person or via two-way electronic
68 video and audio or telephone communication system, that the proposed alternative transportation
69 provider is available to provide transportation, willing to provide transportation, and able to provide
70 transportation in a safe manner. When transportation is ordered to be provided by an alternative
71 transportation provider, the magistrate shall order the specified primary law-enforcement agency to
72 execute the order, to take the person into custody, and to transfer custody of the person to the
73 alternative transportation provider identified in the order. In such cases, a copy of the temporary
74 detention order shall accompany the person being transported pursuant to this section at all times and
75 shall be delivered by the alternative transportation provider to the temporary detention facility. The
76 temporary detention facility shall return a copy of the temporary detention order to the court designated
77 by the magistrate as soon as is practicable. Delivery of an order to a law-enforcement officer or
78 alternative transportation provider and return of an order to the court may be accomplished electronically
79 or by facsimile.

80 The order may include transportation of the person to such other medical facility as may be
81 necessary to obtain further medical evaluation or treatment prior to placement as required by a physician
82 at the admitting temporary detention facility. Nothing herein shall preclude a law-enforcement officer or
83 alternative transportation provider from obtaining emergency medical treatment or further medical
84 evaluation at any time for a person in his custody as provided in this section. Such medical evaluation
85 or treatment shall be conducted immediately in accordance with state and federal law.

86 C. A law-enforcement officer may lawfully go to or be sent beyond the territorial limits of the
87 county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing
88 any temporary detention order pursuant to this section. Law-enforcement agencies may enter into
89 agreements to facilitate the execution of temporary detention orders and provide transportation.

90 D. *The specified primary law-enforcement agency shall execute the order and provide transportation*
91 *by 5:00 p.m. on the day following receipt of the magistrate's order.*