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HOUSE BILL NO. 743

Offered January 8, 2014

Prefiled January 7, 2014

A *BILL to amend and reenact §§ 37.2-819 and 64.2-2014, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to mental health and the prohibition of firearms.*

Patrons—McClellan, Dance, Futrell and Torian

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-819 and 64.2-2012, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

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

A. *The district court judge or special justice shall forward any order from a commitment hearing issued pursuant to this chapter for involuntary admission or involuntary outpatient treatment to the clerk of the circuit court for the county or city where the hearing took place as soon as practicable but no later than the close of business on the next business day following the completion of the hearing.*

B. Upon receipt of any order from a commitment hearing issued pursuant to this chapter for involuntary admission to a facility, the clerk of *the circuit* 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 *the circuit* 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.~~ C. The clerk of *the circuit* 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.

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

§ 64.2-2014. (Effective until July 1, 2014) Clerk to index findings of incapacity or restoration; notice of findings.

A. A copy of the court's findings that a person is incapacitated or has been restored to capacity, or a copy of any order appointing a conservator or guardian pursuant to § 64.2-2115, shall be filed by the judge with the clerk of the circuit court *for the county or city where the hearing took place as soon as practical, but no later than the close of business on the next business day following the completion of the hearing.* The clerk shall properly index the findings in the index to deed books by reference to the order book and page whereon the order is spread and shall immediately notify the Commissioner of Behavioral Health and Developmental Services in accordance with § 64.2-2028, the commissioner of accounts in order to ensure compliance by a conservator with the duties imposed pursuant to §§ 64.2-2021, 64.2-2022, 64.2-2023, and 64.2-2026, and the Secretary of the State Board of Elections with the information required by § 24.2-410. If a guardian is appointed, the clerk shall forward a copy of the court order to the local department of social services of the jurisdiction where the person then resides. If a guardianship is terminated or otherwise modified, the clerk shall forward a copy of the court order to the local department of social services to which the original order of appointment was forwarded and, if different, to the local department of social services in the jurisdiction where the person then resides.

B. The clerk shall, *as soon as practical but no later than the close of business on the following business day*, certify and forward ~~forthwith~~ to the Central Criminal Records Exchange, on a form

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59 provided by the Exchange, a copy of any order adjudicating a person incapacitated under this article,
60 any order appointing a conservator or guardian pursuant to § 64.2-2115, and any order of restoration of
61 capacity under § 64.2-2012. The copy of the form and the order shall be kept confidential in a separate
62 file and used only to determine a person's eligibility to possess, purchase, or transfer a firearm.

63 **§ 64.2-2014. (Effective July 1, 2014) Clerk to index findings of incapacity or restoration; notice**
64 **of findings.**

65 A. A copy of the court's findings that a person is incapacitated or has been restored to capacity, or a
66 copy of any order appointing a conservator or guardian pursuant to § 64.2-2115, shall be filed by the
67 judge with the clerk of the circuit court *for the county or city where the hearing took place as soon as*
68 *practical, but no later than the close of business on the next business day following the completion of*
69 *the hearing.* The clerk shall properly index the findings in the index to deed books by reference to the
70 order book and page whereon the order is spread and shall immediately notify the Commissioner of
71 Behavioral Health and Developmental Services in accordance with § 64.2-2028, the commissioner of
72 accounts in order to ensure compliance by a conservator with the duties imposed pursuant to
73 §§ 64.2-2021, 64.2-2022, 64.2-2023, and 64.2-2026, and the Commissioner of Elections with the
74 information required by § 24.2-410. If a guardian is appointed, the clerk shall forward a copy of the
75 court order to the local department of social services of the jurisdiction where the person then resides. If
76 a guardianship is terminated or otherwise modified, the clerk shall forward a copy of the court order to
77 the local department of social services to which the original order of appointment was forwarded and, if
78 different, to the local department of social services in the jurisdiction where the person then resides.

79 B. The clerk shall, *as soon as practical but no later than the close of business on the following*
80 *business day,* certify and forward ~~forthwith~~ to the Central Criminal Records Exchange, on a form
81 provided by the Exchange, a copy of any order adjudicating a person incapacitated under this article,
82 any order appointing a conservator or guardian pursuant to § 64.2-2115, and any order of restoration of
83 capacity under § 64.2-2012. The copy of the form and the order shall be kept confidential in a separate
84 file and used only to determine a person's eligibility to possess, purchase, or transfer a firearm.