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HOUSE BILL NO. 743

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 3, 2014)

(Patron Prior to Substitute—Delegate McClellan)

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.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-819 and 64.2-2014, 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 mandatory outpatient treatment forwarded to CCRE; certain voluntary admissions forwarded to CCRE; firearm background check.

A. *The order from a commitment hearing issued pursuant to this chapter for involuntary admission or mandatory outpatient treatment and the 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 shall be filed by the judge or special justice with the clerk of the district 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 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~~ Exchange, a copy of the order.

~~B.~~ C. 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.

~~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*

60 *business day*, certify and forward ~~forthwith~~ *upon receipt* to the Central Criminal Records Exchange, on
61 a form provided by the Exchange, a copy of any order adjudicating a person incapacitated under this
62 article, any order appointing a conservator or guardian pursuant to § 64.2-2115, and any order of
63 restoration of capacity under § 64.2-2012. The copy of the form and the order shall be kept confidential
64 in a separate file and used only to determine a person's eligibility to possess, purchase, or transfer a
65 firearm.

66 **§ 64.2-2014. (Effective July 1, 2014) Clerk to index findings of incapacity or restoration; notice**
67 **of findings.**

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

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