

2015 SESSION

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SENATE BILL NO. 1263

Senate Amendments in [] — February 4, 2015

A BILL to amend and reenact §§ 16.1-340, 16.1-340.2, 16.1-345, 37.2-808, 37.2-810, and 37.2-829 of the Code of Virginia, relating to civil admission process; alternative transportation.

Patrons Prior to Engrossment—Senators Deeds, Barker, Hanger, Howell and Puller; Delegates: Bell, Robert B., Torian Watts and Yost

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-340, 16.1-340.2, 16.1-345, 37.2-808, 37.2-810, and 37.2-829 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-340. Emergency custody; issuance and execution of order.

A. Any magistrate shall issue, upon the sworn petition of a minor's treating physician or parent or, if the parent is not available or is unable or unwilling to file a petition, by any responsible adult, including the person having custody over a minor in detention or shelter care pursuant to an order of a juvenile and domestic relations district court, or upon his own motion, an emergency custody order when he has probable cause to believe that (i) because of mental illness, the minor (a) presents a serious danger to himself or others to the extent that severe or irremediable injury is likely to result, as evidenced by recent acts or threats, or (b) is experiencing a serious deterioration of his ability to care for himself in a developmentally age-appropriate manner, as evidenced by delusional thinking or by a significant impairment of functioning in hydration, nutrition, self-protection, or self-control; and (ii) the minor is in need of compulsory treatment for a mental illness and is reasonably likely to benefit from the proposed treatment. Any emergency custody order entered pursuant to this section shall provide for the disclosure of medical records pursuant to subsection B of § 16.1-337. This subsection shall not preclude any other disclosures as required or permitted by law. To the extent possible, the petition shall contain the information required by § 16.1-339.1.

When considering whether there is probable cause to issue an emergency custody order, the magistrate may, in addition to the petition, consider (1) the recommendations of any treating or examining physician or psychologist licensed in Virginia, if available, (2) any past actions of the minor, (3) any past mental health treatment of the minor, (4) any relevant hearsay evidence, (5) any medical records available, (6) any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and (7) any other information available that the magistrate considers relevant to the determination of whether probable cause exists to issue an emergency custody order.

B. Any minor for whom an emergency custody order is issued shall be taken into custody and transported to a convenient location to be evaluated to determine whether he meets the criteria for temporary detention pursuant to § 16.1-340.1 and to assess the need for hospitalization or treatment. The evaluation shall be made by a person designated by the community services board serving the area in which the minor is located who is skilled in the diagnosis and treatment of mental illness and who has completed a certification program approved by the Department.

C. The magistrate issuing an emergency custody order shall specify the primary law-enforcement agency and jurisdiction to execute the emergency custody order and provide transportation. However, in cases in which the emergency custody order is based upon a finding that the minor who is the subject of the order has a mental illness and that, as a result of mental illness, the minor is experiencing a serious deterioration of his ability to care for himself in a developmentally age-appropriate manner, as evidenced by delusional thinking or by a significant impairment of functioning in hydration, nutrition, self-protection, or self-control, 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 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

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60 minor into custody, and to transfer custody of the minor to the alternative transportation provider
61 identified in the order. In such cases, a copy of the emergency custody order shall accompany the minor
62 being transported pursuant to this section at all times and shall be delivered by the alternative
63 transportation provider to the community services board or its designee responsible for conducting the
64 evaluation. The community services board or its designee conducting the evaluation shall return a copy
65 of the emergency custody order to the court designated by the magistrate as soon as is practicable.
66 Delivery of an order to a law-enforcement officer or alternative transportation provider and return of an
67 order to the court may be accomplished electronically or by facsimile.

68 Transportation under this section shall include transportation to a medical facility as may be
69 necessary to obtain emergency medical evaluation or treatment that shall be conducted immediately in
70 accordance with state and federal law. Transportation under this section shall include transportation to a
71 medical facility for a medical evaluation if a physician at the hospital in which the minor subject to the
72 emergency custody order may be detained requires a medical evaluation prior to admission.

73 D. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section,
74 the magistrate shall order the primary law-enforcement agency from the jurisdiction served by the
75 community services board that designated the person to perform the evaluation required in subsection B
76 to execute the order and, in cases in which transportation is ordered to be provided by the primary
77 law-enforcement agency, provide transportation. If the community services board serves more than one
78 jurisdiction, the magistrate shall designate the primary law-enforcement agency from the particular
79 jurisdiction within the community services board's service area where the minor who is the subject of
80 the emergency custody order was taken into custody or, if the minor has not yet been taken into
81 custody, the primary law-enforcement agency from the jurisdiction where the minor is presently located
82 to execute the order and provide transportation.

83 E. The law-enforcement agency or alternative transportation provider providing transportation
84 pursuant to this section may transfer custody of the minor to the facility or location to which the minor
85 is transported for the evaluation required in subsection B, G, or H if the facility or location (i) is
86 licensed to provide the level of security necessary to protect both the minor and others from harm, (ii) is
87 actually capable of providing the level of security necessary to protect the minor and others from harm,
88 and (iii) in cases in which transportation is provided by a law-enforcement agency, has entered into an
89 agreement or memorandum of understanding with the law-enforcement agency setting forth the terms
90 and conditions under which it will accept a transfer of custody, provided, however, that the facility or
91 location may not require the law-enforcement agency to pay any fees or costs for the transfer of
92 custody.

93 F. A law-enforcement officer may lawfully go or be sent beyond the territorial limits of the county,
94 city, or town in which he serves to any point in the Commonwealth for the purpose of executing an
95 emergency custody order pursuant to this section.

96 G. A law-enforcement officer who, based upon his observation or the reliable reports of others, has
97 probable cause to believe that a minor meets the criteria for emergency custody as stated in this section
98 may take that minor into custody and transport that minor to an appropriate location to assess the need
99 for hospitalization or treatment without prior authorization. A law-enforcement officer who takes a
100 person into custody pursuant to this subsection or subsection H may lawfully go or be sent beyond the
101 territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for
102 the purpose of obtaining the assessment. Such evaluation shall be conducted immediately. The period of
103 custody shall not exceed eight hours from the time the law-enforcement officer takes the minor into
104 custody.

105 H. A law-enforcement officer who is transporting a minor who has voluntarily consented to be
106 transported to a facility for the purpose of assessment or evaluation and who is beyond the territorial
107 limits of the county, city, or town in which he serves may take such minor into custody and transport
108 him to an appropriate location to assess the need for hospitalization or treatment without prior
109 authorization when the law-enforcement officer determines (i) that the minor has revoked consent to be
110 transported to a facility for the purpose of assessment or evaluation and (ii) based upon his observations,
111 that probable cause exists to believe that the minor meets the criteria for emergency custody as stated in
112 this section. The period of custody shall not exceed eight hours from the time the law-enforcement
113 officer takes the minor into custody.

114 I. A representative of the primary law-enforcement agency specified to execute an emergency custody
115 order or a representative of the law-enforcement agency employing a law-enforcement officer who takes
116 a person into custody pursuant to subsection G or H shall notify the community services board
117 responsible for conducting the evaluation required in subsection B, G, or H as soon as practicable after
118 execution of the emergency custody order or after the person has been taken into custody pursuant to
119 subsection G or H.

120 J. Nothing herein shall preclude a law-enforcement officer or alternative transportation provider from
121 obtaining emergency medical treatment or further medical evaluation at any time for a minor in his

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122 custody as provided in this section.

123 K. The minor shall remain in custody until a temporary detention order is issued, until the minor is
 124 released, or until the emergency custody order expires. An emergency custody order shall be valid for a
 125 period not to exceed eight hours from the time of execution.

126 L. If an emergency custody order is not executed within eight hours of its issuance, the order shall
 127 be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if such office
 128 is not open, to any magistrate serving the jurisdiction of the issuing court.

129 M. (Expires June 30, 2018) In addition to the eight-hour period of emergency custody set forth in
 130 subsection G, H, or K, if the minor is detained in a state facility pursuant to subsection D of
 131 § 16.1-340.1, the state facility and an employee or designee of the community services board may, for
 132 an additional four hours, continue to attempt to identify an alternative facility that is able and willing to
 133 provide temporary detention and appropriate care to the minor.

134 N. Payments shall be made pursuant to § 37.2-804 to licensed health care providers for medical
 135 screening and assessment services provided to minors with mental illnesses while in emergency custody.

136 O. *No person who provides alternative transportation pursuant to this section shall be liable [to the
 137 person being transported] for any civil damages for ordinary negligence in acts or omissions that result
 138 from providing such alternative transportation.*

139 § 16.1-340.2. Transportation of minor in the temporary detention process.

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

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

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

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

177 D. *No person who provides alternative transportation pursuant to this section shall be liable [to the
 178 person being transported] for any civil damages for ordinary negligence in acts or omissions that result
 179 from providing such alternative transportation.*

180 § 16.1-345. Involuntary commitment; criteria.

181 After observing the minor and considering (i) the recommendations of any treating or examining
 182 physician or psychologist licensed in Virginia, if available, (ii) any past actions of the minor, (iii) any

183 past mental health treatment of the minor, (iv) any qualified evaluator's report, (v) any medical records
184 available, (vi) the preadmission screening report, and (vii) any other evidence that may have been
185 admitted, the court shall order the involuntary commitment of the minor to a mental health facility for
186 treatment for a period not to exceed 90 days if it finds, by clear and convincing evidence, that:

187 1. Because of mental illness, the minor (i) presents a serious danger to himself or others to the extent
188 that severe or irremediable injury is likely to result, as evidenced by recent acts or threats or (ii) is
189 experiencing a serious deterioration of his ability to care for himself in a developmentally
190 age-appropriate manner, as evidenced by delusional thinking or by a significant impairment of
191 functioning in hydration, nutrition, self-protection, or self-control;

192 2. The minor is in need of compulsory treatment for a mental illness and is reasonably likely to
193 benefit from the proposed treatment; and

194 3. If the court finds that inpatient treatment is not the least restrictive treatment, the court shall
195 consider entering an order for mandatory outpatient treatment pursuant to § 16.1-345.2.

196 Upon the expiration of an order for involuntary commitment, the minor shall be released unless he is
197 involuntarily admitted by further petition and order of a court, which shall be for a period not to exceed
198 90 days from the date of the subsequent court order, or the minor or his parent rescinds the objection to
199 inpatient treatment and consents to admission pursuant to § 16.1-338 or subsection D of § 16.1-339 or
200 the minor is ordered to mandatory outpatient treatment pursuant to § 16.1-345.2.

201 A minor who has been hospitalized while properly detained by a juvenile and domestic relations
202 district court shall be returned to the detention home, shelter care, or other facility approved by the
203 Department of Juvenile Justice by the sheriff serving the jurisdiction where the minor was detained
204 within 24 hours following completion of a period of inpatient treatment, unless the court having
205 jurisdiction over the case orders that the minor be released from custody. However, such a minor shall
206 not be eligible for mandatory outpatient treatment.

207 In conducting an evaluation of a minor who has been properly detained, if the evaluator finds,
208 irrespective of the fact that the minor has been detained, that the minor meets the criteria for involuntary
209 commitment in this section, the evaluator shall recommend that the minor meets the criteria for
210 involuntary commitment.

211 If the parent or parents with whom the minor resides are not willing to approve the proposed
212 commitment, the court shall order inpatient treatment only if it finds, in addition to the criteria specified
213 in this section, that such treatment is necessary to protect the minor's life, health, safety, or normal
214 development. If a special justice believes that issuance of a removal order or protective order may be in
215 the child's best interest, the special justice shall report the matter to the local department of social
216 services for the county or city where the minor resides.

217 Upon finding that the best interests of the minor so require, the court may enter an order directing
218 either or both of the minor's parents to comply with reasonable conditions relating to the minor's
219 treatment.

220 If the minor is committed to inpatient treatment, such placement shall be in a mental health facility
221 for inpatient treatment designated by the community services board which serves the political
222 subdivision in which the minor was evaluated pursuant to § 16.1-342. If the community services board
223 does not provide a placement recommendation at the hearing, the minor shall be placed in a mental
224 health facility designated by the Commissioner of Behavioral Health and Developmental Services.

225 When a minor has been involuntarily committed pursuant to this section, the judge shall determine,
226 after consideration of information provided by the minor's treating mental health professional and any
227 involved community services board staff regarding the minor's dangerousness, whether transportation
228 shall be provided by the sheriff or may be provided by an alternative transportation provider, including a
229 parent, family member, or friend of the minor, a representative of the community services board, a
230 representative of the facility at which the minor was detained pursuant to a temporary detention order, or
231 other alternative transportation provider with personnel trained to provide transportation in a safe
232 manner. If the judge determines that transportation may be provided by an alternative transportation
233 provider, the judge may consult with the proposed alternative transportation provider either in person or
234 via two-way electronic video and audio or telephone communication system to determine whether the
235 proposed alternative transportation provider is available to provide transportation, willing to provide
236 transportation, and able to provide transportation in a safe manner. If the judge finds that the proposed
237 alternative transportation provider is available to provide transportation, willing to provide transportation,
238 and able to provide transportation in a safe manner, the judge may order transportation by the proposed
239 alternative transportation provider. In all other cases, the judge shall order transportation by the sheriff
240 of the jurisdiction where the minor is a resident unless the sheriff's office of that jurisdiction is located
241 more than 100 road miles from the nearest boundary of the jurisdiction in which the proceedings took
242 place. In cases where the sheriff of the jurisdiction in which the minor is a resident is more than 100
243 road miles from the nearest boundary of the jurisdiction in which the proceedings took place, it shall be
244 the responsibility of the sheriff of the latter jurisdiction to transport the minor.

245 If the judge determines that the minor requires transportation by the sheriff, the sheriff, as specified
 246 in this section shall transport the minor to the proper facility. In no event shall transport commence later
 247 than six hours after notification to the sheriff or alternative transportation provider of the judge's order.

248 *No person who provides alternative transportation pursuant to this section shall be liable [to the
 249 person being transported] for any civil damages for ordinary negligence in acts or omissions that result
 250 from providing such alternative transportation.*

251 **§ 37.2-808. Emergency custody; issuance and execution of order.**

252 A. Any magistrate shall issue, upon the sworn petition of any responsible person, treating physician,
 253 or upon his own motion, an emergency custody order when he has probable cause to believe that any
 254 person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental
 255 illness, the person will, in the near future, (a) cause serious physical harm to himself or others as
 256 evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if
 257 any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide
 258 for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is unwilling to
 259 volunteer or incapable of volunteering for hospitalization or treatment. Any emergency custody order
 260 entered pursuant to this section shall provide for the disclosure of medical records pursuant to
 261 § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

262 When considering whether there is probable cause to issue an emergency custody order, the
 263 magistrate may, in addition to the petition, consider (1) the recommendations of any treating or
 264 examining physician or psychologist licensed in Virginia, if available, (2) any past actions of the person,
 265 (3) any past mental health treatment of the person, (4) any relevant hearsay evidence, (5) any medical
 266 records available, (6) any affidavits submitted, if the witness is unavailable and it so states in the
 267 affidavit, and (7) any other information available that the magistrate considers relevant to the
 268 determination of whether probable cause exists to issue an emergency custody order.

269 B. Any person for whom an emergency custody order is issued shall be taken into custody and
 270 transported to a convenient location to be evaluated to determine whether the person meets the criteria
 271 for temporary detention pursuant to § 37.2-809 and to assess the need for hospitalization or treatment.
 272 The evaluation shall be made by a person designated by the community services board who is skilled in
 273 the diagnosis and treatment of mental illness and who has completed a certification program approved
 274 by the Department.

275 C. The magistrate issuing an emergency custody order shall specify the primary law-enforcement
 276 agency and jurisdiction to execute the emergency custody order and provide transportation. However, in
 277 cases in which the emergency custody order is based upon a finding that the person who is the subject
 278 of the order has a mental illness and that there exists a substantial likelihood that, as a result of mental
 279 illness, the person will, in the near future, suffer serious harm due to his lack of capacity to protect
 280 himself from harm or to provide for his basic human needs but there is no substantial likelihood that the
 281 person will cause serious physical harm to himself or others as evidenced by recent behavior causing,
 282 attempting, or threatening harm and other relevant information, the magistrate shall consider any request
 283 to authorize transportation by an alternative transportation provider in accordance with this section,
 284 whenever an alternative transportation provider is identified to the magistrate, which may be a person,
 285 facility, or agency, including a family member or friend of the person who is the subject of the order, a
 286 representative of the community services board, or other transportation provider with personnel trained
 287 to provide transportation in a safe manner, upon determining, following consideration of information
 288 provided by the petitioner; the community services board or its designee; the local law-enforcement
 289 agency, if any; the person's treating physician, if any; or other persons who are available and have
 290 knowledge of the person, and, when the magistrate deems appropriate, the proposed alternative
 291 transportation provider, either in person or via two-way electronic video and audio or telephone
 292 communication system, that the proposed alternative transportation provider is available to provide
 293 transportation, willing to provide transportation, and able to provide transportation in a safe manner.
 294 When transportation is ordered to be provided by an alternative transportation provider, the magistrate
 295 shall order the specified primary law-enforcement agency to execute the order, to take the person into
 296 custody, and to transfer custody of the person to the alternative transportation provider identified in the
 297 order. In such cases, a copy of the emergency custody order shall accompany the person being
 298 transported pursuant to this section at all times and shall be delivered by the alternative transportation
 299 provider to the community services board or its designee responsible for conducting the evaluation. The
 300 community services board or its designee conducting the evaluation shall return a copy of the
 301 emergency custody order to the court designated by the magistrate as soon as is practicable. Delivery of
 302 an order to a law-enforcement officer or alternative transportation provider and return of an order to the
 303 court may be accomplished electronically or by facsimile.

304 Transportation under this section shall include transportation to a medical facility as may be
 305 necessary to obtain emergency medical evaluation or treatment that shall be conducted immediately in

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306 accordance with state and federal law. Transportation under this section shall include transportation to a
307 medical facility for a medical evaluation if a physician at the hospital in which the person subject to the
308 emergency custody order may be detained requires a medical evaluation prior to admission.

309 D. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section,
310 the magistrate shall order the primary law-enforcement agency from the jurisdiction served by the
311 community services board that designated the person to perform the evaluation required in subsection B
312 to execute the order and, in cases in which transportation is ordered to be provided by the primary
313 law-enforcement agency, provide transportation. If the community services board serves more than one
314 jurisdiction, the magistrate shall designate the primary law-enforcement agency from the particular
315 jurisdiction within the community services board's service area where the person who is the subject of
316 the emergency custody order was taken into custody or, if the person has not yet been taken into
317 custody, the primary law-enforcement agency from the jurisdiction where the person is presently located
318 to execute the order and provide transportation.

319 E. The law-enforcement agency or alternative transportation provider providing transportation
320 pursuant to this section may transfer custody of the person to the facility or location to which the person
321 is transported for the evaluation required in subsection B, G, or H if the facility or location (i) is
322 licensed to provide the level of security necessary to protect both the person and others from harm, (ii)
323 is actually capable of providing the level of security necessary to protect the person and others from
324 harm, and (iii) in cases in which transportation is provided by a law-enforcement agency, has entered
325 into an agreement or memorandum of understanding with the law-enforcement agency setting forth the
326 terms and conditions under which it will accept a transfer of custody, provided, however, that the
327 facility or location may not require the law-enforcement agency to pay any fees or costs for the transfer
328 of custody.

329 F. A law-enforcement officer may lawfully go or be sent beyond the territorial limits of the county,
330 city, or town in which he serves to any point in the Commonwealth for the purpose of executing an
331 emergency custody order pursuant to this section.

332 G. A law-enforcement officer who, based upon his observation or the reliable reports of others, has
333 probable cause to believe that a person meets the criteria for emergency custody as stated in this section
334 may take that person into custody and transport that person to an appropriate location to assess the need
335 for hospitalization or treatment without prior authorization. A law-enforcement officer who takes a
336 person into custody pursuant to this subsection or subsection H may lawfully go or be sent beyond the
337 territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for
338 the purpose of obtaining the assessment. Such evaluation shall be conducted immediately. The period of
339 custody shall not exceed eight hours from the time the law-enforcement officer takes the person into
340 custody.

341 H. A law-enforcement officer who is transporting a person who has voluntarily consented to be
342 transported to a facility for the purpose of assessment or evaluation and who is beyond the territorial
343 limits of the county, city, or town in which he serves may take such person into custody and transport
344 him to an appropriate location to assess the need for hospitalization or treatment without prior
345 authorization when the law-enforcement officer determines (i) that the person has revoked consent to be
346 transported to a facility for the purpose of assessment or evaluation, and (ii) based upon his
347 observations, that probable cause exists to believe that the person meets the criteria for emergency
348 custody as stated in this section. The period of custody shall not exceed eight hours from the time the
349 law-enforcement officer takes the person into custody.

350 I. Nothing herein shall preclude a law-enforcement officer or alternative transportation provider from
351 obtaining emergency medical treatment or further medical evaluation at any time for a person in his
352 custody as provided in this section.

353 J. A representative of the primary law-enforcement agency specified to execute an emergency
354 custody order or a representative of the law-enforcement agency employing a law-enforcement officer
355 who takes a person into custody pursuant to subsection G or H shall notify the community services
356 board responsible for conducting the evaluation required in subsection B, G, or H as soon as practicable
357 after execution of the emergency custody order or after the person has been taken into custody pursuant
358 to subsection G or H.

359 K. The person shall remain in custody until a temporary detention order is issued, until the person is
360 released, or until the emergency custody order expires. An emergency custody order shall be valid for a
361 period not to exceed eight hours from the time of execution.

362 L. Any person taken into emergency custody pursuant to this section shall be given a written
363 summary of the emergency custody procedures and the statutory protections associated with those
364 procedures.

365 M. If an emergency custody order is not executed within eight hours of its issuance, the order shall
366 be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if such office
367 is not open, to any magistrate serving the jurisdiction of the issuing court.

368 N. (Expires June 30, 2018) In addition to the eight-hour period of emergency custody set forth in
 369 subsection G, H, or K, if the individual is detained in a state facility pursuant to subsection E of
 370 § 37.2-809, the state facility and an employee or designee of the community services board as defined in
 371 § 37.2-809 may, for an additional four hours, continue to attempt to identify an alternative facility that is
 372 able and willing to provide temporary detention and appropriate care to the individual.

373 O. Payments shall be made pursuant to § 37.2-804 to licensed health care providers for medical
 374 screening and assessment services provided to persons with mental illnesses while in emergency custody.

375 *P. No person who provides alternative transportation pursuant to this section shall be liable [to the
 376 person being transported] for any civil damages for ordinary negligence in acts or omissions that result
 377 from providing such alternative transportation.*

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

379 A. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section,
 380 the magistrate shall specify in the temporary detention order the law-enforcement agency of the
 381 jurisdiction in which the person resides, or any other willing law-enforcement agency that has agreed to
 382 provide transportation, to execute the order and, in cases in which transportation is ordered to be
 383 provided by the primary law-enforcement agency, provide transportation. However, if the nearest
 384 boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest
 385 boundary of the jurisdiction in which the person is located, the law-enforcement agency of the
 386 jurisdiction in which the person is located shall execute the order and provide transportation.

387 B. The magistrate issuing the temporary detention order shall specify the law-enforcement agency to
 388 execute the order and provide transportation. However, ~~in cases in which the temporary detention order~~
 389 is based upon a finding that the person who is the subject of the order has a mental illness and that
 390 there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future,
 391 suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic
 392 human needs but there is no substantial likelihood that the person will cause serious physical harm to
 393 himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other
 394 relevant information, the magistrate shall consider any request to authorize transportation by an
 395 alternative transportation provider in accordance with this section, whenever an alternative transportation
 396 provider is identified to the magistrate, which may be a person, facility, or agency, including a family
 397 member or friend of the person who is the subject of the temporary detention order, a representative of
 398 the community services board, or other transportation provider with personnel trained to provide
 399 transportation in a safe manner upon determining, following consideration of information provided by
 400 the petitioner; the community services board or its designee; the local law-enforcement agency, if any;
 401 the person's treating physician, if any; or other persons who are available and have knowledge of the
 402 person, and, when the magistrate deems appropriate, the proposed alternative transportation provider,
 403 either in person or via two-way electronic video and audio or telephone communication system, that the
 404 proposed alternative transportation provider is available to provide transportation, willing to provide
 405 transportation, and able to provide transportation in a safe manner. When transportation is ordered to be
 406 provided by an alternative transportation provider, the magistrate shall order the specified
 407 law-enforcement agency to execute the order, to take the person into custody, and to transfer custody of
 408 the person to the alternative transportation provider identified in the order. In such cases, a copy of the
 409 temporary detention order shall accompany the person being transported pursuant to this section at all
 410 times and shall be delivered by the alternative transportation provider to the temporary detention facility.
 411 The temporary detention facility shall return a copy of the temporary detention order to the court
 412 designated by the magistrate as soon as is practicable. Delivery of an order to a law-enforcement officer
 413 or alternative transportation provider and return of an order to the court may be accomplished
 414 electronically or by facsimile.

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

421 C. In cases in which an alternative facility of temporary detention is identified and the
 422 law-enforcement agency or alternative transportation provider identified to provide transportation in
 423 accordance with subsection B continues to have custody of the person, the local law-enforcement agency
 424 or alternative transportation provider shall transport the person to the alternative facility of temporary
 425 detention identified by the employee or designee of the community services board. In cases in which an
 426 alternative facility of temporary detention is identified and custody of the individual has been transferred
 427 from the law-enforcement agency or alternative transportation provider that provided transportation in
 428 accordance with subsection B to the initial facility of temporary detention, the employee or designee of

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429 the community services board shall request, and a magistrate may enter an order specifying, an
430 alternative transportation provider or, if no alternative transportation provider is available, willing, and
431 able to provide transportation in a safe manner, the local law-enforcement agency for the jurisdiction in
432 which the person resides or, if the nearest boundary of the jurisdiction in which the person resides is
433 more than 50 miles from the nearest boundary of the jurisdiction in which the person is located, the
434 law-enforcement agency of the jurisdiction in which the person is located, to provide transportation.

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

439 E. *No person who provides alternative transportation pursuant to this section shall be liable [to the
440 person being transported] for any civil damages for ordinary negligence in acts or omissions that result
441 from providing such alternative transportation.*

442 **§ 37.2-829. Transportation of person in civil admission process.**

443 When a person has volunteered for admission pursuant to § 37.2-814 or been ordered to be admitted
444 to a facility under §§ 37.2-815 through 37.2-821, the judge or special justice shall determine after
445 consideration of information provided by the person's treating mental health professional and any
446 involved community services board or behavioral health authority staff regarding the person's
447 dangerousness, whether transportation shall be provided by the sheriff or may be provided by an
448 alternative transportation provider, including a family member or friend of the person, a representative of
449 the community services board, a representative of the facility at which the person was detained pursuant
450 to a temporary detention order, or other alternative transportation provider with personnel trained to
451 provide transportation in a safe manner. If the judge or special justice determines that transportation may
452 be provided by an alternative transportation provider, the judge or special justice may consult with the
453 proposed alternative transportation provider either in person or via two-way electronic video and audio
454 or telephone communication system to determine whether the proposed alternative transportation
455 provider is available to provide transportation, willing to provide transportation, and able to provide
456 transportation in a safe manner. If the judge or special justice finds that the proposed alternative
457 transportation provider is available to provide transportation, willing to provide transportation, and able
458 to provide transportation in a safe manner, the judge or special justice may order transportation by the
459 proposed alternative transportation provider. In all other cases, the judge or special justice shall order
460 transportation by the sheriff of the jurisdiction where the person is a resident unless the sheriff's office
461 of that jurisdiction is located more than 100 road miles from the nearest boundary of the jurisdiction in
462 which the proceedings took place. In cases where the sheriff of the jurisdiction of which the person is a
463 resident is more than 100 road miles from the nearest boundary of the jurisdiction in which the
464 proceedings took place, it shall be the responsibility of the sheriff of the latter jurisdiction to transport
465 the person.

466 If the judge or special justice determines that the person requires transportation by the sheriff, the
467 person may be delivered to the care of the sheriff, as specified in this section, who shall transport the
468 person to the proper facility. In no event shall transport commence later than six hours after notification
469 to the sheriff or alternative transportation provider of the judge's or special justice's order.

470 If any state hospital has become too crowded to admit any such person, the Commissioner shall give
471 notice of the fact to all community services boards and shall designate the facility to which sheriffs or
472 alternative transportation providers shall transport such persons.

473 *No person who provides alternative transportation pursuant to this section shall be liable [to the
474 person being transported] for any civil damages for ordinary negligence in acts or omissions that result
475 from providing such alternative transportation.*