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SENATE BILL NO. 779

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 20, 2015)

(Patron Prior to Substitute—Senator McWaters)

A BILL to amend and reenact § 16.1-339 of the Code of Virginia, relating to psychiatric treatment of minors; duration of admission.

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-339 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-339. Parental admission of an objecting minor 14 years of age or older.

A. A minor 14 years of age or older who (i) objects to admission, or (ii) is incapable of making an informed decision may be admitted to a willing facility for up to 96 120 hours, pending the review required by subsections B and C of this section, upon the application of a parent. If admission is sought to a state hospital, the community services board serving the area in which the minor resides shall provide the preadmission screening report required by subsection B of § 16.1-338 and shall ensure that the necessary written findings, except the minor's consent, have been made before approving the admission.

B. A minor admitted under this section shall be examined within 24 hours of his admission by a qualified evaluator designated by the community services board serving the area where the facility is located. If the 24-hour time period expires on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the 24 hours shall extend to the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed. The evaluator shall prepare a report that shall include written findings as to whether:

1. Because of mental illness, the minor (i) 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 (ii) is experiencing a serious deterioration of his ability to care for himself in a developmentally age-appropriate manner, as evidenced by delusory thinking or by a significant impairment of functioning in hydration, nutrition, self-protection, or self-control;

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

3. Inpatient treatment is the least restrictive alternative that meets the minor's needs. The qualified evaluator shall submit his report to the juvenile and domestic relations district court for the jurisdiction in which the facility is located.

C. Upon admission of a minor under this section, the facility shall file a petition for judicial approval no sooner than 24 hours and no later than 96 120 hours after admission with the juvenile and domestic relations district court for the jurisdiction in which the facility is located. To the extent available, the petition shall contain the information required by § 16.1-339.1. A copy of this petition shall be delivered to the minor's consenting parent. Upon receipt of the petition and of the evaluator's report submitted pursuant to subsection B, the judge shall appoint a guardian ad litem for the minor and counsel to represent the minor, unless it has been determined that the minor has retained counsel. A copy of the evaluator's report shall be provided to the minor's counsel and guardian ad litem. The court and the guardian ad litem shall review the petition and evaluator's report and shall ascertain the views of the minor, the minor's consenting parent, the evaluator, and the attending psychiatrist. The court shall conduct its review in such place and manner, including the facility, as it deems to be in the best interests of the minor. Based upon its review and the recommendations of the guardian ad litem, the court shall order one of the following dispositions:

1. If the court finds that the minor does not meet the criteria for admission specified in subsection B, the court shall issue an order directing the facility to release the minor into the custody of the parent who consented to the minor's admission. However, nothing herein shall be deemed to affect the terms and provisions of any valid court order of custody affecting the minor.

2. If the court finds that the minor meets the criteria for admission specified in subsection B, the court shall issue an order authorizing continued hospitalization of the minor for up to 90 days on the basis of the parent's consent.

Within 10 days after the admission of a minor under this section, the director of the facility or the director's designee shall ensure that an individualized plan of treatment has been prepared by the provider responsible for the minor's treatment and has been explained to the parent consenting to the admission and to the minor. A copy of the plan shall also be provided to the guardian ad litem and to counsel for the minor. The minor shall be involved in the preparation of the plan to the maximum feasible extent consistent with his ability to understand and participate, and the minor's family shall be

60 involved to the maximum extent consistent with the minor's treatment needs. The plan shall include a
61 preliminary plan for placement and aftercare upon completion of inpatient treatment and shall include
62 specific behavioral and emotional goals against which the success of treatment may be measured.

63 3. If the court determines that the available information is insufficient to permit an informed
64 determination regarding whether the minor meets the criteria specified in subsection B, the court shall
65 schedule a commitment hearing that shall be conducted in accordance with the procedures specified in
66 §§ 16.1-341 through 16.1-345. The minor may be detained in the hospital for up to ~~96~~ 120 additional
67 hours pending the holding of the commitment hearing.

68 D. A minor admitted under this section who rescinds his objection may be retained in the hospital
69 pursuant to § 16.1-338.

70 E. If the parent who consented to a minor's admission under this section revokes his consent at any
71 time, the minor shall be released within 48 hours to the parent's custody unless the minor's continued
72 hospitalization is authorized pursuant to § 16.1-340.1 or 16.1-345. If the 48-hour time period expires on
73 a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the 48 hours shall
74 extend to the next day that is not a Saturday, Sunday, legal holiday or day on which the court is
75 lawfully closed.

76 F. A minor who has been hospitalized while properly detained by a juvenile and domestic relations
77 district court or circuit court shall be returned to the detention home, shelter care, or other facility
78 approved by the Department of Juvenile Justice by the sheriff serving the jurisdiction where the minor
79 was detained within 24 hours following completion of a period of inpatient treatment, unless the court
80 having jurisdiction over the case orders that the minor be released from custody.