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**HOUSE BILL NO. 606**

Offered January 13, 2016

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*A BILL to amend and reenact §§ 37.2-805, 37.2-809, 37.2-817, 37.2-819, and 37.2-829 of the Code of Virginia, relating to temporary detention orders; voluntary admission.*

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Patron—Bell, Robert B.

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Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 37.2-805, 37.2-809, 37.2-817, 37.2-819, and 37.2-829 of the Code of Virginia are amended and reenacted as follows:**

**§ 37.2-805. Voluntary admission.**

Any state facility shall admit any person requesting admission who has been (i) screened by the community services board or behavioral health authority that serves the county or city where the person resides or, if impractical, where the person is located, (ii) examined by a physician on the staff of the state facility, and (iii) deemed by the board or authority and the state facility physician to be in need of treatment, training, or habilitation in a state facility. Upon motion of the treating physician, a family member or personal representative of the person, or the community services board serving the county or city where the facility is located, the county or city where the person resides, or the county or city where the person receives treatment, a hearing shall be held prior to the release date of any person who has been the subject of a temporary detention order and voluntarily admitted himself in accordance with *subsection B of § 37.2-809 or subsection B of § 37.2-814* to determine whether such person should be ordered to mandatory outpatient treatment pursuant to subsection D of § 37.2-817 upon his release if such person, on at least two previous occasions within 36 months preceding the date of the hearing, has been (a) the subject of a temporary detention order and voluntarily admitted himself in accordance with *subsection B of § 37.2-809 or subsection B of § 37.2-814* or (b) involuntarily admitted pursuant to § 37.2-817. A district court judge or special justice shall hold the hearing within 72 hours after receiving the motion for a mandatory outpatient treatment order; however, if the 72-hour period expires on a Saturday, Sunday, or legal holiday, the hearing shall be held by the close of business on the next day that is not a Saturday, Sunday, or legal holiday.

**§ 37.2-809. Involuntary temporary detention; issuance and execution of order.**

A. For the purposes of this section:

"Designee of the local community services board" means an examiner designated by the local community services board who (i) is skilled in the assessment and treatment of mental illness, (ii) has completed a certification program approved by the Department, (iii) is able to provide an independent examination of the person, (iv) is not related by blood or marriage to the person being evaluated, (v) has no financial interest in the admission or treatment of the person being evaluated, (vi) has no investment interest in the facility detaining or admitting the person under this article, and (vii) except for employees of state hospitals and of the U.S. Department of Veterans Affairs, is not employed by the facility.

"Employee" means an employee of the local community services board who is skilled in the assessment and treatment of mental illness and has completed a certification program approved by the Department.

"Investment interest" means the ownership or holding of an equity or debt security, including shares of stock in a corporation, interests or units of a partnership, bonds, debentures, notes, or other equity or debt instruments.

B. A magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion and only after an evaluation conducted in-person or by means of a two-way electronic video and audio communication system as authorized in § 37.2-804.1 by an employee or a designee of the local community services board to determine whether the person meets the criteria for temporary detention, a temporary detention order if it appears from all evidence readily available, including any recommendation from a physician or clinical psychologist treating the person, that the person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; *and* (ii) is in need of hospitalization or treatment; *and* (iii) is ~~unwilling to volunteer or incapable of volunteering for hospitalization or treatment.~~ The magistrate shall also consider

59 the recommendations of any treating or examining physician licensed in Virginia if available either  
60 verbally or in writing prior to rendering a decision. Any temporary detention order entered pursuant to  
61 this section shall provide for the disclosure of medical records pursuant to § 37.2-804.2. This subsection  
62 shall not preclude any other disclosures as required or permitted by law. *After determining that the*  
63 *person meets the criteria for temporary detention and issuing a temporary detention order, the*  
64 *magistrate shall inform the person of his right to apply for voluntary admission for inpatient treatment*  
65 *as provided for in § 37.2-805 and shall afford the person an opportunity for voluntary admission. The*  
66 *magistrate shall advise the person that if he chooses to be voluntarily admitted pursuant to § 37.2-805,*  
67 *he will be prohibited from possessing, purchasing, or transporting a firearm pursuant to § 18.2-308.1:3.*  
68 *The magistrate shall ascertain if the person is then willing and capable of seeking voluntary admission*  
69 *for inpatient treatment. If the magistrate finds that the person is capable and willingly accepts voluntary*  
70 *admission for inpatient treatment, the magistrate shall require him to accept voluntary admission for a*  
71 *minimum period of treatment not to exceed 72 hours. After such minimum period of treatment, the*  
72 *person shall give the facility 48 hours' notice prior to leaving the facility. During this notice period, the*  
73 *person shall not be discharged except as provided in § 37.2-837, 37.2-838, or 37.2-840. The person*  
74 *shall be subject to the transportation provisions as provided in § 37.2-829 and the requirement for*  
75 *preadmission screening by a community services board as provided in § 37.2-805. If a person willingly*  
76 *accepts voluntary admission for inpatient treatment pursuant to this subsection, the temporary detention*  
77 *order will be deemed to have expired at the time of his voluntary admission, the provisions of*  
78 *subsections E through I and L shall not apply, and no commitment hearing shall be held pursuant to*  
79 *§ 37.2-814.*

80 C. When considering whether there is probable cause to issue a temporary detention order, the  
81 magistrate may, in addition to the petition, consider (i) the recommendations of any treating or  
82 examining physician or psychologist licensed in Virginia, if available, (ii) any past actions of the person,  
83 (iii) any past mental health treatment of the person, (iv) any relevant hearsay evidence, (v) any medical  
84 records available, (vi) any affidavits submitted, if the witness is unavailable and it so states in the  
85 affidavit, and (vii) any other information available that the magistrate considers relevant to the  
86 determination of whether probable cause exists to issue a temporary detention order.

87 D. A magistrate may issue a temporary detention order without an emergency custody order  
88 proceeding. A magistrate may issue a temporary detention order without a prior evaluation pursuant to  
89 subsection B if (i) the person has been personally examined within the previous 72 hours by an  
90 employee or a designee of the local community services board or (ii) there is a significant physical,  
91 psychological, or medical risk to the person or to others associated with conducting such evaluation.

92 E. An employee or a designee of the local community services board shall determine the facility of  
93 temporary detention in accordance with the provisions of § 37.2-809.1 for all individuals detained  
94 pursuant to this section. An employee or designee of the local community services board may change  
95 the facility of temporary detention and may designate an alternative facility for temporary detention at  
96 any point during the period of temporary detention if it is determined that the alternative facility is a  
97 more appropriate facility for temporary detention of the individual given the specific security, medical,  
98 or behavioral health needs of the person. In cases in which the facility of temporary detention is  
99 changed following transfer of custody to an initial facility of temporary custody, transportation of the  
100 individual to the alternative facility of temporary detention shall be provided in accordance with the  
101 provisions of § 37.2-810. The initial facility of temporary detention shall be identified on the  
102 preadmission screening report and indicated on the temporary detention order; however, if an employee  
103 or designee of the local community services board designates an alternative facility, that employee or  
104 designee shall provide written notice forthwith, on a form developed by the Executive Secretary of the  
105 Supreme Court of Virginia, to the clerk of the issuing court of the name and address of the alternative  
106 facility. Subject to the provisions of § 37.2-809.1, if a facility of temporary detention cannot be  
107 identified by the time of the expiration of the period of emergency custody pursuant to § 37.2-808, the  
108 individual shall be detained in a state facility for the treatment of individuals with mental illness and  
109 such facility shall be indicated on the temporary detention order. Except as provided in § 37.2-811 for  
110 inmates requiring hospitalization in accordance with subdivision A 2 of § 19.2-169.6, the person shall  
111 not be detained in a jail or other place of confinement for persons charged with criminal offenses and  
112 shall remain in the custody of law enforcement until the person is either detained within a secure facility  
113 or custody has been accepted by the appropriate personnel designated by either the initial facility of  
114 temporary detention identified in the temporary detention order or by the alternative facility of  
115 temporary detention designated by the employee or designee of the local community services board  
116 pursuant to this subsection. The person detained or in custody pursuant to this section shall be given a  
117 written summary of the temporary detention procedures and the statutory protections associated with  
118 those procedures.

119 F. Any facility caring for a person placed with it pursuant to a temporary detention order is  
120 authorized to provide emergency medical and psychiatric services within its capabilities when the facility

determines that the services are in the best interests of the person within its care. The costs incurred as a result of the hearings and by the facility in providing services during the period of temporary detention shall be paid and recovered pursuant to § 37.2-804. The maximum costs reimbursable by the Commonwealth pursuant to this section shall be established by the State Board of Medical Assistance Services based on reasonable criteria. The State Board of Medical Assistance Services shall, by regulation, establish a reasonable rate per day of inpatient care for temporary detention.

G. The employee or the designee of the local community services board who is conducting the evaluation pursuant to this section shall determine, prior to the issuance of the temporary detention order, the insurance status of the person. Where coverage by a third party payor exists, the facility seeking reimbursement under this section shall first seek reimbursement from the third party payor. The Commonwealth shall reimburse the facility only for the balance of costs remaining after the allowances covered by the third party payor have been received.

H. The duration of temporary detention shall be sufficient to allow for completion of the examination required by § 37.2-815, preparation of the preadmission screening report required by § 37.2-816, and initiation of mental health treatment to stabilize the person's psychiatric condition to avoid involuntary commitment where possible, but shall not exceed 72 hours prior to a hearing. If the 72-hour period herein specified terminates on a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed, the person may be detained, as herein provided, until the close of business on the next day that is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. The person may be released, pursuant to § 37.2-813, before the 72-hour period herein specified has run.

I. If a temporary detention order is not executed within 24 hours of its issuance, or within a shorter period as is specified in the order, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if the office is not open, to any magistrate serving the jurisdiction of the issuing court. Subsequent orders may be issued upon the original petition within 96 hours after the petition is filed. However, a magistrate must again obtain the advice of an employee or a designee of the local community services board prior to issuing a subsequent order upon the original petition. Any petition for which no temporary detention order or other process in connection therewith is served on the subject of the petition within 96 hours after the petition is filed shall be void and shall be returned to the office of the clerk of the issuing court.

J. The Executive Secretary of the Supreme Court of Virginia shall establish and require that a magistrate, as provided by this section, be available seven days a week, 24 hours a day, for the purpose of performing the duties established by this section. Each community services board shall provide to each general district court and magistrate's office within its service area a list of its employees and designees who are available to perform the evaluations required herein.

K. For purposes of this section, a health care provider or designee of a local community services board or behavioral health authority shall not be required to encrypt any email containing information or medical records provided to a magistrate unless there is reason to believe that a third party will attempt to intercept the email.

L. The employee or designee of the community services board who is conducting the evaluation pursuant to this section shall, if he recommends that the person should not be subject to a temporary detention order, inform the petitioner and an onsite treating physician of his recommendation.

**§ 37.2-817. Involuntary admission and mandatory outpatient treatment orders.**

A. The district court judge or special justice shall render a decision on the petition for involuntary admission after the appointed examiner has presented the report required by § 37.2-815, and after the community services board that serves the county or city where the person resides or, if impractical, where the person is located has presented a preadmission screening report with recommendations for that person's placement, care, and treatment pursuant to § 37.2-816. These reports, if not contested, may constitute sufficient evidence upon which the district court judge or special justice may base his decision. The examiner, if not physically present at the hearing, and the treating physician at the facility of temporary detention shall be available whenever possible for questioning during the hearing through a two-way electronic video and audio or telephonic communication system as authorized in § 37.2-804.1.

B. Any employee or designee of the local community services board, as defined in § 37.2-809, representing the community services board that prepared the preadmission screening report shall attend the hearing in person or, if physical attendance is not practicable, shall participate in the hearing through a two-way electronic video and audio or telephonic communication system as authorized in § 37.2-804.1. Where a hearing is held outside of the service area of the community services board that prepared the preadmission screening report, and it is not practicable for a representative of the board to attend or participate in the hearing, arrangements shall be made by the board for an employee or designee of the board serving the area in which the hearing is held to attend or participate on behalf of the board that prepared the preadmission screening report. The employee or designee of the local community services board, as defined in § 37.2-809, representing the community services board that prepared the

182 preadmission screening report or attending or participating on behalf of the board that prepared the  
183 preadmission screening report shall not be excluded from the hearing pursuant to an order of  
184 sequestration of witnesses. The community services board that prepared the preadmission screening  
185 report shall remain responsible for the person subject to the hearing and, prior to the hearing, shall send  
186 the preadmission screening report through certified mail, personal delivery, facsimile with return receipt  
187 acknowledged, or other electronic means to the community services board attending the hearing. Where  
188 a community services board attends the hearing on behalf of the community services board that prepared  
189 the preadmission screening report, the attending community services board shall inform the community  
190 services board that prepared the preadmission screening report of the disposition of the matter upon the  
191 conclusion of the hearing. In addition, the attending community services board shall transmit the  
192 disposition through certified mail, personal delivery, facsimile with return receipt acknowledged, or other  
193 electronic means.

194 At least 12 hours prior to the hearing, the court shall provide to the community services board that  
195 prepared the preadmission screening report the time and location of the hearing. If the representative of  
196 the community services board will be present by telephonic means, the court shall provide the telephone  
197 number to the board.

198 C. After observing the person and considering (i) the recommendations of any treating or examining  
199 physician or psychologist licensed in Virginia, if available, (ii) any past actions of the person, (iii) any  
200 past mental health treatment of the person, (iv) any examiner's certification, (v) any health records  
201 available, (vi) the preadmission screening report, and (vii) any other relevant evidence that may have  
202 been admitted, including whether the person recently has been found unrestorably incompetent to stand  
203 trial after a hearing held pursuant to subsection E of § 19.2-169.1, if the judge or special justice finds by  
204 clear and convincing evidence that (a) the person has a mental illness and there is a substantial  
205 likelihood that, as a result of mental illness, the person will, in the near future, (1) cause serious  
206 physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening  
207 harm and other relevant information, if any, or (2) suffer serious harm due to his lack of capacity to  
208 protect himself from harm or to provide for his basic human needs, and (b) all available less restrictive  
209 treatment alternatives to involuntary inpatient treatment, pursuant to subsection D, that would offer an  
210 opportunity for the improvement of the person's condition have been investigated and determined to be  
211 inappropriate, the judge or special justice shall by written order and specific findings so certify and  
212 order that the person be admitted involuntarily to a facility for a period of treatment not to exceed 30  
213 days from the date of the court order. Such involuntary admission shall be to a facility designated by  
214 the community services board that serves the county or city in which the person was examined as  
215 provided in § 37.2-816. If the community services board does not designate a facility at the commitment  
216 hearing, the person shall be involuntarily admitted to a facility designated by the Commissioner. Upon  
217 the expiration of an order for involuntary admission, the person shall be released unless he is  
218 involuntarily admitted by further petition and order of a court, which shall be for a period not to exceed  
219 180 days from the date of the subsequent court order, or such person makes application for treatment on  
220 a voluntary basis as provided for in § 37.2-805 or is ordered to mandatory outpatient treatment pursuant  
221 to subsection D. Upon motion of the treating physician, a family member or personal representative of  
222 the person, or the community services board serving the county or city where the facility is located, the  
223 county or city where the person resides, or the county or city where the person receives treatment, a  
224 hearing shall be held prior to the release date of any involuntarily admitted person to determine whether  
225 such person should be ordered to mandatory outpatient treatment pursuant to subsection D upon his  
226 release if such person, on at least two previous occasions within 36 months preceding the date of the  
227 hearing, has been (A) involuntarily admitted pursuant to this section or (B) the subject of a temporary  
228 detention order and voluntarily admitted himself in accordance with *subsection B of § 37.2-809 or*  
229 *subsection B of § 37.2-814.* A district court judge or special justice shall hold the hearing within 72  
230 hours after receiving the motion for a mandatory outpatient treatment order; however, if the 72-hour  
231 period expires on a Saturday, Sunday, or legal holiday, the hearing shall be held by the close of  
232 business on the next day that is not a Saturday, Sunday, or legal holiday.

233 C1. In the order for involuntary admission, the judge or special justice may authorize the treating  
234 physician to discharge the person to mandatory outpatient treatment under a discharge plan developed  
235 pursuant to subsection C2, if the judge or special justice further finds by clear and convincing evidence  
236 that (i) the person has a history of lack of compliance with treatment for mental illness that at least  
237 twice within the past 36 months has resulted in the person being subject to an order for involuntary  
238 admission pursuant to subsection C; (ii) in view of the person's treatment history and current behavior,  
239 the person is in need of mandatory outpatient treatment following inpatient treatment in order to prevent  
240 a relapse or deterioration that would be likely to result in the person meeting the criteria for involuntary  
241 inpatient treatment; (iii) as a result of mental illness, the person is unlikely to voluntarily participate in  
242 outpatient treatment unless the court enters an order authorizing discharge to mandatory outpatient  
243 treatment following inpatient treatment; and (iv) the person is likely to benefit from mandatory

outpatient treatment. The duration of mandatory outpatient treatment shall be determined by the court based on recommendations of the community services board, but shall not exceed 90 days. Upon expiration of the order for mandatory outpatient treatment, the person shall be released unless the order is continued in accordance with § 37.2-817.4.

C2. Prior to discharging the person to mandatory outpatient treatment under a discharge plan as authorized pursuant to subsection C1, the treating physician shall determine, based upon his professional judgment, that (i) the person (a) in view of the person's treatment history and current behavior, no longer needs inpatient hospitalization, (b) requires mandatory outpatient treatment at the time of discharge to prevent relapse or deterioration of his condition that would likely result in his meeting the criteria for involuntary inpatient treatment, and (c) has agreed to abide by his discharge plan and has the ability to do so; and (ii) the ordered treatment will be delivered on an outpatient basis by the community services board or designated provider to the person. In no event shall the treating physician discharge a person to mandatory outpatient treatment under a discharge plan as authorized pursuant to subsection C1 if the person meets the criteria for involuntary commitment set forth in subsection C. The discharge plan developed by the treating physician and facility staff in conjunction with the community services board and the person shall serve as and shall contain all the components of the comprehensive mandatory outpatient treatment plan set forth in subsection G, and no initial mandatory outpatient treatment plan set forth in subsection F shall be required. The discharge plan shall be submitted to the court for approval and, upon approval by the court, shall be filed and incorporated into the order entered pursuant to subsection C1. The discharge plan shall be provided to the person by the community services board at the time of the person's discharge from the inpatient facility. The community services board where the person resides upon discharge shall monitor the person's compliance with the discharge plan and report any material noncompliance to the court in accordance with § 37.2-817.1.

D. After observing the person and considering (i) the recommendations of any treating or examining physician or psychologist licensed in Virginia, if available, (ii) any past actions of the person, (iii) any past mental health treatment of the person, (iv) any examiner's certification, (v) any health records available, (vi) the preadmission screening report, and (vii) any other relevant evidence that may have been admitted, if the judge or special justice finds by clear and convincing evidence that (a) the person has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (1) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (2) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; (b) less restrictive alternatives to involuntary inpatient treatment that would offer an opportunity for improvement of his condition have been investigated and are determined to be appropriate; (c) the person has agreed to abide by his treatment plan and has the ability to do so; and (d) the ordered treatment will be delivered on an outpatient basis by the community services board or designated provider to the person, the judge or special justice shall by written order and specific findings so certify and order that the person be admitted involuntarily to mandatory outpatient treatment. Less restrictive alternatives shall not be determined to be appropriate unless the services are actually available in the community.

E. Mandatory outpatient treatment may include day treatment in a hospital, night treatment in a hospital, outpatient involuntary treatment with anti-psychotic medication pursuant to Chapter 11 (§ 37.2-1100 et seq.), or other appropriate course of treatment as may be necessary to meet the needs of the person. Mandatory outpatient treatment shall not include the use of restraints or physical force of any kind in the provision of the medication. The community services board that serves the county or city in which the person resides shall recommend a specific course of treatment and programs for the provision of mandatory outpatient treatment. The duration of mandatory outpatient treatment shall be determined by the court based on recommendations of the community services board, but shall not exceed 90 days. Upon expiration of an order for mandatory outpatient treatment, the person shall be released from the requirements of the order unless the order is continued in accordance with § 37.2-817.4.

F. Any order for mandatory outpatient treatment entered pursuant to subsection D shall include an initial mandatory outpatient treatment plan developed by the community services board that completed the preadmission screening report. The plan shall, at a minimum, (i) identify the specific services to be provided, (ii) identify the provider who has agreed to provide each service, (iii) describe the arrangements made for the initial in-person appointment or contact with each service provider, and (iv) include any other relevant information that may be available regarding the mandatory outpatient treatment ordered. The order shall require the community services board to monitor the implementation of the mandatory outpatient treatment plan and report any material noncompliance to the court.

G. No later than five days, excluding Saturdays, Sundays, or legal holidays, after an order for mandatory outpatient treatment has been entered pursuant to subsection D, the community services board

where the person resides that is responsible for monitoring compliance with the order shall file a comprehensive mandatory outpatient treatment plan. The comprehensive mandatory outpatient treatment plan shall (i) identify the specific type, amount, duration, and frequency of each service to be provided to the person, (ii) identify the provider that has agreed to provide each service included in the plan, (iii) certify that the services are the most appropriate and least restrictive treatment available for the person, (iv) certify that each provider has complied and continues to comply with applicable provisions of the Department's licensing regulations, (v) be developed with the fullest possible involvement and participation of the person and his family, with the person's consent, and reflect his preferences to the greatest extent possible to support his recovery and self-determination, (vi) specify the particular conditions with which the person shall be required to comply, and (vii) describe how the community services board shall monitor the person's compliance with the plan and report any material noncompliance with the plan. The community services board shall submit the comprehensive mandatory outpatient treatment plan to the court for approval. Upon approval by the court, the comprehensive mandatory outpatient treatment plan shall be filed with the court and incorporated into the order of mandatory outpatient treatment. Any subsequent substantive modifications to the plan shall be filed with the court for review and attached to any order for mandatory outpatient treatment.

H. If the community services board responsible for developing the comprehensive mandatory outpatient treatment plan determines that the services necessary for the treatment of the person's mental illness are not available or cannot be provided to the person in accordance with the order for mandatory outpatient treatment, it shall notify the court within five business days of the entry of the order for mandatory outpatient treatment. Within two business days of receiving such notice, the judge or special justice, after notice to the person, the person's attorney, and the community services board responsible for developing the comprehensive mandatory outpatient treatment plan shall hold a hearing pursuant to § 37.2-817.2.

I. Upon entry of any order for mandatory outpatient treatment entered pursuant to subsection D, the clerk of the court shall provide a copy of the order to the person who is the subject of the order, to his attorney, and to the community services board required to monitor compliance with the plan. The community services board shall acknowledge receipt of the order to the clerk of the court on a form established by the Office of the Executive Secretary of the Supreme Court and provided by the court for this purpose within five business days.

J. The court may transfer jurisdiction of the case to the district court where the person resides at any time after the entry of the mandatory outpatient treatment order. The community services board responsible for monitoring compliance with the mandatory outpatient treatment plan or discharge plan shall remain responsible for monitoring the person's compliance with the plan until the community services board serving the locality to which jurisdiction of the case has been transferred acknowledges the transfer and receipt of the order to the clerk of the court on a form established by the Office of the Executive Secretary of the Supreme Court and provided by the court for this purpose. The community services board serving the locality to which jurisdiction of the case has been transferred shall acknowledge the transfer and receipt of the order within five business days.

K. Any order entered pursuant to this section shall provide for the disclosure of medical records pursuant to § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

**§ 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, a copy of the order.

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, or magistrate

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.

D. Except as provided in subdivision A 1 of § 19.2-389, the copy of the forms and orders sent to the Central Criminal Records Exchange pursuant to subsection B, and the forms and certifications sent to the Central Criminal Records Exchange regarding voluntary admission pursuant to subsection 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 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.

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

When a person has volunteered for admission pursuant to § 37.2-809 or 37.2-814 or been ordered to be admitted to a facility under §§ 37.2-815 through 37.2-821, the judge or special justice shall determine after consideration of information provided by the person's treating mental health professional and any involved community services board or behavioral health authority staff regarding the person's dangerousness, whether transportation shall be provided by the sheriff or may be provided by an alternative transportation provider, including a family member or friend of the person, a representative of the community services board, a representative of the facility at which the person was detained pursuant to a temporary detention order, or other alternative transportation provider with personnel trained to provide transportation in a safe manner. If the judge or special justice determines that transportation may be provided by an alternative transportation provider, the judge or special justice may consult with the proposed alternative transportation provider either in person or via two-way electronic video and audio or telephone communication system to determine whether the proposed alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner. If the judge or special justice finds that the proposed alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner, the judge or special justice may order transportation by the proposed alternative transportation provider. In all other cases, the judge or special justice shall order transportation by the sheriff of the jurisdiction where the person is a resident unless the sheriff's office of that jurisdiction is located more than 100 road miles from the nearest boundary of the jurisdiction in which the proceedings took place. In cases where the sheriff of the jurisdiction of which the person is a resident is more than 100 road miles from the nearest boundary of the jurisdiction in which the proceedings took place, it shall be the responsibility of the sheriff of the latter jurisdiction to transport the person.

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

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

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

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 665 of the Acts of Assembly of 2015 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**