

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 19.2-182.3 of the Code of Virginia, relating to persons acquitted by*  
3 *reason of insanity; commitment; sentencing.*

[H 1193]

Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 19.2-182.3 of the Code of Virginia is amended and reenacted as follows:**8 **§ 19.2-182.3. Commitment; civil proceedings.**

9 Upon receipt of the evaluation report and, if applicable, a conditional release or discharge plan, the  
10 court shall schedule the matter for hearing on an expedited basis, giving the matter priority over other  
11 civil matters before the court, to determine the appropriate disposition of the acquittee. Except as  
12 otherwise ordered by the court, the attorney who represented the defendant at the criminal proceedings  
13 shall represent the acquittee through the proceedings pursuant to this section. The matter may be  
14 continued on motion of either party for good cause shown. The acquittee shall be provided with  
15 adequate notice of the hearing, of the right to be present at the hearing, the right to the assistance of  
16 counsel in preparation for and during the hearing, and the right to introduce evidence and cross-examine  
17 witnesses at the hearing. The hearing is a civil proceeding.

18 At the conclusion of the hearing, the court shall commit the acquittee if it finds that he has mental  
19 illness or intellectual disability and is in need of inpatient hospitalization. For the purposes of this  
20 chapter, mental illness includes any mental illness, as defined in § 37.2-100, in a state of remission when  
21 the illness may, with reasonable probability, become active. The decision of the court shall be based  
22 upon consideration of the following factors:

23 1. To what extent the acquittee has mental illness or intellectual disability, as those terms are defined  
24 in § 37.2-100;

25 2. The likelihood that the acquittee will engage in conduct presenting a substantial risk of bodily  
26 harm to other persons or to himself in the foreseeable future;

27 3. The likelihood that the acquittee can be adequately controlled with supervision and treatment on  
28 an outpatient basis; and

29 4. Such other factors as the court deems relevant.

30 If the court determines that an acquittee does not need inpatient hospitalization solely because of  
31 treatment or habilitation he is currently receiving, but the court is not persuaded that the acquittee will  
32 continue to receive such treatment or habilitation, it may commit him for inpatient hospitalization. The  
33 court shall order the acquittee released with conditions pursuant to §§ 19.2-182.7, 19.2-182.8, and  
34 19.2-182.9 if it finds that he is not in need of inpatient hospitalization but that he meets the criteria for  
35 conditional release set forth in § 19.2-182.7. If the court finds that the acquittee does not need inpatient  
36 hospitalization nor does he meet the criteria for conditional release, it shall release him without  
37 conditions, provided the court has approved a discharge plan prepared by the appropriate community  
38 services board or behavioral health authority in consultation with the appropriate hospital staff.

39 *The court shall order that any person acquitted by reason of insanity and committed pursuant to this*  
40 *section who is sentenced to a term of incarceration for any other offense in the same proceeding or in*  
41 *any proceeding conducted prior to the proceeding in which the person is acquitted by reason of insanity*  
42 *complete any sentence imposed for such other offense prior to being placed in the custody of the*  
43 *Commissioner of Behavioral Health and Developmental Services until released from commitment*  
44 *pursuant to this chapter. The court shall order that any person acquitted by reason of insanity and*  
45 *committed pursuant to this section who is sentenced to a term of incarceration in any proceeding*  
46 *conducted during the period of commitment be transferred to the custody of the correctional facility*  
47 *where he is to serve his sentence, and, upon completion of his sentence, such person shall be placed in*  
48 *the custody of the Commissioner of Behavioral Health and Developmental Services until released from*  
49 *commitment pursuant to this chapter.*

ENROLLED

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