

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 19.2-169.3:1, relating to*
3 *disposition of the unrestorably incompetent defendant; capital murder charge; inpatient custody of*
4 *the Commissioner of the Department of Behavioral Health and Developmental Services.*

5 [S 1272]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That the Code of Virginia is amended by adding a section numbered 19.2-169.3:1 as follows:**9 **§ 19.2-169.3:1. Disposition of the unrestorably incompetent defendant; capital murder charge;**
10 ***inpatient custody of the Commissioner.***11 *A. When a defendant charged with capital murder has been determined to be unrestorably*
12 *incompetent, pursuant to subsections D and F of § 19.2-169.3, the court may commit such defendant to*
13 *the inpatient custody of the Commissioner of the Department of Behavioral Health and Developmental*
14 *Services under this section provided that such defendant has remained unrestorably incompetent for a*
15 *period of five years.*16 *B. After a capital murder defendant has been committed to the inpatient custody of the Commissioner*
17 *of the Department of Behavioral Health and Developmental Services under subsection A, the*
18 *Commissioner may make interfacility transfers and treatment and management decisions regarding such*
19 *defendant after obtaining prior approval of or review by the committing court.*20 *C. The Commissioner of the Department of Behavioral Health and Developmental Services shall*
21 *notify the committing court, the attorney for the Commonwealth in the committing jurisdiction, and the*
22 *defendant's counsel in writing of recommended changes in a defendant's course of treatment that will*
23 *involve authorization for the defendant to leave the grounds of the hospital in which he or she is*
24 *confined. Upon receipt of such notice, the court shall hold a hearing to determine whether the*
25 *recommendation of the Commissioner is authorized by the court.*26 *D. The Commissioner of the Department of Behavioral Health and Developmental Services may*
27 *delegate any of the duties and powers imposed on or granted to him by this section to an administrative*
28 *board composed of persons with demonstrated expertise in such matters. The Department of Behavioral*
29 *Health and Developmental Services shall assist the board in its administrative and technical duties.*
30 *Members of the board shall exercise their powers and duties without compensation and shall be immune*
31 *from personal liability while acting within the scope of their duties except for intentional misconduct.*32 *E. Copies of all orders and notices issued pursuant to this chapter shall be sent to the Commissioner*
33 *of the Department of Behavioral Health and Developmental Services.*34 *F. Nothing in this section shall alter the requirement that hearings be held pursuant to subsection F*
35 *of § 19.2-169.3.*

ENROLLED

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