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SENATE BILL NO. 75

Offered January 9, 2008

Prefiled December 26, 2007

A BILL to amend and reenact §§ 37.2-505 and 37.2-816 the Code of Virginia, relating to involuntary commitment, role of community services boards.

Patrons—Cuccinelli, Barker and Ticer; Delegates: Bulova, Caputo, Marsden and Watts

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 37.2-505 and 37.2-816 of the Code of Virginia is amended and reenacted as follows:**

§ 37.2-505. Coordination of services for preadmission screening and discharge planning.

A. The community services board shall fulfill the following responsibilities:

1. Be responsible for coordinating the community services necessary to accomplish effective preadmission screening and discharge planning for persons referred to the community services board. When preadmission screening reports are required by the court on an emergency basis pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8, the community services board shall ensure the development of the report for the court. To accomplish this coordination, the community services board shall establish a structure and procedures involving staff from the community services board and, as appropriate, representatives from (i) the state hospital or training center serving the board's service area, (ii) the local department of social services, (iii) the health department, (iv) the Department of Rehabilitative Services office in the board's service area, (v) the local school division, and (vi) other public and private human services agencies, including licensed hospitals.

2. Provide preadmission screening services prior to the admission for treatment pursuant to § 37.2-805 or Article 5 (§ 37.2-814 et seq.) of Chapter 8 of any person who requires emergency mental health services while in a city or county served by the community services board. *An employee or designee of the community services board who prepared the preadmission screening report pursuant to § 37.2-814 shall attend the commitment hearing for involuntary admission whenever practicable. If attendance is not practicable, participation may be accomplished via two-way electronic video or audio communication system as provided for in § 37.2-804.1. In cases in which the hearing for involuntary admission is held within the jurisdiction of another community services board, a representative of the community services board serving the jurisdiction may attend the hearing on behalf of the community services board that prepared the preadmission screening report.*

3. Provide, in consultation with the appropriate state hospital or training center, discharge planning for any person who, prior to admission, resided in a city or county served by the community services board or who chooses to reside after discharge in a city or county served by the board and who is to be released from a state hospital or training center pursuant to § 37.2-837. The discharge plan shall be completed prior to the person's discharge. The plan shall be prepared with the involvement and participation of the consumer or his representative and must reflect the consumer's preferences to the greatest extent possible. The plan shall include the mental health, mental retardation, substance abuse, social, educational, medical, employment, housing, legal, advocacy, transportation, and other services that the consumer will need upon discharge into the community and identify the public or private agencies that have agreed to provide these services.

No person shall be discharged from a state hospital or training center without completion by the community services board of the discharge plan described in this subdivision. If state hospital or training center staff identify a consumer as ready for discharge and the community services board that is responsible for the person's care disagrees, the community services board shall document in the treatment plan within 30 days of the person's identification any reasons for not accepting the person for discharge. If the state hospital or training center disagrees with the community services board and the board refuses to develop a discharge plan to accept the person back into the community, the state hospital or training center or the community services board shall ask the Commissioner to review the state hospital's or training center's determination that the person is ready for discharge in accordance with procedures established by the Department in collaboration with state hospitals, training centers, and community services boards. If the Commissioner determines that the person is ready for discharge, a discharge plan shall be developed by the Department to ensure the availability of adequate services for the consumer and the protection of the community. The Commissioner also shall verify that sufficient state-controlled funds have been allocated to the community services board through the performance contract. If sufficient state-controlled funds have been allocated, the Commissioner may contract with a

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59 private provider, another community services board, or a behavioral health authority to deliver the
60 services specified in the discharge plan and withhold allocated funds applicable to that consumer's
61 discharge plan from the community services board in accordance with subsections C and E of
62 § 37.2-508.

63 B. The community services board may perform the functions set out in subdivision A 1 in the case
64 of children by referring them to the locality's family assessment and planning team and by cooperating
65 with the community policy and management team in the coordination of services for troubled youths
66 and their families. The community services board may involve the family assessment and planning team
67 and the community policy and management team, but it remains responsible for performing the
68 functions set out in subdivisions A 2 and A 3 in the case of children.

69 § 37.2-816. Commitment hearing for involuntary admission; preadmission screening report.

70 A. The district court judge or special justice shall require a preadmission screening report from the
71 community services board or behavioral health authority that serves the county or city where the person
72 resides or, if impractical, where the person is located. The report shall be admissible as evidence of the
73 facts stated therein and shall state (i) whether the person presents an imminent danger to himself or
74 others as a result of mental illness or is so seriously mentally ill that he is substantially unable to care
75 for himself, (ii) whether the person is in need of involuntary inpatient treatment, (iii) whether there is no
76 less restrictive alternative to inpatient treatment, and (iv) the recommendations for that person's
77 placement, care, and treatment. The board or authority shall provide the preadmission screening report
78 within 48 hours or if the 48-hour period terminates on a Saturday, Sunday, legal holiday, or day on
79 which the court is lawfully closed, the next day that is not a Saturday, Sunday, legal holiday, or day on
80 which the court is lawfully closed. In the case of a person who has been sentenced and committed to
81 the Department of Corrections and who has been examined by a psychiatrist or clinical psychologist, the
82 judge or special justice may proceed to adjudicate whether the person has mental illness and should be
83 involuntarily admitted without requesting a preadmission screening report from the community services
84 board or behavioral health authority.

85 B. *An employee or designee of the community services board who prepared the preadmission*
86 *screening report pursuant to § 37.2-814 shall attend the commitment hearing for involuntary admission*
87 *whenever practicable. If attendance is not practicable, participation may be accomplished via two-way*
88 *electronic video or audio communication system as provided for in § 37.2-804.1. In cases in which the*
89 *hearing for involuntary admission is held within the jurisdiction of another community services board, a*
90 *representative of the community services board serving the jurisdiction may attend the hearing on behalf*
91 *of the community services board that prepared the preadmission screening report.*