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HOUSE BILL NO. 2060

Offered January 14, 2009

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A BILL to amend and reenact §§ 19.2-182.9, 37.2-808, 37.2-815, 37.2-816, 37.2-817, and 37.2-819 of the Code of Virginia, relating to mental health law revisions.

 Patron—Hamilton

 Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-182.9, 37.2-808, 37.2-815, 37.2-816, 37.2-817, and 37.2-819 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-182.9. Emergency custody of conditionally released acquittee.

When exigent circumstances do not permit compliance with revocation procedures set forth in § 19.2-182.8, any district court judge or a special justice, as defined in § 37.2-100, or a magistrate may issue an emergency custody order, upon the sworn petition of any responsible person or upon his own motion based upon probable cause to believe that an acquittee on conditional release (i) has violated the conditions of his release or is no longer a proper subject for conditional release and (ii) requires inpatient hospitalization. The emergency custody order shall require the acquittee within his judicial district to be taken into custody and transported to a convenient location where a person designated by the community services board or behavioral health authority who is skilled in the diagnosis and treatment of mental illness shall evaluate such acquittee and assess his need for inpatient hospitalization. A law-enforcement officer who, based on his observation or the reliable reports of others, has probable cause to believe that any acquittee on conditional release has violated the conditions of his release and is no longer a proper subject for conditional release and requires emergency evaluation to assess the need for inpatient hospitalization, may take the acquittee into custody and transport him to an appropriate location to assess the need for hospitalization without prior judicial authorization. The evaluation shall be conducted immediately. The acquittee shall remain in custody until a temporary detention order is issued or until he is released, but in no event shall the period of custody exceed four hours. *However, upon a finding by a district court judge, special justice as defined in § 37.2-100, or magistrate that good cause exists to grant an extension, the magistrate shall extend the emergency custody order, or shall issue an order extending the period of emergency custody, one time for an additional period not to exceed two hours. Good cause for an extension includes the need for additional time to allow (a) the community services board to identify a suitable facility in which the person can be temporarily detained pursuant to § 37.2-809 or (b) a medical evaluation of the person to be completed if necessary.* If it appears from all evidence readily available (i) that the acquittee has violated the conditions of his release or is no longer a proper subject for conditional release and (ii) that he requires emergency evaluation to assess the need for inpatient hospitalization, the district court judge or a special justice, as defined in § 37.2-100, or magistrate, upon the advice of such person skilled in the diagnosis and treatment of mental illness, may issue a temporary detention order authorizing the executing officer to place the acquittee in an appropriate institution for a period not to exceed 48 hours prior to a hearing. If the 48-hour period terminates on a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed, the acquittee may be detained until the next day which is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed.

The committing court or any district court judge or a special justice, as defined in § 37.2-100, shall have jurisdiction to hear the matter. Prior to the hearing, the acquittee shall be examined by a psychiatrist or licensed clinical psychologist, provided the psychiatrist or clinical psychologist is skilled in the diagnosis of mental illness, who shall certify whether the person is in need of hospitalization. At the hearing the acquittee shall be provided with adequate notice of the hearing, of the right to be present at the hearing, the right to the assistance of counsel in preparation for and during the hearing, and the right to introduce evidence and cross-examine witnesses at the hearing. Following the hearing, if the court determines, based on a preponderance of the evidence presented at the hearing, that the acquittee (i) has violated the conditions of his release or is no longer a proper subject for conditional release and (ii) has mental illness or mental retardation and is in need of inpatient hospitalization, the court shall revoke the acquittee's conditional release and place him in the custody of the Commissioner.

When an acquittee on conditional release pursuant to this chapter is taken into emergency custody, detained, or hospitalized, such action shall be considered to have been taken pursuant to this section, notwithstanding the fact that his status as an insanity acquittee was not known at the time of custody,

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HB2060

59 detention, or hospitalization. Detention or hospitalization of an acquittee pursuant to provisions of law
60 other than those applicable to insanity acquittees pursuant to this chapter shall not render the detention
61 or hospitalization invalid. If a person's status as an insanity acquittee on conditional release is not
62 recognized at the time of emergency custody or detention, at the time his status as such is verified, the
63 provisions applicable to such persons shall be applied and the court hearing the matter shall notify the
64 committing court of the proceedings.

65 § 37.2-808. Emergency custody; issuance and execution of order.

66 A. Any magistrate shall issue, upon the sworn petition of any responsible person, treating physician,
67 or upon his own motion, an emergency custody order when he has probable cause to believe that any
68 person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental
69 illness, the person will, in the near future, (a) cause serious physical harm to himself or others as
70 evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if
71 any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide
72 for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is unwilling to
73 volunteer or incapable of volunteering for hospitalization or treatment. Any emergency custody order
74 entered pursuant to this section shall provide for the disclosure of medical records pursuant to
75 § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

76 When considering whether there is probable cause to issue an emergency custody order, the
77 magistrate may, in addition to the petition, consider (1) the recommendations of any treating or
78 examining physician or psychologist licensed in Virginia, if available, (2) any past actions of the person,
79 (3) any past mental health treatment of the person, (4) any relevant hearsay evidence, (5) any medical
80 records available, (6) any affidavits submitted, if the witness is unavailable and it so states in the
81 affidavit, and (7) any other information available that the magistrate considers relevant to the
82 determination of whether probable cause exists to issue an emergency custody order.

83 B. Any person for whom an emergency custody order is issued shall be taken into custody and
84 transported to a convenient location to be evaluated to determine whether the person meets the criteria
85 for temporary detention pursuant to § 37.2-809 and to assess the need for hospitalization or treatment.
86 The evaluation shall be made by a person designated by the community services board who is skilled in
87 the diagnosis and treatment of mental illness and who has completed a certification program approved
88 by the Department.

89 C. The magistrate issuing an emergency custody order shall specify the primary law-enforcement
90 agency and jurisdiction to execute the emergency custody order and provide transportation.
91 Transportation under this section shall include transportation to a medical facility as may be necessary to
92 obtain emergency medical evaluation or treatment that shall be conducted immediately in accordance
93 with state and federal law. Transportation under this section shall include transportation to a medical
94 facility for a medical evaluation if a physician at the hospital in which the person subject to the
95 emergency custody order may be detained requires a medical evaluation prior to admission.

96 D. The magistrate shall order the primary law-enforcement agency from the jurisdiction served by the
97 community services board that designated the person to perform the evaluation required in subsection B
98 to execute the order and provide transportation. If the community services board serves more than one
99 jurisdiction, the magistrate shall designate the primary law-enforcement agency from the particular
100 jurisdiction within the community services board's service area where the person who is the subject of
101 the emergency custody order was taken into custody or, if the person has not yet been taken into
102 custody, the primary law-enforcement agency from the jurisdiction where the person is presently located
103 to execute the order and provide transportation.

104 E. The law-enforcement agency providing transportation pursuant to this section may transfer custody
105 of the person to the facility or location to which the person is transported for the evaluation required in
106 subsection B or G if the facility or location (i) is licensed to provide the level of security necessary to
107 protect both the person and others from harm, (ii) is actually capable of providing the level of security
108 necessary to protect the person and others from harm, and (iii) has entered into an agreement or
109 memorandum of understanding with the law-enforcement agency setting forth the terms and conditions
110 under which it will accept a transfer of custody, provided, however, that the facility or location may not
111 require the law-enforcement agency to pay any fees or costs for the transfer of custody.

112 F. A law-enforcement officer may lawfully go to or be sent beyond the territorial limits of the
113 county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing
114 an emergency custody order pursuant to this section.

115 G. A law-enforcement officer who, based upon his observation or the reliable reports of others, has
116 probable cause to believe that a person meets the criteria for emergency custody as stated in this section
117 may take that person into custody and transport that person to an appropriate location to assess the need
118 for hospitalization or treatment without prior authorization. Such evaluation shall be conducted
119 immediately. *The period of custody shall not exceed four hours from the time the law-enforcement*
120 *officer takes the person into custody. However, upon a finding by a magistrate that good cause exists to*

grant an extension, the magistrate shall issue an order extending the period of emergency custody one time for an additional period not to exceed two hours. Good cause for an extension includes the need for additional time to allow (i) the community services board to identify a suitable facility in which the person can be temporarily detained pursuant to § 37.2-809 or (ii) a medical evaluation of the person to be completed if necessary.

H. Nothing herein shall preclude a law-enforcement officer from obtaining emergency medical treatment or further medical evaluation at any time for a person in his custody as provided in this section.

I. The person shall remain in custody until a temporary detention order is issued, until the person is released, or until the emergency custody order expires. An emergency custody order shall be valid for a period not to exceed four hours from the time of execution. However, upon a finding by a magistrate that good cause exists to grant an extension, ~~an emergency custody order may be renewed~~ the magistrate shall extend the emergency custody order one time for a second period not to exceed two hours. Good cause for an extension includes the need for additional time to allow (i) the community services board to identify a suitable facility in which the person can be temporarily detained pursuant to § 37.2-809 or (ii) a medical evaluation of the person to be completed if necessary. Any family member, as defined in § 37.2-100, employee or designee of the local community services board as defined in § 37.2-809, treating physician, or law-enforcement officer may request the two-hour extension.

J. If an emergency custody order is not executed within four hours of its issuance, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if such office is not open, to any magistrate serving the jurisdiction of the issuing court.

K. Payments shall be made pursuant to § 37.2-804 to licensed health care providers for medical screening and assessment services provided to persons with mental illnesses while in emergency custody.

§ 37.2-815. Commitment hearing for involuntary admission; examination required.

A. Notwithstanding § 37.2-814, the district court judge or special justice shall require an examination of the person who is the subject of the hearing by a psychiatrist or a psychologist who is licensed in Virginia by the Board of Medicine or the Board of Psychology and is qualified in the diagnosis of mental illness or, if such a psychiatrist or psychologist is not available, a mental health professional who (i) is licensed in Virginia through the Department of Health Professions as a clinical social worker, professional counselor, psychiatric nurse practitioner, or clinical nurse specialist, (ii) is qualified in the assessment of mental illness, and (iii) has completed a certification program approved by the Department. The examiner chosen shall be able to provide an independent clinical evaluation of the person and recommendations for his placement, care, and treatment. The examiner shall (a) not be related by blood or marriage to the person, (b) not be responsible for treating the person, (c) have no financial interest in the admission or treatment of the person, (d) have no investment interest in the facility detaining or admitting the person under this chapter, and (e) except for employees of state hospitals, the U.S. Department of Veterans Affairs, and community service boards, not be employed by the facility. For purposes of this section, the term "investment interest" shall be as defined in § 37.2-809.

B. The examination conducted pursuant to this section shall be a comprehensive evaluation of the person conducted in-person or, if that is not practicable, by two-way electronic video and audio communication system as authorized in § 37.2-804.1. Translation or interpreter services shall be provided during the evaluation where necessary. The examination shall consist of (i) a clinical assessment that includes a mental status examination; determination of current use of psychotropic and other medications; a medical and psychiatric history; a substance use, abuse, or dependency determination; and a determination of the likelihood that, as a result of mental illness, the person will, in the near future, suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; (ii) a substance abuse screening, when indicated; (iii) a risk assessment that includes an evaluation of the likelihood that, as a result of mental illness, the person will, in the near future, cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any; (iv) an assessment of the person's capacity to consent to treatment, including his ability to maintain and communicate choice, understand relevant information, and comprehend the situation and its consequences; (v) a review of the temporary detention facility's records for the person, including the treating physician's evaluation, any collateral information, reports of any laboratory or toxicology tests conducted, and all admission forms and nurses' notes; (vi) a discussion of treatment preferences expressed by the person or contained in a document provided by the person in support of recovery; (vii) an assessment of alternatives to involuntary inpatient treatment; and (viii) recommendations for the placement, care, and treatment of the person.

C. All such examinations shall be conducted in private. The judge or special justice shall summons the examiner who shall certify that he has personally examined the person and state whether he has probable cause to believe that the person (i) has a mental illness and there is a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to

182 himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other
183 relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself
184 from harm or to provide for his basic human needs, and (ii) requires involuntary inpatient treatment. The
185 judge or special justice shall not render any decision on the petition until the examiner has presented his
186 report. The examiner may report orally at the hearing, but he shall provide a written report of his
187 examination prior to the hearing. The examiner's written certification may be accepted into evidence
188 unless objected to by the person or his attorney, in which case the examiner shall attend in person or by
189 electronic communication. *When the examiner attends the hearing in person or by electronic*
190 *communication, the examiner shall not be excluded from the hearing pursuant to an order of*
191 *sequestration of witnesses.*

192 § 37.2-816. Commitment hearing for involuntary admission; preadmission screening report.

193 The district court judge or special justice shall require a preadmission screening report from the
194 community services board that serves the county or city where the person resides or, if impractical,
195 where the person is located. The report shall be ~~admissible~~ *admitted* as evidence of the facts stated
196 therein and shall state (i) whether the person has a mental illness and whether there exists a substantial
197 likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious
198 physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening
199 harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to
200 protect himself from harm or to provide for his basic human needs, (ii) whether the person is in need of
201 involuntary inpatient treatment, (iii) whether there is no less restrictive alternative to inpatient treatment,
202 and (iv) the recommendations for that person's placement, care, and treatment including, where
203 appropriate, recommendations for mandatory outpatient treatment. The board shall provide the
204 preadmission screening report to the court prior to the hearing, *and the report shall be admitted into*
205 *evidence and made part of the record of the case.* In the case of a person who has been sentenced and
206 committed to the Department of Corrections and who has been examined by a psychiatrist or clinical
207 psychologist, the judge or special justice may proceed to adjudicate whether the person has mental
208 illness and should be involuntarily admitted without requesting a preadmission screening report from the
209 community services board.

210 § 37.2-817. Involuntary admission and mandatory outpatient treatment orders.

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

220 B. ~~Any~~ *Any* employee or a designee of the local community services board, as defined in § 37.2-809,
221 *representing the community services board* that prepared the preadmission screening report shall attend
222 the hearing in person or, if physical attendance is not practicable, shall participate in the hearing through
223 a two-way electronic video and audio or telephonic communication system as authorized in § 37.2-804.1.
224 Where a hearing is held outside of the service area of the community services board that prepared the
225 preadmission screening report, and it is not practicable for a representative of the board to attend or
226 participate in the hearing, arrangements shall be made by the board for an employee or designee of the
227 board serving the area in which the hearing is held to attend or participate on behalf of the board that
228 prepared the preadmission screening report. *The employee or designee of the local community services*
229 *board, as defined in § 37.2-809, representing the community services board that prepared the*
230 *preadmission screening report or attending or participating on behalf of the board that prepared the*
231 *preadmission screening report shall not be excluded from the hearing pursuant to an order of*
232 *sequestration of witnesses.* The community services board that prepared the preadmission screening
233 report shall remain responsible for the person subject to the hearing and, prior to the hearing, shall send
234 the preadmission screening report through certified mail, personal delivery, facsimile with return receipt
235 acknowledged, or other electronic means to the community services board attending the hearing. Where
236 a community services board attends the hearing on behalf of the community services board that prepared
237 the preadmission screening report, the attending community services board shall inform the community
238 services board that prepared the preadmission screening report of the disposition of the matter upon the
239 conclusion of the hearing. In addition, the attending community services board shall transmit the
240 disposition through certified mail, personal delivery, facsimile with return receipt acknowledged, or other
241 electronic means.

242 At least 12 hours prior to the hearing, the court shall provide to the community services board that
243 prepared the preadmission screening report the time and location of the hearing. If the representative of

the community services board will be present by telephonic means, the court shall provide the telephone number to the board.

C. 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 there is 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, and (b) all available less restrictive treatment alternatives to involuntary inpatient treatment, pursuant to subsection D, that would offer an opportunity for the improvement of the person's condition have been investigated and determined to be inappropriate, the judge or special justice shall by written order and specific findings so certify and order that the person be admitted involuntarily to a facility for a period of treatment not to exceed 30 days from the date of the court order. Such involuntary admission shall be to a facility designated by the community services board that serves the city or county in which the person was examined as provided in § 37.2-816. If the community services board does not designate a facility at the commitment hearing, the person shall be involuntarily admitted to a facility designated by the Commissioner. Upon the expiration of an order for involuntary admission, the person shall be released unless he is involuntarily admitted by further petition and order of a court, which shall be for a period not to exceed 180 days from the date of the subsequent court order, or such person makes application for treatment on a voluntary basis as provided for in § 37.2-805 or is ordered to mandatory outpatient treatment pursuant to subsection D.

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; and (c) the person (A) has sufficient capacity to understand the stipulations of his treatment, (B) has expressed an interest in living in the community and has agreed to abide by his treatment plan, and (C) is deemed to have the capacity to comply with the treatment plan and understand and adhere to conditions and requirements of the treatment and services; and (d) the ordered treatment can be delivered on an outpatient basis by the community services board or designated provider, 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 and providers of the services have actually agreed to deliver the services.

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. The community services board that serves the city or county 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 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.

305 G. No later than five days, excluding Saturdays, Sundays, or legal holidays, after an order for
306 mandatory outpatient treatment has been entered pursuant to this section, the community services board
307 where the person resides that is responsible for monitoring compliance with the order shall file a
308 comprehensive mandatory outpatient treatment plan. The comprehensive mandatory outpatient treatment
309 plan shall (i) identify the specific type, amount, duration, and frequency of each service to be provided
310 to the person, (ii) identify the provider that has agreed to provide each service included in the plan, (iii)
311 certify that the services are the most appropriate and least restrictive treatment available for the person,
312 (iv) certify that each provider has complied and continues to comply with applicable provisions of the
313 Department's licensing regulations, (v) be developed with the fullest possible involvement and
314 participation of the person and reflect his preferences to the greatest extent possible to support his
315 recovery and self-determination, (vi) specify the particular conditions with which the person shall be
316 required to comply, and (vii) describe how the community services board shall monitor the person's
317 compliance with the plan and report any material noncompliance with the plan. The community services
318 board shall submit the comprehensive mandatory outpatient treatment plan to the court for approval.
319 Upon approval by the court, the comprehensive mandatory outpatient treatment plan shall be filed with
320 the court and incorporated into the order of mandatory outpatient treatment. Any subsequent substantive
321 modifications to the plan shall be filed with the court for review and attached to any order for
322 mandatory outpatient treatment.

323 H. If the community services board responsible for developing the comprehensive mandatory
324 outpatient treatment plan determines that the services necessary for the treatment of the person's mental
325 illness are not available or cannot be provided to the person in accordance with the order for mandatory
326 outpatient treatment, it shall notify the court within five business days of the entry of the order for
327 mandatory outpatient treatment. Within two business days of receiving such notice, the judge or special
328 justice, after notice to the person, the person's attorney, and the community services board responsible
329 for developing the comprehensive mandatory outpatient treatment plan shall hold a hearing pursuant to
330 § 37.2-817.2.

331 I. Upon entry of any order for mandatory outpatient treatment, the clerk of the court shall provide a
332 copy of the order to the person who is the subject of the order, to his attorney, and to the community
333 services board required to monitor compliance with the plan. The community services board shall
334 acknowledge receipt of the order to the clerk of the court on a form established by the Office of the
335 Executive Secretary of the Supreme Court and provided by the court for this purpose.

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

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

346 § 37.2-819. Order of involuntary admission or involuntary outpatient treatment forwarded to CCRE;
347 certain voluntary admissions forwarded to CCRE; firearm background check.

348 A. Upon receipt of any order from a commitment hearing issued pursuant to this chapter for
349 involuntary admission to a facility or for mandatory outpatient treatment, the clerk of court shall, ~~prior~~
350 ~~as soon as practicable but not later than the close of that business on the next following business day,~~
351 certify and forward to the Central Criminal Records Exchange, on a form provided by the Exchange, a
352 copy of the order.

353 B. The clerk of court shall also, ~~prior as soon as practicable but no later than the close of that~~
354 ~~business on the next following business day,~~ forward upon receipt to the Central Criminal Records
355 Exchange, on a form provided by the Exchange, certification of any person who has been the subject of
356 a temporary detention order pursuant to § 37.2-809, and who, after being advised by the judge or special
357 justice that he will be prohibited from possessing a firearm pursuant to § 18.2-308.1:3, subsequently
358 agreed to voluntary admission pursuant to § 37.2-805.

359 C. The copy of the forms and orders sent to the Central Criminal Records Exchange pursuant to
360 subsection A, and the forms and certifications sent to the Central Criminal Records Exchange regarding
361 voluntary admission pursuant to subsection B, shall be kept confidential in a separate file and used only
362 to determine a person's eligibility to possess, purchase, or transfer a firearm. No medical records shall be
363 forwarded to the Central Criminal Records Exchange with any form, order, or certification required by
364 subsection A or B. The Department of State Police shall forward only a person's eligibility to possess,
365 purchase, or transfer a firearm to the National Instant Criminal Background Check System.

366 **2. That an emergency exists and this act is in force from its passage.**