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## SENATE BILL NO. 1303

Offered January 14, 2009

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*A BILL to amend and reenact §§ 16.1-339, 16.1-341, 37.2-803, and 37.2-817 through 37.2-818 of the Code of Virginia, relating to involuntary mental health commitment.*

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Patron—Hurt

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Referred to Committee for Courts of Justice

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

**1. That §§ 16.1-339, 16.1-341, 37.2-803, and 37.2-817 through 37.2-818 of the Code of Virginia are amended and reenacted as follows:**

§ 16.1-339. Parental admission of an objecting minor 14 years of age or older.

A. A minor 14 years of age or older who (i) objects to admission, or (ii) is incapable of making an informed decision may be admitted to a willing facility for up to 96 hours, pending the review required by subsections B and C of this section, upon the application of a parent. If admission is sought to a state hospital, the community services board or behavioral health authority serving the area in which the minor resides shall provide the examination required by subsection B of § 16.1-338 and shall ensure that the necessary written findings, except the minor's consent, have been made before approving the admission.

B. A minor admitted under this section shall be examined within 24 hours of his admission by a qualified evaluator designated by the community services board or behavioral health authority serving the area where the facility is located who is not and will not be treating the minor and who has no significant financial interest in the minor's hospitalization. The evaluator shall prepare a report that shall include written findings as to whether:

1. Because of mental illness, the minor (i) presents a serious danger to himself or others to the extent that severe or irremediable injury is likely to result, as evidenced by recent acts or threats or (ii) is experiencing a serious deterioration of his ability to care for himself in a developmentally age-appropriate manner, as evidenced by delusory thinking or by a significant impairment of functioning in hydration, nutrition, self-protection, or self-control;

2. The minor is in need of inpatient treatment for a mental illness and is reasonably likely to benefit from the proposed treatment; and

3. Inpatient treatment is the least restrictive alternative that meets the minor's needs. The qualified evaluator shall submit his report to the juvenile and domestic relations district court for the jurisdiction in which the facility is located.

C. Upon admission of a minor under this section, the facility shall file a petition for judicial approval no sooner than 24 hours and no later than 96 hours after admission with the juvenile and domestic relations district court for the jurisdiction in which the facility is located. A copy of this petition shall be delivered to the minor's consenting parent. Upon receipt of the petition and of the evaluator's report submitted pursuant to subsection B, the judge shall appoint a guardian ad litem for the minor and *may appoint, in his discretion*, counsel to represent the minor, unless it has been determined that the minor has retained counsel. The court and the guardian ad litem shall review the petition and evaluator's report and shall ascertain the views of the minor, the minor's consenting parent, the evaluator, and the attending psychiatrist. The court shall conduct its review in such place and manner, including the facility, as it deems to be in the best interests of the minor. Based upon its review and the recommendations of the guardian ad litem, the court shall order one of the following dispositions:

1. If the court finds that the minor does not meet the criteria for admission specified in subsection B, the court shall issue an order directing the facility to release the minor into the custody of the parent who consented to the minor's admission. However, nothing herein shall be deemed to affect the terms and provisions of any valid court order of custody affecting the minor.

2. If the court finds that the minor meets the criteria for admission specified in subsection B, the court shall issue an order authorizing continued hospitalization of the minor for up to 90 days on the basis of the parent's consent.

Within 10 days after the admission of a minor under this section, the director of the facility or the director's designee shall ensure that an individualized plan of treatment has been prepared by the provider responsible for the minor's treatment and has been explained to the parent consenting to the admission and to the minor. A copy of the plan shall also be provided to the guardian ad litem and to counsel for the minor. The minor shall be involved in the preparation of the plan to the maximum

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feasible extent consistent with his ability to understand and participate, and the minor's family shall be involved to the maximum extent consistent with the minor's treatment needs. The plan shall include a preliminary plan for placement and aftercare upon completion of inpatient treatment and shall include specific behavioral and emotional goals against which the success of treatment may be measured.

3. If the court determines that the available information is insufficient to permit an informed determination regarding whether the minor meets the criteria specified in subsection B, the court shall schedule a commitment hearing that shall be conducted in accordance with the procedures specified in §§ 16.1-341 through 16.1-345. The minor may be detained in the hospital for up to 96 additional hours pending the holding of the commitment hearing.

D. A minor admitted under this section who rescinds his objection may be retained in the hospital pursuant to § 16.1-338.

E. If the parent who consented to a minor's admission under this section revokes his consent at any time, the minor shall be released within 48 hours to the parent's custody unless the minor's continued hospitalization is authorized pursuant to § 16.1-340 or 16.1-345. If the 48-hour time period expires on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the 48 hours shall extend to the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

§ 16.1-341. Involuntary commitment; petition; hearing scheduled; notice and appointment of counsel.

A. A petition for the involuntary commitment of a minor may be filed with the juvenile and domestic relations district court serving the jurisdiction in which the minor is located by a parent or, if the parent is not available or is unable or unwilling to file a petition, by any responsible adult, including the person having custody over a minor in detention or shelter care pursuant to an order of a juvenile and domestic relations district court. The petition shall include the name and address of the petitioner and the minor and shall set forth in specific terms why the petitioner believes the minor meets the criteria for involuntary commitment specified in § 16.1-345. The petition shall be taken under oath.

If a commitment hearing has been scheduled pursuant to subdivision 3 of subsection C of § 16.1-339, the petition for judicial approval filed by the facility under subsection C of § 16.1-339 shall serve as the petition for involuntary commitment as long as such petition complies in substance with the provisions of this subsection.

B. Upon the filing of a petition for involuntary commitment of a minor, the juvenile and domestic relations district court serving the jurisdiction in which the minor is located may schedule a hearing which shall occur no sooner than 24 hours and no later than 96 hours from the time the petition was filed. If the 96-hour period expires on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the 96 hours shall be extended to the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed. The attorney for the minor, the guardian ad litem for the minor, the attorney for the Commonwealth in the jurisdiction giving rise to the detention, and the juvenile and domestic relations district court having jurisdiction over any minor in detention or shelter care shall be given notice prior to the hearing.

If the petition is not dismissed or withdrawn, copies of the petition, together with a notice of the hearing, shall be served immediately upon the minor and the minor's parents, if they are not petitioners. No later than 24 hours before the hearing, the court shall appoint a ~~guardian ad litem for the minor and~~ counsel to represent the minor, unless it has determined that the minor has retained counsel, *and may appoint, in its discretion, a guardian ad litem for the minor.* Upon the request of the minor's counsel, for good cause shown, and after notice to the petitioner and all other persons receiving notice of the hearing, the court may continue the hearing once for a period not to exceed 96 hours.

Any recommendation made by a state mental health facility or state hospital regarding the minor's involuntary commitment may be admissible during the course of the hearing.

§ 37.2-803. Special justices to perform duties of judge.

The chief judge of each judicial circuit may appoint one or more special justices, for the purpose of performing the duties required of a judge by this chapter, Chapter 11 (§ 37.2-1100 et seq.), and §§ 16.1-69.28, 16.1-335 through 16.1-348, 19.2-169.6, 19.2-174.1, 19.2-177.1, 19.2-182.9, 53.1-40.1, 53.1-40.2, and 53.1-40.9, *except that special justices shall have no authority regarding monitoring compliance of a respondent with a mandatory outpatient treatment order pursuant to §§ 37.2-817 through 37.2-817.4.* Each special justice shall be a person licensed to practice law in the Commonwealth or a retired or substitute judge in good standing and shall have all the powers and jurisdiction conferred upon a judge. The special justice shall serve under the supervision and at the pleasure of the chief judge making the appointment for a period of up to six years. The special justice may be reappointed and may serve additional periods of up to six years, at the pleasure of the chief judge. Within six months of appointment, each special justice appointed on or after January 1, 1996, shall complete a minimum training program prescribed by the Executive Secretary of the Supreme Court. Special justices shall collect the fees prescribed in this chapter for their service and shall retain those fees, unless the governing body of the county or city in which the services are performed provides for the payment of

an annual salary for the services, in which case the fees shall be collected and paid into the treasury of that county or city.

§ 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. An employee or a designee of the local community services board, as defined in § 37.2-809, 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 community services board that prepared the preadmission screening report shall remain responsible for the person subject to the hearing and, prior to the hearing, shall send the preadmission screening report through certified mail, personal delivery, facsimile with return receipt acknowledged, or other electronic means to the community services board attending the hearing. Where a community services board attends the hearing on behalf of the community services board that prepared the preadmission screening report, the attending community services board shall inform the community services board that prepared the preadmission screening report of the disposition of the matter upon the conclusion of the hearing. In addition, the attending community services board shall transmit the disposition through certified mail, personal delivery, facsimile with return receipt acknowledged, or other electronic means.

At least 12 hours prior to the hearing, the court shall provide to the community services board that 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

182 has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the  
183 person will, in the near future, (1) cause serious physical harm to himself or others as evidenced by  
184 recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (2)  
185 suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic  
186 human needs; (b) less restrictive alternatives to involuntary inpatient treatment that would offer an  
187 opportunity for improvement of his condition have been investigated and are determined to be  
188 appropriate; and (c) the person (A) has sufficient capacity to understand the stipulations of his treatment,  
189 (B) has expressed an interest in living in the community and has agreed to abide by his treatment plan,  
190 and (C) is deemed to have the capacity to comply with the treatment plan and understand and adhere to  
191 conditions and requirements of the treatment and services; and (d) the ordered treatment can be  
192 delivered on an outpatient basis by the community services board or designated provider, the judge or  
193 special justice shall by written order and specific findings so certify and order that the person be  
194 admitted involuntarily to mandatory outpatient treatment. Less restrictive alternatives shall not be  
195 determined to be appropriate unless the services are actually available in the community and providers  
196 of the services have actually agreed to deliver the services.

197 E. Mandatory outpatient treatment may include day treatment in a hospital, night treatment in a  
198 hospital, outpatient involuntary treatment with anti-psychotic medication pursuant to Chapter 11  
199 (§ 37.2-1100 et seq.), or other appropriate course of treatment as may be necessary to meet the needs of  
200 the person. The community services board that serves the city or county in which the person resides  
201 shall recommend a specific course of treatment and programs for the provision of mandatory outpatient  
202 treatment. The duration of mandatory outpatient treatment shall be determined by the court based on  
203 recommendations of the community services board, but shall not exceed 90 days. Upon expiration of an  
204 order for mandatory outpatient treatment, the person shall be released from the requirements of the order  
205 unless the order is continued in accordance with § 37.2-817.4.

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

214 G. No later than five days, excluding Saturdays, Sundays, or legal holidays, after an order for  
215 mandatory outpatient treatment has been entered pursuant to this section, the community services board  
216 where the person resides that is responsible for monitoring compliance with the order shall file a  
217 comprehensive mandatory outpatient treatment plan. The comprehensive mandatory outpatient treatment  
218 plan shall (i) identify the specific type, amount, duration, and frequency of each service to be provided  
219 to the person, (ii) identify the provider that has agreed to provide each service included in the plan, (iii)  
220 certify that the services are the most appropriate and least restrictive treatment available for the person,  
221 (iv) certify that each provider has complied and continues to comply with applicable provisions of the  
222 Department's licensing regulations, (v) be developed with the fullest possible involvement and  
223 participation of the person and reflect his preferences to the greatest extent possible to support his  
224 recovery and self-determination, (vi) specify the particular conditions with which the person shall be  
225 required to comply, and (vii) describe how the community services board shall monitor the person's  
226 compliance with the plan and report any material noncompliance with the plan. The community services  
227 board shall submit the comprehensive mandatory outpatient treatment plan to the court for approval.  
228 Upon approval by the court, the comprehensive mandatory outpatient treatment plan shall be filed with  
229 the court and incorporated into the order of mandatory outpatient treatment. Any subsequent substantive  
230 modifications to the plan shall be filed with the *district* court for review and attached to any order for  
231 mandatory outpatient treatment.

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

240 I. Upon entry of any order for mandatory outpatient treatment, the clerk of the court shall provide a  
241 copy of the order to the person who is the subject of the order, to his attorney, and to the community  
242 services board required to monitor compliance with the plan. The community services board shall  
243 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.

J. The *district* 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 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.

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.

§ 37.2-817.1. Monitoring mandatory outpatient treatment; petition for hearing.

A. The community services board where the person resides shall monitor the person's compliance with the mandatory outpatient treatment plan ordered by the court pursuant to § 37.2-817. Monitoring compliance shall include (i) contacting the service providers to determine if the person is complying with the mandatory outpatient treatment order and (ii) notifying the *district* court of the person's material noncompliance with the mandatory outpatient treatment order. Providers of services identified in the plan shall report any material noncompliance to the community services board.

B. If the community services board determines that the person materially failed to comply with the order, it shall petition the *district* court for a review of the mandatory outpatient treatment order as provided in § 37.2-817.2. The community services board shall petition the *district* court for a review of the mandatory outpatient treatment order within three days of making that determination, or within 24 hours if the person is being detained under a temporary detention order, and shall recommend an appropriate disposition. Copies of the petition shall be sent to the person and the person's attorney.

C. If the community services board determines that the person is not materially complying with the mandatory outpatient treatment order or for any other reason, and there is a substantial likelihood that, as a result of the person's mental illness that the person will, in the near future, (i) 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 (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, it shall immediately request that the magistrate issue an emergency custody order pursuant to § 37.2-808 or a temporary detention order pursuant to § 37.2-809.

§ 37.2-817.2. Court review of mandatory outpatient treatment plan.

A. The district court judge ~~or special justice~~ shall hold a hearing within five days after receiving the petition for review of the mandatory outpatient treatment plan; however if the fifth day is 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. If the person is being detained under a temporary detention order, the hearing shall be scheduled within the same time frame provided for a commitment hearing under § 37.2-814. The clerk shall provide notice of the hearing to the person, the community services board, all treatment providers listed in the comprehensive mandatory outpatient treatment order, and the original petitioner for the person's involuntary treatment. If the person is not represented by counsel, the *district* court shall appoint an attorney to represent the person in this hearing and any subsequent hearings under §§ 37.2-817.3 and 37.2-817.4, giving consideration to appointing the attorney who represented the person at the proceeding that resulted in the issuance of the mandatory outpatient treatment order. ~~The same~~*If a district court judge or special justice that* presided over the hearing resulting in the mandatory outpatient treatment order ~~the same district court judge~~ need not preside at the noncompliance hearing or any subsequent hearings. The community services board shall offer to arrange the person's transportation to the hearing if the person is not detained and has no other source of transportation.

B. If requested by the person, the community services board, a treatment provider listed in the comprehensive mandatory outpatient treatment plan, or the original petitioner for the person's involuntary treatment, the *district* court shall appoint an examiner in accordance with § 37.2-815 who shall personally examine the person and certify to the *district* court whether or not he has probable cause to believe that the person meets the criteria for involuntary inpatient admission or mandatory outpatient treatment as specified in subsections C and D of § 37.2-817. The examination shall include all applicable requirements of § 37.2-815. The certification of the examiner may be admitted into evidence without the appearance of the examiner at the hearing if not objected to by the person or his attorney. If the person is not detained in an inpatient facility, the community services board shall arrange for the person to be examined at a convenient location and time. The community services board shall offer to arrange for the person's transportation to the examination, if the person has no other source of transportation and resides within the service area or an adjacent service area of the community services board. If the person refuses or fails to appear, the community services board shall notify the *district*

305 court, or a magistrate if the *district* court is not available, and the *district* court or magistrate shall issue  
306 a mandatory examination order and *capias* directing the primary law-enforcement agency in the  
307 jurisdiction where the person resides to transport the person to the examination. The person shall remain  
308 in custody until a temporary detention order is issued or until the person is released, but in no event  
309 shall the period exceed four hours.

310 C. If the person fails to appear for the hearing the *district* court shall, after consideration of any  
311 evidence from the person, from the community services board, or from any treatment provider identified  
312 in the mandatory outpatient treatment plan regarding why the person failed to appear at the hearing,  
313 either (i) reschedule the hearing pursuant to subsection A, (ii) issue an emergency custody order  
314 pursuant to § 37.2-808 or (iii) issue a temporary detention order pursuant to § 37.2-809.

315 D. After hearing the evidence regarding the person's material noncompliance with the mandatory  
316 outpatient treatment order and the person's current condition, and any other relevant information  
317 referenced in subsection C of § 37.2-817, the *district court* judge ~~or special justice~~ shall make one of the  
318 following dispositions:

319 1. Upon finding by clear and convincing evidence that the person meets the criteria for involuntary  
320 admission and treatment specified in subsection C of § 37.2-817, the *district court* judge ~~or special~~  
321 ~~justice~~ shall order the person's involuntary admission to a facility designated by the community services  
322 board for a period of treatment not to exceed 30 days;

323 2. Upon finding that the person continues to meet the criteria for mandatory outpatient treatment  
324 specified in subsection D of § 37.2-817, and that a continued period of mandatory outpatient treatment  
325 appears warranted, the *district court* judge ~~or special justice~~ shall renew the order for mandatory  
326 outpatient treatment, making any necessary modifications that are acceptable to the community services  
327 board or treatment provider responsible for the person's treatment. In determining the appropriateness of  
328 outpatient treatment, the *district* court may consider the person's material noncompliance with the  
329 previous mandatory treatment order; or

330 3. Upon finding that neither of the above dispositions is appropriate, the *district court* judge ~~or~~  
331 ~~special justice~~ shall rescind the order for mandatory outpatient treatment.

332 Upon entry of an order for involuntary inpatient admission, transportation shall be provided in  
333 accordance with § 37.2-829 or 37.2-830.

334 § 37.2-817.3. Rescission of mandatory outpatient treatment order.

335 A. If the community services board determines at any time prior to the expiration of the mandatory  
336 outpatient treatment order that the person has complied with the order and no longer meets the criteria  
337 for involuntary treatment, or that continued mandatory outpatient treatment is no longer necessary for  
338 any other reason, it shall file a petition to rescind the order with the *district* court that entered the order  
339 or to which venue has been transferred. If the *district* court agrees with the community services board's  
340 determination, the *district* court shall rescind the order. Otherwise, the *district* court shall schedule a  
341 hearing and provide notice of the hearing in accordance with subsection A of § 37.2-817.2.

342 B. At any time after 30 days from entry of the mandatory outpatient treatment order, the person may  
343 petition the *district* court to rescind the order on the grounds that he no longer meets the criteria for  
344 mandatory outpatient treatment as specified in subsection D of § 37.2-817. The *district* court shall  
345 schedule a hearing and provide notice of the hearing in accordance with subsection A of § 37.2-817.2.  
346 The community services board required to monitor the person's compliance with the mandatory  
347 outpatient treatment order shall provide a preadmission screening report as required in § 37.2-816. After  
348 observing the person, and considering the person's current condition, any material noncompliance with  
349 the mandatory outpatient treatment order on the part of the person, and any other relevant evidence  
350 referred to in subsection C of § 37.2-817, the *district court* shall make one of the dispositions specified  
351 in subsection D of § 37.2-817.2. The person may not file a petition to rescind the order more than once  
352 during a 90-day period.

353 § 37.2-817.4. Continuation of mandatory outpatient treatment order.

354 A. At any time within 30 days prior to the expiration of a mandatory outpatient treatment order, the  
355 community services board that is required to monitor the person's compliance with the order, the treating  
356 physician, or other responsible person may petition the *district* court to continue the order for a period  
357 not to exceed 180 days.

358 B. If the person who is the subject of the order and the monitoring community services board, if it  
359 did not initiate the petition, join the petition, the *district* court shall grant the petition and enter an  
360 appropriate order without further hearing. If either the person or the monitoring community services  
361 board does not join the petition, the *district* court shall schedule a hearing and provide notice of the  
362 hearing in accordance with subsection A of § 37.2-817.2.

363 C. Upon receipt of the petition, the *district* court shall appoint an examiner who shall personally  
364 examine the person pursuant to subsection B of § 37.2-815. The community services board required to  
365 monitor the person's compliance with the mandatory outpatient treatment order shall provide a  
366 preadmission screening report as required in § 37.2-816.

367 D. If, after observing the person, reviewing the preadmission screening report and considering the  
368 appointed examiner's certification and any other relevant evidence, including any relevant evidence  
369 referenced in subsection D of § 37.2-817, the *district* court shall make one of the dispositions specified  
370 in subsection D of § 37.2-817.2. If the *district* court finds that a continued period of mandatory  
371 outpatient treatment is warranted, it may continue the order for a period not to exceed 180 days. Any  
372 order of mandatory outpatient treatment that is in effect at the time a petition for continuation of the  
373 order is filed shall remain in effect until the disposition of the hearing.

374 § 37.2-818. Commitment hearing for involuntary admission; recordings and records.

375 A. The district court judge or special justice shall make or cause to be made ~~a tape or other~~ *an* audio  
376 recording of any hearings held under this chapter ~~with no more than one hearing recorded per tape,~~ and  
377 shall submit the recording to the clerk of the district court in the locality in which the hearing is held to  
378 be retained in a confidential file. *The recording of the hearing may be electronic or digital. Each*  
379 *recording shall be stored under a separate file name displaying the respondent's name and the date of*  
380 *hearing.* The person who was the subject of the hearing shall be entitled, upon request, to obtain a copy  
381 of the ~~tape or other~~ audio recording of such hearing. These recordings shall be retained for at least three  
382 years from the date of the commitment hearing.

383 B. Except as provided in this section and § 37.2-819, the court shall keep its copies of recordings  
384 made pursuant to this section, relevant medical records, reports, and court documents pertaining to the  
385 hearings provided for in this chapter confidential. The person who is the subject of the hearing may, in  
386 writing, waive the confidentiality provided herein. In the absence of such waiver, access to the  
387 dispositional order only may be provided upon court order. Any person seeking access to the  
388 dispositional order may file a written motion setting forth why such access is needed. The court may  
389 issue an order to disclose the dispositional order if it finds that such disclosure is in the best interest of  
390 the person who is the subject of the hearing or of the public. The Executive Secretary of the Supreme  
391 Court and anyone acting on his behalf shall be provided access to the court's records upon request. Such  
392 recordings, records, reports, and documents shall not be subject to the Virginia Freedom of Information  
393 Act (§ 2.2-3700 et seq.).

394 C. After entering an order for involuntary admission or mandatory outpatient treatment, the judge or  
395 special justice shall order that copies of the relevant records of the person be released to (i) the facility  
396 in which he is placed, (ii) the community services board of the jurisdiction where the person resides,  
397 (iii) any treatment providers identified in a treatment plan incorporated into any mandatory outpatient  
398 treatment order, and (iv) any other treatment providers or entities.