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## SENATE BILL NO. 602

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend and reenact §§ 16.1-340.2 and 37.2-810 of the Code of Virginia, relating to temporary detention; transportation; change of provider.*

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Patron—Hanger

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Referred to Committee on the Judiciary**Be it enacted by the General Assembly of Virginia:****1. That §§ 16.1-340.2 and 37.2-810 of the Code of Virginia are amended and reenacted as follows:****§ 16.1-340.2. Transportation of minor in the temporary detention process.**

A. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the magistrate shall specify in the temporary detention order the law-enforcement agency of the jurisdiction in which the minor resides to execute the order and, in cases in which transportation is ordered to be provided by the primary law-enforcement agency, provide transportation. However, if the nearest boundary of the jurisdiction in which the minor resides is more than 50 miles from the nearest boundary of the jurisdiction in which the minor is located, the law-enforcement agency of the jurisdiction in which the minor is located shall execute the order and provide transportation.

B. The magistrate issuing the temporary detention order shall specify the law-enforcement agency to execute the order and provide transportation. However, the magistrate may authorize transportation by an alternative transportation provider, including a parent, family member, or friend of the minor who is the subject of the temporary detention order, a representative of the community services board, or other transportation provider with personnel trained to provide transportation in a safe manner upon determining, following consideration of information provided by the petitioner; the community services board or its designee; the local law-enforcement agency, if any; the minor's treating physician, if any; or other persons who are available and have knowledge of the minor, and, when the magistrate deems appropriate, the proposed alternative transportation provider, either in person or via two-way electronic video and audio or telephone communication system, that the proposed alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner. When transportation is ordered to be provided by an alternative transportation provider, the magistrate shall order the specified primary law-enforcement agency to execute the order, to take the minor into custody, and to transfer custody of the minor to the alternative transportation provider identified in the order.

In such cases, a copy of the temporary detention order shall accompany the minor being transported pursuant to this section at all times and shall be delivered by the alternative transportation provider to the temporary detention facility. The temporary detention facility shall return a copy of the temporary detention order to the court designated by the magistrate as soon as is practicable. Delivery of an order to a law-enforcement officer or alternative transportation provider and return of an order to the court may be accomplished electronically or by facsimile.

The order may include transportation of the minor to such other medical facility as may be necessary to obtain further medical evaluation or treatment prior to placement as required by a physician at the admitting temporary detention facility. Nothing herein shall preclude a law-enforcement officer or alternative transportation provider from obtaining emergency medical treatment or further medical evaluation at any time for a minor in his custody as provided in this section. Such medical evaluation or treatment shall be conducted immediately in accordance with state and federal law.

C. In cases in which an alternative facility of temporary detention is identified and the law-enforcement agency or alternative transportation provider identified to provide transportation in accordance with subsection B continues to have custody of the minor, the local law-enforcement agency or alternative transportation provider shall transport the minor to the alternative facility of temporary detention identified by the employee or designee of the local community services board. In cases in which an alternative facility of temporary detention is identified and custody of the minor has been transferred from the law-enforcement agency or alternative transportation provider that provided transportation in accordance with subsection B to the initial facility of temporary detention, the employee or designee of the local community services board shall request, and a magistrate may enter an order specifying, an alternative transportation provider or, if no alternative transportation provider is available, willing, and able to provide transportation in a safe manner, the local law-enforcement agency for the jurisdiction in which the minor resides or, if the nearest boundary of the jurisdiction in which the

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59 minor resides is more than 50 miles from the nearest boundary of the jurisdiction in which the minor is  
60 located, the law-enforcement agency of the jurisdiction in which the minor is located, to provide  
61 transportation.

62 *D. The magistrate may change the transportation provider specified in a temporary detention order*  
63 *at any time prior to the initiation of transportation of a minor who is the subject of a temporary*  
64 *detention order pursuant to this section. If the designated transportation provider is changed by the*  
65 *magistrate at any time after the temporary detention order has been executed but prior to the initiation*  
66 *of transportation, the transportation provider having custody of the minor shall transfer custody of the*  
67 *minor to the transportation provider subsequently specified to provide transportation. For the purposes*  
68 *of this subsection, "transportation provider" includes both a law enforcement agency and an alternative*  
69 *transportation provider.*

70 *E. A law-enforcement officer may lawfully go or be sent beyond the territorial limits of the county,*  
71 *city, or town in which he serves to any point in the Commonwealth for the purpose of executing any*  
72 *temporary detention order pursuant to this section. Law-enforcement agencies may enter into agreements*  
73 *to facilitate the execution of temporary detention orders and provide transportation.*

74 *E. F. No person who provides alternative transportation pursuant to this section shall be liable to the*  
75 *person being transported for any civil damages for ordinary negligence in acts or omissions that result*  
76 *from providing such alternative transportation.*

77 **§ 37.2-810. Transportation of person in the temporary detention process.**

78 *A. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section,*  
79 *the magistrate shall specify in the temporary detention order the law-enforcement agency of the*  
80 *jurisdiction in which the person resides, or any other willing law-enforcement agency that has agreed to*  
81 *provide transportation, to execute the order and, in cases in which transportation is ordered to be*  
82 *provided by the primary law-enforcement agency, provide transportation. However, if the nearest*  
83 *boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest*  
84 *boundary of the jurisdiction in which the person is located, the law-enforcement agency of the*  
85 *jurisdiction in which the person is located shall execute the order and provide transportation.*

86 *B. The magistrate issuing the temporary detention order shall specify the law-enforcement agency to*  
87 *execute the order and provide transportation. However, the magistrate shall consider any request to*  
88 *authorize transportation by an alternative transportation provider in accordance with this section,*  
89 *whenever an alternative transportation provider is identified to the magistrate, which may be a person,*  
90 *facility, or agency, including a family member or friend of the person who is the subject of the*  
91 *temporary detention order, a representative of the community services board, or other transportation*  
92 *provider with personnel trained to provide transportation in a safe manner upon determining, following*  
93 *consideration of information provided by the petitioner; the community services board or its designee;*  
94 *the local law-enforcement agency, if any; the person's treating physician, if any; or other persons who*  
95 *are available and have knowledge of the person, and, when the magistrate deems appropriate, the*  
96 *proposed alternative transportation provider, either in person or via two-way electronic video and audio*  
97 *or telephone communication system, that the proposed alternative transportation provider is available to*  
98 *provide transportation, willing to provide transportation, and able to provide transportation in a safe*  
99 *manner. When transportation is ordered to be provided by an alternative transportation provider, the*  
100 *magistrate shall order the specified law-enforcement agency to execute the order, to take the person into*  
101 *custody, and to transfer custody of the person to the alternative transportation provider identified in the*  
102 *order.*

103 *In such cases, a copy of the temporary detention order shall accompany the person being transported*  
104 *pursuant to this section at all times and shall be delivered by the alternative transportation provider to*  
105 *the temporary detention facility. The temporary detention facility shall return a copy of the temporary*  
106 *detention order to the court designated by the magistrate as soon as is practicable. Delivery of an order*  
107 *to a law-enforcement officer or alternative transportation provider and return of an order to the court*  
108 *may be accomplished electronically or by facsimile.*

109 *The order may include transportation of the person to such other medical facility as may be*  
110 *necessary to obtain further medical evaluation or treatment prior to placement as required by a physician*  
111 *at the admitting temporary detention facility. Nothing herein shall preclude a law-enforcement officer or*  
112 *alternative transportation provider from obtaining emergency medical treatment or further medical*  
113 *evaluation at any time for a person in his custody as provided in this section. Such medical evaluation*  
114 *or treatment shall be conducted immediately in accordance with state and federal law.*

115 *C. In cases in which an alternative facility of temporary detention is identified and the*  
116 *law-enforcement agency or alternative transportation provider identified to provide transportation in*  
117 *accordance with subsection B continues to have custody of the person, the local law-enforcement agency*  
118 *or alternative transportation provider shall transport the person to the alternative facility of temporary*  
119 *detention identified by the employee or designee of the community services board. In cases in which an*  
120 *alternative facility of temporary detention is identified and custody of the individual person has been*

transferred from the law-enforcement agency or alternative transportation provider that provided transportation in accordance with subsection B to the initial facility of temporary detention, the employee or designee of the community services board shall request, and a magistrate may enter an order specifying, an alternative transportation provider or, if no alternative transportation provider is available, willing, and able to provide transportation in a safe manner, the local law-enforcement agency for the jurisdiction in which the person resides or, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person is located, to provide transportation.

D. *The magistrate may change the transportation provider specified in a temporary detention order at any time prior to the initiation of transportation of a person who is the subject of a temporary detention order pursuant to this section. If the designated transportation provider is changed by the magistrate at any time after the temporary detention order has been executed but prior to the initiation of transportation, the transportation provider having custody of the person shall transfer custody of the person to the transportation provider subsequently specified to provide transportation. For the purposes of this subsection, "transportation provider" includes both a law enforcement agency and an alternative transportation provider.*

E. A law-enforcement officer may lawfully go to or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing any temporary detention order pursuant to this section. Law-enforcement agencies may enter into agreements to facilitate the execution of temporary detention orders and provide transportation.

~~E.F.~~ No person who provides alternative transportation pursuant to this section shall be liable to the person being transported for any civil damages for ordinary negligence in acts or omissions that result from providing such alternative transportation.