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HOUSE BILL NO. 808

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health and Human Services
on February 6, 2024)

(Patron Prior to Substitute—Delegate Rasoul)

A BILL to amend and reenact §§ 16.1-340.1:1 and 37.2-809.1 of the Code of Virginia, relating to state psychiatric hospitals; temporary detention orders; delayed admission to determine medical needs.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-340.1:1 and 37.2-809.1 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-340.1:1. Facility of temporary detention.

A. In each case in which an employee or designee of the local community services board is required to make an evaluation of a minor pursuant to subsection B, G, or H of § 16.1-340, an employee or designee of the local community services board shall, upon being notified of the need for such evaluation, contact the state facility for the area in which the community services board is located and notify the state facility that the minor will be transported to the facility upon issuance of a temporary detention order if no other facility of temporary detention can be identified by the time of the expiration of the period of emergency custody pursuant to § 16.1-340. Upon completion of the evaluation, the employee or designee of the local community services board shall convey to the state facility information about the minor necessary to allow the state facility to determine the services the minor will require upon admission.

B. A state facility is authorized to delay admission of a minor who is under a temporary detention order until the state facility has determined that the minor does not have potentially life-threatening medical needs that require immediate evaluation and treatment that the state facility is incapable of providing. This subsection shall not be interpreted as precluding state facilities from delaying the admission of a minor who is under a temporary detention order for other reasons, such as insufficiency of physical space or staffing.

~~B.~~ C. A state facility may, following the notice in accordance with subsection A, conduct a search for an alternative facility that is able and willing to provide temporary detention and appropriate care to the minor, which may include another state facility if the state facility notified in accordance with subsection A is unable to provide temporary detention and appropriate care for the minor. Under no circumstances shall a state facility fail or refuse to admit a minor who meets the criteria for temporary detention pursuant to § 16.1-340.1 unless an alternative facility that is able to provide temporary detention and appropriate care agrees to accept the minor for temporary detention, and the minor shall not during the duration of the temporary detention order be released from custody except for purposes of transporting the minor to the state facility or alternative facility in accordance with the provisions of § 16.1-340.2. If an alternative facility is identified and agrees to accept the minor for temporary detention, the state facility shall notify the community services board, and an employee or designee of the community services board shall designate the alternative facility on the prescreening report.

~~C.~~ D. The facility of temporary detention designated in accordance with this section shall be one that has been approved pursuant to regulations of the State Board of Behavioral Health and Developmental Services.

§ 37.2-809.1. Facility of temporary detention.

A. In each case in which an employee or designee of the local community services board as defined in § 37.2-809 is required to make an evaluation of an individual pursuant to subsection B, G, or H of § 37.2-808, an employee or designee of the local community services board shall, upon being notified of the need for such evaluation, contact the state facility for the area in which the community services board is located and notify the state facility that the individual will be transported to the facility upon issuance of a temporary detention order if no other facility of temporary detention can be identified by the time of the expiration of the period of emergency custody pursuant to § 37.2-808. Upon completion of the evaluation, the employee or designee of the local community services board shall convey to the state facility information about the individual necessary to allow the state facility to determine the services the individual will require upon admission.

B. A state facility is authorized to delay admission of an individual who is under a temporary detention order until the state facility has determined that the individual does not have potentially life-threatening medical needs that require immediate evaluation and treatment that the state facility is incapable of providing. This subsection shall not be interpreted as precluding state facilities from delaying the admission of an individual who is under a temporary detention order for other reasons, such as insufficiency of physical space or staffing.

~~B.~~ C. A state facility may, following the notice in accordance with subsection A, conduct a search for an alternative facility that is able and willing to provide temporary detention and appropriate care to the individual, which may include another state facility if the state facility notified in accordance with subsection A is unable to provide temporary detention and appropriate care for the individual. Under no circumstances shall a state facility fail or refuse to admit an individual who meets the criteria for temporary detention pursuant to § 37.2-809 unless an alternative facility that is able to provide temporary detention and appropriate care agrees to accept the individual for temporary detention and the individual shall not during the duration of the temporary detention order be released from custody except for purposes of transporting the individual to the state facility or alternative facility in accordance with the provisions of § 37.2-810. If an alternative facility is identified and agrees to accept the individual for temporary detention, the state facility shall notify the community services board, and an employee or designee of the community services board shall designate the alternative facility on the prescreening report.

~~C.~~ D. A state facility may conduct a search for an alternative facility that is able and willing to provide temporary detention and appropriate care to the individual in accordance with subsection B if the individual is in the custody of an alternative transportation provider.

~~D.~~ E. The facility of temporary detention designated in accordance with this section shall be one that has been approved pursuant to regulations of the Board.

2. That the provisions of this act shall become effective on July 1, 2025.