

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 37.2-808, 37.2-809, 37.2-813, as they are currently effective and as they*
 3 *shall become effective, 37.2-815, 37.2-816 and 37.2-817, as they are currently effective and as they shall*
 4 *become effective, and 37.2-1104 of the Code of Virginia, relating to referrals to community-based*
 5 *outpatient stabilization programs for voluntary treatment.*

6 [S 819]

7 Approved

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

9 **1. That §§ 37.2-808, 37.2-809, 37.2-813, as they are currently effective and as they shall become**
 10 **effective, 37.2-815, 37.2-816 and 37.2-817, as they are currently effective and as they shall become**
 11 **effective, and 37.2-1104 of the Code of Virginia are amended and reenacted as follows:**

12 **§ 37.2-808. (Expires July 1, 2026) Emergency custody; issuance and execution of order.**

13 A. Any magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or
 14 upon his own motion, or a court may issue pursuant to § 19.2-271.6, an emergency custody order when he
 15 has probable cause to believe that any person (i) has a mental illness and that there exists a substantial
 16 likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm
 17 to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other
 18 relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from
 19 harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is
 20 unwilling to volunteer or incapable of volunteering for hospitalization or treatment. Any emergency custody
 21 order entered pursuant to this section shall provide for the disclosure of medical records pursuant to §
 22 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

23 When considering whether there is probable cause to issue an emergency custody order, the magistrate
 24 may, in addition to the petition, or the court may pursuant to § 19.2-271.6, consider (1) the recommendations
 25 of any treating or examining physician or psychologist licensed in Virginia, if available, (2) any past actions
 26 of the person, (3) any past mental health treatment of the person, (4) any relevant hearsay evidence, (5) any
 27 medical records available, (6) any affidavits submitted, if the witness is unavailable and it so states in the
 28 affidavit, and (7) any other information available that the magistrate or the court considers relevant to the
 29 determination of whether probable cause exists to issue an emergency custody order.

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

36 C. The magistrate or court issuing an emergency custody order shall specify the primary law-enforcement
 37 agency and jurisdiction to execute the emergency custody order and provide transportation. However, the
 38 magistrate or court shall authorize transportation by an alternative transportation provider in accordance with
 39 this section, whenever an alternative transportation provider is identified to the magistrate or court, which
 40 may be a person, facility, or agency, including a family member or friend of the person who is the subject of
 41 the order, a representative of the community services board, or a certified evaluator, or other transportation
 42 provider with personnel trained to provide transportation in a safe manner, upon determining, following
 43 consideration of information provided by the petitioner; the community services board or its designee or a
 44 certified evaluator; the local law-enforcement agency, if any; the person's treating physician, if any; or other
 45 persons who are available and have knowledge of the person, and, when the magistrate or court deems
 46 appropriate, the proposed alternative transportation provider, either in person or via two-way electronic video
 47 and audio or telephone communication system, that the proposed alternative transportation provider is
 48 available to provide transportation, willing to provide transportation, and able to provide transportation in a
 49 safe manner.

50 When transportation is ordered to be provided by an alternative transportation provider, the magistrate or
 51 court shall order the specified primary law-enforcement agency to execute the order, to take the person into
 52 custody, and to transfer custody of the person to the alternative transportation provider identified in the order.
 53 In such cases, a copy of the emergency custody order shall accompany the person being transported pursuant
 54 to this section at all times and shall be delivered by the alternative transportation provider to the community
 55 services board or its designee or certified evaluator responsible for conducting the evaluation. The
 56 community services board or its designee or certified evaluator conducting the evaluation shall return a copy

57 of the emergency custody order to the court designated by the magistrate or the court that issued the
58 emergency custody order as soon as is practicable. Delivery of an order to a law-enforcement officer or
59 alternative transportation provider and return of an order to the court may be accomplished electronically or
60 by facsimile.

61 Transportation under this section shall include transportation to a medical facility as may be necessary to
62 obtain emergency medical evaluation or treatment that shall be conducted immediately in accordance with
63 state and federal law. Transportation under this section shall include transportation to a medical facility for a
64 medical evaluation if a physician at the hospital in which the person subject to the emergency custody order
65 may be detained requires a medical evaluation prior to admission.

66 D. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the
67 magistrate or court shall order the primary law-enforcement agency from the jurisdiction served by the
68 community services board or certified evaluator that designated the person to perform the evaluation required
69 in subsection B to execute the order and, in cases in which transportation is ordered to be provided by the
70 primary law-enforcement agency, provide transportation. If the community services board serves more than
71 one jurisdiction, the magistrate or court shall designate the primary law-enforcement agency from the
72 particular jurisdiction within the community services board's service area where the person who is the subject
73 of the emergency custody order was taken into custody or, if the person has not yet been taken into custody,
74 the primary law-enforcement agency from the jurisdiction where the person is presently located to execute
75 the order and provide transportation.

76 E. The law-enforcement agency or alternative transportation provider providing transportation pursuant to
77 this section may transfer custody of the person to the facility or location to which the person is transported for
78 the evaluation required in subsection B, G, or H if the facility or location (i) is licensed to provide the level of
79 security necessary to protect both the person and others from harm, (ii) is actually capable of providing the
80 level of security necessary to protect the person and others from harm, and (iii) in cases in which
81 transportation is provided by a law-enforcement agency, has entered into an agreement or memorandum of
82 understanding with the law-enforcement agency setting forth the terms and conditions under which it will
83 accept a transfer of custody, provided, however, that the facility or location may not require the law-
84 enforcement agency to pay any fees or costs for the transfer of custody.

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

88 G. A law-enforcement officer who, based upon his observation or the reliable reports of others, has
89 probable cause to believe that a person meets the criteria for emergency custody as stated in this section may
90 take that person into custody and transport that person to an appropriate location to assess the need for
91 hospitalization or treatment without prior authorization. A law-enforcement officer who takes a person into
92 custody pursuant to this subsection or subsection H may lawfully go or be sent beyond the territorial limits of
93 the county, city, or town in which he serves to any point in the Commonwealth for the purpose of obtaining
94 the assessment. Such evaluation shall be conducted immediately. The period of custody shall not exceed eight
95 hours from the time the law-enforcement officer takes the person into custody.

96 H. A law-enforcement officer who is transporting a person who has voluntarily consented to be
97 transported to a facility for the purpose of assessment or evaluation and who is beyond the territorial limits of
98 the county, city, or town in which he serves may take such person into custody and transport him to an
99 appropriate location to assess the need for hospitalization or treatment without prior authorization when the
100 law-enforcement officer determines (i) that the person has revoked consent to be transported to a facility for
101 the purpose of assessment or evaluation, and (ii) based upon his observations, that probable cause exists to
102 believe that the person meets the criteria for emergency custody as stated in this section. The period of
103 custody shall not exceed eight hours from the time the law-enforcement officer takes the person into custody.

104 I. Nothing herein shall preclude a law-enforcement officer or alternative transportation provider from
105 obtaining emergency medical treatment or further medical evaluation at any time for a person in his custody
106 as provided in this section.

107 J. A representative of the primary law-enforcement agency specified to execute an emergency custody
108 order or a representative of the law-enforcement agency employing a law-enforcement officer who takes a
109 person into custody pursuant to subsection G or H shall notify the community services board or certified
110 evaluator responsible for conducting the evaluation required in subsection B, G, or H as soon as practicable
111 after execution of the emergency custody order or after the person has been taken into custody pursuant to
112 subsection G or H.

113 K. The person shall remain in custody until (i) a temporary detention order is issued in accordance with §
114 37.2-809, (ii) an order for temporary detention for observation, testing, or treatment is entered in accordance
115 with § 37.2-1104, ending law enforcement custody, (iii) the person is released, or (iv) the emergency custody
116 order expires. An emergency custody order shall be valid for a period not to exceed eight hours from the time
117 of execution. *For any person who has received an evaluation or treatment while in emergency custody and*
118 *for whom no temporary detention order is issued, the evaluator or treating health care professional shall*

119 *consider, prior to the person's release or the expiration of the emergency custody order, whether referral of*
 120 *the person to a community-based outpatient stabilization program for voluntary treatment is appropriate.*

121 L. Nothing in this section shall preclude the issuance of an order for temporary detention for testing,
 122 observation, or treatment pursuant to § 37.2-1104 for a person who is also the subject of an emergency
 123 custody order issued pursuant to this section. In any case in which an order for temporary detention for
 124 testing, observation, or treatment is issued for a person who is also the subject of an emergency custody
 125 order, the person may be detained by a hospital emergency room or other appropriate facility for testing,
 126 observation, and treatment for a period not to exceed 24 hours, unless extended by the court as part of an
 127 order pursuant to § 37.2-1101, in accordance with subsection C of § 37.2-1104. Upon completion of testing,
 128 observation, or treatment pursuant to § 37.2-1104, the hospital emergency room or other appropriate facility
 129 in which the person is detained shall notify the nearest community services board or certified evaluator, and
 130 the designee of the community services board or certified evaluator shall, as soon as is practicable and prior
 131 to the expiration of the order for temporary detention issued pursuant to § 37.2-1104, conduct an evaluation
 132 of the person to determine if he meets the criteria for temporary detention pursuant to § 37.2-809. The (i)
 133 certified evaluator conducting the evaluation pursuant to subsection B and § 37.2-809 or (ii) hospital
 134 emergency department and treating physician or other health care provider designated by the physician shall
 135 allow a family member or legal guardian of the individual subject to evaluation who is present, and who may
 136 provide support and supportive decision-making, to be present with the individual unless the individual
 137 objects or the evaluator or treating physician determines that the presence of any such person would create a
 138 medical, clinical, or safety risk to the patient or health care provider or interferes with patient care. No
 139 provision of this section shall delay the process of the patient receiving treatment.

140 M. Any person taken into emergency custody pursuant to this section shall be given a written summary of
 141 the emergency custody procedures and the statutory protections associated with those procedures.

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

145 O. In addition to the eight-hour period of emergency custody set forth in subsection G, H, or K, if the
 146 individual is detained in a state facility pursuant to subsection E of § 37.2-809, the state facility and an
 147 employee or designee of the community services board as defined in § 37.2-809 or certified evaluator may,
 148 for an additional four hours, continue to attempt to identify an alternative facility that is able and willing to
 149 provide temporary detention and appropriate care to the individual.

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

152 Q. An employee or contractor of an entity providing alternative transportation services pursuant to a
 153 contract with the Department who has completed training approved by the Department in the proper and safe
 154 use of restraint may use restraint (i) if restraint is necessary to ensure the safety of the person or others or
 155 prevent escape and (ii) if less restrictive techniques have been determined to be ineffective to protect the
 156 person or others from harm or to prevent escape.

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

160 S. For purposes of this section:

161 "Certified evaluator" means the same as that term is defined in § 37.2-809.

162 "Law-enforcement agency" includes an auxiliary police force established pursuant to § 15.2-1731.

163 "Law-enforcement officer" includes an auxiliary police officer appointed or provided for pursuant to §§
 164 15.2-1731 and 15.2-1733, except for the purposes of subsection G.

165 **§ 37.2-808. (Effective July 1, 2026) Emergency custody; issuance and execution of order.**

166 A. Any magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or
 167 upon his own motion, or a court may issue pursuant to § 19.2-271.6, an emergency custody order when he
 168 has probable cause to believe that any person (i) has a mental illness and that there exists a substantial
 169 likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm
 170 to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other
 171 relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from
 172 harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is
 173 unwilling to volunteer or incapable of volunteering for hospitalization or treatment. Any emergency custody
 174 order entered pursuant to this section shall provide for the disclosure of medical records pursuant to §
 175 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

176 When considering whether there is probable cause to issue an emergency custody order, the magistrate
 177 may, in addition to the petition, or the court may pursuant to § 19.2-271.6, consider (1) the recommendations
 178 of any treating or examining physician or psychologist licensed in Virginia, if available, (2) any past actions
 179 of the person, (3) any past mental health treatment of the person, (4) any relevant hearsay evidence, (5) any
 180 medical records available, (6) any affidavits submitted, if the witness is unavailable and it so states in the

181 affidavit, and (7) any other information available that the magistrate or the court considers relevant to the
182 determination of whether probable cause exists to issue an emergency custody order.

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

188 C. The magistrate or court issuing an emergency custody order shall specify the primary law-enforcement
189 agency and jurisdiction to execute the emergency custody order and provide transportation. However, the
190 magistrate or court shall authorize transportation by an alternative transportation provider in accordance with
191 this section, whenever an alternative transportation provider is identified to the magistrate or court, which
192 may be a person, facility, or agency, including a family member or friend of the person who is the subject of
193 the order, a representative of the community services board, or other transportation provider with personnel
194 trained to provide transportation in a safe manner, upon determining, following consideration of information
195 provided by the petitioner; the community services board or its designee; the local law-enforcement agency,
196 if any; the person's treating physician, if any; or other persons who are available and have knowledge of the
197 person, and, when the magistrate or court deems appropriate, the proposed alternative transportation provider,
198 either in person or via two-way electronic video and audio or telephone communication system, that the
199 proposed alternative transportation provider is available to provide transportation, willing to provide
200 transportation, and able to provide transportation in a safe manner.

201 When transportation is ordered to be provided by an alternative transportation provider, the magistrate or
202 court shall order the specified primary law-enforcement agency to execute the order, to take the person into
203 custody, and to transfer custody of the person to the alternative transportation provider identified in the order.
204 In such cases, a copy of the emergency custody order shall accompany the person being transported pursuant
205 to this section at all times and shall be delivered by the alternative transportation provider to the community
206 services board or its designee responsible for conducting the evaluation. The community services board or its
207 designee conducting the evaluation shall return a copy of the emergency custody order to the court designated
208 by the magistrate or the court that issued the emergency custody order as soon as is practicable. Delivery of
209 an order to a law-enforcement officer or alternative transportation provider and return of an order to the court
210 may be accomplished electronically or by facsimile.

211 Transportation under this section shall include transportation to a medical facility as may be necessary to
212 obtain emergency medical evaluation or treatment that shall be conducted immediately in accordance with
213 state and federal law. Transportation under this section shall include transportation to a medical facility for a
214 medical evaluation if a physician at the hospital in which the person subject to the emergency custody order
215 may be detained requires a medical evaluation prior to admission.

216 D. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the
217 magistrate or court shall order the primary law-enforcement agency from the jurisdiction served by the
218 community services board that designated the person to perform the evaluation required in subsection B to
219 execute the order and, in cases in which transportation is ordered to be provided by the primary law-
220 enforcement agency, provide transportation. If the community services board serves more than one
221 jurisdiction, the magistrate or court shall designate the primary law-enforcement agency from the particular
222 jurisdiction within the community services board's service area where the person who is the subject of the
223 emergency custody order was taken into custody or, if the person has not yet been taken into custody, the
224 primary law-enforcement agency from the jurisdiction where the person is presently located to execute the
225 order and provide transportation.

226 E. The law-enforcement agency or alternative transportation provider providing transportation pursuant to
227 this section may transfer custody of the person to the facility or location to which the person is transported for
228 the evaluation required in subsection B, G, or H if the facility or location (i) is licensed to provide the level of
229 security necessary to protect both the person and others from harm, (ii) is actually capable of providing the
230 level of security necessary to protect the person and others from harm, and (iii) in cases in which
231 transportation is provided by a law-enforcement agency, has entered into an agreement or memorandum of
232 understanding with the law-enforcement agency setting forth the terms and conditions under which it will
233 accept a transfer of custody, provided, however, that the facility or location may not require the law-
234 enforcement agency to pay any fees or costs for the transfer of custody.

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

238 G. A law-enforcement officer who, based upon his observation or the reliable reports of others, has
239 probable cause to believe that a person meets the criteria for emergency custody as stated in this section may
240 take that person into custody and transport that person to an appropriate location to assess the need for
241 hospitalization or treatment without prior authorization. A law-enforcement officer who takes a person into

242 custody pursuant to this subsection or subsection H may lawfully go or be sent beyond the territorial limits of
 243 the county, city, or town in which he serves to any point in the Commonwealth for the purpose of obtaining
 244 the assessment. Such evaluation shall be conducted immediately. The period of custody shall not exceed eight
 245 hours from the time the law-enforcement officer takes the person into custody.

246 H. A law-enforcement officer who is transporting a person who has voluntarily consented to be
 247 transported to a facility for the purpose of assessment or evaluation and who is beyond the territorial limits of
 248 the county, city, or town in which he serves may take such person into custody and transport him to an
 249 appropriate location to assess the need for hospitalization or treatment without prior authorization when the
 250 law-enforcement officer determines (i) that the person has revoked consent to be transported to a facility for
 251 the purpose of assessment or evaluation, and (ii) based upon his observations, that probable cause exists to
 252 believe that the person meets the criteria for emergency custody as stated in this section. The period of
 253 custody shall not exceed eight hours from the time the law-enforcement officer takes the person into custody.

254 I. Nothing herein shall preclude a law-enforcement officer or alternative transportation provider from
 255 obtaining emergency medical treatment or further medical evaluation at any time for a person in his custody
 256 as provided in this section.

257 J. A representative of the primary law-enforcement agency specified to execute an emergency custody
 258 order or a representative of the law-enforcement agency employing a law-enforcement officer who takes a
 259 person into custody pursuant to subsection G or H shall notify the community services board responsible for
 260 conducting the evaluation required in subsection B, G, or H as soon as practicable after execution of the
 261 emergency custody order or after the person has been taken into custody pursuant to subsection G or H.

262 K. The person shall remain in custody until (i) a temporary detention order is issued in accordance with §
 263 37.2-809, (ii) an order for temporary detention for observation, testing, or treatment is entered in accordance
 264 with § 37.2-1104, ending law enforcement custody, (iii) the person is released, or (iv) the emergency custody
 265 order expires. An emergency custody order shall be valid for a period not to exceed eight hours from the time
 266 of execution. *For any person who has received an evaluation or treatment while in emergency custody and
 267 for whom no temporary detention order is issued, the evaluator or treating health care professional shall
 268 consider, prior to the person's release or the expiration of the emergency custody order, whether referral of
 269 the person to a community-based outpatient stabilization program for voluntary treatment is appropriate.*

270 L. Nothing in this section shall preclude the issuance of an order for temporary detention for testing,
 271 observation, or treatment pursuant to § 37.2-1104 for a person who is also the subject of an emergency
 272 custody order issued pursuant to this section. In any case in which an order for temporary detention for
 273 testing, observation, or treatment is issued for a person who is also the subject of an emergency custody
 274 order, the person may be detained by a hospital emergency room or other appropriate facility for testing,
 275 observation, and treatment for a period not to exceed 24 hours, unless extended by the court as part of an
 276 order pursuant to § 37.2-1101, in accordance with subsection C of § 37.2-1104. Upon completion of testing,
 277 observation, or treatment pursuant to § 37.2-1104, the hospital emergency room or other appropriate facility
 278 in which the person is detained shall notify the nearest community services board, and the designee of the
 279 community services board shall, as soon as is practicable and prior to the expiration of the order for
 280 temporary detention issued pursuant to § 37.2-1104, conduct an evaluation of the person to determine if he
 281 meets the criteria for temporary detention pursuant to § 37.2-809. The (i) evaluator conducting the evaluation
 282 pursuant to subsection B and § 37.2-809 or (ii) hospital emergency department and treating physician or other
 283 health care provider designated by the physician shall allow a family member or legal guardian of the
 284 individual subject to evaluation who is present, and who may provide support and supportive
 285 decision-making, to be present with the individual unless the individual objects or the evaluator or treating
 286 physician determines that the presence of any such person would create a medical, clinical, or safety risk to
 287 the patient or health care provider or interferes with patient care. No provision of this section shall delay the
 288 process of the patient receiving treatment.

289 M. Any person taken into emergency custody pursuant to this section shall be given a written summary of
 290 the emergency custody procedures and the statutory protections associated with those procedures.

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

294 O. In addition to the eight-hour period of emergency custody set forth in subsection G, H, or K, if the
 295 individual is detained in a state facility pursuant to subsection E of § 37.2-809, the state facility and an
 296 employee or designee of the community services board as defined in § 37.2-809 may, for an additional four
 297 hours, continue to attempt to identify an alternative facility that is able and willing to provide temporary
 298 detention and appropriate care to the individual.

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

301 Q. An employee or contractor of an entity providing alternative transportation services pursuant to a
 302 contract with the Department who has completed training approved by the Department in the proper and safe
 303 use of restraint may use restraint (i) if restraint is necessary to ensure the safety of the person or others or

304 prevent escape and (ii) if less restrictive techniques have been determined to be ineffective to protect the
305 person or others from harm or to prevent escape.

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

309 S. For purposes of this section:

310 "Law-enforcement agency" includes an auxiliary police force established pursuant to § 15.2-1731.

311 "Law-enforcement officer" includes an auxiliary police officer appointed or provided for pursuant to §§
312 15.2-1731 and 15.2-1733, except for the purposes of subsection G.

313 **§ 37.2-809. (Expires July 1, 2026) Involuntary temporary detention; issuance and execution of**
314 **order.**

315 A. For the purposes of this section:

316 "Certified evaluator" means (i) an individual with an educational attainment of a master's or doctoral
317 degree with an associated professional license; (ii) a licensed professional counselor, licensed clinical social
318 worker, licensed marriage and family therapist, licensed clinical psychologist, or psychiatrist; or (iii) a
319 licensed psychiatric nurse practitioner, psychiatric physician assistant, psychiatric clinical nurse specialist,
320 doctor of medicine, or doctor of osteopathy, who are not emergency department providers. A certified
321 evaluator shall (a) be employed or contracted by a hospital with a psychiatric emergency department in the
322 City of Hampton and such hospital shall be responsible for all costs associated with the hiring, training, and
323 supervision of the certified evaluators, including salary, fringe benefits, and overhead costs; (b) be skilled in
324 the assessment and treatment of mental illness; (c) have completed a training and certification program
325 approved by the Department; (d) have received a prescreener orientation presentation developed by the
326 Department in consultation with the Virginia Association of Community Services Boards, which shall
327 include information on determining the least restrictive treatment available for the person being evaluated
328 pursuant to subsection G of § 37.2-817.01; (e) be able to provide an independent examination of the person;
329 (f) not be related by blood or marriage to the person being evaluated; (g) have no financial interest in the
330 admission, treatment, or denial of admission of the person being evaluated; (h) have no investment interest in
331 the facility detaining or admitting the person under this article; (i) only be permitted to conduct in-person
332 evaluations on site at participating hospitals; and (j) only be permitted to conduct a temporary detention order
333 evaluation in lieu of an employee or designee of the local community services board if the person subject to
334 the temporary detention order evaluation is located in a hospital with a psychiatric emergency department in
335 the City of Hampton.

336 "Designee of the local community services board" means an examiner designated by the local community
337 services board who (i) is skilled in the assessment and treatment of mental illness, (ii) has completed a
338 certification program approved by the Department, (iii) is able to provide an independent examination of the
339 person, (iv) is not related by blood or marriage to the person being evaluated, (v) has no financial interest in
340 the admission or treatment of the person being evaluated, (vi) has no investment interest in the facility
341 detaining or admitting the person under this article, and (vii) except for employees of state hospitals and of
342 the U.S. Department of Veterans Affairs, is not employed by the facility.

343 "Employee" means an employee of the local community services board who is skilled in the assessment
344 and treatment of mental illness and has completed a certification program approved by the Department.

345 "Investment interest" means the ownership or holding of an equity or debt security, including shares of
346 stock in a corporation, interests or units of a partnership, bonds, debentures, notes, or other equity or debt
347 instruments.

348 "Psychiatric emergency department" means a facility that (i) is a separate and secure environment
349 operating under the authority of a hospital with emergency department services licensed by the Department of
350 Health, (ii) provides immediate access to psychiatric and psychological care, (iii) is adjacent to a facility
351 licensed by the Department, and (iv) provides medical care, case management, discharge planning, and bridge
352 psychiatric services post-discharge as needed.

353 B. 1. A magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or
354 upon his own motion and only after an evaluation conducted in-person or by means of a two-way electronic
355 video and audio communication system as authorized in § 37.2-804.1 by an employee or a designee of the
356 local community services board or after an in-person evaluation conducted by a certified evaluator to
357 determine whether the person meets the criteria for temporary detention, a temporary detention order if it
358 appears from all evidence readily available, including any recommendation from a physician, clinical
359 psychologist, clinical social worker, or licensed professional counselor treating the person, that the person (i)
360 has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person
361 will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior
362 causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due
363 to his lack of capacity to protect himself from harm or to provide for his basic human needs; (ii) is in need of
364 hospitalization or treatment; and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization
365 or treatment. The magistrate shall also consider, if available, (a) information provided by the person who

366 initiated emergency custody and (b) the recommendations of any treating or examining physician licensed in
 367 Virginia either verbally or in writing prior to rendering a decision. Any temporary detention order entered
 368 pursuant to this section shall provide for the disclosure of medical records pursuant to § 37.2-804.2. This
 369 subsection shall not preclude any other disclosures as required or permitted by law.

370 2. *If the magistrate finds that the person does not meet the criteria for temporary detention and the*
 371 *employee or designee of the community services board or the certified evaluator has recommended that*
 372 *referral to a community-based outpatient stabilization program for voluntary treatment would be*
 373 *appropriate, the employee or designee of the community services board or the certified evaluator shall*
 374 *provide the person with such referral.*

375 C. When considering whether there is probable cause to issue a temporary detention order, the magistrate
 376 may, in addition to the petition, consider (i) the recommendations of any treating or examining physician,
 377 psychologist, clinical social worker, or licensed professional counselor licensed in Virginia, if available, (ii)
 378 any past actions of the person, (iii) any past mental health treatment of the person, (iv) any relevant hearsay
 379 evidence, (v) any medical records available, (vi) any affidavits submitted, if the witness is unavailable and it
 380 so states in the affidavit, and (vii) any other information available that the magistrate considers relevant to the
 381 determination of whether probable cause exists to issue a temporary detention order.

382 D. A magistrate may issue a temporary detention order without an emergency custody order proceeding.
 383 A magistrate may issue a temporary detention order without a prior evaluation pursuant to subsection B if (i)
 384 the person has been personally examined within the previous 72 hours by an employee or a designee of the
 385 local community services board or a certified evaluator or (ii) there is a significant physical, psychological, or
 386 medical risk to the person or to others associated with conducting such evaluation.

387 E. An employee or a designee of the local community services board or a certified evaluator shall
 388 determine the facility of temporary detention in accordance with the provisions of § 37.2-809.1 for all
 389 persons detained pursuant to this section. An employee or designee of the local community services board or
 390 a certified evaluator may change the facility of temporary detention and may designate an alternative facility
 391 for temporary detention at any point during the period of temporary detention if it is determined that the
 392 alternative facility is a more appropriate facility for temporary detention of the person given the specific
 393 security, medical, or behavioral health needs of the person. In cases in which the facility of temporary
 394 detention is changed following transfer of custody to an initial facility of temporary custody, transportation of
 395 the person to the alternative facility of temporary detention shall be provided in accordance with the
 396 provisions of § 37.2-810. The initial facility of temporary detention shall be identified on the preadmission
 397 screening report and indicated on the temporary detention order; however, if an employee or designee of the
 398 local community services board or the certified evaluator designates an alternative facility, that employee or
 399 designee or certified evaluator shall provide written notice forthwith, on a form developed by the Executive
 400 Secretary of the Supreme Court of Virginia, to the clerk of the issuing court of the name and address of the
 401 alternative facility. Subject to the provisions of § 37.2-809.1, if a facility of temporary detention cannot be
 402 identified by the time of the expiration of the period of emergency custody pursuant to § 37.2-808, the person
 403 shall be detained in a state facility for the treatment of persons with mental illness and such facility shall be
 404 indicated on the temporary detention order. Except as provided in § 37.2-811 for inmates requiring
 405 hospitalization in accordance with subdivision A 2 of § 19.2-169.6, the person shall not be detained in a jail
 406 or other place of confinement for persons charged with criminal offenses. Except as provided in § 37.2-811
 407 for inmates requiring hospitalization in accordance with subdivision A 2 of § 19.2-169.6 or in subsection C of
 408 § 37.2-813 for persons prior to transfer to the facility of temporary detention, the person shall remain in the
 409 custody of law enforcement until either (i) the person is detained within a secure facility or (ii) custody has
 410 been accepted by the appropriate personnel designated by either the initial facility of temporary detention
 411 identified in the temporary detention order or by the alternative facility of temporary detention designated by
 412 the employee or designee of the local community services board or the certified evaluator pursuant to this
 413 subsection. The person detained or in custody pursuant to this section shall be given a written summary of the
 414 temporary detention procedures and the statutory protections associated with those procedures.

415 F. 1. Any facility caring for a person placed with it pursuant to a temporary detention order is authorized
 416 to provide emergency medical and psychiatric services within its capabilities when the facility determines
 417 that the services are in the best interests of the person within its care. The costs incurred as a result of the
 418 hearings and by the facility in providing services during the period of temporary detention shall be paid and
 419 recovered pursuant to § 37.2-804. The maximum costs reimbursable by the Commonwealth pursuant to this
 420 section shall be established by the State Board of Medical Assistance Services based on reasonable criteria.
 421 The State Board of Medical Assistance Services shall, by regulation, establish a reasonable rate per day of
 422 inpatient care for temporary detention.

423 2. Participating hospitals with psychiatric emergency departments in the City of Hampton shall report at
 424 the end of each calendar year to the Chairmen of the Senate Committees on Education and Health and
 425 Finance and Appropriations, the House Committees on Appropriations and Health and Human Services, and
 426 the Behavioral Health Commission and the Commissioner of Behavioral Health and Developmental Services
 427 the following information: (i) the length of time between when a person who is the subject of an emergency

428 custody order pursuant to § 37.2-808 arrives at the psychiatric emergency department of a participating
429 hospital and when the temporary detention order evaluation is completed and (ii) the number of (a)
430 admissions, (b) psychiatric emergency department visits, (c) temporary detention order evaluations
431 completed, (d) temporary detention orders executed, (e) individuals under temporary detention admitted to
432 the participating hospital, and (f) individuals transferred from the psychiatric emergency department of the
433 participating hospital to a state facility.

434 3. Participating hospitals with psychiatric emergency departments in the City of Hampton shall report
435 monthly to the Commissioner of Behavioral Health and Developmental Services the number of (i) crisis
436 evaluations conducted each month; (ii) temporary detention orders executed as a result of such evaluations
437 and the percentage of evaluations such temporary detention orders represent by payor type; (iii) reportable
438 events associated with such temporary detention orders and the percentage of temporary detention orders that
439 such reportable events represent; (iv) reportable events (a) involving loss of custody, (b) with and without an
440 emergency custody order, (c) with a temporary detention order executed subsequently, (d) in which the
441 individual subsequently became engaged in outpatient treatment, (e) in which the individual did not become
442 engaged in treatment services, and (f) involving medical treatment; and (v) other events. Such participating
443 hospitals shall include in their monthly report the facility where each patient, classified by payor type, is
444 placed for any temporary detention order that is executed based on their evaluation.

445 G. The employee or the designee of the local community services board or the certified evaluator who is
446 conducting the evaluation pursuant to this section shall determine, prior to the issuance of the temporary
447 detention order, the insurance status of the person. Where coverage by a third party payor exists, the facility
448 seeking reimbursement under this section shall first seek reimbursement from the third party payor. The
449 Commonwealth shall reimburse the facility only for the balance of costs remaining after the allowances
450 covered by the third party payor have been received.

451 H. The duration of temporary detention shall be sufficient to allow for completion of the examination
452 required by § 37.2-815, preparation of the preadmission screening report required by § 37.2-816, and
453 initiation of mental health treatment to stabilize the person's psychiatric condition to avoid involuntary
454 commitment where possible, but shall not exceed 72 hours prior to a hearing. If the 72-hour period herein
455 specified terminates on a Saturday, Sunday, legal holiday, or, if the individual has been admitted to a facility
456 of temporary detention, day or part of a day on which the clerk's office is lawfully closed, the person may be
457 detained, as herein provided, until the close of business on the next day that is not a Saturday, Sunday, legal
458 holiday, or, if the individual has been admitted to a facility of temporary detention, day or part of a day on
459 which the clerk's office is lawfully closed. The person may be released, pursuant to § 37.2-813, before the
460 72-hour period herein specified has run.

461 I. If a temporary detention order is not executed within 24 hours of its issuance, or within a shorter period
462 as is specified in the order, the order shall be void and shall be returned unexecuted to the office of the clerk
463 of the issuing court or, if the office is not open, to any magistrate serving the jurisdiction of the issuing court.
464 Subsequent orders may be issued upon the original petition within 96 hours after the petition is filed.
465 However, a magistrate must again obtain the advice of an employee or a designee of the local community
466 services board or a certified evaluator prior to issuing a subsequent order upon the original petition. Any
467 petition for which no temporary detention order or other process in connection therewith is served on the
468 subject of the petition within 96 hours after the petition is filed shall be void and shall be returned to the
469 office of the clerk of the issuing court.

470 J. The Executive Secretary of the Supreme Court of Virginia shall establish and require that a magistrate,
471 as provided by this section, be available seven days a week, 24 hours a day, for the purpose of performing the
472 duties established by this section. Each community services board shall provide to each general district court
473 and magistrate's office within its service area a list of its employees and designees who are available to
474 perform the evaluations required herein. The employer of any certified evaluator shall provide to each general
475 district court and magistrate's office within its service area a list of its employees and designees who are
476 available to perform the evaluations required herein.

477 K. For purposes of this section, a health care provider, including any certified evaluator or designee of a
478 local community services board or behavioral health authority, shall not be required to encrypt any email
479 containing information or medical records provided to a magistrate unless there is reason to believe that a
480 third party will attempt to intercept the email.

481 L. If the employee or designee of the community services board or the certified evaluator who is
482 conducting the evaluation pursuant to this section recommends that the person should not be subject to a
483 temporary detention order, such employee or designee or certified evaluator shall (i) inform the petitioner, the
484 person who initiated emergency custody if such person is present, and an onsite treating physician of his
485 recommendation; (ii) promptly inform such person who initiated emergency custody that the community
486 services board or certified evaluator will facilitate communication between the person and the magistrate if
487 the person disagrees with recommendations of the employee or designee of the community services board or
488 certified evaluator who conducted the evaluation and the person who initiated emergency custody so
489 requests; ~~and~~ (iii) upon prompt request made by the person who initiated emergency custody, arrange for

490 such person who initiated emergency custody to communicate with the magistrate as soon as is practicable
 491 and prior to the expiration of the period of emergency custody; *and (iv) provide a referral to the person to a*
 492 *community-based outpatient stabilization program for voluntary treatment if appropriate.* The magistrate
 493 shall consider any information provided by the person who initiated emergency custody and any
 494 recommendations of the treating or examining physician and the employee or designee of the community
 495 services board or certified evaluator who conducted the evaluation and consider such information and
 496 recommendations in accordance with subsection B in making his determination to issue a temporary
 497 detention order. The person who is the subject of emergency custody shall remain in the custody of law
 498 enforcement or a designee of law enforcement and shall not be released from emergency custody until
 499 communication with the magistrate pursuant to this subsection has concluded and the magistrate has made a
 500 determination regarding issuance of a temporary detention order.

501 M. For purposes of this section, "person who initiated emergency custody" means any person who
 502 initiated the issuance of an emergency custody order pursuant to § 37.2-808 or a law-enforcement officer who
 503 takes a person into custody pursuant to subsection G of § 37.2-808.

504 N. In any case in which a person subject to an evaluation pursuant to this section is receiving services in a
 505 hospital emergency department, the treating physician or his designee and the employee or designee of the
 506 local community services board or certified evaluator shall disclose to each other relevant information
 507 pertaining to the individual's treatment in the emergency department. The (i) certified evaluator conducting
 508 the evaluation pursuant to subsection B of § 37.2-808 and the provisions of this section or (ii) hospital
 509 emergency department and treating physician or other health care provider designated by the physician shall
 510 allow a family member or legal guardian of the individual subject to evaluation who is present, and who may
 511 provide support and supportive decision-making, to be present with the individual unless the individual
 512 objects or the evaluator or treating physician determines that the presence of any such person would create a
 513 medical, clinical, or safety risk to the patient or health care provider or interferes with patient care. No
 514 provision of this section shall delay the process of the patient receiving treatment.

515 **§ 37.2-809. (Effective July 1, 2026) Involuntary temporary detention; issuance and execution of**
 516 **order.**

517 A. For the purposes of this section:

518 "Designee of the local community services board" means an examiner designated by the local community
 519 services board who (i) is skilled in the assessment and treatment of mental illness, (ii) has completed a
 520 certification program approved by the Department, (iii) is able to provide an independent examination of the
 521 person, (iv) is not related by blood or marriage to the person being evaluated, (v) has no financial interest in
 522 the admission or treatment of the person being evaluated, (vi) has no investment interest in the facility
 523 detaining or admitting the person under this article, and (vii) except for employees of state hospitals and of
 524 the U.S. Department of Veterans Affairs, is not employed by the facility.

525 "Employee" means an employee of the local community services board who is skilled in the assessment
 526 and treatment of mental illness and has completed a certification program approved by the Department.

527 "Investment interest" means the ownership or holding of an equity or debt security, including shares of
 528 stock in a corporation, interests or units of a partnership, bonds, debentures, notes, or other equity or debt
 529 instruments.

530 B. 1. A magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or
 531 upon his own motion and only after an evaluation conducted in-person or by means of a two-way electronic
 532 video and audio communication system as authorized in § 37.2-804.1 by an employee or a designee of the
 533 local community services board to determine whether the person meets the criteria for temporary detention, a
 534 temporary detention order if it appears from all evidence readily available, including any recommendation
 535 from a physician, clinical psychologist, clinical social worker, or licensed professional counselor treating the
 536 person, that the person (i) has a mental illness and that there exists a substantial likelihood that, as a result of
 537 mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as
 538 evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any,
 539 or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic
 540 human needs; (ii) is in need of hospitalization or treatment; and (iii) is unwilling to volunteer or incapable of
 541 volunteering for hospitalization or treatment. The magistrate shall also consider, if available, (a) information
 542 provided by the person who initiated emergency custody and (b) the recommendations of any treating or
 543 examining physician licensed in Virginia either verbally or in writing prior to rendering a decision. Any
 544 temporary detention order entered pursuant to this section shall provide for the disclosure of medical records
 545 pursuant to § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by
 546 law.

547 2. *If the magistrate finds that the person does not meet the criteria for temporary detention and the*
 548 *employee or designee of the community services board or the certified evaluator has recommended that*
 549 *referral to a community-based outpatient stabilization program for voluntary treatment would be*
 550 *appropriate, the employee or designee of the community services board or the certified evaluator shall*
 551 *provide the person with such referral.*

552 C. When considering whether there is probable cause to issue a temporary detention order, the magistrate
553 may, in addition to the petition, consider (i) the recommendations of any treating or examining physician,
554 psychologist, clinical social worker, or licensed professional counselor licensed in Virginia, if available, (ii)
555 any past actions of the person, (iii) any past mental health treatment of the person, (iv) any relevant hearsay
556 evidence, (v) any medical records available, (vi) any affidavits submitted, if the witness is unavailable and it
557 so states in the affidavit, and (vii) any other information available that the magistrate considers relevant to the
558 determination of whether probable cause exists to issue a temporary detention order.

559 D. A magistrate may issue a temporary detention order without an emergency custody order proceeding.
560 A magistrate may issue a temporary detention order without a prior evaluation pursuant to subsection B if (i)
561 the person has been personally examined within the previous 72 hours by an employee or a designee of the
562 local community services board or (ii) there is a significant physical, psychological, or medical risk to the
563 person or to others associated with conducting such evaluation.

564 E. An employee or a designee of the local community services board shall determine the facility of
565 temporary detention in accordance with the provisions of § 37.2-809.1 for all persons detained pursuant to
566 this section. An employee or designee of the local community services board may change the facility of
567 temporary detention and may designate an alternative facility for temporary detention at any point during the
568 period of temporary detention if it is determined that the alternative facility is a more appropriate facility for
569 temporary detention of the person given the specific security, medical, or behavioral health needs of the
570 person. In cases in which the facility of temporary detention is changed following transfer of custody to an
571 initial facility of temporary custody, transportation of the person to the alternative facility of temporary
572 detention shall be provided in accordance with the provisions of § 37.2-810. The initial facility of temporary
573 detention shall be identified on the preadmission screening report and indicated on the temporary detention
574 order; however, if an employee or designee of the local community services board designates an alternative
575 facility, that employee or designee shall provide written notice forthwith, on a form developed by the
576 Executive Secretary of the Supreme Court of Virginia, to the clerk of the issuing court of the name and
577 address of the alternative facility. Subject to the provisions of § 37.2-809.1, if a facility of temporary
578 detention cannot be identified by the time of the expiration of the period of emergency custody pursuant to §
579 37.2-808, the person shall be detained in a state facility for the treatment of persons with mental illness and
580 such facility shall be indicated on the temporary detention order. Except as provided in § 37.2-811 for
581 inmates requiring hospitalization in accordance with subdivision A 2 of § 19.2-169.6, the person shall not be
582 detained in a jail or other place of confinement for persons charged with criminal offenses. Except as
583 provided in § 37.2-811 for inmates requiring hospitalization in accordance with subdivision A 2 of §
584 19.2-169.6 or in subsection C of § 37.2-813 for persons prior to transfer to the facility of temporary detention,
585 the person shall remain in the custody of law enforcement until either (i) the person is detained within a
586 secure facility or (ii) custody has been accepted by the appropriate personnel designated by either the initial
587 facility of temporary detention identified in the temporary detention order or by the alternative facility of
588 temporary detention designated by the employee or designee of the local community services board pursuant
589 to this subsection. The person detained or in custody pursuant to this section shall be given a written
590 summary of the temporary detention procedures and the statutory protections associated with those
591 procedures.

592 F. Any facility caring for a person placed with it pursuant to a temporary detention order is authorized to
593 provide emergency medical and psychiatric services within its capabilities when the facility determines that
594 the services are in the best interests of the person within its care. The costs incurred as a result of the hearings
595 and by the facility in providing services during the period of temporary detention shall be paid and recovered
596 pursuant to § 37.2-804. The maximum costs reimbursable by the Commonwealth pursuant to this section
597 shall be established by the State Board of Medical Assistance Services based on reasonable criteria. The State
598 Board of Medical Assistance Services shall, by regulation, establish a reasonable rate per day of inpatient
599 care for temporary detention.

600 G. The employee or the designee of the local community services board who is conducting the evaluation
601 pursuant to this section shall determine, prior to the issuance of the temporary detention order, the insurance
602 status of the person. Where coverage by a third party payor exists, the facility seeking reimbursement under
603 this section shall first seek reimbursement from the third party payor. The Commonwealth shall reimburse the
604 facility only for the balance of costs remaining after the allowances covered by the third party payor have
605 been received.

606 H. The duration of temporary detention shall be sufficient to allow for completion of the examination
607 required by § 37.2-815, preparation of the preadmission screening report required by § 37.2-816, and
608 initiation of mental health treatment to stabilize the person's psychiatric condition to avoid involuntary
609 commitment where possible, but shall not exceed 72 hours prior to a hearing. If the 72-hour period herein
610 specified terminates on a Saturday, Sunday, legal holiday, or, if the individual has been admitted to a facility
611 of temporary detention, day or part of a day on which the clerk's office is lawfully closed, the person may be
612 detained, as herein provided, until the close of business on the next day that is not a Saturday, Sunday, legal
613 holiday, or, if the individual has been admitted to a facility of temporary detention, day or part of a day on

614 which the clerk's office is lawfully closed. The person may be released, pursuant to § 37.2-813, before the
615 72-hour period herein specified has run.

616 I. If a temporary detention order is not executed within 24 hours of its issuance, or within a shorter period
617 as is specified in the order, the order shall be void and shall be returned unexecuted to the office of the clerk
618 of the issuing court or, if the office is not open, to any magistrate serving the jurisdiction of the issuing court.
619 Subsequent orders may be issued upon the original petition within 96 hours after the petition is filed.
620 However, a magistrate must again obtain the advice of an employee or a designee of the local community
621 services board prior to issuing a subsequent order upon the original petition. Any petition for which no
622 temporary detention order or other process in connection therewith is served on the subject of the petition
623 within 96 hours after the petition is filed shall be void and shall be returned to the office of the clerk of the
624 issuing court.

625 J. The Executive Secretary of the Supreme Court of Virginia shall establish and require that a magistrate,
626 as provided by this section, be available seven days a week, 24 hours a day, for the purpose of performing the
627 duties established by this section. Each community services board shall provide to each general district court
628 and magistrate's office within its service area a list of its employees and designees who are available to
629 perform the evaluations required herein.

630 K. For purposes of this section, a health care provider or designee of a local community services board or
631 behavioral health authority shall not be required to encrypt any email containing information or medical
632 records provided to a magistrate unless there is reason to believe that a third party will attempt to intercept the
633 email.

634 L. If the employee or designee of the community services board who is conducting the evaluation
635 pursuant to this section recommends that the person should not be subject to a temporary detention order,
636 such employee or designee shall (i) inform the petitioner, the person who initiated emergency custody if such
637 person is present, and an onsite treating physician of his recommendation; (ii) promptly inform such person
638 who initiated emergency custody that the community services board will facilitate communication between
639 the person and the magistrate if the person disagrees with recommendations of the employee or designee of
640 the community services board who conducted the evaluation and the person who initiated emergency custody
641 so requests; ~~and~~ (iii) upon prompt request made by the person who initiated emergency custody, arrange for
642 such person who initiated emergency custody to communicate with the magistrate as soon as is practicable
643 and prior to the expiration of the period of emergency custody; *and (iv) provide a referral to the person to a*
644 *community-based outpatient stabilization program for voluntary treatment if appropriate.* The magistrate
645 shall consider any information provided by the person who initiated emergency custody and any
646 recommendations of the treating or examining physician and the employee or designee of the community
647 services board who conducted the evaluation and consider such information and recommendations in
648 accordance with subsection B in making his determination to issue a temporary detention order. The person
649 who is the subject of emergency custody shall remain in the custody of law enforcement or a designee of law
650 enforcement and shall not be released from emergency custody until communication with the magistrate
651 pursuant to this subsection has concluded and the magistrate has made a determination regarding issuance of
652 a temporary detention order.

653 M. For purposes of this section, "person who initiated emergency custody" means any person who
654 initiated the issuance of an emergency custody order pursuant to § 37.2-808 or a law-enforcement officer who
655 takes a person into custody pursuant to subsection G of § 37.2-808.

656 N. In any case in which a person subject to an evaluation pursuant to this section is receiving services in a
657 hospital emergency department, the treating physician or his designee and the employee or designee of the
658 local community services board shall disclose to each other relevant information pertaining to the individual's
659 treatment in the emergency department. The (i) evaluator conducting the evaluation pursuant to subsection B
660 of § 37.2-808 and the provisions of this section or (ii) hospital emergency department and treating physician
661 or other health care provider designated by the physician shall allow a family member or legal guardian of the
662 individual subject to evaluation who is present, and who may provide support and supportive
663 decision-making, to be present with the individual unless the individual objects or the evaluator or treating
664 physician determines that the presence of any such person would create a medical, clinical, or safety risk to
665 the patient or health care provider or interferes with patient care. No provision of this section shall delay the
666 process of the patient receiving treatment.

667 **§ 37.2-813. (Expires July 1, 2026) Release of person prior to commitment hearing for involuntary**
668 **admission.**

669 A. Prior to a hearing as authorized in §§ 37.2-814 through 37.2-819, the district court judge or special
670 justice may release the person on his personal recognizance or bond set by the district court judge or special
671 justice if it appears from all evidence readily available that the person does not meet the commitment criteria
672 specified in subsection C of § 37.2-817.

673 B. The director of any facility in which the person is detained, as long as such director is not the person's
674 certified evaluator, may release the person prior to a hearing as authorized in §§ 37.2-814 through 37.2-819 if
675 it appears, based on an evaluation conducted by the psychiatrist or clinical psychologist treating the person,

676 that the person would not meet the commitment criteria specified in subsection C of § 37.2-817 if released.
 677 *Prior to the person's release under this subsection, the director shall consider, based on the evaluation*
 678 *conducted by the psychiatrist or clinical psychologist treating the person, whether referral of the person to a*
 679 *community-based outpatient stabilization program for voluntary treatment is appropriate.*

680 C. For any person under a temporary detention order pursuant to § 37.2-809, prior to transport to the
 681 facility of temporary detention, the director of the facility in which the person is located, as long as such
 682 director is not the person's certified evaluator, may release the person if an employee or a designee of the
 683 local community services board or certified evaluator, as those terms are defined in § 37.2-809, in
 684 consultation with the person's treating physician, (i) conducts an evaluation of the person, (ii) determines that
 685 the person no longer meets the commitment criteria specified in subsection C of § 37.2-817, (iii) authorizes
 686 the release of the person, and (iv) provides a discharge plan. *The director and the person's treating physician*
 687 *shall consider referral to a community-based outpatient stabilization program for voluntary treatment in*
 688 *forming the person's discharge plan under this subsection.*

689 D. For the purposes of this section, "certified evaluator" means the same as that term is defined in §
 690 37.2-809.

691 **§ 37.2-813. (Effective July 1, 2026) Release of person prior to commitment hearing for involuntary**
 692 **admission.**

693 A. Prior to a hearing as authorized in §§ 37.2-814 through 37.2-819, the district court judge or special
 694 justice may release the person on his personal recognizance or bond set by the district court judge or special
 695 justice if it appears from all evidence readily available that the person does not meet the commitment criteria
 696 specified in subsection C of § 37.2-817.

697 B. The director of any facility in which the person is detained may release the person prior to a hearing as
 698 authorized in §§ 37.2-814 through 37.2-819 if it appears, based on an evaluation conducted by the
 699 psychiatrist or clinical psychologist treating the person, that the person would not meet the commitment
 700 criteria specified in subsection C of § 37.2-817 if released. *Prior to the person's release under this subsection,*
 701 *the director shall consider, based on an evaluation conducted by the psychiatrist or clinical psychologist*
 702 *treating the person, whether referral of the person to a community-based outpatient stabilization program for*
 703 *voluntary treatment is appropriate.*

704 C. For any person under a temporary detention order pursuant to § 37.2-809, prior to transport to the
 705 facility of temporary detention, the director of the facility in which the person is located may release the
 706 person if an employee or a designee of the local community services board, as those terms are defined in §
 707 37.2-809, in consultation with the person's treating physician, (i) conducts an evaluation of the person, (ii)
 708 determines that the person no longer meets the commitment criteria specified in subsection C of § 37.2-817,
 709 (iii) authorizes the release of the person, and (iv) provides a discharge plan. *The director and the person's*
 710 *treating physician shall consider referral to a community-based outpatient stabilization program for*
 711 *voluntary treatment in forming the person's discharge plan under this subsection.*

712 **§ 37.2-815. Commitment hearing for involuntary admission; examination required.**

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

727 B. The examination conducted pursuant to this section shall be a comprehensive evaluation of the person
 728 conducted in-person or, if that is not practicable, by two-way electronic video and audio communication
 729 system as authorized in § 37.2-804.1. Translation or interpreter services shall be provided during the
 730 evaluation where necessary. The examination shall consist of (i) a clinical assessment that includes a mental
 731 status examination; determination of current use of psychotropic and other medications; a medical and
 732 psychiatric history; a substance use, abuse, or dependency determination; and a determination of the
 733 likelihood that, as a result of mental illness, the person will, in the near future, suffer serious harm due to his
 734 lack of capacity to protect himself from harm or to provide for his basic human needs; (ii) a substance abuse
 735 screening, when indicated; (iii) a risk assessment that includes an evaluation of the likelihood that, as a result
 736 of mental illness, the person will, in the near future, cause serious physical harm to himself or others as
 737 evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any;

738 (iv) an assessment of the person's capacity to consent to treatment, including his ability to maintain and
 739 communicate choice, understand relevant information, and comprehend the situation and its consequences;
 740 (v) a review of the temporary detention facility's records for the person, including the treating physician's
 741 evaluation, any collateral information, reports of any laboratory or toxicology tests conducted, and all
 742 admission forms and nurses' notes; (vi) a discussion of treatment preferences expressed by the person or
 743 contained in a document provided by the person in support of recovery; (vii) an assessment of whether the
 744 person meets the criteria for an order authorizing discharge to mandatory outpatient treatment following a
 745 period of inpatient treatment pursuant to subsection C of § 37.2-817.01; (viii) an assessment of alternatives to
 746 involuntary inpatient treatment; ~~and~~ (ix) recommendations for the placement, care, and treatment of the
 747 person; *and (x) if the person is found not to meet the involuntary admission criteria, a recommendation as to*
 748 *whether referral of the person to a community-based outpatient stabilization program for voluntary treatment*
 749 *would be appropriate.*

750 C. All such examinations shall be conducted in private. The judge or special justice shall summons the
 751 examiner who shall certify that he has personally examined the person and state whether he has probable
 752 cause to believe that the person (i) has a mental illness and there is a substantial likelihood that, as a result of
 753 mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as
 754 evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any,
 755 or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic
 756 human needs, and (ii) requires involuntary inpatient treatment. The judge or special justice shall not render
 757 any decision on the petition until the examiner has presented his report. The examiner may report orally at the
 758 hearing, but he shall provide a written report of his examination prior to the hearing. The examiner's written
 759 certification may be accepted into evidence unless objected to by the person or his attorney, in which case the
 760 examiner shall attend in person or by electronic communication. When the examiner attends the hearing in
 761 person or by electronic communication, the examiner shall not be excluded from the hearing pursuant to an
 762 order of sequestration of witnesses.

763 **§ 37.2-816. (Expires July 1, 2026) Commitment hearing for involuntary admission; preadmission**
 764 **screening report.**

765 The district court judge or special justice shall require a preadmission screening report from the
 766 community services board that serves the county or city where the person resides or, if impractical, where the
 767 person is located or from the certified evaluator as defined in § 37.2-809. The report shall be admitted as
 768 evidence of the facts stated therein and shall state (i) whether the person has a mental illness and whether
 769 there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a)
 770 cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or
 771 threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity
 772 to protect himself from harm or to provide for his basic human needs; (ii) whether the person is in need of
 773 involuntary inpatient treatment; (iii) whether there is no less restrictive alternative to inpatient treatment;
 774 ~~and~~; (iv) the recommendations for that person's placement, care, and treatment including, where appropriate,
 775 recommendations for mandatory outpatient treatment; *and (v) if the person is found not to meet the*
 776 *involuntary admission criteria, a recommendation as to whether referral of the person to a community-based*
 777 *outpatient stabilization program for voluntary treatment would be appropriate.* The board or the certified
 778 evaluator shall provide the preadmission screening report to the court prior to the hearing, and the report shall
 779 be admitted into evidence and made part of the record of the case. In the case of a person who has been
 780 sentenced and committed to the Department of Corrections and who has been examined by a psychiatrist or
 781 clinical psychologist, the judge or special justice may proceed to adjudicate whether the person has mental
 782 illness and should be involuntarily admitted without requesting a preadmission screening report from the
 783 community services board.

784 **§ 37.2-816. (Effective July 1, 2026) Commitment hearing for involuntary admission; preadmission**
 785 **screening report.**

786 The district court judge or special justice shall require a preadmission screening report from the
 787 community services board that serves the county or city where the person resides or, if impractical, where the
 788 person is located. The report shall be admitted as evidence of the facts stated therein and shall state (i)
 789 whether the person has a mental illness and whether there exists a substantial likelihood that, as a result of
 790 mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as
 791 evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any,
 792 or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic
 793 human needs; (ii) whether the person is in need of involuntary inpatient treatment; (iii) whether there is no
 794 less restrictive alternative to inpatient treatment; ~~and~~; (iv) the recommendations for that person's placement,
 795 care, and treatment including, where appropriate, recommendations for mandatory outpatient treatment; *and*
 796 *(v) if the person is found not to meet the involuntary admission criteria, a recommendation as to whether*
 797 *referral of the person to a community-based outpatient stabilization program for voluntary treatment would*
 798 *be appropriate.* The board shall provide the preadmission screening report to the court prior to the hearing,
 799 and the report shall be admitted into evidence and made part of the record of the case. In the case of a person

800 who has been sentenced and committed to the Department of Corrections and who has been examined by a
801 psychiatrist or clinical psychologist, the judge or special justice may proceed to adjudicate whether the person
802 has mental illness and should be involuntarily admitted without requesting a preadmission screening report
803 from the community services board.

804 **§ 37.2-817. (Expires July 1, 2026) Involuntary admission.**

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

814 B. Any employee or designee of the local community services board, as defined in § 37.2-809,
815 representing the community services board or certified evaluator that prepared the preadmission screening
816 report shall attend the hearing in person or, if physical attendance is not practicable, shall participate in the
817 hearing through a two-way electronic video and audio or telephonic communication system as authorized in §
818 37.2-804.1. Where a hearing is held outside of the service area of the community services board that prepared
819 the preadmission screening report, and it is not practicable for a representative of the community services
820 board that prepared the preadmission screening report to attend or participate in the hearing, arrangements
821 shall be made by the community services board that prepared the preadmission screening report for an
822 employee or designee of the community services board serving the area in which the hearing is held to attend
823 or participate on behalf of the community services board that prepared the preadmission screening report. The
824 employee or designee of the local community services board, as defined in § 37.2-809, representing the
825 community services board that prepared the preadmission screening report or attending or participating on
826 behalf of the community services board that prepared the preadmission screening report or the certified
827 evaluator shall not be excluded from the hearing pursuant to an order of sequestration of witnesses. The
828 community services board that prepared the preadmission screening report or the certified evaluator shall
829 remain responsible for the person subject to the hearing and, prior to the hearing, shall send the preadmission
830 screening report through certified mail, personal delivery, facsimile with return receipt acknowledged, or
831 other electronic means with documented acknowledgment of receipt to the community services board
832 attending the hearing. Where a community services board attends the hearing on behalf of the community
833 services board that prepared the preadmission screening report, the attending community services board shall
834 inform the community services board that prepared the preadmission screening report of the disposition of the
835 matter upon the conclusion of the hearing. In addition, the attending community services board shall transmit
836 the disposition through certified mail, personal delivery, facsimile with return receipt acknowledged, or other
837 electronic means with documented acknowledgment of receipt.

838 At least 12 hours prior to the hearing, the court shall provide to the community services board or certified
839 evaluator that prepared the preadmission screening report the time and location of the hearing. If the
840 representative of the community services board or certified evaluator that prepared the preadmission
841 screening report will be present by telephonic means, the court shall provide the telephone number to the
842 community services board or certified evaluator. If a representative of a community services board will be
843 attending the hearing on behalf of the community services board that prepared the preadmission screening
844 report, the community services board that prepared the preadmission screening report shall promptly
845 communicate the time and location of the hearing and, if the representative of the community services board
846 attending on behalf of the community services board that prepared the preadmission screening report will be
847 present by telephonic means, the telephone number to the attending community services board.

848 C. After observing the person and considering (i) the recommendations of any treating or examining
849 physician or psychologist licensed in Virginia, if available, (ii) any past actions of the person, (iii) any past
850 mental health treatment of the person, (iv) any examiner's certification, (v) any health records available, (vi)
851 the preadmission screening report, and (vii) any other relevant evidence that may have been admitted,
852 including whether the person recently has been found unrestorably incompetent to stand trial after a hearing
853 held pursuant to subsection E of § 19.2-169.1, if the judge or special justice finds by clear and convincing
854 evidence that (a) the person has a mental illness and there is a substantial likelihood that, as a result of mental
855 illness, the person will, in the near future, (1) cause serious physical harm to himself or others as evidenced
856 by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (2)
857 suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human
858 needs, and (b) all available less restrictive treatment alternatives to involuntary inpatient treatment that would
859 offer an opportunity for the improvement of the person's condition have been investigated and determined to
860 be inappropriate, the judge or special justice shall by written order and specific findings so certify and order
861 that the person be admitted involuntarily to a facility for a period of treatment not to exceed 30 days from the

862 date of the court order. Such involuntary admission shall be to a facility designated by the community
 863 services board that serves the county or city in which the person was examined or by the certified evaluator as
 864 provided in § 37.2-816. If the community services board or the certified evaluator does not designate a
 865 facility at the commitment hearing, the person shall be involuntarily admitted to a facility designated by the
 866 Commissioner. Upon the expiration of an order for involuntary admission, the person shall be released unless
 867 (A) he is involuntarily admitted by further petition and order of a court, which shall be for a period not to
 868 exceed 180 days from the date of the subsequent court order, (B) he makes application for treatment on a
 869 voluntary basis as provided for in § 37.2-805, or (C) he is ordered to mandatory outpatient treatment
 870 following a period of inpatient treatment pursuant to § 37.2-817.01.

871 *D. If the judge or special justice finds that the person does not meet the criteria for involuntary admission*
 872 *and the preadmission screening report indicates that referral to a community-based outpatient stabilization*
 873 *program for voluntary treatment would be appropriate, the board or certified evaluator that prepared the*
 874 *preadmission screening report shall provide the person with such referral.*

875 *E. For the purposes of this section, "certified evaluator" means the same as that term is defined in §*
 876 *37.2-809.*

877 **§ 37.2-817. (Effective July 1, 2026) Involuntary admission.**

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

887 B. Any employee or designee of the local community services board, as defined in § 37.2-809,
 888 representing the community services board that prepared the preadmission screening report shall attend the
 889 hearing in person or, if physical attendance is not practicable, shall participate in the hearing through a
 890 two-way electronic video and audio or telephonic communication system as authorized in § 37.2-804.1.
 891 Where a hearing is held outside of the service area of the community services board that prepared the
 892 preadmission screening report, and it is not practicable for a representative of the community services board
 893 that prepared the preadmission screening report to attend or participate in the hearing, arrangements shall be
 894 made by the community services board that prepared the preadmission screening report for an employee or
 895 designee of the community services board serving the area in which the hearing is held to attend or
 896 participate on behalf of the community services board that prepared the preadmission screening report. The
 897 employee or designee of the local community services board, as defined in § 37.2-809, representing the
 898 community services board that prepared the preadmission screening report or attending or participating on
 899 behalf of the community services board that prepared the preadmission screening report shall not be excluded
 900 from the hearing pursuant to an order of sequestration of witnesses. The community services board that
 901 prepared the preadmission screening report shall remain responsible for the person subject to the hearing and,
 902 prior to the hearing, shall send the preadmission screening report through certified mail, personal delivery,
 903 facsimile with return receipt acknowledged, or other electronic means with documented acknowledgment of
 904 receipt to the community services board attending the hearing. Where a community services board attends the
 905 hearing on behalf of the community services board that prepared the preadmission screening report, the
 906 attending community services board shall inform the community services board that prepared the
 907 preadmission screening report of the disposition of the matter upon the conclusion of the hearing. In addition,
 908 the attending community services board shall transmit the disposition through certified mail, personal
 909 delivery, facsimile with return receipt acknowledged, or other electronic means with documented
 910 acknowledgment of receipt.

911 At least 12 hours prior to the hearing, the court shall provide to the community services board that
 912 prepared the preadmission screening report the time and location of the hearing. If the representative of the
 913 community services board that prepared the preadmission screening report will be present by telephonic
 914 means, the court shall provide the telephone number to the community services board. If a representative of a
 915 community services board will be attending the hearing on behalf of the community services board that
 916 prepared the preadmission screening report, the community services board that prepared the preadmission
 917 screening report shall promptly communicate the time and location of the hearing and, if the representative of
 918 the community services board attending on behalf of the community services board that prepared the
 919 preadmission screening report will be present by telephonic means, the telephone number to the attending
 920 community services board.

921 C. After observing the person and considering (i) the recommendations of any treating or examining
 922 physician or psychologist licensed in Virginia, if available, (ii) any past actions of the person, (iii) any past
 923 mental health treatment of the person, (iv) any examiner's certification, (v) any health records available, (vi)

924 the preadmission screening report, and (vii) any other relevant evidence that may have been admitted,
 925 including whether the person recently has been found unrestorably incompetent to stand trial after a hearing
 926 held pursuant to subsection E of § 19.2-169.1, if the judge or special justice finds by clear and convincing
 927 evidence that (a) the person has a mental illness and there is a substantial likelihood that, as a result of mental
 928 illness, the person will, in the near future, (1) cause serious physical harm to himself or others as evidenced
 929 by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (2)
 930 suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human
 931 needs, and (b) all available less restrictive treatment alternatives to involuntary inpatient treatment that would
 932 offer an opportunity for the improvement of the person's condition have been investigated and determined to
 933 be inappropriate, the judge or special justice shall by written order and specific findings so certify and order
 934 that the person be admitted involuntarily to a facility for a period of treatment not to exceed 30 days from the
 935 date of the court order. Such involuntary admission shall be to a facility designated by the community
 936 services board that serves the county or city in which the person was examined as provided in § 37.2-816. If
 937 the community services board does not designate a facility at the commitment hearing, the person shall be
 938 involuntarily admitted to a facility designated by the Commissioner. Upon the expiration of an order for
 939 involuntary admission, the person shall be released unless (A) he is involuntarily admitted by further petition
 940 and order of a court, which shall be for a period not to exceed 180 days from the date of the subsequent court
 941 order, (B) he makes application for treatment on a voluntary basis as provided for in § 37.2-805, or (C) he is
 942 ordered to mandatory outpatient treatment following a period of inpatient treatment pursuant to §
 943 37.2-817.01.

944 *D. If the judge or special justice finds that the person does not meet the criteria for involuntary admission*
 945 *and the preadmission screening report indicates that referral to a community-based outpatient stabilization*
 946 *program for voluntary treatment would be appropriate, the board or certified evaluator that prepared the*
 947 *preadmission screening report shall provide the person with such referral.*

948 **§ 37.2-1104. Temporary detention in hospital for testing, observation, or treatment.**

949 A. The court or, if the court is unavailable, a magistrate serving the jurisdiction where the respondent is
 950 located may, with the advice of a licensed physician who has attempted to obtain informed consent of an
 951 adult person to treatment of a mental or physical condition, issue an order authorizing temporary detention of
 952 the adult person in a hospital emergency department or other appropriate facility for testing, observation, or
 953 treatment upon a finding that (i) probable cause exists to believe the person is incapable of making or
 954 communicating an informed decision regarding treatment of a physical or mental condition due to a mental or
 955 physical condition, including intoxication and (ii) the medical standard of care calls for observation, testing,
 956 or treatment within the next 24 hours to prevent injury, disability, death, or other harm to the person resulting
 957 from such mental or physical condition.

958 B. When a mental or physical condition to be treated appears to be a result of intoxication, a licensed
 959 physician who has attempted to obtain informed consent of an adult person for treatment of such mental or
 960 physical condition appearing to be a result of intoxication may seek an order from the magistrate or court in
 961 the jurisdiction where the respondent is located authorizing temporary detention of the adult person in a
 962 hospital emergency department or other appropriate facility for testing, observation, or treatment upon a
 963 finding that (i) probable cause exists to believe the person's intoxication has rendered the person incapable of
 964 making or communicating an informed decision regarding treatment and (ii) the medical standard of care
 965 calls for observation, testing, or treatment within the next 24 hours to prevent injury, disability, death, or
 966 other harm to the person or another person resulting from such intoxication.

967 C. The duration of temporary detention pursuant to this section shall not exceed 24 hours, unless extended
 968 by the court as part of an order authorizing treatment under § 37.2-1101. If, before completion of authorized
 969 testing, observation, or treatment, the physician determines that a person subject to an order under this
 970 subsection has become capable of making and communicating an informed decision, the physician shall rely
 971 on the person's decision on whether to consent to further testing, observation, or treatment. If, before issuance
 972 of an order under this subsection or during its period of effectiveness, the physician learns of an objection by
 973 a member of the person's immediate family to the testing, observation, or treatment, he shall so notify the
 974 court or magistrate, who shall consider the objection in determining whether to issue, modify, or terminate
 975 the order.

976 D. (Expires July 1, 2026) A court or, if the court is unavailable or pursuant to subsection B, a magistrate
 977 serving the jurisdiction may issue an order authorizing temporary detention for testing, observation, or
 978 treatment for a person who is also the subject of an emergency custody order issued pursuant to § 37.2-808, if
 979 such person meets the criteria set forth in subsection A or B. In any case in which an order for temporary
 980 detention for testing, observation, or treatment is issued for a person who is also the subject of an emergency
 981 custody order pursuant to § 37.2-808, the hospital emergency room or other appropriate facility in which the
 982 person is detained for testing, observation, or treatment shall notify the nearest community services board
 983 when such testing, observation, or treatment is complete, and the designee of the community services board
 984 or certified evaluator, as defined in § 37.2-809, shall, as soon as is practicable and prior to the expiration of
 985 the order for temporary detention issued pursuant to subsection A or B, conduct an evaluation of the person to

986 determine if he meets the criteria for temporary detention pursuant to § 37.2-809.

987 D. (Effective July 1, 2026) A court or, if the court is unavailable or pursuant to subsection B, a magistrate
988 serving the jurisdiction may issue an order authorizing temporary detention for testing, observation, or
989 treatment for a person who is also the subject of an emergency custody order issued pursuant to § 37.2-808, if
990 such person meets the criteria set forth in subsection A or B. In any case in which an order for temporary
991 detention for testing, observation, or treatment is issued for a person who is also the subject of an emergency
992 custody order pursuant to § 37.2-808, the hospital emergency room or other appropriate facility in which the
993 person is detained for testing, observation, or treatment shall notify the nearest community services board
994 when such testing, observation, or treatment is complete, and the designee of the community services board
995 shall, as soon as is practicable and prior to the expiration of the order for temporary detention issued pursuant
996 to subsection A or B, conduct an evaluation of the person to determine if he meets the criteria for temporary
997 detention pursuant to § 37.2-809.

998 *E. For any person who has received testing, observation, or treatment while under a temporary detention*
999 *order pursuant to this section, if the person does not meet criteria for a temporary detention order pursuant*
1000 *to § 37.2-809, the evaluator or treating health care professional shall consider, prior to the person's release*
1001 *or the expiration of the temporary detention order pursuant to this section, whether referral of the person to a*
1002 *community-based outpatient stabilization program for voluntary treatment is appropriate.*

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