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1 **HOUSE BILL NO. 681**

2 Offered January 14, 2026

3 Prefiled January 13, 2026

4 *A BILL to amend and reenact §§ 37.2-808 and 37.2-810, as they are currently effective and as they shall*
5 *become effective, of the Code of Virginia, relating to retired law-enforcement officers; emergency and*
6 *temporary detention admissions.*

7 Patron—Hayes

8 Committee Referral Pending

9 **Be it enacted by the General Assembly of Virginia:**10 **1. That §§ 37.2-808 and 37.2-810, as they are currently effective and as they shall become effective, of**
11 **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
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59 of the emergency custody order to the court designated by the magistrate or the court that issued the
60 emergency custody order as soon as is practicable. Delivery of an order to a law-enforcement officer or
61 alternative transportation provider and return of an order to the court may be accomplished electronically or
62 by facsimile.

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

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

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

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

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

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

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

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

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

121 professional shall consider, prior to the person's release or the expiration of the emergency custody order,
 122 whether referral of the person to a community-based outpatient stabilization program for voluntary treatment
 123 is appropriate.

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

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

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

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

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

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

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

163 S. For purposes of this section:

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

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

166 "Law-enforcement officer" includes (i) an auxiliary police officer appointed or provided for pursuant to
 167 §§ 15.2-1731 and 15.2-1733 and (ii) a retired law-enforcement officer authorized by a local law-enforcement
 168 agency, except for the purposes of subsection G.

169 "Retired law-enforcement officer" means an officer who within 10 years immediately prior to receiving
 170 authorization by a local law-enforcement agency (i) was (a) an active law-enforcement officer as defined in
 171 § 9.1-101 in the Commonwealth, (b) an auxiliary police officer appointed or provided for pursuant to
 172 §§ 15.2-1731 and 15.2-1733, or (c) employed by a law-enforcement agency of the United States or any state
 173 or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer
 174 as defined in § 9.1-101 and (ii) retired or resigned from his position as a law-enforcement officer in good
 175 standing.

176 **§ 37.2-808. (Effective July 1, 2026) Emergency custody; issuance and execution of order.**

177 A. Any magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or
 178 upon his own motion, or a court may issue pursuant to § 19.2-271.6, an emergency custody order when he
 179 has probable cause to believe that any person (i) has a mental illness and that there exists a substantial
 180 likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm
 181 to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other
 182 relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from

183 harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is
184 unwilling to volunteer or incapable of volunteering for hospitalization or treatment. Any emergency custody
185 order entered pursuant to this section shall provide for the disclosure of medical records pursuant to
186 § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

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

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

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

212 When transportation is ordered to be provided by an alternative transportation provider, the magistrate or
213 court shall order the specified primary law-enforcement agency to execute the order, to take the person into
214 custody, and to transfer custody of the person to the alternative transportation provider identified in the order.
215 In such cases, a copy of the emergency custody order shall accompany the person being transported pursuant
216 to this section at all times and shall be delivered by the alternative transportation provider to the community
217 services board or its designee responsible for conducting the evaluation. The community services board or its
218 designee conducting the evaluation shall return a copy of the emergency custody order to the court designated
219 by the magistrate or the court that issued the emergency custody order as soon as is practicable. Delivery of
220 an order to a law-enforcement officer or alternative transportation provider and return of an order to the court
221 may be accomplished electronically or by facsimile.

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

227 D. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the
228 magistrate or court shall order the primary law-enforcement agency from the jurisdiction served by the
229 community services board that designated the person to perform the evaluation required in subsection B to
230 execute the order and, in cases in which transportation is ordered to be provided by the primary law-
231 enforcement agency, provide transportation. If the community services board serves more than one
232 jurisdiction, the magistrate or court shall designate the primary law-enforcement agency from the particular
233 jurisdiction within the community services board's service area where the person who is the subject of the
234 emergency custody order was taken into custody or, if the person has not yet been taken into custody, the
235 primary law-enforcement agency from the jurisdiction where the person is presently located to execute the
236 order and provide transportation.

237 E. The law-enforcement agency or alternative transportation provider providing transportation pursuant to
238 this section may transfer custody of the person to the facility or location to which the person is transported for
239 the evaluation required in subsection B, G, or H if the facility or location (i) is licensed to provide the level of
240 security necessary to protect both the person and others from harm, (ii) is actually capable of providing the
241 level of security necessary to protect the person and others from harm, and (iii) in cases in which
242 transportation is provided by a law-enforcement agency, has entered into an agreement or memorandum of
243 understanding with the law-enforcement agency setting forth the terms and conditions under which it will
244 accept a transfer of custody, provided, however, that the facility or location may not require the law-

245 enforcement agency to pay any fees or costs for the transfer of custody.

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

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

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

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

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

273 K. The person shall remain in custody until (i) a temporary detention order is issued in accordance with
274 § 37.2-809, (ii) an order for temporary detention for observation, testing, or treatment is entered in
275 accordance with § 37.2-1104, ending law enforcement custody, (iii) the person is released, or (iv) the
276 emergency custody order expires. An emergency custody order shall be valid for a period not to exceed eight
277 hours from the time of execution. For any person who has received an evaluation or treatment while in
278 emergency custody and for whom no temporary detention order is issued, the evaluator or treating health care
279 professional shall consider, prior to the person's release or the expiration of the emergency custody order,
280 whether referral of the person to a community-based outpatient stabilization program for voluntary treatment
281 is appropriate.

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

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

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

306 O. In addition to the eight-hour period of emergency custody set forth in subsection G, H, or K, if the

307 individual is detained in a state facility pursuant to subsection E of § 37.2-809, the state facility and an
308 employee or designee of the community services board as defined in § 37.2-809 may, for an additional four
309 hours, continue to attempt to identify an alternative facility that is able and willing to provide temporary
310 detention and appropriate care to the individual.

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

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

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

321 S. For purposes of this section:

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

323 "Law-enforcement officer" includes (i) an auxiliary police officer appointed or provided for pursuant to
324 §§ 15.2-1731 and 15.2-1733 and (ii) a retired law-enforcement officer authorized by a local law-enforcement
325 agency, except for the purposes of subsection G.

326 "*Retired law-enforcement officer*" means an officer who within 10 years immediately prior to receiving
327 authorization by a local law-enforcement agency (i) was (a) an active law-enforcement officer as defined in
328 § 9.1-101 in the Commonwealth, (b) an auxiliary police officer appointed or provided for pursuant to
329 §§ 15.2-1731 and 15.2-1733, or (c) employed by a law-enforcement agency of the United States or any state
330 or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer
331 as defined in § 9.1-101 and (ii) retired or resigned from his position as a law-enforcement officer in good
332 standing.

333 **§ 37.2-810. (Expires July 1, 2026) Transportation of person in the temporary detention process.**

334 A. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the
335 magistrate shall specify in the temporary detention order the law-enforcement agency of the jurisdiction in
336 which the person resides, or any other willing law-enforcement agency that has agreed to provide
337 transportation, to execute the order and, in cases in which transportation is ordered to be provided by the
338 primary law-enforcement agency, provide transportation. However, if the nearest boundary of the jurisdiction
339 in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the
340 person is located, the law-enforcement agency of the jurisdiction in which the person is located shall execute
341 the order and provide transportation.

342 B. The magistrate issuing the temporary detention order shall (i) specify the law-enforcement agency to
343 execute the order and (ii) designate a transportation provider. In determining the transportation provider, the
344 magistrate shall authorize transportation by an alternative transportation provider in accordance with this
345 section, whenever an alternative transportation provider is identified to the magistrate, which may be a
346 person, facility, or agency, including a family member or friend of the person who is the subject of the
347 temporary detention order, a representative of the community services board, a certified evaluator, an
348 employee of or person providing services pursuant to a contract with the Department, or other transportation
349 provider with personnel trained to provide transportation in a safe manner. Upon determining, following
350 consideration of information provided by the petitioner; the community services board or its designee; the
351 certified evaluator; the local law-enforcement agency, if any; the person's treating physician, if any; or other
352 persons who are available and have knowledge of the person, and, when the magistrate deems appropriate,
353 the proposed alternative transportation provider, either in person or via two-way electronic video and audio or
354 telephone communication system, that an alternative transportation provider is available to provide
355 transportation, willing to provide transportation, and able to provide transportation in a safe manner, the
356 magistrate shall designate such alternative transportation provider to provide transportation of the person. An
357 alternative transportation provider shall be deemed to be available if the alternative transportation provider
358 states that it is available to take custody of the individual from law enforcement within six hours of issuance
359 of the temporary detention order or an order changing the transportation provider pursuant to subsection E. If
360 (a) no alternative transportation provider is available to provide transportation, willing to provide
361 transportation, and able to provide transportation in a safe manner or (b) the law-enforcement agency elects to
362 provide transportation, the magistrate shall designate the primary law-enforcement agency and jurisdiction
363 designated to execute the temporary detention order to provide transportation of the person.

364 When transportation is ordered to be provided by an alternative transportation provider, the magistrate
365 shall order the specified law-enforcement agency to execute the order, to take the person into custody, and to
366 transfer custody of the person to the alternative transportation provider identified in the order. The primary
367 law-enforcement agency may transfer custody of the person to the alternative transportation provider
368 immediately upon execution of the temporary detention order based on the availability of alternative

369 transportation providers. The alternative transportation provider shall maintain custody of the person from the
 370 time custody is transferred to the alternative transportation provider by the primary law-enforcement agency
 371 until such time as custody of the person is transferred to the temporary detention facility, including during
 372 any period prior to the initiation of transportation of the person from the facility to which he was transported
 373 pursuant to § 37.2-808 and while transportation is being provided pursuant to this section.

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

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

386 C. If an alternative transportation provider providing transportation or maintaining custody of a person
 387 who is the subject of a temporary detention order becomes unable to continue providing transportation or
 388 maintaining custody of the person at any time after taking custody of the person, the primary law-
 389 enforcement agency for the jurisdiction in which the alternative transportation provider is located at the time
 390 he becomes unable to continue providing transportation or maintaining custody shall take custody of the
 391 person and shall transport the person to the facility of temporary detention. In such cases, a copy of the
 392 temporary detention order shall accompany the person being transported and shall be delivered to and
 393 returned by the temporary detention facility in accordance with the provisions of subsection B.

394 D. In cases in which an alternative facility of temporary detention is identified and the law-enforcement
 395 agency or alternative transportation provider identified to provide transportation in accordance with
 396 subsection B continues to have custody of the person, the local law-enforcement agency or alternative
 397 transportation provider shall transport the person to the alternative facility of temporary detention identified
 398 by the employee or designee of the community services board or certified evaluator. In cases in which an
 399 alternative facility of temporary detention is identified and custody of the person has been transferred from
 400 the law-enforcement agency or alternative transportation provider that provided transportation in accordance
 401 with subsection B to the initial facility of temporary detention, the employee or designee of the community
 402 services board or certified evaluator shall request, and a magistrate may enter an order specifying, an
 403 alternative transportation provider or, if no alternative transportation provider is available, willing, and able to
 404 provide transportation in a safe manner, the local law-enforcement agency for the jurisdiction in which the
 405 person resides or, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles
 406 from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of
 407 the jurisdiction in which the person is located, to provide transportation.

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

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

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

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

427 I. For purposes of this section:

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

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

430 "Law-enforcement officer" includes (i) an auxiliary police officer appointed or provided for pursuant to

431 §§ 15.2-1731 and 15.2-1733 and (ii) a retired law-enforcement officer authorized by a local law-enforcement
432 agency.

433 "Retired law-enforcement officer" means an officer who within 10 years immediately prior to receiving
434 authorization by a local law-enforcement agency (i) was (a) an active law-enforcement officer as defined in
435 § 9.1-101 in the Commonwealth, (b) an auxiliary police officer appointed or provided for pursuant to
436 §§ 15.2-1731 and 15.2-1733, or (c) employed by a law-enforcement agency of the United States or any state
437 or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer
438 as defined in § 9.1-101 and (ii) retired or resigned from his position as a law-enforcement officer in good
439 standing.

440 **§ 37.2-810. (Effective July 1, 2026) Transportation of person in the temporary detention process.**

441 A. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the
442 magistrate shall specify in the temporary detention order the law-enforcement agency of the jurisdiction in
443 which the person resides, or any other willing law-enforcement agency that has agreed to provide
444 transportation, to execute the order and, in cases in which transportation is ordered to be provided by the
445 primary law-enforcement agency, provide transportation. However, if the nearest boundary of the jurisdiction
446 in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the
447 person is located, the law-enforcement agency of the jurisdiction in which the person is located shall execute
448 the order and provide transportation.

449 B. The magistrate issuing the temporary detention order shall (i) specify the law-enforcement agency to
450 execute the order and (ii) designate a transportation provider. In determining the transportation provider, the
451 magistrate shall authorize transportation by an alternative transportation provider in accordance with this
452 section, whenever an alternative transportation provider is identified to the magistrate, which may be a
453 person, facility, or agency, including a family member or friend of the person who is the subject of the
454 temporary detention order, a representative of the community services board, an employee of or person
455 providing services pursuant to a contract with the Department, or other transportation provider with personnel
456 trained to provide transportation in a safe manner. Upon determining, following consideration of information
457 provided by the petitioner; the community services board or its designee; the local law-enforcement agency,
458 if any; the person's treating physician, if any; or other persons who are available and have knowledge of the
459 person, and, when the magistrate deems appropriate, the proposed alternative transportation provider, either
460 in person or via two-way electronic video and audio or telephone communication system, that an alternative
461 transportation provider is available to provide transportation, willing to provide transportation, and able to
462 provide transportation in a safe manner, the magistrate shall designate such alternative transportation provider
463 to provide transportation of the person. An alternative transportation provider shall be deemed to be available
464 if the alternative transportation provider states that it is available to take custody of the individual from law
465 enforcement within six hours of issuance of the temporary detention order or an order changing the
466 transportation provider pursuant to subsection E. If (a) no alternative transportation provider is available to
467 provide transportation, willing to provide transportation, and able to provide transportation in a safe manner
468 or (b) the law-enforcement agency elects to provide transportation, the magistrate shall designate the primary
469 law-enforcement agency and jurisdiction designated to execute the temporary detention order to provide
470 transportation of the person.

471 When transportation is ordered to be provided by an alternative transportation provider, the magistrate
472 shall order the specified law-enforcement agency to execute the order, to take the person into custody, and to
473 transfer custody of the person to the alternative transportation provider identified in the order. The primary
474 law-enforcement agency may transfer custody of the person to the alternative transportation provider
475 immediately upon execution of the temporary detention order based on the availability of alternative
476 transportation providers. The alternative transportation provider shall maintain custody of the person from the
477 time custody is transferred to the alternative transportation provider by the primary law-enforcement agency
478 until such time as custody of the person is transferred to the temporary detention facility, including during
479 any period prior to the initiation of transportation of the person from the facility to which he was transported
480 pursuant to § 37.2-808 and while transportation is being provided pursuant to this section.

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

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

493 C. If an alternative transportation provider providing transportation or maintaining custody of a person
 494 who is the subject of a temporary detention order becomes unable to continue providing transportation or
 495 maintaining custody of the person at any time after taking custody of the person, the primary law-
 496 enforcement agency for the jurisdiction in which the alternative transportation provider is located at the time
 497 he becomes unable to continue providing transportation or maintaining custody shall take custody of the
 498 person and shall transport the person to the facility of temporary detention. In such cases, a copy of the
 499 temporary detention order shall accompany the person being transported and shall be delivered to and
 500 returned by the temporary detention facility in accordance with the provisions of subsection B.

501 D. In cases in which an alternative facility of temporary detention is identified and the law-enforcement
 502 agency or alternative transportation provider identified to provide transportation in accordance with
 503 subsection B continues to have custody of the person, the local law-enforcement agency or alternative
 504 transportation provider shall transport the person to the alternative facility of temporary detention identified
 505 by the employee or designee of the community services board. In cases in which an alternative facility of
 506 temporary detention is identified and custody of the person has been transferred from the law-enforcement
 507 agency or alternative transportation provider that provided transportation in accordance with subsection B to
 508 the initial facility of temporary detention, the employee or designee of the community services board shall
 509 request, and a magistrate may enter an order specifying, an alternative transportation provider or, if no
 510 alternative transportation provider is available, willing, and able to provide transportation in a safe manner,
 511 the local law-enforcement agency for the jurisdiction in which the person resides or, if the nearest boundary
 512 of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the
 513 jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person
 514 is located, to provide transportation.

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

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

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

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

534 I. For purposes of this section:

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

536 "Law-enforcement officer" includes (i) an auxiliary police officer appointed or provided for pursuant to
 537 §§ 15.2-1731 and 15.2-1733 and (ii) a retired law-enforcement officer authorized by a local law-enforcement
 538 agency.

539 "Retired law-enforcement officer" means an officer who within 10 years immediately prior to receiving
 540 authorization by a local law-enforcement agency (i) was (a) an active law-enforcement officer as defined in
 541 § 9.1-101 in the Commonwealth, (b) an auxiliary police officer appointed or provided for pursuant to
 542 §§ 15.2-1731 and 15.2-1733, or (c) employed by a law-enforcement agency of the United States or any state
 543 or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer
 544 as defined in § 9.1-101 and (ii) retired or resigned from his position as a law-enforcement officer in good
 545 standing.