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SENATE BILL NO. 395

Offered January 14, 2026

Prefiled January 13, 2026

A BILL to amend and reenact §§ 37.2-808 and 37.2-810, as they are currently effective and as they shall become effective, of the Code of Virginia, relating to emergency and temporary detention transportation.

Patron—Jordan

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-808 and 37.2-810, as they are currently effective and as they shall become effective, of the Code of Virginia are amended and reenacted as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

121 whether referral of the person to a community-based outpatient stabilization program for voluntary treatment  
122 is appropriate.

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

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

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

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

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

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

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

162 S. For purposes of this section:

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

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

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

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

175 **§ 37.2-808. (Effective July 1, 2026) Emergency custody; issuance and execution of order.**

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

183 unwilling to volunteer or incapable of volunteering for hospitalization or treatment. Any emergency custody  
184 order entered pursuant to this section shall provide for the disclosure of medical records pursuant to  
185 § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

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

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

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

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

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

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

239 E. The law-enforcement agency or alternative transportation provider providing transportation pursuant to  
240 this section may transfer custody of the person to the facility or location to which the person is transported for  
241 the evaluation required in subsection B, G, or H if the facility or location (i) is licensed to provide the level of  
242 security necessary to protect both the person and others from harm, (ii) is actually capable of providing the  
243 level of security necessary to protect the person and others from harm, and (iii) in cases in which  
244 transportation is provided by a law-enforcement agency, has entered into an agreement or memorandum of

245 understanding with the law-enforcement agency setting forth the terms and conditions under which it will  
 246 accept a transfer of custody, provided, however, that the facility or location may not require the law-  
 247 enforcement agency to pay any fees or costs for the transfer of custody.

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

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

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

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

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

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

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

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

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

307 any magistrate serving the jurisdiction of the issuing court.

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

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

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

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

323 S. For purposes of this section:

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

325 "Law-enforcement officer" includes (i) an auxiliary police officer appointed or provided for pursuant to  
326 §§ 15.2-1731 and 15.2-1733 and (ii) a retired law-enforcement officer authorized by a local law-enforcement  
327 agency, except for the purposes of subsection G.

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

335 **§ 37.2-810. (Expires July 1, 2026) Transportation of person in the temporary detention process.**

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

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

369 When transportation is ordered to be provided by an alternative transportation provider, the magistrate  
 370 shall order the specified law-enforcement agency to execute the order, to take the person into custody, and to  
 371 transfer custody of the person to the alternative transportation provider identified in the order. The primary  
 372 law-enforcement agency may transfer custody of the person to the alternative transportation provider  
 373 immediately upon execution of the temporary detention order based on the availability of alternative  
 374 transportation providers. The alternative transportation provider shall maintain custody of the person from the  
 375 time custody is transferred to the alternative transportation provider by the primary law-enforcement agency  
 376 until such time as custody of the person is transferred to the temporary detention facility, including during  
 377 any period prior to the initiation of transportation of the person from the facility to which he was transported  
 378 pursuant to § 37.2-808 and while transportation is being provided pursuant to this section.

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

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

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

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

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

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

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

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

431 providing such alternative transportation.

432 I. For purposes of this section:

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

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

435 "Law-enforcement officer" includes (i) an auxiliary police officer appointed or provided for pursuant to  
436 §§ 15.2-1731 and 15.2-1733 and (ii) a retired law-enforcement officer authorized by a local law-enforcement  
437 agency.

438 "Retired law-enforcement officer" means an officer who within 10 years immediately prior to receiving  
439 authorization by a local law-enforcement agency (i) was (a) an active law-enforcement officer as defined in  
440 § 9.1-101 in the Commonwealth, (b) an auxiliary police officer appointed or provided for pursuant to  
441 §§ 15.2-1731 and 15.2-1733, or (c) employed by a law-enforcement agency of the United States or any state  
442 or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer  
443 as defined in § 9.1-101 and (ii) retired or resigned from his position as a law-enforcement officer in good  
444 standing.

445 **§ 37.2-810. (Effective July 1, 2026) Transportation of person in the temporary detention process.**

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

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

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

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

492 The order may include transportation of the person to such other medical facility as may be necessary to

493 obtain further medical evaluation or treatment prior to placement as required by a physician at the admitting  
 494 temporary detention facility. Nothing herein shall preclude a law-enforcement officer or alternative  
 495 transportation provider from obtaining emergency medical treatment or further medical evaluation at any  
 496 time for a person in his custody as provided in this section. Such medical evaluation or treatment shall be  
 497 conducted immediately in accordance with state and federal law.

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

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

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

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

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

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

539 I. For purposes of this section:

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

541 "Law-enforcement officer" includes (i) an auxiliary police officer appointed or provided for pursuant to  
 542 §§ 15.2-1731 and 15.2-1733 and (ii) a retired law-enforcement officer authorized by a local law-enforcement  
 543 agency.

544 "Retired law-enforcement officer" means an officer who within 10 years immediately prior to receiving  
 545 authorization by a local law-enforcement agency (i) was (a) an active law-enforcement officer as defined in  
 546 § 9.1-101 in the Commonwealth, (b) an auxiliary police officer appointed or provided for pursuant to  
 547 §§ 15.2-1731 and 15.2-1733, or (c) employed by a law-enforcement agency of the United States or any state  
 548 or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer  
 549 as defined in § 9.1-101 and (ii) retired or resigned from his position as a law-enforcement officer in good  
 550 standing.