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SENATE BILL NO. 395
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Rehabilitation and Social Services
on _____)
(Patron Prior to Substitute—Senator Jordan)

A BILL to amend and reenact § 16.1-340.2 and §§ 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.

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-340.2 and §§ 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:

§ 16.1-340.2. Transportation of minor in the temporary detention process.

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

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

32 *states that it is available to take custody of the individual from law enforcement within six hours of issuance*
33 *of the temporary detention order or an order changing the transportation provider pursuant to subsection E.*
34 *If the alternative transportation provider recommended to provide alternative transportation is an employee*
35 *of or person providing services pursuant to a contract with the Department, or an employee of a private or*
36 *state hospital within the confines of the Commonwealth, the alternative transportation provider shall be*
37 *deemed to be able to provide transportation in a safe manner. When transportation is ordered to be provided*
38 *by an alternative transportation provider, the magistrate shall order the specified primary law-enforcement*
39 *agency to execute the order, to take the minor into custody, and to transfer custody of the minor to the*
40 *alternative transportation provider identified in the order. The alternative transportation provider shall*
41 *maintain custody of the person from the time custody is transferred to the alternative transportation provider*
42 *by the primary law-enforcement agency until such time as custody of the person is transferred to the*
43 *temporary detention facility, including during any period prior to the initiation of transportation of the*
44 *person from the facility to which he was transported pursuant to § 16.1-340 and while transportation is being*
45 *provided pursuant to this section.*

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

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

59 C. If an alternative transportation provider providing transportation of a minor who is the subject of a
60 temporary detention order becomes unable to continue providing transportation of the minor at any time after
61 taking custody of the minor, the primary law-enforcement agency for the jurisdiction in which the alternative

62 transportation provider is located at the time he becomes unable to continue providing transportation shall
63 take custody of the minor and shall transport the minor to the facility of temporary detention. In such cases,
64 (i) a copy of the temporary detention order shall accompany the minor being transported and shall be
65 delivered to and returned by the temporary detention facility in accordance with the provisions of subsection
66 B and (ii) if the alternative transportation provider originally authorized to provide transportation is a person
67 other than the minor's parent, the alternative transportation provider shall notify the minor's parent (a) that the
68 primary law-enforcement agency for the jurisdiction in which he is located has taken custody of the minor
69 and is transporting the minor to the facility of temporary detention and (b) of the name of the law-
70 enforcement officer providing transportation of the minor.

71 D. In cases in which an alternative facility of temporary detention is identified and the law-enforcement
72 agency or alternative transportation provider identified to provide transportation in accordance with
73 subsection B continues to have custody of the minor, the local law-enforcement agency or alternative
74 transportation provider shall transport the minor to the alternative facility of temporary detention identified
75 by the employee or designee of the local community services board. In cases in which an alternative facility
76 of temporary detention is identified and custody of the minor has been transferred from the law-enforcement
77 agency or alternative transportation provider that provided transportation in accordance with subsection B to
78 the initial facility of temporary detention, the employee or designee of the local community services board
79 shall request, and a magistrate may enter an order specifying, an alternative transportation provider or, if no
80 alternative transportation provider is available, willing, and able to provide transportation in a safe manner,
81 the local law-enforcement agency for the jurisdiction in which the minor resides or, if the nearest boundary of
82 the jurisdiction in which the minor resides is more than 50 miles from the nearest boundary of the jurisdiction
83 in which the minor is located, the law-enforcement agency of the jurisdiction in which the minor is located, to
84 provide transportation.

85 E. The magistrate may change the transportation provider specified in a temporary detention order at any
86 time prior to the initiation of transportation of a minor who is the subject of a temporary detention order
87 pursuant to this section. If the designated transportation provider is changed by the magistrate at any time
88 after the temporary detention order has been executed but prior to the initiation of transportation, the
89 transportation provider having custody of the minor shall transfer custody of the minor to the transportation
90 provider subsequently specified to provide transportation. For the purposes of this subsection, "transportation

91 provider" includes both a law-enforcement agency and an alternative transportation provider.

92 *F. The law-enforcement agency or alternative transportation provider providing transportation pursuant*
93 *to this section may transfer custody of the minor to a facility or location where the minor is awaiting*
94 *transport that (i) agrees to accept custody of the minor, (ii) is actually capable of providing the level of*
95 *security necessary to protect the minor and others from harm, and (iii) in cases in which transportation is*
96 *provided by a law-enforcement agency, has entered into an agreement or memorandum of understanding*
97 *with the law-enforcement agency setting forth the terms and conditions under which it will accept a transfer*
98 *of custody, provided, however, that the facility or location may not require the law-enforcement agency to*
99 *pay any fees or costs for the transfer of custody. When a bed at the facility of temporary detention becomes*
100 *available, the facility or location shall notify the law-enforcement agency or alternative transportation*
101 *provider specified on the temporary detention order, and the law-enforcement agency or alternative*
102 *transportation provider shall return and transport the person to the facility of temporary detention.*

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

107 *H. An employee or contractor of an entity providing alternative transportation services pursuant to a*
108 *contract with the Department who has completed training approved by the Department in the proper and safe*
109 *use of restraint may use restraint (i) if restraint is necessary to ensure the safety of the minor or others or*
110 *prevent escape and (ii) if less restrictive techniques have been determined to be ineffective to protect the*
111 *minor or others from harm or to prevent escape.*

112 *G. I. No person who provides alternative transportation pursuant to this section shall be liable to the*
113 *person being transported for any civil damages for ordinary negligence in acts or omissions that result from*
114 *providing such alternative transportation.*

115 **§ 37.2-808. (Expires July 1, 2026) Emergency custody; issuance and execution of order.**

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

122 harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is
123 unwilling to volunteer or incapable of volunteering for hospitalization or treatment. Any emergency custody
124 order entered pursuant to this section shall provide for the disclosure of medical records pursuant to
125 § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

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

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

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

152 safe manner.

153 When transportation is ordered to be provided by an alternative transportation provider, the magistrate or
154 court shall order the specified primary law-enforcement agency to execute the order, to take the person into
155 custody, and to transfer custody of the person to the alternative transportation provider identified in the order.
156 In such cases, a copy of the emergency custody order shall accompany the person being transported pursuant
157 to this section at all times and shall be delivered by the alternative transportation provider to the community
158 services board or its designee or certified evaluator responsible for conducting the evaluation. The
159 community services board or its designee or certified evaluator conducting the evaluation shall return a copy
160 of the emergency custody order to the court designated by the magistrate or the court that issued the
161 emergency custody order as soon as is practicable. Delivery of an order to a law-enforcement officer or
162 alternative transportation provider and return of an order to the court may be accomplished electronically or
163 by facsimile.

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

169 D. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the
170 magistrate or court shall order the primary law-enforcement agency from the jurisdiction served by the
171 community services board or certified evaluator that designated the person to perform the evaluation required
172 in subsection B to execute the order and, in cases in which transportation is ordered to be provided by the
173 primary law-enforcement agency, provide transportation. If the community services board serves more than
174 one jurisdiction, the magistrate or court shall designate the primary law-enforcement agency from the
175 particular jurisdiction within the community services board's service area where the person who is the subject
176 of the emergency custody order was taken into custody or, if the person has not yet been taken into custody,
177 the primary law-enforcement agency from the jurisdiction where the person is presently located to execute
178 the order and provide transportation.

179 E. The law-enforcement agency or alternative transportation provider providing transportation pursuant to
180 this section may transfer custody of the person to the facility or location to which the person is transported for

181 the evaluation required in subsection B, G, or H if the facility or location (i) is licensed to provide the level of
182 security necessary to protect both the person and others from harm, (ii) is actually capable of providing the
183 level of security necessary to protect the person and others from harm, and (iii) in cases in which
184 transportation is provided by a law-enforcement agency, has entered into an agreement or memorandum of
185 understanding with the law-enforcement agency setting forth the terms and conditions under which it will
186 accept a transfer of custody, provided, however, that the facility or location may not require the law-
187 enforcement agency to pay any fees or costs for the transfer of custody.

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

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

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

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

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

216 K. The person shall remain in custody until (i) a temporary detention order is issued in accordance with
217 § 37.2-809, (ii) an order for temporary detention for observation, testing, or treatment is entered in
218 accordance with § 37.2-1104, ending law enforcement custody, (iii) the person is released, or (iv) the
219 emergency custody order expires. An emergency custody order shall be valid for a period not to exceed eight
220 hours from the time of execution. For any person who has received an evaluation or treatment while in
221 emergency custody and for whom no temporary detention order is issued, the evaluator or treating health care
222 professional shall consider, prior to the person's release or the expiration of the emergency custody order,
223 whether referral of the person to a community-based outpatient stabilization program for voluntary treatment
224 is appropriate.

225 L. Nothing in this section shall preclude the issuance of an order for temporary detention for testing,
226 observation, or treatment pursuant to § 37.2-1104 for a person who is also the subject of an emergency
227 custody order issued pursuant to this section. In any case in which an order for temporary detention for
228 testing, observation, or treatment is issued for a person who is also the subject of an emergency custody
229 order, the person may be detained by a hospital emergency room or other appropriate facility for testing,
230 observation, and treatment for a period not to exceed 24 hours, unless extended by the court as part of an
231 order pursuant to § 37.2-1101, in accordance with subsection C of § 37.2-1104. Upon completion of testing,
232 observation, or treatment pursuant to § 37.2-1104, the hospital emergency room or other appropriate facility
233 in which the person is detained shall notify the nearest community services board or certified evaluator, and
234 the designee of the community services board or certified evaluator shall, as soon as is practicable and prior
235 to the expiration of the order for temporary detention issued pursuant to § 37.2-1104, conduct an evaluation
236 of the person to determine if he meets the criteria for temporary detention pursuant to § 37.2-809. The (i)
237 certified evaluator conducting the evaluation pursuant to subsection B and § 37.2-809 or (ii) hospital
238 emergency department and treating physician or other health care provider designated by the physician shall
239 allow a family member or legal guardian of the individual subject to evaluation who is present, and who may
240 provide support and supportive decision-making, to be present with the individual unless the individual

241 objects or the evaluator or treating physician determines that the presence of any such person would create a
242 medical, clinical, or safety risk to the patient or health care provider or interferes with patient care. No
243 provision of this section shall delay the process of the patient receiving treatment.

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

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

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

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

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

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

264 S. For purposes of this section:

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

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

267 "Law-enforcement officer" includes (i) an auxiliary police officer appointed or provided for pursuant to
268 §§ 15.2-1731 and 15.2-1733 and (ii) a retired law-enforcement officer authorized by a local law-enforcement
269 agency, except for the purposes of subsection G.

270 "*Retired law-enforcement officer*" means an officer who within 10 years immediately prior to receiving

271 authorization by a local law-enforcement agency (i) was (a) an active law-enforcement officer as defined in
272 § 9.1-101 in the Commonwealth, (b) an auxiliary police officer appointed or provided for pursuant to
273 §§ 15.2-1731 and 15.2-1733, or (c) employed by a law-enforcement agency of the United States or any state
274 or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer
275 as defined in § 9.1-101 and (ii) retired or resigned from his position as a law-enforcement officer in good
276 standing.

277 **§ 37.2-808. (Effective July 1, 2026) Emergency custody; issuance and execution of order.**

278 A. Any magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or
279 upon his own motion, or a court may issue pursuant to § 19.2-271.6, an emergency custody order when he
280 has probable cause to believe that any person (i) has a mental illness and that there exists a substantial
281 likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm
282 to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other
283 relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from
284 harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is
285 unwilling to volunteer or incapable of volunteering for hospitalization or treatment. Any emergency custody
286 order entered pursuant to this section shall provide for the disclosure of medical records pursuant to
287 § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

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

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

300 C. The magistrate or court issuing an emergency custody order shall specify the primary law-enforcement
301 agency and jurisdiction to execute the emergency custody order and provide transportation. However, the

302 magistrate or court shall authorize transportation by an alternative transportation provider in accordance with
303 this section, whenever an alternative transportation provider is identified to the magistrate or court, which
304 may be a person, facility, or agency, including a family member or friend of the person who is the subject of
305 the order, a representative of the community services board, or other transportation provider with personnel
306 trained to provide transportation in a safe manner, upon determining, following consideration of information
307 provided by the petitioner; the community services board or its designee; the local law-enforcement agency,
308 if any; the person's treating physician, if any; or other persons who are available and have knowledge of the
309 person, and, when the magistrate or court deems appropriate, the proposed alternative transportation provider,
310 either in person or via two-way electronic video and audio or telephone communication system, that the
311 proposed alternative transportation provider is available to provide transportation, willing to provide
312 transportation, and able to provide transportation in a safe manner. *An alternative transportation provider*
313 *shall be deemed to be able to provide transportation in a safe manner if the alternative transportation*
314 *provider is an employee of, or the person providing services pursuant to a contract with, the Department or*
315 *is an employee of a private or state hospital within the confines of the Commonwealth.*

316 When transportation is ordered to be provided by an alternative transportation provider, the magistrate or
317 court shall order the specified primary law-enforcement agency to execute the order, to take the person into
318 custody, and to transfer custody of the person to the alternative transportation provider identified in the order.
319 In such cases, a copy of the emergency custody order shall accompany the person being transported pursuant
320 to this section at all times and shall be delivered by the alternative transportation provider to the community
321 services board or its designee responsible for conducting the evaluation. The community services board or its
322 designee conducting the evaluation shall return a copy of the emergency custody order to the court designated
323 by the magistrate or the court that issued the emergency custody order as soon as is practicable. Delivery of
324 an order to a law-enforcement officer or alternative transportation provider and return of an order to the court
325 may be accomplished electronically or by facsimile.

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

331 D. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the

332 magistrate or court shall order the primary law-enforcement agency from the jurisdiction served by the
333 community services board that designated the person to perform the evaluation required in subsection B to
334 execute the order and, in cases in which transportation is ordered to be provided by the primary law-
335 enforcement agency, provide transportation. If the community services board serves more than one
336 jurisdiction, the magistrate or court shall designate the primary law-enforcement agency from the particular
337 jurisdiction within the community services board's service area where the person who is the subject of the
338 emergency custody order was taken into custody or, if the person has not yet been taken into custody, the
339 primary law-enforcement agency from the jurisdiction where the person is presently located to execute the
340 order and provide transportation.

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

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

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

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

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

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

377 K. The person shall remain in custody until (i) a temporary detention order is issued in accordance with
378 § 37.2-809, (ii) an order for temporary detention for observation, testing, or treatment is entered in
379 accordance with § 37.2-1104, ending law enforcement custody, (iii) the person is released, or (iv) the
380 emergency custody order expires. An emergency custody order shall be valid for a period not to exceed eight
381 hours from the time of execution. For any person who has received an evaluation or treatment while in
382 emergency custody and for whom no temporary detention order is issued, the evaluator or treating health care
383 professional shall consider, prior to the person's release or the expiration of the emergency custody order,
384 whether referral of the person to a community-based outpatient stabilization program for voluntary treatment
385 is appropriate.

386 L. Nothing in this section shall preclude the issuance of an order for temporary detention for testing,
387 observation, or treatment pursuant to § 37.2-1104 for a person who is also the subject of an emergency
388 custody order issued pursuant to this section. In any case in which an order for temporary detention for
389 testing, observation, or treatment is issued for a person who is also the subject of an emergency custody
390 order, the person may be detained by a hospital emergency room or other appropriate facility for testing,

391 observation, and treatment for a period not to exceed 24 hours, unless extended by the court as part of an
392 order pursuant to § 37.2-1101, in accordance with subsection C of § 37.2-1104. Upon completion of testing,
393 observation, or treatment pursuant to § 37.2-1104, the hospital emergency room or other appropriate facility
394 in which the person is detained shall notify the nearest community services board, and the designee of the
395 community services board shall, as soon as is practicable and prior to the expiration of the order for
396 temporary detention issued pursuant to § 37.2-1104, conduct an evaluation of the person to determine if he
397 meets the criteria for temporary detention pursuant to § 37.2-809. The (i) evaluator conducting the evaluation
398 pursuant to subsection B and § 37.2-809 or (ii) hospital emergency department and treating physician or other
399 health care provider designated by the physician shall allow a family member or legal guardian of the
400 individual subject to evaluation who is present, and who may provide support and supportive
401 decision-making, to be present with the individual unless the individual objects or the evaluator or treating
402 physician determines that the presence of any such person would create a medical, clinical, or safety risk to
403 the patient or health care provider or interferes with patient care. No provision of this section shall delay the
404 process of the patient receiving treatment.

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

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

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

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

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

421 person or others from harm or to prevent escape.

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

425 S. For purposes of this section:

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

427 "Law-enforcement officer" includes (i) an auxiliary police officer appointed or provided for pursuant to
428 §§ 15.2-1731 and 15.2-1733 and (ii) a retired law-enforcement officer authorized by a local law-enforcement
429 agency, except for the purposes of subsection G.

430 "*Retired law-enforcement officer*" means an officer who within 10 years immediately prior to receiving
431 authorization by a local law-enforcement agency (i) was (a) an active law-enforcement officer as defined in
432 § 9.1-101 in the Commonwealth, (b) an auxiliary police officer appointed or provided for pursuant to
433 §§ 15.2-1731 and 15.2-1733, or (c) employed by a law-enforcement agency of the United States or any state
434 or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer
435 as defined in § 9.1-101 and (ii) retired or resigned from his position as a law-enforcement officer in good
436 standing.

437 **§ 37.2-810. (Expires July 1, 2026) Transportation of person in the temporary detention process.**

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

446 B. The magistrate issuing the temporary detention order shall (i) specify the law-enforcement agency to
447 execute the order and (ii) designate a transportation provider. In determining the transportation provider, the
448 magistrate shall authorize transportation by an alternative transportation provider in accordance with this
449 section, whenever an alternative transportation provider is identified to the magistrate, which may be a
450 person, facility, or agency, including a family member or friend of the person who is the subject of the

451 temporary detention order, a representative of the community services board, a certified evaluator, an
452 employee of or person providing services pursuant to a contract with the Department, or other transportation
453 provider with personnel trained to provide transportation in a safe manner. Upon determining, following
454 consideration of information provided by the petitioner; the community services board or its designee; the
455 certified evaluator; the local law-enforcement agency, if any; the person's treating physician, if any; or other
456 persons who are available and have knowledge of the person, and, when the magistrate deems appropriate,
457 the proposed alternative transportation provider, either in person or via two-way electronic video and audio or
458 telephone communication system, that an alternative transportation provider is available to provide
459 transportation, willing to provide transportation, and able to provide transportation in a safe manner, the
460 magistrate shall designate such alternative transportation provider to provide transportation of the person. An
461 alternative transportation provider shall be deemed to be available if the alternative transportation provider
462 states that it is available to take custody of the individual from law enforcement within six hours of issuance
463 of the temporary detention order or an order changing the transportation provider pursuant to subsection E.
464 *An alternative transportation provider shall be deemed to be able to provide transportation in a safe manner*
465 *if the alternative transportation provider is an employee of, or the person providing services pursuant to a*
466 *contract with, the Department or is an employee of a private or state hospital within the confines of the*
467 *Commonwealth.* If (a) no alternative transportation provider is available to provide transportation, willing to
468 provide transportation, and able to provide transportation in a safe manner or (b) the law-enforcement agency
469 elects to provide transportation, the magistrate shall designate the primary law-enforcement agency and
470 jurisdiction designated to execute the temporary detention order to provide 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 or certified evaluator. In cases in which an
506 alternative facility of temporary detention is identified and custody of the person has been transferred from
507 the law-enforcement agency or alternative transportation provider that provided transportation in accordance
508 with subsection B to the initial facility of temporary detention, the employee or designee of the community
509 services board or certified evaluator shall request, and a magistrate may enter an order specifying, an
510 alternative transportation provider or, if no alternative transportation provider is available, willing, and able to

511 provide transportation in a safe manner, the local law-enforcement agency for the jurisdiction in which the
512 person resides or, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles
513 from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of
514 the jurisdiction in which the person 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 "Certified evaluator" means the same as that term is defined in § 37.2-809.

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

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

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

547 **§ 37.2-810. (Effective July 1, 2026) Transportation of person in the temporary detention process.**

548 A. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the
549 magistrate shall specify in the temporary detention order the law-enforcement agency of the jurisdiction in
550 which the person resides, or any other willing law-enforcement agency that has agreed to provide
551 transportation, to execute the order and, in cases in which transportation is ordered to be provided by the
552 primary law-enforcement agency, provide transportation. However, if the nearest boundary of the jurisdiction
553 in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the
554 person is located, the law-enforcement agency of the jurisdiction in which the person is located shall execute
555 the order and provide transportation.

556 B. The magistrate issuing the temporary detention order shall (i) specify the law-enforcement agency to
557 execute the order and (ii) designate a transportation provider. In determining the transportation provider, the
558 magistrate shall authorize transportation by an alternative transportation provider in accordance with this
559 section, whenever an alternative transportation provider is identified to the magistrate, which may be a
560 person, facility, or agency, including a family member or friend of the person who is the subject of the
561 temporary detention order, a representative of the community services board, an employee of or person
562 providing services pursuant to a contract with the Department, or other transportation provider with personnel
563 trained to provide transportation in a safe manner. Upon determining, following consideration of information
564 provided by the petitioner; the community services board or its designee; the local law-enforcement agency,
565 if any; the person's treating physician, if any; or other persons who are available and have knowledge of the
566 person, and, when the magistrate deems appropriate, the proposed alternative transportation provider, either
567 in person or via two-way electronic video and audio or telephone communication system, that an alternative
568 transportation provider is available to provide transportation, willing to provide transportation, and able to

569 provide transportation in a safe manner, the magistrate shall designate such alternative transportation provider
570 to provide transportation of the person. An alternative transportation provider shall be deemed to be available
571 if the alternative transportation provider states that it is available to take custody of the individual from law
572 enforcement within six hours of issuance of the temporary detention order or an order changing the
573 transportation provider pursuant to subsection E. If (a) no alternative transportation provider is available to
574 provide transportation, willing to provide transportation, and able to provide transportation in a safe manner
575 or (b) the law-enforcement agency elects to provide transportation, the magistrate shall designate the primary
576 law-enforcement agency and jurisdiction designated to execute the temporary detention order to provide
577 transportation of the person.

578 When transportation is ordered to be provided by an alternative transportation provider, the magistrate
579 shall order the specified law-enforcement agency to execute the order, to take the person into custody, and to
580 transfer custody of the person to the alternative transportation provider identified in the order. The primary
581 law-enforcement agency may transfer custody of the person to the alternative transportation provider
582 immediately upon execution of the temporary detention order based on the availability of alternative
583 transportation providers. The alternative transportation provider shall maintain custody of the person from the
584 time custody is transferred to the alternative transportation provider by the primary law-enforcement agency
585 until such time as custody of the person is transferred to the temporary detention facility, including during
586 any period prior to the initiation of transportation of the person from the facility to which he was transported
587 pursuant to § 37.2-808 and while transportation is being provided pursuant to this section.

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

594 The order may include transportation of the person to such other medical facility as may be necessary to
595 obtain further medical evaluation or treatment prior to placement as required by a physician at the admitting
596 temporary detention facility. Nothing herein shall preclude a law-enforcement officer or alternative
597 transportation provider from obtaining emergency medical treatment or further medical evaluation at any
598 time for a person in his custody as provided in this section. Such medical evaluation or treatment shall be

599 conducted immediately in accordance with state and federal law.

600 C. If an alternative transportation provider providing transportation or maintaining custody of a person
601 who is the subject of a temporary detention order becomes unable to continue providing transportation or
602 maintaining custody of the person at any time after taking custody of the person, the primary law-
603 enforcement agency for the jurisdiction in which the alternative transportation provider is located at the time
604 he becomes unable to continue providing transportation or maintaining custody shall take custody of the
605 person and shall transport the person to the facility of temporary detention. In such cases, a copy of the
606 temporary detention order shall accompany the person being transported and shall be delivered to and
607 returned by the temporary detention facility in accordance with the provisions of subsection B.

608 D. In cases in which an alternative facility of temporary detention is identified and the law-enforcement
609 agency or alternative transportation provider identified to provide transportation in accordance with
610 subsection B continues to have custody of the person, the local law-enforcement agency or alternative
611 transportation provider shall transport the person to the alternative facility of temporary detention identified
612 by the employee or designee of the community services board. In cases in which an alternative facility of
613 temporary detention is identified and custody of the person has been transferred from the law-enforcement
614 agency or alternative transportation provider that provided transportation in accordance with subsection B to
615 the initial facility of temporary detention, the employee or designee of the community services board shall
616 request, and a magistrate may enter an order specifying, an alternative transportation provider or, if no
617 alternative transportation provider is available, willing, and able to provide transportation in a safe manner,
618 the local law-enforcement agency for the jurisdiction in which the person resides or, if the nearest boundary
619 of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the
620 jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person
621 is located, to provide transportation.

622 E. The magistrate may change the transportation provider specified in a temporary detention order at any
623 time prior to the initiation of transportation of a person who is the subject of a temporary detention order
624 pursuant to this section. If the designated transportation provider is changed by the magistrate at any time
625 after the temporary detention order has been executed but prior to the initiation of transportation, the
626 transportation provider having custody of the person shall transfer custody of the person to the transportation
627 provider subsequently specified to provide transportation. For the purposes of this subsection, "transportation

628 provider" includes both a law-enforcement agency and an alternative transportation provider.

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

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

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

641 I. For purposes of this section:

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

643 "Law-enforcement officer" includes (i) an auxiliary police officer appointed or provided for pursuant to
644 §§ 15.2-1731 and 15.2-1733 and (ii) a retired law-enforcement officer authorized by a local law-enforcement
645 agency.

646 "*Retired law-enforcement officer*" means an officer who within 10 years immediately prior to receiving
647 authorization by a local law-enforcement agency (i) was (a) an active law-enforcement officer as defined in
648 § 9.1-101 in the Commonwealth, (b) an auxiliary police officer appointed or provided for pursuant to
649 §§ 15.2-1731 and 15.2-1733, or (c) employed by a law-enforcement agency of the United States or any state
650 or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer
651 as defined in § 9.1-101 and (ii) retired or resigned from his position as a law-enforcement officer in good
652 standing.