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**HOUSE BILL NO. 976****AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Health and Human Services

on \_\_\_\_\_)

(Patron Prior to Substitute—Delegate Price)

A *BILL to amend and reenact §§ 16.1-340.2 and 37.2-810, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to transportation of person in the temporary detention process.*

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

**1. That §§ 16.1-340.2 and 37.2-810, as it is currently effective and as it 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 (i) available to provide transportation, (ii) willing to provide transportation, and (iii) able to provide transportation in a safe manner.

1. *An alternative transportation provider shall be deemed to be available to provide transportation for the purposes of this subsection if the alternative transportation provider states that it is available to take custody of the individual from the law-enforcement agency within six hours of issuance of the temporary detention order or an order changing the transportation provider pursuant to subsection E. An alternative transportation provider shall be deemed to be able to provide transportation in a safe manner for the purposes of this subsection if such alternative transportation provider is an employee of or person providing services pursuant to a contract with the Department of Behavioral Health and Developmental Services, or an employee of a private or state hospital within the Commonwealth.*

2. When transportation is ordered to be provided by an alternative transportation provider, the magistrate shall order the specified primary law-enforcement agency to execute the order, to take the minor into custody, and to transfer custody of the minor to the alternative transportation provider identified in the order. *Such alternative transportation provider shall maintain custody of the minor from the time it obtains custody from the primary law-enforcement agency until the minor is transferred to the temporary detention facility, including (i) any time prior to the initiation of transportation of the minor from a facility to which he was transported pursuant to § 16.1-340 and (ii) at all times while transportation is provided pursuant to this section.*

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

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

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

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

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

93 F. *A law-enforcement agency or alternative transportation provider providing transportation pursuant to*  
 94 *this section may transfer custody of the minor to a facility or location where the minor is awaiting transport if*  
 95 *such facility or location (i) agrees to accept custody of the minor and (ii) is capable of providing the level of*  
 96 *security necessary to protect the minor and others from harm.*

97 *1. If transportation is provided pursuant to this section by a law-enforcement agency, such law-*  
 98 *enforcement agency may transfer custody of the minor to a facility or location pursuant to this subsection if,*  
 99 *in addition to the other requirements in this subsection, such facility or location has entered into an*  
 100 *agreement or memorandum of understanding with such law-enforcement agency setting forth the terms and*  
 101 *conditions under which it will accept a transfer of custody.*

102 *2. When a bed at the facility of temporary detention becomes available, the facility or location where the*  
 103 *minor is awaiting transport pursuant to this subsection shall notify the law-enforcement agency or alternative*  
 104 *transportation provider identified on the temporary detention order, and such law-enforcement agency or*  
 105 *alternative transportation provider shall transport the minor to the facility of temporary detention.*

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

110 ~~G.~~ H. *An employee or contractor of an entity providing alternative transportation services pursuant to a*  
 111 *contract with the Department of Behavioral Health and Developmental Services who has completed training*  
 112 *approved by the Department of Behavioral Health and Developmental Services in the proper and safe use of*  
 113 *restraint may use restraint if (i) such restraint is necessary to ensure the safety of the minor or others or to*  
 114 *maintain custody of the minor and (ii) less restrictive techniques have been determined to be ineffective to*  
 115 *ensure the safety of the minor or others or to maintain custody of the minor.*

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

119 **§ 37.2-810. (Expires July 1, 2026) Transportation of person in the temporary detention process.**

120 A. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the  
 121 magistrate shall specify in the temporary detention order the law-enforcement agency of the jurisdiction in

122 which the person resides, or any other willing law-enforcement agency that has agreed to provide  
123 transportation, to execute the order and, in cases in which transportation is ordered to be provided by the  
124 primary law-enforcement agency, provide transportation. However, if the nearest boundary of the jurisdiction  
125 in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the  
126 person is located, the law-enforcement agency of the jurisdiction in which the person is located shall execute  
127 the order and provide transportation.

128 B. The magistrate issuing the temporary detention order shall (i) specify the law-enforcement agency to  
129 execute the order and (ii) designate a transportation provider. In determining the transportation provider, the  
130 magistrate shall authorize transportation by an alternative transportation provider in accordance with this  
131 section, whenever an alternative transportation provider is identified to the magistrate, which may be a  
132 person, facility, or agency, including a family member or friend of the person who is the subject of the  
133 temporary detention order, a representative of the community services board, a certified evaluator, an  
134 employee of or person providing services pursuant to a contract with the Department, or other transportation  
135 provider with personnel trained to provide transportation in a safe manner. Upon determining, following  
136 consideration of information provided by the petitioner; the community services board or its designee; the  
137 certified evaluator; the local law-enforcement agency, if any; the person's treating physician, if any; or other  
138 persons who are available and have knowledge of the person, and, when the magistrate deems appropriate,  
139 the proposed alternative transportation provider, either in person or via two-way electronic video and audio or  
140 telephone communication system, that an alternative transportation provider is available to provide  
141 transportation, willing to provide transportation, and able to provide transportation in a safe manner, the  
142 magistrate shall designate such alternative transportation provider to provide transportation of the person. An  
143 alternative transportation provider shall be deemed to be available if the alternative transportation provider  
144 states that it is available to take custody of the individual from law enforcement within six hours of issuance  
145 of the temporary detention order or an order changing the transportation provider pursuant to subsection E.  
146 *An alternative transportation provider shall be deemed to be able to provide transportation in a safe manner*  
147 *if the alternative transportation provider is an employee of, or the person providing services pursuant to a*  
148 *contract with, the Department or is an employee of a private or state hospital within the confines of the*  
149 *Commonwealth.* If (a) no alternative transportation provider is available to provide transportation, willing to  
150 provide transportation, and able to provide transportation in a safe manner or (b) the law-enforcement agency  
151 elects to provide transportation, the magistrate shall designate the primary law-enforcement agency and  
152 jurisdiction designated to execute the temporary detention order to provide transportation of the person.

153 When transportation is ordered to be provided by an alternative transportation provider, the magistrate  
154 shall order the specified law-enforcement agency to execute the order, to take the person into custody, and to  
155 transfer custody of the person to the alternative transportation provider identified in the order. The primary  
156 law-enforcement agency may transfer custody of the person to the alternative transportation provider  
157 immediately upon execution of the temporary detention order based on the availability of alternative  
158 transportation providers. The alternative transportation provider shall maintain custody of the person from the  
159 time custody is transferred to the alternative transportation provider by the primary law-enforcement agency  
160 until such time as custody of the person is transferred to the temporary detention facility, including during  
161 any period prior to the initiation of transportation of the person from the facility to which he was transported  
162 pursuant to § 37.2-808 and while transportation is being provided pursuant to this section.

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

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

175 C. If an alternative transportation provider providing transportation or maintaining custody of a person  
176 who is the subject of a temporary detention order becomes unable to continue providing transportation or  
177 maintaining custody of the person at any time after taking custody of the person, the primary law-  
178 enforcement agency for the jurisdiction in which the alternative transportation provider is located at the time  
179 he becomes unable to continue providing transportation or maintaining custody shall take custody of the  
180 person and shall transport the person to the facility of temporary detention. In such cases, a copy of the  
181 temporary detention order shall accompany the person being transported and shall be delivered to and  
182 returned by the temporary detention facility in accordance with the provisions of subsection B.

183 D. In cases in which an alternative facility of temporary detention is identified and the law-enforcement

184 agency or alternative transportation provider identified to provide transportation in accordance with  
 185 subsection B continues to have custody of the person, the local law-enforcement agency or alternative  
 186 transportation provider shall transport the person to the alternative facility of temporary detention identified  
 187 by the employee or designee of the community services board or certified evaluator. In cases in which an  
 188 alternative facility of temporary detention is identified and custody of the person has been transferred from  
 189 the law-enforcement agency or alternative transportation provider that provided transportation in accordance  
 190 with subsection B to the initial facility of temporary detention, the employee or designee of the community  
 191 services board or certified evaluator shall request, and a magistrate may enter an order specifying, an  
 192 alternative transportation provider or, if no alternative transportation provider is available, willing, and able to  
 193 provide transportation in a safe manner, the local law-enforcement agency for the jurisdiction in which the  
 194 person resides or, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles  
 195 from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of  
 196 the jurisdiction in which the person is located, to provide transportation.

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

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

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

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

216 I. For purposes of this section:

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

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

219 "Law-enforcement officer" includes an auxiliary police officer appointed or provided for pursuant to  
 220 §§ 15.2-1731 and 15.2-1733.

221 **§ 37.2-810. (Effective July 1, 2026) Transportation of person in the temporary detention process.**

222 A. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the  
 223 magistrate shall specify in the temporary detention order the law-enforcement agency of the jurisdiction in  
 224 which the person resides, or any other willing law-enforcement agency that has agreed to provide  
 225 transportation, to execute the order and, in cases in which transportation is ordered to be provided by the  
 226 primary law-enforcement agency, provide transportation. However, if the nearest boundary of the jurisdiction  
 227 in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the  
 228 person is located, the law-enforcement agency of the jurisdiction in which the person is located shall execute  
 229 the order and provide transportation.

230 B. The magistrate issuing the temporary detention order shall (i) specify the law-enforcement agency to  
 231 execute the order and (ii) designate a transportation provider. In determining the transportation provider, the  
 232 magistrate shall authorize transportation by an alternative transportation provider in accordance with this  
 233 section, whenever an alternative transportation provider is identified to the magistrate, which may be a  
 234 person, facility, or agency, including a family member or friend of the person who is the subject of the  
 235 temporary detention order, a representative of the community services board, an employee of or person  
 236 providing services pursuant to a contract with the Department, or other transportation provider with personnel  
 237 trained to provide transportation in a safe manner. Upon determining, following consideration of information  
 238 provided by the petitioner; the community services board or its designee; the local law-enforcement agency,  
 239 if any; the person's treating physician, if any; or other persons who are available and have knowledge of the  
 240 person, and, when the magistrate deems appropriate, the proposed alternative transportation provider, either  
 241 in person or via two-way electronic video and audio or telephone communication system, that an alternative  
 242 transportation provider is available to provide transportation, willing to provide transportation, and able to  
 243 provide transportation in a safe manner, the magistrate shall designate such alternative transportation provider  
 244 to provide transportation of the person. An alternative transportation provider shall be deemed to be available  
 245 if the alternative transportation provider states that it is available to take custody of the individual from law

246 enforcement within six hours of issuance of the temporary detention order or an order changing the  
 247 transportation provider pursuant to subsection E. *An alternative transportation provider shall be deemed to*  
 248 *be able to provide transportation in a safe manner if the alternative transportation provider is an employee*  
 249 *of, or the person providing services pursuant to a contract with, the Department or is an employee of a*  
 250 *private or state hospital within the confines of the Commonwealth.* If (a) no alternative transportation  
 251 provider is available to provide transportation, willing to provide transportation, and able to provide  
 252 transportation in a safe manner or (b) the law-enforcement agency elects to provide transportation, the  
 253 magistrate shall designate the primary law-enforcement agency and jurisdiction designated to execute the  
 254 temporary detention order to provide transportation of the person.

255 When transportation is ordered to be provided by an alternative transportation provider, the magistrate  
 256 shall order the specified law-enforcement agency to execute the order, to take the person into custody, and to  
 257 transfer custody of the person to the alternative transportation provider identified in the order. The primary  
 258 law-enforcement agency may transfer custody of the person to the alternative transportation provider  
 259 immediately upon execution of the temporary detention order based on the availability of alternative  
 260 transportation providers. The alternative transportation provider shall maintain custody of the person from the  
 261 time custody is transferred to the alternative transportation provider by the primary law-enforcement agency  
 262 until such time as custody of the person is transferred to the temporary detention facility, including during  
 263 any period prior to the initiation of transportation of the person from the facility to which he was transported  
 264 pursuant to § 37.2-808 and while transportation is being provided pursuant to this section.

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

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

277 C. If an alternative transportation provider providing transportation or maintaining custody of a person  
 278 who is the subject of a temporary detention order becomes unable to continue providing transportation or  
 279 maintaining custody of the person at any time after taking custody of the person, the primary law-  
 280 enforcement agency for the jurisdiction in which the alternative transportation provider is located at the time  
 281 he becomes unable to continue providing transportation or maintaining custody shall take custody of the  
 282 person and shall transport the person to the facility of temporary detention. In such cases, a copy of the  
 283 temporary detention order shall accompany the person being transported and shall be delivered to and  
 284 returned by the temporary detention facility in accordance with the provisions of subsection B.

285 D. In cases in which an alternative facility of temporary detention is identified and the law-enforcement  
 286 agency or alternative transportation provider identified to provide transportation in accordance with  
 287 subsection B continues to have custody of the person, the local law-enforcement agency or alternative  
 288 transportation provider shall transport the person to the alternative facility of temporary detention identified  
 289 by the employee or designee of the community services board. In cases in which an alternative facility of  
 290 temporary detention is identified and custody of the person has been transferred from the law-enforcement  
 291 agency or alternative transportation provider that provided transportation in accordance with subsection B to  
 292 the initial facility of temporary detention, the employee or designee of the community services board shall  
 293 request, and a magistrate may enter an order specifying, an alternative transportation provider or, if no  
 294 alternative transportation provider is available, willing, and able to provide transportation in a safe manner,  
 295 the local law-enforcement agency for the jurisdiction in which the person resides or, if the nearest boundary  
 296 of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the  
 297 jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person  
 298 is located, to provide transportation.

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

306 F. A law-enforcement officer may lawfully go to or be sent beyond the territorial limits of the county,  
 307 city, or town in which he serves to any point in the Commonwealth for the purpose of executing any

308 temporary detention order pursuant to this section. Law-enforcement agencies may enter into agreements to  
309 facilitate the execution of temporary detention orders and provide transportation.

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

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

318 I. For purposes of this section:

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

320 "Law-enforcement officer" includes an auxiliary police officer appointed or provided for pursuant to  
321 §§ 15.2-1731 and 15.2-1733.