

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

5 [H 681]

6 Approved

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

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

10 **§ 37.2-808. (Expires July 1, 2026) Emergency custody; issuance and execution of order.**

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

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

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

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

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

57 alternative transportation provider and return of an order to the court may be accomplished electronically or  
58 by facsimile.

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

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

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

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

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

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

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

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

111 K. The person shall remain in custody until (i) a temporary detention order is issued in accordance with  
112 § 37.2-809, (ii) an order for temporary detention for observation, testing, or treatment is entered in  
113 accordance with § 37.2-1104, ending law enforcement custody, (iii) the person is released, or (iv) the  
114 emergency custody order expires. An emergency custody order shall be valid for a period not to exceed eight  
115 hours from the time of execution. For any person who has received an evaluation or treatment while in  
116 emergency custody and for whom no temporary detention order is issued, the evaluator or treating health care  
117 professional shall consider, prior to the person's release or the expiration of the emergency custody order,  
118 whether referral of the person to a community-based outpatient stabilization program for voluntary treatment

119 is appropriate.

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

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

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

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

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

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

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

159 S. For purposes of this section:

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

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

162 "Law-enforcement officer" includes (i) an auxiliary police officer appointed or provided for pursuant to  
 163 §§ 15.2-1731 and 15.2-1733 and (ii) a retired law-enforcement officer authorized by a local law-enforcement  
 164 agency, except for the purposes of subsection G.

165 "*Retired law-enforcement officer*" means an officer who within 10 years immediately prior to receiving  
 166 authorization by a local law-enforcement agency (i) was (a) an active law-enforcement officer as defined in  
 167 § 9.1-101 in the Commonwealth, (b) an auxiliary police officer appointed or provided for pursuant to  
 168 §§ 15.2-1731 and 15.2-1733, or (c) employed by a law-enforcement agency of the United States or any state  
 169 or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer  
 170 as defined in § 9.1-101 and (ii) retired or resigned from his position as a law-enforcement officer in good  
 171 standing.

172 **§ 37.2-808. (Effective July 1, 2026) Emergency custody; issuance and execution of order.**

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

181 order entered pursuant to this section shall provide for the disclosure of medical records pursuant to  
182 § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

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

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

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

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

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

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

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

242 F. A law-enforcement officer may lawfully go or be sent beyond the territorial limits of the county, city,

243 or town in which he serves to any point in the Commonwealth for the purpose of executing an emergency  
244 custody order pursuant to this section.

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

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

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

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

269 K. The person shall remain in custody until (i) a temporary detention order is issued in accordance with  
270 § 37.2-809, (ii) an order for temporary detention for observation, testing, or treatment is entered in  
271 accordance with § 37.2-1104, ending law enforcement custody, (iii) the person is released, or (iv) the  
272 emergency custody order expires. An emergency custody order shall be valid for a period not to exceed eight  
273 hours from the time of execution. For any person who has received an evaluation or treatment while in  
274 emergency custody and for whom no temporary detention order is issued, the evaluator or treating health care  
275 professional shall consider, prior to the person's release or the expiration of the emergency custody order,  
276 whether referral of the person to a community-based outpatient stabilization program for voluntary treatment  
277 is appropriate.

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

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

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

302 O. In addition to the eight-hour period of emergency custody set forth in subsection G, H, or K, if the  
303 individual is detained in a state facility pursuant to subsection E of § 37.2-809, the state facility and an  
304 employee or designee of the community services board as defined in § 37.2-809 may, for an additional four

305 hours, continue to attempt to identify an alternative facility that is able and willing to provide temporary  
306 detention and appropriate care to the individual.

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

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

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

317 S. For purposes of this section:

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

319 "Law-enforcement officer" includes (i) an auxiliary police officer appointed or provided for pursuant to  
320 §§ 15.2-1731 and 15.2-1733 and (ii) a retired law-enforcement officer authorized by a local law-enforcement  
321 agency, except for the purposes of subsection G.

322 "*Retired law-enforcement officer*" means an officer who within 10 years immediately prior to receiving  
323 authorization by a local law-enforcement agency (i) was (a) an active law-enforcement officer as defined in  
324 § 9.1-101 in the Commonwealth, (b) an auxiliary police officer appointed or provided for pursuant to  
325 §§ 15.2-1731 and 15.2-1733, or (c) employed by a law-enforcement agency of the United States or any state  
326 or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer  
327 as defined in § 9.1-101 and (ii) retired or resigned from his position as a law-enforcement officer in good  
328 standing.

329 **§ 37.2-810. (Expires July 1, 2026) Transportation of person in the temporary detention process.**

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

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

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

367 until such time as custody of the person is transferred to the temporary detention facility, including during  
 368 any period prior to the initiation of transportation of the person from the facility to which he was transported  
 369 pursuant to § 37.2-808 and while transportation is being provided pursuant to this section.

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

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

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

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

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

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

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

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

423 I. For purposes of this section:

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

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

426 "Law-enforcement officer" includes (i) an auxiliary police officer appointed or provided for pursuant to  
 427 §§ 15.2-1731 and 15.2-1733 and (ii) a retired law-enforcement officer authorized by a local law-enforcement  
 428 agency.

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

436 **§ 37.2-810. (Effective July 1, 2026) Transportation of person in the temporary detention process.**

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

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

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

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

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

489 C. If an alternative transportation provider providing transportation or maintaining custody of a person  
490 who is the subject of a temporary detention order becomes unable to continue providing transportation or

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

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

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

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

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

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

530 I. For purposes of this section:

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

532 "Law-enforcement officer" includes (i) an auxiliary police officer appointed or provided for pursuant to  
 533 §§ 15.2-1731 and 15.2-1733 and (ii) a retired law-enforcement officer authorized by a local law-enforcement  
 534 agency.

535 "Retired law-enforcement officer" means an officer who within 10 years immediately prior to receiving  
 536 authorization by a local law-enforcement agency (i) was (a) an active law-enforcement officer as defined in  
 537 § 9.1-101 in the Commonwealth, (b) an auxiliary police officer appointed or provided for pursuant to  
 538 §§ 15.2-1731 and 15.2-1733, or (c) employed by a law-enforcement agency of the United States or any state  
 539 or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer  
 540 as defined in § 9.1-101 and (ii) retired or resigned from his position as a law-enforcement officer in good  
 541 standing.