

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4 [H 976]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 16.1-340.2 and 37.2-810, as it is currently effective and as it shall become effective, of the**
 8 **Code of Virginia are amended and reenacted as follows:**9 **§ 16.1-340.2. Transportation of minor in the temporary detention process.**

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

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

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

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

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

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

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57 treatment shall be conducted immediately in accordance with state and federal law.

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

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

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

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

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

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

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

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

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

117 **§ 37.2-810. (Expires July 1, 2026) Transportation of person in the temporary detention process.**

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

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

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

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

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

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

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

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

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

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

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

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

214 I. For purposes of this section:

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

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

217 "Law-enforcement officer" includes an auxiliary police officer appointed or provided for pursuant to
 218 §§ 15.2-1731 and 15.2-1733.

219 **§ 37.2-810. (Effective July 1, 2026) Transportation of person in the temporary detention process.**

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

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

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

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

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

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

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

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

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

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

305 city, or town in which he serves to any point in the Commonwealth for the purpose of executing any
306 temporary detention order pursuant to this section. Law-enforcement agencies may enter into agreements to
307 facilitate the execution of temporary detention orders and provide transportation.

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

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

316 I. For purposes of this section:

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

318 "Law-enforcement officer" includes an auxiliary police officer appointed or provided for pursuant to
319 §§ 15.2-1731 and 15.2-1733.