

2008 SESSION

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SENATE BILL NO. 102

Offered January 9, 2008

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*4 A BILL to amend and reenact §§ 37.2-808, 37.2-810, 37.2-829, and 37.2-830 of the Code of Virginia,
5 relating to three-tier transportation model.*

6 Patron—Cuccinelli

7
8 Referred to Committee for Courts of Justice
9

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

11 **1. That §§ 37.2-808, 37.2-810, 37.2-829, and 37.2-830 of the Code of Virginia is amended and
12 reenacted as follows:**

13 § 37.2-808. Emergency custody; issuance and execution of order.

14 A. Any magistrate may issue, upon the sworn petition of any responsible person or upon his own
15 motion, an emergency custody order when he has probable cause to believe that any person within his
16 judicial district (i) has mental illness, (ii) presents an imminent danger to himself or others as a result of
17 mental illness or is so seriously mentally ill as to be substantially unable to care for himself, (iii) is in
18 need of hospitalization or treatment, and (iv) is unwilling to volunteer or incapable of volunteering for
19 hospitalization or treatment.

20 B. Any person for whom an emergency custody order is issued shall be taken into custody and
21 transported to a convenient location to be evaluated to assess the need for hospitalization or treatment.
22 The evaluation shall be made by a person designated by the community services board or behavioral
23 health authority who is skilled in the diagnosis and treatment of mental illness and who has completed a
24 certification program approved by the Department.

25 C. The magistrate issuing an emergency custody order shall specify (i) the primary law-enforcement
26 agency and jurisdiction to execute the emergency custody order and ~~provide transportation~~ (ii) the means
27 of transportation of the person under the emergency custody order. Transportation may be provided by
28 family member or friend, a representative of the community services board or behavioral health
29 authority that serves the jurisdiction in which the person is located, a representative of the facility to
30 which the person will be transported for evaluation, an unmarked ambulance or other emergency vehicle
31 attended by personnel trained to provide such transportation in a safe manner, or by a law-enforcement
32 officer. The emergency custody order shall identify the specific person designated to provide
33 transportation. No person shall be required to provide transportation without his consent. Transportation
34 under this section shall include transportation to a medical facility as may be necessary to obtain
35 emergency medical evaluation or treatment that shall be conducted immediately in accordance with state
36 and federal law. Transportation under this section shall include transportation to a medical facility for a
37 medical evaluation if a physician at the hospital in which the person subject to the emergency custody
38 order may be detained requires a medical evaluation prior to admission.

39 D. ~~Where~~ transportation is required to be provided by a law-enforcement officer, the magistrate
40 shall order the primary law-enforcement agency from the jurisdiction served by the community services
41 board or behavioral health authority that designated the person to perform the evaluation required in
42 subsection B to execute the order and provide transportation. If the community services board or
43 behavioral health authority serves more than one jurisdiction, the magistrate shall designate the primary
44 law-enforcement agency from the particular jurisdiction within the community services board's or
45 behavioral health authority's service area where the person who is the subject of the emergency custody
46 order was taken into custody or, if the person has not yet been taken into custody, the primary
47 law-enforcement agency from the jurisdiction where the person is presently located to execute the order
48 and provide transportation.

49 E. A law-enforcement officer may lawfully go to or be sent beyond the territorial limits of the
50 county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing
51 an emergency custody order pursuant to this section or, where transportation is required to be provided
52 by the law-enforcement officer, for the purposes of transporting a person under the emergency custody
53 order.

54 F. A law-enforcement officer who, based upon his observation or the reliable reports of others, has
55 probable cause to believe that a person meets the criteria for emergency custody as stated in this section
56 may take that person into custody and ~~transport~~ arrange for the transportation of that person to an
57 appropriate location to assess the need for hospitalization or treatment without prior authorization.
58 *Transportation may be provided by a family member or friend, a representative of the community*

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59 services board or behavioral health authority that serves the jurisdiction in which the person is located,
60 a representative of the facility to which the person will be transported for evaluation, public
61 transportation, an unmarked ambulance or other emergency services vehicle, or by law enforcement.
62 Such The evaluation shall be conducted immediately.

63 G. Nothing herein shall preclude a law-enforcement officer or other person transporting a person
64 who has been taken into custody pursuant to this section from obtaining emergency medical treatment or
65 further medical evaluation at any time for a person in his custody as provided in this section.

66 H. The person shall remain in custody until a temporary detention order is issued or until the person
67 is released, but in no event shall the period of custody exceed four hours.

68 I. If an emergency custody order is not executed within four hours of its issuance, the order shall be
69 void and shall be returned unexecuted to the office of the clerk of the issuing court or, if such office is
70 not open, to any magistrate thereof.

71 § 37.2-810. Transportation of person in the temporary detention process.

72 A. The magistrate issuing the temporary detention order shall specify (i) the law-enforcement agency
73 and jurisdiction that shall execute the temporary detention order and ~~transportation~~(ii) the means of
74 transportation of the person who is the subject of the temporary detention order. Transportation may be
75 provided by a family member or friend, a representative of the community services board or behavioral
76 health authority serving the jurisdiction in which the person is located, a representative of the facility in
77 which the person is temporarily placed during the temporary detention period, public transportation,
78 unmarked ambulance or other emergency vehicle attended by personnel trained to provide such
79 transportation in a safe manner, or by a law-enforcement officer. The temporary detention order shall
80 identify the specific person designated to provide transportation. No person or provider shall be
81 required to provide transportation without his consent. The magistrate may consult with the person's
82 treating mental health professional and any involved community services board or behavioral health
83 authority staff, including the employee or designee of the community services board or behavioral health
84 authority conducting an evaluation pursuant to § 37.2-808, regarding the person's dangerousness and
85 the appropriateness of the transportation alternatives available prior to rendering a decision regarding
86 the means of transportation.

87 ~~The~~Where transportation is required to be provided by a law-enforcement officer, the magistrate shall
88 specify in the temporary detention order the law-enforcement agency of the jurisdiction in which the
89 person resides to execute the order and provide transportation. However, if the nearest boundary of the
90 jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the
91 jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the
92 person is located shall execute the order and provide transportation.

93 ~~An~~order for the transportation of a person who is the subject of a temporary detention order
94 may include transportation of the person to such other medical facility as may be necessary to obtain
95 further medical evaluation or treatment prior to placement as required by a physician at the admitting
96 temporary detention facility. Nothing herein shall preclude a law enforcement officer97 transportation from obtaining emergency medical treatment or further medical evaluation at any time for
98 a person ~~in his custody~~who is the subject of a temporary detention order as provided in this section.
99 Such medical evaluation or treatment shall be conducted immediately in accordance with state and
100 federal law.

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

106 § 37.2-829. Transportation of person in civil admission process.

107 When a person has been ordered to be admitted to a facility under §§ 37.2-814 through 37.2-821, a
108 determination shall be made by the judge or special justice regarding the transportation of that person to
109 the proper facility. Transportation may be provided by a family member or friend, a representative of
110 the community services board or behavioral health authority that serves the jurisdiction in which the
111 person is located, a representative of the facility in which the person has been temporarily placed
112 during the temporary detention period, a representative of the facility to which the person has been
113 ordered pursuant to an involuntary inpatient commitment order, public transportation, unmarked
114 ambulance or other emergency vehicle, or by a sheriff or other law enforcement officer. The judge or
115 special justice may consult with the person's treating mental health professional and any involved
116 community services board or behavioral health authority staff regarding the person's dangerousness and
117 whether the sheriff should transport or whether transportation alternatives as provided in § 37.2-830 may
118 be utilizedthe appropriateness of the transportation alternatives available. If the judge or special justice
119 determines that the person requires transportation by the sheriff or other law-enforcement officer, the
120 person may be delivered to the care of the sheriff or other law-enforcement officer, as specified in this

121 section, who shall transport the person to the proper facility. In no event shall transport commence later
122 than six hours after notification to the sheriff *or other law-enforcement officer* of the judge's or special
123 justice's order.

124 *If the judge or special justice determines that the person requires transportation by the sheriff or*
125 *other law-enforcement officer, the sheriff or other law-enforcement agency serving the jurisdiction*
126 *where the person is a resident shall be responsible for transporting the person unless the sheriff's or*
127 *other law-enforcement agency's office of that jurisdiction is located more than 100 road miles from the*
128 *nearest boundary of the jurisdiction in which the proceedings took place. In cases where the sheriff or*
129 *other law-enforcement agency serving the jurisdiction of which the person is a resident is more than 100*
130 *road miles from the nearest boundary of the jurisdiction in which the proceedings took place, it shall be*
131 *the responsibility of the sheriff or other law-enforcement agency of the latter jurisdiction to transport the*
132 *person. The cost of transportation of any person ordered to be admitted pursuant to §§ 37.2-814 through*
133 *37.2-821 shall be paid by the Commonwealth from the same funds as for care in jail.*

134 If any state hospital has become too crowded to admit any such person, the Commissioner shall give
135 notice of the fact to all sheriffs *and other law-enforcement agencies* and shall designate the facility to
136 which they shall transport such persons.

137 § 37.2-830. Custody of person ordered to be admitted for purpose of transportation.

138 Any judge or special justice may order that a person admitted pursuant to this chapter be placed in
139 the custody of any responsible person, including *a family member or friend, a representative of the*
140 *community services board or behavioral health authority serving the jurisdiction in which the person is*
141 *located, a representative of the facility in which the person is temporarily placed during the temporary*
142 *detention period, a representative of the facility to which the person has been ordered to be admitted, or*
143 *an unmarked ambulance or other emergency vehicle* for the sole purpose of transporting the person to
144 the proper facility.