

HOUSE BILL NO. 1017

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education

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

(Patron Prior to Substitute--Delegate Wilt)

A BILL to amend and reenact §§ 16.1-346.1 and 37.2-505 of the Code of Virginia, relating to minors admitted to inpatient treatment; discharge plans; portion to be provided to division superintendent in certain circumstances.

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

**1. That §§ 16.1-346.1 and 37.2-505 of the Code of Virginia are amended and reenacted as follows:**

**§ 16.1-346.1. Discharge plan.**

Prior to discharge of any minor admitted to inpatient treatment, including a minor in detention or shelter care pursuant to an order of a juvenile and domestic relations district court, a discharge plan shall be formulated, provided and explained to the minor, and copies thereof shall be sent (i) to the minor's parents or (ii) if the minor is in the custody of the local department of social services, to the department's director or the director's designee or (iii) to the minor's parents and (a) if the juvenile is to be housed in a detention home upon discharge, to the court in which the petition has been filed and the facility superintendent, or (b) if the minor is in custody of the local department of social services, to the department. If the minor is a student at a public elementary or secondary school and the facility deems that the discharge of such minor poses a threat of violence or physical harm to self or others, only portions of the discharge plan related to the threat of violence or physical harm shall be provided to the division superintendent upon the completion of the discharge plan. A copy of the plan shall also be provided, upon request, to the minor's attorney and guardian ad litem. If the minor was admitted to a state facility, the discharge plan shall be contained in a uniform discharge document developed by the Department of Behavioral Health and Developmental Services. The plan shall, at a minimum, ~~(i)~~ (1) specify the services required by the released minor in the community to meet his needs for treatment, housing, nutrition,

27 physical care, and safety; ~~(ii)~~ (2) specify any income subsidies for which the minor is eligible; ~~(iii)~~ (3)  
28 identify all local and state agencies which will be involved in providing treatment and support to the  
29 minor; and ~~(iv)~~ (4) specify services which would be appropriate for the minor's treatment and support in  
30 the community but which are currently unavailable. A minor in detention or shelter care prior to admission  
31 to inpatient treatment shall be returned to the detention home, shelter care, or other facility approved by  
32 the Department of Juvenile Justice within 24 hours by the sheriff serving the jurisdiction where the minor  
33 was detained upon release from the treating facility, unless the juvenile and domestic relations district  
34 court having jurisdiction over the case has provided written authorization for release of the minor, prior  
35 to the scheduled date of release.

36 **§ 37.2-505. Coordination of services for preadmission screening and discharge planning.**

37 A. The community services board shall fulfill the following responsibilities:

38 1. Be responsible for coordinating the community services necessary to accomplish effective  
39 preadmission screening and discharge planning for persons referred to the community services board.  
40 When preadmission screening reports are required by the court on an emergency basis pursuant to Article  
41 5 (§ 37.2-814 et seq.) of Chapter 8, the community services board shall ensure the development of the  
42 report for the court. To accomplish this coordination, the community services board shall establish a  
43 structure and procedures involving staff from the community services board and, as appropriate,  
44 representatives from (i) the state hospital or training center serving the board's service area, (ii) the local  
45 department of social services, (iii) the health department, (iv) the Department for Aging and Rehabilitative  
46 Services office in the board's service area, (v) the local school division, and (vi) other public and private  
47 human services agencies, including licensed hospitals.

48 2. Provide preadmission screening services prior to the admission for treatment pursuant to § 37.2-  
49 805 or Article 5 (§ 37.2-814 et seq.) of Chapter 8 of any person who requires emergency mental health  
50 services while in a city or county served by the community services board. In the case of inmates  
51 incarcerated in a regional jail, each community services board that serves a county or city that is a  
52 participant in the regional jail shall review any existing Memorandum of Understanding between the  
53 community services board and any other community services boards that serve the regional jail to ensure

54 that such memorandum sets forth the roles and responsibilities of each community services board in the  
55 preadmission screening process, provides for communication and information sharing protocols between  
56 the community services boards, and provides for due consideration, including financial consideration,  
57 should there be disproportionate obligations on one of the community services boards.

58 3. Provide, in consultation with the appropriate state hospital or training center, discharge planning  
59 for any individual who, prior to admission, resided in a city or county served by the community services  
60 board or who chooses to reside after discharge in a city or county served by the board and who is to be  
61 released from a state hospital or training center pursuant to § 37.2-837. Upon initiation of discharge  
62 planning, the community services board that serves the city or county where the individual resided prior  
63 to admission shall inform the individual that he may choose to return to the county or city in which he  
64 resided prior to admission or to any other county or city in the Commonwealth. If the individual is unable  
65 to make informed decisions regarding his care, the community services board shall so inform his  
66 authorized representative, who may choose the county or city in which the individual shall reside upon  
67 discharge. In either case and to the extent permitted by federal law, for individuals who choose to return  
68 to the county or city in which they resided prior to admission, the community services board shall make  
69 every reasonable effort to place the individuals in such county or city. The community services board  
70 serving the county or city in which he will reside following discharge shall be responsible for arranging  
71 transportation for the individual upon request following the discharge protocols developed by the  
72 Department.

73 The discharge plan shall be completed prior to the individual's discharge. The plan shall be  
74 prepared with the involvement and participation of the individual receiving services or his representative  
75 and must reflect the individual's preferences to the greatest extent possible. The plan shall include the  
76 mental health, developmental, substance abuse, social, educational, medical, employment, housing, legal,  
77 advocacy, transportation, and other services that the individual will need upon discharge into the  
78 community and identify the public or private agencies that have agreed to provide these services. If the  
79 minor is a student at a public elementary or secondary school and the facility deems that the discharge of  
80 such minor poses a threat of violence or physical harm to self or others, only portions of the discharge

81 plan related to the threat of violence or physical harm shall be provided to the division superintendent  
82 upon the completion of the discharge plan.

83 No individual shall be discharged from a state hospital or training center without completion by  
84 the community services board of the discharge plan described in this subdivision. If state hospital or  
85 training center staff identify an individual as ready for discharge and the community services board that  
86 is responsible for the individual's care disagrees, the community services board shall document in the  
87 treatment plan within 72 hours of the individual's identification any reasons for not accepting the  
88 individual for discharge. If the state hospital or training center disagrees with the community services  
89 board and the board refuses to develop a discharge plan to accept the individual back into the community,  
90 the state hospital or training center or the community services board shall ask the Commissioner to review  
91 the state hospital's or training center's determination that the individual is ready for discharge in  
92 accordance with procedures established by the Department in collaboration with state hospitals, training  
93 centers, and community services boards. If the Commissioner determines that the individual is ready for  
94 discharge, a discharge plan shall be developed by the Department to ensure the availability of adequate  
95 services for the individual and the protection of the community. The Commissioner also shall verify that  
96 sufficient state-controlled funds have been allocated to the community services board through the  
97 performance contract. If sufficient state-controlled funds have been allocated, the Commissioner may  
98 contract with a private provider, another community services board, or a behavioral health authority to  
99 deliver the services specified in the discharge plan and withhold allocated funds applicable to that  
100 individual's discharge plan from the community services board in accordance with subsections C and E of  
101 § 37.2-508.

102 4. Provide information, if available, to all hospitals licensed pursuant to Article 1 (§ 32.1-123 et  
103 seq.) of Chapter 5 of Title 32.1 about alcohol and substance abuse services available to minors.

104 B. The community services board may perform the functions set out in subdivision A 1 in the case  
105 of children by referring them to the locality's family assessment and planning team and by cooperating  
106 with the community policy and management team in the coordination of services for troubled youths and  
107 their families. The community services board may involve the family assessment and planning team and

**108** the community policy and management team, but it remains responsible for performing the functions set  
**109** out in subdivisions A 2 and A 3 in the case of children.

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