

1 SENATE BILL NO. 176

2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the Senate Committee on Education and Health  
4 on February 8, 2024)

5 (Patron Prior to Substitute--Senator Favola)

6 A BILL to amend and reenact §§ 37.2-809, 37.2-809.1, 37.2-815, 37.2-816, and 37.2-817 of the Code of  
7 Virginia, relating to civil commitments and temporary detention orders; definition of mental  
8 illness; neurocognitive disorders and neurodevelopmental disabilities; Secretary of Health and  
9 Human Resources to evaluate placements for certain individuals; report.

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

11 **1. That §§ 37.2-809, 37.2-809.1, 37.2-815, 37.2-816, and 37.2-817 of the Code of Virginia are amended**  
12 **and reenacted as follows:**

13 **§ 37.2-809. Involuntary temporary detention; issuance and execution of order.**

14 A. For the purposes of this section:

15 "Designee of the local community services board" means an examiner designated by the local  
16 community services board who (i) is skilled in the assessment and treatment of mental illness, (ii) has  
17 completed a certification program approved by the Department, (iii) is able to provide an independent  
18 examination of the person, (iv) is not related by blood or marriage to the person being evaluated, (v) has  
19 no financial interest in the admission or treatment of the person being evaluated, (vi) has no investment  
20 interest in the facility detaining or admitting the person under this article, and (vii) except for employees  
21 of state hospitals and of the U.S. Department of Veterans Affairs, is not employed by the facility.

22 "Employee" means an employee of the local community services board who is skilled in the  
23 assessment and treatment of mental illness and has completed a certification program approved by the  
24 Department.

25 "Investment interest" means the ownership or holding of an equity or debt security, including  
26 shares of stock in a corporation, interests or units of a partnership, bonds, debentures, notes, or other equity  
27 or debt instruments.

28 B. A magistrate shall issue, upon the sworn petition of any responsible person, treating physician,  
29 or upon his own motion and only after an evaluation conducted in-person or by means of a two-way  
30 electronic video and audio communication system as authorized in § 37.2-804.1 by an employee or a  
31 designee of the local community services board to determine whether the person meets the criteria for  
32 temporary detention, a temporary detention order if it appears from all evidence readily available,  
33 including any recommendation from a physician, clinical psychologist, clinical social worker, or licensed  
34 professional counselor treating the person, that the person (i) has a mental illness and that there exists a  
35 substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious  
36 physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening  
37 harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect  
38 himself from harm or to provide for his basic human needs; (ii) is in need of hospitalization or treatment;  
39 and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. Behaviors  
40 or symptoms that manifest from a neurocognitive disorder, including dementia, or a neurodevelopmental  
41 disability, including a developmental disability or intellectual disability, as defined in the most recent  
42 edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric  
43 Association are not sufficient, in themselves, to justify a finding of mental illness within the meaning of  
44 this section. The magistrate shall also consider, if available, (a) information provided by the person who  
45 initiated emergency custody and (b) the recommendations of any treating or examining physician licensed  
46 in Virginia either verbally or in writing prior to rendering a decision. Any temporary detention order  
47 entered pursuant to this section shall provide for the disclosure of medical records pursuant to § 37.2-  
48 804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

49 C. When considering whether there is probable cause to issue a temporary detention order, the  
50 magistrate may, in addition to the petition, consider (i) the recommendations of any treating or examining  
51 physician, psychologist, clinical social worker, or licensed professional counselor licensed in Virginia, if

52 available, (ii) any past actions of the person, (iii) any past mental health treatment of the person, (iv) any  
53 relevant hearsay evidence, (v) any medical records available, (vi) any affidavits submitted, if the witness  
54 is unavailable and it so states in the affidavit, and (vii) any other information available that the magistrate  
55 considers relevant to the determination of whether probable cause exists to issue a temporary detention  
56 order.

57 D. A magistrate may issue a temporary detention order without an emergency custody order  
58 proceeding. A magistrate may issue a temporary detention order without a prior evaluation pursuant to  
59 subsection B if (i) the person has been personally examined within the previous 72 hours by an employee  
60 or a designee of the local community services board or (ii) there is a significant physical, psychological,  
61 or medical risk to the person or to others associated with conducting such evaluation.

62 E. An employee or a designee of the local community services board shall determine the facility  
63 of temporary detention in accordance with the provisions of § 37.2-809.1 for all persons detained pursuant  
64 to this section. An employee or designee of the local community services board may change the facility  
65 of temporary detention and may designate an alternative facility for temporary detention at any point  
66 during the period of temporary detention if it is determined that the alternative facility is a more  
67 appropriate facility for temporary detention of the person given the specific security, medical, or  
68 behavioral health needs of the person. In cases in which the facility of temporary detention is changed  
69 following transfer of custody to an initial facility of temporary custody, transportation of the person to the  
70 alternative facility of temporary detention shall be provided in accordance with the provisions of § 37.2-  
71 810. The initial facility of temporary detention shall be identified on the preadmission screening report  
72 and indicated on the temporary detention order; however, if an employee or designee of the local  
73 community services board designates an alternative facility, that employee or designee shall provide  
74 written notice forthwith, on a form developed by the Executive Secretary of the Supreme Court of  
75 Virginia, to the clerk of the issuing court of the name and address of the alternative facility. Subject to the  
76 provisions of § 37.2-809.1, if a facility of temporary detention cannot be identified by the time of the  
77 expiration of the period of emergency custody pursuant to § 37.2-808, the person shall be detained in a  
78 state facility for the treatment of persons with mental illness and such facility shall be indicated on the

79 temporary detention order. Except as provided in § 37.2-811 for inmates requiring hospitalization in  
80 accordance with subdivision A 2 of § 19.2-169.6, the person shall not be detained in a jail or other place  
81 of confinement for persons charged with criminal offenses. Except as provided in § 37.2-811 for inmates  
82 requiring hospitalization in accordance with subdivision A 2 of § 19.2-169.6 or in subsection C of § 37.2-  
83 813 for persons prior to transfer to the facility of temporary detention, the person shall remain in the  
84 custody of law enforcement until either (i) the person is detained within a secure facility or (ii) custody  
85 has been accepted by the appropriate personnel designated by either the initial facility of temporary  
86 detention identified in the temporary detention order or by the alternative facility of temporary detention  
87 designated by the employee or designee of the local community services board pursuant to this subsection.  
88 The person detained or in custody pursuant to this section shall be given a written summary of the  
89 temporary detention procedures and the statutory protections associated with those procedures.

90 F. Any facility caring for a person placed with it pursuant to a temporary detention order is  
91 authorized to provide emergency medical and psychiatric services within its capabilities when the facility  
92 determines that the services are in the best interests of the person within its care. The costs incurred as a  
93 result of the hearings and by the facility in providing services during the period of temporary detention  
94 shall be paid and recovered pursuant to § 37.2-804. The maximum costs reimbursable by the  
95 Commonwealth pursuant to this section shall be established by the State Board of Medical Assistance  
96 Services based on reasonable criteria. The State Board of Medical Assistance Services shall, by regulation,  
97 establish a reasonable rate per day of inpatient care for temporary detention.

98 G. The employee or the designee of the local community services board who is conducting the  
99 evaluation pursuant to this section shall determine, prior to the issuance of the temporary detention order,  
100 the insurance status of the person. Where coverage by a third party payor exists, the facility seeking  
101 reimbursement under this section shall first seek reimbursement from the third party payor. The  
102 Commonwealth shall reimburse the facility only for the balance of costs remaining after the allowances  
103 covered by the third party payor have been received.

104 H. The duration of temporary detention shall be sufficient to allow for completion of the  
105 examination required by § 37.2-815, preparation of the preadmission screening report required by § 37.2-

106 816, and initiation of mental health treatment to stabilize the person's psychiatric condition to avoid  
107 involuntary commitment where possible, but shall not exceed 72 hours prior to a hearing. If the 72-hour  
108 period herein specified terminates on a Saturday, Sunday, legal holiday, or, if the individual has been  
109 admitted to a facility of temporary detention, day or part of a day on which the clerk's office is lawfully  
110 closed, the person may be detained, as herein provided, until the close of business on the next day that is  
111 not a Saturday, Sunday, legal holiday, or, if the individual has been admitted to a facility of temporary  
112 detention, day or part of a day on which the clerk's office is lawfully closed. The person may be released,  
113 pursuant to § 37.2-813, before the 72-hour period herein specified has run.

114 I. If a temporary detention order is not executed within 24 hours of its issuance, or within a shorter  
115 period as is specified in the order, the order shall be void and shall be returned unexecuted to the office of  
116 the clerk of the issuing court or, if the office is not open, to any magistrate serving the jurisdiction of the  
117 issuing court. Subsequent orders may be issued upon the original petition within 96 hours after the petition  
118 is filed. However, a magistrate must again obtain the advice of an employee or a designee of the local  
119 community services board prior to issuing a subsequent order upon the original petition. Any petition for  
120 which no temporary detention order or other process in connection therewith is served on the subject of  
121 the petition within 96 hours after the petition is filed shall be void and shall be returned to the office of  
122 the clerk of the issuing court.

123 J. The Executive Secretary of the Supreme Court of Virginia shall establish and require that a  
124 magistrate, as provided by this section, be available seven days a week, 24 hours a day, for the purpose of  
125 performing the duties established by this section. Each community services board shall provide to each  
126 general district court and magistrate's office within its service area a list of its employees and designees  
127 who are available to perform the evaluations required herein.

128 K. For purposes of this section, a health care provider or designee of a local community services  
129 board or behavioral health authority shall not be required to encrypt any email containing information or  
130 medical records provided to a magistrate unless there is reason to believe that a third party will attempt to  
131 intercept the email.

132 L. If the employee or designee of the community services board who is conducting the evaluation  
133 pursuant to this section recommends that the person should not be subject to a temporary detention order,  
134 such employee or designee shall (i) inform the petitioner, the person who initiated emergency custody if  
135 such person is present, and an onsite treating physician of his recommendation; (ii) promptly inform such  
136 person who initiated emergency custody that the community services board will facilitate communication  
137 between the person and the magistrate if the person disagrees with recommendations of the employee or  
138 designee of the community services board who conducted the evaluation and the person who initiated  
139 emergency custody so requests; and (iii) upon prompt request made by the person who initiated emergency  
140 custody, arrange for such person who initiated emergency custody to communicate with the magistrate as  
141 soon as is practicable and prior to the expiration of the period of emergency custody. The magistrate shall  
142 consider any information provided by the person who initiated emergency custody and any  
143 recommendations of the treating or examining physician and the employee or designee of the community  
144 services board who conducted the evaluation and consider such information and recommendations in  
145 accordance with subsection B in making his determination to issue a temporary detention order. The  
146 person who is the subject of emergency custody shall remain in the custody of law enforcement or a  
147 designee of law enforcement and shall not be released from emergency custody until communication with  
148 the magistrate pursuant to this subsection has concluded and the magistrate has made a determination  
149 regarding issuance of a temporary detention order.

150 M. For purposes of this section, "person who initiated emergency custody" means any person who  
151 initiated the issuance of an emergency custody order pursuant to § 37.2-808 or a law-enforcement officer  
152 who takes a person into custody pursuant to subsection G of § 37.2-808.

153 N. In any case in which a person subject to an evaluation pursuant to this section is receiving  
154 services in a hospital emergency department, the treating physician or his designee and the employee or  
155 designee of the local community services board shall disclose to each other relevant information pertaining  
156 to the individual's treatment in the emergency department.

157 **§ 37.2-809.1. Facility of temporary detention.**

158 A. In each case in which an employee or designee of the local community services board as defined  
159 in § 37.2-809 is required to make an evaluation of an individual pursuant to subsection B, G, or H of §  
160 37.2-808, an employee or designee of the local community services board shall, upon being notified of  
161 the need for such evaluation, contact the state facility for the area in which the community services board  
162 is located and notify the state facility that the individual will be transported to the facility upon issuance  
163 of a temporary detention order if no other facility of temporary detention can be identified by the time of  
164 the expiration of the period of emergency custody pursuant to § 37.2-808. Upon completion of the  
165 evaluation, the employee or designee of the local community services board shall convey to the state  
166 facility information about the individual necessary to allow the state facility to determine the services the  
167 individual will require upon admission.

168 B. If upon notification from the employee or designee of the local community services board a  
169 state facility has reason to believe that the individual's behaviors or symptoms are solely a manifestation  
170 of a neurocognitive disorder or neurodevelopmental disorder, the state facility may require that a licensed  
171 psychiatrist or other licensed mental health professional reevaluate the individual's eligibility for a  
172 temporary detention order under § 37.2-809 before the individual is admitted. If the licensed psychiatrist  
173 or other licensed mental health professional determines the individual's behaviors or symptoms are solely  
174 a manifestation of a neurocognitive disorder or neurodevelopmental disorder, the state facility shall  
175 promptly authorize the release of the person held under a temporary detention order pursuant to § 37.2-  
176 809 and the employee or a designee of the local community services board shall provide a discharge plan.

177 ~~B.-C.~~ A state facility may, following the notice in accordance with subsection A, conduct a search  
178 for an alternative facility that is able and willing to provide temporary detention and appropriate care to  
179 the individual, which may include another state facility if the state facility notified in accordance with  
180 subsection A is unable to provide temporary detention and appropriate care for the individual. Under no  
181 circumstances, other than those specified in this section, shall a state facility fail or refuse to admit an  
182 individual who meets the criteria for temporary detention pursuant to § 37.2-809 unless an alternative  
183 facility that is able to provide temporary detention and appropriate care agrees to accept the individual for  
184 temporary detention and the individual shall not during the duration of the temporary detention order be

185 released from custody except for purposes of transporting the individual to the state facility or alternative  
186 facility in accordance with the provisions of § 37.2-810. If an alternative facility is identified and agrees  
187 to accept the individual for temporary detention, the state facility shall notify the community services  
188 board, and an employee or designee of the community services board shall designate the alternative facility  
189 on the prescreening report.

190 ~~C.~~D. A state facility may conduct a search for an alternative facility that is able and willing to  
191 provide temporary detention and appropriate care to the individual in accordance with subsection B if the  
192 individual is in the custody of an alternative transportation provider.

193 ~~D.~~E. The facility of temporary detention designated in accordance with this section shall be one  
194 that has been approved pursuant to regulations of the Board.

195 **§ 37.2-815. Commitment hearing for involuntary admission; examination required.**

196 A. Notwithstanding § 37.2-814, the district court judge or special justice shall require an  
197 examination of the person who is the subject of the hearing by a psychiatrist or a psychologist who is  
198 licensed in Virginia by the Board of Medicine or the Board of Psychology and is qualified in the diagnosis  
199 of mental illness or, if such a psychiatrist or psychologist is not available, a mental health professional  
200 who (i) is licensed in Virginia through the Department of Health Professions as a clinical social worker,  
201 professional counselor, marriage and family therapist, or psychiatric advanced practice registered nurse;  
202 (ii) is qualified in the assessment of mental illness; and (iii) has completed a certification program  
203 approved by the Department. The examiner chosen shall be able to provide an independent clinical  
204 evaluation of the person and recommendations for his placement, care, and treatment. The examiner shall  
205 (a) not be related by blood or marriage to the person, (b) not be responsible for treating the person, (c)  
206 have no financial interest in the admission or treatment of the person, (d) have no investment interest in  
207 the facility detaining or admitting the person under this chapter, and (e) except for employees of state  
208 hospitals, the U.S. Department of Veterans Affairs, and community service boards, not be employed by  
209 the facility. For purposes of this section, the term "investment interest" shall be as defined in § 37.2-809.

210 B. The examination conducted pursuant to this section shall be a comprehensive evaluation of the  
211 person conducted in-person or, if that is not practicable, by two-way electronic video and audio



212 communication system as authorized in § 37.2-804.1. Translation or interpreter services shall be provided  
213 during the evaluation where necessary. The examination shall consist of (i) a clinical assessment that  
214 includes a mental status examination; determination of current use of psychotropic and other medications;  
215 a medical and psychiatric history; a substance use, abuse, or dependency determination; and a  
216 determination of the likelihood that, as a result of mental illness, the person will, in the near future, suffer  
217 serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human  
218 needs; (ii) a substance abuse screening, when indicated; (iii) a risk assessment that includes an evaluation  
219 of the likelihood that, as a result of mental illness, the person will, in the near future, cause serious physical  
220 harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and  
221 other relevant information, if any; (iv) an assessment of the person's capacity to consent to treatment,  
222 including his ability to maintain and communicate choice, understand relevant information, and  
223 comprehend the situation and its consequences; (v) a review of the temporary detention facility's records  
224 for the person, including the treating physician's evaluation, any collateral information, reports of any  
225 laboratory or toxicology tests conducted, and all admission forms and nurses' notes; (vi) a discussion of  
226 treatment preferences expressed by the person or contained in a document provided by the person in  
227 support of recovery; (vii) an assessment of whether the person meets the criteria for an order authorizing  
228 discharge to mandatory outpatient treatment following a period of inpatient treatment pursuant to  
229 subsection C of § 37.2-817.01; (viii) an assessment of alternatives to involuntary inpatient treatment; and  
230 (ix) recommendations for the placement, care, and treatment of the person.

231 C. All such examinations shall be conducted in private. The judge or special justice shall summons  
232 the examiner who shall certify that he has personally examined the person and state whether he has  
233 probable cause to believe that the person (i) has a mental illness and there is a substantial likelihood that,  
234 as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself  
235 or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant  
236 information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or  
237 to provide for his basic human needs, and (ii) requires involuntary inpatient treatment. Behaviors or  
238 symptoms that manifest from a neurocognitive disorder, including dementia, or a neurodevelopmental

239 disability, including a developmental disability or intellectual disability, as defined in the most recent  
240 edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric  
241 Association are not sufficient, in themselves, to justify a finding of mental illness within the meaning of  
242 this section. The judge or special justice shall not render any decision on the petition until the examiner  
243 has presented his report. The examiner may report orally at the hearing, but he shall provide a written  
244 report of his examination prior to the hearing. The examiner's written certification may be accepted into  
245 evidence unless objected to by the person or his attorney, in which case the examiner shall attend in person  
246 or by electronic communication. When the examiner attends the hearing in person or by electronic  
247 communication, the examiner shall not be excluded from the hearing pursuant to an order of sequestration  
248 of witnesses.

249 **§ 37.2-816. Commitment hearing for involuntary admission; preadmission screening report.**

250 The district court judge or special justice shall require a preadmission screening report from the  
251 community services board that serves the county or city where the person resides or, if impractical, where  
252 the person is located. The report shall be admitted as evidence of the facts stated therein and shall state (i)  
253 whether the person has a mental illness and whether there exists a substantial likelihood that, as a result  
254 of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others  
255 as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information,  
256 if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for  
257 his basic human needs, (ii) whether the person is in need of involuntary inpatient treatment, (iii) whether  
258 there is no less restrictive alternative to inpatient treatment, and (iv) the recommendations for that person's  
259 placement, care, and treatment including, where appropriate, recommendations for mandatory outpatient  
260 treatment. The board shall provide the preadmission screening report to the court prior to the hearing, and  
261 the report shall be admitted into evidence and made part of the record of the case. In the case of a person  
262 who has been sentenced and committed to the Department of Corrections and who has been examined by  
263 a psychiatrist or clinical psychologist, the judge or special justice may proceed to adjudicate whether the  
264 person has mental illness and should be involuntarily admitted without requesting a preadmission  
265 screening report from the community services board. Behaviors or symptoms that manifest from a

266 neurocognitive disorder, including dementia, or a neurodevelopmental disability, including a  
267 developmental disability or intellectual disability, as defined in the most recent edition of the Diagnostic  
268 and Statistical Manual of Mental Disorders of the American Psychiatric Association are not sufficient, in  
269 themselves, to justify a finding of mental illness within the meaning of this section.

270 **§ 37.2-817. Involuntary admission.**

271 A. The district court judge or special justice shall render a decision on the petition for involuntary  
272 admission after the appointed examiner has presented the report required by § 37.2-815, and after the  
273 community services board that serves the county or city where the person resides or, if impractical, where  
274 the person is located has presented a preadmission screening report with recommendations for that  
275 person's placement, care, and treatment pursuant to § 37.2-816. These reports, if not contested, may  
276 constitute sufficient evidence upon which the district court judge or special justice may base his decision.  
277 The examiner, if not physically present at the hearing, and the treating physician at the facility of  
278 temporary detention shall be available whenever possible for questioning during the hearing through a  
279 two-way electronic video and audio or telephonic communication system as authorized in § 37.2-804.1.

280 B. Any employee or designee of the local community services board, as defined in § 37.2-809,  
281 representing the community services board that prepared the preadmission screening report shall attend  
282 the hearing in person or, if physical attendance is not practicable, shall participate in the hearing through  
283 a two-way electronic video and audio or telephonic communication system as authorized in § 37.2-804.1.  
284 Where a hearing is held outside of the service area of the community services board that prepared the  
285 preadmission screening report, and it is not practicable for a representative of the community services  
286 board that prepared the preadmission screening report to attend or participate in the hearing, arrangements  
287 shall be made by the community services board that prepared the preadmission screening report for an  
288 employee or designee of the community services board serving the area in which the hearing is held to  
289 attend or participate on behalf of the community services board that prepared the preadmission screening  
290 report. The employee or designee of the local community services board, as defined in § 37.2-809,  
291 representing the community services board that prepared the preadmission screening report or attending  
292 or participating on behalf of the community services board that prepared the preadmission screening report

293 shall not be excluded from the hearing pursuant to an order of sequestration of witnesses. The community  
294 services board that prepared the preadmission screening report shall remain responsible for the person  
295 subject to the hearing and, prior to the hearing, shall send the preadmission screening report through  
296 certified mail, personal delivery, facsimile with return receipt acknowledged, or other electronic means  
297 with documented acknowledgment of receipt to the community services board attending the hearing.  
298 Where a community services board attends the hearing on behalf of the community services board that  
299 prepared the preadmission screening report, the attending community services board shall inform the  
300 community services board that prepared the preadmission screening report of the disposition of the matter  
301 upon the conclusion of the hearing. In addition, the attending community services board shall transmit the  
302 disposition through certified mail, personal delivery, facsimile with return receipt acknowledged, or other  
303 electronic means with documented acknowledgment of receipt.

304 At least 12 hours prior to the hearing, the court shall provide to the community services board that  
305 prepared the preadmission screening report the time and location of the hearing. If the representative of  
306 the community services board that prepared the preadmission screening report will be present by  
307 telephonic means, the court shall provide the telephone number to the community services board. If a  
308 representative of a community services board will be attending the hearing on behalf of the community  
309 services board that prepared the preadmission screening report, the community services board that  
310 prepared the preadmission screening report shall promptly communicate the time and location of the  
311 hearing and, if the representative of the community services board attending on behalf of the community  
312 services board that prepared the preadmission screening report will be present by telephonic means, the  
313 telephone number to the attending community services board.

314 C. After observing the person and considering (i) the recommendations of any treating or  
315 examining physician or psychologist licensed in Virginia, if available, (ii) any past actions of the person,  
316 (iii) any past mental health treatment of the person, (iv) any examiner's certification, (v) any health records  
317 available, (vi) the preadmission screening report, and (vii) any other relevant evidence that may have been  
318 admitted, including whether the person recently has been found unrestorably incompetent to stand trial  
319 after a hearing held pursuant to subsection E of § 19.2-169.1, if the judge or special justice finds by clear

320 and convincing evidence that (a) the person has a mental illness and there is a substantial likelihood that,  
321 as a result of mental illness, the person will, in the near future, (1) cause serious physical harm to himself  
322 or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant  
323 information, if any, or (2) suffer serious harm due to his lack of capacity to protect himself from harm or  
324 to provide for his basic human needs, and (b) all available less restrictive treatment alternatives to  
325 involuntary inpatient treatment that would offer an opportunity for the improvement of the person's  
326 condition have been investigated and determined to be inappropriate, the judge or special justice shall by  
327 written order and specific findings so certify and order that the person be admitted involuntarily to a  
328 facility for a period of treatment not to exceed 30 days from the date of the court order. Behaviors or  
329 symptoms that manifest from a neurocognitive disorder, including dementia, or a neurodevelopmental  
330 disability, including a developmental disability or intellectual disability, as defined in the most recent  
331 edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric  
332 Association are not sufficient, in themselves, to justify a finding of mental illness within the meaning of  
333 this section. Such involuntary admission shall be to a facility designated by the community services board  
334 that serves the county or city in which the person was examined as provided in § 37.2-816. If the  
335 community services board does not designate a facility at the commitment hearing, the person shall be  
336 involuntarily admitted to a facility designated by the Commissioner. Upon the expiration of an order for  
337 involuntary admission, the person shall be released unless (A) he is involuntarily admitted by further  
338 petition and order of a court, which shall be for a period not to exceed 180 days from the date of the  
339 subsequent court order, (B) he makes application for treatment on a voluntary basis as provided for in §  
340 37.2-805, or (C) he is ordered to mandatory outpatient treatment following a period of inpatient treatment  
341 pursuant to § 37.2-817.01.

342 **2. That the Secretary of Health and Human Resources shall convene a work group of relevant**  
343 **stakeholders, including representatives from local community services boards, the Virginia Hospital**  
344 **and Healthcare Association, and the Office of the Executive Secretary of the Supreme Court of**  
345 **Virginia to (i) evaluate the current availability of placements for individuals with neurocognitive**  
346 **disorders and neurodevelopmental disabilities who would otherwise be placed in state psychiatric**

347 hospitals; (ii) identify and develop placements and services other than state psychiatric hospitals  
348 that would better support such individuals, especially individuals whose behaviors or symptoms are  
349 solely a manifestation of such disorders and disabilities, including through enhanced Medicaid  
350 reimbursements and a Medicaid waiver for individuals with neurocognitive disorders; (iii) specify  
351 any additional funding or statutory changes needed to prevent inappropriate placements of such  
352 individuals in state psychiatric hospitals; (iv) provide recommendations for training of magistrates  
353 and community services boards related to the implementation of this act; and (v) report the work  
354 group's findings and recommendations to the Chairmen of the House Committee on  
355 Appropriations, the Senate Committee on Finance and Appropriations, the House Committee on  
356 Health and Human Services, and the Senate Committee on Education and Health by November 1,  
357 2024.

358 3. That the provisions of the first enactment of this act shall not become effective unless reenacted  
359 by the 2025 Session of the General Assembly.

360 #