

SENATE BILL NO. 575

AMENDMENT IN THE NATURE OF A SUBSTITUTE

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

(Patron Prior to Substitute--Senator Obenshain)

A BILL to amend and reenact §§ 16.1-346.1 and 37.2-505 of the Code of Virginia, relating to discharge plans; copies to public elementary and secondary schools.

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.

A. 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.

B. If the minor is a student at a public elementary or secondary school and the facility deems that (i) the discharge of such minor poses a threat of violence or physical harm to self or others or (ii) additional educational services are needed, the portions of the discharge plan related to the threat of violence or physical harm or additional educational services shall be provided to the school's mental health professional or school counselor upon the completion of the discharge plan. Prior to providing any portion of any discharge plan to a school's mental health professional or school counselor in accordance with the provisions of this subsection, each facility shall provide reasonable notice to the parent of such minor student of (a) the type of information that would be included as a part of any portion of the discharge plan

provided pursuant to this subsection; (b) the right of the parent to refuse (1) the inclusion of any types of information in any portions of the discharge plan provided pursuant to this subsection or (2) the provision of any or all parts of the discharge plan; and (c) the period of time within which the parent shall provide written notice to the facility of any types of information or portions of the discharge plan the provision of which he refuses to allow in accordance with clause (b).

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

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

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

1. Be responsible for coordinating the community services necessary to accomplish effective preadmission screening and discharge planning for persons referred to the community services board. When preadmission screening reports are required by the court on an emergency basis pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8, the community services board shall ensure the development of the report for the court. To accomplish this coordination, the community services board shall establish a structure and procedures involving staff from the community services board and, as appropriate, representatives from (i) the state hospital or training center serving the board's service area, (ii) the local

department of social services, (iii) the health department, (iv) the Department for Aging and Rehabilitative Services office in the board's service area, (v) the local school division, and (vi) other public and private human services agencies, including licensed hospitals.

2. Provide preadmission screening services prior to the admission for treatment pursuant to § 37.2-805 or Article 5 (§ 37.2-814 et seq.) of Chapter 8 of any person who requires emergency mental health services while in a city or county served by the community services board. In the case of inmates incarcerated in a regional jail, each community services board that serves a county or city that is a participant in the regional jail shall review any existing Memorandum of Understanding between the community services board and any other community services boards that serve the regional jail to ensure that such memorandum sets forth the roles and responsibilities of each community services board in the preadmission screening process, provides for communication and information sharing protocols between the community services boards, and provides for due consideration, including financial consideration, should there be disproportionate obligations on one of the community services boards.

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

transportation for the individual upon request following the discharge protocols developed by the Department.

The discharge plan shall be completed prior to the individual's discharge. The plan shall be prepared with the involvement and participation of the individual receiving services or his representative and must reflect the individual's preferences to the greatest extent possible. The plan shall include the mental health, developmental, substance abuse, social, educational, medical, employment, housing, legal, advocacy, transportation, and other services that the individual will need upon discharge into the community and identify the public or private agencies that have agreed to provide these services. If the minor is a student at a public elementary or secondary school and the facility deems that (i) the discharge of such minor poses a threat of violence or physical harm to self or others or (ii) additional educational services are needed, the portions of the discharge plan related to the threat of violence or physical harm or additional educational services shall be provided to the school's mental health professional or school counselor upon the completion of the discharge plan. Prior to providing any portion of any discharge plan to a school's mental health professional or school counselor in accordance with the provisions of this subsection, the community services board shall provide reasonable notice to the parent of such minor student of (a) the type of information that would be included as a part of any portion of the discharge plan provided pursuant to this subsection; (b) the right of the parent to refuse (1) the inclusion of any types of information in any portions of the discharge plan provided pursuant to this subsection or (2) the provision of any or all parts of the discharge plan; and (c) the period of time within which the parent shall provide written notice to the facility of any types of information or portions of the discharge plan the provision of which he refuses to allow in accordance with clause (b)

No individual shall be discharged from a state hospital or training center without completion by the community services board of the discharge plan described in this subdivision. If state hospital or training center staff identify an individual as ready for discharge and the community services board that is responsible for the individual's care disagrees, the community services board shall document in the treatment plan within 72 hours of the individual's identification any reasons for not accepting the individual for discharge. If the state hospital or training center disagrees with the community services

board and the board refuses to develop a discharge plan to accept the individual back into the community, the state hospital or training center or the community services board shall ask the Commissioner to review the state hospital's or training center's determination that the individual is ready for discharge in accordance with procedures established by the Department in collaboration with state hospitals, training centers, and community services boards. If the Commissioner determines that the individual is ready for discharge, a discharge plan shall be developed by the Department to ensure the availability of adequate services for the individual and the protection of the community. The Commissioner also shall verify that sufficient state-controlled funds have been allocated to the community services board through the performance contract. If sufficient state-controlled funds have been allocated, the Commissioner may contract with a private provider, another community services board, or a behavioral health authority to deliver the services specified in the discharge plan and withhold allocated funds applicable to that individual's discharge plan from the community services board in accordance with subsections C and E of § 37.2-508.

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

B. The community services board may perform the functions set out in subdivision A 1 in the case of children by referring them to the locality's family assessment and planning team and by cooperating with the community policy and management team in the coordination of services for troubled youths and their families. The community services board may involve the family assessment and planning team and the community policy and management team, but it remains responsible for performing the functions set out in subdivisions A 2 and A 3 in the case of children.

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