

# 2014 Legislative Changes to Virginia's Civil Commitment Laws

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# Bed Registry

## SB260/HB1232

- DBHDS shall develop and administer a web-based acute psychiatric bed registry to contain information about available acute beds in public and private inpatient psychiatric facilities and residential crisis stabilization units to facilitate identification and designation of facilities for temporary detention of individuals who meet the TDO criteria

# Bed Registry

- Bed registry shall:
  - Include descriptive information for each inpatient psychiatric facility and residential crisis stabilization unit, including contact information
  - Provide real-time information about the number of beds available and for each bed
    - The type of patient that may be admitted
    - The level of security provided
    - Any other information to allow identification of appropriate facilities for temporary detention

# Bed Registry

- Registry shall allow searches by:
  - CSBs
  - Inpatient psychiatric facilities
  - Residential crisis stabilization units
  - Health care providers working in an ER or other facility rendering emergency medical care

# Bed Registry

- Who is required to participate in the bed registry?
  - State facilities
  - CSBs
  - Private inpatient providers licensed by DBHDS
- Participants must designate employees to submit information to the system and serve as a point of contact for requests for information

# Emergency Custody

## SB260/HB478

- ECO valid for a period not to exceed 8 hours from the time of execution
  - 8-hour period applies to paper ECOs and “paperless” ECOs
  - Old Law: 4 hours with possible 2-hour extension
    - Provision for extension has been removed
- 8 hours to execute an ECO from its issuance
  - Old law: 6 hours

# Emergency Custody SB260

- If the individual is detained in a state facility at the expiration of the 8-hour period because a facility of temporary detention could not be identified, the CSB and the state facility may continue to attempt to identify an alternative facility for an additional 4 hours
  - Expires June 30, 2018
  - But see HB1172

# Emergency Custody SB260/HB478

- Law enforcement agency that executes the ECO shall notify the CSB responsible for conducting the evaluation as soon as practicable after taking the person into custody
  - Applies to paper ECOs and “paperless” ECOs

# Emergency Custody

## SB260/HB478

- Any person taken into emergency custody shall be given a written summary of the emergency custody procedures and the statutory protections associated with those procedures

# Determining the Facility of Temporary Detention SB260/HB293

- Upon receiving notification of the need for an evaluation, the CSB shall contact the state facility serving the area in which the CSB is located and notify it that the individual will be transported to it upon the issuance of a TDO if an alternative facility cannot be identified by the expiration of the 8 hour emergency custody period
- Upon completion of the evaluation, CSB shall provide information about the individual to the state facility to allow it to determine the services the individual will require on admission

# Determining the Facility of Temporary Detention SB260/HB293

- Once notified, the state facility may conduct a search for an alternative facility
  - May contact another state facility if it is unable to provide temporary detention and appropriate care
- If state facility finds an alternative facility, it shall notify the CSB and the CSB shall designate the alternative facility on the preadmission screening report

# Determining the Facility of Temporary Detention SB260/HB293

- A state facility shall not fail or refuse to admit an individual who meets the criteria for a TDO unless an alternative facility agrees to accept the individual
- An individual who meets the criteria for a TDO shall not be released

# Determining the Facility of Temporary Detention SB260/HB293

- If a facility of temporary detention cannot be identified by the expiration of the 8-hour emergency custody period, the individual shall be detained in the state facility
- State facility shall be indicated on the TDO

# Temporary Detention

## HB1172-Change of facility

- CSB may change the facility of temporary detention and may designate an alternative facility at any point during the period of temporary detention
  - Must determine that the alternative facility is a more appropriate facility given the specific security, medical, or behavioral needs of the person
  - CSB must provide notice to the clerk of name and address of the alternative facility

# Temporary Detention

## HB1172-Change of facility

- If facility of temporary detention is changed, transportation is provided in accordance with § 37.2-810
  - If law enforcement or an alternative transportation provider has custody of the person when the change is made, individual shall be transported to alternative facility
  - If individual has been transported to initial TDO facility, CSB shall request the magistrate to enter an order specifying an alternative transportation provider or, if no alternative transportation provider, the local law enforcement agency where the person resides or is located if 50-mile rule is applicable

# Temporary Detention – Transportation

## HB323

- In determining the primary law enforcement agency to provide transportation, magistrate shall specify in the TDO the law enforcement agency of the jurisdiction where the person resides *or any other willing law enforcement agency that has agreed to provide transportation*

# Temporary Detention

## S260/HB478

- Person detained shall be given a written summary of the temporary detention procedures and the statutory protections associated with those procedures

# Temporary Detention

## SB260/HB574

- Commitment hearing shall be held within 72 hours of execution of the TDO
- If 72-hour period ends on a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed, person may be detained until COB on the next business day when the court is open
  - Old Law: 48 hours

# Commitment Hearing

## SB260/SB439/HB574

- When judge informs the individual of his right to apply for voluntary admission and advises him that if he chooses to be voluntarily admitted he will be prohibited from possessing or purchasing a gun, the judge must now advise the individual that he will also be prohibited from transporting a gun.
  - Consistent with § 18.2-308.1:3

# Orders – Filing with Clerk

## SB576/HB743

- Judge or special justice shall file orders from a commitment hearing for involuntary admission, MOT, or voluntary admission after a TDO with the clerk as soon as practicable but no later than COB on the next business day following completion of the hearing

# MOT

## SB439/HB574

- CSB must acknowledge receipt of an MOT order to the clerk within 5 business days
- CSB shall acknowledge receipt of an order transferring jurisdiction of an MOT case within 5 business days

# Minors

## SB260/HB478

- ECO period increased to 8 hours (was 4)
  - Provision for extension removed
  - 8 hours to execute an ECO (was 6)
  - TDO period unchanged for minors (96 hours)
- Law enforcement agency that executes the ECO shall notify the CSB responsible for conducting the evaluation as soon as practicable after taking the person into custody.
  - Applies to paper and “paperless” ECOs

# Minors

## SB260/HB293

- Provisions for determining the facility of temporary detention are the same as for adults
  - State facility if an alternative facility is not identified before expiration of the ECO
- If the individual is detained in a state facility at the expiration of the 8 hour period because a facility of temporary detention could not be identified, the CSB and the state facility may continue to attempt to identify an alternative facility for an additional 4 hours
  - Expires June 30, 2018
  - HB1172 only applicable to adults

# Annual Report

## SB260/HB293

- DBHDS must submit an annual report on June 30 of each year to the Governor and Chairmen of House Appropriations and Senate Finance
  - Number of notifications of individuals in need of facility services by CSBs
  - Number of alternative facilities contacted by CSBs and state facilities
  - Number of temporary detentions provided by state facilities and alternative facilities, the lengths of stay, and the cost of the detentions

# Task Force – LE Study

## SB260/HB478

- Governor’s Task Force on Improving Mental Health Services and Crisis Response shall identify and examine issues related to the use of law enforcement in the involuntary admission process
  - Consider options to reduce the amount of resources needed to detain individuals during the ECO, including the amount of time spent transporting. Options shall include:
    - Developing crisis stabilization units in all regions
    - Contracting for retired officers to provide transportation
- Report of findings and recommendations to Governor and General Assembly by October 1, 2014

# CSB Evaluators – Study SB261/HB1216

- DBHDS shall review the requirements related to qualifications, training, and oversight of individuals performing preadmission screening evaluations
- Make recommendations for increasing qualifications, training, and oversight
- Report findings to the Governor and General Assembly by December 1, 2014

# Information Regarding Crisis Strategies HB1222

- Secretaries of Public Safety and HHR shall encourage the dissemination of information about specialized training in evidence-based strategies to prevent and minimize mental health crises. Strategies shall include:
  - CIT training
  - Mental Health First Aid
- Information disseminated to law enforcement, first responders, ER personnel, school personnel, and other interested parties

# Joint Subcommittee to Study Mental Health Services (SJ47)

- 12 legislative members
- Review and coordinate with the work of the Governor's Task Force
- Review laws governing the provision of mental health services, including civil commitment laws
- Assess the systems of publicly funded mental health services (emergency, forensic, long-term, and services in jails and juvenile detention facilities)
- Identify gaps in services and types of facilities and programs needed
- Recommend statutory or regulatory changes to improve access to services, quality of services, and outcomes for individuals
- Interim report by December 1, 2015; final report by December 1, 2017