

2009 Mental Health Transportation Law Changes

**VACIT Coalition Quarterly Meeting
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Alternative Transportation

HB 2460(O'Bannon)/SB 823 (Cuccinelli)

- Permits person or entity other than law enforcement to transport persons under ECO and TDO
- Strengthens authority of judge/special justice to order alternative transportation after commitment hearing
- Follows lead of 26 other states

Alternative Transportation Purpose

- First step
- Designed to
 - Reduce unnecessary dependence on law enforcement for transportation
 - Reduce criminal stigma associated with law enforcement and need for restraints
 - Reduce trauma to participants as result of involuntary commitment process

Alternative Transportation ECOs/TDOs - Consultation

- Alternative provider includes family member, friend, CSB, other transportation provider with trained staff
- Magistrate must consider information provided by petitioner, CSB, law-enforcement, if involved, treating physician, if any, and others available and with knowledge of person

§§ 37.2-808, 37.2-810

Alternative Transportation ECOs/TDOs - Consultation

- When he deems appropriate, magistrate may consult with proposed transportation provider to determine whether provider is available, willing and able to safely transport
- Consultation may occur in person or two-way electronic video and audio or by telephone

§§ 37.2-808, 37.2-810

Alternative Transportation Role of Law Enforcement

- Magistrate orders primary law enforcement agency to:
 - Execute ECO/TDO
 - Take person into custody
 - Transfer custody to alternative provider

§§ 37.2-808, 37.2-810

Alternative Transportation ECOs/TDOs - Delivery

- Copy of ECO/TDO must accompany person at all times
- **ECOs:** alternative provider delivers **copy to CSB** conducting evaluation; CSB returns copy to court designated by magistrate
- **TDOs:** alternative provider delivers **copy to TDO facility**; TDO facility returns copy to court designated by magistrate

§§ 37.2-808, 37.2-810

Alternative Transportation ECOs/TDOs – Delivery/Return

- CSB/TDO facility must return copy of the ECO/TDO to court as soon as practicable
- Delivery of ECO/TDO to law enforcement and return of the order to court may be done electronically or by facsimile

§§ 37.2-808, 37.2-810

Alternative Transportation ECO limitation

- Alternative transportation only available under ECOs if person meets 2nd prong of criteria, i.e. person lacks capacity to protect himself from harm or provide for basic human needs
- Not available if person meets dangerous prong
- Custody may be transferred to evaluation facility, as with law enforcement
- Law enforcement need not transfer custody to alternative provider if safety problem perceived

§ 37.2-808

Alternative Transportation Following Commitment

- § 37.2-830 authorizing alternative transportation repealed and provisions moved to § 37.2-829
- Judge/special justice first considers whether transportation to be provided by sheriff or other provider
- Alternative providers include family, friends, CSB, TDO facility, or provider with trained staff

§ 37.2-829

Alternative Transportation Following Commitment

- Judge/special justice must consider information from person's treating mental health professional and CSB regarding dangerousness
- Judge/special justice may consult with proposed provider in person or by two-way electronic video and audio system or by telephone to determine whether proposed provider is available, willing and able to provide transportation

§ 37.2-829

Alternative Transportation Minors (§ 16.1-345)

- Alternative transportation providers may also transport minors after commitment under § 16.1-345
- Revised transportation provisions for ECOs/TDOs for adults also apply to minors under § 16.1-340

Law Enforcement Custody

HB2486 (Hamilton)/SB1079 (Howell)

- Clarifies that law-enforcement officer who takes custody of person may go beyond territorial limits of his jurisdiction to obtain assessment of need for hospitalization
- Clarifies if person has consented to transport for MH assessment or evaluation beyond officer's territorial limits and revokes consent, law-enforcement may take custody up to 4 hours if person otherwise meets criteria
- 4 hours shall be extended 2 hours by magistrate for good cause
- Enactment clause reflects that these provisions are declarative of existing law

§ 37.2-808

DMHMRSAS Name Change HB 2300(Caputo)/SB 1117(Ticer)

- Changes Name of DMHMRSAS to:

Department of Behavioral Health and
Developmental Services (DBHDS)

Crisis Intervention Teams

SB 1294 (Edwards)

- By January 1, 2010, DCJS and DMHMRSAS shall support the development and establishment of CIT programs throughout the Commonwealth.
- Such teams shall assist law-enforcement officers in responding to crisis situations involving persons with mental illness and/or substance abuse.

§ 9.1-187 (A)

- DCJS in consultation with DMHMRSAS and other stakeholders shall develop a training program for all persons involved in CIT programs

§ 9.1-188

Crisis Intervention Teams

SB 1294 (Edwards)

- Goals of CIT programs shall be
 - Provide immediate response by specially trained officers
 - Reduce time officers spend awaiting assessment
 - Provide a therapeutic location or protocol for assessment for officers to bring individuals in crisis
 - Afford a sense of dignity to individuals in crisis
 - Reduce likelihood of physical confrontation
 - Decrease arrest and use of force
 - Identify underserved populations and link to care

§ 9.1-187(A)

Crisis Intervention Teams

SB 1294 (Edwards)

- Each crisis intervention team shall develop a protocol that permits law-enforcement to release a person with mental illness and/or substance abuse when the CIT has determined that the person is sufficiently stable and to refer the person for emergency treatment services

§ 9.1-189

Crisis Intervention Teams

SB 1294 (Edwards)

- By November 1, 2009, DCJS and DMHMRSAS shall submit a report to the Joint Commission on Health Care (JCHC) outlining the status of the CIT programs
§ 9.1-187(C)
- By November 15, 2009, 2010, and 2011, DCJS and DMHMRSAS shall submit a report to the JCHC assessing the impact and effectiveness of CIT programs in meeting the program goals
§ 9.1-190