
COMMONWEALTH OF VIRGINIA



OFFICE OF THE GOVERNOR

Executive Order 50 (2007)

REPORTING CRITICAL SAFETY DATA TO THE CENTRAL CRIMINAL RECORDS EXCHANGE

Importance of the Issue

In the aftermath of the murders and injuries on the campus of Virginia Tech on April 16, 2007, and in order to promote the safety of the residents of our Commonwealth, it is imperative that we take steps to make sure that laws affecting the purchase of firearms by persons with mental illness adjudicated by a court are carefully reviewed.

The General Assembly will determine during its 2008 session what legislative changes are appropriate in this regard. In the meantime, however, it is important that we take appropriate administrative steps to bring greater clarity to how existing laws governing the purchase of firearms by those who have been ordered to receive involuntary treatment for mental illness by a court are to be interpreted by the executive branch.

Such steps should include reporting to relevant databases all mental health adjudications that determine a person is mentally ill and a danger to himself or others, and thereby required to receive mental health treatment, whether on an inpatient or outpatient basis. The full inclusion of such adjudications in state and federal databases would bar such an individual from gun purchases until such time as his or her right to purchase firearms is restored by a court.

Statutory Authority

In 2005, the General Assembly amended certain statutes by which courts are authorized to order involuntary mental health treatment. One such change altered Va. Code Section 37.2-819, the statute requiring reporting of mental health adjudications to the Central Criminal Records Exchange. Previous language required reporting an adjudication that a person was mentally ill and a danger to himself or others only if that person was then “committed to a hospital.” The 2005 change broadened the language to require such a report if the person was “admitted to a facility.” There are several reasonable interpretations of the phrase “admission to a facility,” since the term “facility” is defined expansively as any “state or licensed hospital, training center, psychiatric hospital, or other type of residential or outpatient mental health or mental retardation facility.”

After review of the statutes and the practices among Virginia courts, I believe it is appropriate for all agencies to report any mental health adjudications leading to involuntary treatment, premised upon a danger finding, whether or not such treatment is to be received in an inpatient or outpatient setting.

Direction to Executive Branch Employees

I therefore direct that all executive branch employees consider any involuntary treatment order pursuant to §37.2-817, whether inpatient or outpatient, to be an “admission to a facility” for purposes of §37.2-819, using the definition of “facility” cited above from §37.2-100. This includes, without limitation, a direction that forms, announcements, training, and executive branch procedures affected hereby be revised accordingly.

I further direct the Virginia State Police to request copies of orders both for involuntary inpatient and involuntary outpatient care from the appropriate district courts, and to revise SP-237, the form by which they request such orders. The State Police shall include such orders in the Central Criminal Records Exchange and share such data as appropriate with federal law enforcement agencies. Pursuant to its duties under Section 18.2-308.2:2, the State Police shall report to the requesting firearms dealer any person who has been ordered by the court to receive such involuntary inpatient or outpatient mental health care as described herein and such person shall be prohibited from purchasing a firearm from that dealer until that person’s firearms rights have been restored.

I further direct the Department of Mental Health, Mental Retardation and Substance Abuse Services to revise DMH 1006, the form by which it petitions for involuntary care, to reflect that both inpatient and outpatient involuntary care are to be reported to the Central Criminal Records Exchange.

Effective Date of the Executive Order

This executive order shall become effective upon its signing and shall remain in full force and effect unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 30th day of April 2007.

Timothy M. Kaine, Governor

Attest:

Secretary of the Commonwealth