

Rule 23. Evaluation and Final Hearings in Cases Governed by Minnesota Statutes, Section 253B.18

(a) For persons who have been committed as mentally ill and dangerous to the public, the head of the treatment facility shall file the report required by Minnesota Statutes, section 253B.18. The evaluation may be conducted at a secure treatment or at a correctional facility. If transport is needed, the court shall designate the agency responsible to do it.

(b) Prior to making the final determination with regard to a person initially committed as mentally ill and dangerous to the public, the court shall hold a hearing. The head of the treatment facility, or his or her designee, shall file the report required by Minnesota Statutes, section 253B.18, subdivision 2. The hearing for final determination shall be held within 14 days of the court's receipt of the report from the head of the treatment facility or within 90 days of the date of initial commitment, whichever is earlier, unless continued by agreement of the parties, or by the court for good cause shown. As its final determination, the court may, subject to Minn. R. Crim. P. 20.01 subd 4:

(1) Discharge the respondent's commitment;

(2) Commit the respondent as mentally ill only, in which case the respondent's commitment shall be deemed to have commenced upon the date of initial commitment, for purposes of determining the maximum length of the determinate commitment; or

(3) Commit the respondent for an indeterminate period as mentally ill and dangerous to the public.

(c) At the request of the respondent, the court shall appoint an examiner of the respondent's choice for purposes of the hearing required by this rule.

(d) The written report of the head of the treatment facility pursuant to Minnesota Statutes, section 253B.18, subdivision 2, shall address the criteria for commitment and whether there has been any change in the respondent's condition since the commitment hearing. The report shall provide the following information:

(1) the respondent's diagnosis;

(2) the respondent's present condition and behavior;

(3) the facts, if any, that establish that the respondent continues to satisfy the statutory requirements for commitment;

(4) a description of treatment efforts and response to treatment by the respondent during hospitalization;

(5) the respondent's prognosis;

(6) the respondent's individual treatment plan;

(7) an opinion as to whether the respondent is in need of further care and treatment;

(8) an opinion as to the program or facility best able to provide further care and treatment, if needed;

(9) an opinion as to whether respondent is dangerous to the public or himself. All supportive data and documentation shall be submitted with the report.

(e) At the hearing, the court shall consider all competent evidence relevant to the respondent's present need for continued commitment. The burden of proof at the hearing is upon the proponent of indeterminate commitment to establish by clear and convincing evidence that the statutory requirements for commitment under Minnesota Statutes, chapter 253B, continue to be met.

(Amended effective September 18, 2013; amended effective July 1, 2015.)

Advisory Committee Comment - 1999

This rule is intended to require final resolution, with due diligence, of the commitment process of a respondent who is mentally ill and dangerous to the public, a sexually dangerous person, or a sexual psychopathic personality. An initial hearing should not be "reviewed" years later. The rule is not intended to dictate where a committed person should be confined. If a commitment is sustained upon review and the individual is still subject to commitment to the Commissioner of Corrections the balance of the sentence is to be served in a correctional institution.

Advisory Committee Comment - 2015 Amendments

Rule 23 is amended to conform to the statutory abrogation of the initial commitment period and review hearing for respondents committed as sexually dangerous persons and/or persons with a sexual psychopathic personality. All such commitments are now for an indeterminate period of time under Minnesota Statutes, section 253D.07, subdivision 4. The amendment is not intended to modify or limit the rights of respondents committed under petitions filed prior to the statutory change of section 253B.18. See Minnesota Laws 2011, chapter 102, article 3, section 1 (effective May 28, 2011).