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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2067

02/01/2012 Authored by Kiffmeyer, Hilty and Cornish

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to human services; distinguishing and clarifying law regarding
1.3 civil commitment to the Minnesota sex offender program from other civil
1.4 commitments; amending Minnesota Statutes 2010, sections 253B.02,
1.5 subdivisions 18a, 24; 253B.03, subdivision 1a; 253B.045, subdivision 1a;
1.6 253B.092, subdivision 1; 253B.17, subdivision 1; 253B.185, subdivisions 1a,
1.7 1b, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19; Minnesota Statutes 2011
1.8 Supplement, sections 253B.185, subdivisions 1, 10a, 11a, 11b, 14a, 16; 253B.19,
1.9 subdivision 2; proposing coding for new law as Minnesota Statutes, chapter
1.10 253D.

1.11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.12 Section 1. Minnesota Statutes 2010, section 253B.02, subdivision 18a, is amended to
1.13 read:

1.14 Subd. 18a. **Secure treatment facility.** "Secure treatment facility" means the
1.15 Minnesota Security Hospital ~~and the Minnesota sex offender program facility in Moose~~
1.16 ~~Lake and any portion of the Minnesota sex offender program operated by the Minnesota~~
1.17 ~~sex offender program at the Minnesota Security Hospital,~~ but does not include services or
1.18 programs administered by the secure treatment facility outside a secure environment.

1.19 Sec. 2. Minnesota Statutes 2010, section 253B.02, subdivision 24, is amended to read:

1.20 Subd. 24. **Administrative restriction.** "Administrative restriction" means any
1.21 measure utilized by the commissioner to maintain safety and security, protect possible
1.22 evidence, and prevent the continuation of suspected criminal acts. Administrative
1.23 restriction does not mean protective isolation as defined by Minnesota Rules, part
1.24 9515.3090, subpart 4. Administrative restriction may include increased monitoring,
1.25 program limitations, loss of privileges, restricted access to and use of possessions,
1.26 and separation of a patient from the normal living environment, as determined by the

2.1 commissioner or the commissioner's designee. Administrative restriction applies only to
 2.2 ~~patients~~ committed persons in a secure treatment facility as defined in ~~subdivision 18a~~
 2.3 section 253D.02, subdivision 3, who:

- 2.4 (1) are suspected of committing a crime or charged with a crime;
- 2.5 (2) are the subject of a criminal investigation;
- 2.6 (3) are awaiting sentencing following a conviction of a crime; or
- 2.7 (4) are awaiting transfer to a correctional facility.

2.8 ~~The commissioner shall establish policies and procedures according to section 246.014,~~
 2.9 ~~paragraph (d), regarding the use of administrative restriction. The policies and procedures~~
 2.10 ~~shall identify the implementation and termination of administrative restrictions. Use of~~
 2.11 ~~administrative restriction and the reason associated with the use shall be documented~~
 2.12 ~~in the patient's medical record.~~

2.13 Sec. 3. Minnesota Statutes 2010, section 253B.03, subdivision 1a, is amended to read:

2.14 Subd. 1a. **Administrative restriction.** (a) A patient committed person has the
 2.15 right to be free from unnecessary or excessive administrative restriction. Administrative
 2.16 restriction shall not be used for the convenience of staff, for retaliation for filing
 2.17 complaints, or as a substitute for program treatment. Administrative restriction may not
 2.18 involve any further deprivation of privileges than is necessary.

2.19 (b) Administrative restriction may include separate and secure housing.

2.20 (c) ~~Patients~~ Committed Persons under administrative restriction shall not be limited
 2.21 in access to their attorney.

2.22 (d) If a patient committed person is placed on administrative restriction because
 2.23 the patient committed person is suspected of committing a crime, the secure treatment
 2.24 facility must report the crime to the appropriate police agency within 24 hours of the
 2.25 beginning of administrative restriction. The patient committed person must be released
 2.26 from administrative restriction if a police agency does not begin an investigation within 72
 2.27 hours of the report.

2.28 (e) A patient committed person placed on administrative restriction because the
 2.29 patient committed person is a subject of a criminal investigation must be released from
 2.30 administrative restriction when the investigation is completed. If the patient committed
 2.31 person is charged with a crime following the investigation, administrative restriction may
 2.32 continue until the charge is disposed of.

2.33 (f) The secure treatment facility must notify the patient's committed person's
 2.34 attorney of the patient committed person being placed on administrative restriction within
 2.35 24 hours after the beginning of administrative restriction.

3.1 (g) The commissioner shall establish policies and procedures according to section
3.2 246.014, paragraph (d), regarding the use of administrative restriction. The policies
3.3 and procedures shall identify the implementation and termination of administrative
3.4 restrictions. Use of administrative restriction and the reason associated with the use shall
3.5 be documented in the committed person's medical record.

3.6 Sec. 4. Minnesota Statutes 2010, section 253B.045, subdivision 1a, is amended to read:

3.7 Subd. 1a. ~~Exception~~ **Correctional facilities.** (a) A person who is being petitioned
3.8 for commitment under ~~section 253B.185~~ this chapter and who is placed under a judicial
3.9 hold order under section 253B.07, subdivision 2b or 7, may be confined at a Department
3.10 of Corrections or a county correctional or detention facility, rather than a secure treatment
3.11 facility, until a determination of the commitment petition as specified in this subdivision.

3.12 (b) A court may order that a person who is being petitioned for commitment under
3.13 ~~section 253B.185~~ this chapter be confined in a Department of Corrections facility pursuant
3.14 to the judicial hold order under the following circumstances and conditions:

3.15 (1) The person is currently serving a sentence in a Department of Corrections
3.16 facility and the court determines that the person has made a knowing and voluntary (i)
3.17 waiver of the right to be held in a secure treatment facility and (ii) election to be held in a
3.18 Department of Corrections facility. The order confining the person in the Department of
3.19 Corrections facility shall remain in effect until the court vacates the order or the person's
3.20 criminal sentence and conditional release term expire.

3.21 In no case may the person be held in a Department of Corrections facility pursuant
3.22 only to this subdivision, and not pursuant to any separate correctional authority, for more
3.23 than 210 days.

3.24 (2) A person who has elected to be confined in a Department of Corrections facility
3.25 under this subdivision may revoke the election by filing a written notice of intent to revoke
3.26 the election with the court and serving the notice upon the Department of Corrections and
3.27 the county attorney. The court shall order the person transferred to a secure treatment
3.28 facility within 15 days of the date that the notice of revocation was filed with the court,
3.29 except that, if the person has additional time to serve in prison at the end of the 15-day
3.30 period, the person shall not be transferred to a secure treatment facility until the person's
3.31 prison term expires. After a person has revoked an election to remain in a Department of
3.32 Corrections facility under this subdivision, the court may not adopt another election to
3.33 remain in a Department of Corrections facility without the agreement of both parties and
3.34 the Department of Corrections.

4.1 (3) Upon petition by the commissioner of corrections, after notice to the parties
4.2 and opportunity for hearing and for good cause shown, the court may order that the
4.3 person's place of confinement be changed from the Department of Corrections to a secure
4.4 treatment facility.

4.5 (4) While at a Department of Corrections facility pursuant to this subdivision, the
4.6 person shall remain subject to all rules and practices applicable to correctional inmates
4.7 in the facility in which the person is placed including, but not limited to, the powers and
4.8 duties of the commissioner of corrections under section 241.01, powers relating to use of
4.9 force under section 243.52, and the right of the commissioner of corrections to determine
4.10 the place of confinement in a prison, reformatory, or other facility.

4.11 (5) A person may not be confined in a Department of Corrections facility under this
4.12 provision beyond the end of the person's executed sentence or the end of any applicable
4.13 conditional release period, whichever is later. If a person confined in a Department of
4.14 Corrections facility pursuant to this provision reaches the person's supervised release
4.15 date and is subject to a period of conditional release, the period of conditional release
4.16 shall commence on the supervised release date even though the person remains in the
4.17 Department of Corrections facility pursuant to this provision. At the end of the later of
4.18 the executed sentence or any applicable conditional release period, the person shall be
4.19 transferred to a secure treatment facility.

4.20 (6) Nothing in this section may be construed to establish a right of an inmate in a
4.21 state correctional facility to participate in sex offender treatment. This section must be
4.22 construed in a manner consistent with the provisions of section 244.03.

4.23 (c) The committing county may offer a person who is being petitioned for
4.24 commitment under ~~section 253B.185~~ this chapter and who is placed under a judicial
4.25 hold order under section 253B.07, subdivision 2b or 7, the option to be held in a county
4.26 correctional or detention facility rather than a secure treatment facility, under such terms
4.27 as may be agreed to by the county, the commitment petitioner, and the commitment
4.28 respondent. If a person makes such an election under this paragraph, the court hold order
4.29 shall specify the terms of the agreement, including the conditions for revoking the election.

4.30 Sec. 5. Minnesota Statutes 2010, section 253B.092, subdivision 1, is amended to read:

4.31 Subdivision 1. **General.** Neuroleptic medications may be administered, only as
4.32 provided in this section, to patients subject to early intervention or civil commitment as
4.33 mentally ill or mentally ill and dangerous ~~only as provided in this section~~, a sexually
4.34 dangerous person, or a sexual psychopathic personality. For purposes of this section,

5.1 "patient" includes a proposed patient who is the subject of a petition for early intervention
5.2 or commitment and a committed person as defined in section 253D.02, subdivision 3.

5.3 Sec. 6. Minnesota Statutes 2010, section 253B.17, subdivision 1, is amended to read:

5.4 Subdivision 1. **Petition.** Any patient, except one committed as a sexually dangerous
5.5 person or person with a sexual psychopathic personality or as a person who is mentally ill
5.6 and dangerous to the public ~~or as a sexually dangerous person or person with a sexual~~
5.7 ~~psychopathic personality~~ as provided in section 253B.18, subdivision 3, or any interested
5.8 person may petition the committing court or the court to which venue has been transferred
5.9 for an order that the patient is not in need of continued care and treatment or for an order
5.10 that an individual is no longer a person who is mentally ill, developmentally disabled, or
5.11 chemically dependent, or for any other relief. A patient committed as a person who is
5.12 mentally ill or mentally ill and dangerous or a sexually dangerous person or person with a
5.13 sexual psychopathic personality may petition the committing court or the court to which
5.14 venue has been transferred for a hearing concerning the administration of neuroleptic
5.15 medication.

5.16 Sec. 7. Minnesota Statutes 2011 Supplement, section 253B.185, subdivision 1, is
5.17 amended to read:

5.18 Subdivision 1. **Commitment generally.** ~~(a) Except as otherwise provided in this~~
5.19 ~~section, the provisions of this chapter pertaining to persons who are mentally ill and~~
5.20 ~~dangerous to the public apply with like force and effect to persons who are alleged or~~
5.21 ~~found to be sexually dangerous persons or persons with a sexual psychopathic personality.~~
5.22 ~~For purposes of this section, "sexual psychopathic personality" includes any individual~~
5.23 ~~committed as a "psychopathic personality" under Minnesota Statutes 1992, section 526.10.~~

5.24 ~~(b)~~ (a) Before commitment proceedings are instituted, the facts shall first be
5.25 submitted to the county attorney, who, if satisfied that good cause exists, will prepare the
5.26 petition. The county attorney may request a prepetition screening report. The petition is to
5.27 be executed by a person having knowledge of the facts and filed with the district court of
5.28 the county of financial responsibility, as defined in section 253B.02, subdivision 4c, or the
5.29 county where the ~~patient~~ respondent proposed committed person is present. If the ~~patient~~
5.30 respondent is in the custody of the commissioner of corrections, the petition may be filed
5.31 in the county where the conviction for which the person is incarcerated was entered.

5.32 ~~(c)~~ (b) Upon the filing of a petition alleging that a respondent proposed patient
5.33 committed person is a sexually dangerous person or is a person with a sexual psychopathic

6.1 personality, the court shall hear the petition as provided in ~~section 253B.18, except that~~
 6.2 ~~section 253B.18, subdivisions 2 and 3, shall not apply~~ sections 253B.07 and 253B.08.

6.3 ~~(d) In commitments under this section,~~ (c) If the court finds by clear and convincing
 6.4 evidence that the respondent proposed committed person is a sexually dangerous person
 6.5 or a sexual psychopathic personality, the court shall commit the patient respondent to a
 6.6 secure treatment facility unless the patient respondent establishes by clear and convincing
 6.7 evidence that a less restrictive treatment program is available that is consistent with the
 6.8 patient's respondent's treatment needs and the requirements of public safety.

6.9 ~~(e)~~ (d) After a ~~final~~ determination that a patient respondent is a sexually dangerous
 6.10 person or sexual psychopathic personality, the court shall order commitment for an
 6.11 indeterminate period of time and the patient respondent committed person shall be
 6.12 transferred, provisionally discharged, or discharged, only as provided in this ~~section~~
 6.13 chapter.

6.14 Sec. 8. Minnesota Statutes 2010, section 253B.185, subdivision 1a, is amended to read:

6.15 Subd. 1a. **Temporary confinement Jails.** During any hearing held under this
 6.16 section, or pending ~~emergency~~ revocation of a provisional discharge, the court may order
 6.17 the patient committed person or proposed patient committed person temporarily confined
 6.18 in a jail or lockup but only if:

6.19 (1) there is no other feasible place of confinement for the patient committed person
 6.20 within a reasonable distance;

6.21 (2) the confinement is for less than 24 hours or, if during a hearing, less than 24
 6.22 hours prior to commencement and after conclusion of the hearing; and

6.23 (3) there are protections in place, including segregation of the patient committed
 6.24 person, to ensure the safety of the patient committed person.

6.25 Sec. 9. Minnesota Statutes 2010, section 253B.185, subdivision 1b, is amended to read:

6.26 Subd. 1b. **County attorney access to data.** Notwithstanding sections 144.291
 6.27 to 144.298; 245.467, subdivision 6; 245.4876, subdivision 7; 260B.171; 260B.235,
 6.28 subdivision 8; 260C.171; and 609.749, subdivision 6, or any provision of chapter 13
 6.29 or other state law, prior to filing a petition for commitment as a sexual psychopathic
 6.30 personality or as a sexually dangerous person, and upon notice to the proposed patient
 6.31 respondent, the county attorney or the county attorney's designee may move the court for
 6.32 an order granting access to any records or data, to the extent it relates to the proposed
 6.33 patient respondent, for the purpose of determining whether good cause exists to file a
 6.34 petition and, if a petition is filed, to support the allegations set forth in the petition.

7.1 The court may grant the motion if: (1) the Department of Corrections refers the case
 7.2 for commitment as a sexual psychopathic personality or a sexually dangerous person; or
 7.3 (2) upon a showing that the requested category of data or records may be relevant to the
 7.4 determination by the county attorney or designee. The court shall decide a motion under
 7.5 this ~~subdivision~~ section within 48 hours after a hearing on the motion. Notice to the
 7.6 proposed ~~patient~~ respondent need not be given upon a showing that such notice may result
 7.7 in harm or harassment of interested persons or potential witnesses.

7.8 Notwithstanding any provision of chapter 13 or other state law, a county attorney
 7.9 considering the civil commitment of a person under this ~~section~~ chapter may obtain
 7.10 records and data from the Department of Corrections or any probation or parole agency in
 7.11 this state upon request, without a court order, for the purpose of determining whether good
 7.12 cause exists to file a petition and, if a petition is filed, to support the allegations set forth in
 7.13 the petition. At the time of the request for the records, the county attorney shall provide
 7.14 notice of the request to the person who is the subject of the records.

7.15 Data collected pursuant to this ~~subdivision~~ section shall retain their original status
 7.16 and, if not public, are inadmissible in any court proceeding unrelated to civil commitment,
 7.17 unless otherwise permitted.

7.18 Sec. 10. Minnesota Statutes 2010, section 253B.185, subdivision 2, is amended to read:

7.19 Subd. 2. **Transfer to correctional facility.** (a) If a person has been committed
 7.20 under this ~~section~~ chapter and later is committed to the custody of the commissioner of
 7.21 corrections for any reason, including but not limited to, being sentenced for a crime or
 7.22 revocation of the person's supervised release or conditional release under section 244.05;
 7.23 609.3455, subdivision 6, 7, or 8; Minnesota Statutes 2004, section 609.108, subdivision
 7.24 6; or Minnesota Statutes 2004, section 609.109, subdivision 7, the person shall be
 7.25 transferred to a facility designated by the commissioner of corrections without regard to
 7.26 the procedures provided in ~~subdivision 11~~ section 253D.29.

7.27 (b) If a person is committed under this ~~section~~ chapter after a commitment to
 7.28 the commissioner of corrections, the person shall first serve the sentence in a facility
 7.29 designated by the commissioner of corrections. After the person has served the sentence,
 7.30 the person shall be transferred to a treatment program designated by the commissioner
 7.31 of human services.

7.32 Sec. 11. Minnesota Statutes 2010, section 253B.185, subdivision 4, is amended to read:

7.33 Subd. 4. **Statewide judicial panel; commitment proceedings.** (a) The Supreme
 7.34 Court may establish a panel of district judges with statewide authority to preside over

8.1 commitment proceedings of sexual psychopathic personalities and sexually dangerous
 8.2 persons. Only one judge of the panel is required to preside over a particular commitment
 8.3 proceeding. Panel members shall serve for one-year terms. One of the judges shall be
 8.4 designated as the chief judge of the panel, and is vested with the power to designate the
 8.5 presiding judge in a particular case, to set the proper venue for the proceedings, and to
 8.6 otherwise supervise and direct the operation of the panel. The chief judge shall designate
 8.7 one of the other judges to act as chief judge whenever the chief judge is unable to act.

8.8 (b) If the Supreme Court creates the judicial panel authorized by this section,
 8.9 all petitions for civil commitment brought under ~~subdivision 1~~ section 253D.07 shall
 8.10 be filed with the supreme court instead of with the district court in the county where
 8.11 the proposed patient is present, notwithstanding any provision of subdivision 1 to the
 8.12 contrary. Otherwise, all of the other applicable procedures contained in this chapter and
 8.13 sections 253B.07 and 253B.08 apply to commitment proceedings conducted by a judge
 8.14 on the panel.

8.15 Sec. 12. Minnesota Statutes 2010, section 253B.185, subdivision 5, is amended to read:

8.16 Subd. 5. **Financial responsibility.** (a) For purposes of this subdivision, "state
 8.17 facility" has the meaning given in section 246.50 and also includes a Department of
 8.18 Corrections facility when the proposed ~~patient~~ committed person is confined in such a
 8.19 facility pursuant to section ~~253B.045, subdivision 1a~~ 253D.10, subdivision 2.

8.20 (b) Notwithstanding sections 246.54, ~~253B.045~~ 253D.10, and any other law to the
 8.21 contrary, when a petition is filed for commitment under this ~~section~~ chapter pursuant
 8.22 to the notice required in section 244.05, subdivision 7, the state and county are each
 8.23 responsible for 50 percent of the cost of the person's confinement at a state facility or
 8.24 county jail, prior to commitment.

8.25 (c) The county shall submit an invoice to the state court administrator for
 8.26 reimbursement of the state's share of the cost of confinement.

8.27 (d) Notwithstanding paragraph (b), the state's responsibility for reimbursement is
 8.28 limited to the amount appropriated for this purpose.

8.29 Sec. 13. Minnesota Statutes 2010, section 253B.185, subdivision 7, is amended to read:

8.30 Subd. 7. **Rights of ~~patients~~ persons committed under this ~~section~~ chapter.** (a)
 8.31 The commissioner ~~or the commissioner's designee~~ may limit the statutory rights described
 8.32 in paragraph (b) for ~~patients~~ persons committed to the Minnesota sex offender program
 8.33 under this ~~section~~ chapter or with the commissioner's consent under section 246B.02. The
 8.34 statutory rights described in paragraph (b) may be limited only as necessary to maintain

9.1 a therapeutic environment or the security of the facility or to protect the safety and
 9.2 well-being of ~~patients~~ committed persons, staff, and the public.

9.3 (b) The statutory rights that may be limited in accordance with paragraph (a) are
 9.4 those set forth in section 144.651, subdivision 19, personal privacy; section 144.651,
 9.5 subdivision 21, private communications; section 144.651, subdivision 22, retain and use
 9.6 of personal property; section 144.651, subdivision 25, manage personal financial affairs;
 9.7 section 144.651, subdivision 26, meet with visitors and participate in groups; section
 9.8 253B.03, subdivision 2, correspond with others; and section 253B.03, subdivision 3,
 9.9 receive visitors and make telephone calls. Other statutory rights enumerated by sections
 9.10 144.651 and 253B.03, or any other law, may be limited as provided in those sections.

9.11 Sec. 14. Minnesota Statutes 2010, section 253B.185, subdivision 8, is amended to read:

9.12 Subd. 8. **Petition and report required.** (a) Within 120 days of receipt of a
 9.13 preliminary determination from a court under section 609.1351, or a referral from the
 9.14 commissioner of corrections pursuant to section 244.05, subdivision 7, a county attorney
 9.15 shall determine whether good cause under ~~this section~~ 253D.07 exists to file a petition, and
 9.16 if good cause exists, the county attorney or designee shall file the petition with the court.

9.17 (b) Failure to meet the requirements of paragraph (a) does not bar filing a petition
 9.18 under subdivision 1 any time the county attorney determines pursuant to ~~subdivision 1~~
 9.19 section 253D.07 that good cause for such a petition exists.

9.20 Sec. 15. Minnesota Statutes 2010, section 253B.185, subdivision 9, is amended to read:

9.21 Subd. 9. **Petition for reduction in custody.** (a) This subdivision applies only
 9.22 to committed persons as defined in ~~paragraph (b)~~ section 253D.02, subdivision 3. The
 9.23 procedures in ~~subdivision 10~~ section 253D.14 for victim notification and right to submit
 9.24 a statement apply to petitions filed and reductions in custody recommended under this
 9.25 subdivision.

9.26 (b) ~~As used in this subdivision:~~

9.27 ~~(1) "committed person" means an individual committed under this section, or under~~
 9.28 ~~this section and under section 253B.18, as mentally ill and dangerous. It does not include~~
 9.29 ~~persons committed only as mentally ill and dangerous under section 253B.18; and~~

9.30 ~~(2)~~ For the purposes of this section, "reduction in custody" means transfer out of
 9.31 a secure treatment facility, a provisional discharge, or a discharge from commitment. A
 9.32 reduction in custody is considered to be a commitment proceeding under section 8.01.

9.33 (c) A petition for a reduction in custody or an appeal of a revocation of provisional
 9.34 discharge may be filed by either the committed person or by the ~~head of the treatment~~

10.1 ~~facility~~ executive director and must be filed with and considered by a panel of the special
10.2 review board authorized under section 253B.18, subdivision 4c. A committed person may
10.3 not petition the special review board any sooner than six months following either:

10.4 (1) the entry of judgment in the district court of the order for commitment issued
10.5 under section ~~253B.18, subdivision 3~~ 253D.07, or upon the exhaustion of all related
10.6 appeal rights in state court relating to that order, whichever is later; or

10.7 (2) any recommendation of the special review board or order of the judicial appeal
10.8 panel, or upon the exhaustion of all appeal rights in state court, whichever is later. The
10.9 ~~head of the treatment facility~~ executive director may petition at any time. The special
10.10 review board proceedings are not contested cases as defined in chapter 14.

10.11 (d) The special review board shall hold a hearing on each petition before issuing
10.12 a recommendation and report under ~~paragraph (f) subdivision 4~~. Fourteen days before
10.13 the hearing, the committing court, the county attorney of the county of commitment,
10.14 the ~~designated agency~~ county attorney of the county of financial responsibility, an
10.15 interested person, the petitioner and the petitioner's counsel, and the committed person
10.16 and the committed person's counsel must be given written notice by the commissioner
10.17 of the time and place of the hearing before the special review board. Only those entitled
10.18 to statutory notice of the hearing or those administratively required to attend may be
10.19 present at the hearing. The ~~patient~~ committed person may designate interested persons
10.20 to receive notice by providing the names and addresses to the commissioner at least 21
10.21 days before the hearing.

10.22 (e) A person or agency receiving notice that submits documentary evidence to
10.23 the special review board before the hearing must also provide copies to the committed
10.24 person, the committed person's counsel, the county attorney of the county of commitment,
10.25 and the case manager, and the commissioner county attorney of the county of financial
10.26 responsibility. The special review board must consider any statements received from
10.27 victims under ~~subdivision 10~~ section 253D.14.

10.28 (f) Within 30 days of the hearing, the special review board shall issue a report with
10.29 written findings of fact and shall recommend denial or approval of the petition to the
10.30 judicial appeal panel established under section 253B.19. The commissioner shall forward
10.31 the recommendation and report of the special review board to the judicial appeal panel
10.32 and to every person entitled to statutory notice. No reduction in custody or reversal of a
10.33 revocation of provisional discharge recommended by the special review board is effective
10.34 until it has been reviewed by the judicial appeal panel and until 15 days after an order
10.35 from the judicial appeal panel affirming, modifying, or denying the recommendation.

11.1 Sec. 16. Minnesota Statutes 2010, section 253B.185, subdivision 10, is amended to
11.2 read:

11.3 Subd. 10. **Victim notification of petition and release; right to submit statement.**

11.4 (a) As used in this ~~subdivision~~ section:

11.5 (1) "Crime" has the meaning given to "violent crime" in section 609.1095, and
11.6 includes criminal sexual conduct in the fifth degree and offenses within the definition of
11.7 "crime against the person" in section 253B.02, subdivision 4a, and also includes offenses
11.8 listed in section 253B.02, subdivision 7a, paragraph (b), regardless of whether they are
11.9 sexually motivated;

11.10 (2) "Victim" means a person who has incurred loss or harm as a result of a crime,
11.11 the behavior for which forms the basis for a commitment under this ~~section or section~~
11.12 ~~253B.18~~ chapter; and

11.13 (3) "Convicted" and "conviction" have the meanings given in section 609.02,
11.14 subdivision 5, and also include juvenile court adjudications, findings under Minnesota
11.15 Rules of Criminal Procedure, rule 20.02, that the elements of a crime have been proved,
11.16 and findings in commitment cases under this ~~section or section 253B.18~~ chapter, that an
11.17 act or acts constituting a crime occurred.

11.18 (b) A county attorney who files a petition to commit a person under this ~~section~~
11.19 chapter shall make a reasonable effort to provide prompt notice of filing the petition to any
11.20 victim of a crime for which the person was convicted. In addition, the county attorney shall
11.21 make a reasonable effort to promptly notify the victim of the resolution of the petition.

11.22 (c) Before provisionally discharging, discharging, granting pass-eligible status,
11.23 approving a pass plan, or otherwise permanently or temporarily releasing a person
11.24 committed under this ~~section~~ chapter from a treatment facility, the ~~head of the treatment~~
11.25 ~~facility~~ executive director shall make a reasonable effort to notify any victim of a crime
11.26 for which the person was convicted that the person may be discharged or released and
11.27 that the victim has a right to submit a written statement regarding decisions of the ~~head~~
11.28 ~~of the treatment facility or designee~~ executive director, or special review board, with
11.29 respect to the person. To the extent possible, the notice must be provided at least 14
11.30 days before any special review board hearing or before a determination on a pass plan.
11.31 Notwithstanding section 611A.06, subdivision 4, the commissioner shall provide the
11.32 judicial appeal panel with victim information in order to comply with the provisions of
11.33 this section. The judicial appeal panel shall ensure that the data on victims remains private
11.34 as provided for in section 611A.06, subdivision 4.

11.35 (d) This subdivision applies only to victims who have requested notification by
11.36 contacting, in writing, the county attorney in the county where the conviction for the crime

12.1 occurred or where the civil commitment was filed or, following commitment, the ~~head of~~
 12.2 ~~the treatment facility~~ executive director. A county attorney who receives a request for
 12.3 notification under this ~~paragraph~~ subdivision shall promptly forward the request to the
 12.4 commissioner of human services.

12.5 (e) Rights under this ~~subdivision~~ section are in addition to rights available to a victim
 12.6 under chapter 611A. This provision does not give a victim all the rights of a "notified
 12.7 person" or a person "entitled to statutory notice" under subdivision 12 or 13 or ~~section~~
 12.8 sections 253B.18, subdivision 4a, 4b, or 5; 253D.23; or 253D.27.

12.9 Sec. 17. Minnesota Statutes 2011 Supplement, section 253B.185, subdivision 10a,
 12.10 is amended to read:

12.11 Subd. 10a. **Scope of community notification.** (a) Notification of the public and
 12.12 disclosure of information under section 244.052, subdivision 4, regarding an individual
 12.13 who was committed under this ~~section~~ chapter or Minnesota Statutes 1992, section 526.10,
 12.14 is as provided under section 244.052, subdivision 4, paragraphs (b), clause (3), and (g),
 12.15 and subdivision 4b, regardless of the individual's assigned risk level.

12.16 (b) After four years from the date of an order for provisional discharge or discharge
 12.17 of civil commitment, the individual may petition the ~~head of the treatment facility from~~
 12.18 ~~which the individual was provisionally discharged or discharged~~ executive director to
 12.19 have the scope of notification and disclosure based solely upon the individual's assigned
 12.20 risk level under section 244.052.

12.21 (c) If an individual's provisional discharge is revoked for any reason, the four-year
 12.22 time period under paragraph (b) starts over from the date of a subsequent order for
 12.23 provisional discharge or discharge except that the ~~head of the treatment facility or~~
 12.24 ~~designee~~ executive director may, in ~~the~~ that person's sole discretion ~~of the head or~~
 12.25 ~~designee~~, determine that the individual may petition before four years have elapsed from
 12.26 the date of the order of the subsequent provisional discharge or discharge and notify the
 12.27 individual of that determination.

12.28 (d) The ~~head of the treatment facility~~ executive director shall appoint a
 12.29 multidisciplinary committee to review and make a recommendation on a petition made
 12.30 under paragraph (b). The ~~head of the treatment facility or designee~~ executive director may
 12.31 grant or deny the petition. There is no review or appeal of the decision. If a petition is
 12.32 denied, the individual may petition again after two years from the date of denial.

12.33 (e) Nothing in this ~~subdivision~~ section shall be construed to give an individual an
 12.34 affirmative right to petition the ~~head of the treatment facility~~ executive director earlier
 12.35 than four years after the date of an order for provisional discharge or discharge.

13.1 (f) The ~~head of the treatment facility~~ executive director shall act in place of the
 13.2 individual's corrections agent for the purpose of section 244.052, subdivision 3, paragraph
 13.3 (h), when the individual is not assigned to a corrections agent.

13.4 Sec. 18. Minnesota Statutes 2010, section 253B.185, subdivision 11, is amended to
 13.5 read:

13.6 Subd. 11. **Transfer.** (a) A patient person who is committed as a sexually dangerous
 13.7 person or sexual psychopathic personality shall not be transferred out of a secure treatment
 13.8 facility unless it appears to the satisfaction of the judicial appeal panel, after a hearing and
 13.9 recommendation by a majority of the special review board, that the transfer is appropriate.
 13.10 Transfer may be to other treatment programs under the commissioner's control.

13.11 (b) The following factors must be considered in determining whether a transfer
 13.12 is appropriate:

- 13.13 (1) the person's clinical progress and present treatment needs;
- 13.14 (2) the need for security to accomplish continuing treatment;
- 13.15 (3) the need for continued institutionalization;
- 13.16 (4) which facility can best meet the person's needs; and
- 13.17 (5) whether transfer can be accomplished with a reasonable degree of safety for
 13.18 the public.

13.19 Sec. 19. Minnesota Statutes 2011 Supplement, section 253B.185, subdivision 11a,
 13.20 is amended to read:

13.21 Subd. 11a. ~~Transfer; Voluntary readmission to a secure facility.~~ (a) After a
 13.22 patient committed person has been transferred out of a secure facility pursuant to section
 13.23 253D.29, subdivision ~~11~~ 1, and with the consent of the executive director ~~of the Minnesota~~
 13.24 ~~sex offender program~~, a patient committed person may voluntarily return to a secure
 13.25 facility operated by the Minnesota sex offender program for a period of up to 60 days.

13.26 (b) If the patient committed person is not returned to the facility to which the patient
 13.27 person was originally transferred pursuant to section 253D.29, subdivision ~~11~~ 1 within
 13.28 60 days of being readmitted to a secure facility, the transfer is revoked and the patient
 13.29 committed person shall remain in a secure facility. The patient committed person shall
 13.30 immediately be notified in writing of the revocation.

13.31 (c) Within 15 days of receiving notice of the revocation, the patient committed
 13.32 person may petition the special review board for a review of the revocation. The special
 13.33 review board shall review the circumstances of the revocation and shall recommend to the

14.1 judicial appeal panel whether or not the revocation shall be upheld. The special review
 14.2 board may also recommend a new transfer at the time of the revocation hearing.

14.3 (d) If the transfer has not been revoked and the patient committed person is to be
 14.4 returned to the facility to which the patient committed person was originally transferred
 14.5 pursuant to section 253D.29, subdivision ~~1~~ 1, with no substantive change to the
 14.6 conditions of the transfer ordered pursuant to section 253D.29, subdivision ~~1~~ 1, no action
 14.7 by the special review board or judicial appeal panel is required.

14.8 Sec. 20. Minnesota Statutes 2011 Supplement, section 253B.185, subdivision 11b,
 14.9 is amended to read:

14.10 Subd. 11b. ~~Transfer; Revocation.~~ (a) The executive director ~~of the Minnesota sex~~
 14.11 ~~offender program or designee~~ may revoke a transfer made pursuant to section 253D.29,
 14.12 subdivision ~~1~~ 1, and require a patient committed person to return to a secure treatment
 14.13 facility if:

14.14 (1) remaining in a nonsecure setting will not provide a reasonable degree of safety to
 14.15 the patient committed person or others; or

14.16 (2) the patient committed person has regressed in clinical progress so that the facility
 14.17 to which the patient committed person was transferred is no longer sufficient to meet the
 14.18 patient's committed person's needs.

14.19 (b) Upon the revocation of the transfer, the patient committed person shall be
 14.20 immediately returned to a secure treatment facility. A report documenting reasons for
 14.21 revocation shall be issued by the executive director ~~or designee~~ within seven days after the
 14.22 patient committed person is returned to the secure treatment facility. Advance notice to
 14.23 the patient committed person of the revocation is not required.

14.24 (c) The patient committed person must be provided a copy of the revocation report
 14.25 and informed, orally and in writing, of the rights of a patient committed person under this
 14.26 ~~subdivision~~ section. The revocation report shall be served upon the patient committed
 14.27 person and the patient's committed person's counsel. The report shall outline the specific
 14.28 reasons for the revocation including, but not limited to, the specific facts upon which
 14.29 the revocation ~~recommendation~~ is based.

14.30 (d) A patient committed person whose transfer is revoked must successfully
 14.31 re-petition the special review board and judicial appeal panel prior to being transferred out
 14.32 of a secure facility.

14.33 (e) Any patient committed person aggrieved by a transfer revocation decision may
 14.34 petition the special review board within seven days, exclusive of Saturdays, Sundays,
 14.35 and legal holidays, after receipt of the revocation report for a review of the revocation.

15.1 The matter shall be scheduled within 30 days. The special review board shall review
 15.2 the circumstances leading to the revocation and, after considering the factors in section
 15.3 253D.29, subdivision ~~1~~ 1, paragraph (b), shall recommend to the judicial appeal panel
 15.4 whether or not the revocation shall be upheld. The special review board may also
 15.5 recommend a new transfer out of a secure facility at the time of the revocation hearing.

15.6 Sec. 21. Minnesota Statutes 2010, section 253B.185, subdivision 12, is amended to
 15.7 read:

15.8 Subd. 12. **Provisional discharge Factors.** (a) A patient committed person who is
 15.9 committed as a sexual psychopathic personality or sexually dangerous person shall not be
 15.10 provisionally discharged unless it appears to the satisfaction of the judicial appeal panel,
 15.11 after a hearing and a recommendation by a majority of the special review board, that the
 15.12 patient committed person is capable of making an acceptable adjustment to open society.

15.13 (b) The following factors are to be considered in determining whether a provisional
 15.14 discharge shall be recommended:

15.15 (1) whether the patient's committed person's course of treatment and present mental
 15.16 status indicate there is no longer a need for treatment and supervision in the patient's
 15.17 committed person's current treatment setting; and

15.18 (2) whether the conditions of the provisional discharge plan will provide a reasonable
 15.19 degree of protection to the public and will enable the patient committed person to adjust
 15.20 successfully to the community.

15.21 Sec. 22. Minnesota Statutes 2010, section 253B.185, subdivision 13, is amended to
 15.22 read:

15.23 Subd. 13. **Provisional discharge Plan.** A provisional discharge plan shall be
 15.24 developed, implemented, and monitored by the ~~head of the treatment facility or designee~~
 15.25 executive director in conjunction with the patient committed person and other appropriate
 15.26 persons. The ~~head of the treatment facility or designee~~ executive director shall, at least
 15.27 quarterly, review the plan with the patient committed person and submit a written report
 15.28 to the ~~designated agency~~ county attorneys of the county of commitment and county of
 15.29 financial responsibility concerning the patient's committed person's status and compliance
 15.30 with each term of the plan.

15.31 Sec. 23. Minnesota Statutes 2010, section 253B.185, subdivision 14, is amended to
 15.32 read:

16.1 Subd. 14. ~~Provisional discharge; Review.~~ A provisional discharge pursuant to this
 16.2 ~~section chapter~~ shall not automatically terminate. A full discharge shall occur only as
 16.3 provided in ~~subdivision 18~~ section 253D.31. The ~~commissioner shall notify the patient~~
 16.4 ~~that the~~ terms of a provisional discharge continue unless the patient committed person
 16.5 requests and is granted a change in the conditions of provisional discharge or unless the
 16.6 patient committed person petitions the special review board for a full discharge and the
 16.7 discharge is granted by the judicial appeal panel.

16.8 Sec. 24. Minnesota Statutes 2011 Supplement, section 253B.185, subdivision 14a,
 16.9 is amended to read:

16.10 Subd. 14a. ~~Provisional discharge; Voluntary readmission.~~ (a) With the consent
 16.11 of the executive director ~~of the Minnesota sex offender program~~, a patient committed
 16.12 person may voluntarily return to the Minnesota sex offender program from provisional
 16.13 discharge for a period of up to 60 days.

16.14 (b) If the patient committed person is not returned to provisional discharge status
 16.15 within 60 days of being readmitted to the Minnesota sex offender program, the provisional
 16.16 discharge is revoked. The patient committed person shall immediately be notified of the
 16.17 revocation in writing. Within 15 days of receiving notice of the revocation, the patient
 16.18 committed person may request a review of the matter before the special review board. The
 16.19 special review board shall review the circumstances of the revocation and, after applying
 16.20 the standards in section 253D.30, subdivision ~~15~~ 5, paragraph (a), shall recommend to
 16.21 the judicial appeal panel whether or not the revocation shall be upheld. The board may
 16.22 recommend a return to provisional discharge status.

16.23 (c) If the provisional discharge has not been revoked and the patient committed
 16.24 person is to be returned to provisional discharge, the Minnesota sex offender program is
 16.25 not required to petition for a further review by the special review board unless the patient's
 16.26 committed person's return to the community results in substantive change to the existing
 16.27 provisional discharge plan.

16.28 Sec. 25. Minnesota Statutes 2010, section 253B.185, subdivision 15, is amended to
 16.29 read:

16.30 Subd. 15. ~~Provisional discharge; Revocation.~~ (a) The ~~head of the treatment~~
 16.31 ~~facility~~ executive director may revoke a provisional discharge if either of the following
 16.32 grounds exist:

16.33 (1) the patient committed person has departed from the conditions of the provisional
 16.34 discharge plan; or

17.1 (2) the patient committed person is exhibiting behavior which may be dangerous to
17.2 self or others.

17.3 (b) The ~~head of the treatment facility~~ executive director may revoke the provisional
17.4 discharge and, either orally or in writing, order that the patient committed person be
17.5 immediately returned to ~~the~~ a Minnesota sex offender program treatment facility. A report
17.6 documenting reasons for revocation shall be issued by the ~~head of the treatment facility~~
17.7 executive director within seven days after the patient committed person is returned to the
17.8 treatment facility. Advance notice to the patient committed person of the revocation
17.9 is not required.

17.10 (c) The patient committed person must be provided a copy of the revocation report
17.11 and informed, orally and in writing, of the rights of a patient committed person under this
17.12 section. The revocation report shall be served upon the patient committed person, the
17.13 patient's committed person's counsel, and the ~~designated agency~~ county attorneys of the
17.14 county of commitment and the county of financial responsibility. The report shall outline
17.15 the specific reasons for the revocation, including but not limited to the specific facts upon
17.16 which the revocation ~~recommendation~~ is based.

17.17 (d) An individual who is revoked from provisional discharge must successfully
17.18 re-petition the special review board and judicial appeal panel prior to being placed back
17.19 on provisional discharge.

17.20 Sec. 26. Minnesota Statutes 2011 Supplement, section 253B.185, subdivision 16,
17.21 is amended to read:

17.22 Subd. 16. **Return of absent patient.** (a) If a patient committed person is absent
17.23 without authorization, including failure to return to the custody of the Minnesota sex
17.24 offender program upon the revocation of a provisional discharge, the ~~head of the treatment~~
17.25 ~~facility or designee~~ executive director shall report the absence to the local law enforcement
17.26 agency. The ~~head of the treatment facility~~ executive director shall inform the committing
17.27 court of the revocation or absence, and the committing court or other district court shall
17.28 issue an order for the apprehension and holding of the patient committed person by a
17.29 peace officer in any jurisdiction and transportation of the patient committed person to a
17.30 facility operated by the Minnesota sex offender program or otherwise returned to the
17.31 custody of the Minnesota sex offender program.

17.32 (b) An employee of the Department of Human Services may apprehend, detain, or
17.33 transport an absent patient committed person at anytime. The immunity provided under
17.34 section 253B.23, subdivision 4, applies to the apprehension, detention, and transport of an
17.35 absent patient committed person.

18.1 (c) Upon receiving either the report or the apprehend and hold order in paragraph
18.2 (a), a law enforcement agency shall enter information on the patient committed person
18.3 into the missing persons file of the National Crime Information Center database according
18.4 to the missing persons practices. Where probable cause exists of a violation of section
18.5 609.485, a law enforcement agency shall also seek a felony arrest warrant and enter the
18.6 warrant in the National Crime Information Center database.

18.7 (d) For the purposes of ensuring public safety and the apprehension of an absent
18.8 patient committed person, and notwithstanding state and federal data privacy laws, the
18.9 Minnesota sex offender program shall disclose information about the absent patient
18.10 committed person relevant to the patient's person's apprehension and return to law
18.11 enforcement agencies where the absent patient committed person is likely to be located or
18.12 likely to travel through and to agencies with statewide jurisdiction.

18.13 (e) Upon receiving either the report or the apprehend and hold order in paragraph
18.14 (a), a patient committed person shall be apprehended and held by a peace officer in any
18.15 jurisdiction pending return to a facility operated by the Minnesota sex offender program or
18.16 otherwise returned to the custody of the Minnesota sex offender program.

18.17 (f) A patient committed person detained solely under this subdivision may be held in
18.18 a jail or lockup only if:

18.19 (1) there is no other feasible place of detention for the patient person;

18.20 (2) the detention is for less than 24 hours; and

18.21 (3) there are protections in place, including segregation of the patient person, to
18.22 ensure the safety of the patient person.

18.23 These limitations do not apply to a patient committed person being held for criminal
18.24 prosecution, including for violation of section 609.485.

18.25 (g) If a patient committed person is detained under this ~~subdivision~~ section, the
18.26 Minnesota sex offender program shall arrange to pick up the patient person within 24 hours
18.27 of the time detention was begun and shall be responsible for securing transportation for the
18.28 patient person to a facility operated by the Minnesota sex offender program, as determined
18.29 by ~~its~~ the executive director. The expense of detaining and transporting a patient
18.30 committed person shall be the responsibility of the Minnesota sex offender program.

18.31 (h) Immediately after an absent patient committed person is apprehended, the
18.32 Minnesota sex offender program or the law enforcement agency that apprehended or
18.33 returned the absent patient committed person shall notify the law enforcement agency
18.34 that first received the absent patient committed person report under this ~~subdivision~~
18.35 section, and that agency shall cancel the missing persons entry from the National Crime
18.36 Information Center computer.

19.1 Sec. 27. Minnesota Statutes 2010, section 253B.185, subdivision 17, is amended to
19.2 read:

19.3 Subd. 17. **Appeal.** Any ~~patient~~ committed person aggrieved by a revocation
19.4 decision or any interested person may petition the special review board within seven
19.5 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of the revocation
19.6 report for a review of the revocation. The matter shall be scheduled within 30 days. The
19.7 special review board shall review the circumstances leading to the revocation and shall
19.8 recommend to the judicial appeal panel whether or not the revocation shall be upheld.
19.9 The special review board may also recommend a new provisional discharge at the time
19.10 of the revocation hearing.

19.11 Sec. 28. Minnesota Statutes 2010, section 253B.185, subdivision 18, is amended to
19.12 read:

19.13 Subd. 18. **Discharge.** A ~~patient~~ person who is committed as a sexual psychopathic
19.14 personality or sexually dangerous person shall not be discharged unless it appears to the
19.15 satisfaction of the judicial appeal panel, after a hearing and recommendation by a majority
19.16 of the special review board, that the ~~patient~~ committed person is capable of making an
19.17 acceptable adjustment to open society, is no longer dangerous to the public, and is no
19.18 longer in need of inpatient treatment and supervision.

19.19 In determining whether a discharge shall be recommended, the special review board
19.20 and judicial appeal panel shall consider whether specific conditions exist to provide a
19.21 reasonable degree of protection to the public and to assist the ~~patient~~ committed person
19.22 in adjusting to the community. If the desired conditions do not exist, the discharge shall
19.23 not be granted.

19.24 Sec. 29. Minnesota Statutes 2010, section 253B.185, subdivision 19, is amended to
19.25 read:

19.26 Subd. 19. **Aftercare services.** (a) The Minnesota sex offender program shall
19.27 provide the supervision, aftercare, and case management services for a person ~~under~~
19.28 provisionally discharged or discharged from commitment as a sexual psychopathic
19.29 ~~personalities and personality or sexually dangerous persons discharged after July 1, 1999~~
19.30 person. The designated agency, as defined in section 253B.02, subdivision 5, shall assist
19.31 with ~~client~~ eligibility for public welfare benefits and will provide those services that are
19.32 ~~currently~~ available exclusively through county government.

19.33 (b) Prior to the date of discharge or provisional discharge of any ~~patient~~ person
19.34 committed as a sexual psychopathic personality or sexually dangerous person, the ~~head~~

20.1 ~~of the treatment facility or designee~~ executive director shall establish a continuing plan
 20.2 of aftercare services for the patient person, including a plan for medical and behavioral
 20.3 health services, financial sustainability, housing, social supports, or other assistance the
 20.4 patient needs. The Minnesota sex offender program shall provide case management
 20.5 services and shall assist the patient person in finding employment, suitable shelter, and
 20.6 adequate medical and behavioral health services and otherwise assist in the patient's
 20.7 person's readjustment to the community.

20.8 Sec. 30. Minnesota Statutes 2011 Supplement, section 253B.19, subdivision 2, is
 20.9 amended to read:

20.10 Subd. 2. **Petition; hearing.** (a) A person committed as mentally ill and dangerous
 20.11 to the public under section 253B.18, or the county attorney of the county from which the
 20.12 person was committed or the county of financial responsibility, may petition the judicial
 20.13 appeal panel for a rehearing and reconsideration of a decision by the commissioner under
 20.14 section 253B.18, subdivision 5. The judicial appeal panel must not consider petitions for
 20.15 relief other than those considered by the commissioner from which the appeal is taken.
 20.16 The petition must be filed with the Supreme Court within 30 days after the decision of
 20.17 the commissioner is signed. The hearing must be held within 45 days of the filing of the
 20.18 petition unless an extension is granted for good cause.

20.19 ~~(b) A person committed as a sexual psychopathic personality or as a sexually~~
 20.20 ~~dangerous person under section 253B.185, or committed as both mentally ill and~~
 20.21 ~~dangerous to the public under section 253B.18 and as a sexual psychopathic personality or~~
 20.22 ~~as a sexually dangerous person under section 253B.185; the county attorney of the county~~
 20.23 ~~from which the person was committed or the county of financial responsibility; or the~~
 20.24 ~~commissioner may petition the judicial appeal panel for a rehearing and reconsideration~~
 20.25 ~~of a decision of the special review board under section 253B.185, subdivision 9. The~~
 20.26 ~~petition must be filed with the Supreme Court within 30 days after the decision is mailed~~
 20.27 ~~by the commissioner as required in section 253B.185, subdivision 9, paragraph (f). The~~
 20.28 ~~hearing must be held within 180 days of the filing of the petition unless an extension is~~
 20.29 ~~granted for good cause. If no party petitions the judicial appeal panel for a rehearing~~
 20.30 ~~or reconsideration within 30 days, the judicial appeal panel shall either issue an order~~
 20.31 ~~adopting the recommendations of the special review board or set the matter on for a~~
 20.32 ~~hearing pursuant to this paragraph.~~

20.33 ~~(c)~~ (e) For an appeal under paragraph (a) or ~~(b)~~ section 253D.28, the Supreme Court
 20.34 shall refer the petition to the chief judge of the judicial appeal panel. The chief judge
 20.35 shall notify the patient, the county attorney of the county of commitment, the designated

21.1 agency, the commissioner, the head of the treatment facility, any interested person, and
 21.2 other persons the chief judge designates, of the time and place of the hearing on the
 21.3 petition. The notice shall be given at least 14 days prior to the date of the hearing.

21.4 ~~(d)~~ (c) Any person may oppose the petition. The patient, the patient's counsel, the
 21.5 county attorney of the committing county or the county of financial responsibility, and the
 21.6 commissioner shall participate as parties to the proceeding pending before the judicial
 21.7 appeal panel and shall, except when the patient is committed solely as mentally ill and
 21.8 dangerous, no later than 20 days before the hearing on the petition, inform the judicial
 21.9 appeal panel and the opposing party in writing whether they support or oppose the petition
 21.10 and provide a summary of facts in support of their position. The judicial appeal panel may
 21.11 appoint examiners and may adjourn the hearing from time to time. It shall hear and receive
 21.12 all relevant testimony and evidence and make a record of all proceedings. The patient,
 21.13 the patient's counsel, and the county attorney of the committing county or the county of
 21.14 financial responsibility have the right to be present and may present and cross-examine all
 21.15 witnesses and offer a factual and legal basis in support of their positions. The petitioning
 21.16 party seeking discharge or provisional discharge bears the burden of going forward with
 21.17 the evidence, which means presenting a prima facie case with competent evidence to show
 21.18 that the person is entitled to the requested relief. If the petitioning party has met this
 21.19 burden, the party opposing discharge or provisional discharge bears the burden of proof
 21.20 by clear and convincing evidence that the discharge or provisional discharge should be
 21.21 denied. A party seeking transfer under section 253B.18, subdivision 6, or ~~253B.185,~~
 21.22 ~~subdivision 11~~ 253D.29, subdivision 1, must establish by a preponderance of the evidence
 21.23 that the transfer is appropriate.

21.24 Sec. 31. **[253D.01] CITATION.**

21.25 This chapter may be cited as the "Minnesota Commitment and Treatment Act:
 21.26 Sexually Dangerous Persons and Sexual Psychopathic Personalities."

21.27 Sec. 32. **[253D.02] DEFINITIONS.**

21.28 Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this
 21.29 section have the meanings given them.

21.30 Subd. 3. **Commissioner.** "Commissioner" means the commissioner of human
 21.31 services or the commissioner's designee.

21.32 Subd. 4. **Committed person.** "Committed person" means an individual committed
 21.33 under this chapter, or under this chapter and under section 253B.18, as mentally ill and

22.1 dangerous. It does not include person's committed only as mentally ill and dangerous under
 22.2 section 253B.18. It includes individuals described in section 246B.01, subdivision 1a.

22.3 Subd. 5. **Committing court.** "Committing court" means the district court where
 22.4 a petition for commitment was decided.

22.5 Subd. 6. **Executive director.** "Executive director" has the same meaning as in
 22.6 section 246B.01, subdivision 2c.

22.7 Subd. 9. **Secure treatment facility.** "Secure treatment facility" means the
 22.8 Minnesota sex offender program facility in Moose Lake and any portion of the Minnesota
 22.9 sex offender program operated by the Minnesota sex offender program at the Minnesota
 22.10 Security Hospital, but does not include services or programs administered by the
 22.11 Minnesota sex offender program outside a secure environment.

22.12 Sec. 33. **[253D.03] GENERAL PROVISIONS.**

22.13 The provisions of section 253B.23 apply to commitments under this chapter except
 22.14 where inconsistent.

22.15 Sec. 34. **[253D.04] REVIEW BOARD.**

22.16 The commissioner shall establish a review board under section 253B.22 for facilities
 22.17 of the Minnesota sex offender program.

22.18 Sec. 35. **[253D.13] PROCEDURES UPON COMMITMENT.**

22.19 Upon commitment under this chapter, admission procedures shall be carried out
 22.20 under section 253B.10.

22.21 Sec. 36. **[253D.17] RIGHTS OF COMMITTED PERSONS; GENERALLY.**

22.22 Persons committed under this chapter have those rights described in section 253B.03
 22.23 except as may be limited pursuant to section 253D.19.

22.24 Sec. 37. **[253D.20] RIGHT TO COUNSEL.**

22.25 A committed person has the right to be represented by counsel at any proceeding
 22.26 under this chapter. The court shall appoint a qualified attorney to represent the committed
 22.27 person if neither the committed person nor others provide counsel. The attorney shall
 22.28 be appointed at the time a petition for commitment is filed. In all proceedings under
 22.29 this chapter, the attorney shall:

22.30 (1) consult with the person prior to any hearing;

22.31 (2) be given adequate time and access to records to prepare for all hearings;

- 23.1 (3) continue to represent the person throughout any proceedings under this chapter
 23.2 unless released as counsel by the court; and
 23.3 (4) be a vigorous advocate on behalf of the person.

23.4 Sec. 38. **[253D.21] NEUROLEPTIC MEDICATION.**

23.5 Neuroleptic medications may be administered to a person committed under this
 23.6 chapter only as provided in section 253B.092.

23.7 Sec. 39. **[253D.23] PASSES.**

23.8 A committed person may be released on a pass only as provided by section 253B.18,
 23.9 subdivisions 4a and 4b.

23.10 Sec. 40. **[253D.28] JUDICIAL APPEAL PANEL.**

23.11 Subdivision 1. **Rehearing and reconsideration.** (a) A person committed as a sexual
 23.12 psychopathic personality or as a sexually dangerous person under section 253B.185, or
 23.13 committed as both mentally ill and dangerous to the public under section 253B.18 and as
 23.14 a sexual psychopathic personality or as a sexually dangerous person under this chapter;
 23.15 the county attorney of the county from which the person was committed or the county
 23.16 of financial responsibility; or the commissioner may petition the judicial appeal panel
 23.17 established under section 253B.19, subdivision 1, for a rehearing and reconsideration of a
 23.18 recommendation of the special review board under section 253D.27.

23.19 (b) The petition must be filed with the Supreme Court within 30 days after
 23.20 the recommendation is mailed by the commissioner as required in section 253D.27,
 23.21 subdivision 4. The hearing must be held within 180 days of the filing of the petition
 23.22 unless an extension is granted for good cause.

23.23 (c) If no party petitions the judicial appeal panel for a rehearing or reconsideration
 23.24 within 30 days, the judicial appeal panel shall either issue an order adopting the
 23.25 recommendations of the special review board or set the matter on for a hearing pursuant
 23.26 to this section.

23.27 Subd. 2. **Procedure.** (a) The Supreme Court shall refer a petition for rehearing and
 23.28 reconsideration to the chief judge of the judicial appeal panel. The chief judge shall notify
 23.29 the committed person, the county attorneys of the county of commitment and county of
 23.30 financial responsibility, the commissioner, the executive director, any interested person,
 23.31 and other persons the chief judge designates, of the time and place of the hearing on the
 23.32 petition. The notice shall be given at least 14 days prior to the date of the hearing.

24.1 (b) Any person may oppose the petition. The committed person, the committed
24.2 person's counsel, the county attorneys of the committing county and county of financial
24.3 responsibility, and the commissioner shall participate as parties to the proceeding pending
24.4 before the judicial appeal panel and shall, no later than 20 days before the hearing on the
24.5 petition, inform the judicial appeal panel and the opposing party in writing whether they
24.6 support or oppose the petition and provide a summary of facts in support of their position.

24.7 (c) The judicial appeal panel may appoint examiners and may adjourn the hearing
24.8 from time to time. It shall hear and receive all relevant testimony and evidence and make
24.9 a record of all proceedings. The committed person, the committed person's counsel, and
24.10 the county attorney of the committing county or the county of financial responsibility have
24.11 the right to be present and may present and cross-examine all witnesses and offer a factual
24.12 and legal basis in support of their positions.

24.13 (d) The petitioning party seeking discharge or provisional discharge bears the
24.14 burden of going forward with the evidence, which means presenting a prima facie case
24.15 with competent evidence to show that the person is entitled to the requested relief. If
24.16 the petitioning party has met this burden, the party opposing discharge or provisional
24.17 discharge bears the burden of proof by clear and convincing evidence that the discharge or
24.18 provisional discharge should be denied.

24.19 (e) A party seeking transfer under section 253D.29 must establish by a preponderance
24.20 of the evidence that the transfer is appropriate.

24.21 Subd. 3. **Decision.** A majority of the judicial appeal panel shall rule upon the
24.22 petition. The panel shall consider the petition de novo. No order of the judicial appeal
24.23 panel granting a transfer, discharge, or provisional discharge shall be made effective
24.24 sooner than 15 days after it is issued. The panel may not consider petitions for relief
24.25 other than those considered by the special review board from which the appeal is taken.
24.26 The judicial appeal panel may not grant a transfer or provisional discharge on terms or
24.27 conditions that were not presented to the special review board.

24.28 Subd. 4. **Appeal.** A party aggrieved by an order of the appeal panel may appeal that
24.29 order as provided under section 253B.19, subdivision 5.

24.30 **Sec. 41. [253D.36] DISCHARGE; ADMINISTRATIVE PROCEDURES.**

24.31 Upon discharge from commitment under this chapter, administrative procedures
24.32 shall be carried out under section 253B.20.

24.33 **Sec. 42. COURT RULES.**

25.1 Nothing in this act shall be construed to change the application of the Special Rules
 25.2 of Procedure Governing Proceedings under the Minnesota Commitment and Treatment
 25.3 Act.

25.4 Sec. 43. **CONSTRUCTION.**

25.5 Nothing in this act shall be construed to create grounds for relief or a cause of
 25.6 action for persons previously committed under Minnesota Statutes, chapter 253B, or its
 25.7 predecessors.

25.8 Sec. 44. **REVISOR'S INSTRUCTION.**

25.9 The revisor of statutes shall renumber each section of Minnesota Statutes listed in
 25.10 column A with the number listed in column B. The revisor shall also make necessary
 25.11 cross-reference changes consistent with the renumbering.

25.12	<u>Column A</u>	<u>Column B</u>
25.13	<u>253B.02, subd. 7a</u>	<u>253D.02, subd. 7</u>
25.14	<u>253B.02, subd. 18b</u>	<u>253D.02, subd. 11</u>
25.15	<u>253B.02, subd. 18c</u>	<u>253D.02, subd. 12</u>
25.16	<u>253B.02, subd. 24</u>	<u>253D.02, subd. 2</u>
25.17	<u>253B.02, subd. 25</u>	<u>253D.02, subd. 8</u>
25.18	<u>253B.02, subd. 26</u>	<u>253D.02, subd. 10</u>
25.19	<u>253B.03, subd. 1a</u>	<u>253D.18</u>
25.20	<u>253B.045, subd. 1a</u>	<u>253D.10, subd. 2</u>
25.21	<u>253B.185, subd. 1, paragraph (a)</u>	<u>253D.07, subd. 1</u>
25.22	<u>253B.185, subd. 1, paragraph (b)</u>	<u>253D.07, subd. 2</u>
25.23	<u>253B.185, subd. 1, paragraph (c)</u>	<u>253D.07, subd. 3</u>
25.24	<u>253B.185, subd. 1, paragraph (d)</u>	<u>253D.07, subd. 4</u>
25.25	<u>253B.185, subd. 1a</u>	<u>253D.10, subd. 1</u>
25.26	<u>253B.185, subd. 1b</u>	<u>253D.08</u>
25.27	<u>253B.185, subd. 2</u>	<u>253D.22</u>
25.28	<u>253B.185, subd. 3</u>	<u>253D.07, subd. 5</u>
25.29	<u>253B.185, subd. 4, paragraph (a)</u>	<u>253D.11, subd. 1</u>
25.30	<u>253B.185, subd. 4, paragraph (b)</u>	<u>253D.11, subd. 2</u>
25.31	<u>253B.185, subd. 5, paragraph (a)</u>	<u>253D.12, subd. 1</u>
25.32	<u>253B.185, subd. 5, paragraph (b)</u>	<u>253D.12, subd. 2</u>
25.33	<u>253B.185, subd. 5, paragraph (c)</u>	<u>253D.12, subd. 3</u>
25.34	<u>253B.185, subd. 5, paragraph (d)</u>	<u>253D.12, subd. 4</u>
25.35	<u>253B.185, subd. 7, paragraph (a)</u>	<u>253D.19, subd. 1</u>
25.36	<u>253B.185, subd. 7, paragraph (b)</u>	<u>253D.19, subd. 2</u>
25.37	<u>253B.185, subd. 8</u>	<u>253D.09</u>
25.38	<u>253B.185, subd. 9, paragraph (a)</u>	<u>253D.27, subd. 1, paragraph (a)</u>
25.39	<u>253B.185, subd. 9, paragraph (b)</u>	<u>253D.27, subd. 1, paragraph (b)</u>

26.1	<u>253B.185, subd. 9, paragraph (c)</u>	<u>253D.27, subd. 2</u>
26.2	<u>253B.185, subd. 9, paragraph (d)</u>	<u>253D.27, subd. 3, paragraph (a)</u>
26.3	<u>253B.185, subd. 9, paragraph (e)</u>	<u>253D.27, subd. 3, paragraph (b)</u>
26.4	<u>253B.185, subd. 9, paragraph (f)</u>	<u>253D.30, subd. 4</u>
26.5	<u>253B.185, subd. 10, paragraph (a)</u>	<u>253D.14, subd. 1</u>
26.6	<u>253B.185, subd. 10, paragraph (b)</u>	<u>253D.14, subd. 2</u>
26.7	<u>253B.185, subd. 10, paragraph (c)</u>	<u>253D.14, subd. 3</u>
26.8	<u>253B.185, subd. 10, paragraph (d)</u>	<u>253D.14, subd. 4</u>
26.9	<u>253B.185, subd. 10, paragraph (e)</u>	<u>253D.14, subd. 5</u>
26.10	<u>253B.185, subd. 10a, paragraph (a)</u>	<u>253D.32, subd. 1</u>
26.11	<u>253B.185, subd. 10a, paragraph (b)</u>	<u>253D.32, subd. 2, paragraph (a)</u>
26.12	<u>253B.185, subd. 10a, paragraph (c)</u>	<u>253D.32, subd. 2, paragraph (b)</u>
26.13	<u>253B.185, subd. 10a, paragraph (d)</u>	<u>253D.32, subd. 2, paragraph (c)</u>
26.14	<u>253B.185, subd. 10a, paragraph (e)</u>	<u>253D.32, subd. 2, paragraph (d)</u>
26.15	<u>253B.185, subd. 10a, paragraph (f)</u>	<u>253D.32, subd. 3</u>
26.16	<u>253B.185, subd. 11</u>	<u>253D.29, subd. 1</u>
26.17	<u>253B.185, subd. 11a</u>	<u>253D.29, subd. 2</u>
26.18	<u>253B.185, subd. 11b</u>	<u>253D.29, subd. 3</u>
26.19	<u>253B.185, subd. 12</u>	<u>253D.30, subd. 1</u>
26.20	<u>253B.185, subd. 13</u>	<u>253D.30, subd. 2</u>
26.21	<u>253B.185, subd. 14</u>	<u>253D.30, subd. 3</u>
26.22	<u>253B.185, subd. 14a</u>	<u>253D.30, subd. 4</u>
26.23	<u>253B.185, subd. 15</u>	<u>253D.30, subd. 5</u>
26.24	<u>253B.185, subd. 16, paragraph (a)</u>	<u>253D.24, subd. 1</u>
26.25	<u>253B.185, subd. 16, paragraph (b)</u>	<u>253D.24, subd. 2</u>
26.26	<u>253B.185, subd. 16, paragraph (c)</u>	<u>253D.24, subd. 3</u>
26.27	<u>253B.185, subd. 16, paragraph (d)</u>	<u>253D.24, subd. 4</u>
26.28	<u>253B.185, subd. 16, paragraph (e)</u>	<u>253D.24, subd. 5</u>
26.29	<u>253B.185, subd. 16, paragraph (f)</u>	<u>253D.24, subd. 6</u>
26.30	<u>253B.185, subd. 16, paragraph (g)</u>	<u>253D.24, subd. 7</u>
26.31	<u>253B.185, subd. 16, paragraph (h)</u>	<u>253D.24, subd. 8</u>
26.32	<u>253B.185, subd. 17</u>	<u>253D.30, subd. 6</u>
26.33	<u>253B.185, subd. 18</u>	<u>253D.31</u>
26.34	<u>253B.185, subd. 19, paragraph (a)</u>	<u>253D.35, subd. 1</u>
26.35	<u>253B.185, subd. 19, paragraph (b)</u>	<u>253D.35, subd. 2</u>