

CHAPTER 253B

MINNESOTA COMMITMENT ACT OF 1982

253B.02	Definitions.	253B.15	Provisional discharge; partial institutionalization.
253B.03	Rights of patients.	253B.18	Procedures for persons mentally ill and dangerous to the public.
253B.04	Informal admission procedures.	253B.19	Judicial appeal panel; patients mentally ill and dangerous to the public.
253B.05	Emergency admission.	253B.21	Commitment to an agency of the United States.
253B.06	Medical examination.	253B.212	Commitment by tribal court; Red Lake band of Chippewa Indians.
253B.07	Judicial commitment; preliminary procedures.	253B.22	Review boards.
253B.08	Judicial commitment; hearing procedures.	253B.23	General provisions.
253B.11	Temporary confinement.		
253B.12	Treatment report; review; hearing.		
253B.13	Duration of continued commitment.		

253B.02 DEFINITIONS.

[For text of subs 1 to 3, see M.S.1982]

Subd. 4. **Committing court.** "Committing court" means probate court or, in a case where commitment proceedings are commenced in response to an acquittal of a crime or offense under section 611.026, "committing court" means the court in which the acquittal took place.

Subd. 4a. **Crime against the person.** "Crime against the person" means a violation of or attempt to violate any of the following provisions: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.221; 609.222; 609.223; 609.224; 609.23; 609.231; 609.235; 609.24; 609.245; 609.25; 609.255; 609.265; 609.27, subdivision 1, clause (1) or (2); 609.28 if violence or threats of violence were used; 609.322, subdivision 1, clause (2); 609.342; 609.343; 609.344; 609.345; 609.3641; 609.3642; 609.3643; 609.3644; 609.365; 609.498, subdivision 1; 609.50, clause (1); 609.561; 609.562; and 609.595.

Subd. 5. **Designated agency.** "Designated agency" means an agency selected by the county board to provide the social services required under this chapter.

[For text of subs 6 to 12, see M.S.1982]

Subd. 13. **Mentally ill person.** "Mentally ill person" means any person who has an organic disorder of the brain or a substantial psychiatric disorder of thought, mood, perception, orientation, or memory which grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand, which (a) is manifested by instances of grossly disturbed behavior or faulty perceptions; and (b) poses a substantial likelihood of physical harm to himself or others as demonstrated by (i) a recent attempt or threat to physically harm himself or others, or (ii) a failure to provide necessary food, clothing, shelter or medical care for himself, as a result of the impairment. This impairment excludes (a) epilepsy, (b) mental retardation, (c) brief periods of intoxication caused by alcohol or drugs, or (d) dependence upon or addiction to any alcohol or drugs.

[For text of subs 14 to 16, see M.S.1982]

Subd. 17. **Person mentally ill and dangerous to the public.** A "person mentally ill and dangerous to the public" is a person (a) who is mentally ill; and (b) who as a result of that mental illness presents a clear danger to the safety of others as demonstrated by the facts that (i) the person has engaged in an overt act causing or attempting to cause serious physical harm to another and (ii) there is a substantial likelihood that the person will engage in acts capable of inflicting serious physical harm on another. A person committed as a psychopathic

personality as defined in section 526.09 is subject to the provisions of this chapter that apply to persons mentally ill and dangerous to the public.

Subd. 18. **Regional center.** "Regional center" means any state operated facility for mentally ill, mentally retarded or chemically dependent persons which is under the direct administrative authority of the commissioner.

[For text of subd 19, see M.S.1982]

Subd. 20. **Verdict.** "Verdict" means a jury verdict or a general finding by the trial court sitting without a jury pursuant to the rules of criminal procedure.

History: 1983 c 251 s 1-4; 1983 c 348 s 1-3

253B.03 RIGHTS OF PATIENTS.

[For text of subd 1, see M.S.1982]

Subd. 2. **Correspondence.** A patient has the right to correspond freely without censorship. The head of the treatment facility may restrict correspondence if he determines that the medical welfare of the patient requires it. For patients in regional facilities, that determination may be reviewed by the commissioner. Any limitation imposed on the exercise of a patient's correspondence rights and the reason for it shall be made a part of the clinical record of the patient. Any communication which is not delivered to a patient shall be immediately returned to the sender.

[For text of subds 3 to 5, see M.S.1982]

Subd. 6. **Consent for medical procedure.** A patient has the right to prior consent to any medical or surgical treatment, other than the treatment of mental illness, mental retardation or chemical dependency. The following procedures shall be used to obtain consent for any treatment necessary to preserve the life or health of any committed patient:

(1) The consent of a competent adult patient for the treatment is sufficient.

(2) If the patient is subject to guardianship or conservatorship which includes the provision of medical care, the consent of the guardian or conservator for the treatment is sufficient.

(3) If the head of the treatment facility determines that the patient is not competent to consent to the treatment and the patient has not been adjudicated incompetent, consent for the surgery shall be obtained from the nearest proper relative. For this purpose, the following persons are proper relatives, in the order listed: the patient's spouse, parent, adult child, or adult sibling. If the nearest proper relatives cannot be located or refuse to consent to the procedure, the head of the treatment facility or an interested person may petition the committing court for approval for the treatment or may petition an appropriate court for the appointment of a guardian or conservator. The determination that the patient is not competent, and the reasons for the determination, shall be documented in the patient's clinical record.

(4) Consent to treatment of any minor patient shall be secured in accordance with sections 144.341 to 144.346, except that a minor 16 years of age or older may give valid consent for hospitalization, routine diagnostic evaluation, and emergency or short-term acute care.

(5) In the case of an emergency and when the persons ordinarily qualified to give consent cannot be located, the head of the treatment facility may give consent.

No person who consents to treatment pursuant to the provisions of this subdivision shall be civilly or criminally liable for the performance or the manner of performing the treatment. No person shall be liable for performing treatment without consent if consent was given pursuant to this subdivision. This provision shall not affect any other liability which may result from the manner in which the treatment is performed.

[For text of subds 7 to 10, see M.S.1982]

History: 1983 c 251 s 5,6

253B.04 INFORMAL ADMISSION PROCEDURES.

Subdivision 1. **Admission.** Informal admission by consent is preferred over involuntary commitment. Any person 16 years of age or older may request to be admitted to a treatment facility as an informal patient for observation, evaluation, diagnosis, care and treatment without making formal written application. Any person under the age of 16 years may be admitted as an informal patient with the consent of a parent or legal guardian if it is determined by independent examination that there is reasonable evidence that (a) the proposed patient is mentally ill, mentally retarded, or chemically dependent; and (b) the proposed patient is suitable for treatment. The head of the treatment facility shall not arbitrarily refuse any person seeking admission as an informal patient.

[For text of subd 2, see M.S.1982]

History: 1983 c 251 s 7

253B.05 EMERGENCY ADMISSION.

[For text of subd 1, see M.S.1982]

Subd. 2. **Peace or health officer hold.** (a) A peace or health officer may take a person into custody and transport him to a licensed physician or treatment facility if the officer has reason to believe that the person is mentally ill or mentally retarded and in imminent danger of injuring himself or others if not immediately restrained. A peace or health officer or a person working under such officer's supervision, may take a person who is believed to be chemically dependent or is intoxicated in public into custody and transport him to a treatment facility. If the person is intoxicated in public or is believed to be chemically dependent and is not endangering himself or any person or property, the peace or health officer may transport the person to his home. Application for admission of the person to a treatment facility shall be made by the peace or health officer. The application shall contain a statement given by the peace or health officer specifying the reasons for and circumstances under which the person was taken into custody. A copy of the statement shall be made available to the person taken into custody.

(b) A person may be admitted to a treatment facility for emergency care and treatment under this subdivision with the consent of the head of the facility under the following circumstances: a written statement is made by the medical officer on duty at the facility that after preliminary examination the person has symptoms of mental illness or mental retardation and appears to be in imminent danger of harming himself or others; or, a written statement is made by the institution program director or his designee on duty at the facility that after preliminary examination the person has symptoms of chemical dependency and appears to be in imminent danger of harming himself or others or is intoxicated in public.

Subd. 2a. **Transportation.** Insofar as it is practicable, a peace officer who provides transportation for a person placed in a facility under subdivision 1 may not be in uniform and may not use a vehicle visibly marked as a law enforcement vehicle.

[For text of subds 3 to 5, see M.S.1982]

History: 1983 c 251 s 8,9

253B.06 MEDICAL EXAMINATION.

Subdivision 1. **Mentally ill and mentally retarded persons.** The head of a treatment facility shall arrange to have every patient hospitalized as mentally ill or mentally retarded pursuant to section 253B.04 or 253B.05 examined by a physician as soon as possible but no more than 48 hours following the time of admission. The physician shall be knowledgeable and trained in the diagnosis of the alleged disability related to the need for admission as a mentally ill or mentally retarded person.

Subd. 2. **Chemically dependent persons.** Patients hospitalized as chemically dependent pursuant to section 253B.04 or 253B.05 shall also be examined within 48 hours of admission. At a minimum, the examination shall consist of a physical evaluation by facility staff according to procedures established by a physician and an evaluation by staff knowledgeable and trained in the diagnosis of the alleged disability related to the need for admission as a chemically dependent person.

Subd. 3. **Discharge.** At the end of a 48-hour period, any patient admitted pursuant to section 253B.05 shall be discharged if an examination has not been held or if the examiner or evaluation staff person fails to notify the head of the treatment facility in writing that in his opinion the patient is apparently in need of care, treatment, and evaluation as a mentally ill, mentally retarded, or chemically dependent person.

History: 1983 c 251 s 10

253B.07 JUDICIAL COMMITMENT; PRELIMINARY PROCEDURES.

Subdivision 1. **Pre-petition screening.** (a) Prior to filing a petition for commitment of a proposed patient, an interested person shall apply to the designated agency in the county of the proposed patient's residence or presence for conduct of a preliminary investigation, except when the proposed patient has been acquitted of a crime under section 611.026 and the county attorney is required to file a petition for commitment pursuant to subdivision 2. In any case coming within this exception, the county attorney shall apply to the designated county agency in the county in which the acquittal took place for a preliminary investigation unless substantially the same information relevant to the proposed patient's current mental condition as could be obtained by a preliminary investigation is part of the court record in the criminal proceeding or is contained in the report of a mental examination conducted in connection with the criminal proceeding. The designated agency shall appoint a screening team to conduct an investigation which shall include:

(i) a personal interview with the proposed patient and other individuals who appear to have knowledge of the condition of the proposed patient. If the proposed patient is not interviewed, reasons must be documented;

(ii) identification and investigation of specific alleged conduct which is the basis for application; and

(iii) identification, exploration, and listing of the reasons for rejecting or recommending alternatives to involuntary placement.

(b) In conducting the investigation required by this subdivision, the screening team shall have access to all relevant medical records of proposed patients currently in treatment facilities. Data collected pursuant to this clause shall be considered private data on individuals.

(c) When the pre-petition screening team recommends commitment, a written report shall be sent to the county attorney for the county in which the petition is to be filed.

(d) The pre-petition screening team shall refuse to support a petition if the investigation does not disclose evidence sufficient to support commitment. Notice of the pre-petition screening team's decision shall be provided to the prospective petitioner.

(e) If the interested person wishes to proceed with a petition contrary to the recommendation of the pre-petition screening team, application may be made directly to the county attorney, who may determine whether or not to proceed with the petition. Notice of the county attorney's determination shall be provided to the interested party.

(f) If a court petitions for commitment pursuant to the rules of criminal procedure or a county attorney petitions pursuant to acquittal of a criminal charge under section 611.026, the pre-petition investigation, if required by this section, shall be completed within seven days after the filing of the petition.

Subd. 2. The petition. Any interested person may file a petition for commitment in the probate court of the county of the proposed patient's residence or presence. Following an acquittal of a person of a criminal charge under section 611.026, the petition shall be filed by the county attorney of the county in which the acquittal took place and the petition shall be filed with the court in which the acquittal took place, and that court shall be the committing court for purposes of this chapter. The petition shall set forth the name and address of the proposed patient, the name and address of his nearest relatives, and the reasons for the petition. The petition must contain factual descriptions of the proposed patient's recent behavior, including a description of the behavior, where it occurred, and over what period of time it occurred. Each factual allegation must be supported by observations of witnesses named in the petition. Petitions shall be stated in behavioral terms and shall not contain judgmental or conclusory statements. The petition shall be accompanied by a written statement by an examiner stating that he has examined the proposed patient within the 15 days preceding the filing of the petition and is of the opinion that the proposed patient is suffering a designated disability and should be committed to a treatment facility. The statement shall include the reasons for the opinion. If a petitioner has been unable to secure a statement from an examiner, the petition shall include documentation that a reasonable effort has been made to secure the supporting statement.

Subd. 2a. Petition following acquittal; referral. When a petition is filed pursuant to subdivision 2 with the court in which acquittal of a criminal charge took place, the court shall assign the judge before whom the acquittal took place to hear the commitment proceedings unless that judge is unavailable.

Subd. 3. Examiners. After a petition has been filed, the probate court or other court in which the petition was filed shall appoint an examiner. Prior to the hearing, the court shall inform the proposed patient that he is entitled to an independent second examination. At the proposed patient's request, the court

shall appoint a second examiner of the patient's choosing to be paid for by the county at a rate of compensation fixed by the court.

Subd. 4. **Pre-hearing examination; notice and summons procedure.** A summons to appear for a pre-hearing examination and the commitment hearing shall be served upon the proposed patient. A plain language notice of the proceedings and notice of the filing of the petition, a copy of the petition, a copy of the examiner's supporting statement, and the order for examination and a copy of the pre-petition screening report shall be given to the proposed patient, his counsel, the petitioner, any interested person, and any other persons as the court directs. All papers shall be served personally on the proposed patient. Unless otherwise ordered by the court, the notice shall be served on the proposed patient by a nonuniformed person.

[For text of subs 5 and 6, see M.S.1982]

Subd. 7. **Preliminary hearing.** (a) No proposed patient may be held pursuant to subdivision 6 for longer than 72 hours, exclusive of Saturdays, Sundays, and legal holidays, unless the court holds a preliminary hearing and determines that probable cause exists to continue to hold him.

(b) The proposed patient, his counsel, the petitioner, the county attorney, and any other persons as the court directs shall be given at least 24 hours written notice of the preliminary hearing. The notice shall include the alleged grounds for confinement. The proposed patient shall be represented at the preliminary hearing by counsel. If the court finds it to be reliable, it may admit hearsay evidence, including written reports.

(c) The court may order the continued holding of the proposed patient if it finds, by a preponderance of the evidence, that serious imminent physical harm to the patient or others is likely if the proposed patient is not confined. The fact that a proposed patient was acquitted of a crime against the person under section 611.026 immediately preceding the filing of the petition constitutes evidence that serious imminent physical harm to the patient or others is likely if the proposed patient is not confined and shifts the burden of going forward in the presentation of evidence to the proposed patient; provided that the standard of proof remains as required by this chapter.

History: 1983 c 251 s 11-13; 1983 c 348 s 4-8

253B.08 JUDICIAL COMMITMENT; HEARING PROCEDURES.

[For text of subs 1 to 6, see M.S.1982]

Subd. 7. **Evidence.** The court shall admit all relevant evidence at the hearing. The court shall make its determination upon the entire record pursuant to the rules of evidence.

In any case where the petition was filed immediately following a criminal proceeding in which the proposed patient was acquitted under section 611.026, the court shall take judicial notice of the record of the criminal proceeding.

[For text of subd 8, see M.S.1982]

History: 1983 c 348 s 9

253B.11 TEMPORARY CONFINEMENT.

[For text of subd 1, see M.S.1982]

Subd. 2. **Facilities.** Each county or a group of counties shall maintain or provide by contract a facility for confinement of persons held temporarily for observation, evaluation, diagnosis, treatment, and care. When the confinement is provided at a regional center, the commissioner shall charge the county of financial responsibility for the costs of confinement of persons hospitalized under section 253B.05, subdivisions 1 and 2, and section 253B.07, subdivision 6. "County of financial responsibility" means the county in which the person resides at the time of confinement or, if the person has no residence in this state, the county which initiated the confinement. The charge shall be based on the commissioner's determination of the cost of care pursuant to section 246.50, subdivision 5. When there is a dispute as to which county is the county of financial responsibility, the county charged for the costs of confinement shall pay for them pending final determination of the dispute over financial responsibility. Disputes about the county of financial responsibility shall be submitted to the commissioner to be settled in the manner prescribed in section 256D.18, subdivision 4.

[For text of subd 3, see M.S.1982]

History: 1983 c 141 s 1

253B.12 TREATMENT REPORT; REVIEW; HEARING.

Subdivision 1. **Report.** Prior to the termination of the initial commitment order or final discharge of the patient, the head of the facility shall file a written report with the committing court with a copy to the patient and his counsel, setting forth in detailed narrative form at least the following:

- (1) the diagnosis of the patient with the supporting data;
- (2) the anticipated discharge date;
- (3) an individualized treatment plan;
- (4) a detailed description of the discharge planning process with suggested after care plan;
- (5) whether the patient is in need of further care and treatment with evidence to support the response;
- (6) whether any further care and treatment must be provided in a treatment facility with evidence to support the response;
- (7) whether in his opinion the patient must continue to be committed to a treatment facility; and
- (8) whether in his opinion the patient satisfies the statutory requirement for continued commitment, with documentation to support the opinion.

[For text of subds 2 and 3, see M.S.1982]

Subd. 4. **Hearing; standard of proof.** The committing court shall not make a final determination of the need to continue commitment unless a hearing is held and the court finds by clear and convincing evidence that (1) the person continues to be mentally ill, mentally retarded or chemically dependent; (2) involuntary commitment is necessary for the protection of the patient or others; and (3) there is no alternative to involuntary commitment.

In determining whether a person continues to be mentally ill, the court need not find that there has been a recent attempt or threat to physically harm himself or others, or a recent failure to provide necessary food, clothing, shelter, or medical care for himself. Instead, the court must find that the patient is likely to attempt to physically harm himself or others, or to fail to provide necessary food,

clothing, shelter, or medical care for himself unless involuntary commitment is continued.

[For text of subds 5 to 8, see M.S.1982]

History: 1983 c 251 s 14; 1983 c 348 s 10

253B.13 DURATION OF CONTINUED COMMITMENT.

Subdivision 1. **Mentally ill persons.** If at the conclusion of a hearing held pursuant to section 253B.12, it is found that the criteria for continued commitment have been satisfied, the court shall determine the probable length of commitment necessary. No period of commitment shall exceed this length of time or 12 months, whichever is less.

At the conclusion of the prescribed period, commitment may not be continued unless a new petition is filed pursuant to section 253B.07 and hearing and determination made on it. Notwithstanding the provisions of section 253B.09, subdivision 5, the initial commitment period under the new petition shall be the probable length of commitment necessary or 12 months, whichever is less. The standard of proof at the hearing on the new petition shall be the standard specified in section 253B.12, subdivision 4.

[For text of subds 2 and 3, see M.S.1982]

History: 1983 c 251 s 15

253B.15 PROVISIONAL DISCHARGE; PARTIAL INSTITUTIONALIZATION.

[For text of subds 1 to 4, see M.S.1982]

Subd. 5. **Return to facility.** The head of the treatment facility may apply to the committing court for an order directing that the patient be returned to the facility. The court may order the patient returned to the facility prior to a review hearing only upon finding that immediate return to the facility is necessary to avoid serious, imminent harm to the patient or others. If a voluntary return is not arranged, the head of the treatment facility may request a health officer, a welfare officer, or a peace officer to return the patient to the treatment facility from which he was released or to any other treatment facility which consents to receive him. If necessary, the head of the treatment facility may request the committing court to direct a health or peace officer in the county where the patient is located to return the patient to the treatment facility or to another treatment facility which consents to receive him. The expense of returning the patient to a treatment facility shall be paid by the commissioner unless paid by the patient or his relatives.

Subd. 6. **Exception.** During the first 60 days of a provisional discharge, the head of the treatment facility, upon finding that either of the conditions set forth in subdivision 2 exists, may revoke the provisional discharge without being subject to the provisions of subdivisions 2 to 5.

Subd. 7. **Extension of provisional discharge.** (a) A provisional discharge may be extended only in those circumstances where the patient has not achieved the goals set forth in the provisional discharge plan or continues to need the supervision or assistance provided by an extension of the provisional discharge. In determining whether the provisional discharge is to be extended, the head of the facility shall consider the willingness and ability of the patient to voluntarily obtain needed care and treatment.

(b) The designated agency shall recommend extension of a provisional discharge only after a preliminary conference with the patient and other appropriate persons. The patient shall be given the opportunity to object or make suggestions for alternatives to extension.

(c) Any recommendation for extension shall be made in writing to the head of the facility and to the patient at least 30 days prior to the expiration of the provisional discharge. The written recommendation submitted shall include: the specific grounds for recommending the extension, the date of the preliminary conference and results, the anniversary date of the provisional discharge, the termination date of the provisional discharge, and the proposed length of extension. If the grounds for recommending the extension occur less than 30 days before its expiration, the written recommendation shall occur as soon as practicable.

(d) The head of the facility shall issue a written decision regarding extension within five days after receiving the recommendation from the designated agency.

[For text of subds 8 to 11, see M.S.1982]

History: 1983 c 251 s 16-18

253B.18 PROCEDURES FOR PERSONS MENTALLY ILL AND DANGEROUS TO THE PUBLIC.

Subdivision 1. **Procedure.** Upon the filing of a petition alleging that a proposed patient is mentally ill and dangerous to the public, the court shall hear the petition as provided in sections 253B.07 and 253B.08. If the court finds by clear and convincing evidence that the proposed patient is mentally ill and dangerous to the public, it shall commit the person to the Minnesota Security Hospital, a regional center designated by the commissioner or to a treatment facility. In any case where the petition was filed immediately following the acquittal of the proposed patient for a crime against the person pursuant to a verdict of not guilty by reason of mental illness, the verdict constitutes evidence that the proposed patient is mentally ill and dangerous within the meaning of this section and shifts the burden of going forward in the presentation of evidence to the proposed patient; provided that the standard of proof remains as required by this chapter. Admission procedures shall be carried out pursuant to section 253B.10.

Subd. 2. **Review; hearing.** A written treatment report shall be filed with the committing court within 60 days after commitment. The court, prior to making a final determination with regard to a person initially committed as mentally ill and dangerous to the public, shall hold a hearing. The hearing shall be held within 14 days of the court's receipt of the written treatment report, if one is filed, or within 90 days of the date of initial commitment, whichever is earlier, unless otherwise agreed by the parties. If the court finds that the patient qualifies for commitment as mentally ill, but not as mentally ill and dangerous to the public, the court may commit the person as a mentally ill person and the person shall be deemed not to have been found to be dangerous to the public for the purposes of subdivisions 4 to 15. Failure of the treatment facility to provide the required report at the end of the 60-day period shall not result in automatic discharge of the patient.

Subd. 3. **Indeterminate commitment.** If the court finds at the hearing held pursuant to subdivision 2 that the patient continues to be mentally ill and dangerous, then the court shall order commitment of the proposed patient for an indeterminate period of time. Subsequent to a final determination that a patient is

mentally ill and dangerous to the public, the patient shall be transferred, provisionally discharged or discharged, only as provided in this section.

Subd. 4. **Special review board.** The commissioner shall establish a special review board for persons committed as mentally ill and dangerous to the public. The board shall consist of three members experienced in the field of mental illness. One member of the special review board shall be a physician and one member shall be an attorney. No member shall be affiliated with the department of public welfare. The special review board shall meet at least every six months and at the call of the commissioner. It shall hear and consider all petitions for transfer out of the Minnesota Security Hospital, all petitions relative to discharge, provisional discharge and revocation of provisional discharge, and make recommendations to the commissioner concerning them.

Members of the special review board shall receive compensation and reimbursement for expenses as established by the commissioner.

Subd. 5. **Petition; notice of hearing; attendance; order.** A petition for an order of transfer, discharge, provisional discharge, or revocation of provisional discharge shall be filed with the commissioner and may be filed by the patient or by the head of the treatment facility. The special review board shall hold a hearing on each petition prior to making any recommendation. Within 45 days of the filing of the petition, the committing court, the county attorney of the county of commitment, an interested person, the petitioner and his counsel shall be given written notice by the commissioner of the time and place of the hearing before the special review board. Only those entitled to statutory notice of the hearing or those administratively required to attend may be present at the hearing. The commissioner shall issue his order no later than 14 days after receiving the recommendation of the special review board. A copy of the order shall be sent by certified mail to every person entitled to statutory notice of the hearing within five days after it is issued. No order by the commissioner shall be effective sooner than 15 days after it is issued.

[For text of subs 6 to 12, see M.S.1982]

Subd. 13. **Appeal.** Any patient aggrieved by a revocation decision or any interested person may petition the special review board within seven days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of the revocation report for a review of the revocation. The matter shall be scheduled within 30 days. The special review board shall review the circumstances leading to the revocation and shall recommend to the commissioner whether or not the revocation shall be upheld. The special review board may also recommend a new provisional discharge at the time of a revocation hearing.

[For text of subs 14 and 15, see M.S.1982]

History: 1983 c 216 art 1 s 83; 1983 c 251 s 19-22; 1983 c 348 s 11

253B.19 JUDICIAL APPEAL PANEL; PATIENTS MENTALLY ILL AND DANGEROUS TO THE PUBLIC.

Subdivision 1. **Creation.** The supreme court shall establish an appeal panel composed of three probate judges and two alternate probate judges appointed from among the acting probate judges of the state. Panel members shall serve for terms of one year each. Only three judges need hear any case. One of the regular three appointed judges shall be designated as the chief judge of the appeal panel. The chief judge is vested with power to fix the time and place of all hearings before the panel, issue all notices, subpoena witnesses, appoint counsel for the

patient, if necessary, and supervise and direct the operation of the appeal panel. The chief judge shall designate one of the other judges or an alternate judge to act as chief judge in any case where he is unable to act. No member of the appeal panel shall take part in the consideration of any case in which that judge committed the patient. The chief justice of the supreme court shall determine the compensation of the judges serving on the appeal panel. The compensation shall be in addition to their regular compensation as probate judges. All compensation and expenses of the appeal panel and all allowable fees and costs of the patient's counsel shall be paid by the department of public welfare.

[For text of subds 2 to 4, see M.S.1982]

Subd. 5. Appeal. A party aggrieved by an order of the appeal panel may appeal from the decision of the appeal panel to the court of appeals as in other civil cases. The filing of an appeal shall immediately suspend the operation of any order granting transfer, discharge or provisional discharge, pending the determination of the appeal.

History: 1983 c 216 art 1 s 37; 1983 c 247 s 106; 1983 c 251 s 23; 1983 c 348 s 12

253B.21 COMMITMENT TO AN AGENCY OF THE UNITED STATES.

[For text of subds 1 to 4, see M.S.1982]

Subd. 5. Transfer. Upon receipt of a certificate of a federal agency that facilities are available for the care or treatment of any committed person, the head of the treatment facility may transfer the person to a federal agency for care or treatment. Upon the transfer, the committing court shall be notified by the transferring agency. No person shall be transferred to a federal agency if he is confined pursuant to conviction of any felony or gross misdemeanor or if he has been acquitted of the charge under section 611.026, unless prior to transfer the committing court enters an order for the transfer after appropriate motion and hearing.

Written notice of the transfer shall be given to the patient's spouse or parent, or if none be known, to some other interested person.

History: 1983 c 348 s 13

253B.212 COMMITMENT BY TRIBAL COURT; RED LAKE BAND OF CHIPPEWA INDIANS.

Subdivision 1. Cost of care. The commissioner of public welfare may contract with and receive payment from the Indian Health Service of the United States Department of Health and Human Services for the care and treatment of those members of the Red Lake Band of Chippewa Indians who have been committed by tribal court order to the Indian Health Service for care and treatment of mental illness, mental retardation, or chemical dependency. The contract shall provide that the Indian Health Service may not transfer any person for admission to a regional center unless the commitment procedure utilized by the tribal court provided due process protections similar to those afforded by sections 253B.05 to 253B.10.

Subd. 2. Effect given to tribal commitment order. When, under an agreement entered into pursuant to subdivision 1, the Indian Health Service applies to a regional center for admission of a person committed to the jurisdiction of the health service by the tribal court as mentally ill, mentally retarded, or chemically

dependent, the commissioner may treat the patient with the consent of the Indian Health Service.

A person admitted to a regional center pursuant to this section has all the rights accorded by section 253B.03. In addition, treatment reports, prepared in accordance with the requirements of section 253B.12, subdivision 1, shall be filed with the Indian Health Service within 60 days of commencement of the patient's stay at the facility. A subsequent treatment report shall be filed with the Indian Health Service within six months of the patient's admission to the facility or prior to discharge, whichever comes first. Provisional discharge or transfer of the patient may be authorized by the head of the treatment facility only with the consent of the Indian Health Service. Discharge from the facility to the Indian Health Service may be authorized by the head of the treatment facility after notice to and consultation with the Indian Health Service.

History: 1983 c 251 s 24

253B.22 REVIEW BOARDS.

Subdivision 1. **Establishment.** The commissioner shall establish a review board of three or more persons for each regional center to review the admission and retention of patients institutionalized under this chapter. One member shall be qualified in the diagnosis of mental illness, mental retardation, or chemical dependency, and one member shall be an attorney. The commissioner may, upon written request from the appropriate federal authority, establish a review panel for any federal treatment facility within the state to review the admission and retention of patients hospitalized under this chapter. For any review board established for a federal treatment facility, one of the persons appointed by the commissioner shall be the commissioner of veterans affairs or his designee.

[For text of subds 2 to 5, see M.S.1982]

History: 1983 c 251 s 25

253B.23 GENERAL PROVISIONS.

[For text of subd 1, see M.S.1982]

Subd. 1a. **Return of patient.** If a patient is absent without authorization, the head of the treatment facility shall order the patient to return to the treatment facility voluntarily. The head of the treatment facility may request a health officer, a welfare officer, or a peace officer to return the patient to the treatment facility. The head of the treatment facility shall inform the committing court of the absence and the court shall direct a health or peace officer in the county where the patient is located to return the patient to the treatment facility or to another treatment facility. The expense of returning the patient to a treatment facility shall be paid by the commissioner unless paid by the patient or his relatives.

[For text of subds 2 to 6, see M.S.1982]

Subd. 7. **Appeal.** The commissioner or any other aggrieved party may appeal to the court of appeals from any order entered under this chapter as in other civil cases.

Upon perfection of the appeal, the return shall be filed forthwith. The court of appeals shall hear the appeal within 45 days after service of the notice of appeal. This appeal shall not suspend the operation of the order appealed from until the appeal is determined, unless otherwise ordered by the court of appeals.

[For text of subds 8 and 9, see M.S.1982]

History: 1983 c 247 s 107; 1983 c 251 s 26; 1983 c 348 s 14