CHAPTER 253B

CIVIL COMMITMENT ACT

253B.02 DEFINITIONS.

[For text of subds 1 to 4, see M.S.1994]

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; 609.2242; 609.23; 609.231; 609.2325; 609.233; 609.2335; 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; 609.365; 609.498, subdivision 1; 609.50, clause (1); 609.561; 609.562; 609.595; and 609.72, subdivision 3.

[For text of subds 4b to 23, see M.S.1994]

History: *1995 c 229 art 4 s 12; 1995 c 259 art 3 s 2*

253B.03 RIGHTS OF PATIENTS.

[For text of subds 1 and 2, see M.S.1994]

Subd. 3. **Visitors and phone calls.** Subject to the general rules of the treatment facility, a patient has the right to receive visitors and make phone calls. The head of the treatment facility may restrict visits and phone calls on determining that the medical welfare of the patient requires it. Any limitation imposed on the exercise of the patient's visitation and phone call rights and the reason for it shall be made a part of the clinical record of the patient. Upon admission to a facility where federal law prohibits unauthorized disclosure of patient or resident identifying information to callers and visitors, the patient or resident, or the legal guardian or conservator of the patient or resident, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility to callers and visitors who may seek to communicate with the patient or resident. To the extent possible, the legal guardian or conservator of a patient or resident shall consider the opinions of the patient or resident regarding the disclosure of the patient's or resident's presence in the facility.

Subd. 4. **Special visitation; religion.** A patient has the right to meet with or call a personal physician, spiritual advisor, and counsel at all reasonable times. Upon admission to a facility where federal law prohibits unauthorized disclosure of patient or resident identifying information to callers and visitors, the patient or resident, or the legal guardian or conservator of the patient or resident, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility to callers and visitors who may seek to communicate with the patient or resident. To the extent possible, the legal guardian or conservator of a patient or resident shall consider the opinions of the patient or resident regarding the disclosure of the patient's or resident's presence in the facility. The patient has the right to continue the practice of religion.

[For text of subds 5 to 6a, see M.S.1994]

Subd. 6b. **Consent for mental health treatment.** A competent person admitted without commitment to a treatment facility may be subjected to intrusive mental health treatment only with the person's written informed consent. For purposes of this section, "intrusive mental health treatment" means electroshock therapy and neuroleptic medication and does

not include treatment for mental retardation. An incompetent person who has prepared a directive under subdivision 6d regarding treatment with intrusive therapies must be treated in accordance with this section, except in cases of emergencies.

Subd. 6c. **Records; administration of neuroleptic medications.** (a) A treating physician who makes medical decisions under this subdivision regarding the prescription and administration of neuroleptic medication may have access to the physician's order section of a patient's records on past administration of neuroleptic medication at any treatment facility, if the patient lacks the capacity to authorize the release of records. Upon request of a treating physician under this subdivision, a treatment facility shall supply complete information relating to the past records on administration of neuroleptic medication of a patient subject to this subdivision. A patient who has the capacity to authorize the release of data retains the right to make decisions regarding access to medical records as provided by section 144.335.

(b) Neuroleptic medications may be administered to persons committed as mentally ill or mentally ill and dangerous only as described in this subdivision. For purposes of this section, "patient" also includes a proposed patient who is the subject of a petition for commitment.

(c) A treatment provider may prescribe and administer neuroleptic medication without judicial review to a patient who:

(1) is competent to consent to the treatment and has signed a written, informed consent;

(2) is not competent to consent to neuroleptic medications if the patient, when competent, prepared a declaration under subdivision 6d requesting the treatment or authorizing a proxy to request the treatment and the proxy has requested the neuroleptic medication;

(3) has not prepared a declaration under subdivision 6d and who is not competent to consent to neuroleptic medications if:

(i) the patient does not object to or refuse the medication;

(ii) a guardian ad litem appointed by the court with authority to consent to neuroleptic medications gives written, informed consent to the administration of the neuroleptic medication; and

(iii) a multidisciplinary treatment review panel composed of persons who are not engaged in providing direct care to the patient gives written approval to administration of the neuroleptic medication; or

(4) refuses prescribed neuroleptic medication and is in an emergency situation. Medication may be administered for so long as the emergency continues to exist, up to 14 days, if the treating physician determines that the medication is necessary to prevent serious, immediate physical harm to the patient or to others. If a petition for authorization to administer medication is filed within the 14 days, the treating physician may continue the medication through the date of the first court hearing, if the emergency continues to exist. If the petition for authorization to administer medication is filed in conjunction with a petition for commitment and the court makes a determination at the preliminary hearing under section 253B.07, subdivision 7, that there is sufficient cause to continue the physician's order until the hearing under section 253B.08, the treating physician may continue the medication until that hearing, if the emergency continues to exist. The treatment facility shall document the emergency in the patient's medical record in specific behavioral terms.

(d) The court may allow and order paid to a guardian ad litem a reasonable fee for services provided under paragraph (c), or the court may appoint a volunteer guardian ad litem.

(e) A treatment facility must obtain judicial review to administer neuroleptic medication to a patient who refuses to take the medication, or when an independent medical review does not support the prescribed treatment.

(f) A physician on behalf of a treatment facility may file a petition requesting authorization to administer neuroleptic medication to a patient who is not competent to consent to the prescribed medication, as certified by a physician, and who refuses to take the prescribed medication. A patient may also file a petition pursuant to section 253B.17 for a review of a physician's order for neuroleptic medication.

(g) A petition may be filed with the district court in the county of commitment or, with the consent of the committing court, the county in which the patient is being held or treated. The petition may be heard as part of any other district court proceeding under this chapter.

The hearing must be held within 14 days from the date of the filing of the petition. By agreement of the parties, or for good cause shown, the court may extend the time of hearing an additional 30 days.

(h) If the petitioning facility has a treatment review panel, the panel shall review the appropriateness of the proposed medication and submit its recommendations to the court, to the county attorney, and to the patient's counsel at least two days prior to the hearing.

(i) The patient must be examined by a court examiner prior to the hearing. If the patient refuses to participate in an examination, the examiner may rely on the patient's medical records to reach an opinion as to the appropriateness of neuroleptic medication. The patient is entitled to counsel and a second examiner, if requested by the patient or patient's counsel.

(j) At any time during the commitment proceedings, the court may appoint a guardian ad litem upon the request of any party, the recommendation of the prepetition screener, an examining physician, the court's examiner, or upon the court's own motion.

(k) The court may base its decision on relevant and admissible evidence, including the testimony of a treating physician or other qualified physician, a member of the patient's treatment team, a court appointed examiner, witness testimony, or the patient's medical records.

(l) If the patient is found to be competent to decide whether to take neuroleptic medication, the treating facility may not administer medication without the patient's informed written consent or without the declaration of an emergency, or until further review by the court.

(m) If the patient is found incompetent to decide whether to take neuroleptic medication, the court may authorize the treating facility, and any other community or treatment facility to which the patient may be transferred or provisionally discharged, to involuntarily administer the medication to the patient. A finding of incompetence under this section must not be construed to determine the patient's competence for any other purpose.

(n) The court may, but is not required to, limit the maximum dosage of neuroleptic medication which may be administered.

(o) The court may authorize the administration of neuroleptic medication until the termination of a determinate commitment. If the patient is committed for an indeterminate period, the court may authorize treatment of neuroleptic medication for not more than two years, subject to the patient's right to petition the court for review of the order. The treatment facility must submit annual reports to the court, which shall provide copies to the patient and the respective attorneys.

(p) If the patient is transferred from a facility which does not have a treatment review panel to a facility which has a treatment review panel, the receiving facility shall review the appropriateness of the patient's medication within 30 days after the patient begins treatment at the facility.

[For text of subds 6d to 10, see M.S.1994]

History: *1995 c 136 s 5,6; 1995 c 189 s 2,3*

253B.05 EMERGENCY ADMISSION.

[For text of subd 1, see M.S.1994]

Subd. 2. **Peace or health officer hold.** (a) A peace or health officer may take a person into custody and transport the person to a licensed physician or treatment facility if the officer has reason to believe, either through direct observation of the person's behavior, or upon reliable information of the person's recent behavior and knowledge of the person's past behavior or psychiatric treatment, that the person is mentally ill or mentally retarded and in imminent danger of injuring self 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 the person to a treatment facility. If the person is intoxicated in public or is believed to be chemically dependent and is not in danger of causing self–harm or harm to any person or property, the peace or health officer may transport the person home. Written 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 cir-

cumstances under which the person was taken into custody. If imminent danger to specific individuals is a basis for the emergency hold, the statement must include identifying information on those individuals, to the extent practicable. 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 self or others; or, a written statement is made by the institution program director or the director's 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 self or others or is intoxicated in public.

[For text of subd 2a, see M.S.1994]

Subd. 3. **Duration of hold.** (a) Any person held pursuant to this section may be held up to 72 hours, exclusive of Saturdays, Sundays, and legal holidays, after admission unless a petition for the commitment of the person has been filed in the probate court of the county of the person's residence or of the county in which the treatment facility is located and the court issues an order pursuant to section 253B.07, subdivision 6. If the head of the treatment facility believes that commitment is required and no petition has been filed, the head of the treatment facility shall file a petition for the commitment of the person. The hospitalized person may move to have the venue of the petition changed to the probate court of the county of the person's residence, if the person is a resident of Minnesota.

(b) During the 72–hour hold period, a court may not release a person held under this section unless the court has received a written petition for release and held a summary hearing regarding the release. The petition must include the name of the person being held, the basis for and location of the hold, and a statement as to why the hold is improper. The petition also must include copies of any written documentation under subdivision 1 or 2 in support of the hold, unless the person holding the petitioner refuses to supply the documentation. The hearing must be held as soon as practicable and may be conducted by means of a telephone conference call or similar method by which the participants are able to simultaneously hear each other. If the court decides to release the person, the court shall issue written findings supporting the decision, but may not delay the release. Before deciding to release the person, the court shall make every reasonable effort to provide notice of the proposed release to: (1) any specific individuals identified in a statement under subdivision 1 or 2 or in the record as individuals who might be endangered if the person was not held; and (2) the examiner whose written statement was a basis for a hold under subdivision 1 or the peace or health officer who applied for a hold under subdivision 2.

(c) If a treatment facility releases a person during the 72–hour hold period, the head of the treatment facility shall immediately notify the agency which employs the peace or health officer who transported the person to the treatment facility under this section.

[For text of subds 4 and 5, see M.S.1994]

History: *1995 c 189 s 4,5*

253B.091 REPORTING JUDICIAL COMMITMENTS INVOLVING PRIVATE TREATMENT PROGRAMS OR FACILITIES.

Notwithstanding section 253B.23, subdivision 9, when a committing court judicially commits a proposed patient to a treatment program or facility other than a state–operated program or facility, the court shall report the commitment to the commissioner of human services through the supreme court information system for purposes of providing commitment information for firearm background checks under section 245.041.

History: *1995 c 207 art 8 s 31*

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 patient's 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 the opinion of the head of the facility the patient must continue to be committed to a treatment facility;

(8) whether in the opinion of the head of the facility the patient satisfies the statutory requirement for continued commitment, with documentation to support the opinion; and

(9) whether the administration of neuroleptic medication is clinically indicated, whether the patient is able to give informed consent to that medication, and the basis for these opinions.

[For text of subds 2 to 8, see M.S.1994]

History: *1995 c 189 s 6*

253B.17 RELEASE; JUDICIAL DETERMINATION.

Subdivision 1. **Petition.** Any patient, except one committed as mentally ill and dangerous to the public, or any interested person may petition the committing court or the court to which venue has been transferred for an order that the patient is not in need of continued institutionalization or for an order that an individual is no longer mentally ill, mentally retarded, or chemically dependent, or for any other relief as the court deems just and equitable. A patient committed as mentally ill or mentally ill and dangerous may petition the committing court or the court to which venue has been transferred for a hearing concerning the administration of neuroleptic medication.

[For text of subds 2 to 5, see M.S.1994]

History: *1995 c 189 s 7*