

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 647

(SENATE AUTHORS: ORTMAN, Ingebrigtsen, Bonoff, Nelson and Goodwin)

DATE	D-PG	OFFICIAL STATUS
02/21/2013	352	Introduction and first reading Referred to Judiciary
03/18/2013		Comm report: To pass as amended Second reading

1.1

A bill for an act

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relating to civil commitment; limiting the time period that a person may be held

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in jail or state correctional facility pending or after civil commitment; amending

1.4

Minnesota Statutes 2012, section 253B.045, subdivision 2; proposing coding for

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new law in Minnesota Statutes, chapter 253B; repealing Minnesota Statutes

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2012, section 253B.045, subdivision 1a.

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

1.8

Section 1. Minnesota Statutes 2012, section 253B.045, subdivision 2, is amended to

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read:

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Subd. 2. **Facilities.** (a) Each county or a group of counties shall maintain or provide

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by contract a facility for confinement of persons held temporarily for observation,

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evaluation, diagnosis, treatment, and care. When the temporary confinement is provided

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at a regional treatment center, the commissioner shall charge the county of financial

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responsibility for the costs of confinement of persons hospitalized under section 253B.05,

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subdivisions 1 and 2, and section 253B.07, subdivision 2b, except that the commissioner

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shall bill the responsible health plan first. If the person has health plan coverage, but the

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hospitalization does not meet the criteria in subdivision 6 or section 62M.07, 62Q.53,

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or 62Q.535, the county is responsible. ~~When a person is temporarily confined in a~~

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~~Department of Corrections facility solely under subdivision 1a, and not based on any~~

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~~separate correctional authority:~~

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~~(1) the commissioner of corrections may charge the county of financial responsibility~~

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~~for the costs of confinement; and~~

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~~(2) the Department of Human Services shall use existing appropriations to fund~~

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~~all remaining nonconfinement costs. The funds received by the commissioner for the~~

~~confinement and noneconfinement costs are appropriated to the department for these purposes.~~

(b) For the purposes of this subdivision, "county of financial responsibility" has the meaning specified in section 253B.02, subdivision 4c, or, if the person has no residence in this state, the county which initiated the confinement. The charge for confinement in a facility operated by the commissioner of human services 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.

Sec. 2. **[253B.046] LIMITED TIME PERIOD.**

(a) Notwithstanding any law to the contrary, a person being held under a judicial hold in jail pending a court order for civil commitment shall be transferred to a treatment facility with an appropriate level of security within 48 hours of the first date of confinement under the hold.

(b) Notwithstanding any law to the contrary, a person confined in a correctional facility or jail who is civilly committed to a treatment facility with an appropriate level of security by court order must be placed in that facility within 48 hours of the date of commitment.

EFFECTIVE DATE. This section is effective August 1, 2013, and applies to civil commitment proceedings beginning on or after that date.

Sec. 3. **PERSONS PRESENTLY CONFINED.**

A person confined in a correctional facility or jail for more than 48 hours pending transfer to a treatment facility with an appropriate level of security on July 31, 2013, shall be transferred to the secure treatment facility within 48 hours of that date.

EFFECTIVE DATE. This section is effective August 1, 2013.

Sec. 4. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall make necessary cross-reference and language changes resulting from the repealer under section 5 in Minnesota Statutes 2012, sections 253B.07, subdivision 2b, and 253B.185, subdivision 5.

Sec. 5. **REPEALER.**

- 3.1 Minnesota Statutes 2012, section 253B.045, subdivision 1a, is repealed.

253B.045 TEMPORARY CONFINEMENT.

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

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

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

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

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

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

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

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

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

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