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State of Minnesota

HOUSE OF REPRESENTATIVES

Unofficial Engrossment

House Engrossment of a Senate File

EIGHTY-EIGHTH SESSION

S. F. No. **685**

Senate Author(s): Ortman, Rosen, Nelson and Eaton

House Action

- 05/10/2013 Companion to House File No. 1557. (Authors:Hilstrom)
Read First Time and Sent for Comparison with H. F. No. 1557
- 05/13/2013 R/S Substituted for H. F. No. 1557 and Read Second Time
- 05/20/2013 Pursuant to Rule 4.20, re-referred to the Committee on Judiciary Finance and Policy
- 03/27/2014 Adoption of Report: Amended and Placed on the General Register
Read Second Time

1.1 A bill for an act
 1.2 relating to civil commitment; requiring simultaneous competency and civil
 1.3 commitment examinations for defendants; facilitating civil commitment
 1.4 hearings for defendants; amending Minnesota Statutes 2012, section 253B.07,
 1.5 subdivisions 2a, 2c.

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

1.7 Section 1. Minnesota Statutes 2012, section 253B.07, subdivision 2a, is amended to
 1.8 read:

1.9 Subd. 2a. **Petition following acquittal; referral originating from criminal**
 1.10 **proceedings.** (a) If criminal charges are pending against a defendant, the court shall
 1.11 order simultaneous competency and civil commitment examinations in accordance with
 1.12 Minnesota Rules of Criminal Procedure, rule 20.04, when the following conditions are met:

1.13 (1) the prosecutor or defense counsel doubts the defendant's competency and a
 1.14 motion is made challenging competency, or the court on its initiative raises the issue
 1.15 under rule 20.01; and

1.16 (2) the prosecutor and defense counsel agree simultaneous examinations are
 1.17 appropriate.

1.18 No additional examination under subdivision 3 is required in a subsequent civil
 1.19 commitment proceeding unless a second examination is requested by defense counsel
 1.20 appointed following the filing of any petition for commitment.

1.21 (b) Following an acquittal of a person of a criminal charge under section 611.026,
 1.22 the petition shall be filed by the county attorney of the county in which the acquittal took
 1.23 place and the petition shall be filed with the court in which the acquittal took place, and
 1.24 that court shall be the committing court for purposes of this chapter. When a petition is

2.1 filed pursuant to subdivision 2 with the court in which acquittal of a criminal charge took
2.2 place, the court shall assign the judge before whom the acquittal took place to hear the
2.3 commitment proceedings unless that judge is unavailable.

2.4 Sec. 2. Minnesota Statutes 2012, section 253B.07, subdivision 2c, is amended to read:

2.5 Subd. 2c. **Right to counsel.** A patient has the right to be represented by counsel at
2.6 any proceeding under this chapter. The court shall appoint a qualified attorney to represent
2.7 the proposed patient if neither the proposed patient nor others provide counsel. The attorney
2.8 shall be appointed at the time a petition for commitment is filed or when simultaneous
2.9 competency and civil commitment examinations are ordered under subdivision 2a,
2.10 whichever is sooner. In all proceedings under this chapter, the attorney shall:

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

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

2.13 (3) continue to represent the person throughout any proceedings under this chapter
2.14 unless released as counsel by the court; and

2.15 (4) be a vigorous advocate on behalf of the person.