

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 128

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DATE	D-PG	OFFICIAL STATUS
01/15/2015	72	Introduction and first reading Referred to Judiciary
01/26/2015	124	Comm report: To pass
03/04/2015	124	Second reading
	535	Special Order
	535	Third reading Passed
		See SF878, Art. 2, Sec. 1-3

A bill for an act

1.1
 1.2 relating to civil commitment; clarifying the alternative to use of interactive
 1.3 video conference in civil commitment hearings; amending Minnesota Statutes
 1.4 2014, sections 253B.08, subdivision 2a; 253B.12, subdivision 2a; 253D.28,
 1.5 subdivision 2.

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

1.7 Section 1. Minnesota Statutes 2014, section 253B.08, subdivision 2a, is amended to
 1.8 read:

1.9 Subd. 2a. **Place of hearing.** The hearing shall be conducted in a manner consistent
 1.10 with orderly procedure. The hearing shall be held at a courtroom meeting standards
 1.11 prescribed by local court rule which may be at a treatment facility. The hearing may be
 1.12 conducted by interactive video conference under General Rules of Practice, rule 131, and
 1.13 Minnesota Rules of Civil Commitment, rule 14.

1.14 Sec. 2. Minnesota Statutes 2014, section 253B.12, subdivision 2a, is amended to read:

1.15 Subd. 2a. **Time and place for hearing.** (a) Unless the proceedings are terminated
 1.16 under subdivision 1, paragraph (e), a review hearing must be held within 14 days after
 1.17 receipt by the committing court of the report required under subdivision 1, paragraph (c)
 1.18 or (d), and before the time the commitment expires. For good cause shown, the court
 1.19 may continue the hearing for up to an additional 14 days and extend any orders until
 1.20 the review hearing is held.

1.21 (b) The patient, the patient's counsel, the petitioner, and other persons as the court
 1.22 directs must be given at least five days' notice of the time and place of the hearing.
 1.23 The hearing may be conducted by interactive video conference under General Rules of
 1.24 Practice, rule 131, and Minnesota Rules of Civil Commitment, rule 14.

2.1 Sec. 3. Minnesota Statutes 2014, section 253D.28, subdivision 2, is amended to read:

2.2 Subd. 2. **Procedure.** (a) The Supreme Court shall refer a petition for rehearing and
2.3 reconsideration to the chief judge of the judicial appeal panel. The chief judge shall notify
2.4 the committed person, the county attorneys of the county of commitment and county of
2.5 financial responsibility, the commissioner, the executive director, any interested person,
2.6 and other persons the chief judge designates, of the time and place of the hearing on
2.7 the petition. The notice shall be given at least 14 days prior to the date of the hearing.
2.8 The hearing may be conducted by interactive video conference under General Rules of
2.9 Practice, rule 131, and Minnesota Rules of Civil Commitment, rule 14.

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

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

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

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