

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1854

(SENATE AUTHORS: LIMMER and Hann)

DATE	D-PG	OFFICIAL STATUS
02/15/2012	3817	Introduction and first reading Referred to Health and Human Services

1.1 A bill for an act
1.2 relating to human services; distinguishing and clarifying law regarding
1.3 civil commitment to the Minnesota sex offender program from other civil
1.4 commitments; amending Minnesota Statutes 2010, sections 253B.02,
1.5 subdivisions 18a, 24; 253B.03, subdivision 1a; 253B.045, subdivision 1a;
1.6 253B.092, subdivision 1; 253B.17, subdivision 1; 253B.185, subdivisions 1a,
1.7 1b, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19; Minnesota Statutes 2011
1.8 Supplement, sections 253B.185, subdivisions 1, 10a, 11a, 11b, 14a, 16; 253B.19,
1.9 subdivision 2; proposing coding for new law as Minnesota Statutes, chapter
1.10 253D.

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

1.12 Section 1. Minnesota Statutes 2010, section 253B.02, subdivision 18a, is amended to
1.13 read:

1.14 Subd. 18a. **Secure treatment facility.** "Secure treatment facility" means the
1.15 Minnesota Security Hospital ~~and the Minnesota sex offender program facility in Moose~~
1.16 ~~Lake and any portion of the Minnesota sex offender program operated by the Minnesota~~
1.17 ~~sex offender program at the Minnesota Security Hospital,~~ but does not include services or
1.18 programs administered by the secure treatment facility outside a secure environment.

1.19 Sec. 2. Minnesota Statutes 2010, section 253B.02, subdivision 24, is amended to read:

1.20 Subd. 24. **Administrative restriction.** "Administrative restriction" means any
1.21 measure utilized by the commissioner to maintain safety and security, protect possible
1.22 evidence, and prevent the continuation of suspected criminal acts. Administrative
1.23 restriction does not mean protective isolation as defined by Minnesota Rules, part
1.24 9515.3090, subpart 4. Administrative restriction may include increased monitoring,
1.25 program limitations, loss of privileges, restricted access to and use of possessions,
1.26 and separation of a patient from the normal living environment, as determined by the

commissioner or the commissioner's designee. Administrative restriction applies only to ~~patients~~ committed persons in a secure treatment facility as defined in ~~subdivision 18a~~ section 253D.02, subdivision 3, who:

- (1) are suspected of committing a crime or charged with a crime;
- (2) are the subject of a criminal investigation;
- (3) are awaiting sentencing following a conviction of a crime; or
- (4) are awaiting transfer to a correctional facility.

~~The commissioner shall establish policies and procedures according to section 246.014, paragraph (d), regarding the use of administrative restriction. The policies and procedures shall identify the implementation and termination of administrative restrictions. Use of administrative restriction and the reason associated with the use shall be documented in the patient's medical record.~~

Sec. 3. Minnesota Statutes 2010, section 253B.03, subdivision 1a, is amended to read:

Subd. 1a. **Administrative restriction.** (a) A patient committed person has the right to be free from unnecessary or excessive administrative restriction. Administrative restriction shall not be used for the convenience of staff, for retaliation for filing complaints, or as a substitute for program treatment. Administrative restriction may not involve any further deprivation of privileges than is necessary.

(b) Administrative restriction may include separate and secure housing.

(c) ~~Patients~~ Committed Persons under administrative restriction shall not be limited in access to their attorney.

(d) If a patient committed person is placed on administrative restriction because the patient committed person is suspected of committing a crime, the secure treatment facility must report the crime to the appropriate police agency within 24 hours of the beginning of administrative restriction. The patient committed person must be released from administrative restriction if a police agency does not begin an investigation within 72 hours of the report.

(e) A patient committed person placed on administrative restriction because the patient committed person is a subject of a criminal investigation must be released from administrative restriction when the investigation is completed. If the patient committed person is charged with a crime following the investigation, administrative restriction may continue until the charge is disposed of.

(f) The secure treatment facility must notify the ~~patient's~~ committed person's attorney of the patient committed person being placed on administrative restriction within 24 hours after the beginning of administrative restriction.

(g) The commissioner shall establish policies and procedures according to section 246.014, paragraph (d), regarding the use of administrative restriction. The policies and procedures shall identify the implementation and termination of administrative restrictions. Use of administrative restriction and the reason associated with the use shall be documented in the committed person's medical record.

Sec. 4. Minnesota Statutes 2010, section 253B.045, subdivision 1a, is amended to read:

Subd. 1a. ~~Exception~~ **Correctional facilities.** (a) A person who is being petitioned for commitment under ~~section 253B.185~~ this chapter 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~~ this chapter 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~~ this chapter 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.

Sec. 5. Minnesota Statutes 2010, section 253B.092, subdivision 1, is amended to read:

Subdivision 1. **General.** Neuroleptic medications may be administered, only as provided in this section, to patients subject to early intervention or civil commitment as mentally ill or mentally ill and dangerous ~~only as provided in this section~~, a sexually dangerous person, or a sexual psychopathic personality. For purposes of this section,

5.1 "patient" includes a proposed patient who is the subject of a petition for early intervention
5.2 or commitment and a committed person as defined in section 253D.02, subdivision 3.

5.3 Sec. 6. Minnesota Statutes 2010, section 253B.17, subdivision 1, is amended to read:

5.4 Subdivision 1. **Petition.** Any patient, except one committed as a sexually dangerous
5.5 person or person with a sexual psychopathic personality or as a person who is mentally ill
5.6 and dangerous to the public ~~or as a sexually dangerous person or person with a sexual~~
5.7 ~~psychopathic personality~~ as provided in section 253B.18, subdivision 3, or any interested
5.8 person may petition the committing court or the court to which venue has been transferred
5.9 for an order that the patient is not in need of continued care and treatment or for an order
5.10 that an individual is no longer a person who is mentally ill, developmentally disabled, or
5.11 chemically dependent, or for any other relief. A patient committed as a person who is
5.12 mentally ill or mentally ill and dangerous or a sexually dangerous person or person with a
5.13 sexual psychopathic personality may petition the committing court or the court to which
5.14 venue has been transferred for a hearing concerning the administration of neuroleptic
5.15 medication.

5.16 Sec. 7. Minnesota Statutes 2011 Supplement, section 253B.185, subdivision 1, is
5.17 amended to read:

5.18 Subdivision 1. **Commitment generally.** ~~(a) Except as otherwise provided in this~~
5.19 ~~section, the provisions of this chapter pertaining to persons who are mentally ill and~~
5.20 ~~dangerous to the public apply with like force and effect to persons who are alleged or~~
5.21 ~~found to be sexually dangerous persons or persons with a sexual psychopathic personality.~~
5.22 ~~For purposes of this section, "sexual psychopathic personality" includes any individual~~
5.23 ~~committed as a "psychopathic personality" under Minnesota Statutes 1992, section 526.10.~~

5.24 ~~(b)~~ (a) Before commitment proceedings are instituted, the facts shall first be
5.25 submitted to the county attorney, who, if satisfied that good cause exists, will prepare the
5.26 petition. The county attorney may request a prepetition screening report. The petition is to
5.27 be executed by a person having knowledge of the facts and filed with the district court of
5.28 the county of financial responsibility, as defined in section 253B.02, subdivision 4c, or the
5.29 county where the ~~patient~~ respondent proposed committed person is present. If the ~~patient~~
5.30 respondent is in the custody of the commissioner of corrections, the petition may be filed
5.31 in the county where the conviction for which the person is incarcerated was entered.

5.32 ~~(c)~~ (b) Upon the filing of a petition alleging that a respondent proposed patient
5.33 committed person is a sexually dangerous person or is a person with a sexual psychopathic

personality, the court shall hear the petition as provided in ~~section 253B.18, except that~~
~~section 253B.18, subdivisions 2 and 3, shall not apply~~ sections 253B.07 and 253B.08.

~~(d) In commitments under this section,~~ (c) If the court finds by clear and convincing evidence that the respondent proposed committed person is a sexually dangerous person or a sexual psychopathic personality, the court shall commit the patient respondent to a secure treatment facility unless the patient respondent establishes by clear and convincing evidence that a less restrictive treatment program is available that is consistent with the patient's respondent's treatment needs and the requirements of public safety.

~~(e) (d)~~ After a ~~final~~ determination that a patient respondent is a sexually dangerous person or sexual psychopathic personality, the court shall order commitment for an indeterminate period of time and the patient respondent committed person shall be transferred, provisionally discharged, or discharged, only as provided in this ~~section~~ chapter.

Sec. 8. Minnesota Statutes 2010, section 253B.185, subdivision 1a, is amended to read:

Subd. 1a. **~~Temporary confinement~~ Jails.** During any hearing held under this section, or pending ~~emergency~~ revocation of a provisional discharge, the court may order the patient committed person or proposed patient committed person temporarily confined in a jail or lockup but only if:

(1) there is no other feasible place of confinement for the patient committed person within a reasonable distance;

(2) the confinement is for less than 24 hours or, if during a hearing, less than 24 hours prior to commencement and after conclusion of the hearing; and

(3) there are protections in place, including segregation of the patient committed person, to ensure the safety of the patient committed person.

Sec. 9. Minnesota Statutes 2010, section 253B.185, subdivision 1b, is amended to read:

Subd. 1b. **County attorney access to data.** Notwithstanding sections 144.291 to 144.298; 245.467, subdivision 6; 245.4876, subdivision 7; 260B.171; 260B.235, subdivision 8; 260C.171; and 609.749, subdivision 6, or any provision of chapter 13 or other state law, prior to filing a petition for commitment as a sexual psychopathic personality or as a sexually dangerous person, and upon notice to the proposed patient respondent, the county attorney or the county attorney's designee may move the court for an order granting access to any records or data, to the extent it relates to the proposed patient respondent, for the purpose of determining whether good cause exists to file a petition and, if a petition is filed, to support the allegations set forth in the petition.

The court may grant the motion if: (1) the Department of Corrections refers the case for commitment as a sexual psychopathic personality or a sexually dangerous person; or (2) upon a showing that the requested category of data or records may be relevant to the determination by the county attorney or designee. The court shall decide a motion under this ~~subdivision~~ section within 48 hours after a hearing on the motion. Notice to the proposed ~~patient~~ respondent need not be given upon a showing that such notice may result in harm or harassment of interested persons or potential witnesses.

Notwithstanding any provision of chapter 13 or other state law, a county attorney considering the civil commitment of a person under this ~~section~~ chapter may obtain records and data from the Department of Corrections or any probation or parole agency in this state upon request, without a court order, for the purpose of determining whether good cause exists to file a petition and, if a petition is filed, to support the allegations set forth in the petition. At the time of the request for the records, the county attorney shall provide notice of the request to the person who is the subject of the records.

Data collected pursuant to this ~~subdivision~~ section shall retain their original status and, if not public, are inadmissible in any court proceeding unrelated to civil commitment, unless otherwise permitted.

Sec. 10. Minnesota Statutes 2010, section 253B.185, subdivision 2, is amended to read:

Subd. 2. Transfer to correctional facility. (a) If a person has been committed under this ~~section~~ chapter and later is committed to the custody of the commissioner of corrections for any reason, including but not limited to, being sentenced for a crime or revocation of the person's supervised release or conditional release under section 244.05; 609.3455, subdivision 6, 7, or 8; Minnesota Statutes 2004, section 609.108, subdivision 6; or Minnesota Statutes 2004, section 609.109, subdivision 7, the person shall be transferred to a facility designated by the commissioner of corrections without regard to the procedures provided in ~~subdivision 11~~ section 253D.29.

(b) If a person is committed under this ~~section~~ chapter after a commitment to the commissioner of corrections, the person shall first serve the sentence in a facility designated by the commissioner of corrections. After the person has served the sentence, the person shall be transferred to a treatment program designated by the commissioner of human services.

Sec. 11. Minnesota Statutes 2010, section 253B.185, subdivision 4, is amended to read:

Subd. 4. Statewide judicial panel; commitment proceedings. (a) The Supreme Court may establish a panel of district judges with statewide authority to preside over

commitment proceedings of sexual psychopathic personalities and sexually dangerous persons. Only one judge of the panel is required to preside over a particular commitment proceeding. Panel members shall serve for one-year terms. One of the judges shall be designated as the chief judge of the panel, and is vested with the power to designate the presiding judge in a particular case, to set the proper venue for the proceedings, and to otherwise supervise and direct the operation of the panel. The chief judge shall designate one of the other judges to act as chief judge whenever the chief judge is unable to act.

(b) If the Supreme Court creates the judicial panel authorized by this section, all petitions for civil commitment brought under ~~subdivision 1~~ section 253D.07 shall be filed with the supreme court instead of with the district court in the county where the proposed patient is present, notwithstanding any provision of subdivision 1 to the contrary. Otherwise, all of the other applicable procedures contained in this chapter and sections 253B.07 and 253B.08 apply to commitment proceedings conducted by a judge on the panel.

Sec. 12. Minnesota Statutes 2010, section 253B.185, subdivision 5, is amended to read:

Subd. 5. **Financial responsibility.** (a) For purposes of this subdivision, "state facility" has the meaning given in section 246.50 and also includes a Department of Corrections facility when the proposed ~~patient~~ committed person is confined in such a facility pursuant to section ~~253B.045, subdivision 1~~ 253D.10, subdivision 2.

(b) Notwithstanding sections 246.54, ~~253B.045~~ 253D.10, and any other law to the contrary, when a petition is filed for commitment under this ~~section~~ chapter pursuant to the notice required in section 244.05, subdivision 7, the state and county are each responsible for 50 percent of the cost of the person's confinement at a state facility or county jail, prior to commitment.

(c) The county shall submit an invoice to the state court administrator for reimbursement of the state's share of the cost of confinement.

(d) Notwithstanding paragraph (b), the state's responsibility for reimbursement is limited to the amount appropriated for this purpose.

Sec. 13. Minnesota Statutes 2010, section 253B.185, subdivision 7, is amended to read:

Subd. 7. **Rights of ~~patients~~ persons committed under this ~~section~~ chapter.** (a) The commissioner ~~or the commissioner's designee~~ may limit the statutory rights described in paragraph (b) for ~~patients~~ persons committed to the Minnesota sex offender program under this ~~section~~ chapter or with the commissioner's consent under section 246B.02. The statutory rights described in paragraph (b) may be limited only as necessary to maintain

a therapeutic environment or the security of the facility or to protect the safety and well-being of ~~patients~~ committed persons, staff, and the public.

(b) The statutory rights that may be limited in accordance with paragraph (a) are those set forth in section 144.651, subdivision 19, personal privacy; section 144.651, subdivision 21, private communications; section 144.651, subdivision 22, retain and use of personal property; section 144.651, subdivision 25, manage personal financial affairs; section 144.651, subdivision 26, meet with visitors and participate in groups; section 253B.03, subdivision 2, correspond with others; and section 253B.03, subdivision 3, receive visitors and make telephone calls. Other statutory rights enumerated by sections 144.651 and 253B.03, or any other law, may be limited as provided in those sections.

Sec. 14. Minnesota Statutes 2010, section 253B.185, subdivision 8, is amended to read:

Subd. 8. **Petition and report required.** (a) Within 120 days of receipt of a preliminary determination from a court under section 609.1351, or a referral from the commissioner of corrections pursuant to section 244.05, subdivision 7, a county attorney shall determine whether good cause under ~~this section~~ section 253D.07 exists to file a petition, and if good cause exists, the county attorney or designee shall file the petition with the court.

(b) Failure to meet the requirements of paragraph (a) does not bar filing a petition under subdivision 1 any time the county attorney determines pursuant to ~~subdivision 1~~ section 253D.07 that good cause for such a petition exists.

Sec. 15. Minnesota Statutes 2010, section 253B.185, subdivision 9, is amended to read:

Subd. 9. **Petition for reduction in custody.** (a) This subdivision applies only to committed persons as defined in ~~paragraph (b)~~ section 253D.02, subdivision 3. The procedures in ~~subdivision 10~~ section 253D.14 for victim notification and right to submit a statement apply to petitions filed and reductions in custody recommended under this subdivision.

(b) ~~As used in this subdivision:~~

~~(1) "committed person" means an individual committed under this section, or under this section and under section 253B.18, as mentally ill and dangerous. It does not include persons committed only as mentally ill and dangerous under section 253B.18; and~~

~~(2)~~ For the purposes of this section, "reduction in custody" means transfer out of a secure treatment facility, a provisional discharge, or a discharge from commitment. A reduction in custody is considered to be a commitment proceeding under section 8.01.

(c) A petition for a reduction in custody or an appeal of a revocation of provisional discharge may be filed by either the committed person or by the ~~head of the treatment~~

~~facility executive director~~ and must be filed with and considered by a panel of the special review board authorized under section 253B.18, subdivision 4c. A committed person may not petition the special review board any sooner than six months following either:

(1) the entry of judgment in the district court of the order for commitment issued under section ~~253B.18, subdivision 3~~ 253D.07, or upon the exhaustion of all related appeal rights in state court relating to that order, whichever is later; or

(2) any recommendation of the special review board or order of the judicial appeal panel, or upon the exhaustion of all appeal rights in state court, whichever is later. The ~~head of the treatment facility~~ executive director may petition at any time. The special review board proceedings are not contested cases as defined in chapter 14.

(d) The special review board shall hold a hearing on each petition before issuing a recommendation and report under ~~paragraph (f) subdivision 4~~. Fourteen days before the hearing, the committing court, the county attorney of the county of commitment, the ~~designated agency~~ county attorney of the county of financial responsibility, an interested person, the petitioner and the petitioner's counsel, and the committed person and the committed person's counsel must 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 ~~patient~~ committed person may designate interested persons to receive notice by providing the names and addresses to the commissioner at least 21 days before the hearing.

(e) A person or agency receiving notice that submits documentary evidence to the special review board before the hearing must also provide copies to the committed person, the committed person's counsel, the county attorney of the county of commitment, and the case manager, and the commissioner county attorney of the county of financial responsibility. The special review board must consider any statements received from victims under ~~subdivision 10~~ section 253D.14.

(f) Within 30 days of the hearing, the special review board shall issue a report with written findings of fact and shall recommend denial or approval of the petition to the judicial appeal panel established under section 253B.19. The commissioner shall forward the recommendation and report of the special review board to the judicial appeal panel and to every person entitled to statutory notice. No reduction in custody or reversal of a revocation of provisional discharge recommended by the special review board is effective until it has been reviewed by the judicial appeal panel and until 15 days after an order from the judicial appeal panel affirming, modifying, or denying the recommendation.

Sec. 16. Minnesota Statutes 2010, section 253B.185, subdivision 10, is amended to read:

Subd. 10. **Victim notification of petition and release; right to submit statement.**

(a) As used in this ~~subdivision~~ section:

(1) "Crime" has the meaning given to "violent crime" in section 609.1095, and includes criminal sexual conduct in the fifth degree and offenses within the definition of "crime against the person" in section 253B.02, subdivision 4a, and also includes offenses listed in section 253B.02, subdivision 7a, paragraph (b), regardless of whether they are sexually motivated;

(2) "Victim" means a person who has incurred loss or harm as a result of a crime, the behavior for which forms the basis for a commitment under this ~~section or section 253B.18~~ chapter; and

(3) "Convicted" and "conviction" have the meanings given in section 609.02, subdivision 5, and also include juvenile court adjudications, findings under Minnesota Rules of Criminal Procedure, rule 20.02, that the elements of a crime have been proved, and findings in commitment cases under this ~~section or section 253B.18~~ chapter, that an act or acts constituting a crime occurred.

(b) A county attorney who files a petition to commit a person under this ~~section~~ chapter shall make a reasonable effort to provide prompt notice of filing the petition to any victim of a crime for which the person was convicted. In addition, the county attorney shall make a reasonable effort to promptly notify the victim of the resolution of the petition.

(c) Before provisionally discharging, discharging, granting pass-eligible status, approving a pass plan, or otherwise permanently or temporarily releasing a person committed under this ~~section~~ chapter from a treatment facility, the ~~head of the treatment facility~~ executive director shall make a reasonable effort to notify any victim of a crime for which the person was convicted that the person may be discharged or released and that the victim has a right to submit a written statement regarding decisions of the ~~head of the treatment facility or designee~~ executive director, or special review board, with respect to the person. To the extent possible, the notice must be provided at least 14 days before any special review board hearing or before a determination on a pass plan. Notwithstanding section 611A.06, subdivision 4, the commissioner shall provide the judicial appeal panel with victim information in order to comply with the provisions of this section. The judicial appeal panel shall ensure that the data on victims remains private as provided for in section 611A.06, subdivision 4.

(d) This subdivision applies only to victims who have requested notification by contacting, in writing, the county attorney in the county where the conviction for the crime

12.1 occurred or where the civil commitment was filed or, following commitment, the ~~head of~~
12.2 ~~the treatment facility~~ executive director. A county attorney who receives a request for
12.3 notification under this ~~paragraph~~ subdivision shall promptly forward the request to the
12.4 commissioner of human services.

12.5 (e) Rights under this ~~subdivision~~ section are in addition to rights available to a victim
12.6 under chapter 611A. This provision does not give a victim all the rights of a "notified
12.7 person" or a person "entitled to statutory notice" under subdivision 12 or 13 or ~~section~~
12.8 sections 253B.18, subdivision 4a, 4b, or 5; 253D.23; or 253D.27.

12.9 Sec. 17. Minnesota Statutes 2011 Supplement, section 253B.185, subdivision 10a,
12.10 is amended to read:

12.11 Subd. 10a. **Scope of community notification.** (a) Notification of the public and
12.12 disclosure of information under section 244.052, subdivision 4, regarding an individual
12.13 who was committed under this ~~section~~ chapter or Minnesota Statutes 1992, section 526.10,
12.14 is as provided under section 244.052, subdivision 4, paragraphs (b), clause (3), and (g),
12.15 and subdivision 4b, regardless of the individual's assigned risk level.

12.16 (b) After four years from the date of an order for provisional discharge or discharge
12.17 of civil commitment, the individual may petition the ~~head of the treatment facility from~~
12.18 ~~which the individual was provisionally discharged or discharged~~ executive director to
12.19 have the scope of notification and disclosure based solely upon the individual's assigned
12.20 risk level under section 244.052.

12.21 (c) If an individual's provisional discharge is revoked for any reason, the four-year
12.22 time period under paragraph (b) starts over from the date of a subsequent order for
12.23 provisional discharge or discharge except that the ~~head of the treatment facility or~~
12.24 ~~designee~~ executive director may, in ~~the~~ that person's sole discretion ~~of the head or~~
12.25 ~~designee~~, determine that the individual may petition before four years have elapsed from
12.26 the date of the order of the subsequent provisional discharge or discharge and notify the
12.27 individual of that determination.

12.28 (d) The ~~head of the treatment facility~~ executive director shall appoint a
12.29 multidisciplinary committee to review and make a recommendation on a petition made
12.30 under paragraph (b). The ~~head of the treatment facility or designee~~ executive director may
12.31 grant or deny the petition. There is no review or appeal of the decision. If a petition is
12.32 denied, the individual may petition again after two years from the date of denial.

12.33 (e) Nothing in this ~~subdivision~~ section shall be construed to give an individual an
12.34 affirmative right to petition the ~~head of the treatment facility~~ executive director earlier
12.35 than four years after the date of an order for provisional discharge or discharge.

13.1 (f) The ~~head of the treatment facility~~ executive director shall act in place of the
13.2 individual's corrections agent for the purpose of section 244.052, subdivision 3, paragraph
13.3 (h), when the individual is not assigned to a corrections agent.

13.4 Sec. 18. Minnesota Statutes 2010, section 253B.185, subdivision 11, is amended to
13.5 read:

13.6 Subd. 11. **Transfer.** (a) A ~~patient~~ person who is committed as a sexually dangerous
13.7 person or sexual psychopathic personality shall not be transferred out of a secure treatment
13.8 facility unless it appears to the satisfaction of the judicial appeal panel, after a hearing and
13.9 recommendation by a majority of the special review board, that the transfer is appropriate.
13.10 Transfer may be to other treatment programs under the commissioner's control.

13.11 (b) The following factors must be considered in determining whether a transfer
13.12 is appropriate:

- 13.13 (1) the person's clinical progress and present treatment needs;
13.14 (2) the need for security to accomplish continuing treatment;
13.15 (3) the need for continued institutionalization;
13.16 (4) which facility can best meet the person's needs; and
13.17 (5) whether transfer can be accomplished with a reasonable degree of safety for
13.18 the public.

13.19 Sec. 19. Minnesota Statutes 2011 Supplement, section 253B.185, subdivision 11a,
13.20 is amended to read:

13.21 Subd. 11a. ~~Transfer;~~ **Voluntary readmission to a secure facility.** (a) After a
13.22 ~~patient committed person~~ person has been transferred out of a secure facility pursuant to section
13.23 253D.29, subdivision ~~11~~ 1, and with the consent of the executive director of the Minnesota
13.24 ~~sex offender program~~, a ~~patient committed person~~ person may voluntarily return to a secure
13.25 facility operated by the Minnesota sex offender program for a period of up to 60 days.

13.26 (b) If the ~~patient committed person~~ person is not returned to the facility to which the ~~patient~~
13.27 ~~person~~ person was originally transferred pursuant to section 253D.29, subdivision ~~11~~ 1 within
13.28 60 days of being readmitted to a secure facility, the transfer is revoked and the ~~patient~~
13.29 ~~committed person~~ person shall remain in a secure facility. The ~~patient committed person~~ person shall
13.30 immediately be notified in writing of the revocation.

13.31 (c) Within 15 days of receiving notice of the revocation, the ~~patient committed~~
13.32 ~~person~~ person may petition the special review board for a review of the revocation. The special
13.33 review board shall review the circumstances of the revocation and shall recommend to the

14.1 judicial appeal panel whether or not the revocation shall be upheld. The special review
14.2 board may also recommend a new transfer at the time of the revocation hearing.

14.3 (d) If the transfer has not been revoked and the patient committed person is to be
14.4 returned to the facility to which the patient committed person was originally transferred
14.5 pursuant to section 253D.29, subdivision ~~11~~ 1, with no substantive change to the
14.6 conditions of the transfer ordered pursuant to section 253D.29, subdivision ~~11~~ 1, no action
14.7 by the special review board or judicial appeal panel is required.

14.8 Sec. 20. Minnesota Statutes 2011 Supplement, section 253B.185, subdivision 11b,
14.9 is amended to read:

14.10 Subd. 11b. **~~Transfer; Revocation.~~** (a) The executive director ~~of the Minnesota sex~~
14.11 ~~offender program or designee~~ may revoke a transfer made pursuant to section 253D.29,
14.12 subdivision ~~11~~ 1, and require a patient committed person to return to a secure treatment
14.13 facility if:

14.14 (1) remaining in a nonsecure setting will not provide a reasonable degree of safety to
14.15 the patient committed person or others; or

14.16 (2) the patient committed person has regressed in clinical progress so that the facility
14.17 to which the patient committed person was transferred is no longer sufficient to meet the
14.18 patient's committed person's needs.

14.19 (b) Upon the revocation of the transfer, the patient committed person shall be
14.20 immediately returned to a secure treatment facility. A report documenting reasons for
14.21 revocation shall be issued by the executive director ~~or designee~~ within seven days after the
14.22 patient committed person is returned to the secure treatment facility. Advance notice to
14.23 the patient committed person of the revocation is not required.

14.24 (c) The patient committed person must be provided a copy of the revocation report
14.25 and informed, orally and in writing, of the rights of a patient committed person under this
14.26 ~~subdivision~~ section. The revocation report shall be served upon the patient committed
14.27 person and the patient's committed person's counsel. The report shall outline the specific
14.28 reasons for the revocation including, but not limited to, the specific facts upon which
14.29 the revocation ~~recommendation~~ is based.

14.30 (d) A patient committed person whose transfer is revoked must successfully
14.31 re-petition the special review board and judicial appeal panel prior to being transferred out
14.32 of a secure facility.

14.33 (e) Any patient committed person aggrieved by a transfer revocation decision may
14.34 petition the special review board within seven days, exclusive of Saturdays, Sundays,
14.35 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, after considering the factors in section 253D.29, subdivision 1, paragraph (b), shall recommend to the judicial appeal panel whether or not the revocation shall be upheld. The special review board may also recommend a new transfer out of a secure facility at the time of the revocation hearing.

Sec. 21. Minnesota Statutes 2010, section 253B.185, subdivision 12, is amended to read:

Subd. 12. **Provisional discharge Factors.** (a) A patient committed person who is committed as a sexual psychopathic personality or sexually dangerous person shall not be provisionally discharged unless it appears to the satisfaction of the judicial appeal panel, after a hearing and a recommendation by a majority of the special review board, that the patient committed person is capable of making an acceptable adjustment to open society.

(b) The following factors are to be considered in determining whether a provisional discharge shall be recommended:

(1) whether the patient's committed person's course of treatment and present mental status indicate there is no longer a need for treatment and supervision in the patient's committed person's current treatment setting; and

(2) whether the conditions of the provisional discharge plan will provide a reasonable degree of protection to the public and will enable the patient committed person to adjust successfully to the community.

Sec. 22. Minnesota Statutes 2010, section 253B.185, subdivision 13, is amended to read:

Subd. 13. **Provisional discharge Plan.** A provisional discharge plan shall be developed, implemented, and monitored by the ~~head of the treatment facility or designee~~ executive director in conjunction with the patient committed person and other appropriate persons. The ~~head of the treatment facility or designee~~ executive director shall, at least quarterly, review the plan with the patient committed person and submit a written report to the ~~designated agency~~ county attorneys of the county of commitment and county of financial responsibility concerning the patient's committed person's status and compliance with each term of the plan.

Sec. 23. Minnesota Statutes 2010, section 253B.185, subdivision 14, is amended to read:

Subd. 14. ~~Provisional discharge; Review.~~ A provisional discharge pursuant to this ~~section~~ chapter shall not automatically terminate. A full discharge shall occur only as provided in ~~subdivision 18~~ section 253D.31. The ~~commissioner shall notify the patient~~ patient committed person that the terms of a provisional discharge continue unless the patient committed person requests and is granted a change in the conditions of provisional discharge or unless the patient committed person petitions the special review board for a full discharge and the discharge is granted by the judicial appeal panel.

Sec. 24. Minnesota Statutes 2011 Supplement, section 253B.185, subdivision 14a, is amended to read:

Subd. 14a. ~~Provisional discharge; Voluntary readmission.~~ (a) With the consent of the executive director of the ~~Minnesota sex offender program~~, a patient committed person may voluntarily return to the Minnesota sex offender program from provisional discharge for a period of up to 60 days.

(b) If the patient committed person is not returned to provisional discharge status within 60 days of being readmitted to the Minnesota sex offender program, the provisional discharge is revoked. The patient committed person shall immediately be notified of the revocation in writing. Within 15 days of receiving notice of the revocation, the patient committed person may request a review of the matter before the special review board. The special review board shall review the circumstances of the revocation and, after applying the standards in section 253D.30, subdivision 15.5, paragraph (a), shall recommend to the judicial appeal panel whether or not the revocation shall be upheld. The board may recommend a return to provisional discharge status.

(c) If the provisional discharge has not been revoked and the patient committed person is to be returned to provisional discharge, the Minnesota sex offender program is not required to petition for a further review by the special review board unless the patient's committed person's return to the community results in substantive change to the existing provisional discharge plan.

Sec. 25. Minnesota Statutes 2010, section 253B.185, subdivision 15, is amended to read:

Subd. 15. ~~Provisional discharge; Revocation.~~ (a) The ~~head of the treatment facility~~ executive director may revoke a provisional discharge if either of the following grounds exist:

(1) the patient committed person has departed from the conditions of the provisional discharge plan; or

(2) the patient committed person is exhibiting behavior which may be dangerous to self or others.

(b) The ~~head of the treatment facility~~ executive director may revoke the provisional discharge and, either orally or in writing, order that the patient committed person be immediately returned to ~~the~~ a Minnesota sex offender program treatment facility. A report documenting reasons for revocation shall be issued by the ~~head of the treatment facility~~ executive director within seven days after the patient committed person is returned to the treatment facility. Advance notice to the patient committed person of the revocation is not required.

(c) The patient committed person must be provided a copy of the revocation report and informed, orally and in writing, of the rights of a patient committed person under this section. The revocation report shall be served upon the patient committed person, the patient's committed person's counsel, and the ~~designated agency~~ county attorneys of the county of commitment and the county of financial responsibility. The report shall outline the specific reasons for the revocation, including but not limited to the specific facts upon which the revocation ~~recommendation~~ is based.

(d) An individual who is revoked from provisional discharge must successfully re-petition the special review board and judicial appeal panel prior to being placed back on provisional discharge.

Sec. 26. Minnesota Statutes 2011 Supplement, section 253B.185, subdivision 16, is amended to read:

Subd. 16. **Return of absent patient.** (a) If a patient committed person is absent without authorization, including failure to return to the custody of the Minnesota sex offender program upon the revocation of a provisional discharge, the ~~head of the treatment facility or designee~~ executive director shall report the absence to the local law enforcement agency. The ~~head of the treatment facility~~ executive director shall inform the committing court of the revocation or absence, and the committing court or other district court shall issue an order for the apprehension and holding of the patient committed person by a peace officer in any jurisdiction and transportation of the patient committed person to a facility operated by the Minnesota sex offender program or otherwise returned to the custody of the Minnesota sex offender program.

(b) An employee of the Department of Human Services may apprehend, detain, or transport an absent patient committed person at anytime. The immunity provided under section 253B.23, subdivision 4, applies to the apprehension, detention, and transport of an absent patient committed person.

(c) Upon receiving either the report or the apprehend and hold order in paragraph (a), a law enforcement agency shall enter information on the ~~patient~~ committed person into the missing persons file of the National Crime Information Center database according to the missing persons practices. Where probable cause exists of a violation of section 609.485, a law enforcement agency shall also seek a felony arrest warrant and enter the warrant in the National Crime Information Center database.

(d) For the purposes of ensuring public safety and the apprehension of an absent ~~patient~~ committed person, and notwithstanding state and federal data privacy laws, the Minnesota sex offender program shall disclose information about the absent ~~patient~~ committed person relevant to the ~~patient's~~ person's apprehension and return to law enforcement agencies where the absent ~~patient~~ committed person is likely to be located or likely to travel through and to agencies with statewide jurisdiction.

(e) Upon receiving either the report or the apprehend and hold order in paragraph (a), a ~~patient~~ committed person shall be apprehended and held by a peace officer in any jurisdiction pending return to a facility operated by the Minnesota sex offender program or otherwise returned to the custody of the Minnesota sex offender program.

(f) A ~~patient~~ committed person detained solely under this subdivision may be held in a jail or lockup only if:

(1) there is no other feasible place of detention for the ~~patient~~ person;

(2) the detention is for less than 24 hours; and

(3) there are protections in place, including segregation of the ~~patient~~ person, to ensure the safety of the ~~patient~~ person.

These limitations do not apply to a ~~patient~~ committed person being held for criminal prosecution, including for violation of section 609.485.

(g) If a ~~patient~~ committed person is detained under this ~~subdivision~~ section, the Minnesota sex offender program shall arrange to pick up the ~~patient~~ person within 24 hours of the time detention was begun and shall be responsible for securing transportation for the ~~patient~~ person to a facility operated by the Minnesota sex offender program, as determined by ~~its~~ the executive director. The expense of detaining and transporting a ~~patient~~ committed person shall be the responsibility of the Minnesota sex offender program.

(h) Immediately after an absent ~~patient~~ committed person is apprehended, the Minnesota sex offender program or the law enforcement agency that apprehended or returned the absent ~~patient~~ committed person shall notify the law enforcement agency that first received the absent ~~patient~~ committed person report under this ~~subdivision~~ section, and that agency shall cancel the missing persons entry from the National Crime Information Center computer.

19.1 Sec. 27. Minnesota Statutes 2010, section 253B.185, subdivision 17, is amended to
19.2 read:

19.3 Subd. 17. **Appeal.** Any ~~patient~~ committed person aggrieved by a revocation
19.4 decision or any interested person may petition the special review board within seven
19.5 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of the revocation
19.6 report for a review of the revocation. The matter shall be scheduled within 30 days. The
19.7 special review board shall review the circumstances leading to the revocation and shall
19.8 recommend to the judicial appeal panel whether or not the revocation shall be upheld.
19.9 The special review board may also recommend a new provisional discharge at the time
19.10 of the revocation hearing.

19.11 Sec. 28. Minnesota Statutes 2010, section 253B.185, subdivision 18, is amended to
19.12 read:

19.13 Subd. 18. **Discharge.** A ~~patient~~ person who is committed as a sexual psychopathic
19.14 personality or sexually dangerous person shall not be discharged unless it appears to the
19.15 satisfaction of the judicial appeal panel, after a hearing and recommendation by a majority
19.16 of the special review board, that the ~~patient~~ committed person is capable of making an
19.17 acceptable adjustment to open society, is no longer dangerous to the public, and is no
19.18 longer in need of inpatient treatment and supervision.

19.19 In determining whether a discharge shall be recommended, the special review board
19.20 and judicial appeal panel shall consider whether specific conditions exist to provide a
19.21 reasonable degree of protection to the public and to assist the ~~patient~~ committed person
19.22 in adjusting to the community. If the desired conditions do not exist, the discharge shall
19.23 not be granted.

19.24 Sec. 29. Minnesota Statutes 2010, section 253B.185, subdivision 19, is amended to
19.25 read:

19.26 Subd. 19. **Aftercare services.** (a) The Minnesota sex offender program shall
19.27 provide the supervision, aftercare, and case management services for a person ~~under~~
19.28 provisionally discharged or discharged from commitment as a sexual psychopathic
19.29 ~~personalities and personality or sexually dangerous persons discharged after July 1, 1999~~
19.30 person. The designated agency, as defined in section 253B.02, subdivision 5, shall assist
19.31 with ~~client~~ eligibility for public welfare benefits and will provide those services that are
19.32 ~~currently~~ available exclusively through county government.

19.33 (b) Prior to the date of discharge or provisional discharge of any ~~patient~~ person
19.34 committed as a sexual psychopathic personality or sexually dangerous person, the ~~head~~

~~of the treatment facility or designee~~ executive director shall establish a continuing plan of aftercare services for the patient person, including a plan for medical and behavioral health services, financial sustainability, housing, social supports, or other assistance the patient needs. The Minnesota sex offender program shall provide case management services and shall assist the patient person in finding employment, suitable shelter, and adequate medical and behavioral health services and otherwise assist in the patient's person's readjustment to the community.

Sec. 30. Minnesota Statutes 2011 Supplement, section 253B.19, subdivision 2, is amended to read:

Subd. 2. **Petition; hearing.** (a) A person committed as mentally ill and dangerous to the public under section 253B.18, or the county attorney of the county from which the person was committed or the county of financial responsibility, may petition the judicial appeal panel for a rehearing and reconsideration of a decision by the commissioner under section 253B.18, subdivision 5. The judicial appeal panel must not consider petitions for relief other than those considered by the commissioner from which the appeal is taken. The petition must be filed with the Supreme Court within 30 days after the decision of the commissioner is signed. The hearing must be held within 45 days of the filing of the petition unless an extension is granted for good cause.

~~(b) A person committed as a sexual psychopathic personality or as a sexually dangerous person under section 253B.185, or committed as both mentally ill and dangerous to the public under section 253B.18 and as a sexual psychopathic personality or as a sexually dangerous person under section 253B.185; the county attorney of the county from which the person was committed or the county of financial responsibility; or the commissioner may petition the judicial appeal panel for a rehearing and reconsideration of a decision of the special review board under section 253B.185, subdivision 9. The petition must be filed with the Supreme Court within 30 days after the decision is mailed by the commissioner as required in section 253B.185, subdivision 9, paragraph (f). The hearing must be held within 180 days of the filing of the petition unless an extension is granted for good cause. If no party petitions the judicial appeal panel for a rehearing or reconsideration within 30 days, the judicial appeal panel shall either issue an order adopting the recommendations of the special review board or set the matter on for a hearing pursuant to this paragraph.~~

~~(c)~~ For an appeal under paragraph (a) or ~~(b)~~ section 253D.28, the Supreme Court shall refer the petition to the chief judge of the judicial appeal panel. The chief judge shall notify the patient, the county attorney of the county of commitment, the designated

agency, the commissioner, the head of the treatment facility, any interested person, and other persons the chief judge designates, of the time and place of the hearing on the petition. The notice shall be given at least 14 days prior to the date of the hearing.

~~(d)~~ (c) Any person may oppose the petition. The patient, the patient's counsel, the county attorney of the committing county or the county of financial responsibility, and the commissioner shall participate as parties to the proceeding pending before the judicial appeal panel and shall, except when the patient is committed solely as mentally ill and dangerous, no later than 20 days before the hearing on the petition, inform the judicial appeal panel and the opposing party in writing whether they support or oppose the petition and provide a summary of facts in support of their position. The judicial appeal panel may appoint examiners and may adjourn the hearing from time to time. It shall hear and receive all relevant testimony and evidence and make a record of all proceedings. The patient, the patient's counsel, and the county attorney of the committing county or the county of financial responsibility have the right to be present and may present and cross-examine all witnesses and offer a factual and legal basis in support of their positions. The petitioning party seeking discharge or provisional discharge bears the burden of going forward with the evidence, which means presenting a prima facie case with competent evidence to show that the person is entitled to the requested relief. If the petitioning party has met this burden, the party opposing discharge or provisional discharge bears the burden of proof by clear and convincing evidence that the discharge or provisional discharge should be denied. A party seeking transfer under section 253B.18, subdivision 6, or ~~253B.185, subdivision 11~~ 253D.29, subdivision 1, must establish by a preponderance of the evidence that the transfer is appropriate.

Sec. 31. **[253D.01] CITATION.**

This chapter may be cited as the "Minnesota Commitment and Treatment Act: Sexually Dangerous Persons and Sexual Psychopathic Personalities."

Sec. 32. **[253D.02] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of human services or the commissioner's designee.

Subd. 4. **Committed person.** "Committed person" means an individual committed under this chapter, or under this chapter and under section 253B.18, as mentally ill and

dangerous. It does not include person's committed only as mentally ill and dangerous under section 253B.18. It includes individuals described in section 246B.01, subdivision 1a.

Subd. 5. **Committing court.** "Committing court" means the district court where a petition for commitment was decided.

Subd. 6. **Executive director.** "Executive director" has the same meaning as in section 246B.01, subdivision 2c.

Subd. 9. **Secure treatment facility.** "Secure treatment facility" means the Minnesota sex offender program facility in Moose Lake and any portion of the Minnesota sex offender program operated by the Minnesota sex offender program at the Minnesota Security Hospital, but does not include services or programs administered by the Minnesota sex offender program outside a secure environment.

Sec. 33. **[253D.03] GENERAL PROVISIONS.**

The provisions of section 253B.23 apply to commitments under this chapter except where inconsistent.

Sec. 34. **[253D.04] REVIEW BOARD.**

The commissioner shall establish a review board under section 253B.22 for facilities of the Minnesota sex offender program.

Sec. 35. **[253D.13] PROCEDURES UPON COMMITMENT.**

Upon commitment under this chapter, admission procedures shall be carried out under section 253B.10.

Sec. 36. **[253D.17] RIGHTS OF COMMITTED PERSONS; GENERALLY.**

Persons committed under this chapter have those rights described in section 253B.03 except as may be limited pursuant to section 253D.19.

Sec. 37. **[253D.20] RIGHT TO COUNSEL.**

A committed person has the right to be represented by counsel at any proceeding under this chapter. The court shall appoint a qualified attorney to represent the committed person if neither the committed person nor others provide counsel. The attorney shall be appointed at the time a petition for commitment is filed. In all proceedings under this chapter, the attorney shall:

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

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

23.1 (3) continue to represent the person throughout any proceedings under this chapter
23.2 unless released as counsel by the court; and
23.3 (4) be a vigorous advocate on behalf of the person.

23.4 Sec. 38. **[253D.21] NEUROLEPTIC MEDICATION.**

23.5 Neuroleptic medications may be administered to a person committed under this
23.6 chapter only as provided in section 253B.092.

23.7 Sec. 39. **[253D.23] PASSES.**

23.8 A committed person may be released on a pass only as provided by section 253B.18,
23.9 subdivisions 4a and 4b.

23.10 Sec. 40. **[253D.28] JUDICIAL APPEAL PANEL.**

23.11 Subdivision 1. **Rehearing and reconsideration.** (a) A person committed as a sexual
23.12 psychopathic personality or as a sexually dangerous person under section 253B.185, or
23.13 committed as both mentally ill and dangerous to the public under section 253B.18 and as
23.14 a sexual psychopathic personality or as a sexually dangerous person under this chapter;
23.15 the county attorney of the county from which the person was committed or the county
23.16 of financial responsibility; or the commissioner may petition the judicial appeal panel
23.17 established under section 253B.19, subdivision 1, for a rehearing and reconsideration of a
23.18 recommendation of the special review board under section 253D.27.

23.19 (b) The petition must be filed with the Supreme Court within 30 days after
23.20 the recommendation is mailed by the commissioner as required in section 253D.27,
23.21 subdivision 4. The hearing must be held within 180 days of the filing of the petition
23.22 unless an extension is granted for good cause.

23.23 (c) If no party petitions the judicial appeal panel for a rehearing or reconsideration
23.24 within 30 days, the judicial appeal panel shall either issue an order adopting the
23.25 recommendations of the special review board or set the matter on for a hearing pursuant
23.26 to this section.

23.27 Subd. 2. **Procedure.** (a) The Supreme Court shall refer a petition for rehearing and
23.28 reconsideration to the chief judge of the judicial appeal panel. The chief judge shall notify
23.29 the committed person, the county attorneys of the county of commitment and county of
23.30 financial responsibility, the commissioner, the executive director, any interested person,
23.31 and other persons the chief judge designates, of the time and place of the hearing on the
23.32 petition. The notice shall be given at least 14 days prior to the date of the hearing.

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

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

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

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

Subd. 3. **Decision.** A majority of the judicial appeal panel shall rule upon the petition. The panel shall consider the petition de novo. No order of the judicial appeal panel granting a transfer, discharge, or provisional discharge shall be made effective sooner than 15 days after it is issued. The panel may not consider petitions for relief other than those considered by the special review board from which the appeal is taken. The judicial appeal panel may not grant a transfer or provisional discharge on terms or conditions that were not presented to the special review board.

Subd. 4. **Appeal.** A party aggrieved by an order of the appeal panel may appeal that order as provided under section 253B.19, subdivision 5.

Sec. 41. **[253D.36] DISCHARGE; ADMINISTRATIVE PROCEDURES.**

Upon discharge from commitment under this chapter, administrative procedures shall be carried out under section 253B.20.

Sec. 42. **COURT RULES.**

25.1 Nothing in this act shall be construed to change the application of the Special Rules
25.2 of Procedure Governing Proceedings under the Minnesota Commitment and Treatment
25.3 Act.

25.4 Sec. 43. **CONSTRUCTION.**

25.5 Nothing in this act shall be construed to create grounds for relief or a cause of
25.6 action for persons previously committed under Minnesota Statutes, chapter 253B, or its
25.7 predecessors.

25.8 Sec. 44. **REVISOR'S INSTRUCTION.**

25.9 The revisor of statutes shall renumber each section of Minnesota Statutes listed in
25.10 column A with the number listed in column B. The revisor shall also make necessary
25.11 cross-reference changes consistent with the renumbering.

25.12	<u>Column A</u>	<u>Column B</u>
25.13	<u>253B.02, subd. 7a</u>	<u>253D.02, subd. 7</u>
25.14	<u>253B.02, subd. 18b</u>	<u>253D.02, subd. 11</u>
25.15	<u>253B.02, subd. 18c</u>	<u>253D.02, subd. 12</u>
25.16	<u>253B.02, subd. 24</u>	<u>253D.02, subd. 2</u>
25.17	<u>253B.02, subd. 25</u>	<u>253D.02, subd. 8</u>
25.18	<u>253B.02, subd. 26</u>	<u>253D.02, subd. 10</u>
25.19	<u>253B.03, subd. 1a</u>	<u>253D.18</u>
25.20	<u>253B.045, subd. 1a</u>	<u>253D.10, subd. 2</u>
25.21	<u>253B.185, subd. 1, paragraph (a)</u>	<u>253D.07, subd. 1</u>
25.22	<u>253B.185, subd. 1, paragraph (b)</u>	<u>253D.07, subd. 2</u>
25.23	<u>253B.185, subd. 1, paragraph (c)</u>	<u>253D.07, subd. 3</u>
25.24	<u>253B.185, subd. 1, paragraph (d)</u>	<u>253D.07, subd. 4</u>
25.25	<u>253B.185, subd. 1a</u>	<u>253D.10, subd. 1</u>
25.26	<u>253B.185, subd. 1b</u>	<u>253D.08</u>
25.27	<u>253B.185, subd. 2</u>	<u>253D.22</u>
25.28	<u>253B.185, subd. 3</u>	<u>253D.07, subd. 5</u>
25.29	<u>253B.185, subd. 4, paragraph (a)</u>	<u>253D.11, subd. 1</u>
25.30	<u>253B.185, subd. 4, paragraph (b)</u>	<u>253D.11, subd. 2</u>
25.31	<u>253B.185, subd. 5, paragraph (a)</u>	<u>253D.12, subd. 1</u>
25.32	<u>253B.185, subd. 5, paragraph (b)</u>	<u>253D.12, subd. 2</u>
25.33	<u>253B.185, subd. 5, paragraph (c)</u>	<u>253D.12, subd. 3</u>
25.34	<u>253B.185, subd. 5, paragraph (d)</u>	<u>253D.12, subd. 4</u>
25.35	<u>253B.185, subd. 7, paragraph (a)</u>	<u>253D.19, subd. 1</u>
25.36	<u>253B.185, subd. 7, paragraph (b)</u>	<u>253D.19, subd. 2</u>
25.37	<u>253B.185, subd. 8</u>	<u>253D.09</u>
25.38	<u>253B.185, subd. 9, paragraph (a)</u>	<u>253D.27, subd. 1, paragraph (a)</u>
25.39	<u>253B.185, subd. 9, paragraph (b)</u>	<u>253D.27, subd. 1, paragraph (b)</u>

26.1	<u>253B.185, subd. 9, paragraph (c)</u>	<u>253D.27, subd. 2</u>
26.2	<u>253B.185, subd. 9, paragraph (d)</u>	<u>253D.27, subd. 3, paragraph (a)</u>
26.3	<u>253B.185, subd. 9, paragraph (e)</u>	<u>253D.27, subd. 3, paragraph (b)</u>
26.4	<u>253B.185, subd. 9, paragraph (f)</u>	<u>253D.30, subd. 4</u>
26.5	<u>253B.185, subd. 10, paragraph (a)</u>	<u>253D.14, subd. 1</u>
26.6	<u>253B.185, subd. 10, paragraph (b)</u>	<u>253D.14, subd. 2</u>
26.7	<u>253B.185, subd. 10, paragraph (c)</u>	<u>253D.14, subd. 3</u>
26.8	<u>253B.185, subd. 10, paragraph (d)</u>	<u>253D.14, subd. 4</u>
26.9	<u>253B.185, subd. 10, paragraph (e)</u>	<u>253D.14, subd. 5</u>
26.10	<u>253B.185, subd. 10a, paragraph (a)</u>	<u>253D.32, subd. 1</u>
26.11	<u>253B.185, subd. 10a, paragraph (b)</u>	<u>253D.32, subd. 2, paragraph (a)</u>
26.12	<u>253B.185, subd. 10a, paragraph (c)</u>	<u>253D.32, subd. 2, paragraph (b)</u>
26.13	<u>253B.185, subd. 10a, paragraph (d)</u>	<u>253D.32, subd. 2, paragraph (c)</u>
26.14	<u>253B.185, subd. 10a, paragraph (e)</u>	<u>253D.32, subd. 2, paragraph (d)</u>
26.15	<u>253B.185, subd. 10a, paragraph (f)</u>	<u>253D.32, subd. 3</u>
26.16	<u>253B.185, subd. 11</u>	<u>253D.29, subd. 1</u>
26.17	<u>253B.185, subd. 11a</u>	<u>253D.29, subd. 2</u>
26.18	<u>253B.185, subd. 11b</u>	<u>253D.29, subd. 3</u>
26.19	<u>253B.185, subd. 12</u>	<u>253D.30, subd. 1</u>
26.20	<u>253B.185, subd. 13</u>	<u>253D.30, subd. 2</u>
26.21	<u>253B.185, subd. 14</u>	<u>253D.30, subd. 3</u>
26.22	<u>253B.185, subd. 14a</u>	<u>253D.30, subd. 4</u>
26.23	<u>253B.185, subd. 15</u>	<u>253D.30, subd. 5</u>
26.24	<u>253B.185, subd. 16, paragraph (a)</u>	<u>253D.24, subd. 1</u>
26.25	<u>253B.185, subd. 16, paragraph (b)</u>	<u>253D.24, subd. 2</u>
26.26	<u>253B.185, subd. 16, paragraph (c)</u>	<u>253D.24, subd. 3</u>
26.27	<u>253B.185, subd. 16, paragraph (d)</u>	<u>253D.24, subd. 4</u>
26.28	<u>253B.185, subd. 16, paragraph (e)</u>	<u>253D.24, subd. 5</u>
26.29	<u>253B.185, subd. 16, paragraph (f)</u>	<u>253D.24, subd. 6</u>
26.30	<u>253B.185, subd. 16, paragraph (g)</u>	<u>253D.24, subd. 7</u>
26.31	<u>253B.185, subd. 16, paragraph (h)</u>	<u>253D.24, subd. 8</u>
26.32	<u>253B.185, subd. 17</u>	<u>253D.30, subd. 6</u>
26.33	<u>253B.185, subd. 18</u>	<u>253D.31</u>
26.34	<u>253B.185, subd. 19, paragraph (a)</u>	<u>253D.35, subd. 1</u>
26.35	<u>253B.185, subd. 19, paragraph (b)</u>	<u>253D.35, subd. 2</u>